Document Title: Policing in Central and Eastern Europe – Social Control of Unconventional Deviance, Conference Proceedings

Editor (s): Gorazd Meško, Andrej Sotlar, John Winterdyk

Document No.: 235122

Date Received: July 2011

POLICING IN CENTRAL AND EASTERN EUROPE – SOCIAL CONTROL OF UNCONVENTIONAL DEVIANCE

CONFERENCE PROCEEDINGS

Editors
Gorazd Meško, Andrej Sotlar and John Winterdyk

Proceedings of the conference
"Policing in Central and Eastern Europe – Social Control of Unconventional Deviance",

Ljubljana, Slovenia
22-24 September 2010

Editors: Gorazd Meško, Andrej Sotlar and John Winterdyk
Technical editing: Maja Jere
Printed by: Tipografija d.o.o.
Threshold: Tipografija d.o.o.
Drawings: Philip Spence, Fellow of the Wolfson College, Cambridge, UK.
Cover page design: Tipografija d.o.o.
Printed: 500 copies

Table of Contents

Introduction

Between September 22-24, 2010, the Eighth Biennial International Conference "Policing in Central and Eastern Europe: Social Control of Unconventional Deviance" was held in Ljubljana, Slovenia. The conference was co-organized by the Faculty of Criminal Justice and Security, University of Maribor; Slovenia, the European Group of Research into Norms, Guyancourt, France; the Department of Criminology, University of Leicester, the United Kingdom; the College of Justice and Safety, Eastern Kentucky University, USA; and the School of Criminal Justice, Michigan State University, USA.

The primary aim of the conference was to engage in an exchange of views, concepts, and research findings among scientists, researchers, and practitioners from across a broad range of criminal justice and security studies, topics, and themes. The conference papers covered a variety of topics spanning all elements of the criminal justice system, as well as other forms of formal, and informal, social control. The diverse coverage of the many topics and themes by criminal justice and related scholars from around the world created an opportunity for scholarly participants from Central and Eastern Europe to present their views and research to their colleagues from this and other parts of the world. Hence, the conference highlighted new ideas, methods, and findings spanning across numerous research topics, and themes, and applied areas relating to the social control of unconventional deviance (e.g., mobbing, phishing schemes, institutional organized crime, suicide terrorism acts, etc.).

As indicated in the proceedings to the conference, the conference was dedicated to discussing, exploring and examining unconventional deviance from a variety of social control perspectives. A total of ninety-nine papers were presented throughout the meeting. The conference proceedings have been recently included in the Conference Proceedings Citation Index. Therefore, we included only peer reviewed papers in this volume while eight plenary papers and a selection of other papers were published in the 2010/4 and 2011/2 issues of the Journal of Criminal Justice and Security ("http://www.fvv.uni-mb.si/varstvoslovje" www.fvv.uni-mb.si/varstvoslovje)

It is noted that since the majority of the conference participants and contributors to this volume are not native English speaking people, we would first like to thank the authors for all their efforts in preparing their article in English. Even though all the papers were peer reviewed, the reviewers and editors exercised a degree of discretion when reading and editing the selected articles. In other

words, in the interest of trying to share the selected articles in a timely manner we not only asked that they prepare their chapters in English but do so with the understanding that a degree of tolerance towards imperfection would be expected and tolerated by the editors. Nevertheless, a number of articles had to be excluded for a number of reasons.

Crime is a simple term and one that few people would not be quick to offer a legal definition of. However, the concept of crime and the evolving nature of its expression make it a fascinating topic for research. And while the concept is not foreign to Central and Eastern European criminal justice and related disciplinary scholars, what has been perhaps more challenging has been the lack of research into the rapidly changing dimensions of unconventional forms of social deviance. Whereas until the recent past, the region was primarily being policed in a rather traditional law enforcement manner, a growing number of crimes have become more sophisticated, transnational, and diverse in their expression. For many such types of unconventional deviance, Central and Eastern European countries have not been as quick to respond or recognize these changes. These views are reflected in a number of the articles included in this anthology. In fact, somewhat unconventionally, some of the articles are descriptive in nature as they simply attempt to create and inform an awareness about a particular issue or types of (emerging) crime. However, collectively, this anthology will hopefully serve to provide the reader with a rich and diverse overview (and insight) into the type of issues and research that is emerging from the region. It is evident from the papers in this volume that regional scholars are becoming increasingly interested and receptive to exploring and examining both conventional and unconventional forms of crime and deviance.

Although it is arguably true that no society is immune from the blight of crime, it is equally true that we can learn through informed exchanges such as the Biennial Conference hosted by the Faculty of Criminal Justice, University of Maribor, Slovenia. In fact, we are increasingly being witness to an ever growing number of academics and researchers attending meetings outside of their country not only to share their findings but to learn from their counterparts. However, given the financial burden of travel and related encumbrances, it is not always possible to attend such events. Therefore, in an effort to reach a wider audience and share some of the content that was presented, we have prepared this edited volume.

While the editors have been fortunate to be able to travel internationally to share and learn from the contacts that we have made, the communications have at times been tailored to a level of comprehension and sophistication that all parties were able to relate too. Such experiences have been both rewarding

and very enriching. The kindness and willingness of colleagues to try and find a common basis upon which to be able to communicate has not only allowed us to prepare this collection but also provided us with the inspiration to do so. For, as is well known, the issues and concerns that any one country has is generally shared to some degree by others. Yet, what is sometimes lacking when foreigners come in and try to 'translate' the issue is that they (unintentionally) impose their value and cultural beliefs onto the situation. In this collection, we offer original pieces of work from scholars and researchers who are 'home-grown'.

In this collection, the reader will find traditional coverage on topics that are topical in any other part of the world but what we hope are also an interesting cross-section of papers that are reflective of a willingness to explore topics less frequently addressed in more established criminal justice research communities such as the United Kingdom, the United States, or even other parts of Europe.

This collection is rich with ideas that could/should lend themselves to comparative type research, to intellectual exchanges, and to testing conventional ideas in a comparatively emerging criminal justice region.

This anthology is comprised of over 30 papers with the majority of contributions coming from the Central European and Western Balkan region. In providing this anthology, we hope that in addition to inspiring continued interest and an expansion of both richness of the topics and areas studied but to also attract interest from other regions of the world to perhaps engage in comparative projects that can serve to benefit the wider global criminal justice and security research community.

As with any edited collection, we accept any of the shortcomings in this collection but are also happy to embrace any of the accolades that might be directed our way. We would like to acknowledge the support of all peer reviewers for their helpful comments on draft papers and thank Ms. Maja Jere for undertaking all the correspondence with the authors, as well as being responsible for typesetting of this volume. We trust that the reader will embrace this anthology in the spirit in which it was prepared. We hope that this volume represents the benchmark for the Biennial International Conference not only for next year but in the years to follow as we strive to improve the scope, the quality and richness not only of the conference but also the ensuing publication that we hope will become a by-product of the conference.

It has been with notable pleasure that the editors of this volume have been able to work together, even though at some geographic distance. As much as this volume reflects international participation, the editors are also international in their participation. Yet, we all share the same passion for sharing and dis-

seminating scholarly work and value the richness in learning from each other's perspectives.

Any specific correspondence relating to this publication should be directed to the lead editor, Professor Gorazd Meško (Gorazd.Mesko@fvv.uni-mb.si).

Co-editors:

Gorazd Meško, Professor and Dean, Faculty of Criminal Justice and Security, University of Maribor, Slovenia.

Andrej Sotlar, Assistant Professor and Vice-dean, Faculty of Criminal Justice and Security, University of Maribor, Slovenia.

John Winterdyk, Director, Centre for Criminology and Justice Research, Mount Royal University, Calgary, AB., Canada.

1.
RESEARCH ON UNCONVENTIONAL DEVIANCE

SLOVENIAN CRIMINOLOGY
– AN OVERVIEW[1]

Authors:

Alenka Šelih and Gorazd Meško

ABSTRACT

Purpose:

The purpose of this paper is to present major Slovene criminological research as well as development of criminology teaching, policy making and other criminological endeavours.

Design/methodology/approach:

The study comprises a literature review of the major Slovenian criminological research and development of Slovenian criminology in general.

Findings:

Results are presented by decades and by topics to get an overall view on development of criminology and criminological research in Slovenia.

Research limitations/implications:

The results show quantitative and qualitative dimensions of a certain part of Slovenian criminological thought, criminological research and development of academic teaching, participation in policy making and other activities related to institutionalisation of Slovenian criminology.

Practical implications:

Inter alia, this article is also a useful source of information on unconventional deviance research in Slovenia.

Originality/value:

This paper extends understanding of priorities in criminological research and institutionalisation of criminology in Slovenia after 1917, when a novel on juvenile delinquents by Fran Milčinski was published.

Keywords: Criminology, Slovenia, Deviance, Unconventional, Research, Development

1   BEGINNINGS OF SLOVENIAN CRIMINOLOGY: FROM 1917 TO 1954

Criminology has quite a long tradition in Slovenia, dating back to the period before World War II. Fran Milčinski (1867-1932) the first juvenile judge in the Austro-Hungarian Empire and the author of a novel on juvenile delinquents '*Birds without the nest*' (1917) may be regarded as a proto-criminologist because in his work as a judge he used to take into account social and psychological circumstances of a case. Nevertheless, Aleksander Vasiljevič Maklecov, professor of criminology at the Faculty of Law, University of Ljubljana, is considered the founder of Slovenian criminology (Kušej, 1950). His criminological writings published before or during the World War II dealt with juvenile delinquency (1927, 1929, 1946), crime control policy, typology of criminals, criminal personality and crime causality (1930, 1938, 1939), criminology, sociology and ethics (1936), institutes of criminology abroad and in the homeland (1937), presentation of crime in newspapers (1941), and women and crime (1944). Maklecov (1947) was also the author of the first Slovenian textbook on the subject, entitled *Introduction to Criminology* (Lučovnik, 1958; Brglez & Seljak, 2007; Šelih, 2008). Through numerous criminological publications and active participation in policy making he made significant contributions to Slovenian criminology which provided a solid foundation for its further development.

In the middle of the 1950s, when the severe repression of the post-war period began to diminish, the first professional social scientists, in particular psychologists, started working at the former Secretariat for Internal Affairs. They brought with them a belief that in dealing with criminal offenders it is necessary to use not only coercion, but also professional knowledge: a view that began gradually to influence crime policy. This approach lay behind the foundation of the Institute of Criminology, which was established by the Faculty of Law at the end of 1954. This Institute started its work with a part-time Director, one of the Faculty of Law's professors, one research associate, who formulated a research concept, and a librarian, who took charge of the library and documentation service. For a long time this was the only criminological unit in Slovenia.

2   SLOVENIAN CRIMINOLOGY IN SOCIALISM: FROM 1954 TO 1990

2.1   Getting started

With time, the research group of the Institute, which also included members of the Chair of Criminal Law, formulated its objectives as follows: to study particular aspects of crime and ways of dealing with it; to introduce appropriate procedures and criteria that would improve the work of crime control agencies; to in-

form professional opinion about contemporary trends of criminological thought in Slovenia and abroad; to contribute to a better understanding of crime and to more up-to-date and less repressive treatment of it within the existing social and state system.

The researchers consistently advocated a rational response to crime and rejected its opposite – an emotional, often politically motivated reaction, emerging from time to time in political circles or in general community, notably in connection with some criminal offence that shocked the public or at least appeared to do so. They strongly championed the view that crime policy measures should be well thought through, in conformity with principles of respect for the rights and dignity of persons, and should constitute a coherent system of preventive, rehabilitative and penal measures which would be known by all citizens in advance. The next principle, which was often outlined by the Institute's research group, was that the response of the criminal law must be proportional to the seriousness of the offence. A humane implementation of measures against perpetrators of criminal offences was also one of the guiding principles that was guided the claims and proposals of the researchers.

The principle *ultima ratio*, advocating application of coercive measures as the last resort, was a common thread running through a number of research projects and clearly expressed in the views and demands of researchers. To reach the "optimal minimum" of reaction against crime it would be necessary to ensure that only a moderate use of the means of coercion and social control were resorted to. Last, but not least, there was one more fundamental principle that became strongly defended by researchers: the claim to respect and protect offenders' and victims' human rights. Progressively, a small, yet solid research group *developed* at the Institute. In spite of its inner heterogeneity, it maintained a uniform approach towards issues concerning crime and reactions to it. It knew how to transmit its standpoints to professional and the general public and it was able to achieve - at least sometimes - good results.

In analysing and appraising the Institute's development one has to admit that the research group was confronted with certain limitations imposed by the social, political and legal environment in which they were working. The group functioned within a one-party political system and a corresponding legal order which did not have any regard for the fundamental principle of legitimacy (although it did for the principle of legality). In spite of this framework, the research group expanded the scope of its activity as far as it could while remaining true to its principles. However, it could not penetrate those areas which were out of its reach, such as political offences. On the other hand, the research group never allowed itself to get involved in politically motivated issues of daily politics with their inconsiderate and uncritical claims concerning the »higher efficiency« of crime control agencies.

When considering crime policy in Slovenia, it is possible to speak about it in terms of a more or less professional approach only from the beginning of the 1960s, when abuses of police powers were politically condemned and when a substantially amended Code of Criminal Procedure was developed and finally adopted in 1967.[2] Certainly, following this period crime policy in Slovenia was clearly different from the policies in other republics of the former Yugoslavia and even more different from what was going on in other Eastern and Central European countries. This can be best illustrated by crime figures, by the number of prisoners per 100,000 inhabitants, and last but not least, by the non-imposition of death penalty in Slovenia from 1957 onwards, even though this penalty was provided by law. All these indices were from the middle of the 1960s very close or even equal to those found in the countries of the Western Europe. Thus, the number of convicted persons serving prison sentences in 1975 was 82 per 100,000 adult inhabitants and in 1985 the total number of all persons incarcerated (adults and juveniles, convicted of criminal offences or misdemeanours and persons in pre-trial detention) amounted to 78 per 100,000 adult population. These calculations were prepared according to the methodology of the Council of Europe by Professor Franc Brinc.

2.2   Integration of criminological research into contemporary criminological trends

When one analyses the research projects carried out over the past 55 years, one wonders how it was possible, given the uniform political orientation of Slovenian society of that time, to promote in criminology views, attitudes and theoretical approaches which were inspired by "Western" criminologists. In the 1960s the New School of Social Defence was the first to have an impact on Slovenian criminology (Bavcon, 1958). At the same time new theories from the USA were applied to the Slovenian crime situation:, one concerning the explanation of juvenile delinquency, based on the theory of status frustration (Kobal, 1964) and the other, explaining violent crime by the theory of a subculture of violence (Šelih, 1963). But this period was probably most marked by a conflict arising between criminologists of the former German Democratic Republic, defending their dogmatic standpoint concerning causes of crime in socialist societies, and the group of Slovene criminologists who asserted that crime is not a "consequence of the relicts (remnants) [of capitalism] in the consciousness of people", but arises in socialist regimes too as a result of conflicts in society (Bavcon, Skaberne, & Vodopivec, 1968).

The next approach to leave its mark on Slovene criminology was interactionism, which found its application in research on criminological expert reports to

---

[2]   This code was adopted when the League of Communists diminished, at the so-called Brioni Plenum in 1966, the impact of political police, which resulted in a partial liberalization of the one-party system.

courts in criminal proceedings in juvenile cases and in the study investigating the operation of the criminal justice system (Vodopivec, 1974a). The idea of rehabilitation in corrections (derived from the school of the New Social Defence) also emerged at this time. It substantially contributed to the formulation of principles and guidelines for the implementation of prison sentences and institutional educational measures. In this respect it is important to mention the experiment, conducted in the juvenile institution in Logatec in the middle of the 1970s, through which a paradigm of permissive education was introduced to Slovenia and which played an important role in the development of institutional measures for juveniles (Vodopivec, 1974b).

The same theoretical approach lay behind the introduction of the so-called socio-therapeutic approach into the adult prison system (Petrovec, 1999). In order to measure the social climate in correctional institutions in Slovenia, a longitudinal study was conducted in the period 1980-2000; this research project, which was repeated several times in order to observe and establish any modifications of the social climate in penal institutions, represents a rare example of research on this topic (Brinc, 1997; Brinc & Petrovec, 2001). From the middle of the 1970s, theories of social control also found their expression in a range of research projects considering different aspects of social control (Pečar, 1973, 1988, 1991).

Since the Institute was affiliated with the Faculty of Law, it maintained throughout very close ties with the members of the Chair of Criminal Law and cooperated with them in a large number of research projects related to criminal law. The researchers often addressed new questions and explored areas which were not easily accessible. New areas, for example, were the projects on the individualization of penal sanctions; the position of mentally abnormal offenders in criminal law (Bavcon, 1968; Kobe, 1969); and criminal law protection of privacy (Šelih, 1979). An area not previously accessible was the investigation of particular criminal proceedings in the 1950s in which several persons had been sentenced for political offences (Bavcon, Bele, Kobe & Pavčnik, 1987). In spite of these positive changes it is necessary to point out that certain areas stayed completely beyond the reach of criminological research carried out by the Institute which consequently had no impact on practice. Here one should mention verbal political criminal offences, either in terms of legislation or as dealt with by courts. Political trials had actually become very exceptional from the 1960s onwards (in comparison to the previous period), yet they still took place and put under question all principles of respect for persons *and their rights. Another area* which also seemed to be beyond the reach of criminological research, concerned economic crimes in which politics had got involved, leading to the abuse of criminal law and criminal trials for political purposes. Some cases of this kind took place in the 1960s and 1970s.

This brief overview shows that researchers of the Institute demonstrated a wide range of interests and approaches to their discipline. They had been all the time in touch with contemporary trends of criminological thought, which can be seen by the participation of researchers at that time in various international activities; they had been active as members of executive bodies of the most important international associations in their fields; they were frequently *rapporteurs* on international congresses and conferences; they were invited to lecture at congresses and at foreign universities; and finally, in the last forty years they have regularly published their results and findings in foreign periodicals and other publications.

2.3   Crime areas in which criminological research (probably) had an impact on crime policy

It seems that there have been two main areas of research that can be clearly distinguished from others: they were either oriented to practice and had therefore a possibility to influence it, or they dealt with issues relevant for practice. These areas were the implementation of prison sentences and juvenile delinquency. In addition there were some other research projects that can be included among those having had an impact on everyday practice in the criminal justice system.

As far as penological research is concerned, the majority of research topics were chosen in collaboration with law enforcement agencies (and in particular of correctional institutions). Although the results of these research projects had been sometimes contrary to the expectations or wishes of these agencies, they served at least to alert the authorities to new issues and problems. Penological projects have dealt, among others, with the following issues: the selection of female offenders for the open correctional institution; measures taken to deal with mentally abnormal offenders; classification of prisoners; organisation of local prison facilities; organisation of halfway houses for released prisoners; post-penal assistance; the implementation of prison sentence in open and halfway correctional institutions (Brinc, 1983); young adults in prisons (Brinc, 1986); the implementation of short-term prison sentences (Brinc, 1989); and prisoners' rights (Brinc, 1992). One of the researchers made even a step forward and formulated a theoretical approach to the implementation of prison sentences in Slovenia (Petrovec, 1991).

The second area of research which has presumably also had a decisive impact on criminal policy is juvenile delinquency. Here four projects that seem to have been the most influential in implementing crime policy should be mentioned. The first of them is also one of the oldest – 'The Analysis and Efficiency of the Implementation of the Educational Measure of Intensive Supervision by a Social Welfare Agency' (Skaberne & Bavcon, 1969). This educational measure (a type of probation) was introduced by legislation in 1960 and some years later the re-

search group not only conducted an analysis and assessment of its implementation, but also submitted a number of proposals for its use and implementation.

The research project on implementation of educational measures which had already been mentioned (Vodopivec, 1974b) had an important influence on the implementation of institutional educational measures. It was founded on clear value-based premises, arising from the ideas of permissive education which were influential at that time and triggered a long-lasting activity of the Institute and focused on the analysis and conceptualization of future orientations of institutional education in Slovenia. It also had a profound influence on future efforts to renovate and reconstruct educational institutions in Slovenia (Šelih, 1982; Dekleva 1990, 1992).

Among other research projects which probably had an impact on crime policy one should mention those on child abuse and children's rights in general. This issue was addressed in the beginning of the 1980s (Šelih, Mikuš-Kos, Friedl, & Petrič-Filipov, 1985) and the first empirical research on child abuse that was conducted in Slovenia provided data on its incidence and societal reaction to it.

There are some other research projects which can be presumed to have had a certain influence on the legislation and there are at least three projects in which this impact can be clearly established. One of them concerned the legal position of juvenile misdemeanants and compared it to the legal status of juvenile perpetrators of criminal offences. On the basis of comparative analysis of these two groups, it was possible to improve the legal position of misdemeanants so that it approached the status granted to juvenile perpetrators of criminal offences (Skaberne, 1977). Two other research projects, one of them dealing with an analysis of criminal offences against state and the other with the investigation of post-war political trials, called "the Dachau trials", resulted in the adaptation of legal provisions regarding this group of criminal offences which were more in line with international standards (Bavcon, 1990).

We should also mention a study of shoplifting in self-service stores that the Institute conducted in the seventies and disseminated its findings, proposals and guidelines at a number of conferences and workshops. Looked from the present-day perspective, this research could be seen as a contribution to recently widespread situational crime prevention studies (Pečar, Maver, & Zobec, 1981).

The research group of the Institute has always been relatively small and consequently not able to deal with all areas of crime. One of the areas which have been rather neglected from the very beginning – although not entirely disregarded – was economic crime. One of the reasons for the lack of research projects in this field probably lies in the difficulties inherent in the investigation of this demanding area of crime, but it was also due to the fact that economic crime tended in the past to be sometimes monopolized by politics. Beside economic crime,

there are some other areas, closely connected with this type of crime, that remained neglected and have come only recently into the focus of research attention: trans-border crime, organised crime, terrorism and other crimes, related to them – trafficking in arms, in drugs, in human beings, child pornography and other types of crimes within these broad groups.

3   SLOVENIAN CRIMINOLOGICAL RESEARCH IN THE TIMES OF CHANGE: FROM 1990 TO 2000

The last decade of the twentieth century was – because of all the political and social turmoil in the country – a period marked by many challenges in research. When looking at the list of research projects carried out in this time by the research team of the Institute of Criminology one could be impressed by the variety of topics dealt with. Some topics were clearly connected with the changes occurring in the country, while others showed a broadening of the research interests of some of the researchers. Yet, in the main, the research projects dealt with similar problems as before: juvenile delinquency and sentencing and penology.

New areas of research dealt with emerging issues in crime and in the ways of dealing with it. One referred to new insights into social control. While informal social control had been analysed (Pečar, 1991), ideology as factor of social control underwent a very critical analysis (Salecl, 1993). This study seems to be a forerunner for the next one re-examining new forms of control encountered in the post-socialist and western democracies as well as the impact of ideologies on the increase of political violence.

Another new area of research was the study into economic crime. At the end of 1980s and the beginning of 1990s, a time of economic and social transition, the Institute was staffed with an economist, whose projects focused on economic crime; unfortunately this period lasted a very short time only (Žnidaršič-Krajnc, 1992, 1994).

Problems of drugs which have become an important issue in crime policy have also come under the research focus of criminology: economic analysis of criminal law has been applied to the offences dealing with this type of crime and its potentials for this specific problem have been tested (Jager, 1998).

Theoretical criminology has become a major research preoccupation of one of the researchers. Having started by analyzing radical criminology (Kanduč, 1993) the researcher then went on to present a detailed picture of theoretical criminology (Kanduč, 1999).

As a special research area a reflection on the wars in ex-Yugoslavia has been elaborated by Salecl (1994, 2004) in which, among others, the roots of crimes committed especially in Bosnia were critically assessed from a psycho-analytical perspective.

In the field of juvenile delinquency the research area was broadened to encompass children's rights (Pavlović, 1993; Šelih, 1992) and alternative sanctions have been dealt with (Dekleva, 1995); also the abuse of tobacco, alcohol and drug abuse (Dekleva, 1998); violence against children in institutions (Šelih, Dekleva, Pavlović, Štih Uršič, Domicelj, & Ferjančič, 1995); and disciplinary measures for children in schools (Pavlović, 1996). The project on alternative sanctions was important, because it constituted the first experiment conducted on criminal justice practice in Slovenia and introduced mediation as one of the principal forms of diversion from criminal proceedings.

Penological research was in this decade very rich. On the theoretical level a penological theory, called "socio therapeutic" was elaborated (Petrovec, 1999); on the practical level a range of projects was carried out ranging from prisoners' rights, recidivism, capacity of correctional institutions in Slovenia, to the longitudinal project, previously mentioned, measuring social climate in these institutions from 1980 until 2000 (Brinc, 2001). It is worth noting that in 1997 one of the researchers joined the team of responsible for the International Crime Victim Survey and since then the victim survey has been taken over by the Office of Statistics (Pavlović, 1998a, 1998b). The concept of restorative justice was also introduced (Bošnjak, 1999).

Research at the Institute of Criminology continued to be closely connected with research in criminal law. An analysis was undertaken of new criminal law instruments introduced by the new criminal Code (1995) (Bavcon et al, 2000); and an interesting analysis of the role of gender in criminal law was prepared (Kanduč, Korošec, & Bošnjak, 1997).

In the middle of this decade the Police College in Ljubljana which had existed as a college within the Ministry of the Interior since 1973, was transformed into a faculty and became a fully-fledged member of the University of Maribor. At the start it was very much oriented towards those areas of academic work and research that are closely connected with police and policing, especially police management. After a few years the research team that had been slowly forming in this unit started to show an interest in the broader field of criminological research as well.

We can conclude with the observation that in the decade 1990 – 2000 new research topics had developed – partly due to the new openness of the social environment, partly due to new crime problems. Besides, a new actor in criminological research had emerged: the Faculty for Criminal Justice and Security at Maribor University and its Institute of Criminal Justice and Security Studies.

4   RECENT DEVELOPMENTS: OLD AND NEW ACTORS (2000–2010)

While the researchers of the Institute of Criminology dealt intensively with problems of theoretical criminology, with problems of crime in transition (from socialism to capitalism), as well as with crime in post-modernity, researchers from the Faculty for Criminal Justice and Security and its Institute of Criminal Justice and Security Studies oriented their research towards police studies, policing, criminal investigation, safety and security, studies of victims, fear of crime and crime prevention (Meško & Tičar, 2008).

In the first half of this decade the research in criminology had been mostly carried out by the Institute of Criminology's research team. The main research areas had remained the same as in the previous decade, with the exception of the economic crime because of lack of researchers in this field. Nevertheless there were shifts in the direction and emphasis of research projects during this time: it seems as if criminal justice system problems ha became most important. Maybe this shift in research orientation reflected the fact that, at this time, the Slovenian justice system had been found by the European Court of Human Rights to be much too slow. In a number of cases Slovenia has been condemned by this judicial authority for not having rendered the justice in *"due time"*. This fact may have had some effect upon the choice of some of research topics carried out during this decade, such as: course and duration of criminal proceedings (Bošnjak, 2005); ensuring the presence of parties in proceedings (Bošnjak, 2007); standards of evidence (Jager, 2006); law on evidence and organization of the main hearing (Mozetič, 2008); elements for modernization of criminal proceedings (Šugman, 2006); and novelties in substantive criminal law (Šelih, 2007). Apart from these practice-oriented projects another project dealt with the intriguing question of the harm principle in English and Continental legal systems (Peršak, 2007).

Another area of interest had centred on particular groups of offences and the ways in which they can be translated into penal legislation - road traffic offences (Korošec, 2004; Petrovec, Brvar, Kušević, & Muršič 2008); biomedicine and criminal law (Bošnjak, 2002); corruption (Jager, 2004); organized crime in Eastern and Central Europe (Kanduč, 2006); and computer and cyber crime (Peršak, 2006, Završnik, 2007).

While these research topics have been closely connected with and related to problems in judicial practice, there has been also an increase in research on theoretical criminology, such as: crime in post- modern societies (Kanduč, 2003); (in)formal social control mechanisms in these societies (Kanduč, 2007); and women, violence and victimization and criminal law in the same social context (Kanduč, Završnik, Kmet, Petrovec, & Mihelj Plesničar, 2009). Victimological problems have been dealt from a critical perspective – the cult of the

victim had been studied (Petrovec, 2004a) as well as the process of victimization (Kanduč, 2001).

The role and potential of psychoanalytical perspectives in studying crime problems has been a novelty (Salecl, 2004) along with an analysis of the concept of the subject as seen from the psychoanalytical perspective and the perspective of criminal law (Završnik, 2009). The same holds true of an analysis into the role of emotions in interpersonal violence (Muršič, 2008).

On the other hand, some topics that had formerly received a lot of attention faded somewhat into the background. This is true of juvenile delinquency where the emphasis had recently been on alternative sanctions for juveniles - social training, community service (Šelih, 2005), and mediation (Filipčič, 2008). Less attention has also been paid to penological problems because administrators of correctional institutions showed less interest in research, although the impact of social changes on the implementation of penal sanctions has been studied (Petrovec, 2004b).

Finally, two new research areas have been touched upon recently: violence has been analyzed from cultural perspectives (Salecl, 1998) and its representation in the media (Petrovec, 2001) as well as 'invisible violence' (against the disabled) (Zaviršek, 2002).

Alongside this, a number of research projects have been carried out by the research group at the Faculty of Criminal Justice and Security. This group of researchers devoted their work predominantly to two main areas, one being connected with prevention, fear of crime and public safety and the second being police studies and policing. In the first group were projects on the distribution of patterns of deviant behaviour in the city of Ljubljana (Meško, Dvoršek, Dobovšek, Umek, & Bohinc, 2003); the perception of deviant behaviour and responding to public safety threats in Slovenia (Meško, 2004a); criminological, victimological and other aspects of the prevention of violence (Meško & Bučar-Ručman, 2005); prevention of organized crime and corruption (Dobovšek, 2008); and fear of crime in urban settings (Meško, Fallshore, Muratbegović, & Fields, 2008). New challenges brought about by the evolution of crime and deviant behaviour were dealt within the CRIMPREV project in 2006-2009 and resulted in two monographs in English - *Crime, Media and Fear of Crime* (Meško, Cockcroft, Crawford, & Lemaitre, 2009) and *Crime Control Policy* (Meško & Kury, 2009).

The second group of projects on police and policing focused on the role of private security in society, police integrity and legitimacy issues (Sotlar, 2009; Meško & Klemenčič, 2008; Pagon & Lobnikar, 2004).

A recent research project *'Crimes against the environment – criminological perspectives'* has reached an international dimension with a NATO Advanced workshop (http://www.fvv.uni-mb.si/nato_arw/) and a prestigious refereed inter-

national publication with nineteen contributions about South Eastern Europe (Meško, Dimitrijevič, & Fields, 2011).

Since 2006 the Faculty of Criminal Justice and Security at the University of Maribor has offered a new three-year post-graduate doctoral programme in Criminal Justice and Security. The research topics of the PhD students have always been chosen to complement the general research orientation of the research group. As an illustration, we mention the following: Social acceptance of biometric technology in combating terrorism; Environmental crime – comparative criminological and criminal justice aspects; Criminal investigation aspects of child sexual abuse detection and proof; and Parental control and teenage delinquency in urban areas. In addition to criminological and criminal justice research the FCJS has developed the research fields of safety and security management, and information security. Among other publications, textbooks on *Basics of Crime Prevention* (Meško, 2002) and *Criminology* (Meško, 2010) were published at the Faculty of Criminal Justice and Security.

Due to developing research and teaching in criminology as well as numerous international publications, a new Department of Criminology was established at the Faculty of Criminal Justice and Security in the spring of 2010. In addition, since 1996, eight biennial international conferences on policing in Central and Eastern Europe have been organised (www.fvv.uni-mb.si/conf2010). This conference was included in the 'Conference Proceeding Social Science Citation Index' in 2008.

In addition to the research projects carried out, both research units jointly organized with the Slovenian Society of Criminal Law and Criminology several national conferences on Criminology in Slovenia (Meško, 2003), Crime Prevention (Meško, 2004), Crime as Seen from Other Research Disciplines (Kanduč, 2005) and others. Both institutions were partners in organisation of international meetings such as World Criminal Justice Librarian Network Conference (Institute of Criminology, 2005). The most important international gathering organized by the Institute of Criminology and Faculty of Criminal Justice and Security, jointly with the Slovenian Academy of Sciences and Arts and the Faculty of Law, University of Ljubljana, was The 9th European Society of Criminology Annual Conference in 2009.

The last two decades have witnessed a two-way development: while on the one hand Slovenian authors have become much more active internationally, on the other they have also developed some very important projects nationally, in difference fields and using diverse research methods which resemble those employed in the most developed criminological research communities in other countries.

5 ACADEMIC RECOGNITION AND IMPACT OF CRIMINOLOGICAL RESEARCH ON CRIME POLICY

Especially important in a small society like Slovenian, has been in the researchers' focus from the very beginning on showing the value of criminological knowledge for the critical understanding and development of crime policy. This was mainly achieved by publishing relevant research findings in monographs or in national and foreign periodicals and conference proceedings; domestic and foreign meetings of all kinds have been organized. From the 1970s onwards researchers of the Institute have been very active in international professional associations, where they acted as members or assumed certain functions on the boards or committees of these associations. Later, researchers from the Faculty for Criminal Justice and Security have been involved in many such international activities.

Researchers from both research units have also tried to respond as much as possible to the invitations to transmit their knowledge and expertise to students of various faculties, such as the Faculty of Law, Faculty of Education, Faculty of Social Work, and Faculty of Criminal Justice and Security as well as the Faculty of Social Sciences. They have also shared their knowledge with practitioners working in different areas of criminal justice – lawyers, social pedagogues, social workers, health workers, economists and some other professionals. While many researchers have been improving their knowledge at foreign universities, some others have been invited to teach at these universities or give lectures as visiting or invited lecturers.

The Institute of Criminology's research group has also won public recognitions for its research activity: three of the researchers and one research group received the highest national award for their research work. Among social science research groups, financed by the Agency for Scientific Research, the Institute's research group has been always ranked among the best. It is also the case with the Faculty of Criminal Justice and Security which received the highest rank on the benchmarking of faculties of the University of Maribor (i.e. based on major scientific publications, student achievements, community services, contribution to practice, etc.).

Particular attention has always been devoted to the development of junior scientists. From the establishment of the Institute in 1954 onwards, 15 members of research group obtained their LL.D. or Ph.D. degrees. The group has produced three professors of the Faculty of Law in Ljubljana, two professors of the Faculty of Education and one director of a public research institute. One member of the research group has become member of the prestigious Slovenian Academy of Sciences and Arts. At present, members of the group are involved in academic work and participate in the teaching activities of several educational institutions. The same trend can be today observed in the work of the second criminological research unit – the Faculty of Criminal Justice and Security which also pays great

attention to raising young researchers. At the moment, the Slovenian Research Agency supports three junior research fellows of whom two are dealing with criminological issues. Two PhD students successfully finished their PhD studies with theses on Identifying invisible victimization from the perspective of assuring food safety and consumer protection, and Structural analysis of human concerns regarding crime and uncertainties in the beginning of 2011.

Finally, one should highlight the efforts dedicated from the very foundation of the Institute to the establishment of its Library, Documentation and Information Service. This activity would deserve a special consideration, yet the sole fact that the first person to work at the Institute by the side of a researcher was a librarian, speaks for itself. Besides organizing the library, the Librarian also undertook efforts to establish the documentation service that was very up-to-date at the time. The Library and Documentation Service has been growing over time and prospering, although they had to cope sometimes with financial restrictions. The documentation service has created and developed one of the most precious national criminological data bases, comparable to the best specialized services in the world. Over the years, the library has established close and continuing contacts with other criminological libraries and documentation centres in the world. In the last decade, the information and library services of the Faculty of Criminal Justice and Security have also been developing significantly.

6   CONCLUDING REMARKS

When Slovenian criminologists look back into the history of their subject, their feelings may be mixed. Since the beginnings of the criminological thinking and research, an important number of problems, connected with crime and crime policy have been tackled; at the same time, many have been left untouched. Beside two main research units in criminology – one at the Institute of Criminology the other at the Faculty of Criminal Justice and Security – some projects have been carried out at other research unit (e.g., at Faculty of Social Sciences), but these were nevertheless sporadic.

The accomplished research dealt mostly with empirical projects; however, especially in the last two decades research of theoretical criminology has been intensified. The high standard of the research accomplished has – in some instances at least – influenced the everyday work of law enforcement agencies in a way that today too would stand the test of human rights standards and rule of law. On the other hand, the researchers had to face the reality of a one party system which on a systemic level did not enable them to do the same for all areas of crime.

In the past, Slovenian criminology was not cut off from the world criminological scene and was able to apply some of agenda, theories and methodologies of

western criminology to its own national research. It is clear, however, that it is only with the social and legal changes of the last twenty years that the full potential of using the international criminological community has been realized.

In a small community such as Slovenia, one cannot expect that the whole range of crime problems can be studied: the researchers, however, are confronted with the task of identifying those of them which seem to be the most important and to present the state agencies with the results of their research – in the hope that they will be understood and applied in everyday practice. Whether this has been the case or not – is an open question. But, it is also a question whether such a 'cooperation' with law enforcement agencies would not make criminological research more prone to cooperating with politics in general. This may be especially dangerous in a one party system which on a systemic basis does not allow for democratic cheques and balances. Looking backwards – and also taking into account basic data on crime and crime control in Slovenia as mentioned previously in this article - one can assume that criminological research in the past did not compromise itself by increasing the punitiveness of the system. Rather, it added to its decrease and tried to contribute to civilising of professionals and lay people in their understanding and responding to deviance and crime.

REFERENCES

Bavcon, L. (1958). *Kriminalna politika in njene tendence v socialistični družbi [Criminal Policy and its Tendencies in a Socialist Society]*. Ljubljana: Cankarjeva založba.

Bavcon, L. (1968). Individualizacija kazni v praksi naših sodišč [Individualization of Punishment in the Sentencing Practice of Slovene Courts]. *Publikacije Inštituta za kriminologijo pri Pravni fakulteti* 12.

Bavcon, L., Skaberne, B., & Vodopivec, K. (1968). Kriminaliteta v socialistični družbi [Crime in Socialist Societies]. *Revija za Kriminalistiko in kriminologijo*, 105-159.

Bavcon, L., Bele, I., Kobe, P., & Pavčnik, M. (1987). *Kazenskopravno varstvo države in njene družbene ureditve: politični delikti [Penal Protection of the State and its Social System]*. Zagreb: Globus.

Bavcon, L. (1990). Kazensko pravo v času Dachauskih procesov. In M. Ivanič (Ed.), *Dachauski procesi, Raziskovalno poročilo z dokumenti* (pp. 118-161). Ljubljana: Komunist.

Bavcon, L., Bošnjak, M., Fišer, Z., Karakaš, A., Krapac, D., Novoselec, P., Pavlović, Z., Petrovec, D., & Šelih, A. (2000). *Uveljavljanje novih institutov kazenskega materialnega in procesnega prava*. Ljubljana: Uradni list Republike Slovenije.

Bošnjak, M. (1999). Pomembnejše značilnosti restorativne pravičnosti. *Revija za kriminalistiko in kriminologijo, 50*(4), 299-306.

Bošnjak, M. (2002). Dopustnost genetskega dokaza v kazenskem postopku. *Pravnik, 57*(11/12), 627-644.

Bošnjak M. (Ed.), Peršak, N., Kotnik, S., Muršič, M., Prešeren, T., Skubic, N., Mozetič, P., Burgar, A., Bavcon, L., Šugman, K., & Šega, G. (2005). *Potek kazenskih postopkov v Sloveniji: analiza stanja in predlogi za spremembe*. Ljubljana: GV revije.

Bošnjak, M. (2007). Dokazovanje in položaj strank v kazenskem postopku, s poudarkom na pravicah obrambe. In A. Dvoršek & L. Selinšek (Eds.), *Problemi dokazovanja v zahtevnih kazenskih postopkih*. Maribor: Pravna fakulteta, Fakulteta za varnostne vede.

Brglez, A., & Seljak, M. (2007). Ruski profesorji na Univerzi v Ljubljani. *Delovni Zvezki ICK- Nacionalni Razred, 1*(2), 1–96.

Brinc F. (1983). Sedanjost in prihodnost odprtih kazenskih zavodov. *Revija za kriminalistiko in kriminologijo, 34*(1), 28–38.

Brinc F. (1986). Obravnavanje mladih obsojencev v zavodih SR Slovenije. *Revija za kriminalistiko in kriminologijo, 38*, 3-17.

Brinc F. (1989) Izvrševanje kratkotrajnih kazni zapora v SR Sloveniji. *Revija za kriminalistiko in kriminologijo, 40*, 24-35.

Brinc F. (1992). Pravice zapornikov in njihovo varstvo v republiki Sloveniji. *Revija za kriminalistiko in kriminologijo, 42*, 3-15.

Brinc, F. (1997). Družbeno vzdušje v zavodih za prestajanje kazni zapora v RS (Social Climate in Correctional Institutions in the Republic of Slovenia). *Revija za kriminalistiko in kriminologijo, 40*(4), 357-373.

Brinc F. (2001). Družbeno vzdušje v zavodih za prestajanje kazni in v prevzgojnem domu Radeče. *Revija za kriminalistiko in kriminologijo, 52*, 287–302.

Brinc, F., & Petrovec, D. (2001). *Družbeno vzdušje v zavodih za prestajanje kazni zapora v RS [Social Climate in Correctional Institutions in the Republic of Slovenia].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Dekleva, B. (1990). *Sistem družbenega odzivanja na odklonskost mladih [System of Society's Reaction to Deviance of Youth].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Dekleva, B. (1992). *Spreminjanje uresničevanja in uspešnost načrta prenove zavodskega obravnavanja otrok in mladostnikov [Follow-up of the Implementation and Effects of a New Concept of Residential Treatment of Children and Juveniles with Behaviour and Personality Disturbances, and the Development of More Contemporary Forms and Contents of Work in Revitalised Juvenile Institutions].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Dekleva, B. (1995). *Nove vrste vzgojnih ukrepov za mladoletnike (predvsem programov socialnih treningov, poravnavanja z oškodovancem in opravljanja koristnega dela za skupnost [New Types of Eduactional Measures for Juveniles – in Particular Programmes of Social Training, Settlement with the Injured Party and Work to the Benefit of the Local Community. Analysis of Conditions for the Implementation of These Measures, Training of Correctional Workers for the Implementation and Follow-up of Their Efficiency].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Dekleva, B. (1998). *Tobak, alkohol in druge droge med srednješolsko mladino v Ljubljani v letu 1998 [Tobacco, Alcohol and Other Drugs Used by Secondary School Youth in Ljubljana in 1998].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Dobovšek, B. (2008). Economic organized crime networks in emerging democracies. *International journal of social economics, 35*(9/10), 679-690.

Filipčič., K. (Ed.) (2008). *Poravnavanje v kazenskem postopku.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Jager M. (1998). Zakaj optimalen obseg kriminalitete ni enak nič? *Zbornik znanstvenih razprav, 58*, 71–86.

Jager, M. (2004). In the quest for essence : the principal-agent-client model of corruption. In P. C. van Duyne et. al. (Eds.), *Threats and phantoms of organized crime, corruption and terrorism.* Nijmegen: Wolf Legal Publishers.

Jager, M., Gorkič, P., Mozetič, P., Čibej, Z., Brvar, B., & Šugman, K. (2006). *Analiza učinkovitosti policijskega preiskovanja kaznivih dejanj z upoštevanjem razvoja kriminalistične stroke ter dokaznih standardov kazenskega postopka.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (1993). *Pomen radikalne kriminologije za razumevanje družbene vloge kazenskega prava [Implications of Radical Criminology for Uderstanding the Social Function of Criminal Law].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z., Korošec, D., & Bošnjak, M. (1997). *Spolnost in kazensko pravo.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (1999). *Kriminologija: (Stran)poti vede o (stran)poteh [Criminology: Sideways of the Science about Sideways].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (2001). *Žrtve, viktimizacije in viktimološke perspektive: Zbornik prispevkov.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (2003). *Pojmovni aparat teoretske in aplikativne kriminologije v po(zno)moderni družbi.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (ed.) (2005). *Kriminaliteta, družbeno nadzorstvo in postmodernizacijski procesi.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (Ed.) (2006). *Varnost in sodelovanje v Srednji in Jugovzhodni Evropi pri odzivanju na organizirano kriminaliteto.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (2007). *Subjekti in objekti (ne)formalne socialne kontrole v kontekstu postmodernih tranzicij.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kanduč, Z. (2009). *Ženske, nasilje, viktimizacije in (kazensko)pravni sistem v kriznem kontekstu postmodernizacijskih transformacij.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kobal, M. (1964). *Delinkventni mladoletniki z območja dveh različnih kultur [Delinquent Juveniles from Two Different Cultural Environments].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kobe, P. (1969). *Položaj duševno abnormnih storilcev v sodobnem kazenskem pravu* [*The Position of Mentally Abnormal Offenders in Contermporary Criminal Law].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Korošec, D. (2004). *Cestnoprometna kazniva dejanja – temeljni koncepti in njihova uporaba v praksi.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Kušej, G. (1950). Aleksander Vasiljevič Maklecov. *Zbornik znanstvenih razprav, 23*, 3-23.

Lučovnik, H. (1958). Aleksander Maklecov. *Revija za kriminalistiko in kriminologijo, 9*(1), 293–302.

Maklecov, A. (1927). Zaščita dece kot problem kriminalne in socialne politike. *Slovenski Pravnik.*

Maklecov, A. (1929). Kriminalno-pedagoški smotri v mladinskem pravu. Ljubljana: Nar. Tisk.

Maklecov, A. (1930). Osebnost zločinca v modernem kazenskem pravu s posebnim ozirom na kazenski zakonik kraljevine Jugoslavije. *Zbornik znanstvenih razprav, 7,* 127-165.

Maklecov, A. (1936). Kriminalna sociologija in etika. *Posebni odtis iz Slovenskega pravnika* 50.

Maklecov, A. (1937). Kriminološki instituti drugod in pri nas (nekoliko misli o priliki 25-letnice graškega Kriminološkega instituta). *Slovenski pravnik, 51*, 180–185.

Maklecov, A. (1938). Tipologija zločinca u modernom zakonodavstvu. *Arhiv za pravne i društvene nauke* 3.

Maklecov, A. (1939). Kriminaliteta in domoznanstvo. *Ponatis iz Obzorij, 2*(5), 198-204.

Maklecov, A. (1941). Tisk in zločin: kriminalno-etiološka študija. *Zbornik znanstvenih razprav, 17,* 48-69.

Maklecov, A. (1944). Žena in zločin. *Ponatis iz Zbornika znanstvenih razprav Juridi ne Fakultete v Ljubljani, 20,* 89-115.

Maklecov, A. (1946). Življenjski pojavi in vzroki mladinske zločinstvenosti. *Ponatis iz Zbornika znanstvenih razprav Juridične Fakultete 21.*

Maklecov, A. (1947). *Uvod v kriminologijo s posebnim ozirom na kriminalno politiko.* Ljubljana: Juridična fakulteta.

Meško, G. (2002). *Osnove preprečevanja kriminalitete.* Ljubljana: Visoka policijsko-varnostna šola.

Meško, G. (Ed.) (2003). *Vizije slovenske kriminologije.* Ljubljana: Visoka policijsko-varnostna šola.

Meško, G. (Ed.) (2004). *Preprečevanje kriminalitete- teorija, praksa in dileme*: zbornik povzetkov referatov 2. nacionalne kriminološke konference z mednarodno udeležbo. Ljubljana: Inštitut za kriminologijo pri pravni fakulteti.

Meško, G. (2004a). Local safety councils in Slovenia. In K van der Vijver, & J. Terpstra (Eds.), *Urban safety: problems, governance and strategies*, (Book series IPIT, 19). Enschede: IPIT, Institute for Social Safety Studies, University of Twente, 133-144.

Meško, G. (2010). *Kriminologija.* Ljubljana: Fakulteta za varnostne vede.

Meško, G., Dvoršek, A., Dobovšek, B., Umek, P., & Bohinc, U. (2003). *Analiza porazdelitve nekaterih odklonskih pojavov v Ljubljani. Raziskovalno poročilo za MoL.* Ljubljana: Fakulteta za policijsko-varnostne vede.

Meško, G., & Bučar-Ručman, A. (2005). An overview of criminological research on violence in Slovenia. *International journal of comparative and applied criminal justice*, 29 (2), 219-241.

Meško, G., & Klemenčič, G. (2008). Rebuilding Legitimacy and Police Professionalism in an Emerging Democracy: the Slovenian Experience. In T.R. Tyler (Ed.) *Legitimacy and Criminal Justice: International Perspectives* (pp. 84-114). New York: Russell Sage Foundation.

Meško, G., Fallshore, M., Muratbegović, E., & Fields, C. B. (2008). Fear of crime in two post-socialist capital cities - Ljubljana, Slovenia and Sarajevo, Bosnia and Herzegovina. *Journal of criminal justice, 36*(6), 546-553.

Meško, G., & Tičar, B. (2008). Slovenska kriminologija in razvoj varstvoslovja v Sloveniji. *Varstvoslovje*, *10*(2). 285-312.

Meško, G., Cockcroft, T., Crawford, A., & Lemaitre, A. (Eds.) (2009). *Crime, media and fear of crime*. Ljubljana: Tipografija.

Meško, G., & Kury, H. (Eds.) (2009). *Crime policy, crime control and crime prevention - Slovenian perspectives.* Ljubljana: Tipografija.

Meško, G., Dimitrijević, D., & Fields, C. (Eds.) (2011). *Understanding and Managing Threats to the Environment in South Eastern Europe.* Dodrecht: Springer.

Milčinski, F. (1917). *Ptički brez gnezda [Birds without the nest].* Celovec: Družba sv. Mohorja.

Mozetič, P. (2008). *Dokaznopravni in organizacijski vidiki glavne obravnave v kazenskem postopku.* Doktorska disertacija. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Muršič, M. (2008). *Strukturne kontingence emocionalne fenomenologije medosebne nasilnosti.* Doktorska disertacija. Ljubljana.

Managing Global Threats to Air, Water and Soil – Examples from South Eastern Europe. Retrieved September 18, 2010, from http://www.fvv.uni-mb.si/nato_arw/

Pagon, M., & Lobnikar, B. (2004). Police integrity in Slovenia. In C. B. Klockars, S. Kutnjak Ivković, & M. R. Haberfeld (Eds.) *The contours of police integrity* (pp. 212-231). Thousand Oaks (Calif.), London, New Delhi: Sage.

Pavlović, Z. (1993). *Psihološke pravice otroka: otrokove pravice onstran pravnega varstva.* Radovljica: Didakta.

Pavlović, Z. (1996). Vzgojni in disciplinski ukrepi kot način obravnavanja motenj učnega procesa in kot vzgoja otrok za sprejemanje lastne odgovornosti. In A. Šelih (Ed.), *Otrokove pravice, šolska pravila in nasilje v šoli.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Pavlović, Z. (1998a). *Mednarodna anketa o viktimizaciji: Slovenija 1997 [Internatinal Victimisation Survey].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Pavlović, Z. (1998b). Mednarodni anketi o kriminaliteti oziroma viktimizaciji - Slovenija (Ljubljana) 1992-1997: (1. del). *Revija za kriminalistiko in kriminologijo, 49*(3), 257-265.

Pečar, J. (1973). *Gostitve pojavov socialne patologije v Ljubljani.* Ljubljana: RSS.

Pečar, J., Maver, D., & Zobec, Ž. (1981). *Tatvine v samopostrežnih prodajalnah.* Ljubljana: Univerzum.

Pečar, J. (1988). *Formalno nadzorstvo: kriminološki in kriminalnopolitični pogledi [Formal Control from Criminological and Criminal Policy Starting-Points].* Ljubljana: Delavska enotnost.

Pečar, J. (1991). *Neformalno nadzorstvo: kriminološki in sociološki pogledi [Informal Control: Criminological and Sociological Viewpoints]*. Radovljica: Didakta.

Peršak, N., Gorkič, P., Završnik, A., & Kovačič, M. (2006). *Računalniška/kibernetična kriminaliteta v Sloveniji*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Peršak N. (2007). *Criminalising Harmful Conduct: the Harm Principle, its Limits and Continental Counterparts*. New York, London: Springer

Petrovec, D. (1991). Meje in možnosti tretmanskega modela. *Penološki bilten, 9*(3), 41-57.

Petrovec, D. (1999). *Ideja in realnost socioterapevtske usmeritve [Idea and Reality of Sociotherapeutic Orientation]*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Petrovec, D. (2001). *Nasilje v medijih*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Petrovec, D. (2004a). Moč žrtve v literaturi. *Revija za kriminalistiko in kriminologijo, 55*(1), 51-61.

Petrovec, D. (2004b). *Vpliv družbenih sprememb na izvrševane kazenskih sankcij*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Petrovec, D., Brvar, B., Kušević, K, & Muršič, M. (2008). *Kvantitativna analiza varnosti v cestnem prometu*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Policing in Central and Eastern Europe, A biennial International Conference. Retrieved September 18, 2010, from www.fvv.uni-mb.si/conf2010.

Salecl R. (1993). *Zakaj ubogamo oblast? Nadzorovanje, ideologija in ideološke fantazme*. Ljubljana: Državna založba Slovenije.

Salecl, R. (1994). *The spoils of freedom: Psychoanalysis and feminism after the fall of socialism*. London, New York: Routledge.

Salecl, R. (1998). *(Per)versions of Love and hate*. New York, London: Verso.

Salecl, R. (2004). *On anxiety*. London, New York: Routledge.

Skaberne, B., & Bavcon, L. (1969). *Osnove kazenskega prava in kazenskega postopka [Basics of the criminal law and the criminal procedure]*. Ljubljana: Višja šola za socialne delavce.

Skaberne, B. (1977). *Pravni položaj mladoletnih storilcev prekrškov in njihovo obravnavanje v praksi v Sloveniji [Legal Status of Juveniles Having Committed Petty Offences and Ways of Dealing with Them in Slovenia]*. Ljubljana: RSS.

Sotlar, A. (2009). Post-conflict private policing: experiences from several former Yugoslav countries. *Policing, 32*(3), 489-507.

Šelih, A. (1963). *Kriminaliteta telesnih poškodb na območju občine Slovenska Bistrica [Assault and Battery in the Community of Slovenska Bistrica]*. Maribor: Obzorja.

Šelih A. (1979). Zasebnost in nove oblike njenega kazenskopravnega varstva. *Zbornik znanstvenih razprav, 39*, 147-182.

Šelih, A. (1982). *Analiza, ocena in usmeritve zavodske vzgoje otrok in mladostnikov [Analaysis, Evaluation and Guidelines of Residential Eduaction of Personality and Behaviourally Disturbed Children and Juveniles in the Socialist Republic of Slovenia]*. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Šelih, A., Mikuš-Kos, A., Friedl, J., & Petrič-Filipov, V. (1985). Nekateri vidiki trpinčenja otrok [Some Aspects of Child Maltreatment – Legal, Medical and Social Welfare Considerations]. In A. Bajt, V. Bole, & V. Janjič (Eds.), *Politični in ekonomski sistem SFRJ: poročilo o delu za leto 1985.* Ljubljana: Ekonomski institut Pravne fakultete.

Šelih, A. (1992). *Pravni vidiki otrokovih pravic.* Ljubljana: Uradni list Republike Slovenije.

Šelih, A., Dekleva, B., Pavlović, Z., Štih Uršič, T., Domicelj, M., & Ferjančič, J. (1995). *Varovanje otrokovih pravic – disciplinsko kaznovanje in preprečevanje nasilja v vrtcu in šoli.* Ljubljana: Inštitut za kriminologijo.

Šelih, A. (2005). *Kazensko pravo kot zakonsko pravo.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Šelih, A. (Ed.) (2007). *Sodobne usmeritve kazenskega materialnega prava.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Šelih, A. (2008). Aleksander Vasiljevič Maklecov. In M. Pavčnik (Ed.), *Izročilo pravne znanosti.* Ljubljana: GV založba.

Šugman, K. (Ed). (2006). *Izhodišča za nov model kazenskega postopka.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Vodopivec, K. (1974a). *Kriminološka ekspertiza – da ali ne ? [Criminological Diagnosis – Yes or Not?].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Vodopivec K. (Ed.) (1974b). *Maladjusted Youth, An Experiment in Rehabilitation.* Westmead: Saxon House.

Zaviršek, D. (2002). *Nevidno nasilje - normativnost in normalizacija nasilja nad ljudmi z gibalnimi, senzornimi in intelektualnimi oviranostmi [Invisible Violence: Norm-ativity and Norm-alisation of Violence against People with Motor, Sensorial and Intellectual Disabilities].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Završnik A. (2009). *Homo criminalis – upodobitve zločinskega subjekta v visokotehnološki družbi tveganja.* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti

Žnidaršič-Kranjc, A. (1992). *Družbeno nezaželeni pojavi v povezavi s stečaji podjetij ob prehodu v nov družbenoekonomski sistem [Socially Undesirable Phenomena Connected with Bankruptcies of Companies in the Transition to the New Socioeconomic System].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

Žnidaršič-Kranjc, A. (1994). *Vpliv sprememb družbene lastniške strukture na deviantno vedenje različnih gospodarskih dejavnikov in posameznikov [The Impact of Changes in Ownership Structure on the Deviancy of Various Economic Subjects and Individuals].* Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti.

ART CRIME IN SLOVENIA AND PILOT RESEARCH OF COURT CASES

Authors:

Saša Vučko and Bojan Dobovšek

ABSTRACT

Purpose:

The purpose of this paper is to present the problem of art crime in Slovenia and to present the results from a pilot research of court cases on art crime.

Design/methodology/approach:

The paper is divided into two parts. The first part of this chapter provides a theoretical overview of the literature. The preliminary results from pilot research took a qualitative approach to data collection from court files.

Findings:

Criminal offence against works of art is considered as one of the most sophisticated ways of violating the law. Compared with other countries art crime in Slovenia does not present a significant problem. However we wanted to find out judges' opinion on art crime, how they view this type of crime, how many art crime cases courts deal with per year, which type of art crime dominates and in how many cases the offenders are found guilty. The paper presents the results of a pilot research.

Research limitations/implications:

The results and their interpretation pertain to Slovenia. We have to be aware that these are the results of a pilot research. The final results would be useful for international comparison.

Practical implications:

Criminal offences against works of art present a large international problem. The conclusions of this research could be a useful resource of information for investigators and for prosecutors as well as a starting point for art crime investigators.

Originality/value:

The paper presents the state of art crime in the Republic of Slovenia obtained by analysing accessible literature as well as court files.

Keywords: Art Crime, Slovenia, Organized Crime, Court Case.

1   INTRODUCTION

Art crime is considered as one of the most sophisticated forms of crime. It is one of the major funding sources for organized crime and a problem of epidemic proportions. Art crime brings at least 6 billion dollars to criminal groups per year. On the black market stolen art usually reaches only 10% of open-market value because the more famous the art is, the harder it is to sell. One of the greatest problems is that neither the general public, nor government officials, realize the severity of art crime. The investigations of art crime require the cooperation of various institutions at the national and international level.

Over 50,000 works of art are reported to be stolen around the world every year. But only 2 % of art crime cases are successfully prosecuted. The reason for this can be found in the fact that many people think of art crime as a victimless crime which is certainly not true. Most stolen works of art are worth far more than their dollar value. These great works belong to all of us and represent our history. By stealing art our priceless history is being stolen (Wittman, 2010).

The problem with art crime files begins with local police departments. Many of them still file art crimes together with general stolen property which leads to the loss of important information.

The problems of investigating art crime in Slovenia and two pilot studies are presented in this article. For the purposes of this paper art is defined as fine art, decorative art, antiquities, ethnographic objects, oriental and Islamic art and miscellaneous items (armour, books, coins, medals, etc.).

2   ART CRIME IN SLOVENIA

Investigation of art crime in Slovenia is difficult. There are problems in classification whether the object is a piece of art, a piece of cultural heritage or none of them. Because of changes in legislation (in the year 2005 there have been some changes in laws from the field of cultural heritage and changes in Penal Code in year 2008) difficulties in classification on whether an object is a piece of art or not occurred.

Offences related to art in Slovenia are defined in the Penal Code (Official Gazette of the Republic of Slovenia, 2008). There are several offences against the artwork:

– Art theft (Article 212) - the most common form of crime against artwork all over the world;
– Smuggling art and importing and exporting art illegally (Article 222);
– Vandalism or deliberate damage to or destruction of buildings and objects of cultural heritage (Article 223);

- Art forgery (Article 159) - fraud and illegal trade of copies and fakes of prominent national and international masters, which are sold as originals.

In Slovenia, there were attempts of forming a corresponding term for crimes against art in 2001. Experts could not find adequate expression for a set of illegal practices, which are the subject of manipulation of artwork and antiques. Finally they came up with a term Crimes against art. It is a synonym for crimes against works of art and it corresponds to the English term *Art crime* and German term *Kulturgutdelikte* (Kursak Trček, 2002).

Precious works of art are often the primary motive for many crimes. Slovenia is a country of diverse history and rich treasures of the past. The rich treasures often become a subject of potential offences related to art and cultural heritage because they are not well protected.

Table 1 shows the dramatic decrease of art crimes after the year 2005. The decrease is a result of changes in legislation and because of that difficulties in monitoring trends occurred.

Table 1: Number of art crime in Slovenia: 2000-2009
(*Source: http://www.policija.si*)

| TYPE OF CRIME | NUMBER OF CRIME | | | | | | | | | | TOTAL |
| | YEAR | | | | | | | | | | |
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	
THEFT	196	198	188	287	181	183	38	45	21	32	1369
FRAUD	3	8	16	1	3	4	0	2	1	2	40
UNAUTHOR-ISED EXPORT AND IMPORT	0	1	0	0	3	3	0	0	0	1	8
VANDALISM	41	50	35	48	55	48	25	19	7	7	335
TOTAL	240	257	239	336	242	238	63	66	29	42	1752

The second problem is that Slovenian criminal investigators have not been professionally trained for investigating art crime and that art crimes are filed together with general stolen property. »Sorting out which files are art-related is an impossibly daunting task. So from the information's entry level, art crime is often lost in labyrinthine files. This is further confounded by the fact that art crime tends to cross into a variety of different crime types as well as non-criminal activities« (Dobovšek, Charney, Vučko, 2009).

A lot of stolen art in Slovenia ends up going abroad, so it is necessary that the police are informed about the theft as soon as possible. The priority of most victims of art crime (e.g., governments, museums, churches, and/or private collectors) is

the recovery of the objects. Therefore the cooperation with Interpol, which includes filing out forms containing information on the artwork and a photo of stolen object, is very important. The problem is that most victims do not have basic information about artwork or photographs of objects which helps to identify the artwork and helps to determine whether the art is original or not.

The most frequent art crimes in Slovenia are thefts of sacred objects from churches and residential buildings, unauthorized or unsupervised archaeological excavations and thefts of archaeological finds, smuggling art and illicit import and export of art, a fraud, illegal trade of counterfeit copies of works by re-nowned Slovenian and foreign masters which are sold as originals. Most of the stolen paintings are from the 20th century. It is difficult to determine the period of manufacture of sculptures, especially if their origin is unknown. Most of the stolen paintings and sculptures are smaller in size, which is not surprising. As such they can easily be concealed and transported to the customer.

Compared with other countries art crime in Slovenia does not present such big issue. Art crimes are not in Slovenia as frequent as in other countries and be-cause of that neither the government nor the general public is aware of the width or severity of the problem.

3   PILOT RESEARCH OF COURT CASES AND JUDGES' OPINION ABOUT ART CRIME

The courts of first instance for civil cases in Slovenia are the Local Courts and District Courts, while the High Courts are the courts of second instance. Slovenia has 44 Local Courts, eleven District Courts and four High Courts. The Supreme Court generally decides on extraordinary legal remedies and, in some cases, is the court of third instance.

Slovenia has four other courts of first instance - three Labour Courts and one Social Court, which adjudicate either at the seat of the court or in its external departments. The High Labour and Social Court is the court that deals with in-dividual and collective labour and social disputes at the second instance (*The Judiciary of the Republic of Slovenia*).

Art crime cases are prosecuted on District Courts. District Courts are generally responsible for the higher settlement values ($ 28,000) or crimes punishable by imprisonment of three years and more. These are mainly the following types of cases:

– Those that exceed the jurisdiction of local courts;
– The trial of criminal minors;
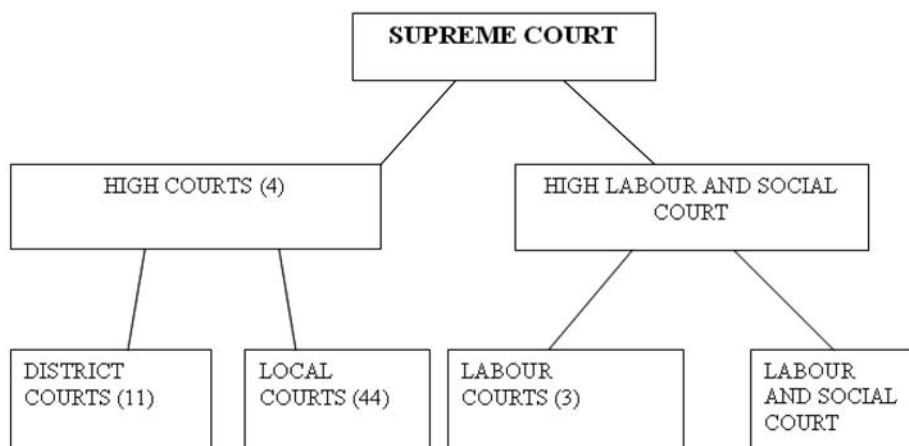
Figure 1: Organisational diagram
(*Source: European Judicial Network)*

– Admitting violation of human rights and fundamental freedoms;
– Conflicts in family relationships;
– Commercial disputes, disputes on intellectual property;
– Keeping a register (register of companies).

Art crimes are prosecuted by criminal judges. At District Courts in Slovenia there are approximately 120 criminal judges. The status of judges is governed by Articles 125 to 134 of the Constitution of the Republic of Slovenia and by the Judicial Service Act (Official Gazette of the Republic of Slovenia, 2007). Judges are elected by the National Assembly of the Republic of Slovenia on the proposal of the Judicial Council. The office of judge is permanent. Age requirements and other conditions for election are determined by law. A person may apply for the post of judge if he/she is a Slovenian citizen and has an active command of the Slovenian language, has the professional capacity and is of good general health, is at least 30 years old, has acquired the professional title of a lawyer with a university degree in Slovenia or has acquired a recognised degree at a legal faculty abroad, has passed the State examination in law and has a suitable disposition for performing a judicial office (Judicial Service Act).

One of the questions that we wanted to explore with this research is whether the courts perceive an increased number of committed art crimes as an increased number of trials against art crime perpetrators or not. Namely, the media reports only on a fact that there was a crime committed against art, given the first information, but the public does not receive any information or feedback on further happening (about investigations, recognising perpetrators, about court

hearings and trials, etc.) which could give them a vision of the problem from a completely different perspective.

The reason why we decided to conduct some studies on art crime and judges' opinion about art crime in Slovenia was that we wanted to find out how many art cases courts deal with per year, how judges see art crime, what is their opinion of art and art crime and whether they believe that art crime presents a threat to society.

For the purposes of the presented pilot study we prepared a questionnaire that we sent to the all District Courts. We sent 60 questionnaires and 18 of them were received back. Average age of respondents ranges from 31 to 55 years. The women respondents are dominated (13 women and 5 men respondents). 17 respondents have a university degree and only one has a master degree.

Based on the results from the study we came to the conclusion that the art works present an important role in the lives of judges. They visit museums and galleries once per year, in their opinion art is important for society and they believe that media should report more often on art crime. Their opinion is that art crime in Slovenian legislation is addressed correctly. 88% of respondents believe that the penalties prescribed for an offence against art are fair. 75% of respondents did not hear a case on art crime in year 2009, and 25% of them had only one hearing on art crime.

At the time of preparing this chapter, the pilot study of court cases is still in progress. Until now we have found out that the District Court Ljubljana and District Court Kranj did not have any trials on art crime in year 2009.

The main problem of this study is that the court cases of art thefts are filed together with property crimes and finding out which files are art-related is almost impossible. Because of this we had to (and will continue to do so) review all the court cases about theft, fraud and scam to find the ones about art crime.

In the future it would be necessary to change the way in which art crime is filed and to begin distinguishing art crime from property crime.

4   CONCLUSION

Though difficult to estimate its size, studies have shown that the scale of art theft globally is worth billions of dollars annually. It is a daily occurrence and while the media often glamorise the big thefts, it is the day to day criminal acts that are endemic.

Compared with other countries art crime in Slovenia does not present a big issue. Art crimes are not as frequent as in other countries and that is why neither

the government nor the general public is aware of the severity or of the extension of art crime.

It is important not to forget that a lot of art crimes remain unreported. As an example: private collectors do not report about all art works that they are having because they want to avoid luxury tax. If it comes to theft they do not report to the police because they would have to report about the works that were stolen. Museums are not reporting about art crimes because they are ashamed of being burgled. Or in the case of successful crimes the result is that reason for unreported crime that avoid detection altogether, such as well-laundered stolen art that resurfaces on the market, antiquities looting from remote areas that may go undiscovered. It is also possible that the victims have given up hope that the police will be able to help them, and have therefore stopped reporting crimes. Or alternatively, that the reports have still been misfiled (Dobovšek et al. 2009).

With the pilot study and preliminary findings we have come to the conclusion that the artworks present an important role in the lives of judges. They visit museums and galleries once per year. They believe that works of art are important for our society and their opinion is that media should report on art crimes more often. 88% of respondents believe that the penalties prescribed for art crime are fair.

The results of studies are limited because this is just a pilot study and there is one in progress. In our opinion police and courts should begin treating art thefts as a unique category of crime because when stolen art is integrated into other stolen goods we can lose important information and a part of Slovenian history.

REFERENCES

Charney, N. (2009). *Art and Crime, Exploring the Dark Side of the Art World.* California: ABC-CLIO.

Charney, N. (2009). Lessons from the History of Art Crime. *The Journal of Art Crime.* ARCA and Yale University, US.

Conklin, J. E. (1994). *Art Crime.* Westport, Connecticut, ZDA.

Dobovšek, B., Charney, N., Vučko, S. (2009). Art Crime Archives. *The Journal of Art Crime, fall 2009.* Vol.2, No.1, Association for Research into Crimes Against Art.

Durney, M. (2009). Understanding the Motivations Behind Art Crime and the Effects of an Institution's Response. *The Journal of Art Crime.* ARCA and Yale University, US.

European Commission. *European Judicial Network,* from http://ec.europa.eu/civiljustice/org_justice/org_justice_sln_en.htm.

Hart, M. (2004). *The Irish Game.* A true story of crime and art. New York: Walker&Company.

Judicial Service Act. (2007). Official Gazette of the Republic of Slovenia, No. 94/2007.

Kursar Trček, A. (2002). Vrste kaznivih dejanj zoper umetnine. *Dnevi varstvoslovja,* Visoka policijsko-varnostna šola, Ljubljana.

Penal Code. (2008). Official Gazette of the Republic of Slovenia, No. 55/2008.

Spiel, R. E. Jr. (2000). *Art Theft and Forgery investigation.* Illinois: Charles C. Thomas.

The Judiciary of the Republic of Slovenia, from http://www.sodisce.si/sodisca/sodni_sistem/.

Wittman, R.K.(2010). *Priceless.* How I Went Undercover to Rescue the World's Stolen Treasures. New York: Crown publishers.

MOBBING – PERCEPTION, PATTERNS AND RESPONSES

Authors:

Petra Dolinar, Maja Jere, Gorazd Meško, Iztok Podbregar and Katja Eman

ABSTRACT

Purpose:

The purpose of this research was to overview the situation regarding mobbing at the workplace in Slovenia. Furthermore, the purpose was to identify and describe the reasons for its occurrence and its consequences and to identify different possibilities for its prevention.

Design/methodology/approach:

The study consists of a survey and a case study, both conducted in the same institution in Slovenia. The survey was conducted among 90 employees in the organization, mentioned above. For the purposes of a case study an interview with a mobbing victim was done, and further comments and conclusions were drawn.

Findings:

Mobbing is a serious problem in Slovenia. It causes severe consequences, among which depression is the most common. The main reasons for its occurrence are inadequate leadership and bad relations among the employees. The key for mobbing prevention is raising awareness among employees and also in the whole society.

Research limitations/implications:

The results are not generalizable beyond the sample. To allow the generalizability of findings, future research should be done among the adequate pattern of Slovenian population. Furthermore, the survey should be conducted in different companies in Slovenia.

Practical implications:

The paper provides some guidance for the mobbing prevention, with emphasis on raising awareness and assistance to the victims in terms of legal aid, medical assistance and public support.

Originality/value:

It describes the phenomenology of mobbing and points out the seriousness of its consequences at all levels. Paper should be of particular interest to managers and employees who have been dealing with mobbing in one way or another.

Keywords: Mobbing, Bully, Victim, Consequences, Prevention, Awareness.

1   INTRODUCTION

In today's competitive and consumption-driven society, workplace mobbing[1] is a rather frequent phenomenon, though talking about it had been suppressed for a long time. In Western Europe, interest in this increased in the 1990s. At that time the first definitions and research appeared along with the first measures for prevention. In Slovenia, dealing with mobbing began around the turn of the millennium, while a real step forward was made in 2006 with the foundation of the society "POGUM [Bravery] – Society for Dignity at Work" and continued in 2007 and 2008 with changes in the area of legislation. Today the first results, as well as deficiencies and problems regarding work performed, are gradually arising.

Mobbing can be explained by the crisis of the modern capitalist system and consecutively the pressure to which organisations have been exposed and the changes they have experienced (Sheehan, 1999). In summary, nobody is safe from such kinds of violence today, and it can occur in any organisation, and the bully can be practically anyone. Despite this, there are some guidelines and characteristics which help us identify psychological violence in the workplace, and most importantly, they enable a response and it to be contained. Containment is of utmost importance because of the dire consequences mobbing causes, whether directly to the victims concerned, or their colleagues in their work organisation, or to friends, family members, or ultimately the wider society in which we are all involved.

In this paper the theoretical starting points regarding mobbing, combined with the findings of research carried out so far, will be defined briefly. Then, the results and findings of empirical research, carried out in an institution in Slovenia, will be presented. Finally, suggestions on how to improve the situation in the area covered will be made on the basis of an analysis of the results and findings. Unfortunately, in today's workplaces, mobbing has become a reality in the working environments of modern society, which can have dire and destructive consequences. Therefore, identifying it and responding to it is of key importance for both the health and life of the employee - the victim of mobbing.

2   MOBBING

Today, mobbing has become a reality for many employees in working environments all over the world. There are many different expressions (i.e., mobbing, bullying, bossing, tormenting, harassment) throughout the world to label such

---

[1] Mobbing is expression for violence in the workplace and will be used hereafter. In the Slovenian text instead of the expressions 'mobbing' and 'bullying' the expression "psychological violence in the workplace" is used. This is how the Commission of Medical Terminology at the Slovenian Academy of Science and Arts has translated these foreign expressions. Also, the mentioned expression is used in Slovenian legislation (Act Amending Employment Relationship Act (Zakon o delovnih razmerjih, 2007) and Penal Code, 2008 (Kazenski zakonik, 2008)).

type of violence. They have a more or less similar meaning. Apart from this, the definitions of mobbing differ. The most holistic definition of mobbing was made by the Swedish occupational psychologist Heinz Leymann, who was the first in Europe to carry out a scientific study of such violence.

Leymann's (1996c: 5) definition reads as follows: *"Mobbing[2] involves hostile communication in the workplace between colleagues or between subordinates and superiors, where the attacked person is in an inferior position and exposed to systematic and continuing attacks directed by one or more individuals in order to oust him/her from the system, while the attacked person regards this as discrimination"* All other (later) definitions practically derive from Leymann's and are, therefore, more or less[3] in accordance with it. It is important that the actions are hostile and that they occur on a frequent basis. Udrih Lazar (2006) added the following characteristics: they are aimed at one or more employees; the victims reject them; they are always a humiliating and insulting experience for the victims, and they cause the victim hardship; they may have a negative influence on doing their jobs; and/or they create an inconvenient working environment.

As for who is the bully and who the victim, mobbing can develop horizontally and vertically (Kostelić-Martić, 2007). We talk about vertical mobbing when psychological violence occurs between people holding different hierarchical positions within an organisation.[4] Horizontal mobbing occurs between colleagues occupying the same hierarchical position (Kostelić-Martić, 2007).

Beside different types of mobbing there are also different forms of mobbing. It is about different activities or the omission of activities, which have been included in this form of violence by experts. Some time ago Leymann (1996a, 1996c) defined 45 so called mobbing activities.

He subdivided them into five categories, namely in attacks on the victim's possibilities to communicate (e.g. the superior limiting the possibilities to communicate, criticising the victim's private life), attacks on the victim's possibilities to maintain social contacts (e.g., being isolated in a room far away from colleagues, being generally ignored by colleagues), attacks on the victims possibilities to maintain their personal reputation (e.g., gossiping, spreading rumours), attacks on the quality of the victim's occupational and life situation (e.g., the individual is not given any new work assignments, they are given meaningless work assignments), attacks on the victim's physical health (e.g., being given dangerous work assignments, being threatened physically). Due to rapid development of modern

---

[2]   In this case the expression "mobbing" is used, because it is a direct quotation of the author. Besides, the expression was adopted by Leymann (1996a) to name such violence in the workplace.

[3]   For more information about common characteristics when defining workplace mobbing please see Urdih Lazar (2006).

[4]   For more information about vertical mobbing please see Bakovnik (2006) and Kostelić-Martić (2007).

technology and its general inclusion into the working environment we may add to these categories different types of e-psychological violence in the workplace. Brečko (2007) has added to this category activities, such as infected files, changes to the access code without the victim's knowledge, deliberately inserting bugs, hacking the system and copying files without the victim's knowledge, which today, in the era of modern information technology, can be a very simple and refined way of harassment in the workplace.

All mobbing activities are performed by men and women, although there might be some differences regarding which activities are more frequently performed by the former and which by the latter (Galjot, 2007). Research has been carried out on who is mobbing whom more often regarding gender (Leymann, 1996a; Workplace Bullying Institute and Zogby International, 2007). Practically anyone can be the bully. The same holds true for victims. According to Kostelić-Martić (2007) the most important reasons for mobbing are still situational factors.

Opinions regarding perpetrators or mobbing bullies in the workplace differ. Most frequently bullies are described as people with an unsuitable personality structure. There is distinctive internal conflict between their needs and capabilities. To resolve conflicts they use aggressive behaviour with which they are very familiar. Typically, they have a low level of empathy, and specialists also point out ego-centrism. As a consequence of the afore-mentioned characteristics, they have difficulty in adapting to the norms of the society in which they live, and have a destructive effect on others in order to satisfy their needs (Mobbing, 2007). Such persons are often labelled as narcissistic or even as socially dysfunctional (Mobbing – psychological violence in the workplace, 2007). Elsewhere, literature labels the bullies of mobbing as persons with changeable character and low personal integrity, who are inclined to excessive control, do not admit their mistakes, and are unfair towards themselves and others (Confidenti, 2006). In relation to this Tkalec (2006) states that mobbing between colleagues is not performed by persons who are malicious by nature, but it develops because the bullies do not think about the consequences of their actions. On the other side, Galjot (2007) speaks about persons with narcissistic personality disorder, who, of all bullies, are the ones with the most extensive mobbing experience. According to him, such persons are inclined to overestimate themselves, they are pathologically ego-centrist, cannot perceive others as equal to themselves (others are important as long as they serve them to maintain their self-affirmation). Also, they are not capable of a "I – you relationship".

Mobbing can be triggered by different characteristics of the victim's personality. Very often it is enough that the individual is noticeable in their work environment, due to personality, gender, skin-colour, or cultural or national identity. In that way they attract the attention of bullies. As a result of this, those most

exposed to mobbing are: whistle-blowers[5], the disabled, the young, the elderly, persons demanding more independence or new equipment for work; persons demanding more money and that their positions be acknowledged after years of impeccable work; and persons, who have become redundant or are members of minority groups.

According to Brečko (2007) and Kostelić-Martić (2007) accomplished research shows that victims of mobbing respond to such violence in a similar way. Brečko (2007) is of the opinion that initially the victims start with self-accusations accompanied by the feeling that they are to blame for the situation, because they must have done something wrong. Then there is loneliness, a strong feeling that mobbing happens only to the victim and no one else. At this stage the victims feel ashamed and uneasy. And finally there is self deprecation, a feeling that the victim is not equal to the situation, that they cannot resolve the problem on their own, they are incapable, and worthless (Brečko, 2007). At the same time there are more and more severe signs of medical conditions, like exhaustion, chronic fatigue, headaches, sleep disorder, stomach trouble and bilious complaints, attacks of sweating, vascular problems, and tachycardia.

It has already been pointed out many times that the phenomenon of mobbing is primarily possible, because it is tolerated and the environment enables it. Colleagues usually do not want to interfere and they remain only passive observers. According to Mlinarič (2006) the reason is lack of civil courage and above all fear of becoming a victim. People who are superior to the bullies and victims play a particularly important role in the development of mobbing. The biggest mistake they can make (assuming, of course, they are not the bullies) is simply to ignore events. If the victim tries to talk to a person in charge, it may take months before anyone will listen to them. The discussion will not bring any positive results, the person in charge sends the victim back to the bully, and so they are caught in a vicious circle. As a result of this, in the workplace there is lack of cooperation, hiding information, resignation. Work becomes a torment, and arriving at work becomes agony, human relationships become cold and insincere, there is interpersonal coldness, distrust, and negative energy – this all has a huge impact on work results (Mlinarič, 2006).

Leymann (1996b, 1996c) divided activities during the course of mobbing into five phases. For each phase there are typical forms of mobbing, the consequences for

---

[5] Whistle-blowers are individuals who report irregularities at work, disregard of rules, laws or acts regarding work and employment in their organisations (Kostelić-Martić, 2007). Often it is enough that a person accidentally catches sight of, hears, or sees a certain piece of information or an occurrence, which should have – in their superior's or colleagues opinion – remained hidden. They might learn about such piece of information or occurrence, and their superior or colleague might feel compromised and, therefore, start attacking. So, the unsuspicious person, who would sooner or later forget about the disclosed information or occurrence and pay no attention to it, all of a sudden becomes a victim of mobbing in the workplace.

the victim are also quite specific. The longer mobbing lasts and the more intensive it becomes, the worse are the consequences for the victim (Leymann, 1996c):

– The first phase Leymann mentions is conflict. Mobbing develops from an unresolved conflict, which gradually loses importance, replaced instead by a personal dispute. Mobbing activities are not yet explicit, but there are first consequences, like irritability, depression, querulous behaviour, exhaustion, periodical weakness, headaches, sleep disorder, stomach trouble, and bilious complaints, attacks of sweating, vascular problems, and tachycardia.

– In the second phase the conflict has been repressed, the victim's personality becomes the target of the attacks. There are new activities of mobbing, communication is terminated. In this phase the attacked person changes a lot, and for colleagues becomes an "outsider". There are the first disturbances between the victim and their social environment. The victim starts developing post-traumatic stress disorder (Leymann & Gustafsson, 1996; Matthiesen & Einarsen, 2004; Tehrani, 2004).

– First disciplinary measures follow (third phase). Due to mobbing the victim becomes problematic, less concentrated, makes mistakes, is often absent - sick. As a result of the numerous disciplinary and other measures in this phase the case becomes public, and everybody gets to know, even those who didn't know to that time that there is something wrong with the victim. A bad reputation follows them everywhere. In this phase the psychological and physical symptoms increase. There is also an increase in the abuse of medication and addiction to it. Alcoholism is frequent and there are first signs of suicidal inclinations (Leymann, 1996c).

– The fourth phase, according to Leymann (1996b), comprises so called wrong diagnoses made by psychiatrists and psychologists when the victims seek help.

– According to Leymann (1996c) the last phase represents termination of employment. After their dismissal many victims are incapable of working and they file for early retirement on medical grounds. If mobbing ends with termination of employment, the psychosomatic disorders are so severe that the individuals are permanently incapable of working and they file for early retirement on medical grounds.

Kostelić-Martić (2007) adds to the effects - depression, anxiety, crying attacks, a feeling of depersonalisation, panic attacks, and other symptoms. Complete passivity (isolation), and eating disorders and other disorders might occur. The result is an increase in sickness absence, the loss of self-esteem and social roles, a change in social relationships and, of course, financial consequences due to numerous absences from work, or loss of employment.

Causes of mobbing can be related to different factors, and arise from areas like general culture of an organisation, uncertainty regarding employment, disharmony and lack of understanding on the vertical and horizontal level of the hierarchical structure, high demands on employees, and stress at work (Cvetko, 2003). We can move even further into society and look for the causes in an individualistic value system which enables different, hidden forms of violence, such as mobbing (Brečko, 2007).

According to Leymann (1996c) the causes of mobbing can depend on how work and work assignments are organised, leadership, and group dynamics. Causes of mobbing (Brečko, 2007) can be divided into four comprehensive groups regarding organisation of work,[6] organizational leadership,[7] the victim's social position[8] and regarding the individual's level of ethics.[9]

In Slovenia mobbing is legally defined in the Employment Relationship Act (Zakon o delovnih razmerjih, 2007) and the Penal Code (Kazenski zakonik, 2008). The Act Amending Employment Relationship Act (Zakon o delovnih razmerjih, 2007), which came into force on 18 November 2007, introduced article 6.a, which prohibits sexual harassment, or any other type of harassment, as well as mobbing. In the 4th paragraph of this article mobbing has been newly defined as "*any recurrent or systemic, blameworthy, or evidently negative and offensive action or behaviour directed at an individual employee in the workplace, or in connection with work*" (Zakon o delovnih razmerjih, 2007). Of similar importance is article 16 of the same Act. Its provision contains an employer's duty to adopt adequate measures in order to protect employees from sexual and other harassment, or mobbing. In the same article it is defined that, in court in cases of mobbing, the burden of proof is on the employer (Zakon o delovnih razmerjih, 2007).

As of 1 November 2008 in Slovenia the new Penal Code came into force (Kazenski zakonik, 2008) which in contrast to the previous Penal Code (Kazenski zakonik, 2004) contains a new, 22nd chapter, on Criminal Offences against employment and social security. In this chapter torment in the workplace, as a special offence, has been introduced.

In the first paragraph of article 197 of the new Penal Code it has been laid down that a person who humiliates or intimidates another person by sexually harassing him/her, psychological violence, mobbing or unequal treatment in the workplace or in connection with work shall be sentenced to imprisonment for at

---

[6] Unclearly defined hierarchical structures, underestimating personal capabilities and the work of employees, vacancies, time pressure, high responsibility, and low-level decision making are included here.

[7] These are: an authoritarian leadership, insufficient communication, and tolerating evident signs of mobbing.

[8] This group comprises cultural and national affiliation, special personal characteristics, gender, skin colour, disability, and the situation of a single mother.

[9] To this group belongs fear of losing power or the job, dissatisfaction in the workplace, ability to reduce stress, strengthening unity, and exercising power.

most two years. If the offence referred to in the first paragraph results in psychical, psychosomatic or physical disorder or if it decreases job performance of an employee, the perpetrator shall be sentenced to imprisonment for at most three years (Kazenski zakonik, 2008).

With the foundation of society "POGUM [Bravery][10] − Society for Dignity at Work" - on 2 October 2007, a huge step has been taken towards raising awareness and offering help to victims of mobbing. Beside an adequate legal system for victims and other persons concerned, or those interested, society also has other very important tasks. Society implements its purpose of existence "*by establishing a culture of dignity, mutual respect, and tolerance among colleagues in a work environment"* (Statute of society "POGUM [Bravery] − Society for Dignity at Work", 2007).

Regarding the society's stance to helping victims, and prevention, it is decisive to keep the public well-informed. Awareness-raising or informing about the phenomenon of mobbing, by public and internal campaigns for example, is an effective prevention tool. According to Brečko (2007) awareness-raising and education at all hierarchical levels (management, staff) can improve identification of mobbing significantly which is the first step towards preventing mobbing, and it may prevent more severe consequences. Therefore, it is important that everyone facing mobbing in any form, especially for the victims, finds credible information in one place. This task is done by the website of the society Pogum. Most information can still be found on the internet, and people (usually) do not start acquainting themselves with mobbing until they, or someone close, or colleagues, become victims.

We may assess that the public in Slovenia is getting better informed about mobbing. In the media (newspapers, magazines, television) we hear from time to time about cases of mobbing victims.[11] During an opinion poll on mobbing in Slovenia some excerpts of results[12] were published in the media.

2.1   Study on mobbing in Slovenia − starting point of research

There is an increasing amount of research on mobbing which represents a good starting point for changes in organisations and measures against mobbing or its prevention. There are still differences within individual organisations. Another limitation for researching is huge ignorance of the phenomenon and fear from consequences in case employees start talking about such kind of violence.

---

[10]   The society Pogum raises public awareness regarding mobbing also with its website http://www.pogum. org/.

[11]   For example a report in the broadcast Preverjeno, February 2008, http://poptv.si/preverjeno.

[12]   For example: http://www.delo.si/clanek/73865, http://www.dnevnik.si/novice/zdravje/1042228767, http://www.rtvslo.si/modload.php?&c_mod=rnews&op=sections&func=read&c_menu=1&c_id=189108, http://24ur.com/novice/slovenija/ko-vas-sodelavci-zalijo.html.

In no way does Slovenia differ from other European countries and other countries regarding mobbing. The positive changes in legislation in favour of the victim and the increasing number of studies revealing the peculiarity of Slovenian bullies, and victims of mobbing, and the responses to mobbing within particular organisations, shows that Slovenian society is aware of the severity of mobbing, as will be described in this paper.

In Slovenia, in the first half of 2008, 10.4 % of employed Slovenians were victims of mobbing. As numerous pieces of research in Slovenia and abroad show (e.g., Parent-Thirion, Fernandez Macias, Hurley, & Vermeylen, 2007; Workplace Bullying Institute, Zogby International, 2007) women are more frequently victims of mobbing than men.[13] According to Slovenian research which was carried out at the Institute of Occupational, Traffic, and Sports Medicine, in 2008, 62.8 % of victims were women and only 37.2 % were men (Česen, Damej, Kečanović, Modrej, Pečnik Posel, Posel, & Urdih Lazar, 2009). According to the same research, in the first half of 2008, in Slovenia, out of 10.4 % of the mobbed Slovenians 1.5 % were mobbed daily or several times a week. In the last five years before the research 19.4 % of the respondents had experienced mobbing (Česen et al., 2009).

Research shows that mobbing occurs much more often in jobs requiring higher or high education, than among less educated workers (Žaler, 2007). The above mentioned research (similar to Leymann, 1996a; Hoel & Cooper, 2000; Parent-Thirion et al., 2007) among activities, where there is most mobbing, exposes the manufacturing industry (28.2 % of all cases), followed by health and social security (12.6 %), public administration and financial and intermediary services (each 10.3 %) (Česen et al., 2009).

According to Česen et al. (2009) most victims of mobbing are exposed to excessive workload, spreading rumours, insult, unpleasant comments about one's personality, humiliation, or mocking in connection with the job and ignoring the individual's opinions and views. Beside this, Slovenian researches show that the victims are not mobbed alone. According to the results of research carried out by Česen and colleagues (2009) only 9.4 % of the victims were mobbed alone, 63.5 % were mobbed together with colleagues, and in 27.1 % of cases whole groups of employees were mobbed. In addition, the bullies usually do not attack on their own but in a group of two to four persons. It happens very rarely that a whole group of workers would mob one person (Česen et al., 2009; Brečko, 2007; Leymann, 1996a).

---

[13] Some authors do not agree entirely with these findings. For example Leymann (1996a) states in his research that victims of workplace mobbing are women in 55 % of cases, and men in 45 %. But he describes the differences as negligible and he attributes them to the structure of employment in Sweden according to gender. Opinions also differ regarding the importance of the age of victims (Leymann, 1996a; Parent-Thirion et al., 2007).

According to the Slovenian research, most bullies are superiors in 81 % of the cases; followed by colleagues in 33 % of cases, subordinates in 14.9 % of cases; and customers, patients and students. The proportion is more than 100 % which means that in single cases there can be more bullies who are employed at different organisational levels (Česen et al., 2009). Some other research (Angeles Carnero, Martinez, Sanchez–Mangas, 2006) have shown a slightly different situation, according to which most mobbing activities are initiated by colleagues. Also the Slovenian research from 2003 (Brečko, 2007) shows that most bullies are colleagues (44 %), followed by superiors (37 %), then superiors and subordinates together (10 %), and last but not least subordinates alone (9 %).

The results of the accomplished studies in Slovenia (Brečko, 2007; Žaler, 2007; Česen et al., 2009) have shown that mobbing still too often remains hidden, although today it is being talked about much more than years ago. Colleagues of victims usually only observe the activities silently, because they fear for themselves and are afraid of losing their jobs. In addition, the intervention of the superior is, in many cases, rather weak. Superiors are, in many cases, the bullies, and this is the reason that they would not intervene, because it would mean intervening against themselves. Eventually even family members and friends stop believing the victim, which throws them into even greater despair.

In February 2009 a case study was carried out (Dolinar, Jere, & Meško, 2009) on the basis of discussions with a victim of mobbing. There were two bullies in the organisation where she is employed. The male bully was the victim's colleague, and the female bully, their superior. Mobbing activities occurred horizontally and vertically. At first, the victim's authority was undermined, her work was checked by subordinates, there were slight insults at expert meetings, her authority was negated and similar. In the two years while mobbing was going on, the activities became more and more evident and they were accompanied by numerous disciplinary measures – all to the victim's disadvantage. As one of the first consequences the victim mentioned loss of motivation for work, helplessness, and the feeling that she could not master the situation in which she found herself. She started doubting her own capabilities. There was lethargy, frustration, the feeling of abandonment and loneliness. The first symptoms of health problems, manifested by chronic fatigue, frequent headaches, anxiety, nausea and vomiting, which resulted in frequent sick absence,[14] began to emerge.

---

[14] In the case study the victim was a woman, aged 52, higher educated, in the employment market for quite some time (32 years). After 30 years certain mobbing activities started, innocently and unnoticed at first. Mobbing activities stopped (although mobbing is still present in a more hidden form) when her contract of employment was terminated. The victim was dismissed for cause. After a settlement in court a few months later she got her old job back (Dolinar et al., 2009).

The victim's course of mobbing was quite stereotypical and proceeded in phases, as already described by Leymann (1996b, 1996c). It developed from an unresolved conflict which was the result of the victim highlighting irregularities in the organisation. Eventually the initial conflict had become less important until it was pushed into the background, and the victim's personality became the target of the attacks. The

Mobbing does not affect only the victims, but always also their colleagues, the whole organization, the victim's family members and friends. Therefore, the response to such kind of violence is never only the victim's response, but the response of all who have been affected by mobbing. Regarding the fact that in the study carried out by Dolinar, Jere and Meško (2009), the person in question was not the only victim, the general situation in the working team in the organisation deteriorated. The management of the institute asked for an analysis of the situation in the organisation. On the basis of the findings of the case study and the analysis of the results of former research, a questionnaire was drawn up with which the dynamics of relations and the forms of inadequate behaviour in the workplace could be examined. The results of the accomplished research in the aforementioned organisation will be presented below.

3   METHOD

The questionnaire was titled "Survey on the Situation in the Workplace". The questionnaire had 27 questions and statements of different kinds, divided into four parts. At the beginning, general questions concerning employees satisfaction, relations in the workplace, and the atmosphere in the organisation. The second part focused on the description and assessment of the situation in the organisation. There are questions about how concrete actions are perceived, about the bullies, their number, gender, position in the organisation, and the reasons for such a situation in the organisation. The next part was dedicated to discovering and assessing different ways of improving the situation. There are questions

mobbing activities, as well as the consequences were, in accordance with the phases, deteriorating. The end was also stereotypical - termination of employment. The victim of mobbing described her bullies as persons who could not tolerate criticism, who suffer from the need of feeling powerful. To hide their lack of professional capacity they used an autocratic management style. They were vengeful, immature, and incapable of dialogue, which is in compliance with the observations of experts. Beside this person there were more victims of mobbing in the organisation, because those who highlighted the impossible relationships between staff were also subject to different forms of harassment and attacks. The management was informed about the activities, but reactions were pale – they ordered regular and exceptional inspection which did not find any irregularities in the organisation. In the mentioned case the victim's initial problem was that she was also mobbed by her direct superior who, of course, did not react to the complaints. The victim's situation was not acknowledged until the victim's attorney spoke about the unquestionable mobbing at the main hearing in court (Dolinar et al., 2009). As Mlinarič (2006) pointed out, ignoring evident signs of mobbing is a huge problem, because the complaints of victims, who already have difficulty in finding the courage and the will to seek help, fall on deaf ears of their superior. Again, they feel injustice and helplessness and so they are caught in a vicious circle.

For the victim mentioned in the study the reasons for mobbing in their organisation are in the first place autocratic management and the bullies fear of losing power. She also underlined the sketchy, and due to different reasons, disturbed hierarchical structure which leads to badly-organised work. According to her a big problem within the organisation is the fact that people are incapable of distinguishing between professional, personal, and private life, and that instead of a common vision and teamwork there is enforcing power at any cost (Dolinar et al., 2009).

about informing people in charge, finding help, and about the employees' and union's duties. In the last part we ask about demographic data. The questionnaire was drawn up on the basis of theoretical findings from the area of mobbing and the results of the case study. When asking questions we paid special attention for signs of mobbing, the consequences for the victim and the environment, the relations within the organisation, the characteristics of the bullies, reasons and organisational measures, as well as sanctions against the bullies. Apart from contrasting questions, we measured the opinions of respondents using a five-point Likert scale.

The survey was administered in June 2009 in an organisation in Slovenia whose name we will not mention due to sensitivity of the discussed subject. In the organisation we handed out 90 questionnaires to employees and within the agreed deadline 51 completed questionnaires were received, which represents a 56.67 % response rate. The data from the questionnaires was transferred to a database. For data processing the SPSS statistical package was used.

The majority of respondents (76.5 %) were female. Most respondents (30 %) had finished secondary school (30 %). Respondents who had finished elementary schools, vocational schools or some kind of higher education were at 14 %. 12 % of the respondents had finished vocational college and 16 % education at university level. The average age of respondents was 43 years and the average working life 20 years.

4   RESULTS

4.1   Forms of mobbing

The respondents were asked for descriptions of different situations in connection with mobbing - whether they had ever faced being a victim of mobbing or only been a witness to the described form of attack on the victim of mobbing. The answers are presented in table1 below and they show very different and frequent forms of mobbing, as well as a large share of victims and an even larger share of being present when a particular mobbing activity occurred to a colleague.

Results show very refined (e.g., avoiding contact, ignoring, making remarks behind the back, criticizing work, assessing work effort wrongly, spreading rumours and attempts of ridiculing), and also violent forms of mobbing (e.g., yelling or clear abuse, written and oral threats, hacking computer systems, transfers to different workplaces, attempts of coercion to receive psychiatric treatment) (see Table 1).

Table 1: Forms of mobbing

Variable	Victim		Witness	
	f	%	f	%
Avoiding contacts	22	46.8	22	51.2
Negative gestures or views	21	43.8	23	54.8
Ignoring	21	43.8	19	46.3
Remarks behind the back	20	45.5	32	78
Criticising work	20	42.6	25	59.5
Making ambiguous comments	20	41.7	26	61.9
Assessing work effort wrongly	19	40.4	16	41
Spreading rumours	18	39.1	29	69
Attempts at ridicule	14	31.1	20	48.8
Restricting free expression	12	25	16	36.4
Doubting business decisions	11	24.4	19	46.3
Ordering sb to stop speaking	11	22.9	18	4.9
Assigning new tasks repeatedly	11	22.9	10	25
Yelling or swearing aloud	8	17	13	31
Assigning meaningless tasks	7	14.6	7	17.1
Written threats	6	12.8	8	19.5
Criticising personal life	6	12.5	11	26.8
Oral threats	6	12.5	9	22
Assigning tasks which are below one's capability level	6	12.5	7	17.1
Colleagues must not talk to the person	5	10.9	8	20
Presumption that the person is a psychiatric patient	4	8.9	10	25.6
Assaults on political or religious belief	4	8.7	4	10
Hacking the computer system	3	6.8	2	5.1
Nobody talks to the person	3	6.7	7	17.5
Transfer to another office, away from colleagues	3	6.5	3	7.3
Forced to perform tasks which have a negative impact on self-confidence	3	6.5	2	5.1
Intentionally installing computer bugs	2	4.8	1	2.7
Infected computer files	2	4.5	1	2.6
Attempts of coercion to receive psychiatric treatment	2	4.4	2	5
Imitating the manner of walking, voice or gestures – mocking	2	4.4	8	20
The person is being cursed and called names	2	4.4	10	25
Making fun of private life	2	4.4	10	25
Assigning tasks well beyond one's qualifications in order to discredit	2	4.3	5	12.2

Variable	Victim		Witness	
	f	%	f	%
Phone harassment	2	4.2	1	2.5
Making fun of a person's physical impairment	1	2.3	9	22
Making fun of a person's nationality	1	2.2	8	20
Assigning tasks which insult a person's dignity	1	2.2	2	4.8
Not given new tasks	1	2.2	1	2.4
Forced to do harmful tasks	1	2.1	0	0
Attempts at sexual harassment	0	0	1	2.5
Changing access codes without knowledge of the person	0	0	3	7.7
Copying files without knowledge of the person	0	0	2	5.3

The results from the above table are a clear indicator of the problems within the organisation showing mobbing, and they are calling for urgent intervention by the persons in charge to resolve the conflict situations or to take measures to prevent such kind of violence in their organisation. Following were questions about job satisfaction, relationships and resolving conflicts at work - about factors which can have an important impact on the occurrence of mobbing, as presented below.

4.2   Factor analysis of the questionnaire

The questionnaire was evaluated with factor analysis in order to determine factor validity, relevance of sampling and factors which affect mobbing.

Table 2 shows that employees in the organisation are satisfied with the relationships at work. They express a high level of satisfaction with their colleagues, direct superiors, with their work and the working conditions. There is somewhat less, but still an average level of satisfaction regarding possibilities of training offered to the employees by their organisation.

Table 2: Satisfaction with relationships at work

Variable	Own value	$\bar{x}$	Standard deviation
Satisfaction with colleagues	0.809	3.60	0.83
Satisfaction with superiors	0.759	3.59	1.27
Job satisfaction	0.644	3.68	0.91
Satisfaction with possibilities for training	0.602	2.92	1.21
Satisfaction with working conditions	0.548	3.61	1.06

Variable	Own value		$\bar{x}$	Standard deviation	
Satisfaction with	% variance	$\bar{x}$	Standard deviation	KMO	α
relationships at work	3,48	3,48	0,73	0,68	0,73

The respondents assessed the statements on a five-stage scale: 1 = completely dissatisfied and 5 = very satisfied.

As presented in Table 3, the respondents have attributed significant importance to interpersonal relations at work. They underlined mutual understanding and trust, and trust in the team, as extraordinarily important. Also important to them is that they are praised for accomplished tasks. Less important to them was affiliation to a group of colleagues and understanding the problems of others.

Table 3: Harmony – relationships at work

Variable	Own value		$\bar{x}$	Standard deviation	
Praise	0.83		4.31	0.74	
Affiliation to a group	0.80		4.16	0.96	
Understanding problems of others	0.69		4.06	0.94	
Mutual trust	0.65		4.55	0.81	
Mutual understanding	0.53		4.55	0.70	
Harmony	% variance	$\bar{x}$	Standard deviation	KMO	α
relationships at work	35.89	4.35	0.59	0.75	0.80

The respondents assessed the statements on a five-stage scale: 1 = completely irrelevant and 5 = very important.

Table 4: Conflict resolution

Variable	Own value		$\bar{x}$	Standard deviation	
We appreciate work of colleagues	0.76		2.88	1.15	
Relationships between colleagues are good	0.79		2.98	0.79	
We cooperate and not compete	0.72		2.98	0.85	
We resolve conflicts for the common good	0.87		2.78	1.05	
We trust each other	0.81		2.71	0.86	
Conflict resolution	% variance	$\bar{x}$	Standard deviation	KMO	α
	62.34	2.89	0.74	0.82	0.84

The respondents assessed the statements on a five-stage scale: 1 = not true at all and 5 = completely true.

Table 4 presents how respondents respond regarding conflict resolution. The respondents respond differently. All respondents had mean values expressed. They were somewhat less confident regarding mutual trust at conflict resolution, stating that more often than not they do not resolve them for the common good.

Table 5 presents the opinions of respondents about the forms of mobbing they have experienced. As the table shows, employees often have to face insinuations, insults, intrigue, and envy. Only competitiveness experienced slightly less importance. It only partly belongs to mobbing.

Table 5: Mobbing

Variable	Own value		$\bar{x}$	Standard deviation	
Insinuations	0.90		3.78	1.23	
Insults	0.89		3.73	1.27	
Intrigue	0.80		3.80	1.26	
Competitiveness	0.80		3.29	0.94	
Envy	0.69		3.47	0.96	
Mobbing	% variance	$\bar{x}$	Standard deviation	KMO	α
	56.30	3.62	0.93	0.84	0.88

The respondents assessed the statements on a five-stage scale: 1 = not disturbing at all and 5 = very disturbing.

The respondents indicated that bad leadership has a positive influence on mobbing. Particularly underlined has been a great deal of stress in the workplace or stress due to the nature of work and the individual's limited power of making decisions in the organisation. Additionally, respondents quoted a bad, unhealthy atmosphere among employees, lack of mutual communication, as well as bad and unhealthy communication between employees and their superiors as important factors enabling bad mutual relationships which can consequently lead to mobbing. Apart from these, respondents defined bad decision-making, mistakes in the process of decision-making, lower productivity, aggressive communication, delays, absences and disciplinary problems as potential factors which can influence mobbing.

Employees assign an important part in resolving the problem of mobbing to the employer or management who is responsible for organising work, the management style, and preventing unwanted behaviour in the organisation - that is, 45 persons (88.23 %) expect management will improve the organisation of work, 46 (90.2 %) think that management should be improved, and 39 (76.47 %) want measures to be taken in order to prevent unwanted behaviour in the organisation.

At the same time unions or their representatives in the organisation play an important role, too. They are responsible for the protection of workers' rights. Table 6 shows that the respondents assign an important part in raising awareness regarding mobbing to the unions and the workers. In their opinion it is necessary to make an effort in order to raise awareness and understanding of the severity of the problems in the organisation. Also, it is necessary to monitor the workplace situation and join the process of resolving conflict and unwanted behaviour. It is also important that workers and unions cooperate in assessing threats to workers, and adopting prevention measures against mobbing. Cooperation and building an organisational culture, responsible and qualitative fulfilment of work commitments, common design of work ethics, norms and standards for controlling unwanted behaviour, and encouraging behaviour based on partnership on all organisational levels between unions and workers, play an equally important role.

Table 6: Union – raising awareness

Variable	Own value	$\bar{x}$	Standard deviation		
Workers and unions must try to increase awareness and a clear understanding of the severity of the problems in the organisation	0.94	4.55	0.71		
Workers and unions must cooperate to assess threat and design prevention	0.93	4.37	0.78		
Workers and unions must monitor the work situation and participate in resolving problematic unwanted behaviour	0.67	4.46	0.58		
Union – Raising awareness	% variance	$\bar{x}$	Standard deviation	KMO	α
	39.80	4.45	0.63	0.75	0.88

The respondents assessed the statements on a 5-stage scale: 1 = do not agree at all and 5 = agree completely.

In the event of the occurrence and treatment of mobbing the respondents perceive the responses, situation and control in the organisation, as presented in Table 7, very seriously and in favour of the victim. Regarding the formal procedure against the bully, the respondents would not hesitate to establish disciplinary and labour law-related procedures. The respondents are also in favour of a labour inspector intervening and transfer of the bully to a different work place.

Table 7: Response to mobbing

Variable	Own value	$\bar{x}$	Standard deviation
Research the problem thoroughly	0.77	4.56	0.62
Call on bullies to stop activities	0.77	4.56	0.74
Inform bullies about the legal consequences of behaviour	0.72	4.58	0.74
Ascertain and document facts	0.69	4.48	0.65
Counsel and help victims	0.57	4.60	0.68
Apologise to victims or other forms of rehabilitation	0.55	4.50	0.74
Monitor activities in the workplace after case is closed	0.53	4.35	0.86

Response to mobbing	% variance	$\bar{x}$	Standard deviation	KMO	α
	22.65	4.52	0.50	0.66	0.82

Respondents assessed statements on a 5-stage scale: 1 = completely inappropriate and 5 = totally appropriate.

Regarding the relationship and help for the victim of mobbing after disclosure of the case in the organisation, respondents favour offering the victim money for education, or other expert assistance. They support victim transfer to a different work place and the bully to pay for public announcements. Also, respondents opine that the victim should be given additional paid holidays, and that an appropriate punishment for the bully would be moral sanctions.

4.3   Consequences of inappropriate working conditions and perception of mobbing

A frequent companion and consequence of mobbing is mental and psychosomatic disorder. Employees included in the research reported frequent and sometimes very serious health problems, as presented in Table 8.

Table 8: Perception of mental problems in the last six months

Mental problems	Yes		No	
	f	%	f	%
General fatigue	34	66.7	17	33.3
Irritability	30	58.5	21	41.5
Inability to concentrate	24	47.1	27	52.9
Insufficient self-esteem	21	41.5	30	58.5

Mental problems	Yes		No	
	f	%	f	%
Sleep disorder	18	35.3	33	64.7
Self-accusing	16	31.4	35	68.6
Fears	15	29.4	36	70.6
Depression	12	23.5	39	76.5
Indigestion	12	23.5	39	76.5
High blood pressure	12	23.5	39	76.5
Problems in family relationships	10	19.6	41	80.4

Table 8 shows the consequences of inappropriate working conditions and the perception of mobbing. General fatigue, irritability, inability to concentrate, decrease in self-esteem, and sleep disorder, are most noticeable. The occurrence of depression and high blood pressure, which really can compromise health and life of a victim, is worrying. The respondents rarely report problems in family relationships which shows that the family represents a safe haven and support for the victim.

5   DISCUSSION

The analysis of research results, carried out on request of the organization studied, shows that the forms of mobbing are very different but frequent. There is a large proportion of victims and often an even bigger share of witnesses to a particular variation of mobbing. There are very refined methods of mobbing in the organisation (e.g., avoiding contacts, ignoring, remarks, criticising work, assessing work effort wrongly, spreading rumours, and attempts to ridicule), as well as violence (e.g., yelling or clear abuse, written and oral threats, hacking computer systems, transfers to different workplaces, attempts of coercion to receive psychiatric treatment).

Despite the frequent occurrence of mobbing, employees in the organisation are satisfied with relationships at work, because they express satisfaction with colleagues, direct superiors, the work and working conditions. The respondents assign an important part to mutual relationships at work, because they highlighted mutual understanding and mutual trust as an extremely important characteristic. Also important to them is resolving conflicts in the organisation which rarely happens.

The respondents are of the opinion that bad leadership has a positive influence on mobbing. Particularly underlined is stress in the workplace or stress due to the nature of work and the individual's limited power of making decisions in the

organisation. A frequent companion or consequence of mobbing is mental and psychosomatic disorders, because employees reported occasional very serious health problems. Further results show that problems in family relationships are rare and the family still represents a safe haven and support for the victim.

Employees of the organisation assign an important role to the employer or management who is responsible for organising work, and the management style, in resolving the problem of mobbing and preventing unwanted behaviour in the organisation. The unions and their representatives in the organisation, who are responsible for protecting the workers' rights, play a similarly important role. According to employees they have to care for raising awareness about mobbing, its characteristics and consequences, but in the first place they should raise awareness about the inadequacy of such behaviour. Regarding the occurrence and treatment of mobbing the respondents perceive the responses, situation, and control in the organization very seriously and in favour of the victim. At the same time, the respondents would punish the bully very severely, by starting disciplinary and labour-law related procedures, as well as transferring them to another workplace.

The results of the research are a clear indicator of the problems in the organisation being due to mobbing, and they demand urgent intervention of the people in charge to resolve the conflict or implement measures to prevent such violence in their organisation. Therefore, in the future prevention measures against such violence should be improved in the organisation. Initially, awareness about mobbing should be increased, and education and raising awareness through the media. At the same time, the victims should be offered better help – legal advice, and medical aid. In Slovenia a lot can be done, especially regarding the prevention of mobbing, by the "POGUM" society whose further development is of vital importance for the victims as well as others facing mobbing in any of its forms.

Due to the adverse effects a quick but measured reaction to the occurrence of mobbing is necessary. It has to be specifically emphasised that mobbing is not a problem of one individual but the management of the organisation. Brečko (2003) established in his research that such behaviour must not be tolerated, and it is an act which must be suppressed also from a moral perspective. It can be prevented by implementing three integrated activities: preventive action, early intervention, and occupational rehabilitation. For early discovery of mobbing it is necessary that the organization and its management are capable of detecting the first signs of mobbing.

Apart from management of the organisation, employees, and the unions, a special assignee to help victims of mobbing could be very useful for prevention and early discovery. They could play a key role, especially in identifying vertical mobbing where the individuals from the management are involved. The special assignees should be people who are competent at preventing mobbing, discov-

ering activities at an early stage, and master the process of rehabilitation after mobbing.

Communicating in an organisation is very important in order to prevent mobbing successfully. This has been proved by research among Slovenian policemen (Gorenak, 2005). Vertical communication and satisfaction of employees is especially important in specialised organisations, like the police, who have special authorisations. Communication skills of subordinates as well as superiors are important for the satisfaction of employees. Therefore, it is important that executive staff obtain communication skills before being appointed.

By correctly using managerial methods and techniques regarding organizational reasons for mobbing, the management of an organisation can be successful at preventing it. The chances of success are worse regarding the personality of the bully. In such cases, the organisation has to get the specialist help of psychologists and doctors from outside, as well as other subjects outside the organization.

If organisations and their subjects want to develop successfully, they have to pay great attention to raising awareness, education, and mobbing prevention training, beside all other forms of growth.

6 CONCLUSION

In the first half of 2008, in Slovenia, 10.4 % of employed Slovenians were victims of mobbing, 62.8 % of these victims were women and 37.2 % men. Obviously, mobbing in today's society is a burning issue which, according to the results of the case study and research, deeply affects the personality and life of victims and, in a broader sense, has a negative impact on society as a whole.

Beside the first national research, the situation regarding mobbing has been improving slowly, particularly concerning awareness and prevention. The association POGUM has been established, the Employment Relationship Act has been amended, and a new Penal Code, incriminating mobbing, has been adopted.

Further improvements are necessary, particularly in the area of preventive measures against such violence. It is also important to strive for an increase in awareness about mobbing, with education and raising awareness through the media. Apart from this, it is necessary to improve provision of help for victims, as legal advice or medical aid. Organisations can prevent mobbing by implementing three integrated activities, (i.e., preventive action), early intervention and occupational rehabilitation.

Mobbing still too often remains hidden, although today it is being talked about much more than before. Colleagues of victims usually only observe the activi-

ties silently, because they fear for themselves and are afraid of losing their jobs, particularly if the main bullies are management. Employees assign an important part in resolving problems regarding mobbing to management and unions. Therefore, introducing a special assignee to help victims within the organization could prove useful and effective.

REFERENCES

Angeles Carnero, M., Martinez, B., & Sanchez-Mangas, R. (2006). Mobbing and its determinants: the case of Spain. *Applied Economics, 40*(24). Retrieved February 10, 2009, from http://www.webmeets.com/files/papers/SAE/2006/270/mob_junio.pdf.

Bakovnik, R. (2006). Vloga sveta delavcev pri odkrivanju in preprečevanju mobbinga. *Industrijska demokracija, 10*(12), 3–5.

Brečko, D. (2003). *Mobbing, psihično in čustveno nasilje na delovnem mestu, raziskava.* Ljubljana: Planet GV.

Brečko, D. (2007). Mobbing – kako ga pravočasno prepoznati in ukrepati. *Delavci in delodajalci, 7*(2/3), 415–428.

Confidenti, D. (2006). Pojav mobbinga kot posebne vrste šikaniranja v slovenski policiji. In B. Lobnikar, (Ed.), *Sedmi slovenski dnevi varstvoslovja.* 31. maj–2. junij 2006, Bled. Ljubljana: Fakulteta za policijsko-varnostne vede.

Cvetko, A. (2003). Mobbing – posebna vrsta šikane v delovnih razmerjih. *Podjetje in delo, 29*(5), 895–906.

Česen, T., Damej, M., Kečanović, B., Modrej, A., Pečnik Posel, S., Posel, F., & Urdih Lazar, T. (2009). *Mobing, trpinčenje, šikaniranje … Nekaj usmeritev za pogum pri ohranjanju dostojanstva.* Ljubljana: POGUM – društvo za dostojanstvo pri delu.

Dolinar, P., Jere, M., & Meško, G. (2009). Skrito nasilje na delovnem mestu – med zanikanjem in trpljenjem – študija primera. *Varstvoslovje med teorijo in prakso, 10. slovenski dnevi varstvoslovja.* 4.–5. junij 2009. Ljubljana: Fakulteta za varnostne vede.

Galjot, S. (2007). Žrtve mobbinga, psihičnega nasilja na delovnem mestu. In G., Meško, (Ed.), *Izbrana poglavja iz viktimologije 1. Mala čitanka viktimologije za varstvoslovce: Študijsko gradivo* (pp. 219-241). Ljubljana: Fakulteta za varnostne vede.

Gorenak, I. (2005). Povezanost vertikalnega komuniciranja in zadovoljstva policistov pri delu v Slovenski policiji. *Varstvoslovje, 7*(2), 115–122.

Hoel, H., & Cooper, C. L. (2000). *Destructive Conflict and Bullying at Work.* Manchester School of Management. Retrieved August 1, 2008, from http://bullyinginstitute.org/research/res/umist.pdf.

Kazenski zakonik [Penal Code] (2004). *Uradni list RS*, (95).

Kazenski zakonik [Penal Code] (2008). *Uradni list RS*, (55).

Kostelić-Martić, A. (2007). *Mobbing – psihičko maltretiranje na radnome mjestu.* Retrieved November 2, 2007, from http://www.delavska-participacija.com/clanki/Kostelič.doc.

Leymann, H. (1996a). Epidemiological findings. *The mobbing encyclopedia. Bullying; Whistleblowing.* Retrieved October 20, 2007, from http://www.leymann.se/English/frame.html.

Leymann, H. (1996b). Mobbing – its Course Over Time. *The mobbing encyclopedia. Bullying; Whistleblowing.* Retrieved October 20, 2007, from http://www.leymann.se/English/frame.html.

Leymann, H. (1996c). The content and development of mobbing at work. *European journal of work and organizational psychology*, 5 (2), 165–184. Retrieved October 20, 2007, from http://www.ste.uji.es/old/mobbing/LeymannEI.pdf.

Leymann, H., & Gustafsson, A. (1996). Mobbing at work and the development of post-traumatic stress disorders. *European journal of work and organizational psychology*, *5*(2), 251–275. Article accessed 1 August, 2008, from http://bullyinginstitute.org/research/res/leymann96.pdf.

Matthiesen, S. B., & Einarsen, S. (2004). Psychiatric distress and symptoms of PTSD among victims of bullying at work. *British journal of guidance & counselling*, *32*(3), 335–356. Retrieved August 1, 2008, from http://bullyinginstitute.org/research/res/matthiesen.pdf.

Mlinarič, P. (2006). Mobbing kot problem menedžmenta in zakonodaje. *Industrijska demokracija, 10*(12), 3–5.

Mobbing. (2007). Retrieved October 13, 2007, from http://poslovni-bazar.si/?mod=articles&article=242.

Mobbing – psihično nasilje na delovnem mestu. Retrieved October 13, 2007, from http://trendi.siol.net/default.aspx?site_id=155&page_id=116&article_id=155116070518111721111&cid=406.

Parent-Thirion, A., Fernandez Macias, E., Hurley, J., & Vermeylen, G. (2007). *Fourth European Working Conditions Survey.* Evropska fundacija za izboljšanje življenjskih in delovnih razmer. Retrieved July 27, 2008, from http://www.eurofound.europa.eu/pubdocs/2006/98/en/2/ef0698en.pdf.

Sheehan, M. (1999). Workplace bullying – responding with some emotional intelligence. *International journal of manpower*, *20*(1/2), 57–69. Retrieved July 28, 2008, from http://www.worktrauma.org/research/research07.htm.

Statut društva »POGUM – društvo za dostojanstvo pri delu«. (2007). »POGUM – društvo za dostojanstvo pri delu, Ljubljana. Retrieved Avgust 10, 2009, from http://www.pogum.org/?page_id=31.

Tehrani, N. (2004). Bullying: a source of chronic post traumatic stress? *British journal of guidance & counselling*, *32*(3), 357–366. Retrieved August 1, 2008, from http://bullyinginstitute.org/research/res/tehrani.pdf.

Tkalec, L. (2006). Mobbing – psihoteror na delovnem mestu. *Industrijska demokracija, 10*(12), 6–12.

Urdih Lazar, T. (2006). V prihodnost s pogledom v preteklost: mobbing, bullying, psihično nasilje na delovnem mestu v Evropi. In M., Dodič-Fikfak, & M., Molan, (Eds.), *Nasilje na delovnem mestu. Sanitas et labor: slovenska znanstveno-strokovna periodična publikacija, 5*(1), 7-23. Ljubljana: Klinični center, Klinični inštitut za medicino dela, prometa in športa.

Workplace Bullying Institute in Zogby international. (2007). *U.S. bullying survrey.* Retrieved August 1, 2008, from http://bullyinginstitute.org/zogby2007/WBIsurvey2007.pdf.

Zakon o delovnih razmerjih [Employment Relationship Act] (2002). *Uradni list RS*, (42).

Zakon o spremembah in dopolnitvah zakona o delovnih razmerjih [Act Amending Employment Relationship Act] (2007). *Uradni list RS*, (103).

Žaler, J. (2007). *Osebni (ne)razvoj: Mobbing se pojavlja tudi v Sloveniji.* Retrieved October 13, 2007, from http://www.revija.mojedelo.com/karierni-razvoj/osebni-ne-razvoj-mobing-se-pojavlja-tudi-v-sloveniji-186.aspx.

CONSUMERS AS SUITABLE TARGETS AND VICTIMS OF POSSIBLE CRIME

Authors:

Elizabeta Mičović, Gorazd Meško and Avrelija Cencič

ABSTRACT

Purpose:

The purpose of this paper is to emphasize the importance of food safety and consumer rights for consumer protection. Basic conditions of the Routine Activity Theory (RAT) in the area of food safety are defined and consumers are recognised as suitable targets and victims of possible crime.

Design/Methodology/Approach:

Food safety and consumer rights as wide areas of public interest are analysed through the RAT. The ultimate goal is to emphasize the position of consumers and to recognise threats regarding assuring safe food and consumer protection.

Findings:

One general area of corporate crimes represents crimes, committed directly against consumers, many of which affect their health and their safety. In food safety area, there is a big possibility for consumers to become victims of different practices, procedures or consuming unsafe food products - which present a violation of consumer rights.

Research limitations:

Surveys were administered among Slovenian consumers regarding food safety didn't provide us enough data for a comprehensive analysis of violating consumers' rights. Perform targeted survey in the future will be very useful.

Practical implication:

The most important implication is to provide better position of consumers in society regarding their rights: right to safety, right to be informed and right to choose.

Originality/Value:

This work represents an example of Slovenian consumers' perception regarding food safety.

Keywords: Food Safety, Food Industry, Consumers Rights, Routine Activity Theory, Victims, Targets

1   INTRODUCTION

This article represents an area of nutrition, specially consuming food as one of daily routine activity, regarding possible invisible victimization in relation to possible violate of consumer rights. Nutrition is one of the most important factors which significantly influence to human health (Maučec-Zakotnik et al., 2005). Food as main object of nutrition needs to be, not only of good quality, but also a safe one. Safe food is food that is free not only from toxins, pesticides, and chemical and physical contaminants, but also from microbiological pathogens such as bacteria and viruses that can cause illness (Golob & Jamnik, 2004). Improper or mislead labelling of food product can also harm consumers! The main legislation in area of food safety is Regulation (EC) No. 178/2002 which in the Article 8 determine protection of consumers' interests. Food law shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume. It shall aim at the prevention of:

- fraudulent or deceptive practices
- the adulteration of food
- any other practices which may mislead the consumer (European Commission, 2002).

Routine Activity Theory (RAT) is one of the main theories of "environmental criminology". It was developed by criminologists Lawrence Cohen and Marcus Felson, who have worked for a number of years on crime prevention theory. RAT states that for a crime to occur, 3 elements must be present at the same time and in the same place: a suitable target is available, there is the lack of a suitable guardian to prevent the crime from happening and likely a motivated offender is present (Cohen & Felson, 1993). We can recognize all three elements from the theory in area of food safety and food labelling area - the motivated offender as the food industry, the suitable targets as consumers and lack of a suitable guardian as insufficient official control. It is also important that opportunity for the commission of misleading, abuse or even crime occurs. Opportunity is crucial in many deviant activities and can be related to a potential victim (a consumer), routines (practices) or places (interactions).

1.1   Food industry

The manufacture and sale of food involves a wide range of offences casing a variety of harms and involving deceptive selling practices. The borderline between legal and illegal practices in food industry is very narrow. Food industry has a strong motive to make profit and also has many opportunities to manage it. Food chain is extremely fragmented – manufacturers no longer deal directly with buyers, and goods are transported over great distance. It is also a fact that

professional reputation no longer provides discouragement for fraud-minded producers and sellers. Food operators try to convince consumers that they need their products. They use all kinds of advertising tactics to achieve better sale. Two primary roles of food labels are to inform the consumers and to help sell the products. They are aware of the fact that the label on food products modifies the consumer perception and that that is a strong tool to achieve better sales (Cheftel, 2005).

Food industry can also be involved in corporate crimes committed directly to the consumers. Examples include: the sale of unfit goods, the provision of unfit services, false/illegal labelling or information, selling unsafe food, poisonings, etc. (Croall, 2009; Jin & Kato, 2004; Tombs, 2008; Gibson & Taylor, 2005).

1.2   Consumers

In the marketplace, companies make money by providing goods to consumers, and consumers pay for goods received. But sometimes companies fail to provide what they have promised and consumers do not receive what they expect. But consumers have the legal right to be protected (Xu & Yuan, 2009). Consumers have long been recognized as one of the major groups of victims of white collar and corporate crime, although many of the activities which harm them are not widely regarded as 'crime'. They are subject to fraud, safety and health threats and deception from the production and sale of consumer goods and services. Many offences, such as the sale of out of date food or short weight goods are often seen as trivial matters. The long term health of consumers is also endangered by the use in foods and other consumer products of a vast range of chemicals and other substances which, while associated with long term health risks, do not result in immediate harm. While there is a growing public concern about a number of food and consumer issues, these have a lower political and governmental profile than occupational health and safety or the environment (Croall, 2009). Consumers are privileged to have rights; however, they have certain responsibilities too. They have the responsibility to seek, to evaluate and to use available information on products and services to make better decisions.

1.3   Authority

The main authority concerns, regarding food safety, are to protect interests of public health, interests of food producers (economic view) and the consumer interests and their rights, all at the same time. It is not easy to make right decision and to achieve all that goals in practice at the same time. Recognizing possible invisible threats could assure better consumer protection. Furthermore, knowing all the risks of invisible threats in food area help us to make corrective measures on time.

These measures could make the system for food safety more effective and give consumers better protection. We have to assure truthful, honest labelling and promotion of food products. That kind of correct labelling and promoting of different food products could be a condition for honestly informed consumer, so one could make better choice, especially choose healthier food. The government could also, in that way, support public health and achieve success on preventing public from many modern diseases such as: obesity, allergy, diabetes, cancer, etc.

The big challenge in the area of food safety for consumer health is recognizing possible invisible threats on time. This can help us set up effective response regarding those threats and risk assessment. Identifying all potential hazards, that must be prevented and eliminating or reducing them to acceptable levels, are the most important activities for achieving consumer protection, specially their basic right to safety.

2 LEGISLATION

Consumer protection laws are designed to ensure fair competition and the free flow of truthful information in the marketplace. The laws are designed to prevent businesses that engage in fraud or specified unfair practices from gaining an advantage over competitors and may provide additional protection for the weak and those unable to take care of themselves. Consumer Protection laws are a form of government regulation which protects the interests of consumers. For example, a government may require businesses to disclose detailed information about products - particularly in areas where safety or public health is an issue, such as food. Consumer protection is linked to the idea of "consumer rights", and to the formation of consumer organizations which help consumers make better choices in the marketplace. Consumer interests can also be protected by promoting competition in the markets which directly and indirectly serve consumers, consistent with economic efficiency, but this topic is treated in Competition law. Consumer protection can also be asserted via non-government organizations and individuals as consumer activism. "Consumer protection law" or "consumer law" is considered an area of law that regulates private law relationships between individual consumers and the businesses that sell those goods and services. Consumer protection covers a wide range of topics, including but not necessarily limited to product liability, privacy rights, unfair business practices, fraud, misrepresentation, and other consumer/business interactions. Such laws deal with credit repair, debt repair, product safety, service and sales contracts, bill collector regulation, pricing, utility turnoffs, consolidation, personal loans that may lead to bankruptcy and much more.

While each country developed its own legislation concerning foods and specifically food labelling, the strengthening and enlargement of the European Union

created new requirements and constraints. It became necessary to harmonize national legislations to permit free circulation of products and equal conditions of competition within the internal market of the Community. The European legislation mainly consists of Regulations (which are directly applicable to all Member States) and Directives (which requires transposition and implementation into national legislation). One of the most general rules of the European legislation can be stated as "*no misleading the consumer".* It is the main principle regarding protection of consumers' interests, stated in food law - Regulation 2002/178/EC (European Commission, 2002) which establishes the principle of transparency, with provisions for public consultation and for public information. At present, the EU food labelling rules are detailed primarily in the following "horizontal Directives":

- European Parliament and Council Directive 2000/13/EC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (European Commission, 2000), and
- Council Directive 90/496/ EEC on nutrition labelling for foodstuffs (European Commission, 1990; Cheftel, 2005).

An increasing number of foods labelled and advertised in the Community, bear nutritious and health claims. In order to ensure a high level of protection for consumers and to facilitate their choice, products put on the market, including imported products, should be safe and adequately labelled. Differences between national provisions relating to such claims may impede the free movement of foods and create unequal conditions of competition. They thus have a direct impact on the functioning of the internal market. It was therefore necessary to adopt Community rules on the use of nutrition and health claims on foods. Regulation (EC) No 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods (European Commission, 2007), apply to all nutrition and health claims made in commercial communications, including inter alias generic advertising of food and promotional campaigns, such as those supported in whole or in part by public authorities. It should not apply to claims which are made in non-commercial communications, such as dietary guidelines or advice issued by public health authorities and bodies, or non-commercial communications and information in the press and in scientific publications. This Regulation should also apply to trademarks and other brand names which may be construed as nutrition or health claims.

Unfair commercial practices comprise misleading and aggressive practices, and practices which use coercion as a means of selling. The EU affords the same level of protection to all consumers irrespective of the place of purchase or sale in the EU. It thus protects the more vulnerable consumers, such as children, against advertising that directly encourages them to buy. The basic act on this area is Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-

consumer commercial practices in the internal market and amending Directives 84/450/EEC, 97/7/EC, 98/27/EC and 2002/65/EC and Regulation (EC) No 2006/2004 – 'Unfair Commercial Practices Directive' (European Commission, 2005). The Directive applies to all business-to-consumer transactions whereby the consumer is influenced by an unfair commercial practice which affects decisions on whether or not to purchase a product, on the freedom of choice in the event of purchase and on decisions as to whether or not to exercise a contractual right. It does not apply to business-to-business transactions. Nor does it address matters relating to taste and decency, health and safety, or contractual law. This framework directive is a follow up to the Green Paper on European Union Consumer protection. In addition to the guarantees it gives the consumer, it allows smoother development of cross-border trade within the internal market (European Commission, 2001).

3   FOOD INDUSTRY AS MOTIVATED OFFENDER

There has been a structural change in the composition of agriculture trade in developing countries over the past three decades. The traditional (unprocessed) food exports have continuously declined and have been replaced by processed food exports. Access to developed country markets poses many challenges. One of the key challenges is the ability of developing countries to meet increasingly more stringent food safety standard imposed by developed countries. These standards are subject to frequent changes and often difficult and costly to meet (Jongwanich, 2009).

The food industry tries to make big production, good sell and more profit. The development of new food products serves as a competitive tool for food companies and such is a means to strengthen their position in the market. The main and complexity goal of food industry is to produce exactly that food that is positively perceived by the consumer (Linnemann et al., 2006) and food labelling is a strong tool for food operators to achieve this goal (Van den Wijngaart, 2002; Jin & Kato, 2004; Gibson & Taylor, 2005; Cheftel, 2005; Wilcock et al., 2004).

Ever since food became a trade object, there has always been fraud (i.e., the wilful manipulation of a product for financial gain, despite possible health risks to consumers). The competition in this global production is big and the conditions of work are challenging at times. Food operators are motivated for make big profit and they are looking for new opportunities to make bigger success. In those efforts they choose new way how to convince the consumers to buy exact product. Many times they attempt some procedures which fall within the grey zone with respect to legality, honesty and ethical behaviour (Croall, 2009; Jin & Kato, 2004).

Fierce competition in a saturated market forces food producers to introduce innovative products to the market at increasingly shorter intervals. The commercial and economical pressure on producers, together with complex distribution of food from the processing plant to distant retail outlets, present food producers with formidable challenge to maintain food safety. Risk must be minimized in order to prevent health hazards, product losses and litigation (Anklam & Battaglia, 2001). The long term health of consumers is also endangered by the use in foods and other consumer products, of a vast range of chemicals and other substances which associated with long term health risks do not result in immediate harm. It is the fact that hazards are often invisible as consumers are unaware of any harm and cannot check the ingredients of processed food or other products. Consumers are subject to 'repeat victimization' – in regards to consuming food: they have to eat throughout their lifetime. They are often unaware of any harm of possible invisible threats. They do not have knowledge to asses, to check the quality of food product or to check honesty of labelling of food product (Croall, 2009). For manufacturers food labelling is costly and further expenses have to be met when the labelling is not appropriate, especially in the case of charge for labelling offence or of required product withdrawal from the market. A 'due diligence' defence is available to persons in the food chain who may be charged with labelling liability offence. Those who handle the product after manufacture can pass the responsibility back to suppliers or manufacturers, provided they have exercised all due diligence (positive actions) concerning their own responsibilities (Cheftel, 2005).

4   CONSUMER AS SUITABLE TARGET

'Consumers by definition, include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group whose views are often not heard' (Kennedy, 1962). A consumer is a person who buys goods or services for personal needs and not for resale or to use in the production of other goods for resale (Consumer protection Act, 2004).

Consumers now have less understanding of the increasingly complex nature of industrial food processing for number of reasons. Food science, or even the basis of food hygiene and nutrition, are generally not taught sufficiently in schools. The majority of consumers have no possibility to visit a modern food factory to see the process. Consumers also expect a wide range of competitively priced, highly processed and convenient food products of consistently high quality. They expect it to be fresh, good looking, nutritious, wholesome, tasty and it must primarily and by all means be safe. On the other hand consumers, have no direct means for the verification of their expectations and have to rely completely on the food legislators and enforcement agencies (Anklam and Battaglia, 2001). In todays' technological age reactive response to consumer fraud is neither efficient nor effective (Holt-

freter et al., 2005). Consumers could be victim of food poisoning, food adultera-tion and food frauds, misleading regarding food content (labelling), misleading indications, misleading descriptions, misleading pictures, food packaging (Croall, 2009; Jin & Kato, 2004; Tombs, 2008; Gibson & Taylor, 2005).

A guideline for consumer protection provides eight basic consumer rights, which we are interpreted from food safety point of view:

* The Right to Safety - to be protected against the marketing of goods which are hazardous to health or life.
* The Right to Information - to be protected against fraudulent, deceitful or grossly misleading information, advertising, labelling, or other practices and to be given the facts s/he needs to make an informed choice.
* The Right to Choose - to be assured, wherever possible, access to a variety of products and services at competitive prices: and in those industries where competition is not workable and Government regulation is substituted, an assurance of satisfactory quality and service at fair prices.
* The Right to be heard - to be assured that consumer interests will receive full and sympathetic consideration in the formulation of Government policy, and fair and expeditious treatment in its administrative tribunals (United Nations, 2001; Hogart & English, 2002).

4.1   Food safety

Safe food is food that is free not only from toxins, pesticides, chemical and physi-cal contaminants, but also from microbiological pathogens such as bacteria and viruses that can cause illness (Golob & Jamnik, 2004). Improper or mislead label-ling of food product can also harm consumers. It is very important for consumer to be informed regarding all ingredients in food product because some of them could cause allergy and allergens could cause serious harms to consumer health. In the area of food safety we use risk assessment process to found out if there is a possible risk in consuming food. It is important to make different between acceptable risk, which causes no harm to consumers health and unacceptable risk, which could cause harm to consumer health, such as illnesses, injuries or even death (Mičović, 2009).

Studies show that the consumers are most worried about food and drugs adul-teration, swindles and food contamination (Croall, 2009; Miklavčič, 2002; Zver, 2007; Wilcock et al., 2004). The main reason for that is the fact, that food directly influences our health and that eating is a daily activity throughout lifetime. Con-cern has been rising among some consumers in a number of countries regarding what can generally be classed as credence attributes of goods. These concerns include chemical residues on fruits and vegetables on fruits and vegetables, drug residues in meat, growth enhancing hormones used in animal production, the

animal welfare standards applied, the environmental cost of production, the use of child labour, etc. (Croall, 2009; Wilcock et al., 2004). The issue that has gained the highest profile is the advent of genetically modified (GM) crops in commercial agricultural production. In each of these cases, consumers cannot tell whether the attributes are contained in the goods they purchase either by inspection or after the experience of consumption – they are credence attributes. Consumer surveys suggest a great deal of confusion over the meaning of terms such as 'genetically modified' or 'genetically engineered' (Hobbs & Kerr, 2006; Søndergaard et al., 2005; Costa-Font et al., 2008; Lockie et al., 2005).

One of the most important consumer's rights is the right to be properly informed. Food labelling plays a very important role in informing consumers. Food labelling is any information on the label of food product. It must be understandable to average consumer and it must not be misleading! It is often seen as a simple solution to the problem of credence attributes of goods. It is very important that the label also represents, recommends the product and reflects the producer's image. So, the veracity of food labelling represents besides the safety issue an ethical problem too, as the consumer cannot check the information. Finally, credence attributes are those that the consumer cannot evaluate accurately even after use due to insufficient information and/or the consumer's lack of knowledge (Hobbs & Kerr, 2006). Fraud is an economic crime that involves some form of communication between victim and offender and includes the deliberate deception of the victim with the promise of goods, services or other benefits that are nonexistent; unnecessary where never intended to be provided or were grossly misrepresented (Holtfreter et al., 2006). Food labelling should therefore be part of the total quality control system and qualified persons should be in charge of establishing and checking the draft labels before they are printed (Cheftel, 2005).

4.2   The baby milk case

It is a well known case of unethical methods of promoting infant formula over breast-milk to poor mothers in third world countries. It caused the death of 1.5 million babies per year. Nestlé supported the distribution of free powdered formula samples to hospitals and maternity wards; after leaving the hospital, the formula is no longer free, but because the supplementation has interfered with lactation, the family must continue to buy the formula. Because families couldn't buy enough powdered formula, many babies were malnourished and many of them died. Nestlé did not label its products in a appropriate language, water in this countries is often contaminated and leads to diseases in vulnerable infants (for bottle feeding to be safe, there must be clean water, fuel and facilities to boil the water and sterilize the equipment). Nestlé used "humanitarian aid" to create markets and offers gifts and sponsorship to influence health workers to promote its products. Such promotion of infant formula over breast-feeding has

led to health problems and deaths among infants in less economically developed countries. The companies know this kind of incidents can occur. Concerns over 'bottle baby disease' in the Third World and the aggressive promotional activities of the companies, led to the drawing up of the WHO/INICEF International Code of Marketing of Breast milk Substitutes in 1981. At the World Health Assembly in the same year, 118 countries voted for this to become the new voluntary code of practice adopted as a minimum requirement for all countries. After a long boycott campaign, Nestlé and other companies eventually agreed to abide by the Code, and the boycott was called off in 1984. However, reports have continued to come in from around the world that the Code is still being violated by baby milk companies and Nestlé in particular has become the focus of criticism being by far the largest supplier of baby milk to Third World countries. The boycott campaign was re-launched in 1988 and is now active in over 80 countries. Today, International Baby food Action Network (IBFAN) groups continue to lobby for world-wide adoption of the code, and to monitor all companies producing breast milk substitutes (The Baby Milk Industry in the Mc Spotlight, 2005). In October 1979, UNICEF and WHO organized a Meeting on Infant and Young Child Feeding that was attended by 150 representatives of governments, public-interest organizations, the infant food industry and experts in related disciplines. The main outcome of this meeting was the recommendation that "there should be an international code of marketing of infant formula and other related products used as breast-milk substitutes." Two years later, the World Health Assembly approved the final version of the International Code.

4.3   The food additives case

On the market, there are many confectionery products such as bonbons for children. In such products many additives, such as artificial colours and flavourings, are added in the product. But producers put voluntary claims on label such as, "without preservatives" or "without artificial sweeteners". On the other hand, they do not inform consumers with such claims that product contains artificial colours and flavourings. Colours, flavourings, preservatives, sweeteners are all food additives. Average consumer does not have enough knowledge, so those types of claims encourage him to buy such products.

A study published in the Lancet in September 2007 concluded that cocktails of six artificial colours Allura Red (E128), Ponceau 4R (E124), Quinoline Yellow (E104), Sunset Yellow (E110), Tartrazine (E102), and Azorubine/Carmoisine (E122) – and preservative sodium benzoate, were linked to hyperactivity in children (McCann et al., 2007). After its initial review of the study, EFSA issued an opinion that this study gave no grounds for changing the acceptable daily intake (ADI) of any of the colours. The main reason was that the methodology made it impossible to attribute the observed effect to any of the chemicals in particular. However the

European Commission asked the risk assessor to prioritise a review of the safety evidence for these six colours, as part of its ongoing review of all additives previously reviewed in the EU. In an opinion its additives panel again found no reason to lower the ADI of any of the colours, based on the Southampton study and other studies on the colours independently. However it did find some evidence that warranted lowering the ADI's for Ponceau 4R, Quinoline Yellow and Sunset Yellow on different grounds (Aguilar et al., 2008).

Lowering of the Acceptable Daily Intakes for three of the six colours shows once again, that concerns are justified. On the other hand, from the consumers' point of view, it is still impossible to measure amount of these additives is in products as the levels used are not given on labels.

5   FOOD CONTROL AUTHORITY AS INSUFFICIENT GUARDIAN

Food control authority is essential, both for consumer protection and also for the food industry, which stands to gain consumer confidence. Therefore, food control authority has a very important role to play, ultimately serving the interests of the whole population and the economy (Anklam & Battaglia, 2001). There are three types of stakeholders that may be involved in business transactions: government, food industry and consumers. The government is responsible for regulating the market (Xu & Yuan, 2009).

According to the food legislation (European Commission, 2002) the main responsibility to assure food safety is on food operators. It is obvious that responsibility is also spread on the authority, inspectorates and consumer, but the main actor in assuring safe food is always a subject, who puts food product on the market. This big change in new legislation puts bigger responsibility on food operators than ever before. But in the same time they give them new opportunities too. It is the policy of each corporation, food industry or food operators of how they are willing to take a risk if they are not honest to the consumer. It is the fact, that it is very small probability to catch them, and even if they catch them the penalty are so small that food industry would intentionally take a risk. Their need to make profit is bigger than their fear to be caught in crime. There are many examples of frauds and misleading of consumers such as:

- claims that the product doesn't contain preservatives – but it contains artificial sweeteners and colours;
- statements such as bio, eco, fresh, different statements which are not true and that the consumer cannot check;
- big package, low net weight;
- misleading pictures;

- illegibility (small print size);
- promises to consumer that eating this product guarantees you will lose weight;
- real net weight is smaller than labelled;
- untrue nutritional values (added water, low grade product – sales as high grade, higher fat, sugar content, energy value; and
- melamine in the milk - adulteration and contamination at the same time (Mičović, 2009; Jin & Kato, 2004; Yang & Batlle, 2008, Anklam & Battaglia, 2001; Croall, 2009)

As a partner of the private sector, the government has a complementary role to play. There is a need for the government to correct specific market failures in the chain but not to protect the chain itself (Narrod et al., 2009). It needs to set-up a nationwide food inspection and monitoring system. Empirical studies of consumer perceptions and awareness of food safety factors provide critical information for public officials designing appropriate food safety regulations and for commercial interests devising food marketing strategies for emerging markets (Wang et al., 2008). It has often been found that consumer perception of trust in the institutions that regulate emerging technologies in area of food safety and manage their risks isn't positive. Issue of food safety became a major concern in food markets during past years due to a string of incidents involving food poisonings, discovery of dangerous dyes and additives in food products, fraudulent products, and sale of food beyond expiration date.

Neither in life generally nor in food safety there is no "zero" risk, despite of governments' and the inspection bodies' efforts to prevent food adulteration, fraud and consumers misleading (Anklam & Battaglia, 2001).

6 INSTITUTIONS RESPONSIBLE FOR ASSURING CONSUMERS' SAFETY

The EU integrated approach to food safety aims to assure a high level of food safety, animal health, animal welfare, and plant health within the European Union through coherent farm-to-table measures and adequate monitoring, while ensuring the effective functioning of the internal market. The implementation of this approach involves the development of legislative and other actions. The Directorate General for Health and Consumers was established to assure effective control systems and evaluate compliance with EU standards in the food safety and quality, animal health, animal welfare, animal nutrition and plant health sectors within the EU and in third countries in relation to their exports to the EU. The European Food Safety Authority (EFSA) is the keystone of European Union (EU) risk assessment regarding food and feed safety. In close collaboration with national authori-

ties and in open consultation with its stakeholders, EFSA provides independent scientific advice and clear communication on existing and emerging risks.

The EU integrated approach to food safety aims to assure a high level of food safety. The Directorate General for Health and Consumers plays important role on this matter. Consumer protection is asserted by government organization (in Slovenia this role is performed by the Consumer Protection Office on Ministry of Economy) but also via non-government organizations and individuals as consumer activist.

Market surveillance authorities are entitled to take a range of measures in relation to defective products, for example, by removing them from sale, or subjecting them to a product recall.

There is an established system in place to ensure the exchange of information between Member States if a dangerous product is found. Information is passed via a rapid alert system called 'RASFF' (rapid alert system for food and feed). The system facilitates cooperation between national and European authorities to track down dangerous products and remove them quickly from the marketplace.

When consumer representative groups work for the benefit of a collective consumers' body, they have the potential to exert significant pressure on businesses and governments. At the same time, many consumer groups play an important role in making consumers aware of their rights. The European Commission believes that the involvement of these organisations is important to develop effective legislation reflecting the needs of all stakeholders. Consumer organisations have the potential to help consumers make sense of a growing volume of information on a range of increasingly complex goods and services, helping markets function more efficiently, and providing effective representation and protection. Most consumer organisations seek to promote, defend and represent the interests of consumers – generally they provide services, such as information, advice and legal assistance. However, a number also carry out product testing, provide education and training, engage in consumer-based research, or contribute to the development of consumer legislation.

There is a vast array of different consumer organisations across the EU, ranging in size, capacity and goals, often dependent on historical and legal differences between Member States. The financial resources made available to consumer organisations vary considerably, as does the number of organisations that receive public funding.

Generally membership levels are thought to be relatively low, with only a handful of northern European countries reporting in excess of 10 % of their population being members of a consumer representative group. European Community funding helps the activities of the European Association for the Coordination of Consumer Representation in Standardisation (ANEC) and the European Con-

sumers' Organisation - (BEUC). ANEC (www.anec.eu) is a voice for European consumers in relation to standardisation and certification, while BEUC (www. beuc.org) defends and promotes the interests of European consumers as purchasers or users of goods and services; note that these pan-European organisations generally represent the views of their national consumer bodies, rather than dealing with queries from individual consumers. The European Consumer Centres Network (ECC-Net) helps consumers with cross-border disputes and was set up in January 2005 by the European Commission in cooperation with national authorities. These consumer centres provide information and advice on problems with shopping across borders and intervene when problems arise.

A consumer survey conducted by the Euro barometer in 2006 showed that there was a relatively low proportion of European consumers aware of a range of services launched by the European Commission to promote consumer protection and inform citizens of their rights; generally the most well-known services were the ECC-Net and Europe Direct.

A more recent Euro barometer survey conducted in early 2008, asked respondents whether they had heard of the European Consumer Centres (Euroguichets). The results of this survey showed that, on average, some 15 % population of the EU was aware of this service.

7   EXAMPLE OF SLOVENIAN CONSUMERS' PERCEPTION REGARDING FOOD SAFETY

At the direction of the Ministry of Health a survey among Slovenian consumers was administered with regard to food safety, consumers trust in food production and in system of assuring safety. The survey was conducted with financial support of Ministry of Health[1] of Republic of Slovenia, by Consumer Association of Slovenia and Pan Advertising agency in September and October, 2007. It included a sample of 700 persons in different region of Slovenia. The sample included 51 % women and 49 % men, 61 % of respondents were among the 15 in 30 years old, 33 % of the respondents were between the ages of 31 in 55 years old, and 6 % were over 55 years of age. Twenty-three percent of the consumers surveyed had finished elementary school, 61 % had finished secondary education, 15 % had university degree and 1 % of the respondents held a postgraduate degree (Zver, 2007).

The survey results showed that participants in most cases think that responsibility for food safety lies in inspectorates, followed by food operators and government. Very few consumers think that food safety is their responsibility too.

---

[1]   The survey was included into activities of a Twinning Light Project: Increasing networking and upgrading administrative capacity in the management of food and feed safety in Slovenia Sl05/IBAG08, supported by European Commission.

Table 1: Answers on question: who is responsible for safe food on the market?

Answers on question: who is responsible for safe food on the market?		
Institution	Number of consumers	%
state, ministries	357	19
inspectorates	512	26
Farmers	260	14
Store	249	13
Producers	420	22
Consumers	77	4
nongovernmental organizations	34	2

(Source: Zver, 2007)

In response to the question on what is the meaning of 'food safety' the most open-ended responses was about 'health', quality and healthy. It is interesting to note that 51 % of the respondents have never heard about a recall of a food product while 49 % have already heard about that. A majority of the respondents associate food safety with concept that its' quality is controlled by health institute (20 %), then with whether or not the food product is organic (18 %), and 15 % believed that safe food means that food product doesn't contain preservatives or GSO. Most of the respondents expressed that the control of safe food on the market is made by health inspectorate (39 %), the same percentage of consumers choose European Food Safety Authority (23 %) and Veterinary Authority of Republic of Slovenia (22 %).

With respect to food labelling, it is very interesting that most of respondents 'rarely' read labels on food products (63 %) and approximately 18% indicated that do not understand what appears on the food labels (Zver, 2007).

Table 2: Answers on question: do you read labels on food products?

Answers on question: do you read labels on food products?		
Answers	Number of consumers	%
Yes, always	131	19
Yes, sometimes	441	63
No, never	127	19

(Source: Zver, 2007)

The survey shows that consumers' main worries regarding food safety are potential chemicals in food products and also that consumers are not responsible regarding proper keeping of food product which they buy (keep in cold dark place, suitable contact material). They are aware that food products with exceeded date of durability are not safe, but they consume it anyway. Their answers also show that their food safety knowledge and practices during purchase, transportation and storage of food, as well as food handling practices at home, are not well informed (Zver, 2007).

The results of another consumers' study, concerning food safety knowledge and practices in Slovenia show, that the consumers are aware of and think about food safety although there are also many gaps in food safety knowledge and practices that may result in food borne diseases (Jevšnik et al., 2008).

8   CONCLUSION

We can conclude that the basic elements of the 'RAT' could be used to support the issues raised about food safety, food labelling, and the consumer protection area. Food operators can be considered motivated offenders who engage in criminal activity aimed at misleading consumers and consequently achieving higher financial income. Consumers could be the victims of lack of information, misleading and frauds, which in the same time means possibilities of violating their basic rights: right to safety, right to be informed and right to choose. If consumer possesses sufficient knowledge of seller characteristics and the qualities of goods and services, one cannot be mislead. However, it is costly to discover these data and the consumers must make choices based on incomplete information. As a result of this, misleading seller claims, or advertising, could fraudulently persuade the consumer to buy something he otherwise would not (Jin & Kato, 2002).

The basic conditions of the RAT were recognized in the area of consumer protection and interpreted as follows: the motivated offender as the food operators, the suitable targets as consumers and the lack of suitable guardian as insufficient official control and absent of consumer's responsibilities. Consumers are privileged to have rights; however, they come with certain responsibilities as well. One of the most important consumer rights is the right to be properly informed. Findings of this article show possibilities of unfair practice and possible fraud regarding advertising and also show consumers as possible victims of such practices. Assuring sufficient and fair information is an important base for achieving consumer protection and their rights. Labelling is not necessarily knowledge, there is little point in providing information labelling if consumers do not know how to interpret it (Hobbs & Kerr, 2006). This suggests an important public role for governments in the provision of unbiased, objective information and

education so as to inform consumer purchase decision. Consumers have the responsibility to seek, to evaluate and to use available information on products and services to make healthier and better decisions.

We have to ask ourselves the main question, are consumers rights violated? Right to safety, right to be informed, right to choose? We have to conclude that consumers can not make proper, healthier choices if they are not properly informed. Safety is one of the most basic factors driving consumer food purchasing behaviours, and consumer awareness of food safety issues is high.

We strongly believe that in order to achieve global food safety and protection of consumers rights, it is very important to ensure better standards be established to protect consumer's health and their rights with taking some serious measures such as: sufficient education of consumers, suitable legislation, promoting ethical behaviour of producers and establishing effective official control (Mičović, 2009; Cheftel, 2005; Van den Wijngaart, 2002; Jin & Kato, 2002, Wilcock et al., 2004), but to also provide fair and expeditious treatment to deal with dispute resolution systems (Xu & Yuan, 2009). Consumers can make complaint, seek their rights and reach them with the help of Government organizations (inspectorates, ministries) and also NGO, such as Union of Consumers in each Member state, or in BEUC - Union of European Consumers.

REFERENCES

Aguilar, F, Autrup, H., Castle, L., Crebelli, R., Dekant, W., Engel, K. H., Gontard, N., Grilli, S., Gürtler, R., Larsen, J. C., Leclercq, C., Leblanc, J. C., Malcata, F. X., Mennes, W., Milana, M. R., Pratt, J., Rietjens, I., Tobback, P., & Toldra, F. (2008). Scientific opinion of the Panel on Food additives, Flavourings, Prcessing Aids and food Contact Materials (AFC) on a request from the Commission on the results of the study by McCann et al. (2007) on the effect of some colours and sodium benzoate on children's behaviour. *The Efsa Journal, 660*, 1-54.

Anklam, E., & Battaglia, R. (2001). Food analysis and consumer protection. *Trends in Food Science & Technology, 12*, 197-202.

The BabyMilk Industry in the McSpotlight (2005). Retrieved January 20, 2010, from http://www.mcspotlight.org/beyond/nestle.html

Cheftel, J. C. (2005). Food and Nutrition labelling in the European Union. *Food Chemistry, 93*, 531-550.

Cohen, L. E., & Felson, M. (1993). Routine Activity Approach. In F. P. Wiliams, & M. D. McShane (Eds.), *Criminology Theory: Selected Classic Readings*. Cincinnati: Anderson.

Costa-Font, M., Gil, J. M., & Traill, W. B. (2008). Consumer acceptance, valuation of and attitudes towards genetically modified food: review and implications for food policy. *Food Policy, 33*, 99-111.

Croall, H. (2009). White collar crime, consumer and victimization. *Crime Law Soc Change, 51*, 127-146.

European Commission. (1990). Council Directive 90/496/ EEC of 24 September 1990 on nutrition labelling for foodstuffs. *Official Journal of the European Communities,* (L 276/40, 6.10.1990).

European Commission. (2000). Directive 2000/13/EC of the European Parliament and Council on 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs. *Official Journal of the European Communities,* (L 109/29, 6.5.2000).

European Commission. (2001). *Green Paper on European Union Consumer Protection.* COM(2001) 531. Retrieved April 20, 2010, from http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0531en01.pdf.

European Commission. (2002). Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down general principle requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. *Official Journal of the European Communities*, (L 31/1, 1.2.2002).

European Commission. (2005). Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'). *Official Journal of the European Union,* (L 149/22, 11.6.2005)

European Commission. (2007). Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods. *Official Journal of the European Union,* (L 12/3, 18.1.2007).

Gibson, J. E., & Taylor, D. A. (2005). Can Claims, Misleading Information, and Manufacturing Issues regarding Dietary Supplements be Improved in the United States? *Perspective in Pharmacology, 314*(3), 939-944.

Golob, T., & Jamnik, M. (2004). Vloga senzorične analize pri zagotavljanju varnosti živil. In L. Gašperlin, & B. Žlender (Eds.), *Varnost živil.* Ljubljana: Biotehniška fakulteta, Oddelek za živilstvo.

Hobbs, J. E., & Kerr, W. A. (2006). Consumer information, labelling and international trade in agri-food products. *Food Policy, 31*, 78-89.

Hogarth, J. M., & English, M. P. (2002). Consumer complaints and redress: an important mechanism for protecting and empowering consumers. *International Journal of Consumer Studies, 26*(3), 217-226.

Holtfreter, K., Van Slyke, S., & Blomberg, T. G. (2005). Social change in consumer fraud: from victim-offender interactions to global networks. *Crime, Law & Social Change. 44,* 251- 275.

Jevšnik, M., Hlebec, V., & Raspor, P. (2008). Consumers' awarness of food safety from shopping to eating. *Food control, 19*(8), 737-745.

Jin, G. Z., & Kato, A. (2004). *Consumer frauds and the uninformed: evidence from an Online Field Experiment.* Maryland: University of Maryland, Departement of Economics.

Jongwanich, J. (2009). The impact of food safety standards on processed food exports from developing countries. *Food Policy, 34*, 447-457.

Kennedy, J.F. (1962). Special Message on Protecting the Consumer Interest Statement read by President John F. Kennedy Thursday, 15 March 1962. Retreived February 19, 2008, from http://www.consumersinternational.org/shared_asp_files/ uploadedfiles/4F4F223B-73E3-

Linnemann, A. R., Benner, M., Verkerk, R., & Van Boekel, M. A. J. S. (2006). Consumer – driven food product development. *Trends in Food Science & technology, 17*, 184-190.

Lockie, S., Lawrence, G., Lyons, K., & Grice, J. (2005). Factors underlying support or opposition to biotechnology among Australian food consumers and implications for retailer-led food regulation. *Food Policy, 30*, 399-418.

Maučec-Zakotnik, J., Hlastan Ribič, C., Poličnik, R., Pavčič, M., Pokorn, D., & Gabrijelčič Blenkuš, M. (2005). Resolucija o nacionalnem programu prehranske politike. In R. Poličnik, E. Mičović, & C. Hlastan Ribič (Eds.), *Nacionalni program prehranske politike za obdobje 2005-2010.* Ljubljana: Ministrstvo za zdravje.

McCann, D., Barett, A., Cooper. C., Crumpler, D., Dalen, L., Grimshaw, K., Kitchin, E., Lok, Prince, E., Sonuga-Barke, E., O'warner, J., & Stevenson, J. (2007). Food additives and hyperactive behaviour in 3-year-old and 8/9-year-old children in the community a randomized, double blinded, placebo-controlled trial. *The Lancet, 370* (9598), 1560-1567.

Mičović, E. (2009). Consumers as victims of false and misleading advertising. In G. Meško, & B. Tominc (Eds.), *Criminology and crime policy between human rights and effective crime control: book of abstracts.* Cambridge: The European Society of Criminology; Ljubljana: The Slovenian Academy of Sciences and Arts; The Faculty of Law; The Faculty of Criminal Justice and Security; The Institute of Criminology at the Faculty of Law.

Miklavčič, B. (2002). Vloga potrošnikov in potrošniških organizacij pri zagotavljanju varnih živil. In P. Raspor (Ed.), *Priročnik za postavljanje in vodenje sistema HACCP* (pp. 545-550). Ljubljana: Slovenski inštitut za meroslovje; Biotehniška fakulteta, Oddelek za živilstvo.

Narrod, C., Roy, D., Okello, J., Avendaño, B., Rich, K., & Thorat, A. (2009). Public-private partnerships and collective action in high value fruit and vegetable supply chains. *Food Policy, 34*, 8-12.

Søndergaard, H. A., Grunert, K. G., & Scholderer, J. (2005). Consumer attitudes to enzymes in food production. *Trends in Food Science Technology, 16*, 466-474.

Tombs, S. (2008). Corporations and Health and Safety. In J. Minkes, & L. Minkes (Eds.), *Corporate and White-collar Crime.* London: SAGE.United Nations. (2001). *United nations guidelines for consumer protection (as expanded in 1999).* New York; Geneva: United Nations.

Van den Wijngaart, A. W. (2002). Nutrition labelling: purpose, scientific issues and challenges. *Asia Pacific Journal of Clincal Nutrition, 11*(2), 68-71.

Wang, Z., Mao, Y., & Gale, F. (2008). Chinese consumer demand for food safety attributes in milk products. *Food Policy, 33*, 27-36.

Wilcock, A., Pun, M., Khanona, J., & Aung, M. (2004). Consumer attitudes, knowledge and behaviour: a review of food safety issues. *Trends in Food Science & Technology, 15*, 56- 66.

Xu, Z., & Yuan, Y. (2009). Principle-based dispute resolution for consumer protection. *Knowledge-Based Systems, 22*, 18-27.

Yang V. L., & Batlle D. (2008). Acute renal failure from adulteration of milk with melamine. *Scientific World Yournal, 8*, 974- 975.

Zakon o varstvu potrošnikov [Consumer protection Act] (2004). *Uradni list RS*, (98).Zver, M. (2007). *Od vil do vilic, potrošniška mnenjska anketa o varnosti hrane.* Ljubljana: Ministrstvo za Zdravje.

EXPLAINING CROSS-NATIONAL YOUTH SUBSTANCE USE THROUGH MODERNIZATION APPROACH: A STUDY OF STUDENTS IN EIGHT POST-YUGOSLAV ENTITIES

Author:

Andrej Kirbiš, Sergej Flere and Marina Tavčar Krajnc

ABSTRACT

Purpose:

The purpose of this research was to compare mean levels of self-reported youth substance use measures in eight post-Yugoslav entities in an effort to test the applicability of modernization approach in predicting substance use levels at the cross-national level.

Design/methodology/approach:

2,178 first- and second-year social science students in ex-Yugoslav entities were surveyed with the aim of identifying similarities and differences in mean levels of tobacco, alcohol, and marihuana use.

Findings:

Three self-reported substance use measures showed high internal consistency and factor analysis yielded a one-dimensional structure. Cross-national comparisons showed that socioeconomically most developed entities (e.g., Slovenia and Croatia) had highest means on composite substance use measure, and Kosovo had the lowest, as expected based on the modernization approach.

Research limitations/implications:

The study results lend support to the modernization approach as being largely successful in explaining cross-national differences in youth substance use levels. Future studies should employ larger representative samples to allow generalisability. In addition, a larger array of deviance measures ought to be employed in the future.

Practical implications:

The study has implications for both researchers and the policy makers in post-Yugoslav entities. Specifically, it shows that next to socioeconomic development, additional explanations and factors (e.g., predominant religious context, historical context) should be identified when explaining cross-national substance use differences among adolescents.

Originality/value:
The study extends the understanding of cross-national substance use levels in post communist entities since quantitative data from the observed environments is largely missing and empirical studies largely exclude post-Yugoslav entities from their sampling frame.

Keywords: Substance Use, Youth Deviance, Political Culture, Post-Yugoslav Entities, Post Communist States, Students

1   INTRODUCTION

Adolescent substance use (e.g., tobacco, alcohol, and marijuana use) remains a principal concern, both for the individual and also for society for several reasons. First, substance use has detrimental consequences on youth health and psychological adjustment (Ciairano et al., 2008; Verdurmen et al., 2005). In addition, drugs like alcohol and tobacco are increasingly becoming more socially accepted, especially among the young, but in certain respects pose far greater health risks than some other "hard" drugs (see Adams, 1995; cited in Furlong, 2007). In fact, some studies suggest that reducing substance use at the national levels might substantially decrease mortality in general populations (Bloor et al., 2008). Second, higher frequency of substance use has been found to be associated with other types of deviant and with criminal behaviour (Friedman et al., 2001; Mallett & Rosenthal, 2007; Rossow, 2001), though the direction of causality cannot be easily inferred. Longitudinal trends have shown that youth substance use is not only considered by specialists to be on the increase in Europe (Ilse et al., 2006; Zaborskis et al., 2006), but their perceptions have received empirical confirmation from various self-report studies of adolescents (see, for example, Bauman & Phongsavan, 1999; Ostaszewski & Pisarska, 2008). Studies also show that it is especially important to study *youth* substance use, because the quantity of substance use during "youth and young adulthood sets the stage" for the frequency of substance use later in life (Fillmore et al., 1993; also see Huurre et al., 2010; Riala et al., 2004). Finally, substance use is said to reach a peak in late adolescence. Indeed, some studies show that currently tobacco and marijuana use and alcohol use are highest among 19-21 year olds and 22-26 year olds, respectively, while substance use initiation seems to be occurring at increasingly younger ages (Melchior et al., 2008).

Modernization theory, one of the most influential theories in the social sciences, has convincingly been applied for explanations of differences in substance use levels at the cross-national level. In fact, it has received a fair amount of empirical support in both cross-sectional and longitudinal research investigations carried out in the United States and Western Europe over the past decades (Angeles Luengo et al., 2008; Degenhard et al., 2008; Fiestas et al., 2010; Pettinicchio & Blaine, 2008; ter Bogt et al., 2006; Torres et al., 2008; Vermeiren et al., 2003).

This despite the fact that many of these researchers do not directly explain their study results within modernization approach. However, little is known about the extent to which this theoretical and empirical work replicates outside the US and Western Europe. Thus, the main aim of the present research was to advance this area of inquiry by examining cross-national differences on substance use measure on a sample of eight post communist (i.e., post-Yugoslav) entities.

The structure of this paper is as follows: we first discuss modernization thesis and its core assumptions and then present the basic premises of modernization approach in explanations of cross-national variation in substance use and deviance patterns. Next, a short overview of previous cross-national research on substance use is presented. We then map out main study hypotheses and plan of our analysis, which is followed by a result section and concludes with a discussion of the results and the main study implications.

2   MODERNIZATION THEORY AND ITS EXPLANATION OF CROSS-NATIONAL VARIATION IN DEVIANCE

Modernization and its core processes (i.e., industrialization, urbanization, secularization, etc.) bring about cultural changes. Specifically, it has been argued that modernization weakens traditional values and norms (Cheung, 1997; Cordova Suarez, 2007). Empirical studies have largely confirmed that socioeconomically less developed countries are characterized by traditional/materialist/collective value orientations of their populations, while public in socioeconomically more developed countries is said to have modern (i.e., post traditional, post materialist, individualistic) value orientations (Flere & Kirbiš, 2009; Gonzalez Castro et al., 2009; Inglehart, 1997; Inglehart in Welzel, 2007). These values in turn effect many societal level outcomes, among other democratic stability and consolidation (Dalton 2006; Inglehart in Welzel 2007; Jacobs et al., 2003) and also deviance and substance use levels (Angeles Luengo et al., 2008; Degenhard et al., 2008; Fiestas et al., 2010; Pettinicchio and Blaine, 2008; ter Bogt et al., 2006; Torres et al., 2008; Vermeiren et al., 2003).

This central modernization preposition is not new: it is based on the some of the seminal works of social science classics. In fact, Emile Durkheim, one of the founders of modern sociology, addressed the question of deviant behaviour in his study on suicide from 1897 (Durkheim, 1952).[1] According to Durkheim, industrial revolution caused the transition from traditional societies, which were based on similarity, to modern societies, which were based on differences. In the former, communities (in Toennies' term, *Gemeinschaft*, in comparison to (modern) society or *Gesellschaft*) were based on mechanical solidarity; they were

---

[1]   See also Durkheim 1947.

largely self-contained units, where the family and the village provided for all of the needs of their members. In addition, the well-established norms governed individuals' the day-to-day lives (Crutchfield & Bates, 2000). With the appearance of industrial capitalism and population transition from villages to the cities, mechanical solidarity was unable to successfully structure social life. Before "organic solidarity" (which would replace mechanic solidarity, but would be just as functional) would emerge, there would be a transition period of normative disorganization – anomie.

Modernization theory's explanation of deviance builds on Durkheim's concept of anomie (i.e., a breakdown of social norms and values, and normlessness). In fact, *anomie* is considered one of the consequences of the process of modernization (Shoemaker, 2010). We can also frame the argument in this way: modernization, socioeconomic development and accompanying processes increase the levels of anomie among populations, lower levels of social cohesion and integration follow, which results in increased levels of deviance. Specifically, "[societal] change intensifies conflicts and throws society into a temporary state of disequilibrium where deviance and crime tend to expand as values clash regarding appropriate norms…" (Barak, 2001: 60; Stamatel, 2009).

This argument too is not a novelty – it was already introduced to theory on deviance by the American sociologist Robert K. Merton who built on Durkheim's concept of anomie. He studied modern US society, which emphasized material success as the central underlying value (i.e., goal). The general idea in the US was that material success can be achieved by means of hard work, discipline, and personal ability. Studies show that those starting low on the ladder of socioeconomic position only have limited opportunities to advance further up the ladder (i.e., availability of legitimate means to achieve goals is not evenly distributed). They therefore experience "strain" or "stress" to achieve these goals and one of the possibilities to achieve them (in addition to confirmative behaviour) is also deviant (e.g., criminal) behaviour.[2] In other words, deviant behaviour is one of the means (though illegal) to achieve the widely accepted value of material success. In sum, deviant behaviour may results from tensions between prevalent goals (values) of a society and its system of means of achieving these goals (Merton, 1957). Substance use in modern societies may in this way be a result of one's inability (not necessarily merely due to lack of personal skills or knowledge) to achieve socially accepted goals.

Rising substance use and deviance levels in modernized societies are also result of public's more permissive attitudes, higher levels of tolerance, a culture of

---

[2] Strain or stress is the central concept in the so called "general strain theory" or GST (Agnew, 1992). There are three types of strain a person can experience: 1) discrepancy between societal means and goals (as mentioned, a view developed by R. Merton); 2) the loss of something positive in one's life (e.g., a breakup of a relationship with a partner); and 3) a presence of negative events (e.g., criminal victimization, or intimidation from friends, family or strangers) (Shoemaker, 2010).

"self", which is evident especially among the youth (Twenge, 2006). In fact, "... modernization and rationalization processes promote a secular, scientifically oriented, worldview and individualism...[and]...these ideological systems promote tolerance of deviant behaviour" (Rothwell & Hawdon, 2008). It has been argued that a process especially characteristic of modern societies – economic polarization (increases in gap between the rich and poor and other forms of inequalities) – increase criminal and deviant behaviour (Drissel, 2006). Furthermore, the process of secularization (the decline of significance of religion), which is also characteristic of modern societies, additionally contributes to increases in deviant behaviour, since it has been found that lower levels of religiosity are associated with increased substance use (Baetz et al., 2006; Hoffmann & Bahr, 2006; Mark et al., 2010; Ritt-Olson et al., 2004).

2.1   Previous cross-national research on substance use

Previous research mostly confirms the validity of modernization thesis with higher prevalence of deviant behaviour and substance use in socioeconomically more developed countries/contexts (Angeles Luengo et al., 2008; Fiestas et al., 2010; ter Bogt et al., 2006; Torres et al., 2008; Vermeiren et al., 2003). Indeed, many researchers state explicitly that the process of modernization may increase deviance and crime rates (Cheng et al., 2010; Fu, 1992; Pettinicchio & Blaine, 2008; van Dijk, 1990).

As mentioned earlier, longitudinal trends imply that modernization and rising levels of economic development increases substance use, mainly due to public's attitudinal changes. For example, a longitudinal study comparing attitudes of Finnish adolescents in 1984 and 1999 (Palmqvist et al., 2003) showed that their attitudes have become more liberal towards alcohol and narcotics use. It is believed that modernization not only brings about increased tolerance of different forms of (deviant) behaviour, but also a state where "inner subjective experiences involving one's own feelings and desires have actually become major goals within an individual's life" (Palmqvist et al., 2003: 196, Ziehe, 1995). This view has been corroborated by empirical studies which show that drug use (e.g., cannabis use) is mainly used among youth to "relax" and has the effect of perceiving "a sense of well-being or euphoria" and having "more fun in life" (Hathaway, 2003). It is also argued that focus of modern societies on technological and instrumental progress and inventions, the consumerist orientations, etc., makes it difficult for people, especially the young, to find "meaning" in life, which in turn increase the risk of existential problems (Hefner, 1998; in Nelson, 2009: 358) – youth often search for the "solution" in substance use. In short – modern way of life is said to also bring about increases in crime rates and deviant behaviour (Cho & Chang, 1992; Cox, 1996; Lu & Wang, 2008; Shoham et al., 1975; Souryal, 1992).

2.2   Limitations in the Literature

Though much research has been carried out on substance use, the majority of studies still come from the Western world and less is known about substance use patterns in post Communist countries, especially in post-Yugoslav entities. When these entities are included in substance use studies, usually only Slovenia and Croatia are in the sampling frame (Kokkevi et al., 2007; Richter et al., 2006), while other entities are mainly left out. This is rather unfortunate for several reasons. For instance, in their study of cannabis users, ter Bogt and colleagues (2006: 245) report that "across Europe we may expect an increase in cannabis use, particularly in the central and eastern European regions where cannabis use is currently relatively infrequent, and market-orientated economies are developing rapidly" (ter Bogt et al., 2006: 248). Indeed, Kokkevi and colleagues (2006) reported in their six-country study (two of which were post communist) that Czech Republic, a former communist state, had the highest prevalence of "lifetime and last-year cannabis use ranging from 30.7 % and 27.5 %, respectively". One of the main reasons for predicted future increase of substance use in post communist entities stems from modernization thesis and increases in socioeconomic development. Indeed, der Boyt and colleagues also report that "the odds of using cannabis at least once in a life-time and of using cannabis frequently are higher in countries with high PCE [per-capita personal consumer expenditure]"…and that "…this may stem from increased leisure opportunities for larger segments of the population in wealthier countries (ter Bogt et al., 2006: 248)". Interestingly, their study is one of the rare examples where a third post-Yugoslav country (FYR Macedonia) was included in the analyses. In fact, this country was found to have the lowest prevalence of lifetime substance use in all the country samples. On the other hand, substance use in Croatia and Slovenia was more similar to Western countries implying that there is great diversity in prevalence of substance use within post-Yugoslav entities. In short, previous research and anticipated future trend indicate that there is a growing need for empirical studies of post communist countries, with substance use studies in post-Yugoslav entities being especially warranted.

Another reason for expanding the research on post communist states is their recent history, which is ridden with social turmoil, and with political and economic changes taking place at the end of the 1980s and in the 90s. These structural and systemic changes have also brought about changing political culture and public opinion of citizens of post communist states. Indeed, the initial phase of euphoria and desire to overturn the communist system was accompanied with hopes of a better future; high expectations of the new democratic and free market system were exceptionally high. On the other hand, the "post-honeymoon" phase (Inglehart & Catterberg, 2002) came soon after, when people's experience with the new political and economic order was far from the one they desired. Indeed, the "disillusionment" followed, with a clash between unrealistic expectations and economic and social trends that followed the transformation: high levels of unemployment, decreases in GNP, high levels of corruption, etc.

The process of social change and economic downturn has even been greater in post-Yugoslav entities, whose transformation process has been exceptional in many regards. Former Yugoslavia's successor entities have been affected by the particularly turbulent dissolution of the former state with ethnic strife and armed conflicts taking place not long ago (Fowkes, 2002). Partly as results of these conflicts, studies in the areas of public attitudes of citizen in post-Yugoslav entities have shown that increases in traditionalism, authoritarianism, and related conservative political-cultural orientations in the first post-dissolution phase (see, for example, Flere & Molnar, 1994; Galić, 2000). These "subject" political orientations (Almond & Verba, 1963) have presented a buffer for the existential dangers that were present in the post-dissolution phase. In other words, they protected the public from feelings of anomie that would be expected to accompany such transformations. Of course, these traditional value orientations have already been present in Yugoslav state prior to its dissolution. In other words, these orientations are still relatively high in these entities not only because of post-dissolution conflicts, but also due to their (pre)communist past and due to these countries' lower levels of socioeconomic development compared to established Western liberal democracies.

Granted, there are large differences among the entities both at the socioeconomic and cultural indicators. For instance, post-Yugoslav entities differ with regard to their level of economic and human development (Human Development Report, 2009). The highest placed entity on the Human Development Index (HDI) is Slovenia, which also has the highest GDP, while on the other hand Kosovo has the lowest GDP (CIA, 2010). In addition, these entities also have different positions on the democratization scale as *Nations in Transit 2008* report show (Goehring, 2008). Indeed, institutional development of these democracies differs, and only Slovenia is given the "consolidated democracy" label. Other entities are less developed in democratic institutional sense (Goehring, 2008). This is another reason why modernization thesis needs to be evaluated in these environments – they provide an excellent "experimental laboratory", with high levels of differences despite their common history.

2.3   Hypotheses

Based on the reviewed literature, we predicted (H1) that higher levels of traditional value orientation (measured by general traditionalism, authoritarianism and religiosity) would be present in socioeconomically less developed entities (Flere & Kirbiš, 2009; Inglehart, 1997; Inglehart & Welzel, 2007). In addition, we predicted (H2) that higher levels of substance use would be found in socioeconomically more developed entities (Angeles Luengo et al., 2008; Fiestas et al., 2010; ter Bogt et al., 2006).

2.4   Plan of analysis

First, descriptive analyses were completed for all scales. This also included an evaluation of scale reliabilities. Second, mean level comparisons were completed with one-way ANOVAs on measures of traditionalism, authoritarianism, religiosity, and deviance.

3   METHOD

3.1   Sample

The sample was composed in conformity with the Flere and Lavrič (2008) procedure for cross-cultural study by way of student samples. Eight samples were established and data collection was carried out: in Croatia at the University of Split, in the Federation of Bosnia and Herzegovina at the University of Sarajevo, in Kosovo at the University of Pristina and at the AAB University in Pristina, in Macedonia at the University of Skopje (survey carried out partly in the Albanian language), in Montenegro at the University of Montenegro in Podgorica, in Republika Srpska at the University of Banja Luka, in Serbia at the University of Niš, and in Slovenia at the University of Maribor. All institutions were in urban surroundings, catering local urban and surrounding population and all were major higher education institutions, none was a special extra-mural institution, and none were first cycle of studies type institutions. All respondents were higher education students in social sciences (expectation of their being more exposed to normative values in their environments). For homogenization purposes only first and second-year students were surveyed (N = 2,178, Age M = 19.9, SD = 1.8). When collecting data in Bosnia and Herzegovina by two separate samples (by the 'entities' of the Federation of Bosnia and Herzegovina and of Republic of Srpska), we bore in mind major cultural differences between the two. Thus, our samples reflect the factually existing state entities on the territory of the former Yugoslavia, of which some do not meet the criterion of independent state, but all are factual social and institutional entities. This of course includes Republic of Srpska, bearing the title of *Republic*, alleging statehood, although within Bosnia and Herzegovina, within a contested situation.

3.2   Measures

Independent variables

Traditionalism was tapped by the following three Likert format items with a 1–5 pro-trait answer format: "Customs observed by our ancestors should be practiced even when it's difficult for me to grasp their meaning", "Tradition is a major source of guidance at the crossroads in my life" and "Our ancestors may have

been less knowledgeable in science, but they were wiser than most contemporaries". The scale has been previously validated (Flere & Lavrič, 2007). Here also the summation variable proved to be internally consistent (C. Alpha =.60).

Authoritarianism was measured with Funke's (2005) authoritarianism scale (C. Alpha =.70). Examples of the items are "What our country really needs instead of "civil rights" is a good stiff dose of law and order" and "Obedience and respect for authority are the most important values children should learn".

Religiosity was measured with three questions: "How often do you attend religious service performed by your religious institution?" and "How often do you pray or meditate outside of religious service?" (1 = never, 6 = every or almost every day) and with a question "Would you say you are?" (1 = a completely non-religious person, 5 = a very religious person).

Following exploratory factor analysis of all three independent study measures and Cronbach's alpha computations, three total scores were computed by averaging all items, where a high score indicated high traditionalist orientations on three independent measures. Overall traditionalist orientations scale was computed by averaging all three compound measures.

Dependent variables

The _substance use_ scale contained the following two Likert format items (1 = never, 5 = often): "Do you smoke/use tobacco", "Do you drink/use alcohol". Marijuana use frequency was assessed with an item "Do you smoke/use marijuana?" (1 = have never tried it, 4 = often). For the current total sample, the exploratory factor analysis and Cronbach's Alpha calculations were performed at the compound and at the individual samples. All the analyses showed a one-factor structure of composite substance use scale and adequate internal consistency (Cronbach's Alphas ranged from α=.42 to α=.63 across samples). All items were averaged to compute a measure of total substance use where a high score indicated a high level of substance use since all three substance use were inter-correlated (Ciairano et al., 2006).

Though self-report measures have often been criticized, survey data based on self-reports of substance use was found to be valid for cross-national comparisons (Raitasalo et al., 2005). As Junger-Tas and Marshall (1999) note: "self-report studies [on deviance] can solve a lot of problems that make the use of official crime statistics or even victim surveys questionable. Self-reports are preferable although more serious offences will less likely be admitted, adults are more reluctant to report offences committed than juveniles, and chronic or high risk offenders are more likely to be underrepresented" (cited in Enzmann & Podana, 2010).

4   RESULTS

4.1   Cross-national differences on traditional orientations

Figure 1 shows the results of comparisons of the country level differences on three measures of traditional orientations (general traditionalism, authoritarianism, and religiosity) and on the composite traditional orientations measure. The latter are shown on the Y axis, while entities are ordered by their level of socioeconomic development on the X axis. The data showed in Figure 1 confirm H1: traditional orientations are indeed highest in socioeconomically least developed entities, though the trend is not totally uniform; i.e., there are some outliers on specific traditional orientations measures. For instance, FYR Macedonia has especially high mean values on all three traditional orientation measures, more so than its levels of socioeconomic development would suggest, and Croatia has a high mean value on religiosity scale. On the other hand, Republic of Srpska is lower on all three measures than suggested by GNP data. These results indicate that socioeconomic development does have an impact on value orientations, but that specific cultural context must be taken into account. For instance, though the two Bosnian and Herzegovinian entities (Federation of Bosnia and Herzegovina and Republic of Srpska) do not differ in their levels of socioeconomic development, they do differ in their historical/cultural background (in Federation Bosnia and Herzegovina there is the majority of Muslim citizens, while Republic of Srpska is predominantly Christian Orthodox).
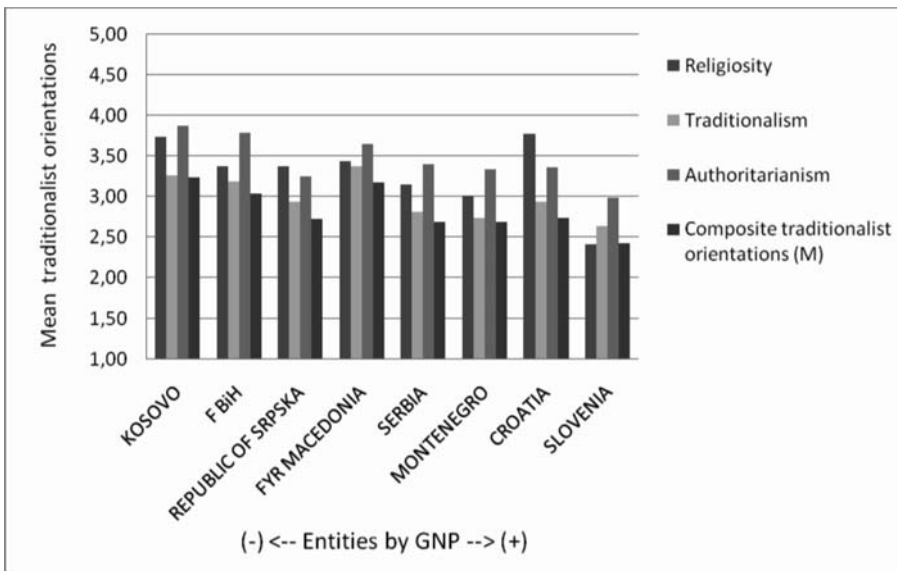
Figure 1: Cross-national differences on traditional orientations, student samples, by post-Yugoslav entities

4.2　Cross-national differences on substance use

Turning to our main dependent variable, Figure 2 shows the results of comparisons of the country level differences on the three measures of substance use and on the composite substance use measure. The data confirms H2 to a large extent: substance use is *generally* highest in socioeconomically least developed entities, though again, there are some exceptions. For instance, Montenegrin students are especially infrequent substance users (as indicated by composite scale) as the level of economic development of their country would indicate. Similar can be said for Serbian students.

On the other hand, on both extremes of entities' economic development, mean substance use values are mainly in accordance with modernization thesis and our prediction H2. Kosovo student have lowest frequency of tobacco and alcohol use, although they are in the middle of the ladder on cannabis use. Slovenian and Croatian students, on the other hand, are the most frequent substance users. The largest cross-national differences are found on alcohol use and smallest on marijuana use. Of course, this can partly be explained by the fact that alcohol use measure has highest mean values (and largest standard deviations), while marijuana use has lowest frequency. It seems that low frequency of alcohol use among Kosovo student might be due to the norms and values of Muslim religion and its explicit prohibition of alcohol consumption, compared to both Christian denominations.
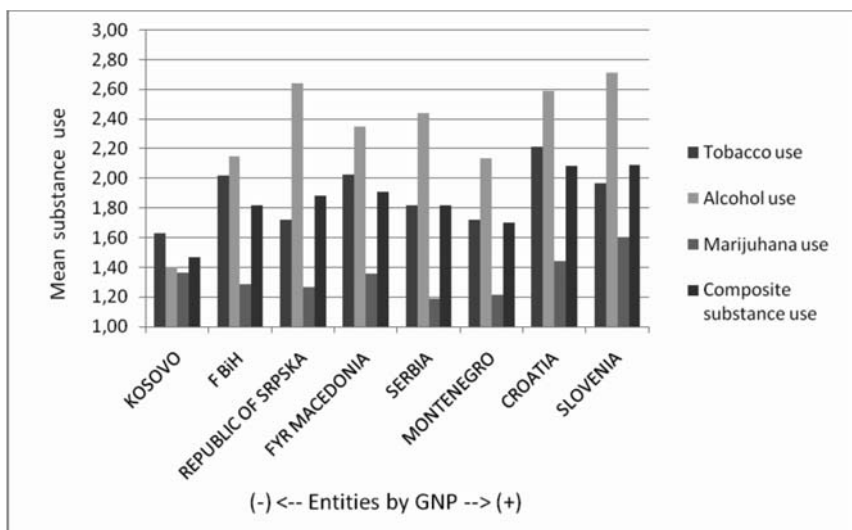
Figure2: Cross-national differences on substance use, student samples, by post-Yugoslav entities.

We compared our survey data results with official Word Health Organisation statistic (WHO, 2010; see Figure 3) on tobacco use (prevalence of current tobacco use among adolescents aged 13–15 years, in percentages) and alcohol use

(alcohol consumption among adults aged 15 or more, in litres of pure alcohol per person per year). Note that there are several reasons why WHO data precludes us to carry out complete comparative analyses: 1) WHO data is available only for some post-Yugoslav entities, specifically Slovenia, Croatia, Montenegro (only data for tobacco use is available for Montenegro), Serbia and FYR Macedonia, while data for other entities is missing (for both BiH entities and for Kosovo); 2) the WHO data sampling differs from ours – tobacco use statistics is available for 13-15 year olds, while alcohol use is available for 15+ year olds; and 3) WHO data for alcohol consumption is available for 2005, while the latest data on tobacco use is available for 2000-2009 period.

Despite of these differences between our survey and WHO data, between-country comparisons can still be carried out (i.e., to identify a position of one country in comparison to another). For instance, we are interested whether Slovenia and Croatia have the highest prevalence of tobacco use according to WHO data and has Montenegro the lowest; and do Slovenia and Croatia have the highest quantity of alcohol use and does FYR Macedonia have the lowest, as our survey would suggest? Figure 3, which shows available WHO data on substance use for five entities, indicates that this is indeed the case. Specifically, if we compare the relative height of blue (tobacco) and red columns (alcohol) with Figure 2, we see that the order of countries according to WHO data is almost identical to the one based on our student survey data. In other words, WHO data seem to confirm our survey study results (with aforementioned limitations keeping in mind).
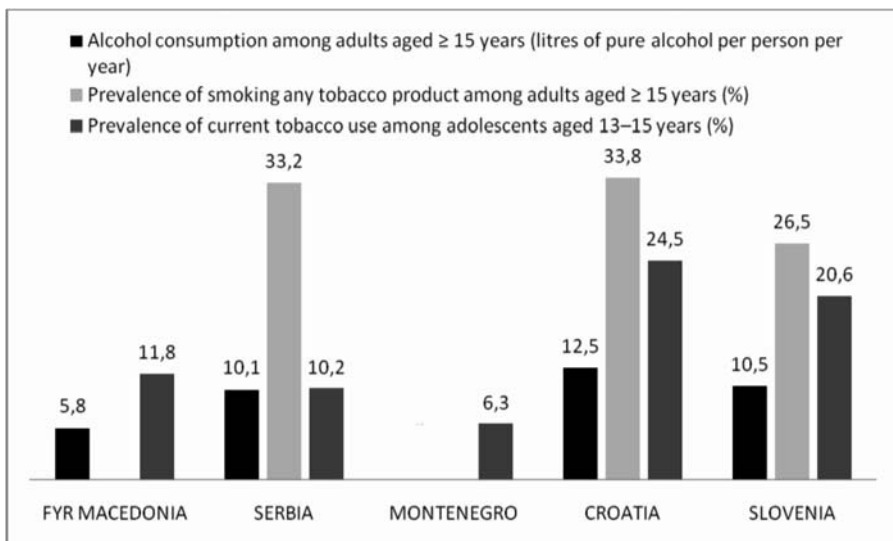
Figure 3:Cross-national differences on alcohol and tobacco use, WHO (2010) data, five post-Yugoslav entities

Note: Missing WHO data on prevalence of smoking in FYR Macedonia and Montenegro, and on alcohol consumption in Montenegro.

5   DISCUSSION AND CONCLUSION

The present study has examined cross-national differences on substance use measures among 1st and 2nd year social science students since post-Yugoslav entities are largely neglected in cross-country substance use research, mostly due to lack of survey data. Applicability of modernization thesis at the aggregate levels has been tested. Both of our hypotheses were confirmed: higher levels of traditional values were found in socioeconomically less developed countries (Flere & Kirbiš, 2009; Inglehart, 1997; Inglehart & Welzel, 2007) and higher levels of substance use was found in socioeconomically more developed countries (Angeles Luengo et al., 2008; Fiestas et al., 2010; ter Bogt et al., 2006). At the aggregate level, it would thus appear that our data confirm modernization thesis, which sees economic development and accompanying social-structural and cultural changes as a determinant of higher prevalence of substance use. It seems that the cultural factor has to be particularly emphasized here: for instance, socioeconomic development seems to only have an impact on substance use insofar as it affects the underlying cultural orientations of the country's population.

Our study thus finds merit in modernization thesis, since one can make a more accurate prediction of whether a country has higher or lower substance use prevalence among its adolescents by knowing its levels of socioeconomic development. Similarly, we can make a more accurate prediction of value orientation of citizens of a particular country by knowing GNP levels of the same country. Of course, cultural, religious and especially historical contexts make the predictive power of socioeconomic development levels less accurate than if these factors were held constant.

Future studies in these less developed countries will additionally be able to assess the validity of modernization theory in predicting cross-national variance in substance use and deviance in general. Future studies should also consider evaluating the modernization approach at the individual level; for instance, is higher family socioeconomic status and urban context associated with higher substance use levels, as modernization theory would have it if the same logic was applied?

The study results showed modernization approach was largely successful in explaining difference in substance use levels. On the other hand, there were cases of outliers (countries lower on substance use as predicted by GNP levels) and results thus indicate that next to socioeconomic development, additional explanations and factors (e.g., predominant religious context, historical context) should be identified when trying to explain cross-national substance use differences among adolescents. Future studies should employ larger representative samples to allow generalisability. A larger array of deviance measures ought to be employed in the future.

The results of our research have several implications: first, it seems that substance use prevention programs are especially needed in most developed post-Yugoslav entities (i.e., in Slovenia and Croatia). Public policy provisions ought to be designed with the aim of reducing and/or preventing substance use among adolescents, since the future trajectories of societal levels substance use are largely determined by youth cohort's level of substance use. Next, it is recommended that governments of the economically more developed countries take steps toward youth substance use reduction. Of course, it is also important that the civil society is included in these efforts; and it ought to organize itself to work towards providing information on the deleterious effect of substance use, especially among the young people. It seems that preventive, harm reductive as well as rehabilitative measures at the cross-national guidelines should be established (Ilse et al., 2006), since with predicted continuing process of socioeconomic growth and development, substance use will probably increase in now less developed countries in the future. In other words, based on our findings, less developed countries will have to tackle youth substance use problem in the future. It is important that these entities take the initiative now and do not wait until the problem of youth substance use becomes larger. This is one of the main strategies that might be effective in these countries in the long run.

REFERENCES

Adams, J. (1995). *Risk*. London: UCL.

Agnew, R. (1992). Foundation for a General Strain Theory of Crime and Delinquency. *Criminology, 30*, 47-87.

Almond, G. A., & Verba, S. (1963). *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton, NJ: Princeton University Press.

Angeles Luengo M., Kulis, S., Marsiglia Flavio, F., Romero, E., Gomez-Fraguela, J. A., Villar, P., & Nieri, T. (2008). A cross-national study of preadolescent substance use: exploring differences between youth in Spain and Arizona. *Substance Use and Misuse, 43*(11), 1571-1593.

Baet, M., Bowen, R., Jones, G., & Koru-Sengul, T. (2006). How Spiritual Values and Worship Attendance Relate to Psychiatric Disorders in the Canadian Population. *Canadian Journal of Psychiatry, 51*(10), 654-661.

Barak, G. (2001). Crime and Crime Control in an Age of Globalization: A Theoretical Dissection. *Critical Criminology, 10*(1), 57-72.

Bauman, A., & Phongsavan, P. (1999). Epidemiology of substance use in adolescence: prevalence, trends and policy implications. *Drug and Alcohol Dependence, 55*, 187–207.

Bloor, M., Gannon, M., Hay, G., Jackson, G., Leyland, A. H., & McKeganey, N. (2008). Contribution of problem drug users' deaths to excess mortality in Scotland: secondary analysis of cohort study. *British Medical Journal, 337*(7666), 396-398.

Cheng, H., Lee, S., Tsang, A., Huang, Y., Liu, Z., Anthony, J. C., &, Kessler, R. C. (2010). The epidemiological profile of alcohol and other drug use in metropolitan China. *International Journal of Public Health*, DOI: 10.1007/s00038-010-0127-6.

Cheung, Y. W. (1997). Family, School, Peer, and Media Predictors of Adolescent Deviant Behavior in Hong Kong. *Journal of Youth and Adolescence, 26*(5): 569-596.

Cho, B. I., & Chang, R. J. (1992). Youth Crime Problems in the Republic of Korea. *International Journal of Comparative and Applied Criminal Justice, 16*(1), 301-316.

CIA. (2010). CIA World Factbook 2010. New York: Skyhorse Publishing.

Ciairano, S., van Schuur, W., Molinengo, G., Bonino, S., & Micel, R. (2006). The use of psychoactive substances among Dutch and Italian adolescents: The contribution of personal and relational resources and vulnerabilities. *European Journal of Developmental Psychology, 3*(4), 321-337.

Ciairano, S., Bosma, H. A., Miceli, R., & Settanni, M. (2008). Adolescent substance use in two European countries: Relationships with psychosocial adjustment, peers, and activities. *International Journal of Clinical and Health Psychology, 8*(1), 119-138.

Córdova Suárez, I. (2007). Setting them straight: Social services, youth, sexuality, and modernization in postwar (WWII) Puerto Rico. *Centro Journal, 19*(1), 26-49.

Cox, R. (1996). *Shaping Childhood Themes of Uncertainty in the History of Adult-Child Relationships.* New York: Rutledge.

Crutchfield, R., & Bates, K. A. (2000). Anomie. In E. F. Borgatta., & R. J. V. Montgomery (Eds.), *Encyclopedia of Sociology*, (pp. 164-167). New York: Macmillan Publishing Company.

Dalton, R. J. (2006). *Citizen Politics: Public Opinion and Political Parties in Advanced Industrial Democracies.* Washington D.C: CQ Press.

Degenhardt L., Chiu W. T., Sampson, N., Kessler, R. C., Anthony, J. C., et al. (2008). Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the WHO World Mental Health Surveys. *PLoS Medicine, 5*(7) e141, doi:10.1371/journal.pmed.0050141.

Drissel, D. (2006). Subterranean Sources of Juvenile Delinquency in China: Evidence from Birth Cohort Surveys. *Asian Journal of Criminology, 1*(2): 137-154.

Durkheim, E. ([1893] 1947). *The Division of Labor in Society* (translated by George Simpson). London: The Free Press of Glencoe.

Durkheim, E. ([1897] 1952). *Suicide* (translated by John A. Spaulding and George Simpson). New York: Free Press.

Edlund, M. J., Harris, K. M., Koenig, H. G., Xiaotong, H., Sullivan, G., Mattox, R., & Lingqi, T. (2010). Religiosity and decreased risk of substance use disorders: is the effect mediated by social support or mental health status? *Social Psychiatry and Psychiatric Epidemiology, 45*(8), 827-836.

Enzmann D., & Podana, Z. (2010). Official Crime Statistics and Survey Data: Comparing Trends of Youth Violence between 2000 and 2006 in Cities of the Czech Republic, Germany, Poland, Russia, and Slovenia. *European Journal on Criminal Policy and Research, 16*(3), 191-205.

Fiestas, F., Radovanovic, M., Martins, S. S., Medina-Mora, M. E., Posada-Villa, J., & Anthony, J. C. (2010). Cross-national differences in clinically significant cannabis problems:

epidemiologic evidence from 'cannabis-only' smokers in the United States, Mexico, and Colombia. *BMC Public Health, 10*:152, doi:10.1186/1471-2458-10-152.

Fillmore, K. M., & Golding, J. M. (1993). Cross-national comparisons of drinking behavior as determined from the Collaborative Alcohol-Related Longitudinal Project. *Alcohol Health & Research World, 17*, 198-204.

Flere, S., & Kirbiš, A. (2009). New age, religiosity, and traditionalism: A cross-cultural comparison: Comment on Houtman and Auspers, JSSR, September 2007. *Journal for the Scientific Study of Religion, 48*(1), 161-169.

Flere, S. & Lavrič, M. (2007): Operationalizing the civil religion concept at a cross–cultural level. *Journal for the scientific study of religion, 46*(4), 595-604.

Flere, S. & Lavrič, M. (2008). On the validity of cross-cultural social studies using student samples. *Field methods, 20*(4), 399-412.

Flere, S. & Molnar, A. (1992). Avtoritarizem, etnocentrizem in retradicionalizacija. *Družboslovne razprave, 9*(13), 5-14.

Fowkes, B. (2002). *Ethnicity and Ethnic Conflict in the Post-Communist World.* New York: Palgrave.

Friedman, A. S., Glassman, K., & Terras, B. A. (2001). Violent behavior as related to use of marijuana and other drugs. *Journal Of Addictive Diseases*, 20(1), 49-72.

Fu, H. (1992). Juvenile Delinquency in Post-Mao China. *International Journal of Comparative and Applied Criminal Justice, 16*(1), 263-272.

Funke, F. (2005). The Dimensionality of Right–Wing Authoritarianism: Lessons from the Dilemma between Theory and Measurement. *Political Psychology, 26*(2), 195-218.

Furlong, A., & Cartmel, F. (2007). *Young People and Social Change. Berkshire*: Open University Press.

Galić, B. (2000). Politička kultura "novih demokracija". *Revija za sociologiju, 31*(3/4), 197-209.

Goehring, J. (Ed.) (2008). *Nations in transit 2008: Democratization from Central Europe to Eurasia.* New York, Washington, Budapest: Freedom House.

González Castro, F., Stein J. A., & Bentler, P. M. (2009). Ethnic Pride, Traditional Family Values, and Acculturation in Early Cigarette and Alcohol Use Among Latino Adolescents. *The Journal of Primary Prevention, 30*(3-4), 265-292.

Hathaway, A. D. (2003). Cannabis effects and dependency concerns in long-term frequent users: a missing piece of the public health puzzle. *Addiction Research and Theory, 11*(6), 441-458.

Hefner, P. (1998). Biocultural evolution: A clue to the meaning of nature. In R. Russell, W. Stoeger, F. Ayala (Eds.), *Evolutionary and molecular biology scientific perspectives on divine action* (pp. 329-356). Vatican City State: Vatican Observatory.

Hoffmann, J. P., & Bahr, S. J. (2006). Crime/Deviance. In H. R. Ebaugh (Ed.), *Handbook of Religion and Social Institutions* (pp. 241-263). New York: Springer.

Huurre, T., Lintonen, T., Kaprio, J., Pelkonen, M., Marttunen, M., & Aro, H. (2010). Adolescent risk factors for excessive alcohol use at age 32 years. A 16-year prospective follow-up study. *Social Psychiatry and Psychiatric Epidemiology, 45*(1), 125-134.

Ilse J., Prinzleve M., Zurhold, H., Haasen C, & Cocaine EU-Team. (2006). Cocaine and crack use and dependence in Europe – experts view on an increasing public health problem. *Addiction Research and Theory, 14*(5), 437-452.

Inglehart, R., & Catterberg, G. (2002). Trends in Political Action: The Developmental Trend and the Post-Honeymoon Decline. *International Journal of Comparative Sociology, 43*, 300-316.

Inglehart, R. & Welzel, C. (2007): Modernization, cultural change, and democracy: The human development sequence. New York: Cambridge University Press.

Inglehart, R. (1997). *Modernization and postmodernization: cultural, economic, and political change in 43 societies.* Princeton, Chichester: Princeton University Press.

Jacobs, J., Müller, O. & Pickel, G. (2003). Persistence of democracies in Central and Eastern Europe: Consolidation, stability and people's power of resisting. In D. Pollack et al. (Eds.), *Political Culture in Post–Communist Europe: Attitudes in New Democracies* (pp. 91-114). Aldershot, England: Ashgate Publishing Ltd.

Junger-Tas, J., & Marshall, I. H. (1999). The self-report methodology in crime research. In M. Tonry (Ed.), *Crime and Justice: a review of research* (pp. 291–367). Chicago: University of Chicago Press.

Kokkevi A., Richardson, C., Florescu, S., Kuzman, M., & Stergar, E. (2007). Psychosocial correlates of substance use in adolescence: a cross-national study in six European countries. *Drug And Alcohol Dependence, 86*(1), 67-74.

Kokkevi A., Gabhainn S. N., Spyropoulou, M., & the Risk Behaviour Focus Group of the HBSC. (2006). Early Initiation of Cannabis Use: A Cross-national European Perspective. *Journal of Adolescent Health, 39*, 712-719.

Lu, L., & Wang, X. (2008). Drug Addiction in China. Annals of the New York Academy of Sciences. *Annals of the New York Academy of Sciences, 1141*, 304-317.

Luengo, M. A., Kulis, S., Marsiglia, F. F., Romero, E., Gómez-Fraguela J. A., Villar, P., & Nieri, T. (2008). A cross-national study of preadolescent substance use: exploring differences between youth in Spain and Arizona. *Substance Use and Misuse, 43*(11), 1574-96.

Melchior, M., Chastang, J.-F., Goldberg, P., & Fombonne, E. (2008). High prevalence rates of tobacco, alcohol and drug use in adolescents and young adults in France: Results from the GAZEL Youth study. *Addictive Behaviors, 33*(1), 122-133.

Merton, R. K. (1957). *Social Theory and Social Structure.* London: The Free Press of Glencoe.

Milburn, N., G., Stein, J. A., Rice, E., Rotheram-Borus M. J., Mallett, S., Rosenthal, D., & Lightfoot, M. (2007). AIDS Risk Behaviors among American and Australian Homeless Youth. *Journal of Social Issues, 63*(3), 543-566.

Nelson, J. M. (2009). *Psychology, Religion, and Spirituality.* New York: Springer.

Ostaszewski, K., & Pisarska, A. (2008). Trends in adolescent substance use: The Mokotow study 1988–2004. *Drugs: education, prevention and policy, 15*(4), 378-394.

Palmqvist, R. A., Martikainen, L. K., & Rauste von Wright, M. (2003). A Moving Target: Reasons Given by Adolescents for Alcohol and Narcotics Use, 1984 and 1999. *Journal of Youth and Adolescence, 32*(3), 195-203.

Pettinicchio, D., & Robbins, B. (2008). *Social Capital, Tolerance for Deviance and Civic Action: Explaining Homicide Rates across 57 Nations*. Paper presented at the annual meeting of the ASC Annual Meeting, St. Louis Adam's Mark, St. Louis, Missouri Online <PDF>. Retrieved September 26, 2010, from http://www.allacademic.com/meta/p270023_index.html

Pettinicchio, D., & Robbins, B. (2008). *Social Capital, Tolerance for Deviance and Civic Action: Explaining Homicide Rates across 57 Nations*. Paper presented at the annual meeting of the ASC Annual Meeting, St. Louis Adam's Mark, St. Louis, Missouri.

Raitasalo, K., Knibbe, R., & Kraus, L. (2005). Retrieval strategies and cultural differences in answering survey questions on drinking: A cross-national comparison. *Addiction Research and Theory, 13*(4), 359-372.

Riala, K., Hakko, H., Isohanni, M., Järvelin, M.-R., & Räsänen, P. (2004). Teenage smoking and substance use as predictors of severe alcohol problems in late adolescence and in young adulthood. *Journal of Adolescent Health, 35*(3), 245-254.

Richte. M, Leppin, A., & Gabhainn, S. N. (2006). The relationship between parental socio-economic status and episodes of drunkenness among adolescents: findings from a cross-national survey. *BMC Public Health 2006, 6*:289, doi:10.1186/1471-2458-6-289.

Ritt-Olson, A., Milam, J., Unger, J. B., Trinidad, D., Teran, L., Dent, C. W., & Sussman, S. (2004). The protective influence of spirituality and "Health-as-a-Value" against monthly substance use among adolescents varying in risk. *Journal of Adolescent Health, 34*(3), 192-199.

Rossow, I. (2001). Alcohol and homicide: a cross-cultural comparison of the relationship in 14 European countries. *Addiction, 96*(1), 77-92.

Rothwell V., & Hawdon, J. E. (2008). Science, Individualism, and Attitudes toward Deviance: The Influence of Modernization and Rationalization. *Deviant Behavior, 29*(33), 253-274.

Shoemaker, D. J. (2010). *Theories of Delinquency An Examination of Explanations of Delinquent Behavior*. Oxford: Oxford University Press.

Shoham G., Segal E., & Rahav, G. (1975). Secularization, Deviance and Delinquency among Israeli Arab Villagers. *Human Relations, 28*(7), 661-674.

Souryal, S. S. (1992). Juvenile Delinquency in the Cross-Cultural Context: The Egyptian Experience. *International Journal of Comparative and Applied Criminal Justice, 16*(1), 329-352.

Stamatel, J. P. (2009). Contributions of Cross-National Research to Criminology at the Beginning of the 21st Century. In M. D.Krohn, A. J. Lizotte, & G. Penly Hall (Eds.), *Handbook on Crime and Deviance*, (pp. 3-22). New York: Springer.

Ter Bogt, T., Schmid, H., Gabhainn, S. N., Fotiou, A., & Vollebergh, W. (2006). Economic and cultural correlates of cannabis use among mid-adolescents in 31 countries. *Addiction, 101*(2), 241-251.

Torres, L. R., Peña, J., Westhoff, W., & Zayas, L. H. (2008). A Cross-National Comparison of Adolescent Alcohol and Drug Use Behaviors: U.S. Hispanics and Youth in the Dominican Republic. *Journal of Drug Issues, March* [Special Issue: Explaining Contemporary Hispanic Drug Use/Abuse: Issues and Challenges].

Twenge, J. M. (2006). *Generation Me: Why today's young Americans are more confident, assertive, entitled—and more miserable than ever before.* New York: Free Press.

United Nations Development Programme. (2009). *Human Development Report 2009. Overcoming barriers: Human mobility and development.* New York: Palgrave Macmillan.

Van Dijk, J. M. (1990). On the uses of the International Crime Survey: with special reference to the findings in the Netherlands. In *International Forum on Crime Prevention*, (pp. 90-104). Tokyo: JUSRI.

Verdurmen, J., Monshouwer, K., Van Dorsselaer, S., ter Bogt, T., & Vollebergh, W. (2005). Alcohol Use and Mental Health in Adolescents: Interactions with Age and Gender--Findings from the Dutch 2001 Health Behaviour in School-Aged Children Survey. *Journal of Studies on Alcohol, 66*(5), 605-609.

Vermeiren R., Schwab-Stone, M., Deboutte, D., Leckman, P. E., & Ruchkin, V. (2003). Violence Exposure and Substance Use in Adolescents: Findings From Three Countries. *Pediatrics, 111*(3), 535-540.

World Health Organization. (2010). *World Health Statistics.* Geneva, Switzerland.

Zaborskis, A., Sumskas, L., Maser, M., & Pudule, I. (2006). Trends in drinking habits among adolescents in the Baltic countries over the period of transition: HBSC survey results, 1993-2002. *BMC Public Health, 6*:67, doi:10.1186/1471-2458-6-67.

Ziehe, T. (1995). "Good enough strangeness" in education. In T. Aittola, T. Koikkalainen, & E. Sironen (Eds.), *"Confronting Strangeness" Towards a Reflective Modernization of the School.* Reports of the Department of Education 5/1995. University of Jyvaskyla, Finland.

CRIMINALITY IN SLOVENIAN TOURISM

Authors:

Janez Mekinc, Helena Cvikl and Bojan Dobovšek

ABSTRACT:

Purpose:

The purpose of this research is to identify and analyze the forms of criminality, and thus criminal offences that have been committed in accommodation and catering facilities in the Republic of Slovenia.

Design/methodology/approach:

Based on the databases of the Slovenian police on the recognition of criminal offences in accommodation and catering facilities we are going to perform a quantitative-empirical research in which we will analyze the number and types of criminal offences, the offenders with regards to citizenship, the incidence of a criminal offence by days in a week and months, as well as the type of accommodation and catering facilities (e.g., hotel, casino, catering outlet, camp, holiday and mountain lodges, & weekend homes).

Findings:

The number of criminal offences increases during the summer during the tourist season in July and August. The majority of criminal offences fall under minor or grand larceny, followed by counterfeit money, damaging other people's property and fraud. Among accommodation and catering facilities, the majority of criminal offences are done on weekend homes, followed by hotels and casinos. Results show that the majority of larceny and larger larceny as well as damaging another's property/object are to be found in weekend homes; the majority of counterfeit money is found in casinos; fraud in hotels and motels; whereas minor body injuries in catering facilities. Taking into consideration the days of the week, Saturday and Sunday stand out because there are most guests present on these days. Most of the criminals are Slovenian nationals, Italians and the Bosnians stand out amongst the foreigners.

Research limitations/implications:

The analyzed data does not provide information on how the criminal offences were committed, the number of offenders for each offence, the amount of damage caused. Furthermore, the databases do not provide information on what percentage of criminals were directly employed at the accommodation and catering facilities. The results and findings of this research serve as a basis for the preparation of a qualitative research with the aid of a structured interview of the responsible parties in the hotels/motels.

Practical implications:
The results will be applied to practical solutions in the area of preventing criminal offences in accommodation and catering facilities, increase the safety of guests and co-operation between employees and hotel/motel management on one hand, and the police and security services on the other.

Originality/value:
The results and findings on the patterns of criminal offences in accommodation and catering facilities have a direct practical value for the entire Slovenian tourism economy, especially for the management of hotels/motels. They will also provide a possibility of comparison with similar research studies in other countries.

Keywords: Criminality, Hotels, Security, Tourism.

1   INTRODUCTION

Safety and security as a value can be found at the top of the hierarchical system of human values. Reactions of the individual, whose safety is threatened because of a threat to his/her life and health, can be very hectic and uncompromising. The safety and security of our life and health is felt as a very important human value. Safety and security are in general a very wide concept that touches individuals, companies, the local community, different organisations, the country and the global world. There is also a science, named criminal justice and security. In the scientific literature, Maslow's pyramid is very often the starting point for the treatment of different aspects of dealing with people. It is also clear that safety and security (e.g., protection from danger, illness, a predictable and organised environment, a permanent residence, lack of war, etc.) has a special and important position in the hierarchy, considering the order of fulfilling the needs, namely immediately after fulfilling the basic physiological needs (Kranjc, 1982: 27). The basic problem of hotel security as well as tourism safety has already been defined a decade ago. Olsen and Pizam (1999) established, that the threats and danger derive from three different levels; namely at the micro, mezzo and macro level. The micro level means safety in a hotel; the mezzo level is safety and security from the point of view of the tourist destination and the industry; whereas the macro level is represented by the national security and is the domain of the government.

The global safety environment will be practically impossible to predict in the future, the same will therefore apply to its influence on the dynamics of the development of tourism at individual destinations. According to Miklavčič (2006: 16): *"Global safety will be threatened by different sources of asymmetric threats, such as the appearance of "new" terrorism, organised criminal offences, uncontrolled migration currents, trafficking with people, pollution of*

the environment, local military conflicts, political changes in individual countries, natural disasters and catastrophes, deriving from climate changes". The influence of threats to the individual tourism destination can vary, but criminal offences occur everywhere.

Safety and security as a value are therefore very important when making decisions as to where to go. Different occurrences of safety and security incidents cause a change in the perception of tourists toward the risk they are prepared to take when travelling (Mansfeld & Pizam, 2006: 7). In the past there was a widely circulated positive message, sent from the tourism industry, advisors and some academics, saying "Tourism as a force of peace in the world", used for the purpose of turning tourism even more popular. The fact is that tourism has a very marginal influence on peace and safety phenomena; tourism depends much more on safety and security than vice versa (Hall, Timothy & Duval, 2003: 3).

Findings from different parts of the world show that the influence of safety and security incidents on the tourism industry, tourism destination, the local community and tourists is in all cases negative and far-reaching (Mansfeld & Pizam, 2006: 233). Safety and security are among the basic factors of a country in the tourism industry. Tourists don't like travelling to countries that are not safe; those are therefore less attractive for the development of the tourism sector. The World Economic Forum [WEF] has been publishing reports on the competitiveness of individual countries in the travel industry and tourism area since 2007. The reports divide individual competition areas onto pillars; the third pillar covers safety and security. In the WEF 2009 reports, competitiveness in the Safety and security pillar is evaluated according to the level of criminal offence and violence, the possibilities of terrorist acts, the efficiency of police forces to protect the individuals and the level of traffic safety. The last report from 2009 shows the domination of European countries, especially Scandinavia; Finland, Iceland and Norway who are found at the top of the competition ladder according to safety and security factors. These countries do not have concrete problems with criminals and violence, there is no potential threat of terrorism acts, and the police force is organised and efficient. Slovenia is ranked 24th among 133 countries. The previous report showed Slovenia ranked 20th. One should also consider the ranking of our neighbouring countries: Croatia at 42, Austria ranked at 6, Hungary ranked at 41 and Italy ranked at 82 (Blanke & Chiese, 2009: 407-411).

According to the Global Peace Index [GPI] published by the Institute for Economics and Peace [IEP] (2010), Slovenia is ranked 11th in 2010, which is two ranks lower than in 2009 when we were ranked 9th together with Finland (ranked 18th in 2008, ranked 15th in 2007). We are the first in the region of Central and Eastern Europe, followed by the Czech Republic (ranked 12th) and

Hungary (ranked 20th). With the exception of Austria, ranked 4th, all of the neighbour countries are ranked lower than Slovenia (as mentioned previously, Hungary ranked 20th, Croatia 40th, Italy 41st) (pp. 10-11). The methodology of selection of the safest country in the world depends on 23 indexes[1], selected by experts from three basic categories: the indexes of domestic or international conflicts, safety and security indexes as well as protection of the society and militarisation indexes.

The data shows that safety and security are becoming a very important index for making decisions about a tourist destination. Speaking about Europe, one can say that tourists feel relatively safe. However, last year's Euro barometer research on holiday customs and habits shows that safety and security is the most important decision-making aspect for people from Denmark, Cyprus, and Malta. Safety and security are also very important for Slovenes (18 %), only exceeded by price (24 %) and quality (22.2 %). This survey furthermore shows that the issue of safety and security is most important especially for women (15.4 %), whereas it is less important for men (only 10.9 %) (The Gallup Organisation, 2009).

Tourism is becoming a globally important economic activity that is at the same time very important for safety and security problems. The last few years have also been marked by the global fight against terrorism which has raised safety and security onto a pedestal, removing human rights and liberties, the right to just trials and last but not least, human dignity (Mekinc, 2007: 13). Risks trigger new complex safety and security problems and challenges that are a combination of political, social, ecological and psychological factors. These factors define the level of a threat at the global and local level (Ambrož & Mavrič, 2004: 199).

There is an ever present relationship between safety, security and human rights, which can be transferred and combined with the relationship between safety and security on one hand, and freedom, genuine pleasure, discreteness and integrity on the other. Both relationships are reciprocal in their quantity and quality. Considering the first relationship: increased secu-

---

[1]   Perception of criminal offences in society; the number of people in charge of internal security and the police force per 100,000 inhabitants; number of murders per 100,000 inhabitants; number of persons in jail per 100,000 inhabitants; simplicity of access toward minor weapons of destruction; the level of organised conflict (internal); the probability of violent demonstrations; the level of violent criminal offences; political instability; respect for human rights; the volume of classical weapon transport (as importer/recipient) per 100,000 inhabitants; the possibility of acts of terrorism; the number of casualties in organised conflicts (internal); army expenditure as a percentage of GDP; the number of armed forces per 100,000 inhabitants; financing peace missions of the UN; joint number of heavy weapons per 100,000 inhabitants; the volume of classical weapon transport (as exporter/supplier) per 100,000 inhabitants; military fitting; the number of expatriated people as a percentage of the population; relationships with the neighbouring countries; the number of external and internal conflicts: 2002 -07; the number of casualties in organised conflicts (external) (IEP, 2010).

rity measures and stricter handling cause a decrease and limitation of human rights. In terms of tourism this can be directly applied to the relationship between safety and tourism within the following limits: the more one ensures safety and security, the less freedom and genuine pleasure is present in tourism activities (Mekinc, 2010: 28). Safety is therefore not just something next to tourism, but it is rather its component because one cannot expect modern tourism development in an area, that is not safe (Rožič, 2006: 10).

2   METHODOLOGICAL FRAMEWORK

When analysing the literature, there are several researches that deal specifically with the issue of safety and security at certain destinations[2] (Nadiri & Hussain, 2005; Juwaheer & Roos, 2005; Camilleri, 2006; Ajagunna, 2006; Eraqi, 2006). Even though some give us a very detailed view into the actual situation, we cannot compare data directly because of the specifics of economy, culture, society, geographical position, etc. Those findings were an important source of information for the discussed analysis on criminal offences in accommodation and catering facilities in Slovenia,[3] presented in this paper.

Data from the period 2007-2009 was used for the needs of research on criminal offences in tourism and the analysis of criminal offences, related to tourism; data was obtained from the web pages of the Slovenian police force (under the subpage Statistics – Criminal – Data in .txt form;[4] and from the Police directly (Ministry of Interior). The number of criminal offences, reported by the police was as follows: 7,112 criminal offences in 2007; 6,126 criminal offences in 2008 and 7,055 criminal offences in 2009. The data obtained from the webpage (in txt form) was imported into SPSS, in order to obtain a table for the years 2007, 2008 and 2009. Excel 2007 was used for the final formation of tables because SPSS does not have the necessary functions. A database was obtained that combines all criminal offences (c.o.) between the years 2007-2009. The same method (Excel formula) was used for the comparison of data, sent by the Ministry of the Interior, a table was obtained with a large number of items; 20,295 c.o.

This large database helped us to analyse which of the criminal offence acts, occurring in accommodation and catering facilities include characteristics on the basis of which one can call them tourism-related criminal offences. Data was

---

[2]   Cyprus, Mauritius, Mediterranean, Jamaica, and Egypt.
[3]   The Statute on the minimum technical requirements and the minimal volume of services for the purpose of providing catering activities (Official Gazette of the RS, No. 88/2000) lists the following types under accommodation and catering facilities: hotels, motels, bed & breakfasts, lodgings, hotels and apartment villas, mountain and other lodges, camps, accommodation, inns, coffee houses, patisseries, eateries, bars, and catering establishments.
[4]   Criminality– statistics: http://www.policija.si/index.php/statistika/kriminaliteta

filtered in a way to remove all criminal offences, the victims of which or offenders were not foreigners or where there was no citizenship data. 20,684 criminal offences were deleted from further analysis. The remaining 5,811 c.o. are partly or completely related to tourism.

3   ANALYSIS

The analysed data included 68 different criminal offences. Due to the large number of offences it was decided to present 10 of them according to frequency of occurrence, that were most common between the years 2007-2009.

Table 1: The most common criminal offences between 2007 and 2009

Article and criminal of-fence according to definition in the Criminal Code	YEAR					
	2007		2008		2009	
	Frequency	%	Frequency	%	Frequency	%
204 - Larceny	666	29.97	552	31.82	514	27.72
205 - Grand Larceny	630	28.35	486	28.01	581	31.34
243 - Counterfeit money	221	9.95	167	9.63	174	9.39
220 - Damaging another's property/object	168	7.56	132	7.61	151	8.14
211 - Fraud	75	3.38	100	5.76	110	5.93
141 - Criminal Trespass	65	2.93	42	2.42	52	2.80
135 - Threatening the Security of Another Person	59	2.66	60	3.46	37	2.00
122 - Actual Bodily Harm	53	2.39	48	2.77	36	1.94
251 - Forging Documents	45	2.03	15	0.86	18	0.97
208 - Misappropriation	38	1.71	35	2.02	30	1.62

It was established that Larceny and Grand Larceny[5] stand out (Table 1), followed by Counterfeit money, damaging other people's property and Fraud. Counterfeiting money (see Graph 3) is particularly common in casinos, or other locations where larceny is common. This shows that for the most part, we are talking about classical criminal offences where the offenders don't necessarily need special skills or tools.

---

[5]   The Slovenian Criminal Code Act defines that Grand Larceny is done when somebody entering into a closed building, room or opening a strong-box, wardrobe, case or other enclosure by way of burgling, breaking into or surmounting other larger obstacles; by at least two persons who colluded with the intention of committing larcenies; in a particularly audacious manner; with a weapon or dangerous tool which was intended for use during the attack or defence; during a fire, flood or similar environmental catastrophe; by taking advantage of the helplessness or accident of another person.

A comparison was also made between the number of tourists that visit Slovenia each year with the number of criminal offences that occur in accommodation and catering facilities. It was expected that a higher number of tourists would increase the volume of criminal offences; however, the comparison results (Table 2) did not confirm this. The highest number of tourists was noted in 2008 when the police noticed the least criminal offences in accommodation and catering facilities; as opposed to 2007, when the visitor numbers were the lowest. The reason for this result can be found in a small deviation between the tourist arrivals in a certain year, even though there are many other factors that influence the deviations in a certain time frame, such as the efficiency of the police force and the courts; general social circumstances, safety situations, investments into safety infrastructure, etc.

Table 2: Comparison between the number of tourists and the number of criminal offences between 2007 –2009

Year	Number of tourists	Number of criminal offences*
2007	Total: 2,681,178	2,222
	Foreign: 1,751,332	
	Domestic 929,846	
2008	Total: 2,766,199	1,735
	Foreign: 1,771,237	
	Domestic: 994,957	
2009	Total: 2,722,002	1,854
	Foreign: 1,668,098	
	Domestic: 1,053,904	
TOTAL	8,169,379	5,811

* According to selection and data filters, used by the authors of this paper.

3.1 Occurrence of criminal offences according to the day of the week

The day of the week provides interesting data for the management of accommodation and catering facilities: when and which criminal offences occur on which day. Results from the period 2007-2009 (Table 3) show that the majority of criminal offences occur at the end of the week, which is on Friday, Saturday and Sunday, when the flow of tourists is at its peak. Saturday stands out even further as the day when the majority of criminal offences happen. According to category, there is the prevalence of larceny (347 on Saturday and 269 on Sunday) and grand larceny (300 on Saturday and 245 on Sunday). It is interesting that forged money surfaces most often on Monday (109); this can be explained

by the fact that not all of the accommodation and catering venues have tools for detecting forged money. The latter therefore doesn't surface until Monday when the money is brought to the bank. Forgery of documents most commonly happens on Tuesday (43) which is difficult to explain. It has been noticed though that there is a large share of criminal offences for which there are no data as to the day of the week of their occurrence.

Table 3: The number of criminal offences according to the day of the week

ARTICLE of Criminal Code	DAY							
	N/A or no data	MON	TUE	WED	THU	FRI	SAT	SUN
204 - Larceny	15	196	193	216	235	261	347	269
205 - Grand Larceny	22	165	220	242	233	270	300	245
211 - Fraud	24	37	52	34	32	30	35	41
141 - Criminal Trespass	3	22	18	19	24	29	28	16
135 - Threatening the Security of Another Person	3	23	15	19	11	26	32	27
122 - Actual Bodily Harm	1	8	14	8	10	23	33	40
251 - Forging Documents	1	14	14	7	14	20	15	18
208 - Misappropriation	15	0	43	3	1	2	3	11

Analysis of the data shows that one must place more attention on eliminating criminal offences at the end of the week than during the week. One should not overlook the fact that the staff in the accommodation and catering facilities are more overloaded with work at the end of the week because there are more guests; the staff therefore pay less attention to the possible offenders which in turn enables the latter to access their targets, an easier realization of criminal offences and a faster escape route. Owners and managers could decrease the number of criminal offences at the end of the week by increasing the number of security personnel present at the end of the week. We are not just talking about the direct material damage as the consequence of criminal offences, but also about the image of the restaurant or catering outlet as a safe location, which is especially important for inviting guests and tourists.

3.2   Occurrence of criminal offences according to the month of the year

Tourism is an economic activity that is influenced by the seasons. Slovenia knows two seasons; the summer season (July and August) and the winter season (February, March). Tourism operators are trying hard to extend the season over the whole year, but it remains a fact that the majority of overnight stays

in accommodation facilities happen exactly in the above-mentioned periods. Considering the above one could claim that the majority of criminal offence happens in both season peaks. However, this is only true for the summer season, that is in the months of July and August (Table 4) – the exception being July 2008, because this year showed the majority of criminal offences in April and June.

Table 4: The number of criminal offences according to months for 2007-2009

MONTH	YEAR					
	2007		2008		2009	
	Frequency	%	Frequency	%	Frequency	%
January	179	8.1	138	8.0	137	7.4
February	166	7.5	142	8.2	135	7.3
March	204	9.2	144	8.3	178	9.6
April	211	9.5	164	9.5	151	8.1
May	178	8.0	133	7.7	142	7.7
June	193	8.7	153	8.8	148	8.0
July	221	9.9	146	8.4	195	10.5
August	230	10.4	183	10.5	195	10.5
September	155	7.0	143	8.2	140	7.6
October	152	6.8	119	6.9	176	9.5
November	165	7.4	144	8.3	141	7.6
December	168	7.6	126	7.3	116	6.3
TOTAL	2,222	100.0	1,735	100.0	1,854	100.0
GRAND TOTAL	5,811					

These findings do not apply to the winter season, especially for February, because this month does not stand out from the other months. March stands out with a 9.6 % share in 2009 when it was preceded only by July and August; as opposed to 2008 when it was ranked 5th and in the year 2007, when it was ranked 4th with 9.2 %. Also interesting is the month of April (Table 4) which seems to be a problematic month in connection with criminal offences in accommodation and catering facilities; with its share of 9.5 % it ranked third in the years 2007 and 2008, immediately after July and August as opposed to 2009 when it was ranked 5th with an 8.1 % share.
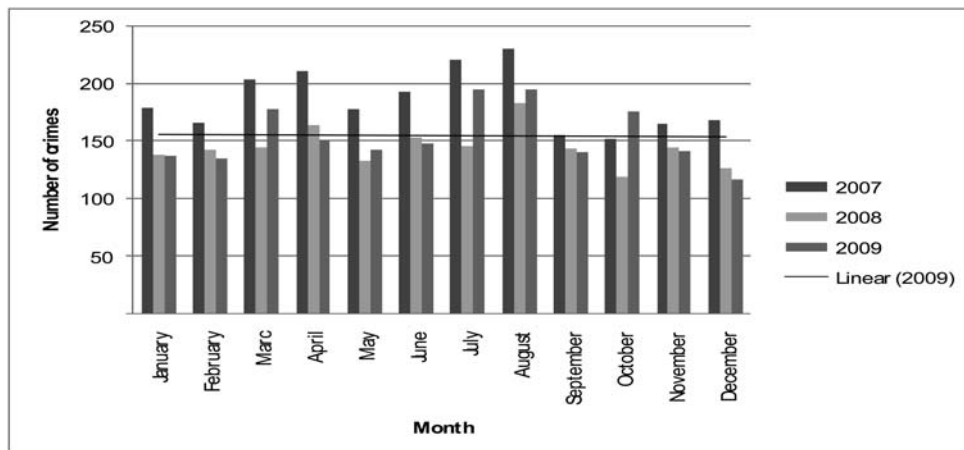
**Figure 1: Number of criminal offences according to months
for 2007 - 2009**

The results show that July and August stand out less than expected, if we compare data on arrivals and overnight stays according to the months of the year (Figure 1). July and August are the busiest months according to arrivals and overnight stays in Slovenia; which includes domestic and foreign guests. The fact is that the police perform a number of prevention activities during the summer tourist season, all with the intention of making tourists aware of safety issues; taking care of their personal belongings. All this definitely contributes to better safety and security. This in turn also makes staff more alert about the possibilities of criminal offences.

3.3   The occurrence of criminal offences according to the location of the accommodation and catering facilities

An important part of the survey is the analysis of criminal offence occurrences according to the individual locations of the accommodation and catering facilities. The locations, as shown in Table 5 and Figure 2 and 3 were based on the Police database. The form used by the police when a criminal offence is reported is based on the Statute on minimal technical conditions and minimal service offer for the purpose of catering activity (Official Gazette of RS 88/2000); this places accommodation and catering facilities into 5 categories: 1) holiday or mountain lodges; 2) camps; 3) casinos; 4) hotels, and motels; 5) weekend homes, bungalows, caravans.

Table 5: The number of criminal offences according to location of accommodation and catering venues in the period 2007-2009

Location	Year					
	2007		2008		2009	
	No. of C.O.	%	No. of C.O.	%	No. of C.O.	%
Cottages, bungalows, & caravans	1,138	51.2	877	50.5	907	48.9
Hotels, motels	387	17.4	323	18.6	349	18.8
Casinos	334	15.0	261	15.0	268	14.5
Restaurants (pub, bar, patisserie)	232	10.4	170	9.8	195	10.5
Camps	85	3.8	84	4.8	98	5.3
Summer or mountain cottages	46	2.1	20	1.2	37	2.0
Total	2,222	100.0	1,735	100.0	1,854	100.0
Grand total	5,811					

The categorisation presents us with a similar problem as with the previous category, which comprises weekend homes, bungalows and caravans. Slovenian legislation lists these under catering facilities, because the users are liable to pay tourist tax in the municipality where the facility is located. This category in particular shows the majority of noted criminal offences (2007-51 %; 2008-50.5 %; 2009-48.9 %), the smallest number are found in the category holiday or mountain lodges (Table 5). The latter shows that the number of criminal offences also depends on the number of users or guests, which are smaller in the case of holiday or mountain lodges in comparison with other accommodation and catering facilities. Also important is the target group of guests and visitors that come to these places and spend the night.

We also wanted to check which locations list the majority of individual criminal offences (Figure 3). Results confirm our speculations that the majority of larcenies, grand larcenies and damage to other people's property happens in the category bungalows, weekend homes and caravans; the majority of counterfeit money offences occurs in casinos; fraud in hotels and motels and minor body injuries in accommodation and catering venues. We can therefore conclude that the frequency of the occurrence of individual criminal offences is directly related to the activity performed at an individual location. This is also confirmed by the fact that camps and mountain lodges do not show any prevalence of counterfeit money, forgery of documents and fraud.
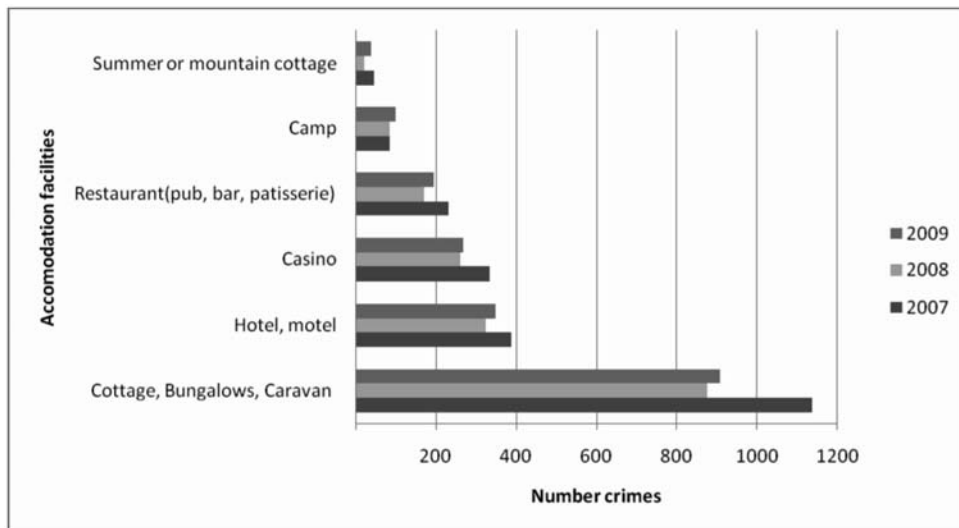
Figure 2: The number of criminal offences according to the location of the accommodation and catering facilities for 2007-2009
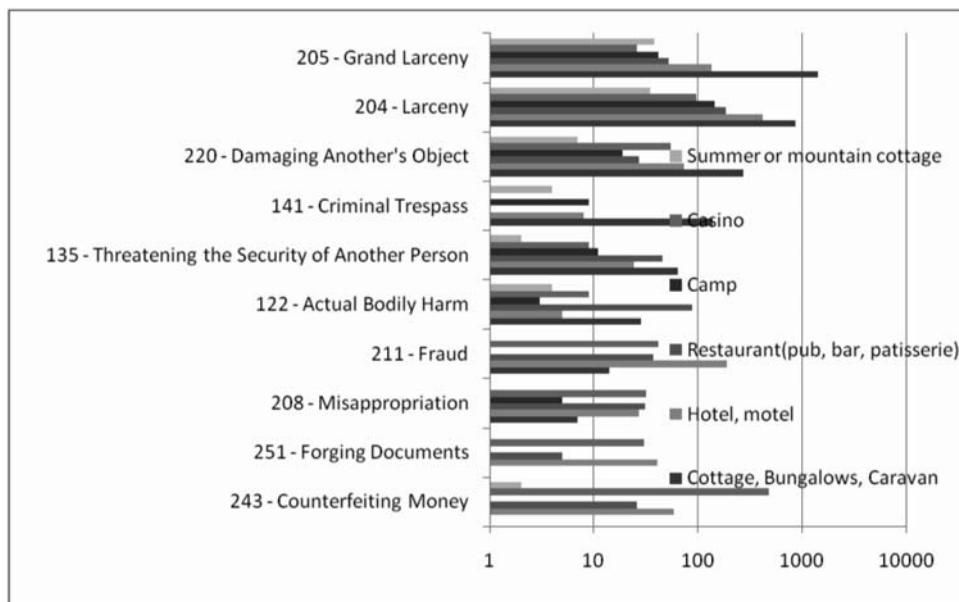
Figure 3: The most common criminal offence according to the location of the accommodation and the catering facilities for 2007-2009

4   CITIZENSHIP OF THE CRIMINAL OFFENCE SUSPECTS

Given that the majority of criminal offences is related to property crimes, there are a large number of unsolved cases because it is very difficult to single out the suspects. This in turn means that there is no data as to the citizenship of the offender. The majority of the known offenders come from Slovenia, followed by Italians, Bosnians, Romanians, Croatians and Serbs. The majority of foreign offenders comes from Italy, but the proportion is relatively small, only 2.9 % (Table 6). The relative proportion of suspects from the other countries is even smaller.

Table 6: The frequency of the citizenship of the criminal offence suspects in accommodation and catering facilities for 2007-2009

Citizenship of criminal offence suspects	Frequency	%
Offender unknown or no data	3,905	67.2
Slovenia	1,301	22.4
Italy	171	2.9
Bosna and Hercegovina	98	1.7
Romania	62	1.1
Croatia	57	1.0
Serbia	50	0.9
Macedonia	35	0.6
Kosovo	10	0.2
Germany	8	0.1
United States	8	0.1

Considering the number of suspects with Slovene citizenship, it was anticipated that we would find suspects in all locations. Suspects with Italian citizenship are most commonly connected with criminal offences committed in casinos (Figure 4). This result is based on the large number of casinos in the vicinity of the Italian border where the majority of visitors and guests come from. Meanwhile, citizens of Bosnia and Herzegovina are most commonly suspected of criminal offences connected with accommodation, whereas the citizens of Romania are connected to criminal offences in hotels and motels. Typically, offenders from Romania participate in small organised groups that perform a large number of criminal offences over a relatively short time period.
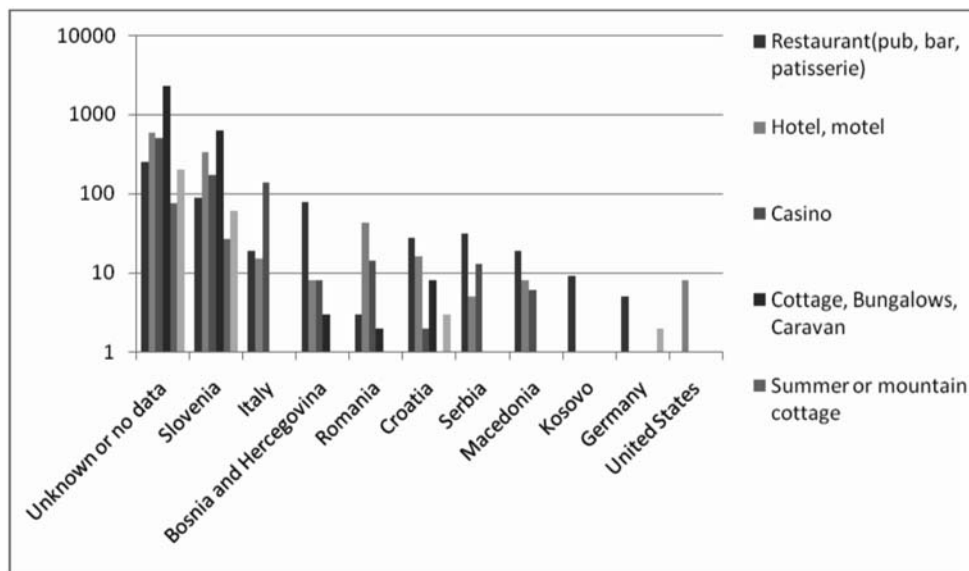
Figure 4: Comparison between the locations of accommodation and catering facilities and the citizenship of suspects for 2007-2009

An analysis was also made on the comparison between the citizenship of the suspects and the individual types of committed criminal offences. It was established that the majority of unknown offenders are connected to larceny, counterfeit money and falsified documents. As opposed to the others that were mentioned, the citizens of Romania were also very often suspected of money forgery, however, we are talking about a single occurrence that happened in the year 2007 where the trend did not repeat itself.

5   CONCLUSIONS AND DISCUSSION

If an interest is shown and there is more attention given to criminal offences connected with tourism, the accommodation and catering facilities will have to be defined in detail (by the police) or the ranking in individual accommodation and catering facilities remodelled. Data collected by the police on whether the victim is a tourist or a guest of the accommodation and catering facilities would be the key to allow for more sophisticated analysis of tourists crime trends and patterns.

Based on the available data, it is possible to identify criminal offences that are directly connected to tourism (e.g., forgery in casinos). On the other hand, there are some criminal offences that are indirectly connected to tourism (e.g., pros-

titution); they are not so evident and remain a 'dark figure' of crime, which was also shown by the analysis.

The results showed that most of criminal offences committed by tourists involve larceny and grand larceny. These are followed by money forgery, damage to property of others and fraud. Forgery of money is particularly frequent in casinos, but in other locations larceny prevails. Among the most effective methods for preventing criminal offences of larceny and grand larceny are quality security systems for facility protection. The decision by the owners to install security systems is not easy, as such systems present a high cost, especially for the owners of cottages, bungalows and caravans, where most criminal offences of larceny and grand larceny occur. Based on the size of the facility (i.e., hotels, casinos, spas) the costs only rise abruptly and probably do not make the investment worthwhile, irrespective of the fact that the price of safety cannot be measured. When safety and security of accommodation and catering facilities in the rest of Europe is in question, mostly the technical aspect of the safety of guests is pointed out, which is especially important for accommodation and catering facilities of a higher category. Namely, it is evident from the analysis of guests' demands that with a higher hotel category the role of the security equipment also increases when deciding on which particular hotel to stay in (Cvikl & Rumbak, 2009: 12).

The results further showed that the number of criminal offences in accommodation and catering facilities increases in the summer season, namely, in July and August. However, the difference in comparison with other months is not as high as one might expect in comparison with the increased number of tourists and overnight stays in July and August. There are certainly more causes for the slight difference. One of them is undoubtedly the greater activity of the police during the tourist season. Some actions are preventive and with those the police inform tourists how to take care of their personal safety and safety of their property. At the same time, it discourages potential offenders by being increasingly present at the most exposed tourist points. During the tourist season the Slovenian police increasingly cooperate with the police from neighbouring countries in exchanging interesting operative information as the occurrence of pickpockets, organized groups of burglars or thieves who typically move from one tourist place to another regardless of the state borders. In this way, they can be better prepared for the prevention of occurrences of criminal offences. They should look into the causes for such a high rate of criminal offences in April in greater detail; however, the present data do not enable relevant discussions at the moment.

The connection between the increased number of tourists and guests and the higher number of criminal offences at the weekends (Saturday and Sunday) can be established, however, this is not the only reason for such a trend. There has not yet been any research carried out in Slovenia that has analysed whether the high fluctuation of personnel in tourism and catering influences the security in

the accommodation and catering facilities. Especially on the weekends, when the number of guests increases, accommodation and catering facilities hire contractual workers, quite frequently students, who are not familiar with the guests to be able to recognize a suspicious person and are also not familiar with the security systems in the facilities or other safety measures. Larceny and grand larceny also prevail at the weekends. It is interesting that the criminal offence of forgery of money mostly occurs on Monday. A probable reason is in the fact that not all accommodation and catering facilities have devices for detecting forged money and the occurrence of fake bank notes is often established no sooner than on Monday when the cash is usually taken to the bank. We have noticed a considerable number of criminal offences for which we do not have information on when in the week they occurred.

The main part of our analysis foucsed on the occurrence of criminal offences in individual accommodation and catering facilities. A great number of those facilities in the category of cottages, bungalows and caravans, compared with the number of other accommodation and catering facilities in individual categories, highlights this category as the one where the most criminal offences are committed. Accommodation and catering facilities where the least offences are committed are camps and summer or mountain cottages. The structure of the visitors or overnight guests in those facilities can be listed among the reasons for the lower number of criminal offences. At the same time, camps, summer or mountain cottages are facilities where the occurrence of criminal offences of money forgery, forgery of documents and fraud has not been detected. We can conclude that the frequency of the occurrence of certain criminal offences is directly connected with the activity being performed in a certain location, as the most counterfeit money are found in casinos, fraud in hotels and motels and minor actual bodily harm in pubs.

Due to the dominant share of Slovene citizens among the suspects of criminal offences in the category of citizenship they are understandably the most frequent suspects in all categories of accommodation and catering facilities. Because of the fact that most casinos lie near the border with Italy, Italian citizens are also most often suspected of committing offences in casinos. The citizens of Bosnia and Herzegovina are most commonly suspected of criminal offences committed in accommodation, meanwhile, Romanian citizens are most commonly suspected of criminal offences in hotels and motels.

Undoubtedly, the analysis has shown that we need a more detailed data collection on criminal offences in the field of tourism. More accurate data would enable more precise analyses which would offer useful conclusions for the hospitality sector in Slovenia. Measures for the provision of security and for criminal offence prevention by public authorities, local communities and especially owners and managers of accommodation and catering facilities could be more

effective based on the findings. Safety is placed very high in the pyramid of values of a potential guest; therefore, the guest also chooses the tourist destination as well as the accommodation and catering facilities through the safety prism. Safety is becoming more and more influential when a guests' choice is in question; this trend has been present for quite some time now. On the other hand, safety is becoming a personal benefit for which an individual has to take greater and greater responsibility. Safety is being shifted from the domain of the state and collectivism into the domain of an individual. In Slovenia, where tourism safety has not been a priority, we still feel the influence of recent history when there was a system of general social security where the state attended to most elements of safety and security. By transferring to a market economy the responsibility is more and more on the side of an individual; the owners of accommodation and catering facilities have to be aware of that fact as well and dedicate more attention to the safety of their property and the property of their guests. Better cooperation between different safety and security bodies would also help lower the criminal offence rate in accommodation and catering facilities. The effectiveness of the prevention actions of the police can increase the inclusion of and cooperation with other bodies in the field of tourism.

REFERENCES

Ajagunna, I. (2006). Criminal offence and harassment in Jamaica: consequences for the sustainability of the tourism industry. *International Journal of Contemporary Hospitality Management*, *18*(3), 253-259.

Ambrož, M., & Mavrič, M. (2004). Varnost kot motiv za turistično potovanja [Safety and Security as a Motive for Tourist Travel]. *Varstvoslovje*, *6*(3), 197–206.

Blanke, J., & Chiese, T. (Eds.) (2009). *Travel & Tourism Competitiveness Report WEF. Geneva, CHE:* World Economic Forum.

Camilleri, D. H. (2006). Tsunami construction risks in the Mediterranean – outlining Malta's scenario. *Disaster Prevention and Management, 15*(1), 146-162.

Cvikl, H., & Rumbak, R. (2009). Primerjalna analiza standardov kakovosti v izbranih evropskih državah [Comparative analsysis of quality standards in selected european countries]. In A. Brezovec, & J. Mekinc (Eds.), *Management, izobraževanje in turizem - kreativno v spremembe: zbornik referatov: proceedings* (pp. 10-13). Portorož: Založba Turistica – FTŠ UP.

Eraqi, M.I. (2006). Egypt, Tourism services quality (TourServQual) in Egypt, the viewpoints of external and internal customers. *Benchmarking: An International Journal BIJ, Special Issue on TQM*, *13*(4).

Gallup Organisation (2009). *Flash Eurobarometer 258 - Survey on the attitudes of Europeans towards tourism,* acquired. Retrieved April 20, 2010, from http://ec.europa.eu/public_opinion/flash/fl_258_en.pdf.

Hall, C.M., Timothy, D.J., & Duval, D.T. (2003). Security and Tourism: Towards a New Understanding. In C.M. Hall, D.J. Timothy, & D.T. Duval (Eds.), *Safety and Security in Tourism - Relationships, Management and Marketing (pp. 1-18).* Binghamton: The Haworth Hospitality Press.

Institute for Economics and Peace (2010). *Global Peace Index MAP 2010.* Sydney: Institute for Economics and Peace .

Juwaheer, T. D., & Roos, D. L. (2005). A study of hotel guest perceptions in Mauritius. *International Journal of Contemporary Hospitality Management 15*(2), 105-115.

Krajnc, A. (1982). Motivacija za izobraževanje [Motivation for education]. *Ljubljana: Delavska enotnost.*

Mekinc, J. (2010). Varnost je tudi v krizi vrednota turističnega produkta in ponudbe [Safety is an value of tourist product and offer also within a crisis]. *Delo + varnost 55*(3), 27-35.

Mekinc, J. (2007). *Model etičnih stališč na ravneh strateškega in operativnega managementa v slovenski policiji [Model of the ethical standpoint on the level of strategic and operative police managers in the Slovene police].* Doctoral dissertation, Kranj: Univerza v Mariboru, Fakulteta za organizacijske vede.

Miklavčič, M. (2006). Globalna varnost in turizem v Sloveniji [Global safety and tourism in Slovenia]. *In M. Faletič, & B. Djutović (Eds.), Globalna varnost v turizmu v Sloveniji: zbornik referatov: proceedings,* (pp. 12 -18). Ljubljana: Državni svet Republike Slovenije.

Nadiri, H., & Hussain, K. (2005). Perceptions of service quality in North Cyprus hotels. *International Journal of Contemporary Hospitality management, 17*(6), 469.

Olsen, M. D., & Pizam, A. (1999). *Executive summary: a white paper from the IH&RA think tank on safety and security. Paris: International Hotel and Restaurant Association.*

Pizam A., & Mansfeld Y., (2006). Toward a Theory of Tourism Security. In Y. Mansfeld & A. Pizam (Eds.), Tourism, Security and Safety: From Theory to Practice (pp. 1-28). *Burlington: Elsevier Butterworth-Heinemann, Burlington.*

Pravilnik o minimalnih tehničnih pogojih in o minimalnem obsegu storitev za opravljanje gostinske dejavnosti [Regulations on minimum conditions and the minimum range of services for the provision of catering]. (2000). *Uradni list RS*, (88).

Rožič, M. (2006). O varnosti v turizmu [About safety within tourism]. In M. Faletič, & B. Djutović (Eds.), *Globalna varnost v turizmu v Sloveniji: zbornik referatov: proceedings,* (p. 10). Ljubljana: Državni svet Republike Slovenije.

World Tourism Organization (1997). *Tourist Safety and Security – Practical Measures for Destinations.* Madrid: World Tourism Organization.

PHISHING SCHEMES – TYPOLOGY AND ANALYSIS IN SERBIAN CYBER SPACE

Authors:

Božidar Banović, Vladimir Urošević and Zvonimir Ivanović

ABSTRACT

Purpose:

The purpose of this paper is to identify and describe various factors for understanding criminal behaviour involved in phishing and to provide advice – in the areas of security, criminal procedure, and victimology.

Design/methodology/approach:

The project combined several qualitative and quantitative techniques such as interviews and surveys, as well as content analysis.

Findings:

Several categories of subjects were identified: those who are aware of some scientific achievements in this field and who feel increasingly apprehensive about the disclosure of private information; those who are not prepared to readily incorporate scientific progress in similar fields; the third category includes staff members who do not embrace all new measures in the fight against this type of cybercrime. The participants could also be categorized on the basis of their inclination to recognize new forms and types of phishing: some are aware of new forms and can recognize them as soon as they emerge locally; others cannot do so.

Research limitations/implications:

To allow findings to be generalized, future research should include measures that could specify additional means to be used by members of a wider representative group, such as tools, materials, educational and course modules, implemented during training.

Practical implications:

This research represents a useful source of information for method implication in combating phishing schemes, and for detecting new emerging forms and types of cybercrime promptly, as well as new social engineering methods to facilitate it.

Originality/value:

This paper should be of particular interest to forensic specialists, in the analysis of crime scene behaviour and of methods phishers use in luring their victims.

Keywords: Phishing, Spear Phishing, Pharming, Cybercrime

1   INTRODUCTION

Phishing schemes (The term term was first used by Gercke, Đokić, Radulović, Petrović, Lazović & Prah (2008:147) and in Nikolić, Gvozdenović, Radulović, Milosavljević, Jerković, Živković, Živanović, Reljanović, & Aleksić. (2010:30), in Serbian literature, and in the world term was first used in 1996. according to Jakobsson & Myers (2007:3)) are currently the most prevalent manifestations of cybercrime phenomena. Types and phenomenology of this type of crime are evolving on a daily basis, as does the sophistication of its perpetrators, so research in this area is extremely important. The importance of such research lies in the phenomenological mapping of manifested forms in order to solve crimes in the area. This paper aims to create a map of the present state of affairs of this area in Serbia. Focal groups are experts who deal with cybercrime, especially electronic crime. The aim of the research is to present the characteristics, variations, and interdependence of various elements in phishing and spear phishing schemes. The most secure way to achieve this was to investigate specific expert knowledge and judgements in this area by means of surveys and interviews.

2   THE SURVEY

The key objectives of this study were:

To examine phishers' behaviour, MO, and signatures from expert points of view; to understand the relationship between victims' actions, their jobs, current positions, and connected jurisdictions; to discover how and why perpetrators find, lure, and catch specific victims; and to find out what perpetrators do with the obtained personal data, thereby mapping the route and destination of such stolen data.

2.1   Sample and methodology

The total sample includes 20 experts in four different fields: the judiciary, bank security personnel, the police, and the public prosecutor's office. Their expertise lies in the field of cybercrime but in separate areas. This fact helped us acquire more precise study results.

Interviews and surveys were conducted on the same day in June 2010. Each survey lasted for 10 minutes while each interview lasted for 15.

In reviewing this report, please note that percentages may vary or did not add up to 100 %, due to rounding, the existence of multiple answers to one or more questions, or the exclusion of any "not sure" or "decline to answer" responses.

This initial research implemented Delphi research methods; during the interview participants were introduced to the dispersal of answer percentages so that they

could predict answers to the interview questions more precisely. It was conducted among attendants of the "Credit and debit cards in 2010"conference held in Belgrade, and organized by the Serbian Chamber of Commerce. Participants were from different sectors, such as bank e-security, the police hi-tech crime unit, judges, and public prosecutors specialized in e-crimes. The number of survey participants was twenty (n=20). Each participant was asked to take an anonymous survey, with a brief description of its content, goals and methods used. Everyone was asked not to give or disclose any personal information and was informed that, if anybody did, that information would be lost in the process. If they wished to see the results of this survey l participants were asked to contact its organizers of by mail; they would get a copy of the results and analysis upon its completion. Researchers explained in the addendum to the survey that any participant was free to give more than one answer, and where possible, to give a different answer from that given in the survey, specific to the participant. The participants were informed about the aims and goals of the survey and broader research project of phishing typology, of which the given surveys and interviews formed part.

3   THE RESULTS AND DISCUSSION

With respect to the question: "Do you consider phishing more dangerous than other forms of cybercrime?" participants of the survey were ambivalent; half considered phishing to be the most dangerous among other forms of cyber crimes, while the other half (i.e. 50 %) thought it not to be as dangerous, or no more dangerous than other cybercrimes (Figure 1).
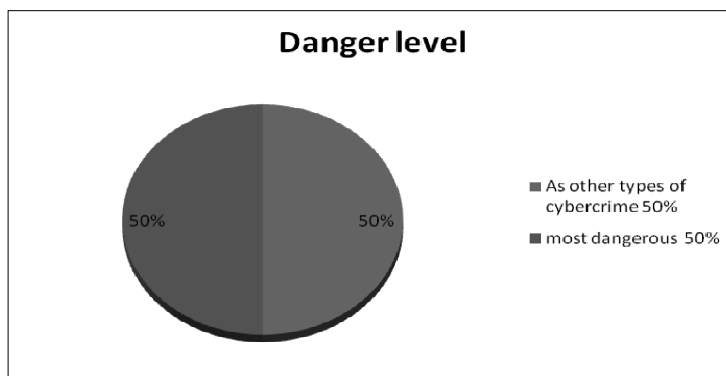
Figure 1: Danger level of the phishing

The reasons for believing phishing to be not so dangerous could be found in the global action to suppress the phishing phenomenon, while the other result was probably due to the real danger of the phenomenon itself (Smith, Grabosky &

Urban, 2004). This result may stem from awareness-raising campaigns against phishing in Serbia, focusing on the banking sector, together with action against and strategic preparedness for this and other types of cybercrime. Regarding the behaviour of perpetrators, this could mean that participants are not very focused on behavioural analysis, but much more interested in the phenomenology of the issue. In analyzing their responses, we could distinguish two types of participants: those who underestimated the phishing issue, and those who did not.

With respect to another question regarding what types of phishing were most common in their everyday life, 92.3 % of all survey participants replied that the most common phishing schemes were in English language, and only 7.7 % thought that they were in Serbian (Figure 2).

The most common for everyday life

7.7

In English language 92.3
In Serbian 7.7

92.3
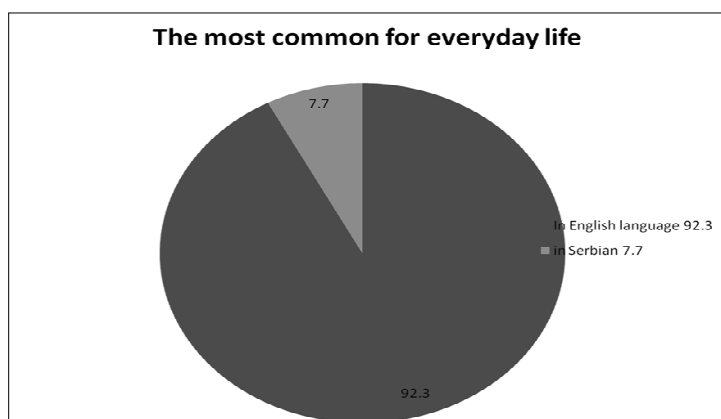
Figure 2: The most common phish for everyday life

This question and answers to it revealed for the first time the presence of phishing schemes in poor Serbian language in this geographical area. This could mean that perpetrators tend to cover this geographical area, because of its significance in terms of economic resources but also because of its potential role in spreading the business of organized criminal groups in this area. One explanation could be the use of PoC honeybots or other automated bot systems, and online free translation tools such as Google Translate or others, to socially engineer their scheme. This result could also be read as a victimology analysis, where the targeted victims were not just English-speaking people in Serbia, but also Serbian victims not speaking English language. This is very alarming, and provides valuable feedback for the phishing campaign, especially regarding awareness of Serbian language (poorly crafted, but fully functional) phishing schemes in this area. The dissemination of answers, with the vast majority confirming English language phishing schemes, still confirms the perpetrators' tendency to use mass mailing and bot systems, rather than focused attacks, such as spear phishing. But the other group certainly revealed the existence of such attempts in this area.

Most participants distinguished spear phishing (83.3 % of all answers) from common phishing scheme, but nevertheless 16.7 % of participants considered the two to be the same (Figure 3).
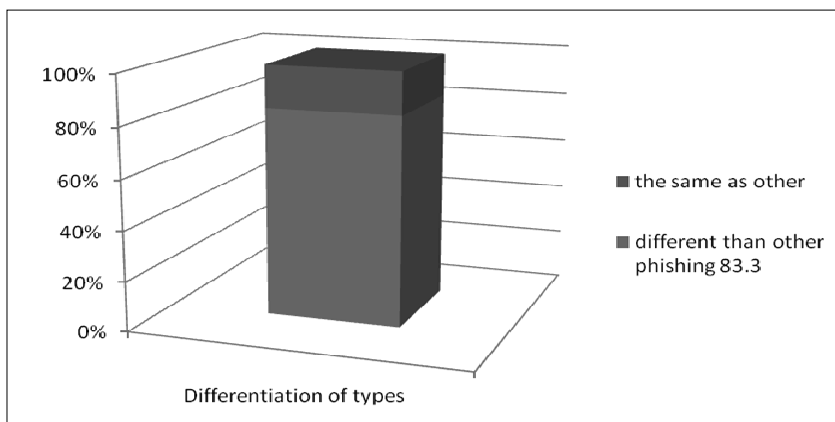
Figure 3: Differentiation of phishing types

Again, this could be interpreted as resulting from anti-phishing campaigns, but could stem from existing daily phenomena in business life in Serbia: phishing mail, targeting CEOs and other high ranking officials in well-led businesses as well as state officials.
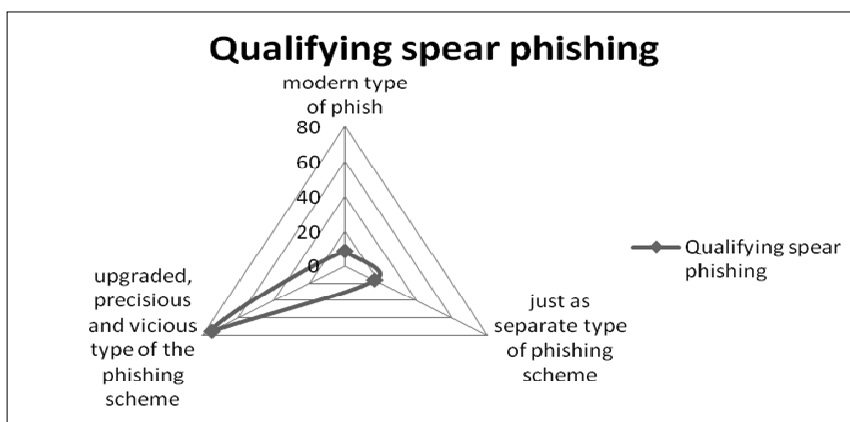
Figure 4: Qualifying spear phishing

This question alone indicated the existence of spear phishing and its possible implications in Serbian cyberspace. One could deduce that this area is therefore no exception, and that soon spear phishing mails may result in successful fraud, resulting in CEOs and other officials giving away valuable professional and private, even personal, information to phishers. One can speculate that, with poorly crafted phishing schemes in Serbian language – probably made with bots and DDoS

attack engines, organized, educated expert perpetrators could craft very attractive spear phishing schemes aimed at higher CEOs and other VIPs, which could result in acquiring everything – from digital IDs to well-kept company secrets.

The question: "do you consider spear phishing to be a modern type of phishing?" resulted in 8.3% affirmative answers, while 16.7 % did not consider it to be a modern variation, but just a separate type of phishing scheme. The vast majority (75 % of all participants) considered spear phishing to be an upgraded, precise and vicious type of phishing (Figure 4). This result could be due to massive bulk mail attacks, present in Serbian cyberspace, most prominently in the banking sector, from which the majority of participants came. This also answer the question of which sector is most vulnerable to this type of attack, although the diversity of answers also indicates a wrong understanding of the phishing phenomenon itself. Just 10% of participants did not distinguish between spear phishing and classic phishing, while the remaining 90% had different specializations in categorizing its modern elements.
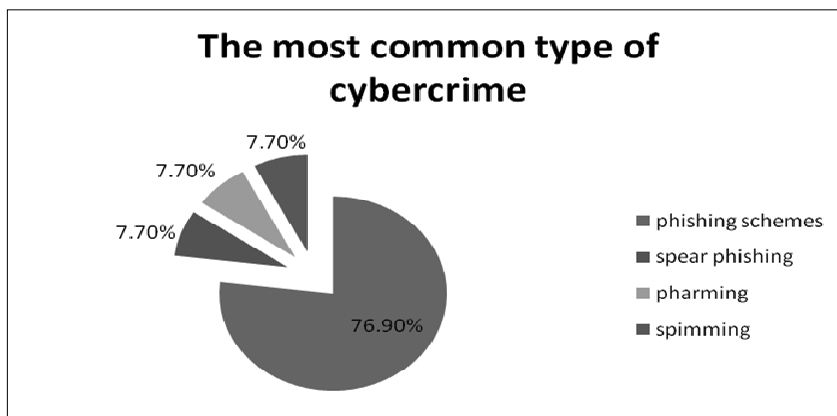
Figure 5: The most common type of cybercrime

The most common type of cybercrime, present in common business life and encountered by cybercrime law enforcement agencies in Serbia, involves phishing schemes, as stated in 76.9 % of participants' answers. This is followed by spear phishing, pharming, and spimming, each accounting for 7.7 % (Figure 5). Although this also revealed the existence of pharming and spimming attacks in Serbian cyberspace, the overall result very accurately positioned the existing and growing problems of phishing and spear phishing. All of this indicates that future strategic, tactical, and operational measures should be taken by the government and policy makers. Of course there must be deeper thorough scientific research in this area before any action is taken in the field, but hopefully this research could give some guidelines for future research. The most interesting fact is that Serbian legislation does not actually specify incriminating acts that would cover activities like phishing and spear phishing, pharming or spimming.
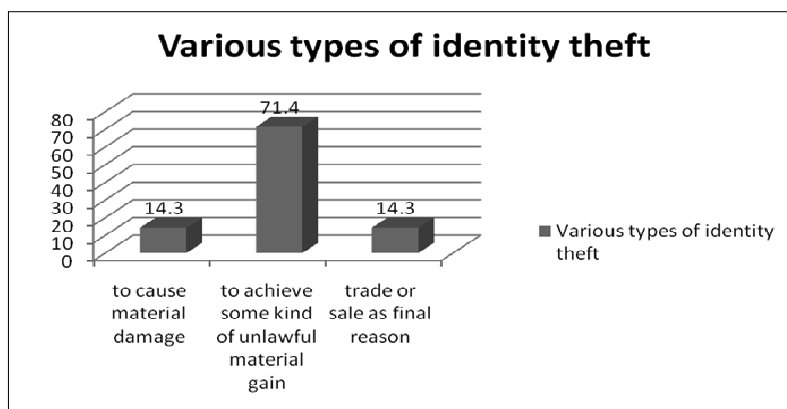
Figure 6: Various types of identity theft

The participants considered various types of identity theft (even virtual identity theft) intended to cause material damage to somebody (14.3 % of all answers) or to obtain some kind of unlawful material gain for the perpetrators or others (71.4 % of all answers), or finally having trade or sale as the ultimate motive for the ID theft (14.3 % of participants) (Figure 6). One could argue that in a country that has not incriminated ID theft offenders there are serious implications. Nevertheless all survey participants confirm that there must be some knowledge about the phenomenology of ID theft, its motivation, and outer manifestations. This is therefore an opportune time for the analysis of phishing and other types of ID theft within Serbian cyberspace.
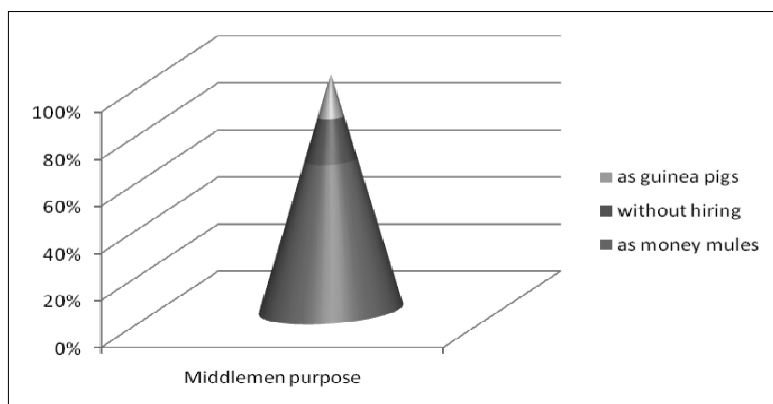
Figure 7: Purpose of middlemen

Another question was: "Is it possible, according to your knowledge, that perpetrators often hire middlemen in the perpetration and realization of such crimes?" Here a large percentage of participants, 63.6 %, responded that perpetrators do hire fraudulent collaborators (Petrović, 2004) as money mules to handle money or goods gained through phishing; 18.2 % of the participants

did not perceive perpetrators as an organized group of men or women, but as solitary 'gunmen' acting alone. Another 18.2 % of participants perceived perpetrators as people using other people as guinea pigs for their quests (Figure 7). The vast majority of answers (81.8 %) showed that all of these acts contain a common element involving systematization, implicating the existence of organized crime in this area.

The responses to our next question required engaging the professional and personal experience of the participants. We found that 7.7% regarded phishing schemes as too naive, poorly crafted fishing hooks, which could not lure a real fish, and therefore not a real phishing victim; 23.1 % of the participants found them relatively naive judging by their general and overall characteristics; 15.4 % found them subtly perfidious, while the vast majority (46.3 %) thought them extremely dangerous, especially spear phishing schemes (Figure 8).This result could be due to real danger arising from phishing and spear phishing (according to the largest group) but there still appears to be a significant percentage of survey participants who underestimate this phenomenon in Serbian cyberspace. Surprisingly, despite official awareness-raising campaigns, the group who consider phishing to be naive could be influenced by further prevention-awareness campaigns by law enforcement officials. One of the answers was open and referred to the focus group. In the participants' opinion, older citizens were more vulnerable than others, especially since their "pride and experience" are likely to be targeted by the phishers, as well as their naivety concerning URL difference.
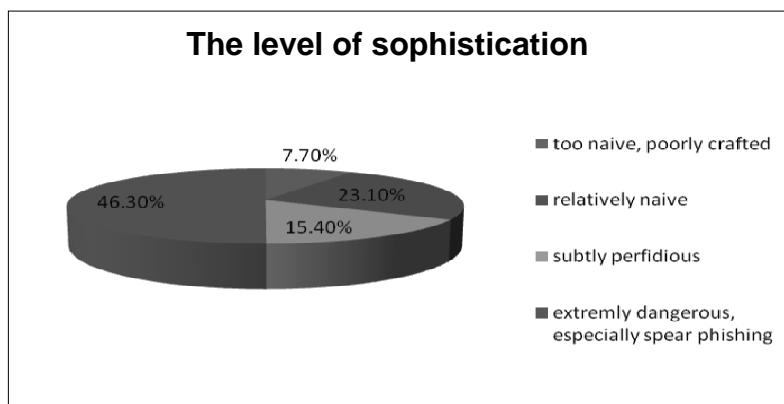
Figure 8: The level of sophistication

The next question was: "Do you consider social networking as a future cyberspace field for the realization of phishers' schemes?" Interestingly, the vast majority of participants (78.6 %) considered it to be ideal for future phishing schemes, and 7.2 % of the participants thought that social networking sites already provide a fertile field for phishing schemes.
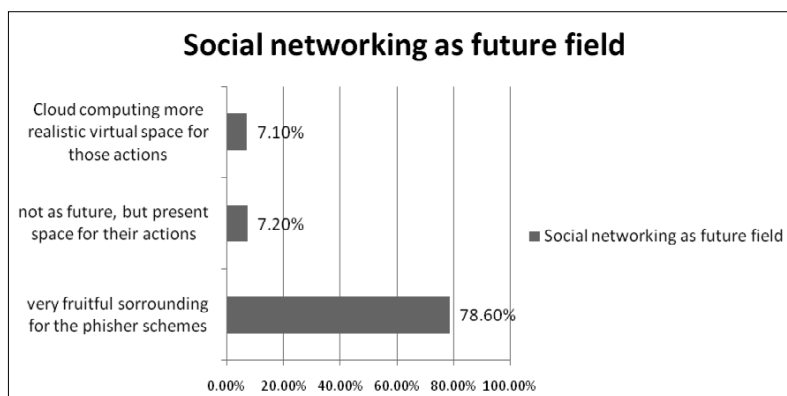
Figure 9: Social networking as future field

A small percentage of participants (7.1 %) found Cloud computing to be more realistic virtual space for phishing and more recent forms of cybercrime (Figure 9). This distribution of results shows that phishers are seriously present in social networking today, but that more danger comes from contemporary and modern types of computing applications on the web. It also shows that there is very high awareness of fraud problems in Serbian cyberspace among bank and police personnel

The last question showed that participants (84.6 %) regarded bank clients as the most vulnerable group with respect to phishing attacks. CEOs of banks and business firms were regarded as targets by 7.7 % of participants, while 7.7 % thought that the target group comprised uneducated persons with important positions in the state i.e. those not familiar with fraudulent online trade, gaining personal and other data for ID theft (Figure 10).
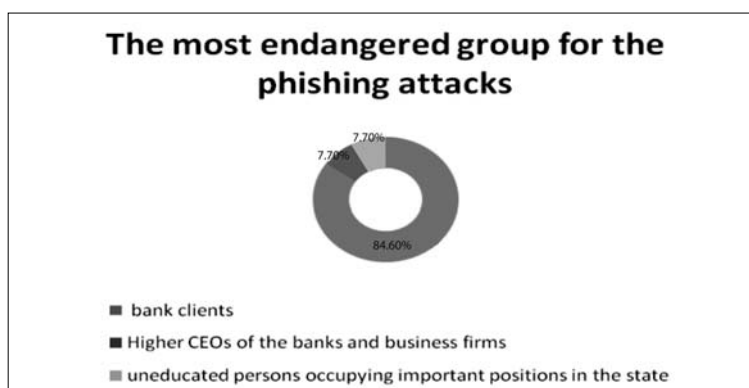
Figure 10: The most endangered group for the phishing attacks

Besides the survey questionnaire, some participants were also interviewed so as to address the problem in depth, in order to create a model to explore the phenomenon of phishing. In the course of informal conversation, experts were

asked their opinions and shared their experiences in the field, in order to create a practical and useful model. In all interviews, ignorance and a false belief in the security policy of their institution combined with a misplaced feeling of full security was identified: the minority of participants were aware of some scientific achievements in this field, with growing fear of breaches of private information in any field; the vast majority felt confident about their security capabilities and the legal apparatus to deal with cybercrime issues, and were not prepared to readily incorporate scientific progress in similar fields; one section of the interviewed group were employees who did not readily embrace all new measures in fighting this type of cybercrime. Those categories also could be sub-divided according to their recognition of new forms and types of phishing schemes. Thus we can recognize those who are aware of new forms and can recognize them as soon as they emerge locally, and those who cannot. From the interviews we were able to identify answers which could be used to design a cybercrime prevention model, also to safeguard bank security. These were "security tips" (something similar can be found at Касперски, 2001, p.5) relevant for business mailing systems, with rules of behaviour for employees in circumstances targeted by phishers. Some valuable answers were also acquired for mobile telephone and IM usage. There were answers combining social networking with previously covered fields (IM, mobile, prevention in banking). The combined results of the survey and interviews prove very useful for wide-ranging possible implementation, from mobile telephones and computing, to social networking and even cloud computing. This is presented in the following figure.

The following characteristics of ID theft can be identified. Two steps are 'simple': acquiring the data and storing it. Those activities are the most sophisticated and constantly evolving, and therefore the most difficult to stop. We can therefore focus on the motives lying beneath those acts: from the results of our research we recognize the following. Firstly, personal use of the data by the perpetrator is the rarest of all types. Here we could recognize the perpetrators' attempts at covering their tracks by engaging money mules to do dirty jobs for them. The engagement of a middleman ranges from withdrawal of cash from the victim's bank account and online shopping, to concluding transactions in favour of third parties. The second motive lies in further commercial use of the obtained data, also engaging a middleman (money mule) but this time in favour of a third party, not present in the deal. The data will typically be chopped to pieces and sold bit-by-bit, since the ID consists of several elements, all of which can be used and sold separately. Here we recognize gain in favour of a third party and for the benefit of the perpetrators themselves directly in their bank accounts. The third motive lies in creating the possibility for further trade from the data acquired, but not all at once. The fourth motive could be defined as causing damage to other persons.
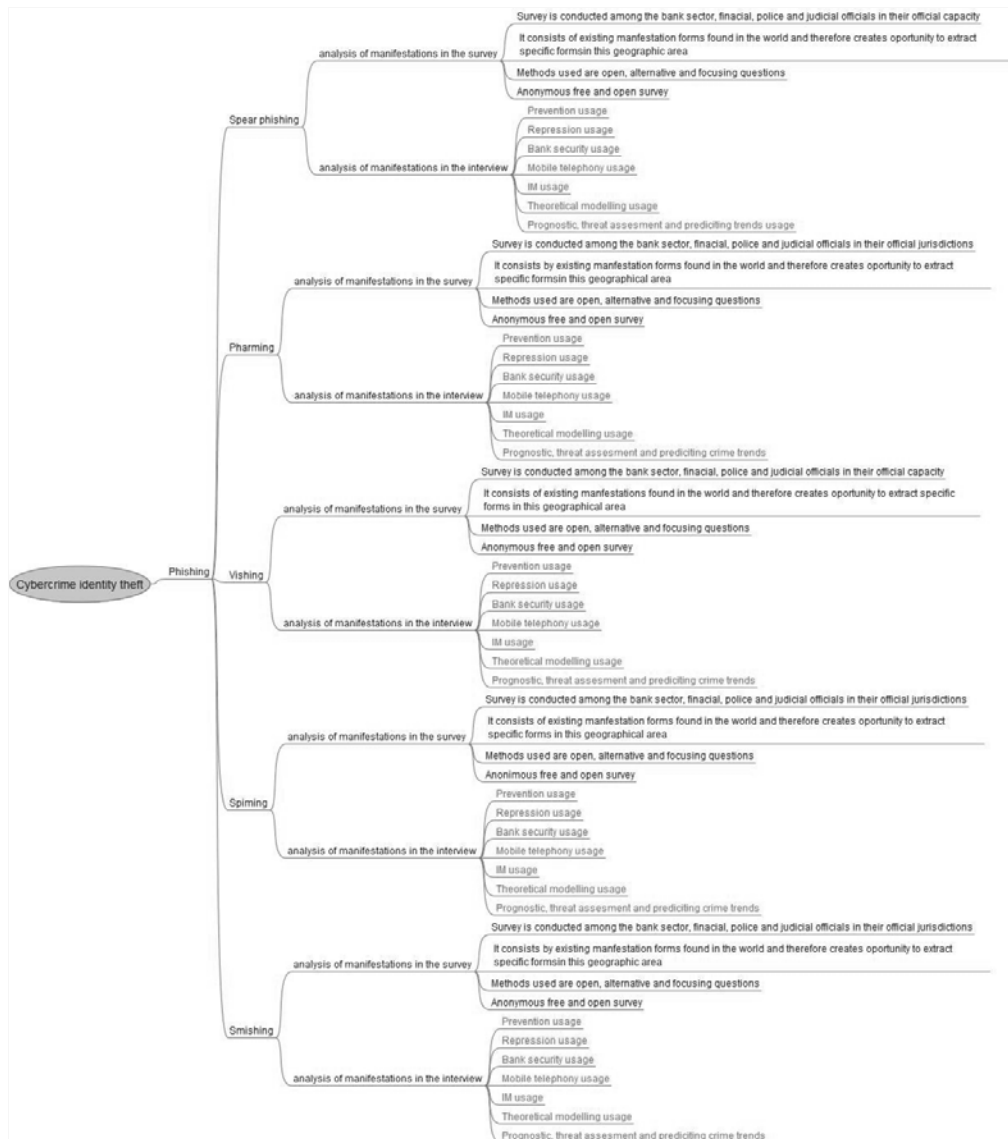
Figure 11: Phishing attack vectors
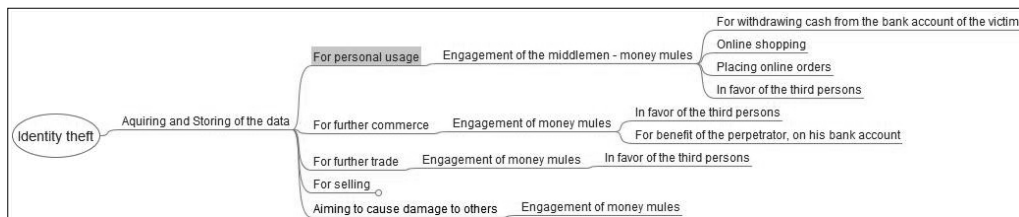
Figure 12: Motives for acquiring and storing the data

4   CONCLUSION

This paper presents a useful source of information for methods to suppress phishing schemes. It explains new forms of cybercrime, with its ever-emerging new types and modes, as well as new methods in the social engineering facilitating it. The understanding of cybercrime among staff in charge of processing crime scene evidence, especially among the police, bank and other financial organizations' personnel, should be of particular interest to forensic specialists in their attempts to analyze crime scene behaviour, and the methods used by phishers in luring their victims.

Based on the results obtained in this research, one can visualize the present situation in Serbia. Various elements of phishing and spear phishing schemes, their interdependence, as well as their different manifestation were provided through the exploration of expert knowledge and judgement in this specific area from a wide range of different sectors, such as bank e-security, the police hi-tech crime unit, as well as judges and public prosecutors specializing in the field of e-crime.

The results of these interviews clearly indicate that, as far as the behaviour of perpetrators is concerned, participants were not so focused on behavioural analysis, as they were on the phenomenology of the issue. Analysis indicates that we can find two types of participants: those who underestimate phishing issues, and those who do not. The vast majority of phishing attacks are conducted in English language but it is an alarming fact that there are also attacks in the Serbian language. The most valuable finding was the existence of spear phishing. One can speculate that with the presence of poorly crafted phishing schemes in Serbian language (probably made with bots and DDoS attack engines) well-educated, organized, expert perpetrators could craft attractive spear phishing schemes aimed at higher CEOs and other VIPs. These schemes could result in various thefts – from digital IDs to well-kept company secrets.

Only 10% of participants did not distinguish spear phishing from classic phishing, while the others have different specializations in categorizing modern phishing elements. The existence of pharming and spimming attacks in Serbian cyberspace was very accurately defined as a current and rapidly growing problem, alongside phishing and spear phishing. All this could be indicative for future strategic, tactical, and operational measures by the government and policy makers. Of course, there must be deeper and thoroughly scientific research in this area before taking any actions in the field, but hopefully this research could give some guidelines for future research. The most interesting fact is that Serbian legislation does not yet specify incriminating acts to cover acts like phishing, spear phishing, pharming or spimming (although the last criminal phenomenon could theoretically be legally defined as attempted fraud, punishable under Section

208 of the Criminal Law of the Republic of Serbia although not strictly defined as crime *per se*).

One could argue that in a country that has not yet incriminated ID theft (solely or as part of phishing crime) we have to consider the implications of this criminal act very seriously. All research participants suggest that there is awareness of ID theft, its motivation, and outer manifestations. The research presented shows that this is a new moment for anybody analyzing phishing and other types of ID theft in the Serbian cyberspace.

One simple fact shows that a vast majority of the participants (78.6 %) consider social networks to be very fruitful surroundings for phishers\ schemes, but 7.2 % of the participants find it not as a future, but rather a present space for their actions. There are 7.1 % of the participants who find Cloud computing to be a more realistic virtual space for those actions and more recent cybercrime forms. This distribution of survey results shows that the phishers are very seriously present in social networking today, but that there are more dangers coming from contemporary computing applications on the web[1]. It also showed that there is a very high level of awareness of fraud-related problems in the Serbian cyberspace among bank and police staff. The most endangered group for the phishing attacks, as perceived by the percentage of 84.6 % subjects, are bank clients. Higher CEOs of the banks and businesses are described as targeted by 7.7 % of the participants, and 7.7 % find uneducated persons occupying important positions in the state i.e. those who are not familiar with the functioning of false online trade, aimed at fraudulently gaining personal and other data for ID theft.

Results from open interviews showed that participants could also be divided into categories with respect to their inclination to recognize new forms and types of phishing schemes and that here we can see those who are aware of the new forms and can recognize them as soon as they emerge locally, and those who cannot.

In recapitulation, we can underline some relations found in this research, between: the victims' actions and luring methodology, targeted assets and their later use by perpetrators or money mules, defensive actions taken by victim, their work position and type of phish, surroundings, the victim`s education and type of phish, complexity of the phishing scheme and targets, organized crime and realization of phishing schemes.

Phishing and spear phishing are emerging trends in cybercrime in the territory of the Republic of Serbia. Most groups that are endangered by this type of cyberattacks have some relevant experience in reporting on such activities and their prevention, but raising awareness and research studies like this one, conducted

---

[1]   For comparison, look into Athanasopoulos, Makridakis, Antonatos, Antoniades, Ioannidis, Anagnostakis, & Markatos, (2008).

among bank e-security, police hi-tech crime unit, judges and public prosecutors from the specialized area of e-crime are the best way to describe the present situation and to point out what future trends and arising problems in this field are. International cooperation in suppressing cybercrime is of great importance. More about this topic can be found in the works of Portnoy and colleagues (Portnoy & Goodman, 2009), and Xingan (Xingan, 2010).

REFERENCES

Abad, C. (2005). *The economy of phishing: A survey of the operations of the phishing market.* San Francisco; Singapore; London: Cloudmark.

Athanasopoulos, E., Makridakis A., Antonatos, S., Antoniades, D., Ioannidis, S., Anagnostakis, K. G., & Markatos, E. P. (2008). *Antisocial Networks: Turning a Social Network into a Botnet*, Section: Network Security, Lecture Notes In Computer Science. Retrieved from http://www.ics.forth.gr/dcs/Activities/papers/facebot.isc08.pdf

Dragoon, A. (2004). *Foiling phishing.* CSO Online.

Gercke, M., Đokić, D., Radulović, S., Petrović Z., Lazović, V., & Prah, R. (2008). *Priručnik za istragu krivičnih dela u oblasti visokotehnološkog kriminala.* Savet Evrope.

Jakobsson M., Myers S. (2007). *Phishing and Countermeasures Understanding the Increasing Problem of Electronic Identity Theft.* Hoboken; New Jersey: John Wiley & Sons, Inc.

Касперски, К.(2001). *Техника сетевых атак*. Издательский дом "Солон-Пресс".

Nikolić, L. K., Gvozdenović, R., Radulović, S., Milosavljević, A., Jerković, R., Živković, V., Živanović, S., Reljanović, M., & Aleksić I. (2010). *Suzbijanje viskotehnološkog kriminala.* Beograd: Udruženje javnih tužilaca i zamenika javnih tužilaca, AECID.

Petrović, S. (2004). Kompjuterski kriminal. Beograd: Vojnoizdavački zavod.

Portnoy, M., & Goodman, S. (2009). *Global Initiatives to Secure Cyberspace an Emerging Landscape.* Springer Science + Business Media, LLC.

Rapetto, U. (2006) Transnational Crime: Challenges for Law Enforcement. In U. Gori & I. Paparela (eds.), *NATO Security through Science Series - E: Human and Societal Dynamics* (pp. 63-66). Invisible Threats: Financial and Information Technology Crimes and National Security.

Smith, R. G., Grabosky, P. N., & Urban, G. F. (2004). *Cyber criminals on trial, defining and measuring cyber crime.* Cambridge; New York: Cambridge University Press.

Xingan L. (2007). International Actions against Cybercrime: Networking Legal Systems in the Networked Crime Scene. Webology 3/2007. Retrieved January 2, 2010, from http://www.webology.ir/2007/v4n3/a45.html.

ECOCIDE IN THE MESOPOTAMIAN MARSHES

Author:

Daniel Ruiz

ABSTRACT

Purpose:

The purpose of this research is to analyse the protection of the environment in case of armed conflict through the case of the destruction of the Mesopotamian Marshes by the Iraqi Government during the 1990's.

Design/methodology/approach:

The study analyses the destruction of the Mesopotamian Marshes and the 'genocide' of the Maadan people under the light of the International Humanitarian Law, the International Criminal Law and the Environmental Law.

Findings:

At the time of the events, the Iraqi Government was part to sufficient International Law Treaties for its officials to be prosecuted for this event, although the conflict could have been considered as "internal". Suggestions are given to improve the efficiency of the protection of the environment during incidents of armed conflict. Not condemning anyone for this "ecocide" would be a missed opportunity.

Research limitations/implications:

Unlike the well publicised burning of the Kuwaiti fields during the first Gulf War, not much attention has been paid to 'ecocide'. The political sensitivity of the case interferes with a deep technical analysis.

Practical implications:

The paper advocates for the use of this clear case of combination of genocide with environmental crime to elevate the gravity of the sentences for crimes against the environment worldwide. The chapter concludes with a number of recommendations for legal reforms in order to deter such crimes from occuring in the future.

Originality/value:

In a time when the environment is increasingly threatened (e.g., by climate change or the extinction of species), this paper advocates for the aggravation of the environmental prosecutions.

Keywords: Environmental Crime, State Crime, Genocide, International Criminal Law, International Humanitarian Law, Environmental Law, Wetlands, Iraq, Mesopotamia.

1   INTRODUCTION

In 2001 the UN General Assembly declared the 6th of November as the *International Day for Preventing the Exploitation of the Environment in War and Armed Conflict.*[1] Because the environment and its' natural resources are crucial for building and consolidating peace, it is urgent that their protection in times of armed conflict be strengthened. There can be no durable peace if the natural resources that sustain livelihoods are damaged or destroyed.

There are four sets of International Law that can protect the environment in time of armed conflict: International Humanitarian Law, International Criminal Law, International Environmental Law, and International Human Rights Law (UNEP, 2009). We will see that the protections are not very strong. The author of this essay is familiar with the case of the Southern Iraq Marshes because he worked with the UN in their restoration between 2003 (UNOHCI, 2003) and 2006. He is now working in Congo-Kinshasa, another interesting case of environmental organized criminality.

At the end of the first Gulf War, the Iraqi Government caused three major environmental disasters: the burning of the Kuwaiti oil fields, the deliberate spilling of oil into the Persian Gulf (Bunker, 2004), and the destruction of the Southern Iraqi Marshes. The former two, which resulted in the imposition of compensation for the damages caused, have been widely studied (Austin and Bruch, 2000). The fate of the Marsh Arabs or Maadan (which took place inside Iraqi territory and was not reported as much as the Kurdish issue in the North) (Nicholson E. 2004) is less renowned (Dellapena, 2003).

2   THE MAADAN AND THE MESOPOTAMIAN MARSHES

The Mesopotamian Marshes were the largest wetlands in Southwest Asia, extending along the Tigris, the Euphrates and the Shatt-el-Arab (UNEP, 2001). They had been occupied by the Sumerian and Babylonian ancestors of the Maadan (Thesiger, 1964). Reeds were their main building material for houses and canoes, while rice, fish, water buffaloes and birds were their main source of food (Young, 1977). The majority of the Maadan is composed by Shia Muslims (Cole, 2005), but include other religious minorities as the Mandeans[2]. Religious scholars have located there the Garden of Eden, the Deluge and the place of birth of Abraham (Young, 1977). At the apex of the Maadan socio-cultural system is the traditional

---

[1]   Source: http://www.un.org/en/events/environmentconflictday

[2]   The Mandeans adhere to a monotheistic religion with a strong dualistic worldview. They revere Adam, Abel, Seth, Enosh, Noah, Shem, Aram. They practice the baptism in the marshes and John the Baptist is considered to be one of their greatest teachers.They use the Mandaic language in their ceremonies, a version of Aramaic.

guesthouse or *mudhif*. These arched and elaborately decorated reed halls are living testimony to a millennial architectural style depicted in Sumerian plaques dating back to 5,000 years B.C (Thesiger, 1964). Their main income-generating activity is reed mat weaving, which is exported to markets throughout Iraq. For their transport, Marsh Arabs rely on long canoes called *mash-hoof* another relic of ancient Sumer.

In 1991 the Maadan and other Shia revolted against the regime and took refuge in the Marshes (AMAR, 2003). The Government responded with a campaign against the "*foreign, monkey faced*" Maadan (Fawcett & Tanner, 2002), and attacked the environment that supported them (HRW, 2003). In a few years they built a system of draining canals that reduced the marshes to 7% of their initial 15,000 km2 (UNEP, 2001). The wetlands turned into a salt crust, and the vegetation and life disappeared. The water flowed unfiltered into the Gulf (UNEP, 2001).

2.1   The Genocide Convention

Article 2.c of the Convention on the Prevention and Punishment of the Crime of Genocide forbids "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." The destruction of the ancestral territory of the Maadan is included in this definition. As the terms of this Convention are included in the statute of the Iraqi Special Tribunal, we will examine this point later.

2.2   The Hague and Geneva Regimes

The Saint Petersburg Declaration of 1868 stipulated that "the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy." Article 22 of the 1907 Hague Convention stipulates that "[t]he right of belligerents to adopt means of injuring the enemy is not unlimited." Meanwhile, The 1949 Fourth Geneva Convention forbids the destruction of goods "except where such destruction is rendered absolutely necessary by military operations."

2.3   Common Article 3 of the Geneva Conventions

Article 3, common to all four of the Geneva Conventions, covers *armed conflicts not of an international character* and stipulates that:

> "*persons taking no active part in the hostilities,… shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth*,"….

and could be applied to the case of the Maadan, as many were killed by Iraqi forces during the drainage operations, and many more were dispossessed of their homes and livelihoods.

2.4   International Human Rights Covenants

Two articles common to the *International Covenant on Economic, Social and Cultural Rights* (UN, 1966) and the *Covenant on Civil and Political Rights* (UN, 1966) stipulate that:

> "[a]ll peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence" and "nothing... shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

The difficulty with these dispositions is the concept of "*people.*" (Schwabach, 2003) Should the *Maadan people* or the *Iraqi people* be the subject of this disposition? This ambiguity does not facilitate the application of the Human Rights Covenants (UNHCHR, 1999).

2.5   Environmental Treaties

Iraq was part of fifty treaties that included environmental provisions. The *Convention Concerning the Protection of the World Cultural and Natural Heritage* cannot be applied because the Marshlands of Mesopotamia are not included in the *World Heritage List.* Besides, States have lower obligations towards objects located in their own territory than towards those located in another State. The *Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution* (Kuwait, 1978) and its Protocols can help compensate Iraq's neighbours for the increase of the marine pollution, but it does not protect the Maadan for the loss of their marshlands.

3   INTERNATIONAL LAW CONTAINING ENVIRONMENTAL CLAUSES, OF WHICH IRAK IS NOT PART

Some Treaties dealing with the conduction of war also include environmental provisions, but Iraq was not part of them.

3.1   ENMOD

The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD) (UN, 1976) was agreed upon in 1976 after the indignation over the massive destruction of the environment in Laos and Vietnam caused by the use of Agent Orange by the USA (Richards, 2002). It forbids large scale environmental modifications (*such as deforestation, weather modification, or any other conduct* '**having widespread, long-lasting or severe effects**). To be banned, the techniques must have "widespread, long-lasting *or* severe effects"- one condition is sufficient. "Widespread" is defined as "encompassing an area of several hundred square kilometres; long-lasting as lasting for a period of months; and severe as involving serious or significant disruption or harm to human life, natural and economic resources or other assets." The destruction of the Marshes fulfils all these conditions. Iraq, however, is not part to the Convention. Moreover, this is only applicable to international conflicts.

3.2   Protocol l.

The First Additional Protocol to the Geneva Conventions (ICRC, 1977), also agreed after the Vietnam War in 1977, relates to the protection of victims of international armed conflicts. It is also applicable in:

> "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination."

Meanwhile, Article 35.3 prohibits *"methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment."* The threshold is higher than in the ENMOD (because of the conjunction ***and***), but the damage caused to the Marshes largely fulfils these conditions. Article 54 forbids *"to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population."* Article 55 specifically protects the environment and the population that depends from it:

> "care shall be taken in warfare to protect the natural environment against widespread, long term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. Attacks against the natural environment by way of reprisals are prohibited."

The provisions of the First Protocol would be applicable in case this treaty acquired the rank of *customary law*, or if it can be proved that the Maadan fought against a racist regime, or in the exercise of their right of self-determination.

3.3   Protocol II.

Protocol II of the Geneva Conventions applies to *non-international armed conflicts* between the armed forces of a state and dissidents *"which exercise such control over a part of its territory."* This Protocol does not include specific environmental protection provisions, but article 17 specifically forbids the forceful displacement of civilians:

> *"The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand... Civilians shall not be compelled to leave their own territory for reasons connected with the conflict."*

This provision was clearly breached, as the Maadan were displaced by the destruction of their environment, and not for security reasons or for imperative military reasons, given that by that time the armed conflict had already ceased. However, Iraq is neither part of Protocol I nor II, and it is not clear whether these Protocols have become part of customary law, because Iraq has consistently dissented.

3.4   Rome Statute

The Rome Statute establishes an International Criminal Court to judge crimes against humanity. Article 8.2.b.iv forbids:

> *"Intentionally launching an attack in the knowledge that such attack will cause... widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated."*

It is clear that the attack to the Marshes was launched with the intention to cause widespread, long-term and severe damage to the environment and that it was excessive in relation with any military advantage obtained.

4   IRAQI SPECIAL TRIBUNAL

4.1   Jurisdiction

Some of the provisions of the Rome Statute have been collected by the *Supreme Iraqi Criminal Tribunal*, created in 2003 by the Coalition Provisional Authority (CPA) and reformed in 2005 by the new Iraqi Government (Official Gazette of the Republic of Iraq, 2005). It has jurisdiction over Iraqi nationals accused of committing the following crimes between 1968 and 2003 (ICTJ, 2005): *Genocide, Crimes against Humanity, War Crimes and the violation of certain Iraqi laws.* Like the Nuremberg Tribunal it has retroactive effect.

4.2   Environmental War Crime

It defines environmental crime in the same terms as the Rome Statute. It could be useful to indict the officials of the previous regime for damage to the environment during the invasion of Kuwait, but not for the situation of the Marshlands, because it can only be applied to international conflicts.

4.3   Genocide

Genocide is defined (article 11.1) in the same terms as the *Convention against Genocide*. At least the three of the acts included in this definition were inflicted on the Maadan:

> *"killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group living conditions calculated to bring about its physical destruction in whole or in part."*

As the act of rape was considered instrumental to commit genocide in Rwanda, similarly, the draining of the Marshes could be considered instrumental for the genocide of the Maadan (Weinstein, 2005). The destruction of the Marshes was therefore not only an environmental disaster, as its intention was the commission of a humanitarian atrocity.

4.4   Crimes against Humanity

Article 12 lists ten acts as *Crimes against Humanity*, including:

> *"other inhumane acts of a similar character intentionally causing great suffering, or serious injury to the body or to the mental or physical health."*

The Article does not require a link to an armed conflict. The environmental destruction thus turns into a crime due to its humanitarian consequences.

5   CONCLUSION

The future of the Maadan people is uncertain. Although parts of the Marshes have been re-flooded, the construction of dams upstream in Turkey and Syria and climate change have, nonetheless, reduced the amount of water available. Many have built a new life in urban environments and would not return to the Marshes. The best way to prevent other people from suffering a similar fate is to prosecute the perpetrators. Many officials of the previous regime have been prosecuted and some, including Saddam Hussein, have been executed, but none have been held accountable for any of the numerous environmental crimes

committed. A conviction for such crimes would represent a *beacon* regarding the protection of the environment during armed conflict. But are the global elites really ready to protect seriously the environment and to punish their destroyers? The results of the summit on climate change in December in Copenhagen don't really point in that direction.

REFERENCES

AMAR (2003). *Iraq survey, May-June 2003*. Assisting Marsh Arabs and Refugees International Charitable foundation.

Austin, J. E., & Bruch, C. E. (2000). *The environmental consequences of war: Legal, economic, and scientific perspectives.* Cambridge: Cambridge University Press.

Baroness Emma Nicholson of Winterbourne (2004).-*The Human Rights of the Sukan Al-ahwar.* Carnegie Council.

BBC (03/03/2003). *Iraq's 'devastated' Marsh Arabs.* http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/middle_east/2807821.stm .

BBC (2008). *Heritage plan for Iraqi marshes.* (http://news.bbc.co.uk/2/hi/middle_east/7600104.stm).

Bunker, A. L. (2004). *Protection of the environment during armed conflict: One gulf, two wars.* Review of European Community and International Environmental Law, Vol. 13, pp. 201-213.

Cole, J. (2005). *Marsh Arab Rebellion: Grievance, Mafias and Militias in Iraq.*

Dellapenna, J.W. (2003). *The Iraqi campaign against the Marsh Arabs: Ecocide as genocide.* JURIST: The Legal Education Network, January 31, 2003. http://jurist.law.pitt.edu/forum/forumnew92.ph

Fawcett J., & Tanner V. (2002). *The Internally Displaced People of Iraq.* The Brookings Institution–SAIS Project on Internal Displacement.

HRW (2003). *The Iraqi Government Assault on the Marsh Arabs.* http://www.hrw.org/backgrounder/mena/marsharabs1.htm

ICRC (1977). *Additional Protocol I to the 1949 Geneva Conventions, Article 35(3) and Article 55(1)* (1977)

ICTJ (2005). *Creation and First Trials of the Supreme Iraqi Criminal Tribunal.* http://www.pbs.org/weta/crossroads/incl/trial_Tribunal.pdf

Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Apr. 24, 1978).

Official Gazette of the Republic of Iraq (2005). *Law of the Supreme Iraqi Criminal Tribunal.* http://www.ictj.org/static/MENA/Iraq/iraq.statute.engtrans.pdf

Ramsar (1971). *Convention on Wetlands of International Importance especially as Waterfowl Habitat.*

Richards P., & Schmitt M. (2002): *Mars Meets Mother Nature: Protecting The Environment During Armed Conflict,* Stetson Law Review. Schwabach A. (2003). *Ecocide*

and Genocide in Iraq: International Law, the Marsh Arabs, and Environmental Damage in Non-International Conflicts, Colorado Journal of International Environmental Law & Policy Vol. 27.

Thesiger, W. (1964). *The marsh dwellers*. Penguin, Hamrondsworth, UK.

UN (1966). *International Covenant on Civil and Political Rights*

UN (1966). *International Covenant on Economic, Social and Cultural Rights*

UN (1976). *Convention on the Prohibition of Military or Any Other Use of Environmental Modification Techniques (ENMOD)*

UN *International Day for Preventing the Exploitation of the Environment in War and Armed Conflict.* http://www.un.org/en/events/environmentconflictday

UNEP (2001). *The Mesopotamian Marshlands: Demise of an Ecosystem.*

UNEP (2009). *Protecting the environment during armed conflict. An inventory and analysis of international law.*

UNHCHR (1999). *Statement of Mr. Max Van der Stoel, Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Iraq.* http://www.unhchr.ch/Huricane/Huricane.nsf/60a520ce334aaa77802566100031b4bf/9792f0662148a0648025674b00551a95?OpenDocument

UNOHCI, 2003 *United Nations Inter-Agency Assessment of Vulnerable Groups. Part I: Marsh Arabs.* (United Nations Office of the Humanitarian Coordinator for Iraq, Lower South, June 2003).

Weinstein, T. (2005). *Prosecuting Attacks that Destroy the Environment: Environmental Crimes or Humanitarian Atrocities?* Georgetown International Environmental Law Review. www.law.georgetown.edu/journals/gielr.

Young, G. (1977). *Return to the marshes.* William Collins Sons & Co, Reading.

INTENTIONAL FOREST FIRES IN PORTUGAL 2007-2009: A TIME RELATED STUDY

Authors:

Sílvia S. Monteiro, José M. Moura, Álvaro A. Oliveira, Pedro M. Gonçalves, Susana M. Mendes, and Roberto M. Gamboa

ABSTRACT

Purpose:

The purpose of this research was to identify some time related results on intentional forest fires in Portugal between the years 2007 and 2009. The main objective is to contribute for a better forest fire prevention in Portugal.

Design/methodology/approach:

The study took a qualitative approach, exploring the forest fires data in Portugal from 2007 to 2009 and plotting the information in daily and weekly bases to compare the intentional caused forest fires with the total registered forest fires.

Findings:

There is some evidence that intentional forest fires have a different daily and weekly distribution when compared with all the registered forest fires. The daily of the first alert for all the registered forest fires has only one peak, centred on solar noon, but the ones considered intentional have two peaks, at solar noon and one other in the evening. For the weekly distributions the considered intentional forest fires are more frequent in the begging of the week, namely on Sunday.

Research limitations/implications:

Some of the forest fires causes are not known, one part of those may also have intentional causes. The results are based in the first alert that reaches the civil protection service, and not in the fire ignition time. However these limitations should not have very strong implications on the results.

Practical implications:

These results can be used to schedule the radio and television prevention campaigns and also to adjust the fire fighting brigade's routines in order to achieve better response and better prevention.

Originality/value:

As far as the authors are aware, this work is original and should be of particular interest to those interested in the reduction of intentional forest fire ignition and on forest fire prevention.

Keywords: Intentional Forest Fires, Forest Fires Prevention, Forest Fire Statistics.

1   INTRODUCTION

When the hot season is also the dry season the risk of fire is always an important factor to take in to account. Forest fires are considered the most important threat to forest and wooded area in Southern Europe, particularly in France, Greece, Italy, Portugal and Spain (Bassi, 2008). Throughout the years fires have caused extensive damage, leading to loss of human lives, affecting human health, burning properties, infrastructures and business and causing extensive environmental damage in forest and agriculture areas.

Forest fires are influenced by the weather, mainly temperature, wind and humidity, but also by the forest management, territorial planning and development conditions. In Portugal, 2003 and 2005 were the most recent worst forest fire years, leading respectively to the destruction of about 425,000 and 340,000 hectares (almost 60 % of the burnt area in Southern Europe in those years). The major causes of forest fires in Portugal have been attributed to the depopulation of the interior of the country (leading to an increase of unattended forest areas) associated with the increase of fire prone species (especially pine and eucalyptus), and lack of forest management due to the small average holding size (Bassi, 2008). Fire ignition has been frequently attributed to human responsibilities (mainly the negligent use of fire) but also to the intentional fire starters.

The forest fires of 2003 and 2005 lead to the introduction of the Portuguese National Plan of Forest Defence against Fire (PNDFCl, 2006), in March of 2006. This Plan has five strategic axes: increasing the resilience of the territory to the forest fires, reduction of fire incidence, improvement of the attack efficacy, improvement of fire management, recover and rehabilitation of the ecosystems and the adoption of a functional and efficient organic structure. The plan leads to the clarification of competencies of the several entities. The fire fighting system was also reinforced, with increased aerial fire fighting capacity, the adoption of a first intervention strategy and the unified command philosophy. The investigation of the forest fire ignition conditions was also improved.

2   FOREST FIRE INVESTIGATIONS

The reinforcement of the conditions to investigate the forest fire ignition conditions in the Nature and Environment Protection Service of the Portuguese Republican National Guard, GNR/SEPNA increased the number of investigated ignitions from 1271 in 2005 to 2234 in 2006 and to 6344 in 2007 (see Table 1 and Fig. 1) (RA 2006 -2009).

Table 1: Investigated forest fire ignitions in recent years

	Investi-gated igni-tions	Undeter-mined cause	Determi-nate cause	Intentional cause	Negligence & accident	Natural cause
2006	2234	1432	802	365	379	63
2007	6344	3135	3209	1269	1903	63
2008	6781	3235	3546	1319	2311	27
2009	12176	3896	8280	3166	4627	122
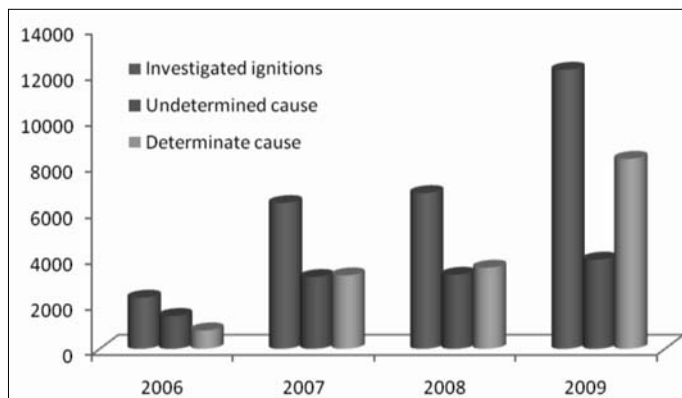
Figure 1: Graphical representation of the investigated forest fire ignitions in recent years

From the data in Table 1 it was possible to observe that not only the investigated ignitions increased (almost doubling in 2009) but also determinate cause numbers reached to 68 % of the investigated ignitions in 2009. It should also be noted that from 2007 to 2009 the negligence or accident caused fires represent 60 % of the determined causes and the intentional ignitions represent an average of 38 % of the determined ignitions, while the natural causes stand only to 1,4 % (Fig. 2).
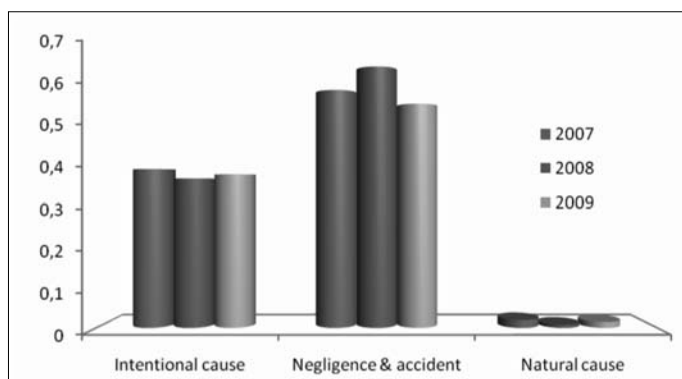
Figure 2: Graphical representation of the determined ignition causes from 2007 to 2009

3   FOREST FIRE ALERT HOURS RELATED STUDY

Considering the forest fires from 2007 to 2009 (as they were presented in the statistics FFS 2007-2009) it was possible to start a study relating the time of the alert with the identified cause of the ignition.

As a starting point, a plot of the percentage of the forest fires alerts that occurred in each hour of the day is presented (Fig. 3). The data from 1:00 to 3:00 am is repeated to show the structure of the peak data. As expected, there was only one peak, centred between the 2:00-3:00 pm, which is in accordance with the solar noon in Portugal for the summer months.
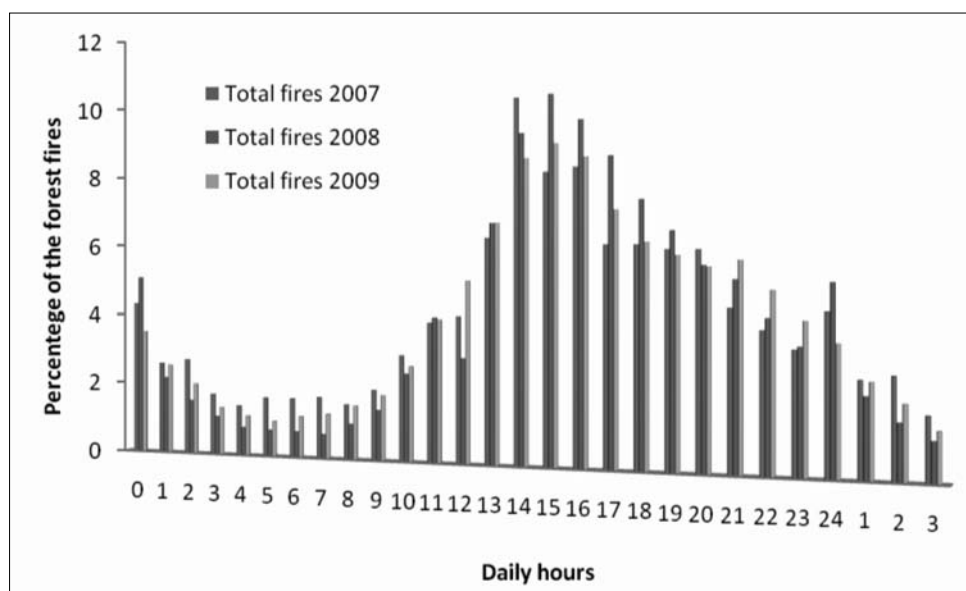
Figure 3: Graphical representation of the ratio between the total forest fires percentage and the daily hours where the alert took place, from 2007 to 2009. The data from 1:00 to 3:00 am is repeated to show the peak structure.

The investigated fires where the cause was determined have a similar distribution to the one presented in the Figure 3. It was also possible to make the plot of the forest fires that were considered intentional (Fig. 4). Clearly, a double peak structure appeared. The main peak is still related to the solar noon. However, there is a second peak, centred around 9:00 pm, which has nothing to do with daily temperature distribution, but with the hours that are chosen to intentionally start the forest fires.
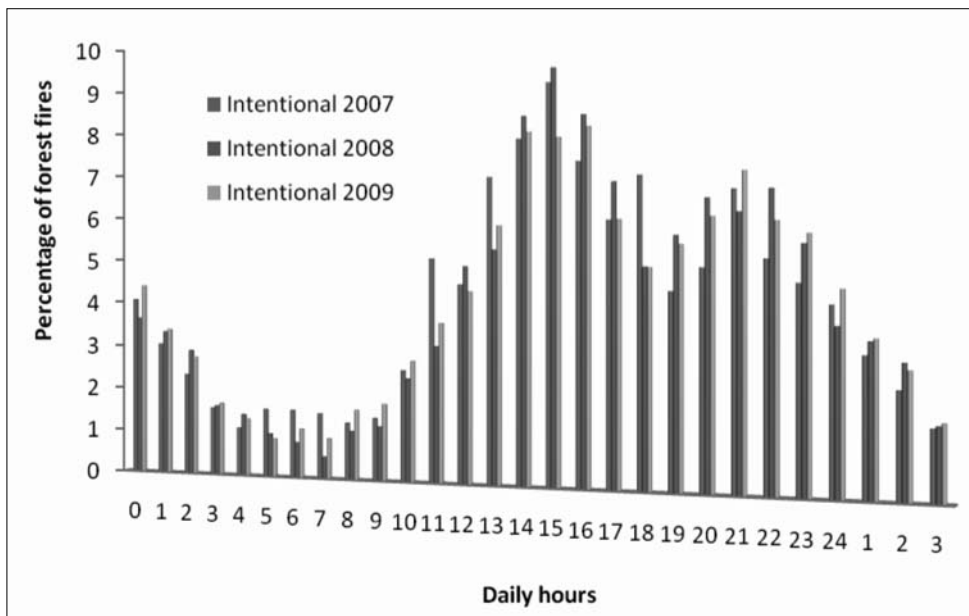
Figure 4: Graphical representation of the ratio between the intentional forest fires percentage and the daily hours where the alert took place, from 2007 to 2009. Data from 1:00 to 3:00 am is repeated to show the double peak structure.

Through the ratio between intentional and negligent fires (for each hour) it was possible to highlight this issue (Fig. 5). The graph showed a wide minimum between 9:00 am and 8:00 pm, where the intentional fires were less than the negligent fires. This was an expected result, as far as accidents and negligence are generally related with the daytime working hours (both in rural and forest areas). Apart from this minimum, the intentional fires become more frequent than the negligent ones, almost doubling its value with the highest ratios appearing from 1:00 am to 3:00 am.

In Figure 5 it was possible to observe, at noon and at midnight, some values out of the local tendency. This was unexpected and may be related to some data problem associated with the shift changes that take place generally at this working period.

The forest fires distribution over the days of the week was also studied but only small differences were found. Only a slightly increase of the intentional forest fires during the weekend, namely on Sunday, was observed.
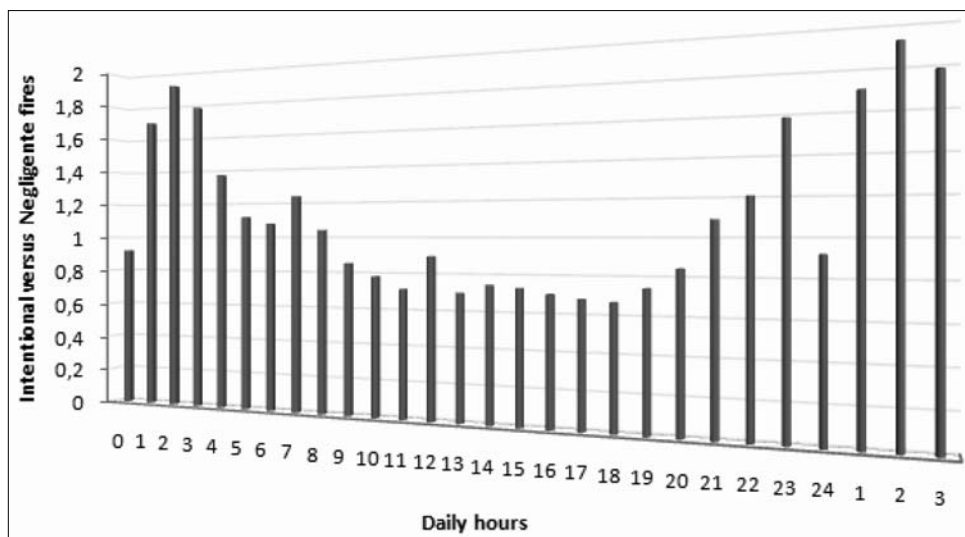
Figure 5: Graphical representation of the ratio between intentional and negligence caused forest fires for each daily hour where the alert took place, from 2007 to 2009. Data from 1:00 to 3:00 am is repeated to underline the valley structure of the data.

4   CONCLUSIONS

This study identifies some time related results of the intentional forest fires that occurred in Portugal between 2007 and 2009, in order to contribute for a better forest fire prevention in Portugal. The study plots the information in alert hour bases to compare the intentional caused forest fires with the total registered forest fires. The daily hour's distribution for all the registered forest fires has only one peak, centred on solar noon, while the considered intentional fires have two peaks, at solar noon and other in the evening. Plotting the ratio between the intentional and the negligent fires, a wide minimum appeared on the working hours. In this period the negligible fires were more frequent than the intentional ones, while at night the trend is reversed, i.e., intentional fires are higher than negligent. These results can be used to schedule the prevention campaigns, to adjust the fire fighting brigade's routines in order to achieve better response and prevention. The study is also a contribution to the work of the investigators, along with the socio physiologic profile of the forest fire starters that were traced by the Portuguese Judicial Police (Almeida, 2010): "The forest fire starter is male, single, with none or low educational level, without previous convictions, is a unskilled worker, unemployed or in retirement, uses direct flame to make the ignition (with matches, lighters or candles), abandons the place after the

ignition and inhabits in the same region. The burned space is forest or none cultivated areas."

5   REFERENCES

Almeida R. (2010). Investigação criminal em matéria de incêndios florestais. PROCIV nº28 ISSN 1646 – 9542, Portugal.

Bassi, S., & Kettunen, M. (2008). *FOREST FIRES: causes and contributing factors in Europe*, European Parliament Study, IP/A/ENVI/ST/2007-15.

PNDFCI (2006). O Plano Nacional de Defesa da Floresta Contra Incêndios (PNDFCI), Diário da República n.º 102, I-B Série, de 2006.05.26.

(FFS 2007 -2009) – Forest Fire Statistics of the National Forestal Autority, 2007 – 2009. Retrieved July 10, 2010, form www.afn.min-agricultura.pt/portal/dudf/estatisticas.

(RA 2006 -2009) – Anual reports of the National Forestal Autority, 2006 – 2009. Retrieved July 10, 2010, form www.afn.min-agricultura.pt/portal/dudf/relatorios.

HOW TERRORISTS USE THE INTERNET

Authors:

Robert Brumnik and Iztok Podbregar

ABSTRACT

Purpose:

Terrorism and the Internet are related in two main ways. First, the Internet has become a forum for terrorist groups and individual terrorists both to spread their messages of hate and violence and to communicate with one another and their sympathizers. Secondly, individuals and groups have tried to attack computer networks, including those on the Internet, what has become known as cyber terrorism or cyber warfare.

The digital development index is an indicator, which measures the level of Information Communication Technology's (ICT) adoption by countries.

The purpose of this article is to determine correlation functions between the Denial-of-Service (DoS) attacks (i.e., most known cyber terrorist method) and the index of digital development of countries and provide information on their relations.

Design/methodology/approach

In this paper we present a comparative literature review of cyber terrorism methods and activity and presents a summary of the selected sources to combine both summary and synthesis. A literature search of articles published between January 1997 to December 2010 dealing with research studies, in which DoS attacks at the U.S. Company Symantec were compared to the Digital Development of worldwide countries according to the International Telecommunication Union, was carried out. Literature reviews of two relevant research papers (research on the digital development index and research on the Internet Denial-of-Service attacks) provide a background for our overview analysis, which enables us a new interpretation of these index correlation researches.

Findings:

Computer security vulnerabilities may expose critical infrastructure and government computer systems to possible cyber attacks by terrorists, possibly affecting the economy or other areas of national security. Relying on correlational type research of the index of digital development ICTD (Information Communication Development Index) of a country shows that ICTD has no significant effects on the DoS index. There is no significant difference in the DoS index between countries with high and low ICTD index, which confirms that cyber terrorists do not choose between the digitally developed and undeveloped countries. These conclusions cannot confirm the proposed hypothesis that digitally higher developed countries

are more exposed to Internet terrorism (digital war) than countries with lower ICTD index.

Research limitations/implications:

The limitation of this paper is to put forward a comparison scale to rank several EMEA (Europe, Middle East, and Africa) and APJ (Asia, Pacific and Japan) countries according to their ICTD and DoS index. In this paper we will discuss ten EMEA and APJ countries with the highest DoS index.

Practical implications:

First, the paper explains practical cases of technologies underlying computer viruses, worms, and spyware, how these malicious programs enable cyber crime and cyber espionage, and which tactics are currently used by computer terrorists-hackers for the planning of Internet terrorism. Secondly, the paper offers a critique of the interpretation of Internet terrorism, which has gained considerable popularity in the media.

Originality/value:

Potential issues presented in this paper deal with the following questions: Is there an appropriate guidance for known practices of warfare response to cyber attacks or the need for detecting possible Al Qaida psychological warfare and Muslim hackers club's terrorist activity with cyber data mining? Do roles and responsibilities for protecting against a possible cyber terrorist attack need more clarity for government, industry, and home users and, should the sharing of information on cyber threats and vulnerabilities between private industry and the federal government be further increased?

Keywords: Psychological Warfare, Cyber Terrorism, Cyber War

1   INTRODUCTION

Terrorists are increasingly using the Internet as means of communication with each other and the rest of the world. Terrorists use the Internet in different ways to raise funds, collect resources, plan attacks, spread propaganda and recruit adherents. Nowadays, the Internet is also being used to train terrorists given the closure of larger training camps in Afghanistan. Terrorist affiliated entities and individuals have also established Internet-related front businesses as means of facilitating communication among terrorist cells and raising money. A terrorist group may also gain control of a legitimate charity and use it to accept electronic value held in bearer smart cards as donations which in reality could be the proceeds of drug trafficking (Kaplan, 2009). The earliest academic literature on Internet terrorism was produced by experts on online security. They include, among others, the works of: Hayward (1997), Cohen (2002), Denning (2005), Furnell and Warren (1999). Although the literature did not deal with the topic in an academic context, it still offers a good descriptive overview of the situation. By now, nearly everyone has seen at least some images from propaganda videos published on terrorist sites and rebroadcasted

on the world's news networks. Western governments have intensified surveillance of such sites, but their prosecution of site operators is hampered by concerns over civil liberties, the Internet's inherent anonymity, and other factors.

Digital wars can be defined as a specific type of information warfare (Giacomello, 2003). The term Information Warfare (IW) has been applied to a rather dissimilar (and often incongruent) collection of situations. Its origins can be traced back to the Gulf War, when the UN coalition simply annihilated Iraq's information systems (Campen, 1992). The official US Department of Defense's (DoD) definition of IW is: "Actions taken to affect adversary information and information systems while defending one's own information and information systems" (DoD, 1998). The current use of the term, however, has come to include precision-bombing of enemy's information infrastructure, cyber terrorism and cybercrime, script kiddies practicing Denial-of-Service (DoS) attacks on commercial Web sites, Web defacement, etc. Libicki (1995) identified seven forms of IW, of which cyber war is only one. In an effort to clarify the matter, Arquilla and Ronsfeld (2001) have recently distinguished between cyber war and net war. However, the NATO nowadays tends to distinguish between Computer Networks Attacks (CNA) and Computer Networks Defense (CND), also called the Information Assurance. The present plethora of various "e-something" (e.g., e-jihad, e-intifada, electronic Pearl Harbor, electronic Waterloo etc.) are both confusing and meaningless, and is of immediate use only for the media, who tend to consider all these terms rather modern, which often causes confusion of terms (Giacomello, 2003).

1.1   The Problem

A global strategy and policy for combating this type of terrorism is required. It is also necessary to know that methods of terror, producing destruction, and fear can be much more destructive online than other conventional methods in the real world.

The problem case has happened during the Kosovo conflict in 1999, when NATO computers were blasted with e-mail bombs and hit with Denial-of-Service attacks by hacktivists protesting the NATO bombings (Acharya, 2008).

The next example is Estonia, heavily dependent on modern technology, who recently implored NATO to take a position against cyber terrorism after accusing Russia of cyber terrorism against their country. Estonia has experienced attacks on its government, banking, and media websites in 2007. These attacks used a Distributed Denial of Service (DDoS) attack which flooded Estonian websites with false information, shutting down a number of governments (including military) and banking sites, rendering the country extremely vulnerable. The Estonian government has been able to trace the initial IP addresses to Russian government offices and the Telegraph UK notes that this includes a link to Putin's

office (Blomfield, 2007). Further in article (chapter 3 and 4) we show a number of practical cases for the individual variation of a computer attack.

In the second half of 2010, no single topic dominated cyber security news more than WikiLeaks. A denial-of-service attack was also launched against the WikiLeaks site. We will discuss possible cyber capabilities of terrorists and sponsoring nations, describes how computer security vulnerabilities might be exploited through a cyber terror attack, and raises some potential issues. We will also deal with DoS attacks, which are one of the major threats to Internet-dependent organizations. We can therefore assume that they are also the most commonly used Internet tool of cyber terrorists.

1.2   Hypothesis

The primary objective of this paper is to confirm the hypothesis that digitally higher developed countries are at greater risk of exposure to Internet terrorism (digital war) than countries with lower ICTD index.

2   CYBER TERRORISM

Cyber terrorism is typically defined as using the Internet as a tool for launching an attack. Terrorists could conceivably hack into electrical grids and security systems or perhaps distribute a powerful computer virus (Janczewski & Colarik, 2007). Al-Qaeda operative terrorists are known to have training in hacking techniques, such as remote cyber attacks etc. Western governments have accused state and non-state the actors of enabling the infiltration into state security networks, including an alleged breach of a Pentagon system, by Chinese hackers in 2007.

The established definition of cyber terrorism needs to be broadened (Kohlmann, 2006). He argues that any application of terrorism on the Internet should be considered as cyber terrorism. There's no distinction between the »online« terrorist community and the "real" terrorist community. As evidence, recounts one extreme instance in which the Iraqi insurgent group Army of the Victorious Sect held a contest to help design the group's new website. According to Kohlmann (2006), the prize for the winning designer was the opportunity to, with the click of a mouse, remotely fire three rockets at a U.S. military base in Iraq.

3   TERRORIST WEBSITES

Defining a terrorist website is as contentious as defining terrorism. Pentagon analysts testifying before Congress have said that they monitor some five thousand jihads websites, though they closely watch a small number of those - less than one hundred - that are deemed the most hostile.

Terrorist sites include the official sites of designated terrorist organizations, as well as the sites of supporters, sympathizers, and fans (Weimann, 2006). But when websites with no formal terrorist affiliation contain sympathetic sentiments to the political aims of a terrorist group, the definition becomes murky. Hoax sites can also prove a troublesome red herring for monitors of terrorist sites. For instance, in recent years a number of sites sympathetic to the Taliban have proliferated on the web. Frequent site outages, however, make it difficult to track their content and sentiment.

3.1 Terrorist organizations' use of the Internet

Weimann (2006) argues that the number of terrorist sites has increased exponentially over the last decade - from less than 100 to more than 4,800 from year 2005 to year 2006. The numbers can be somewhat misleading, however. In the case of Al-Qaeda, hundreds of sister web sites have been promulgated but only a few of them are considered active. Nonetheless, analysts forecast a trend of proliferation of web sites for terrorist activity.

3.2 Chat rooms, propaganda and recruitment

As already indicated, the Internet is a powerful tool for terrorists, who use online message boards and chat rooms to share information, coordinate attacks, spread propaganda, raise funds, and recruit new followers, all of which are non-technical approaches of using the Internet for terrorist activity (Thomas, 2003). Terrorist sites also host messages and propaganda videos which help to raise morale and further the expansion of recruitment and fundraising networks. Today, Al-Qaeda's media arm and the foundation for Islamic media publication (As-Sahab) are among the most visible. However, an entire network of jihadist media outfits has sprung up in recent years, according to a study of Radio Free Europe/Radio Liberty, conducted by Kimmage (2008). The highest leadership and members of Al-Qaeda, led by Osama bin Laden, count for a mere fraction of jihadist media production. A widespread network of media-related institutions that deliberately operate in support of extremist terrorist groups was established.

3.3 Tutorials

Terrorist websites can serve as virtual training grounds, offering tutorials on building bombs, firing surface-to-air missiles, shooting at U.S. soldiers, and sneaking into Iraq from abroad. For several years, terrorist groups including al-Qaeda have used cyberspace for communication, recruiting and propaganda but today there are also other procedures and techniques of using the Internet, such as credit card theft or money laundering for terrorist activity, hacking, steganography, data mining, etc. (Kushner, 2003).

4   METHODS OF INTERNET TERRORISM

The greatest advantage of Internet terrorism is undercover or clandestine activity. There are many ways to engage in Internet terrorism, while cyber fraud, ranging from credit card theft to money laundering, belongs to one of the latest and most modern ways of terrorist operations on the Internet. The next section describes some practical technical methods of Internet terrorism and supports them with well-known events.

4.1   Hacking

"Hacking, Why Not?" were the instructions of Muslim radicals when they hacked into Indonesian Web sites and Chat rooms for online credit card fraud and money laundering. Samudra, responsible for the bombing in Bali in October 2002 (Indonesia), in which 202 people were killed, writes about the funding of terrorism through cyber fraud. Evidence collected from Samudra's laptop showed he tried to finance the bombing through cyber fraud. Terrorist organizations have graduated to the Internet to steal, because it reaches more potential victims and is more difficult to trace (Kohlmann, 2006).

Internet use by cyber terrorists mirrors that of criminals. While some security experts fear a cyber strike could disrupt power supplies to millions of homes, disrupt air traffic control systems and shut down water supplies, most agree that terror groups are more likely to exploit the Internet for financial gain and to spread propaganda.

Previously, militants used more conventional ways for funding. The Roubaix gang in France robbed armoured cars to help fund terrorist activities in 1990, while the group behind the abortive millennium attack at the Los Angeles airport robbed supermarkets in Canada and engaged in traditional credit card fraud. According to Weimann (2006) it is a paradox that those movements, which criticize Western technology and modernity, are using the most advanced communication Internet technology to spread their message and terrorism activity. However, the U.S. government should not dismiss the possibility of a large-scale electronic attack by terrorists against the nation's computer systems (Clarke & Knake, 2010).

4.2   Denial-of-Service Attacks

The increasingly known scenario is this: potential attackers with the Internet looking for vulnerable Web sites. Just as businesses sectors, public sectors are also not DoS immune, in fact, they may be the most vulnerable to an attack. These sites are often the least prepared to defend themselves against such an attack, lacking the resources to devote to sophisticated security measures (Computer Crime Research Center, 2004).

Attacker normally use User Datagram Protocol (UDP), Transmission Control Protocol (TCP), Internet Message Protocol (ICMP), (synhronize) SYN, etc., protocols scanning. UDP and TCP protocol can be used to pass through every door in computer; ICMP echo protocol can be used to send only part of the TCP SYN packets and it can be readily adapted for Server DoS. Use of DoS attacks work by overwhelming a target with SYN (synchronize) requests and not completing the initial request, which thus prevents other valid requests from being processed. In many cases, SYN requests with forged IP (Internet Protocol) addresses are sent to a target, allowing a single attacking computer to initiate multiple connections, resulting in unsolicited traffic, known as 'backscatter', being sent to other computers on the Internet. This backscatter is used to derive the number of DoS attacks observed throughout the reporting period. Although the values Symantec derives from this metric will not identify all DoS attacks carried out, it will highlight DoS attack trends. However, in this case, attackers, who were considered, were those carrying out a set of DoS attacks that were detected by IDS and IPS software.

A possible DoS attack can be carried out as follows: When the attacker finds vulnerability, he/she will provide a mini attack just to send a message to the target (company or government) to let them know that he/she is serious and has what it takes to overwhelm the server. After this procedure, the attacker will send an email taking responsibility for the attack and asking for cash payments to stop a larger, full-scale DoS attack being launched from a distributed network of thousands of unwitting computers. The results of an attack include a downed Web site, the inability to take and process orders from customers (potentially fatal for e-commerce sites), damaged customer relationships, injured brand reputation or damaged critical infrastructure if the target is a country. Hoping to avoid such consequences, many individuals, companies or state departments will submit to the extortion and pay their attackers. The Russian Interior Ministry, which fights cybercrime, broke up an extortion ring after two of the victimized companies agreed to pay the gangs $40,000 U.S. each (The Australian, 2004)

DoS attacks have become a dark fact of life. But while this may seem a daunting trend, companies and hosts are not powerless against it, as many security related products are available today, including firewalls, automated systems patching, vulnerability notification services, Internet threat assessment and notification systems, intrusion prevention and anti-spyware software. There are some basic procedures for every company or government to limit the possibility of attack and diminish the effectiveness of an attack, if exist.

4.3   Hidden Network/IP address

Terrorists use the Internet as a pervasive, inexpensive and anonymous means of communication through which they can plan and orchestrate other fund raising activities. Terrorists also use online banking and other financial services and

Internet based alternatives to the banking system such as Internet payment services and e-cash (Bedi, 2005).

The anonymity of the Internet (TOR, JAP, etc.) is enhanced by the fact that many servers do not use "log files" to trace the origin of the computer through which the transaction is made. TOR is a network of virtual tunnels that works on the real world Internet, requires no special privileges or kernel modifications, requires little synchronization or coordination between nodes, and provides a reasonable compromise between privacy (anonymity and security), usability, and efficiency (Dingledine, Mathewson in Syverson, 2004). Java Anonymous Proxy known as JAP is also a proxy system designed to allow anonymous web browsing. Thus, the IP (Internet protocol) number of the server and the date and time of connection are not kept in an electronic file. The roots of the transmissions are effectively kept private and virtually untraceable.

Terrorist web-sites can be made anonymous by using anonymizers which replace the IP address for the user's home computer with another IP address that cannot be traced back to the user because anonymizers generally do not maintain logs. An anonymizer can also provide the ability to simply browse the web or send emails without the website host or the email ISP knowing the source of a web page request or email message.

A common method for the terrorist to communicate safely is to save a draft of a message on a free e-mail account (Hotmail, Gmail, Yahoo, etc.) which is read by terrorist in other parts of the world. Because the draft was never sent by e-mail, the ISP (Internet Service Provider) does not retain a copy of it and there is no record of its traversing the Internet. We write a message, but instead of sending it, we put it in the "draft file" and then log off. Someone else can then log in to the same account using the same username and password, read the draft and then delete it.

Another common method involves providing basic electronic mail services in conjunction with a terrorist-sympathizer web site. Imagine a secure web site that supports basic e-mail services. An e-mail can be sent from one of its e-mail accounts to another without ever leaving its servers. To further add to the burden of law enforcement, by the use of something called Unicode, messages can be written in Cyrillic, Hindi, Japanese, Chinese, Korean, Arabic, Hebrew or in just about any other alphabet (Bedi, 2005).

Terrorists may also use encryption and steganography to hide the content of electronic communications regarding raising and moving funds. A website can also be used for interaction in encoded content or hidden messages. Because the actual server that houses a website can be located anywhere, the ability of law enforcement to track illegal activity is very complicated.

4.4   Encryption tools

Terrorists have developed sophisticated encryption tools and creative techniques that make the Internet an efficient and relatively secure means of correspondence (Lyon, 2008). These include steganography, a technique used to hide messages in graphic files, and "dead dropping": transmitting information through saved email drafts in an online email account accessible to anyone with the password. The files cannot be distinguished without a decoding tool. The Internet also provides a global pool of potential recruits and donors. Online terrorist fundraising has become so commonplace that some organizations are able to accept donations via the popular online payment service PayPal.

Yet some terrorism experts argue that while the Internet has proven effective at spreading ideology, it is used as an optimized planning terrorism activity operational tool with high efficiency. The Internet will be important for future terrorism activity.

4.5   Credit card numbers stolen over the Internet

The Internet is a very efficient tool for terrorists to finance operations. Online scams are harder to trace because they are relayed through a sophisticated network of individuals and Web sites worldwide. And many schemes originate from abroad, where cyber laws don't exist or law enforcement is lax.

In dozens of incidents over the past few years, various groups linked to terrorism have stolen credit card numbers over the Internet, laundered money and hijacked Web sites (Swartz, 2005).

This recent surge in activity has given counterterrorism specialists, already concerned with threats to physical structures, another worry. Like other security organizations; FBI, Secret Service, the Treasury Department and others must use Internet technology to fight the terrorists and are now branched into many areas.

Credit card numbers are often swiped through hacking attacks and phishing, fraudulent e-mails that trick consumers into surrendering personal information. In 2005, a suspected Palestinian supporter of Middle Eastern terrorist groups posted several credit card numbers online and instructions for stealing databases of other active credit card numbers from the Web sites of U.S. businesses (Swartz, 2005).

4.6   Wi-Fi Hack

Wi-fi hacking has featured prominently in some big cyber crimes, including the attack on TJ Maxx that exposed at least 45 million customer credit card numbers and other data. In that case, Gonzalez "Segvec" and associates allegedly cracked the weak WEP key and used it to gain entry to the corporate network, where he

planted packet sniffers to scoop up the data. But this proves that the FBI is using the same tactics. By using one of the better encryption options (WPA2), one would presumably be immune to this kind of cyber terrorism (Poulsen, 2009).

4.7   Online terrorism propaganda

Perhaps the most effective way in which terrorists use the Internet is the spreading of propaganda. Abu Musab al-Zarqawi's al-Qaeda cell in Iraq has proven particularly adept in its use of the web, garnering attention by posting footage of roadside bombings, the decapitation of American hostage, and kidnapped Egyptian and Algerian diplomats prior to their execution.

In Iraq, experts say terrorist propaganda videos are viewed by a large portion of society, not just those who sympathize with terrorists and insurgents. In addition to being posted online, the videos are said to be sold in Baghdad's video shops, hidden behind the counter along with pornography. Terrorists use of the Internet, points out that propaganda films are not exclusively made in the Middle East. Groups from Bosnia, Afghanistan, and Chechnya also produce propaganda videos. However, videos are not the only form of propaganda. Some jihads websites have even offered video games in which users as young as seven can pretend to be holy warriors killing U.S. soldiers.

5   HOW TO RESPOND TO INTERNET TERRORIST ACTIVITIES?

There is some debate within the counterterrorism community about how to combat terrorist sites. Inappropriate reaction is if you see a terrorist site and you decide to shut it down, says Kohlmann (2006). This reaction can cause that investigators might miss out on a wealth of valuable information. For instance, German officials monitoring online terrorism issued early warnings prior to the Madrid train bombings in March 2004.

Shutting down a terrorist website is just a temporary disruption. To truly stop a terrorist site, experts say, the webmaster must be stopped. The ability of the U.S. National Security Agency to monitor such individuals inside the United States has been subject of a heated political and legal debate. The United States have tried to prosecute webmasters who run terrorist websites in the West, but ran into opposition from advocates of free speech. Sites that tell the terrorist side of the story go right up to the brink of civil liberties. Al-Hussayen, a Saudi Arabian graduate student at the University of Idaho, was charged by U.S. officials for supporting terrorism because he served as a webmaster for several Islamic groups whose sites linked to organizations praising terrorist attacks in Chechnya and Israel. Al-Hussayen was acquitted of all terrorism charges by a federal court in June 2004 under the First Amendment.

Another approach officials have taken is to create phony terrorist websites. These can spread disinformation, such as instructions for building a bomb that will explode prematurely and kill its maker or false intelligence about the location of U.S. forces in Iraq, intended to lead terrorist fighters into a trap. This tactic must be used sparingly, or else officials risk »poisoning a golden pot of information« about how terrorists operate (Kaplan, 2009).

There are indications terrorists may next steal trade secrets from U.S. federal states as their computer skills improve and they begin to work with organized crime in Europe. The stolen documents could then be sold to rogue foreign businesses or held for ransom.

After September 11, the emphasis has clearly been on physical infrastructure rather than cyber security what is understandable. But we have to understand that cyberspace is also a tool for providing terrorist activity.

Realizing that fixed Internet sites had become too vulnerable, al-Qaeda and its affiliates turned to rapidly proliferating jihadist bulletin boards and Internet sites that offered free upload services where files could be stored. The outside attacks on sites like Alneda.com forced the evolution of how jihadists are using the Internet to a more anonymous, more protected, more nomadic presence. The groups gave up on set sites and posted messages on discussion boards. One of the best-known forums that emerged after September 11 was Qalah or Fortress. Registered to an address in Abu Dhabi, the United Arab Emirates, the site has been hosted in the U.S. by a Houston Internet provider, Everyone's Internet, which has also hosted a number of sites preaching radical Islam. Researchers who follow the site believe it may be connected to Saad Faqih, a leading Saudi dissident living in exile in Britain.

6 COMPARATIVE ANALYSIS OF LITERATURE REVIEW RESULTS

A comparative literature review was used to examine and explain regional computer security dynamics, depending on digital development of countries and falls into three broad categories: accounts of regional DoS attacks, research on the worldwide digital development index and largely empirical surveys of how regional digital development arrangements are influenced with DoS computer attack issues.

In the first part of this section, we will recap the most important information of our source (Symantec Corporation & International Telecommunication Union). The synthesis in second part we re-organization, that information of DoS attacks related to digital development of countries to confirm or reject our hypothesis that digitally higher developed countries are more exposed to Internet terrorism (digital war) than countries with lower ICTD index. The focus of this literature

review is to summarize and synthesize the arguments and ideas of selected research to add new scientific contributions in the field of cyber terrorism.

With two comparative studies we fulfilled the inclusion criteria, with a total of 10 countries in the world of EMEA regions and 10 countries in the world of APJ regions related to the highest DoS attacks index. The third comparative study gives us the digital development index of the selected countries from both regions.

Attack trends in this report are based on the analysis of data retrieved from the Symantec Global Intelligence Network (SGIN). This global network database includes the Symantec DeepSight Threat Management System, Symantec Managed Security Services, and the Symantec Honeypot Network. We combined data retrieved from these sources for the analysis.

6.1   Results of DoS and ICTD index

Information about these countries was retrieved from research on the digital development of countries and the research on current global percentage of DoS attacks on countries in year 2007. Table 1 shows the calculated Information Communication Development Index (ICTD) index (ITU, 2010) and (common) DoS index of top ten of Asia, Pacific, Japan (APJ) regions (Symantec Corporation, 2009a) and Europe, Middle East, Africa (AMEA) regions (Symantec Corporation, 2009b).

Symantec has identified the top countries of attack origin with the national sources of attacks from automatic IP addresses by cross-referencing the source of every attacking IP with several third-party, subscription-based databases that link the geographic location of systems to source IP addresses. While these databases are generally reliable, there is a small possibility of error margin. Sectors targeted by DoS attacks were identified using the same methodology as targeted countries.

Table 1: Top ten countries according to the current global percentage of DoS attacks (EMEA, APJ) and ICTD index

Global rank	Country	DOS (%)	ICTD
1	China	11	6,78
2	United Kingdom	6	6,70
3	South Korea	6	7,23
4	Germany	2	6,60
5	France	2	6,09
6	Australia	2	6,51
7	Netherlands	1	7,06
8	Italy	1	5,91

Global rank	Country	DOS (%)	ICTD
9	Russia	1	4,13
10	Spain	1	5,84
11	Sweden	1	7,27
12	Thailand	1	3,03
13	Japan	1	6,89
14	India	1	1,62
15	Ireland	<1	6,14
16	Belgium	<1	6,10
17	Singapore	<1	6,47
18	Malaysia	<1	3,66
18	Indonesia	<1	2,15

Source: Symantec Corporation (2009a, b) & ITU (2010)

Table 1 shows the DoS index and the ICTD index trend and their correlation. Hierarchical diagrams summarize the relationships between both indexes. It is clearly seen that (if we approximate results with exponential distribution) the DoS index is decreasing while the ICTD index is also decreasing. With other words this could mean that digitally higher developed countries are more exposed to Internet terrorism. A more detailed explanation is shown on a different picture, where it is clear that even countries with low ICTD index show a relatively high DoS index. These conclusions contradict the hypothesis that digitally higher developed countries are more exposed to Internet terrorism (digital war) than countries with lower ICTD index.
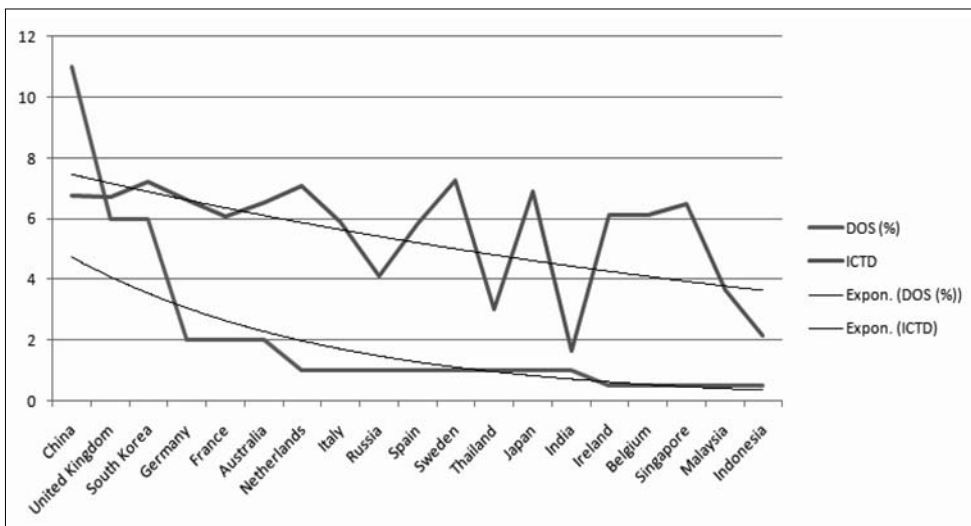
Figure 1: Correlation graph of DOS and ICTD index

6.2   The position of Slovenia through the prism of global Internet terrorism

Slovenia was ranked fourth (Table 2) among the countries of attack origin targeting the EMEA region, with four percent of the total by the end of year 2007 (Symantec Corporation, 2008). This is interesting for Slovenia, because it was not ranked among the top 10 countries previously. This is much higher than Slovenia's one percent share of attacks globally (Symantec Corporation, 2008), and indicates that attacks are originating from Slovenia and are targeting the EMEA region specifically. These findings also confirm conclusions that countries with a relatively low ICTD index are not any safer from Internet terrorism than countries with higher ICTD index.

Table 2: Top ten countries of attack origin

Current Rank	Previous Rank	Country	Current Regional Percentage
1	1	United States	52 %
2	2	United Kingdom	11 %
3	3	China	5 %
4	36	Slovenia	4 %
5	5	Germany	4 %
6	8	Canada	3 %
7	6	Italy	3 %
8	4	Norway	2 %
9	7	France	2 %
10	9	Spain	1 %

Source: Symantec Corporation (2008)

The model of combined DoS and ICTD index is useful when considering the various ways in which impacts accumulate. Table 2 demonstrates different sources and pathways of cumulative effects where Slovenia shifted to fourth place in DoS attacks.

7   CONCLUSION

We have to understand that some terrorist organizations, like criminals, could exploit the Internet to further their goals. With the growing economic dependency on information communication technology, civilian infrastructures are increasingly becoming the primary targets of cyber-attacks. It is possible to com-

pare the fight against terrorist funding to the war against money-laundering and drug trafficking. As Internet technologies become more advanced, so do those who use them for illicit and illegal activities. Security must remain a continuous process which is a never-ending dynamic cycle. Company-wide security procedures must be developed. A list of rules that includes shutting down computers every night, specific back-up procedures, a schedule of regular updates and patches, periodic password changes, rules about opening email attachments, guidelines on how to protect data while working in public places, and tips on how to ensure the physical security of laptop computers and actual office buildings must be created.

This chapter demonstrates the rapid entry of information conflicts into developed and less developed regions by highlighting DoS trends. Developing and maintaining an organizational cyber security strategy can help organizations safeguard their critical information. Flowing from this article's thesis, two primary strategies are recommended to mitigate the cyber-warfare threat: an architectural strategy and a managerial strategy.

First, an architectural strategy should promote layers of security to increase the time and resources necessary for attackers to penetrate multiple barriers. This defence-in-depth approach is similar to an architectural fortress of high walls and armed guards behind a protective moat. Although each barrier alone does not ensure sufficient protection, taken together, a layering of firewalls, with antivirus software, combined with intrusion detection and prevention systems can greatly help to repel many of the types of attacks mentioned in this article.

Against well-organized and well-imagined Distributed Denial of Service with Reflectors (DRDOS) attack automatic protection is practically nonexistent. In the event that a poorly implemented DRDOS attacks, assisted heuristic analysis of coordinated traffic passing against infested server, and installation of filters at the crossing points (router). Towards a coordinated attack as DRDOS fighting primarily related international Computer Emergency Response Team (CERT) group.

7.1   Critical overview

The literature reviewed for this project provides basic information about DoS attacks in within a global context and offered a foundation upon which to justify the need for further detailed research. For professionals, the reviews presented are seen to be useful as the information presented can be used to keep them up to date with current issues from the cyber terrorism field. Comprehensive knowledge of literature with e statistical information from the field is essential for most cyber terrorism researchers.

Although there are numerous methods for carrying out DoS attacks, this comparative study derived metric by measuring DoS attacks that were carried out by flooding a target with SYN (synchronize) requests, which are often referred to as SYN flood attacks.

There are different approaches to cyber war threat level assessment or defining an index which can successfully assess real circumstances in countries. One of these approaches is the CNO[1] (Computer Network Operations) War Index which is calculated from 11 single indexes. Each single index is previously calculated as following: index = (actual value - observed min value)/(obs. max value - obs. min value). The method is akin to the one presented in UNDP (2001). For a detailed study, it would be useful to use this comparative method.

7.2   Further research

The most important criterion which has to be implemented in each business or government for successfully fighting Internet terrorism is the critical infrastructure assessment of information communication technology:

- measuring cyber security and vulnerability detection,
- training employees,
- relevant information assurance and risk management, and
- providing cyber insurance.

The first part of the managerial strategy is to hire certified security professionals as commissioned officers of cyber-war. In the second part of the strategy employee training has been a recognized task for effective computer security since the proliferation of the computer. The third part of the managerial strategy is to mandate periodic risk assessments to identify the most serious cyber-threats. For an assessment to be successful and have a positive impact on the security posture of a system (and ultimately the entire organization), elements beyond the execution of testing and examination must support the technical process (NIST, 2008). After identifying threats, managers can allocate resources necessary to mitigate the most serious risks (Vacca, 2009). Considering societal reliance on IT, the growing cyber-threat is highlighting the need for risk mitigation strategies such as cyber-insurance. Cyber-insurance policies often have higher premiums and deductibles because of the uncertainties in assessing cyber-risk (Kolodzinski, 2002).

Historically, information security concerns have not had a high priority with most managers. Many seemed willing to risk major losses by permitting their information systems to be either lightly protected or wholly unprotected (Straub, 1990). Yet, the growing reliance on IT has increased exposure to diverse sources

---

[1]   The formula for calculating the CNO Index is = (X1+X2+X3+X4+X5+X6+X7+X8+X9+X10+X11)/11 (UNDP, 2001).

of cyber war threats. Corporate leaders must be aware of the diversity of attacks, including high-tech espionage, organized crime, perception battles, and attacks from ordinary hackers, cyber terrorists, or business competitors.

REFERENCES

Acharya, S. (2008). *Cyber Terrorism-The Dark Side of the Web World.* Retrieved February 3, 2011, from: http://www.articlesbase.com/law-articles/cyber-terrorism-the-dark-side-of-the-web-world-331261.html

Arquilla, J., & Ronfeldt, D. (2001). *Networks and Netwars: The Future of Terror, Crime, and Militancy.* Santa Monica: Rand Corporation.

Bedi, R. (2005). *Telecom-The Terrorism Risk.* International Centre for Political Violence and Terrorism Research. Singapore: IDSS.

Blomfield, A. (2007). Russia accused over Estonian »Cyber-Terrorism«. *Telegraph UK.* Retrieved February 3, 2011, from: http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/05/17/westonia117.xml

Campen, A. D. (1992). *The First Information War: The Story of Communications, Computers, and Intelligence Systems in the Persian Gulf War.* Fairfax: AFCEA International Press.

Clarke, R. A., & Knake, R. (2010). *Cyber War: The Next Threat to National Security and What to Do about It.* New York: Ecco, an imprint of HarperCollins Publishers.

Cohen, F. (2002). Terrorism and Cyberspace. *Network Security, 5*, 17-19.

Computer Crime Research Center (2004). *Cyber Terrorism: The new kind of Terrorism.* Retrieved October 21, 2010, from: http://www.crime-research.org/articles/Cyber_Terrorism_new_kind_Terrorism/.

Denning, D. (2005). Information Operations and Terrorism. *Innovative Terrorism in the Information Age: Understanding the Threat of Cyber-Warfare.* Monterey: Naval Postgraduate School, Center of Terrorism and Irregular.

Department of Defense (1998). *Joint Doctrine for Information Operations.* Retrieved October 22, 2010, from: http://www.c4i.org/jp3_13.pdf.

Dingledine, R., Mathewson, N. in Syverson, P. (2004). *Tor: The Second-Generation Onion Router.* Retrieved February 3, 2011, from: https://svn.torproject.org/svn/projects/design-paper/tor-design.pdf.

Furnell, S., & Warren, M. (1999). Computer Hacking and Cyber Terrorism: The Real Threats in the New Millennium? *Computers and Security, 18*(1), 28-34.

Giacomello, G. (2003). *Measuring »Digital Wars«: Learning from the experience of peace research and arms control.* Retrieved February 3, 2011, from: http://www.iwar.org.uk/infocon/measuring-io.pdf.

Hayward, D. (1997). Net-Based Terrorism a Myth. *TechWeb*, November 19.

ITU International Telecomunication Union (2010). *Measuring the Information Society 2010.* Retrieved October 18, 2010, from: http://www.itu.int/ITU-D/ict/publications/idi/2010/index.html

Janczewski, L. J., & Colarik, A. M. (2007). *Cyber Warfare and Cyber Terrorism.* Hershey, New York: Information Science Reference.

Kaplan, E. (2009). *Terrorists and the Internet.* Retrieved October 18, 2010, from http://www.cfr.org/publication/10005/terrorists_and_the_Internet.html

Kimmage, D. (2008). *The Al-Qaeda media nexus.* Retrieved October 20, 2010, from http://docs.rferl.org/en-US/AQ_Media_Nexus.pdf

Kohlmann, E.F. (2006). The Real Online Terrorist Threat. *Foreign Affairs, 85(5)*, 115-124.

Kolodzinski, O. (2002). Cyber-Insurance Issues: Managing Risk by Tying Network Security to Business Goals. *CPA Journal*, *72(11)*, 10-11.

Kushner, H. W. (2003). *Encyclopedia of terrorism.* London: Sage Publications.

Libicki, M. (1995). What Is Information Warfare. *ACIS Paper* 3. Washington, DC: National Defense University.

NIST National Institute of Standards and Technology (2009). *Technical Guide to Information Security Testing and Assessment.* Retrieved February 6, 2011, from

Lyon, G. (2008). *Nmap Network Scanning.* Sunnyvale: Insecure.com, LLC, USA.

Poulsen, K. (2009). *More FBI Hacking: Feds Crack Wi-Fi to Gather Evidence.* Retrieved February 6, 2011, from http://www.wired.com/threatlevel/2009/04/more-fbi-hackin/

Swartz, J. (2005). Terrorists' use of Internet spreads. *USA Today.* Retrieved October 20, 2010, from http://www.usatoday.com/money/industries/technology/2005-02-20-cyber-terror-usat_x.htm.

Symantec Corporation (2008). *AMEA Internet Security Threat Report.* Retrieved October 21, 2010, from http://www.symantec.com/business/theme.jsp?themeid=threatreport

Symantec Corporation (2009a). *APJ Internet Security Threat Report.* Retrieved October 21, 2010, from http://www.symantec.com/business/theme.jsp?themeid=threatreport

Symantec Corporation (2009b). *AMEA Internet Security Threat Report.* Retrieved October 21, 2010, from http://www.symantec.com/business/theme.jsp?themeid=threatreport

Straub, D.W. (1990). Effective IS security: An Empirical Study. *Information Systems Research*, *1(3)*, 255-276.

Thomas, T. (2003). Al Qaeda and the Internet: The Danger of Cyberplanning. *Parameters*, 112-123.

The Australian. (2004). Officials Break up Russian Extortion Ring. *The Australian*, Aug 3, p. C03.

UNDP United Nations Development Program (2001). *Human Development Report: Making New Technologies Work for Human Development.* Oxford and New York: Oxford University Press.

Vacca, R. J. (2009). *Computer and information security handbook.* USA, Morgan Kaufmann Publishers (Elsevier Science).

Weimann, G. (2006). *Terror on the Internet. The New Arena, the New Challenges.* Washington, DC: United States Institute of Peace Press.

CYBER TERRORISM – A MODERN SECURITY THREAT TO INFORMATION SYSTEMS

Authors:

Kaja Prislan and Igor Bernik

ABSTRACT

Purpose:

Important information is saved in the information systems of organizations; therefore, their security plays a vital role for the appropriate operation of any organization. Cyber terrorism, which takes advantage of abilities and weaknesses of computers and online services, is one of those threats. The purpose of this article is to examine cyber terrorism and the way in which organizations understand and manage it. The problem is that many organizations are not even aware of it. For this reason, a survey has been conducted among various organizations. In order to learn about the extent and nature of cyber terrorism, a descriptive analysis of secondary sources was employed. The main problem is incomprehension of such threats because in public it is mostly mistaken for other known attacks on information systems. To date, there has been no research conducted on cyber terrorism in Slovenia. Therefore, this study represents the first opportunity for Slovenia to learn about the risks and threats of as well as how to effectively combat such risks.

Design/Methodology/Approach:

The focus of the study presented in this chapter relied on organizational perceptions about cyber terrorism within Slovenia. For this purpose, a research has been conducted among different organizations. The results of the research unveil the problems of threat incomprehension, while threats also adjust to changes. With minimal effort and knowledge, terrorism can cause terrible consequences and threaten the existence of every organization. Methods and techniques of such attacks do not differ from the classic threats. The most common attacks focus on information systems and critical infrastructure.

Findings:

The consequences of a terrorist attack on the organization's information system are mostly economic damage, injuries or casualties among employees. The threats and protection needs are classified according to those consequences, which can be caused by cyber terrorism. Protection against the cyber threat is therefore necessary; however, it depends on every individual organization.

Research limitations/Implications:

The results cannot be generalized as a relatively small number of companies were included in the research.

Practical implications:

The article represents a useful source of information for companies establishing an information security risk management system and represents a basis for further researches.

Originality/Value:

Organizations have a chance to study the nature of this modern information threat and get to know it better. They will have the opportunity to see what kind of understanding and protection other companies use against it. At this point they will have a reference point in order to see what protection level they currently attain. A similar research has never been conducted in Slovenia before. Therefore, organizations will have the opportunity to get acquainted with imperfections in understanding cyber terrorism as a threat and to adapt properly to changes in the virtual world.

Key words: Cyber Terrorism, Information Security, Risks, Threats, Managing Threats.

1 INTRODUCTION

In the digital era the information system is the basis of virtually every organizational structure. Every organization must protect its own information system to assure continuous and successful operations. In order to protect the system we have to acquire detailed knowledge about its structure, recognize its weaknesses and threats. The range of threats is very wide, from data theft to hardware overheating. A modern type of terrorism, which attacks, uses and takes advantage of cyber space, is one of the threats.

Access, transfer, and use the information have reached a level where one cannot imagine information management without a computer or the Internet. The more the value of the computer infrastructure increases, the higher the value of damaging it is. If the information systems get damaged, we face financial consequences. Nevertheless, the psychological consequences of disconnecting from the Internet and information systems can be even more damaging (Coleman, 2003). Namely, computers control the critical infrastructure systems, such as electricity supply, communication, air transport and financial services. Organizations use computers for storing vital information, for instance, medical records, business plans or penalty records (Pollitt, 1997). For that reason, they have to be aware of the most common terrorist attacks, and provide appropriate protection. Otherwise, a disclosure or damage of confidential data can result in the collapse of the organizations.

Security professionals have expressed their increasing concern about the growing frequency of attacks on the Internet as well as about the increase in the level of sophistication of these attacks. While the complexity of the attacks is increasing, the skill level of the intruder, who initiated the attack, is decreasing. This is a very troubling trend. As the terrorists learn from every attack what works and what doesn't, where the vulnerabilities are, how we respond, and the methods we use to detect these attacks, they gain the knowledge that will increase their odds for success (Coleman, 2003).

"In the last ten years, according to the National Counterterrorism Center's Worldwide Incidents Tracking Database, there have been 63,192 incidents of terrorism. Not one was an incident of cyber terrorism. As Irving Lachow at NDU has pointed out, the jihadist community heavily relied on one London-based hacker, known by the moniker Irhabi 007, who at best had moderate ability. Since his arrest in 2005, indications are that al-Qaeda's cyber capabilities have only eroded. While continuing to rely on petty crime to fund many plots, al-Qaeda has been unable to capitalize on the explosion of cybercrime, lacking the technical capability to do so" (Knake, 2010).

Reliance on the Internet and dependence on automated systems connected to it represent a massive vulnerability of the modern society, but it is not one that terrorist organizations are likely to be able to exploit anytime soon. As with any developing technology, the cost and other barriers to developing an advanced cyber offensive are declining each year. Sometimes, however, it is difficult to tell the difference between a terrorist cyber attack and a cyber criminal, who is a hacker. The problem is that even though terrorists look for vulnerabilities to plan for future attacks, cyber criminals do the same but with the aim of obtaining information that will lead to financial gain (Pladna, 2008).

2   DEFINITION AND PERCEPTION OF CYBERTERRORISM

Cyber terrorism is a carefully planned, politically motivated attack on information, computer system, programs and data (Pollitt, 1997). It is the same as physical terrorism, except that they use computers to carry out the attacks. An example of cyber terrorism would be hacking into the CIA or FBI to intimidate or coerce the American people. Another example would be hacking into hospital databases and changing patient information in a way that would cause patients to die due to false medication dosage or allergies to foods or medicines (Pladna, 2008). In order to be able to classify it, it must be designed in a way to cause fear and influence the society as well as the authorities (Rogers, 2003). Computers cannot directly kill or injure a person; however, indirect risks of physical damages

and direct risks of economic damages are possible. It is possible for computers to connect to other devices, which have a physical ability to cause death or injury. As we name/use computers as a weapon, we should take into consideration that their actions are indirect (Pollitt, 1997).

In spite of that, the consequences may be considerable, even bigger than in the event of a classic terrorist attack. There are two positions on defining cyber terrorism; effects-based and internet-based. In an effects-based situation, cyber terrorism exists when computer attacks result in a situation where fear is generated, which is similar to a traditional terrorist attack. In an internet-based situation, attacks are carried out to cause harm or severe economic damage. "The objective of a cyber attack includes four areas: loss of integrity, loss of availability, loss of confidentiality, and physical destruction." (Army, 2005, P. II-1 and II-3).

The most recognizable and the most common type of cyber terrorism is an attack on the information system. The main aim of the attack is to change or damage the contents of electronic files, computer systems or other material. The other type of terrorist attacks focuses on the destruction or damage of critical information infrastructure. They include attacks on heavy equipment/hardware, and software. The side effect of these attacks is data damage. Finally, the third type of cyber terrorism uses the Internet and information systems to execute a classic terrorist attack (Ballard, Hornik, & McKenzie, 2004).

In public, the most common and the simplest attacks are named terrorism because the methods and technique of cyber terrorism do not significantly differ from other malicious attacks on the information system. However, a difference exists: motivation, which leads on the one hand classical hackers and on the other hand terrorists who use the Internet for achieving their aims. Hackers and crackers take advantage of security gaps in information systems for various reasons. The most common reasons are the wish to prove, search and warn about security gaps. Sometimes they operate on order and at this point, hackers and terrorists may come into contact with each other. That is possible when terrorists are ready to offer hackers an adequate amount of financial sources to execute a cyber attack on the information system of government institutions and giant corporations or on the critical infrastructure system. In this case, the hackers' aims are not political, but financial (Furnell & Warren, 2004).

The experts in this field of study still disagree on the damage, which may be inflicted by cyber terrorism, despite the fact that cyber terrorism exists as long as the Internet. The most common consequence of the attack is economic damage; however, in appropriate conditions, when the attack focuses on critical infrastructure important for people, the consequences can indirectly be seen in injuries or deaths of people. The terrorists use online services for other needs as well, such as planning, coordinating, advertising, recruiting, propaganda and collecting financial means. However, direct attacks on information systems are

increasingly frequent due to technology development. It is concerning that the Internet is used by more than 26% of the world population (Internet World Stats, 2010), and few millions of it misuse their abilities for malicious acts. Managing cyber terrorism is therefore vital for the protection of financial and information material in organizations at a micro and macro country level.

It can thus be concluded that cyber terrorism represents a modern security threat to every information system. The most exposed and vulnerable spots of these systems are information and communications, electricity network, gas and oil (i.e., storage, transport, production), banking and finance, transport, water supply and government services. In order to protect these locations against attacks, they must be as far removed from the Internet and general information systems as possible; systems should operate autonomously and independently from external information systems and network connections. In addition, people who are managing such systems must be have adequate qualifications (Embar-Seddon, 2004). Organizations as well as countries are responsible for countermeasures. However, they have to take into consideration that classical antiterrorist measures against the modern type of terrorism are not successful (Collin, 2005).

New approaches must be introduced and in order to achieve that, the enemy must be known thoroughly. Organizations must be especially aware of those facts, because private business center represents 85% of the Internet (Seifert, 2004). The system is secure as much as its weakest part is secure. The poorly protected companies, which are not able to thwart off attacks, threaten the overall security and efforts of the country and global community. Organizations must undergo a system analysis and risk management in order to protect themselves sufficiently. The process of risk management fundamentally does not differ from the classical one. The consequences are the most important factor which decides whether the system will provide protection or not, and in what way it will provide for it. The aim of providing as sufficient information security as possible (perfect security is impossible) pushes the organizations into exact research of their infrastructure and threats. It depends on each organization if it considers cyber terrorism a threat, and also for which manner of risk management the organization decides.

Cyber terrorism in Slovenia is a relatively unknown phenomenon due to its modernity. The primary reason for this is the fact that currently Slovenia is less threatened and a rather uninteresting country for terrorists. Of course, this is going to change in the future because terrorism in the virtual world is simpler and demands less effort than the classical one and Slovenia is becoming more and more internationally exposed due to its political and economic relations in the modern world. In order to achieve a sufficient protection against future threats, the security should be provided immediately. Namely, prevention is better than cure.

3   COMPREHENSION OF CYBER TERRORISM

For the purposes of the presented study, we performed in-depth interviews in 18 Slovenian organizations from different sectors (different companies from the private and public sector); with between 15 and up to 50 employees (medium-sized companies in Slovenia) in 2010. The in-depth interview questionnaire had 16 questions and statements that tried to ascertain the level of comprehension of this type of threat in the commercial environment. Respondents were CIO[1]s. The purpose of the research was to do an overview and comparison between the organizations about their understanding of cyber terrorism, the means of protection, measures and awareness of future threats.

In the answers provided in the research on the comprehension of cyber terror-ism, half of the questioned organizations stated that the aim of an attack on the information system is to steal and damage data. However, they did not consider the main component, which actually defines terrorism: political motivation for causing fear. Only 16.7 % of all respondents understood the point of the phe-nomenon. This /finding is alarming due to an increase of the threat and its abil-ity to cause enormous business damage. There are different reasons for the false understanding of cyber terrorism: one of them is probably the consequence of a lack of experience in the management of such problems; the next problem is lack of knowledge and awareness about such computer criminal.

Two-thirds of the questioned organizations consider cyber terrorism the same as other threats, which is logical due to the lack of comprehension. However, organizations that understand the point of cyber terrorism consider it unimpor-tant. This is also logical due to lack of experience in facing such problems. At the moment, cyber terrorism does not represent an important issue for information systems, nevertheless, in the future it is going to happen more often and become more dangerous. Organizations should therefore draw attention to education in the field of understanding and security against terrorist threats. In their evalua-tion of the damage, which can be inflicted by an attack on the information sys-tem, organizations presented different opinions. The reasons for that are prob-ably related to the differences in size, operation, organization, and information systems' security in the questioned organizations. With the same security level, bigger organizations with more capital would probably suffer bigger capital loss than smaller organizations. However, if security is weaker, smaller organizations can suffer higher losses than the bigger and more secured organizations.

The results show that an average loss of system accessibility exceeds nine days. However, the time of system inaccessibility completely depends on the security of each information system; the results are therefore unreliable. Also the capital loss, which in the average amounts to 50,000 € (from 5000 up to 500,000€),

---

[1]   CIO – Chief Information Officer

depends on the manner of providing security. Nevertheless, those facts are un-reliable as well due to too large deviations in the results. What organizations agree on are psychological consequences, which can occur due to the infrequent attacks. The most obvious consequence would be the loss of credibility between partners and customers; the other would be business loss, which would be the consequence of a too big capital loss (see Figure 1).
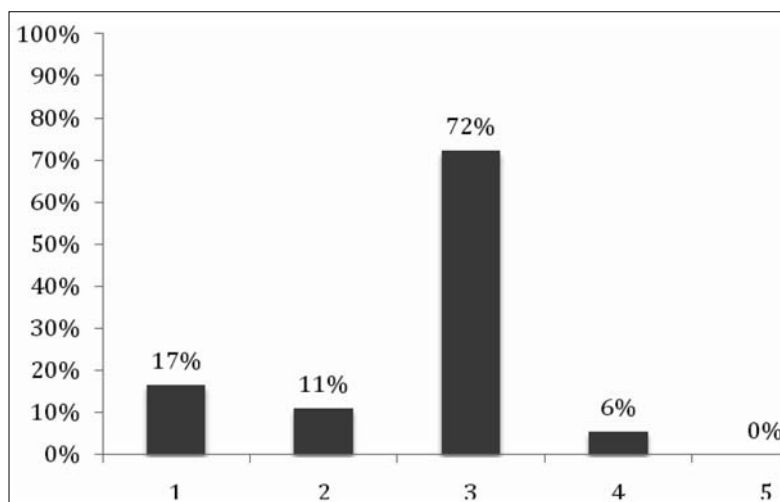
Figure 1: Estimation of Cyber Terrorism as a Threat to Respondents Organizations (1=not important, 5=most important)

Organizations protect themselves against cyber terrorism in the same way as against other threats because they equate it with other threats. They do not use any special protection mechanisms and that means they use general security techniques. That makes sense because cyber terrorists use the same techniques and methods as classic terrorists. Better understanding of the power of cyber terrorism could improve protection and could aid in the /annulment of conse-quences. Even though the majority of organizations do not consider cyber ter-rorism as a serious threat, they share the opinion that the terrorists will more and more often use the advantages of information and internet services for achieving political aims. That means that organizations are aware of changes in the information environment. Information technology is an integral part of modern society, and the organization cannot successfully operate and be com-petitive without it. Terrorists are aware of it and with adequate knowledge and minimal effort they can break through protection barriers and disable informa-tion systems due to weak protection. Awareness of the increase of danger of such threats confirms a high level of security culture. Information technology connects organizations to other organizations and countries and creates an in-ternational network. Remote access to the system is simpler and draws more attention than physical presence, especially in Slovenia, which is currently a less

interesting country from the terrorist point of view. Currently, Slovenia is still a safe and stable area. Terrorism is therefore comparatively undiscovered and un-interesting field. However, we should take into consideration that changes in the international and social environment are very unpredictable; as a consequence, threats are unpredictable and unstable as well.

In listing the future protection threats to information systems organizations were giving very different answers. However, they all agree that the biggest danger is a transformation of known threats (e.g., data theft, breaking into systems, etc.) into more developed threats. The most threatened is probably a disposability of information systems?. It is hard to predict new types of threats due to an unpredictable and unstable future; however, the changes are going to refer to new devices and services. The methods and techniques of social engineering will be developed, and the work of terrorists will consequently be much easier. It is interesting that the organizations share the same opinion that the future threat means operation disability of classical systems because the dependence on tech-nology will increase. Chain effects – system collapse one after the other – will be probably more frequent. The reasons for chain effects are also interacting connections and co-dependences among information systems.

More than a half (55.56%) of the interviewed believe that the future threats/ risks are likely to increase and pose considerable risk to the security/safety of organizations. The danger level is going to increase more and more due to devel-opment of structure and methods of the threats. The threats are therefore going to threaten the existence, business and operations of information systems in the future. However, it does not mean necessarily that the organizations are going to be more threatened. Namely, as the threats are changing and developing the protection against them is also improving. The threats develop in conformity with changes in the international, social and technological environment, while the protection of information systems depends completely on the will of organi-zations. The organizations must take care that the jeopardy and vulnerability of their information systems do not increase but adjust to the future threats. There are always security weaknesses, which can be misused by people with adequate knowledge and motivation, in spite of all protections and precautions.

4   CONCLUSION

Classic computer crime in fact still represents the biggest threat to our organiza-tions when it comes to information security. Cyber terrorism as one of the mod-ern threats to information systems is in the public mostly mistaken for classic computer crime due to similarity in form and modus operandi. The results of the research among Slovenian organizations in the field of information security

and cyber terrorism confirm this fact. Most of the organizations equate the cyber threat with other information security threats and provide the same protection for both types. Protection against the terrorist threat therefore does not differ from protection against other threats due to the same risk management in both cases. Damage caused by a terrorist attack on the information system would probably draw more attention to such type of terrorism; however, organizations have not been targets of such threats and therefore it is hard to evaluate the /potential damage.

In spite of a low level of exposure of Slovenian organizations to risks of terrorism, the majority of those interviewed expressed the belief that they are more exposed to cyber terrorism than to a physical terrorist attack. As for the future, the those interviewed felt that there would likely be an increase in terrorists activity especially in the information and communication environment due to the escalation of dependence on information technology and disability to operate without online and computer services. The level of security culture is obviously high because the organizations are aware of future hazards. For that reason, the organizations draw attention to preventive measures.

Despite the limited understanding of terrorism in the virtual world, we believe the organizations are working out well by achieving a sufficient level of awareness and preparation to face the latest virtual threat to information security. Unfortunately, dependence of organizations on information technology is too strong, so we cannot avoid the threat. The most we could do is to prepare the best possible renewal procedure in the case of an attack, and to make all users of system and its managers aware of the possible threats.

REFERENCES

Army, U. (2005). Cyber Operations and Cyber Terrorism. In U. Army, *U.S. Army Training Doctrine Command, Handbook No. 1.02*. Retrieved February 6, 2011, from http://www.fas.org/irp/threat/terrorism/sup2.pdf

Ballard, J.D., Hornik, J.G., & McKenzie, D. (2004). Technological Facilitation of Terrorism. In A. O'Day (Ed.), *Cyberterrorism* (pp. 39-66). Aldershot: Ashgate Publishing Limited.

Coleman, K. (2003). *Cyber Terrorism*. Retrieved January 23, 2010, from http://www.directionsmag.com/article.php?article_id=432

Collin, B.C. (2005). 11th Annual International Symposium on Criminal Justice Issues. Retrieved January 23, 2010, from http://afgen.com/terrorism1.html

Embar-Seddon, A. (2004). Cyberterrorism. In A. O'Day (Ed.), *Cyberterrorism* (pp. 11-21). Aldershot: Ashgate Publishing Limited.

Furnell, S.M, & Warren, M.J. (2004). Computer Hacking and Cyber Terrorism: The Real Threats in the New Millennium. In A. O'Day (Ed.), *Cyberterrorism* (pp. 111-117). Aldershot: Ashgate Publishing Limited.

Internet World Stats. (2010). *Internet usage statistics.* Retrieved April 10, 2010, from http://www.internetworldstats.com/stats.html

Knake, R. K. (2010). *Cyberterrorism Hype v. Fact.* Retrieved February 6, 2011, from http://www.cfr.org/terrorism-and-technology/cyberterrorism-hype-v-fact/p21434

Pladna, B. (2008). *Cyber Terrorism and Information Security.* Retrieved February 6, 2011, from http://www.infosecwriters.com/text_resources/pdf/BPladna_Cyber_Terror-ism.pdf

Pollitt, M.M. (1997). *CyberTerrorism - Fact or Fancy?* Retrieved January 23, 2010, from http://www.cs.georgetown.edu/~denning/infosec/pollitt.html

Rogers, M. (2003). The psychology of Cyber-Terrorism. In S. Andrew (Ed.), *Terrorists, victims and society : psychological perspectives on terrorism and its consequences* (pp.77-91). Chichester : Wiley.

Seifert, J.W. (2004). The effects of September 11, 2001, terrorist attacks on public and private information infrastructure: a preliminary assessment of lessons learned. In A.O'Day (Ed.), *Cyberterrorism* (pp. 289-306). Aldershot: Ashgate Publishing Limited.

2.
CRIME PREVENTION, SOCIAL CONTROL AND PUNISHMENT

SOCIAL CONTROL OF THE INSTITUTIONAL ORGANISED CRIME

Author:

Miodrag Labović

ABSTRACT

Purpose:

The purpose of this study is to identify new types of organised crime, and create a new conceptual framework for dealing with the most dangerous type- institutional organised crime.

Design/methodology/approach:

The studies take a systematic and qualitative approach. The research is founded on the author's long-term survey based on the statistical indications and 37 in-depth interviews with officials.

Findings:

Five types of organised crime were identified. Besides well-known types of organised crime, this study found two new types of organised crime: institutional and institutionalised organised crime. This new typology distinguishes from the previous typologies.

Originality/value:

One of the main points of this study is finding a solution for an exceedingly high rate of institutional organised crime. For that purpose, this study found that the problem might be resolved if the legal system will foresee foundation of an optimal independent institution against institutional type of organised crime which is inseparably linked with high type of corruption. An optimal independent institution would be independent from the government, but not from wide social control. This solution is guided by the knowledge that though all governments in the world have huge power, the governments in the fragile societies have a high concentration of power. The developed countries with traditional democracy, political culture and awareness of the law can deal with this problem. But in the same transitional and undeveloped countries, there is a lack of such determinative factors and the governments are really the dominant generator of institutional organised crime.

Keywords: Institutional Organised Crime, Corruption, Independent Agency, Reforms

1   INTRODUCTION

Organised crime can be defined by a number of definitions. Herein we will subli-mate only the typical elements that different authors include in their attempts to define this phenomenon (Labović & Nikolovski, 2010). It is important to mention the generic term of organised crime, which is very difficult or even impossible to define in global frames, as universal, world-wide phenomenon (because of the objective reasons). Attempts have been made for coming up with definitions distinguished by constant and variable elements (characteristics). Constant ele-ments would be common for the generic term, the global phenomenon of organ-ised crime and which, in fact, represent the common global characteristics inde-pendently of their specifics on the local, regional, national level or international frames. Variable elements are those elements which, while defining the term organised crime, reflect the specific differences (*specifica diferencia*) among the various types of organised crime (see wider explanation below in this section). Common for this approach is the idea to make a universal, general listing of the specific characteristics (elements) of organised crime. However, same of those attempts do not differentiate between the mafia type of organised crime and especially the organised criminal networks from other types of organised crime. Some scholars such as Finckenauer have truly made distinction among various types of organized crime. However, that distinction does not refer to institu-tional and institutionalized organized crime (Finckenauer, 2005). Hagan makes distinction between "Organized Crime" and "organized crime". This distinction concerns the scope of criminal activities and the patterns by which these two types of organized crime are committed rather than the qualitative difference between institutional type and other types of organized crime (Hagan, 2006).

Almost, the most relevant authors do not mention the involvement of the high-est government and political officials in committing criminal offences as a ba-sic, constitutive element in their definitions. Finckenauer includes corruption of public officials (also high-level officials and politicians) among general charac-teristics of organized crime., but he mentioned corruption only as alternative element. He also states that it is not necessarily a tool employed by all organized criminal groups (Finckenauer, 2005). The definitions of organised crime by the most relevant scholars contain elements such as:

"One of the basic characteristics of the organised crime is the fact that it depends on the level of corruption of the government officials, affecting its existence and continued profitability. Bribery, campaign donations, buying votes and other services, all these actions are taken with purpose influence to be gained over the legislators, members of the city council, mayors, judges, district public prosecu-tors and others (Lyman & Potter, 2009).

Abadinsky defines organised crime as a non ideological attempt that involves a larger number of people who are in close social relations, organised in at least

three hierarchy levels, aiming to gain profit and power, engaging in both illegal and legal activities. The criminal organization tries to eliminate the competition and create a monopoly for itself on economic and territorial bases, and is ready to use violence and/or bribe (Abadinsky, 2002).

Savona points out to several elements when defining the organised crime, such as: organization and cooperation of several executors, using violence and corruption for easier performance of their activities, mostly of transnational nature, i.e. disparity over national borders, thereby the criminal organizations strive for a domicile in areas where the risk of pursuit is smaller, covering the criminal activities through legal activities and corporations, and finally, gain profit (Savona, 1995).

Petrus C. van Duyne accepts the following definition as most adequate: organised crime is planned violation of the law for profit or to acquire power, which offences are each, or together, of major significance, and are carried out by more than two participants who cooperate within a division of labour for long or undetermined timespan using commercial or commercial-like structures, or violence or other means of intimidation, or influence on politics, media, public administration, justice and legitimate economy (van Duyne, 2000).

According to Bojan Dobovšek, a Slovenian author, "organised crime is an administered activity of a malefactor association in an entrepreneur way, which uses violence or corruption for gaining property advantage or gaining society power" (Dobovšek, 1997).

Bošković considers the organised crime to be an activity of a well structured criminal organization, with a rigorous hierarchy, discipline, responsibility, loyalty, and task distribution, aiming to gain more profit and legalization of the illegally gained property, thanks to the achieved level of social status, as the basis for breaking into the government structure, or in the established relations with the state bodies, legal business companies and influential political parties" (Bošković, 2003);

Kambovski defines organised crime as committing criminal acts by malefactor associations for gaining profit and/or power, by using violence, or by using the special position in the society, and reducing the risk through engaging into the legal economic, political and other activities (Kambovski, 2005).

Basically, the essential difference between the most eminent scholars and the author of this paper is:

l. The most eminent scholars talk about close cooperation (connection, close collaboration) between the criminal organization and the government or the political power, police, judiciary, public administration, media etc. Almost all authors mention corruption as an element in the definition of organised crime but, only alternatively, as one of the elements through which organised crime is accomplished.

The author of this paper opens a new term of the institutional type of organised crime (which will be discussed more concisely in the text below). Namely, with this new theoretical concept, institutional type of organised crime does not refer only to close connection (relation bond, symbiotic link, immediate cooperation) between organised crime and political power, but it refers to the reality that representatives of the state and political institutional hierarchy (who can be the most important and highest officials in a state) are in fact the main bosses, organizers and command-givers of this new theoretical type of organised crime, with *de facto* old practice in certain countries in the world (WB, 2000; FIOS, 2006; Georgievski & Stanković, 2008; Mladenov, 2006; Maćkić, 2007; Kostovski, 2011; Dimitrovski, 2011; Jelinić & Pašalić, 2009; Jelinić, 2007; Fijnaut & Paoli, 2004).

II. Almost all of the most eminent scholars perceive corruption as one of the methods enabling organised crime to sustain stable in long term.

The author of this paper maintains that corruption is not just a method enabling the organised crime to remain in operation for longer term. Corruption is actually an essential element of the term institutional organised crime. Namely, when speaking about the institutional organised crime, the corruption manifested as abuse of the public authority, is not only one of the methods through which successful operation of organised crime is achieved, but it is its inevitable component which, in fact, is its most essential, constitutive element. The corruption is relatively distinctive phenomenon. Certainly, the corruption has its own autonomy. There are conventional and unconventional types of corruption (Labović, 2006). Actually, the corruption is an *unconventional*, constant and constitutive element in the essence of the institutional organised crime. Within institutional organised crime, corruption is not channelled through conventional ways of bribery, even when it concerns a case of millions in convertible currency toward the highest government officials to support them in the elections (financing political campaigns) or other type of conventional corruption transactions. The corruption here is expressed in its unconventional form as abuse of the public authority of the directly involved highest officials in the role of organisers and main bosses of the organised criminal activities within the institutional hierarchy of a state. Of course, everything is done through the close associate collaborators, and when they have to communicate directly, they do that subtly, in perfidious ways in order not to leave any evidence behind. However, it is important to understand that, when it comes to institutional organised crime, politicians have the final word and hold all the leashes in their hands, which is not the case when the highest state officials have only connections or co-operate in some way with the criminal organization that decide on their criminal priorities by themselves. As far as the necessary help provided by the politicians (with or without agreement), it is up to the criminal organization to decide how much of the criminal profit will they give to them. The help from the highest state officials is essential for the criminal organization and is needed because it secures the stability of the

long-lasting highly profitable criminal activities. Nevertheless, criminal organisations (mafia, group or network type) , with or without the help from the highest state officials, continue doing their dirty job more or less successfully with the help of other methods by establishing co-operation with other criminal groups, organizations or on other levels of the state and political structures.

I claim this because the representatives of state and political structures, in the frames of this new theoretical type of organised crime, are not simply helpers, associate collaborators and "tools" – (Lymon & Potter, 2009) of organised crime, for which they are usually bribed or are corrupted through different manners and forms. On the contrary, the representatives of the state and the political structures, by abusing the high ranking position they have in the institutional hierarchy of the system, organize the specific organizational structure of the institutional type of organised crime. They, in the role of organizers or main bosses have the biggest share in the division of the crime profit for themselves and the rest is split among the other accomplices. They decide on the roles and the end profit for everyone, or whether subordinate state officials will maintain certain position given to them from the political top (WB, 2000; FIOS, 2006; Georgievski & Stanković, 2008; Mladenov, 2006; Maćkić, 2007; Kostovski, 2011; Dimitrovski, 2011; Jelinić & Pašalić, 2009; Jelinić, 2007).

This is the diametrically opposite and essential difference among the theoretical new type of institutionally organised crime and all other types, that is to say the organizational forms of different groups of organised crime that are mentioned by the leading authors in the world who treat this issue. There are a lot of various consequences coming from this diametric contradiction. Because, it is not the same when the government and the organised crime are on the opposite sides, even if the highest representatives of the state were indirectly involved, or were helping organised crime. Namely, during the indirect correlation of the politicians with organised crime, as much as their connection is closely interrelated (closely, symbiotic etc.), and the relatively long term co-operation (not to mention the incidental and ad hoc connections and similar), those relations are not stable because they do not come from the politicians and, most importantly, they do not dictate the rhythm. When the conjunctional political interests of the government authorities (who easily go through metamorphosis under pressure by the public in democratic societies and the danger of losing political points) are added to all of this, they easily can refuse the co-operation, especially if performed by conspiracy and without leaving compromising materials.

Consequently, it is my opinion that the immanent trait of the term for the newly launched type of institutional organised crime as its constitutive element, is:

– Directly involved representatives of the state and political structures as organisers or main bosses of organised crime.

Aside from this specific element of the institutional type of organised crime, other most specific, constant elements for organised crime, as a generic term, need to be met as well:

– Organised criminal activity of three or more persons according to (non) formal contract/ plan for committing the tasks;
– Relatively longer period;
– Committing serious criminal offences and
– Obtaining financial and/or material gains or obtaining and/or maintaining of political and/or social power.

According to the author of the paper, without the presence of this critical, constitutive element, regardless of the fact that cumulatively other most characteristic elements may exist, there is no institutional organised crime. It is, then, a matter of group, network or mafia type of organised crime, whose organisational structure may be more advanced than in the institutional crime, however the danger to society in every aspect is incomparable to the other types of organised crime. Institutional organised crime is the most sophisticated and softest according to the methods of acting and organizational structure, but with the most destructive and incomparably bigger material and non-material harmful consequences in the undeveloped and transitional countries (Albanese, 2010; Zoutendijk, 2010; UNODC, 2009; Vander Beken, 2004; van Duyne & van Dijck). For more clear distinction between group, mafia and network type of organized crime and institutional organized crime, this part of the paper will focus on the basic characteristics and differences among these types.

The group organized crime is the basic and the lowest type of organized crime, according to the criteria of the organizational structure, social connection and establishment of the organized criminal group in the society. For the lowest type of organised crime – group organised crime, the most relevant definition is found in the UN Convention of Transnational Organised Crime (UN, 2000; CE, 2005). Here, the term organised criminal group is defined by the minimum number of constant elements whereby it can be categorised as organised crime, regardless of its type. According to this Convention "organised criminal group consists of three or more individuals who exist for a certain period and acts with the aim to execute one or more serious crimes determined by this Convention, in order to obtain direct or indirect financial benefit or other kind of material benefit."

Mostly, in the framework of group organized crime, the criminal activities are executed without prior protection by or connection with state and political structures. The group organized crime has weak social connections and political establishment. It does not mean that corruption as a method is completely excluded, but if there is a corruption, it is committed in a conventional manner through bribing of lower officers in police, customs and other state institutions. The forms of organized criminal activities can be various. They depend on conjuncture of

the market and specific conditions in each society. Typical methods of acting are: violence, threat, blackmail and more rarely bribe. The material consequences (for example in Macedonia) are over thousands euros harm to the country by these committed crimes. The gratest threat from this type of crime is the violence and the endangering of human lives and physical integrity of the people.

The mafia type of organised crime as traditional type of organised crime, despite the basic elements (which are immanent for all types of organized crime) is characterized by the following variable elements: 1) The family connections within the mafia resulting from tradition and need for strict conspiracy. In some of the mafias (for instance Italian mafia), the family is the basic organizational unit. More rarely, member who is not from the same ethnic and family origin as the mafia can be admitted in the mafia; 2) Ritual for admittance of new members. Once admitted member remains member for ever; 3) Internal organization is set in hierarchical subordination, which demands strict discipline and unconditional loyalty toward the main boss (capo, padre); 4) The strict conspiracy in the work, expressed by the promise of silence (omerta); 5) In case of betraying there is no other sanction than death penalty, sometimes even for unintentional mistakes; 6) The methods of acting of the mafia are characterized with brutal violence, pressures of various kinds, extrusions, blackmails and readiness for physical elimination for everyone who will stay on the way in realization of mafia interest. As from recently, the violence as a method of the mafia is ultima ratio. The method of bribing politicians, judges, prosecutors and police officials is used more than ever. 7) The great solidarity and care among the members of the mafia (Kaiser, 1996; Firestone, 1993; Haller, 1979; Blok, 1974). All these characteristics differentiate the traditional mafia type of organized crime versus all other types of organized crime typical for the new millennium.

The hierarchical (vertical) organisational structure is not typical for the **network organised crime**. It means that this type inclines toward horizontal organisational structure, which implies lenient style of coordination with very weak discipline among members of smaller and more flexible criminal groups. According to Layman and Potter, this type of organised crime is organizational pattern for the twenty first century (Layman & Potter, 2009). Although, criminal networks are more complex and varied, because of limited space and as the criminal networks are not subject of this paper, we can just briefly say: network organised crime represents horizontally organised scheme for committing serious criminal offences by multiple subjects, with strictly defined roles for each particular criminal action, by which, except for a core of the small criminal group, the other co-involved are continuously changed depending on the type of the particular criminal activity. For that, some of the co-executors are hired ad hoc in the execution of the "dirty" criminal jobs, other co-involved are hired without their knowledge of being part of a criminal chain, executing completely legal transactions in order to launder money, obtain illegal financial or other gains (Layman & Potter, 2009). Relatively good

social connection and political establishment depends on each criminal network in different societies. Violence is not characteristic for this type unless very rarely. The material harm costs billions of euros in international framework (Layman & Potter, 2009; USDS ,2010; CE, 2005; Williams, 2001).

So, the term institutional (political) organised crime is a brand new theoretical term implying a number of specific practical consequences from the fight against organised crime, whereby every country has its own specific features (Labović & Nikolovski, 2010). Here the corruption is present in a very subtle way, by means of abusing the institutional hierarchy which is legally governed under the veil of conveying a legitimate policy. Indeed, the institutional type of organised crime does not imply involvement of all individuals in one numbered institution, but it does say that this is the most dangerous type of organised crime, judging by the social problems it causes, when it comes from the top of certain institutions, abusing the key parts of that institution or institutional hierarchies in many state institutions (Albanese, 2010; Zoutendijk, 2010; UNODC, 2009; Vander Beken, 2004; van Duyne & van Dijck). For these reasons, I am deeply convinced that we need to distinguish the group, network and mafia type of organised crime from the institutional organised crime. The organised criminal groups, mafia and organised criminal networks are more dangerous (in terms of use of violence), but still, far easier to detect, prove and process than the cases where the officials of the state and political structures are the carriers of organised crime. When we talk about institutional organised crime as the most dangerous type, I actually mean at least of three aspects: 1) This type is the most dangerous type for certain transitional an undeveloped countries, because it is the most dominant type in those societies. 2) The violence as a method is not characteristic for this type, that is to say, the violence is used more rarely than in the mafia type which is more dangerous in this regard. 3) From the above mentioned reasons, the material and nonmaterial harmful consequences from the institutional organised crime can be perceived by direct and indirect indicators.

A) Direct indicators are: statistical measurements according to the number of committed crimes in the field of this type, criminal processing of the cases and verdicts, by which we can exactly establish the caused material harm. But, taking into consideration the fact (which is explained in the section for institutional organized crime), that the cases of institutional organized crime are very difficult for detection, and when detected, almost none of them is processed or reaches legal outcome, we can conclude that official statistical indicators are not relevant for this type of organized crime. B) Assessing the threat, risk and costs of institutional organized crime can be committed through the following methods: operative information from the (police) pre-investigative procedure, journal researches and methods within scientific analyses. Due to limited space in this paper, we can not elaborate wider about it (Albanese, 2010; Zoutendijk, 2010; UNODC, 2009; Vander Beken, 2004). C) The indirect indicators of harmful

consequences from institutional organized crime are: low rate of direct foreign investments, low GDP per capita, high percentage of poverty, high percentage of unemployment and high level of corruption. That are material consequences. The non-material consequences reflect upon the attack, sometimes, even upon the full suspension of the legal, political and economic system in certain transitional and undeveloped countries.

2 TYPOLOGY OF ORGANISED CRIME

The generic term for organised crime, aside from the type and form variations, there are variations in organizational, methodological, teleological and territorial sense as well. Coming from the political, social, economical and other positioning in institutional hierarchy in one or more countries, the participants in organised crime, as well as their connection with social structures, we can look into different situations and contexts of committing organised crime:

1) Organised crime is committed directly by organised criminal groups (criminal underground) with partial, unstable or in some cases with no support whatsoever by the government and the political representatives of whatever rank in the levels of the government and the political hierarchy of one or more countries.
2) Organised crime is also committed when (in) directly involved representatives of lower or higher levels of the authorities; even the highest representatives of the government and political hierarchy of one or more countries.
3) Organised crime is committed by criminal underground, political and business elites together.
4) Organised crime is committed directly by political and business-elites.
5) Organised crime is committed directly by political elites and criminal underground.
6) Organised crime is committed directly by business-elites and criminal underground.
7) Organised crime is organised by the highest state level as a consequence of the general concept of systematically corrupted politics (Labović, 2006).

2.1 Types of Organised Crime

The types of organised crime can be distinguished by the following criteria:

– Social connections and political establishment of the organised criminal groups in a system;
– Organisational forms, or the level of organizational postulation and hierarchical structure within organised criminal groups;

– The scope of the non-material and material harmful consequences that result from different types of organised crime (Albanese, 2010; Zoutendijk, 2010; UNODC, 2009; Vander Beken, 2004). Distinguishing the different types of organised crime and stressing the problems in measuring consequences and costs of organised crime is mentioned in the first part of the paper.

The complex and contradictory term of organised crime, for scientific and theoretical reasons, and also for the purpose of practical and operative value can be considered a consequent optimality of the question:

– Is the single term of organised crime to distinguish between the different organisational levels, having in mind only one considered criterion such as the organisational form and consequently the organisational typology of the organised crime, or
– Different types of organised crime should be treated as separate terms.

The latter alternative emphasises the need for appropriate organisationally functional placement of competent bodies, as these bodies with their organisationally-functional position in the state-institutional hierarchy of the systems in the fragile transitional societies control the efficiency and more importantly the effectiveness in the fight against organised crime. By all means that would reflect on specific methods, especially tactics which are not and cannot be applied generally for detecting and proving different types of organised crime.

Identifying and listing the different types of organised crime is already done in the first part of the paper In that sense the following types of organised crime are recognised:

– Group organised crime (UN, 2000; CE, 2005)
– Network organised crime (Layman & Potter, 2009; USDS, 2010; CE, 2005)
– Mafia type organised crime (Albini, 1971: 248-249; Blok, 1974: 102; Firestone, 1993: 216-217; Kenney & Finckenauer, 1995: 346);
– Institutional organised crime in which representatives of the middle-upper or upper levels of the state authorities are directly involved (Labović & Nikolovski, 2010);
– Institutional organised crime in which highest government and political officials (from the current government authority or political opposition) are directly involved due to accomplishing of personal and close fitting interests of the political party (Labović & Nikolovski, 2010);
– Institutionalised organised crime from the highest state level which results from the general concept of systematically corrupted politics, with strong impact on the international economy and political relations in the function of accomplishing long term geo-strategic and geo-economic interests of the gross capital which originates in the most powerful countries in the world (Labović & Nikolovski, 2010).

There is a huge difference between this highest type of instutionalised organised crime, as a result of the general concept of system corrupted politics led by the most powerful countries in the global economic and political relations and forms through which the institutional type of organised crime is carried out in the transitional and undeveloped countries. In those countries, the forms of institutional organized crime directly harm the state and its citizens. This highest, and most sophisticated type of instutionalised organised crime is performed through perfidy and most subtle methods, on the level of continued foreign politics, whose ultimo ratio is the military intervention in countries that are tens of thousands kilometers away from the country aggressor. Due to the above mentioned reasons, nobody is held responsible for the killed civilians : children, women, old and weak people (Coleman, 2001; Nikolovska & Sundać). This type of organised crime eliminates the subjective, criminal-law responsibility and complicity, simply because these activities, foreseen as criminal offences against the humanity and the international law are not treated as international criminal offences, but as a legitimate way of leading politics (Vacknin, 2011). In the theoretically new type of instutionalised organized crime it is not a matter of acquiring a direct, personal criminal profit or any other type of protecting the personal interests of the highest carriers of such politics, through which it is being manifested (at least the personal interests are not a priority). This highest and most subtle type of an instutionalised organised crime exceeds all conventional and unconventional corruption transactions, even between the highest statesmen from great powers. With this type, regardless of the personifications in the state institutions, the substance is the exercise of the general concept of a systemic corrupted politics that systematically generates the political and economic system of the capitalist expansionism and the exterritorial imperialistic neocolonialism (Layman & Potter, 2009: 432). The institutionalised organised crime is hidden crime. Seen from an extra instutional, sociological approach, it means de facto and not de jure, a crime protected beyond the law (Labović & Nikolovski, 2010).

The "white collar' crime and institutional organised crime have a lot of similarities, but also differences. 1) The basic difference is that "white collar' crime does not contain some of the basic (constant) elements, which are typical only for the organised crime. For instance, at least three people should be organized in an action so that it can be considered organized crime. Namely, a person of high-standing can commit crime in course of his/her business, professional or political work. In that case, there is "white-collar" crime, but it is not organised crime neither in its basic type. 2) Other distinction between white-collar crime and especially institutional organised crime is that committing crime in the course of his/her business, professional or political work might be case of "white-collar' crime. However, we can talk about institutional organised crime only if the persons are from high positions in the state hierarchy, but not in their business or other professional work 3) A third distinction between those kinds of crime is the scope of criminal activities. The scope of criminal activities in case of insti-

tutional organised crime is wider than 'white-collar' crime. Financial crime, corruption, ecological crime, crime against health of the people and other similar forms of crime are more immanent for the "white-collar" crime.

According to the above mentioned criteria, organizational form is not the only criterion for organised criminal group typology. In 2002 the UN published the results of a research carried out in 16 countries which differentiates the organizational forms of organised criminal groups in the world. This research lead to an organisational typology, which distinguishes five ideal types of criminal organisations: standard hierarchy, regional hierarchy, clustered hierarchy, core group and criminal networks. This typology has certain scientific relevance, but only from the aspect of organised forms of organised crime. It excludes the other criteria for typology of organised crime. Namely, each separate type of organised crime normally has a respective organizational form, that is not necessarily the same for one type. That depends on more factors. Among the most important are the socio-political and economical conditions in the country where it takes place. For example, institutional organised crime can be expressed through various organizational forms and various forms of organised criminal activities etc. All types of organised crime can be elaborated more thoroughly. Here, due to technical reasons, we will consider only the institutional type of organised crime.

2.1.1. Institutional Type of Organised Crime

The difference between group, network and mafia type of organised crime on one hand and the institutional type of organised crime on the other, along with its teleological nature, is reflected in the method of execution as well as the organizational structure. Institutional organised crime is a bit looser, which implicates a loose style of governing and discipline in the small but dynamically operative criminal groups (Layman & Potter, 2009). In the cases of institutional type of organised crime where the highest officials of government and political structures are directly involved as organisers, when they are detected, those cases cannot be proven and criminally processed for many reasons (WB, 2000; FIOS, 2006; Duvnjak, 2006; Protuger, 2007) . One of the basic reasons is due to the fact that all competent state institutions for detecting, proving and prosecuting of the perpetrators of criminal offences in the field of organised crime and corruption are both under direct control and depend upon the highest state officials, who can remove or dismiss the law enforcement officers. Namely, the institutional type of organised crime is not about the symbiotic link and co-operation between organised crime (criminal organisations, whatever form they may be), on one hand and the representatives of the government (politicians) on the other, which is the view of many contemporary authors world-wide (Lyman & Potter, 2009; Savona, 1995; Abadinsky, 2002; Dobovšek, 1997; Kaiser, 1996; Bošković, 2003). On the contrary, in this type of organised crime, the organised

crime (crimes generally associated with organized crime), originates and is organised by the highest representatives in the organizational hierarchy of state and political structure of one country (it does not exclude the possibility in specific cases to be involved other high or middle representatives of the government without their consent). So, there are important differences in a situation when the highest state officials are directly involved as organizers, main bosses around whom the main core of the institutional organised crime spins. That consists of the "devil" of institutional organised crime for which colloquially, as metaphors are used syntagmatically: political mafia, political underground and similar. Each state has its own mafia or mafias, but in Macedonia the political mafia has its own country. This maxim made up of a few words shows that a great part of the truth is of the complex conglomerate of the emerging forms of organised crime in the Republic of Macedonia (Hislop, 2002). That is a diametrically different empirical and real state of organised crime in RM, same transitional and undeveloped countries, especially when regarding the conditions of organised crime in the developed western world.

The empirical researches conducted by American authors (Chambliss, 1976: 182; Haller, 1979: 88; Layman & Potter, 2009) discovered that in some cases those who are in positions of public trust are the actual organisers of the crime. For the sake of the truth, it is important to mention that those who have sensed differently have failed theoretically to give meaning to the new type of institutional organised crime and, most importantly, to draw conclusions from the practical consequences of its theoretical establishment. However, at least in some cases their empirical knowledge contributes to the thesis regarding the need for assertion of theoretically new type of institutional organised crime. The same authors discuss that the investigations of corruption of the police in Philadelphia and New York have shown the degree to which institutionalized corruption is present among the public administration. Nevertheless, for them the new theoretical types of institutional and institutionalised organised crime remain unknown (Chambliss, 1976: 182; Haller, 1979: 88; Layman & Potter, 2009).

 Chambliss talks about state organized crime (Chambliss, 1976: 182). This term is very similar to the institutional organized crime, but is not same. The difference is that, in the case of state organized crime, he talks about direct involvement of police officers and other state officials as organizers of the organised crime, but, in that context, he does not mention the highest state officials. With the institutional organized crime the main organizers of the organized crime are the highest state officials in the institutional hierarchy in a state. Actually, if we talk about institutional crime, we have to put forward the most serious question: What about protection of the society and the legal state from its guards or those who are the most responsible in a state. More specifically, the question is: In circumstances of institutional organized crime, which and what kind of institution can protect the legal state from the "state" itself ? This issue requires serious

answer. The most optimal reaction of the society against institutional organized crime should be looked for in the answer to this question. We can not find the differences between scholars and their theoretical concepts only in different terms. Namely, we can see the difference among the theoretical concepts in the explanations of proposals for systemic connected solutions in a new normative institutional structure, which should be accomplished through qualitatively radical reforms in several sectors of the society (the basic elements of these systemic connected solutions are given in the next sections).

In the transitional and undeveloped countries world-wide, where the institutional type of organised crime is most specific, its diversity from the other types gains in weight (WB, 2000; Duvnjak, 2006; Protuger, 2007; Georgievski & Stanković, 2008; Mladenov, 2006; Kostovski, 2011; Dimitrovski, 2011). This is due to the fact that in those fragile societies without democratic tradition there is a weak and low qualitative normative and institutional structure, legal awareness and political culture. The lack of professional standards shown through incompetence and without respect to a "merit" system in the key institutions authorized to fight against organised crime, as well as the constant suspicions in regard to the independence of the judiciary and public prosecution, lead to the conclusion that for this special type of organised crime in these countries qualitatively radical reforms are needed. Deep reform incisions are required, rather than the standards for the countries of the developed world with democratic tradition.

This type of organised crime in its different forms and variants has been, is and will be present in many countries of South-Eastern and South-Western Asia, Central and North Africa, South and Central America, and of course in South-Eastern Europe. These countries have the highest corruption perception index in the world regarding the presence of the institutional organised crime.   By the way, Corruption Perception Index is not exclusive index to measure the presence of institutional organised crime. It could be complemented with other indexes, such as: low rate of direct foreign investments, low GDP per capita, high rate of poverty and unemployment, low level of human development, absence of democratic tradition, low political culture and law awareness. Political elites in the transitional countries in South-Eastern Europe, with their access to the national and natural resources, state capital, foreign support in the form of donations, "soft" credits and the abuse of European Foundations, are testaments for the cruel reality for the presence of the theoretical newly-launched type of institutional organised crime.

In all reports of the EU (EU, 2010) organised crime literally is stressed as the greatest obstacle for the Euro-Atlantic integration of the countries from the western wing of South-Eastern Europe. No essential signs in the past years have shown improvement of the situation due to the wrong perception and the wrong therapy. Thus, (let's consider the Republic of Macedonia), the number

of detected and processed cases is increased, but nothing has changed regarding the structure of the reported and convicted cases (WB, 2000; FIOS, 2006; Georgievski & Stanković, 2008; Mladenov, 2006; Maćkić, 2007; Kostovski, 2011; Dimitrovski, 2011). This is directly connected with the lack of cases against the highest officials of actual authority and their conviction with effective prison sentence, as well as confiscation of huge amounts obtained property by crime. Indeed, we have witnessed multiple arrests that rarely result in sentencing the highest ranking officials. That usually happens to the oppositional officials, though. However, we do have rare examples of arrests and criminal charges for some renegade state secretary, mayor, and there is a single case of a minister of the actual authority. The ones arrested are usually the lower clerks, who are victims in the supposedly increased fight against organised crime and corruption. In fact, that means "throwing ashes in people's faces" and creating a fake picture in front of the international factor. The actual situation is that the number of empirical examples has increased over the past 18 years. In respect to the operative-police processing, most of these cases were proven, and the number exposed by the media has increased, however hardly any has been resolved with a verdict, in the above mentioned sense (Labović, 2006).

2.1.2. Anticipated Practical Consequences of the New Definition of the Institutional Organised Crime

These theoretical elaborations have particularly significant practical consequences, as the developing or transitional countries have no interest in befogging the definition. Indeed the Convention of the UN definition for transnational organised crime, ratified by most countries, represents part of their legal systems. This convention has to be followed in official correspondence in international affairs, as well as in international operative inter-agency co-operation. We are, also, to keep in mind that this convention gives a definition for organised criminal group, containing the four constant elements that must be met in order to constitute at least one of the different types of the organised crime. Nevertheless, a new operative definition is necessary for the internal, operatively-functional purpose in the context of specific national interest, taking into consideration the differences in the causes, conditions, aims, forms and the types through which organised crime is executed in the transitional and developing countries, and those in developed countries.

The new definition has practical consequences regarding the key solutions for social control of institutional organised crime, which must be systematically postulated in a general, coherent systematically strategic approach in the fight against organised crime and corruption (WB,2000; Labović, 2006). Due to limited space I will list them briefly:

I. The necessity of a new organisationally-functional postulation of the optimal independent institution authorised in the fight against the institutional organised crime and an inextricably linked high type of corruption along with it. Considering the specific determining factors in the Republic of Macedonia and other similar countries, which are significantly different from the factors in the leading countries in Western Europe, and rationally considering the arguments for and against the concept of secure community opposed to the concept of unified and optimally independent institution, uniting the scattered authorizations and competences among the split and non co-ordinated government bodies in the field of fight against organised crime and the high type of corruption, the second concept is better (Labović & Nikolovski, 2010). Therefore, I suggest the following possible solutions:

1. Namely, according to the thorough analyses an optimally independent institution is necessary. This institution needs to be competent to fight against the organised financial crime and high type of corruption. This institution needs to be independent from the executive authority, which by definition is the core of corruption everywhere in the world regardless to the level of corruption in those societies (Nelken & Levi, 1999; Rose-Ackerman, 1999). However, this institution is not meant to be free from the system of social control established through crossing series of controlled mechanisms. It is important to mention that the founding an optimally independent institution for detecting and preventing the organised financial crime and a high type of corruption does not mean total undertaking of authorisations of the institutions that are already dealing with the issue. The title determines the competence and the authorisations of the institution. The already established institution remains responsible for the respective classical issues (competences and authorisations).

The need of an optimal independent institution comes, among other things, from the need to design specific tactics in the fight against the institutional type of organised crime, as well as their professional operative specialisation, whereby the difference, not only in the tactics of undertaking certain operative-tactical measures and actions but, also certain in the activities according to different types of organised crime, as well as the different types of crime will be taken into consideration. The method for detecting and proving is almost the same for the different types of organised crime of the same forms, as well as the other types of crime (classical, conventional and unconventional) (Labović & Nikolovski, 2010).

2. Founding an autonomous organizational unit for detecting and preventing organised financial crime and a high type of corruption, whose head will report directly to the government, with an internal organization, competences and authorizations, identical or similar to the above mentioned institution.

3. Autonomous organisational unit within the frames of the Ministry of Internal Affairs, with equal hierarchical level such as the Directorate of State Security and Contra-espionage and the Bureau of Public Security in the organisationally-functional postulation of the Ministry of Internal Affairs, with specifically defined functions (competences and authorities), organisation and systematisation.

The latter two are minimal requirements for successful institutional and organizationally functional postulation of the bodies authorized for immediate operatively-detecting work, particularly in fragile societies. Without them a prosecution against the perpetrators of criminal acts of high type of corruption and organised financial criminal would be impossible. The two most common obstacles in the Euro-Atlantic integration process of the transitional countries of the Western Balkans are the true core of the cancerous tissue with metastases directed towards the other areas of the weak and fragile societies. In a situation, when different agencies are formed as independent bodies in the state administration, the lack of creating normatively-institutional assumption for realisation of one of these minimal variants regarding the most serious issues such as organised crime and corruption (which in fact represent recommended standards in the international documents) is among the biggest and safest indicators that not real political will for resolving this problems exists. Indeed, these solutions bring possibilities of diverse modifications that correspond with the conditions specific for the country.

II. State public prosecutor is elected by an independent body, which is not the present situation with the constitutional solution in the Republic of Macedonia. Instead, the state public prosecutors are appointed and dismissed by the assembly, on a government proposal, upon prior consent by the council of public prosecutors, which is legally binding for the government. According to constituting manner in the Republic of Macedonia, the Council of public prosecutors, that provides minimal independence from the executive authority, represents an independent body of that kind. It is known that in many of countries the public prosecution represents part of the executive authority and consequently the governments have certain competence in terms of the election and dismissal of the officials in the Public Prosecution's office.

However, considering the specific determining factors of the transitional and developing countries, as well as the level of political culture, legal consciousness, lack of democratic tradition, specific cultural values etc., this extremely important state institution needs to be emancipated from the government, in order for the legal system to operate effectively. Namely, when it comes to high profile corruption and organised crime cases, involving current high government officials, disregarding the charges against ex-officials (present representatives of the opposition), the public is of the opinion that the law is selectively applied.

Due to the fact that the public prosecution operates according to the principle of hierarchy and subordination, state public prosecutor (for example in RM) has the discretional right to assign a case from one to another prosecutor in the frames of the same prosecution office or some other public prosecution office; to reject a case (reject criminal charges), due to personal findings that there is an insufficient amount of evidence for crimes or there is a lack of valid evidence for the criminal liability of the convicted persons. Aside from this, the State public prosecutor of the RM, as a member by function in the council of public prosecutors has power over this body for election and dismissal of public prosecutors on all levels.

With the purpose to elevate the efficiency and effectiveness in the field against organised crime, as well as to clear all suspicions of tendentious acts, the most optimal solution would be that the State public prosecutor is elected and dismissed by the council of public prosecutors, a competent and independent body, emancipated from the Government. The Council of public prosecutors in the RM, actually, elects all other public prosecutors. Therefore there is no reason, why the same is not applied for the general public prosecutor. This solution is extremely important considering the fact that in the past period of time the public prosecution has the lead and coordinative role in conducting the pre-investigative procedure, in the inquiry and prosecution during the entire criminal procedure.

III. Independent, efficient and effective judiciary. The judiciary, although formally-legally emancipated from the executive authority, in practice, it still suffers the influences of the executive authority on the judiciary, through different non-legal channels and causes (Ustavni Amandmani XX-XXX, 2007). Therefore the reinforcement of the independence of the judiciary and elimination of all those elements contributing to its loose, fragile emancipation from the executive authority needs to continue. Then, when all the formally-legal points and possibilities for applying direct, sophisticated pressures are removed, the judges and prosecutors will have their own personal integrity to rely on when deciding whether to fall under the influence, as the direct pressures on the dependent institutions, judges and public prosecutors cannot be discussed anymore.

IV. One of the main reasons for organised crime and corruption in same transitional and undeveloped countries is the huge concentration of political power in the hands of the government. Thus, one of the basic solutions is dispersing this enormous political power. Politically responsible government elected legitimately in free and democratic elections, must have the leadership of all current economy, social, defence, environmental, education, health care and other policies. However, in the same transitional and undeveloped countries the enormous power that the government gains through its influence on all the personnel policies in all key positions in the state apparatus and the society, has to be dispersed.

Moreover, mixed parliamentary bodies for control over executive authority must be established.

V. Providing qualitative legal frame for complete professionalization of the personnel which act on the problem of detecting, proving and prosecuting criminal offences in the field of organised crime and corruption. This solution brings successful results in the countries of the Western World. However, in the transitional and developing countries, due to the lack of democratic tradition, lack of legal awareness and political culture, the attempts for introduction of "merit" system referring to professionalization of the state and public administration, for example in the Republic of Macedonia, has not brought the expected results. That is so because when top institutional officials are political elected officials (a parliamentary democracy of pluralistic political system doesn't recognise other ways), then there are always the modules of how to trick the law on behalf of rationalisation of the needs from the vertical and horizontal redeploying of the personnel. Nevertheless, in lack of other more optimal solutions, this one would be fine.

3   SYSTEMICALLY-STRATEGIC APPROACH IN PREVENTION OF THE ORGANISED CRIME AND CORRUPTION

According to all that has been elaborated with arguments so far, the most important question is posed: is there a way out for same transitional and undeveloped countries in this state? If there is, what are those solutions? In the context of one of the fundamental cybernetic roles that every problem has a solution, there certainly is a way out. Therefore, based on the previous contexts and the principally defined solutions, the solution is the universal, coherent, complementary and consistently developed national strategy against organised crime and corruption, but also its implementation.

The fight against organised crime and corruption has lacked a general conceptual view, a vision for a coherent, universal and complementary national strategy in all these years. We are witnesses of never-ending partial solutions, which lack quality and even if they didn't, we couldn't use them if they are not in compliance with the systemically-strategic approach regarding the connection of the different segments with the basic aim of the strategy. The police and the other competent institutions manage to deal with classical crime with the mono-dimensional approach they are using. Considering the multidimensional nature of organised crime and corruption, fundamental reforms should be simultaneously made in seven crucial sectors of society, in which about 40 sub-systems would have to be embraced. Also, we have to watch the meth-

odology for realisation of the one and the same idea, because the different methodological approach in the realisation of an idea in reality changes the same idea (Labović, 2006).

Namely, the new quality proposal for the strategy against organised crime and corruption has to cover in a qualitative-radical way the most crucial sectors of society, through a system of inter-dependent and complementary measures founded in the universal and coherent legal system, as opposed to the shallow and palliative solutions (Labović, 2006). That is the difference between real deep (fundamental) reforms and the cosmetic, or to say, shallow reforms ("reformation illusionism" or "reforms due to reforms"). For accomplishing successful strategic reforms the most optimal methodological approach is the systemically-strategic approach. According to the systemically-cybernetic theory each system is a sub-system contained in some other bigger system, which complies with the principle of the infinite "Pandora's box", the smallest cell known all the way to the conventional science to infinity. Conclusively, the systematically-strategic approach means that:

A) Key sectors (systems) along with about forty sub-systems, in the frames of the universal social system have to be considered. This approach leads to cohesion and complementation of the measurements and the solutions pointing to one unique goal, whereby avoiding the contradiction of the system.

B) Reforms have to be performed relatively simultaneously or with small temporal distance in each of the systems together with their sub-systems. Otherwise, the reform of the criminal-justice system in its current form, and the reforms of the political system in five years, will fail and it will have non-optimal effects, because interaction can not be achieved by the complementary measurements and the solutions of different systems in the frames of the unique anti-corruption system. This especially refers to the balanced approach for reforms, not only in all systems (sectors), but also fields and institutions (sub-systems), authorised to prevent and fight organised crime and corruption. Reform in only one institution, for example the police, will not mean visible improvement of the conditions in the field of justice and internal affairs. The improvement of the conditions in only one segment may mean greater efficiency but not greater effectiveness regarding the fact that in the process are included more subjects which have to function with coordination.

The strategy will comprise of seven equal pillars important for its functional realisation (refer to the schematics below). Their realisation will be accomplished through qualitatively-radical reforms, deregulation as well as regulation (where needed), also through forming fundamental new programmes in the sectors where they have been non-existent until now.

I. **Reforms in the political system**
-Dispersing of the decision making process and limiting the discretionary governmental power with the aim of achieving responsible, transparent and efficient government;
-Strengthening the role of the president as a counterweight in the system of executive branch;
-Prediction of a real constitutional mechanisms to dissolve the parliament and causing extraordinary parliamentary elections;
Special anti-corruption legislation (transparency in the financing of political parties, declaration of property, prevent conflict of interests);
-Mixed-parliamentary body, whose mandate would be a basic function of monitoring the state apparatus and supervision over the work of competent national authorities to detect, prevent and proof corruption.

II. Reforms in the criminal justice system
1. Supreme Council of Justice;
2. Changed role and position of public prosecutors;
3. Independent, effective and efficient judiciary;
4. Optimal independent institution against institutional type of financial organised crime and high type of corruption.

IV. Reforms in the state and public administration
-E-government and one-stop system;
-Establishment of fully- "merit" system
-Reducing of discretionary authorizations
-Transparent system of budget management and public funds: a transparent and consistent system of public procurement and concessions;
-Reforms in the educational, energetic and health care sector, etc.

III. Reforms in the criminal law legislation.
- Criminal Code:
- Examination of the origin of the property: introducing new criminal offence- illegal acquiring disproportionate property;
- Criminal procedure Code:
-optimal application of special investigative measures
-National programs for protection of witnesses and collaborators of justice
-Removal of procedural weaknesses and so on.

Corruption and organised crime

VI. Civil sector:
-Change the role of NGOs;
- Responsible promotional and investigative journalism;
-Free access to information;
-Public hearings on draft laws

V. Reforms in economic system:
-Transparent and responsible completion of the privatization process;
- Competitive de-monopolisation;
- Deregulation of import permits;
- Enhanced liability of the companies with personal property of the owners;
-Consistent anti-money laundering legislation;
-Control of non-resident accounts;

VII. International cooperation
-Multilateral, bilateral and integration level of cooperation.

Figure 1: Draft national strategy against organised crime and corruption

4   CONCLUSION

The complex aetiology of organised crime and corruption, according to the theory for adequate multi-layered causality requires a multidimensional approach in order to explain and define the term (Labović & Nikolovski, 2010). By introducing new criteria within the analyses, such approach resulted in a new typology of

organised crime. This typology, aside from the already known types, establishes new types: institutional and institutionalised organised crimes (institutionalised organised crime is mentioned in the section "The types of organised crime" briefly due to limited space).

The new perception elevated to a level of a new theoretical concept for institutional organised crime has its own practical consequences that can be seen in the new alternative offered solutions in order to put organised crime on minimal rates. Some of the crucial solutions have an extraordinary importance for same transitional and undeveloped countries, That is because the causes, the factors as well as the conditions for the emerging of the organised crime are not the same, nor are the shapes and the types for manifesting of the most dangerous unconventional type of crime as far as the transitional and undeveloped countries are concerned (Labović & Nikolovski, 2010). Consequently, the solutions can not be the same. Here are some of the crucial solutions that must be systematically set into one comprehensive and coherent systemically- strategic approach in the fight against organised crime and corruption:

1. The need for a new organisational and functional postulation of optimally independent institution in charge to fight institutional organised crime followed by the inextricably linked high type of corruption
2. With the aim to increase the efficiency and the effectiveness in the fight against organised crime, as well as to remove all doubts for tendentious activities, the most optimal solution is the State Public Prosecutor to be elected and dismissed by a professional and independent body
3. Independent, efficient and effective judiciary
4. Dispersing the huge concentrated political power held by government hands in the countries of South-East Europe
5. To provide a strong legal frame for full professionalization of the personnel in charge to detect, prove and prosecute criminal offences in the field of organised crime and corruption.

REFERENCES

Abadinsky, H. (1994). *Organised Crime*. 3rd ed. Chicago: Nelson-Hall.

Albanese, J. (2010). *Assessing Risk, Harm, and Threat to Target resources against Organised Crime: A method to Identify the Nature and Severity of the Professional Activity of Organized Crime and its Impacts (Economic, Social, Political).* GCST: Working Paper Series, No. 12, 3-20 .

Albini, J. L. (1971). *The American Mafia* (2nd ed.). Cincinnati, OH: Anderson Publishing.

Blok, A. (1974). The *Mafia of a Sicilian Village, 1860-1960.* New York: Harper&Row.

Bošković, M. (2003). *Transnational Organised Criminal.* Belgrade: Police Academy.

Chambliss, W. J. (1976). Vice, corruption, bureaucracy and power. In W. Chambliss, & M. Mankoff (Eds.), *Whose Law? What order*? New York: Wiley.

Coleman, J. (2001). *Consirators` Hierarchy: The Story of Committee 300.* Skopje: Silsons.

Council of Europe. (2005). *Octopus Programe: Organised crime in Europe: the threat of cybercrime, Organised crime groups and networks.* Printed at Council of Europe Publishing, March 2005.

Dimitrovski, Z. (April 2, 2011). Belgrade and Skopje are shaking from the notebook of šuturkovski. *Publica,* p. 20-25.

Dobovšek B. (1997). *Organised Crime.* Ljubljana: Unigraf.

Duvnjak, G. (January 04, 2006). The companies are robbed, and there are not any judgement for false bankruptcy. *Utrinski vesnik,* p. 5.

European Commission, Brussels, 20.7.2010 COM(2010) 400, *Final Report from the commission to the European Parliament and the Council on progress in Bulgaria under the Co-operation and Verification Mechanism* {SEC(2010) 948}.

European Commission, Brussels, 20.7.2010 COM(2010) 401, *Final Report from the commission to the European Parliament and the Council on Progress in Romania under the Co-operation and Verification Mechanism*{SEC(2010) 949}.

European Commission, Brussels, 9 November 2010 SEC(2010) 1330, *Commission staff working document Serbia 2010 Progress Report, Enlargement Strategy and Main Challenges* 2010-2011{COM(2010) 660}.

European Commission, Brussels, 9 November 2010 SEC(2010)1329, *Commission staff working document. Kosovo 2010 Progress Report, Enlargement Strategy and Main Challenges* 2010-2011{COM(2010)660} Under UNSCR 1244/1999.

European Commission, Brussels, 9 November 2010 SEC(2010)1332, *Commission staff working document: The Former Yugoslav Republic of Macedonia 2010 Progress Report, Enlargement Strategy and Main Challenges* 2010-2011 EN {COM(2010)660}.

European Commission, Brussels, 9 November 2010, SEC(2010) 1331, Commission Staff Working Document, *Bosnia and Herzegovina 2010 Progress Report, Enlargement Strategy and Main Challenges* 2010-2011{COM(2010) 660}.

European Commission, Brussels, 9 November 2010,SEC(2010) 1326, Commission staff working document, *Croatia 2010 Progress Report, Enlargement Strategy and Main Challenges* 2010-2011 EN {COM(2010) 660}.

European Commission, Brussels, 9.11. 2010 COM(2010) 670, *Communication from the Commission to the European Parliament and the Council, Commission Opinion on Montenegro's application for membership of the European Union* {SEC(2010) 1334}.

European Commission, Brussels, 9.11. 2010, COM(2010) 680, *Commission Opinion on Albania's application for membership of the European Union,* {SEC(2010) 1335}.

Fickenauer, J. (2005). *Problems in definition: What is organized crime.* Thousand Oaks, California: SAGE Publications, Inc.

Fijnaut, C., & Paoli, L. (2004). *Organised Crime in Europe: Concepts, Patterns and Policies in the Eurropean Union and beyond.* Dodrecht: Springer.

Firestone, T. (1993). Mafia memoirs: What they tell us about organized crime. *Journal of Contemporary Criminal Justice, 9*(3), 197-220.

Georgievski, B., and Stanković S. (November 04 ,2008). According to the eminent new-
      spapers "New York Times" and "Herald Tribun" the Mafia in Bulgaria has its own
      State. *Globus,* p. 16-17.

Hagan, F. (2006). *Organized Crime and organized crime: Indeterminate problems of
      definition.* Berlin, Heilderberg: Springer.

Haller, M. (1979). Changing structure of American gambling in the twentieth century. In
      E. H. Monkkonen (Ed.), *Prostitution, Drugs, Gambling and Organized Crime, Part 1.*
      (pp. 313-340). New York: K.G.Saur.

Hislop, R. (2002). *Calm before Storm.* Skopje: FIOS.

Ignjatović, Dj. (1998). *Organised Crime.* Belgrade: Police Academy.

Jelinić, B. (June 26, 2007). Milo Djukanović the Boss of the Mafia. *National* (Zagreb,
      Croatia), http://www.nacional.hr/clanak/35611/milo-dukanovic-sef-mafije.

Jelinić, B., and Pašalić. (April 08, 2009). The Italian list of tobacco smugglers-Djukanovic
      first on the list of suspects. *National* (Zagreb, Croatia), http://www.nacional.hr/en/
      clanak/50324/the-italian-list-of-tobacco-smugglers-djukanovic-first-on-the-list-of-
      suspects.

Kaiser, G. (1996). *Criminology.* Skopje: Alexandria.

Kambovski, V. (2005). *Organised Crime.* Shtip: August - 2nd.

Kenney, D., & Finckenauer, J. (1995). *Organized Crime in America.* Belmont, CA:
      Wadsworth.

Kostovski, Lj. (March 01, 2011). Who is the new tobaco boss. *Globus*, p. 14-19.

Labović, M. (2006). *The Authority Corrupts.* Skopje: De Gama.

Labović, M., & Nikolovski, M. (2010). *Organised Crime and Corruption.* Skopje: Faculty
      of Security.

Layman M. D., & Potter G. V. (2009). *Organised Crime.* Skopje: Magor.

Maćkić, K. (August 04/05, 2007). There is not custody for Buckovski. *Vest,* p. 2-3. Mla-
      denov, N. (October 20, 2007). How mach dollars lied down on the account of the
      famous criminal Crvenkovski. *Fokus*, p. 8-11.

Nelken , D., & Levi, M. (1996). Corruption in the Developed World. In R. Williams, J.
      Moran, & R. Flanary (Eds.), *The Corruption of Politics and the Politics of Corruption:
      An Overview* (pp. 3-19). Northampton: Edward Elgar Publishing, Inc.

Nikolovska, N., & Sundać, D. (2001). *Scenario for economic collapse of the transitional
      countries.* Rijeka: International Business Consulting Center d.o.o.

Protuger, I. (September 05, 2007). Gruevski claims that he did not signed anything for
      "Octa". Dnevnik, p. 1, 3.

Rose-Ackerman, S. (1999). *Corruption and Government.* Cambridge: Cambridge Univer-
      sity Press.

Savona, E., Adamoli, S., Zoffi P., & De Feo M. (1995). *Organised Crime Across the Borders.*
      Helsinki: Preliminary Results, HEUNI Papers No.6.

U.S. Department of State. (2010). *Chair`s Report: Trans-Pacific Symposium on Disman-
      tling Transnational Illicit Networks.* Retrieved from htpp/www.state.gov/p/inl/
      rls/137311.htm.

United Nations. (2000). *Convention against Transnational Organised Crime and its Protocols*, Palermo.

Ustavni Amandmani (2005). *Služben vesnik na R.M.*, br. 107/05.

Vacknin, S. (May 07, 2011). CIA has guarded Osama in a "gold cage" and decided to eliminate him on the end. *Publica,* p. 7-12.

Van Duyne, P. C. (2000). Corruption in the Developed World. In R. Williams, J. Moran, & R. Flanary (Eds.), *Organised Crime, Corruption and Power* (pp. 32-69). Northampton: Edward Elgar Publishing, Inc.

Van Duyne, P.C., & Van Dijck, M. (2007). The Assessment of Organised Crime: A Critical Review. *Assessing Organised Crime project,* Deliverable 21 (Intermediate Report, 8 March 2006, http://assessingorganisedcrime.net/ publications/ AOC-DLV21-vR3. pdf

Vander Beken, T. (2004). Risky Business: A Risk-based Methodology to Measure Organized Crime Policy Making. *Crime, Law and Social Change* (44), 471-516.

Vitlarov, T., Kalajdjiev, G., Labović, M., & Stojanovski T., (2006). *The systemic analysis of the legal framework and cooperation among competent institutions in fight against organised crime.* Skopje: FIOM.

Williams, P. (2001). Transnational Criminal Networks. In J. Arquilla, & D. Ronfeldt (Eds.), *Networks and Netwars: The Future of Terror, Crime and Militancy.* Santa Monika: Rand Corporation.

World Bank. (2000). The Concept of State Capture: Anticorruption in transition: A Contribution to the Policy Debate. Retrived November 2000, from The World Bank, Washington, D.C. 20433 U.S.A.

Zoutendijk, A.C. (2010). Organised Crime Threat Assessment: A Critical Review. *Crime, Law and Social Change* (54), 63-86.

FOSTERING THE CREATION OF THE NATIONAL CRIME PREVENTION COUNCIL IN SERBIA

Author:

Saša Djordjević

ABSTRACT

Purpose:

This chapter aims at highlighting the importance of setting up the National Crime Prevention Council in Serbia, as well as proposing the model of the Council, its organizational structure, and underlining the importance of cooperation with the regional police directorates, local youth offices and municipal safety councils.

Design/methodology/approach:

The paper starts with the quantitative approach of two methodological research frameworks of the rise of criminal offences committed by minors in the period 2005-2008 in Serbia. This is examined for the purpose of spotting the main trends. The comparative analysis of the existing prevention councils, especially in Scandinavian countries and Great Britain, are used to present the main findings. In a process of creating the institutional model of crime prevention, divisional and project models are used, as typical models of the organizational structure.

Findings:

There are two main groups of recommendations. The first group concerns construction and development of a strategic approach on crime prevention in Serbia and identifying key actors in that process. It is necessary that the Ministry of Interior of the Republic of Serbia (MoI), in particular the Department for Organization, Prevention and the Community Policing Operation in cooperation with the Bureau for Strategic Planning continue the work on design and adoption of the National Crime Prevention Strategy. The second group concerns the role of National Crime Prevention Council and Crime Prevention Task Teams. The National Crime Prevention Strategy should offer a solution for creation of the crime prevention task teams that would operate within the MoI. Our idea implies that task teams should operate within the framework of the division of the country into districts, according to the Law on Regional Development from 2009.

Research limitations/implications:

The results are limited to developments on crime prevention activities in Serbia.

Practical implications:

This paper should be useful for the MoI, local youth offices, municipal safety councils and organizations of civil society in Serbia with its aim to foster the creation of the National strategy on Crime Prevention and the National Crime Prevention Council.

Originality/value:

The set of recommendations in this paper provides the new institutional framework on crime prevention in Serbia, in accordance with substantial principle that the most effective prevention policies are exactly those that are implemented on the local level.

Keywords: Crime Prevention, Strategy, Police, Prevention Council, Prevention Task Teams.

1   INTRODUCTION

Balchen: "The work the police carry out systematically and methodically either alone or in cooperation with others in order to prevent or limit the development of crime"

(Bauck, 1998:83).

The police have twofold role — production of order and security and communicating with society on different social aspects such as order, authority, morality and normality (Loader, 2002: 130). Crime prevention should be one of the main priorities of policing in order to fulfill the first role with aim to resolve insecurity and fear of crime. Additionally, we can conclude that today crime prevention is increasingly a condition for sustainable development of society (Bodson et al., 2008). Every government and society should operate with aim to preserve the safety and security of citizens, in particular youth and women's, as two different most vulnerable groups. In line with the youth we can add school's safety. The paper will mostly look on the issue of youth safety.

There has arguably been progress in Serbia, especially in the area of development conceptual framework for crime prevention and implementation of several projects for community policing. Still, the lack of a strategic approach is one of the main concerns. The problem is not only the strategy on crime prevention. In Serbia there is no the "umbrella" strategy on police reform even it was stipulated by the Law on Police (Article 7, the Law on Police, 2005). Also, the strategy and action plan for development the concept for community policing are still missing. However, in December 2010 the Ministry of Interior (MoI) adopted the strategic document with recommendations and guidelines for development in the period 2011-2016. One of the aims is adoption of the Crime Prevention Strategy and Community Policing Strategy (Development Strategy of the Ministry of Interior, 16, 17). Action plan for implementation is still missing.

In that sense, the idea of creation of the National Crime Prevention Council is of great importance. It was presented in the Initial Framework of the National

Crime Prevention Strategy from 2009, initiated by the MoI.[1] It represents the first step in the development of the strategy and announces more intense activity of the MoI in the prevention of crime; in particular the crime involving violence, drug related crime, property crime, and juvenile delinquency. Development and design of the Strategy and the establishment of the Council are the crucial elements of a comprehensive strategic approach to the crime prevention — in terms of its legislative and law enforcement aspects.

This paper is aimed at highlighting the importance of setting up the National Crime Prevention Council, as well as proposing the model of the Council — its organizational structure, and underlining the importance of cooperation with the regional police directorates, local youth offices and municipal safety councils. It draws attention to the possibility of use of EU pre-accession aid funds. Also, the paper is consistence with the goal of the Initial Framework to initiate and encourage professional, expert and social dialogue on future actions in crime prevention in Serbia.

As part of the process of further developing a Strategy, it is necessary that the MoI, in particular the Department for Organization, Prevention and the Community Policing Operation in cooperation with the Bureau for Strategic Planning continue the work on design and adoption of the National Crime Prevention Strategy by launching a public debate and presenting main concepts and findings of the Strategy to the members of the Parliament (MPs),and in particular to the Defence and Security Committee), civil society organizations and academics. This will then enable the MPs and the civil society to participate in the process and thus contribute to the quality of the Strategy.

2   INDICATORS FOR CRIME PREVENTION ACTIVITIES IN SERBIA

The indicators that speak in favour of setting up an institutional framework for the crime prevention include the increase of the number of juvenile criminal offences and violence that is most frequent among young persons.

At the end of January 2010, five civil society organizations presented their research results on the violence rates in ten secondary schools in Serbia. The results can be described as disturbing, having in mind that the research shows that every second secondary school student has been a witness to a fight, every sixth witnessed a robbery, and every eleventh student has been a witness to sexual abuse (Šulović, 2010). This supports the view presented in the Initial Framework

---

[1]   The other participants in the writing the Initial Framework of the National Crime Prevention Strategy are: Institute of Criminology and Social Research in Belgrade, the Faculty of Special Education and Rehabilitation, Children's Rights Centre and the OSCE Mission to Serbia.

of the National Crime Prevention Strategy stating that the priorities in implementing the Strategy should be to combat criminal offences with the elements of violence, juvenile misdemeanour and offences against property.

The comparative analysis of the rise of criminal offences committed by minors in the period 2005-2008 raises particular concerns. Going into details, according to the data of the Statistical Office of the Republic of Serbia, in 2005 the number of juvenile delinquents was 2945, while in 2008 it was 4085 (Statement 138, 2009). The statistical data of the MoI considerably differ from the above stated. In 2007, the number of reported juvenile delinquents was 7,983, and in 2008 the number was reduced by slightly over 9 %, and amounted to 7,263 misdemeanours (Simić, 2009).

On the other hand and due to different existing factors (or the factors that used to exist) in the social environment and which affect the behaviour of youth, young people believe that they feel they are able to gain higher social status through violence and criminal behaviour. "At first sight" any such activity seems rather profitable, and opting for such alternative seems to be an easier choice. From 2000 and onwards, youth criminal behaviour became more aggressive with strong racial and nationalistic elements. The murder of a French football supporter Brice Taton in September 2009 would appear to lend credence to this statement.[2] Promotion of non-violence among youth in Serbia is needed. Preventive action against violence among minors and young person's often makes the first step in fighting their criminal behaviour. That is how the National Crime Prevention Council, establishment of which we strongly support, gains its pivotal role.

The reaction to the above stated problems has to be strategic and preventive through: practical (preventive) measures and activities of the police and of the other stakeholders who are involved in the elimination of causes and events that give rise to criminal offences; repressive measures, by way of exposing and solving criminal offences followed by more efficient sanctioning. By developing and implementing the National Crime Prevention Strategy, and by creating the National Crime Prevention Council as a special coordination and advisory body, we are taking yet another step to prevent criminal behaviour and recidivism. Again, we are pointing out that the strategy is only the first step and that without efficient methods and crime prevention actions, in which the MoI plays a decisive role, and without qualified instructors, the outcome of all crime prevention measures is not certain (Blyth, 2009: 15). Finally, we would like to note that the development and implementation of the crime prevention strategy requires the involvement of all society stakeholders aimed at preventing criminal behaviour prior to its occurrence.

---

[2]   Brice Taton, a French football fan, was attacked in Belgrade on 17 September 2009 before the Europa League match between Partizan and Toulouse. He died 12 days later. The Higher Court in Belgrade on 25 January 2011 sentenced 14 persons because of the murder of the French fan.

3   DEVELOPMENT OF INSTITUTIONAL CRIME PREVENTION FRAMEWORK

In the process of creation of a specific institutional body, and especially having in mind that its main role should be of the counselling and coordination nature, following questions should be answered first: Why it is deemed necessary to have such an authority in existence? Which are the key stakeholders that should build up such an authority? The facts that additionally make the answers difficult are current (and future) consequences of economic crisis and of planned downsizing of state administration in Serbia.

The analysis that was presented at the beginning of the paper, though it is a breif one, provides a partial answer to the first question dealing with necessity to set up the institutional crime prevention framework. To that we also add a fact that Serbia is in need of continuous action for prevention of violence and crime, especially with regard to youth. That is why we believe that minors and young person's represent a primary target group with regard to the prevention of crime. The projects and campaigns, though *ad hoc* in nature, do produce results, but then they resolve only short-term problems, while a long-term planning which is needed for efficient crime prevention, at the moment, is not in place.[3] By creating, adopting and later on by implementing the strategy, the activity for long-term resolving of problems should be stimulated.

The coordinating and advisory role in implementing the crime prevention strategy should be vested with the National Crime Prevention Council. Long-term planning, as a prerequisite for successful crime prevention requires continuous work, constant monitoring and research into criminal behaviour over a period of several years. Police representatives as members of the National Council will play the most important role in that task due to their experience. Accordingly, the National Council will be given its second role.

Another issue refers to the crucial factor in the process of creating the crime prevention institutional framework. Political parties play the key role in the social and political life of Serbia. In their political programs or media statements, these parties, irrespective of their ideological orientation, often underline the importance of systematic fight against crime for the development of a democratic society.[4] However, an aggravating circumstance in this matter is that the prevention results are not visible while they are in the office, which is why they often avoid prevention as a method of fighting crime and instead opt for the arrests followed by "glamorous" media coverage as a way of scoring political points. Again, there is a question of whether the political parties are aware of the fact, even though it goes

---

[3]   In the past years a number of crime prevention programs was launched in Serbia, and in special those relating to juvenile delinquency. Those were: "School Without Violence", "Children Deserve a Chance for Change", "School Policeman", and "Police in the Local Community".

[4]   For example, that was pointed out in the Declaration on Reconciliation of Democratic Party and Socialist Party of Serbia. The aforementioned parties are in the ruling coalition in Serbia.

beyond their "four-year interest", that violent and criminal behaviour of youth consequently takes the form of organized criminal groups. The parties have to suppress these activities, as it was what they had promised in their pre-electoral campaigns. A special role in advocating the creation of the crime prevention institutional framework should be awarded to the Minister of Interior, as an individual who is at the top of both the political party and the Ministry itself.

Prevention should be interpreted as a crucial aspect of carrying out the policy of a state. That is why there should be space for crime prevention on the agenda of political parties. The power of political parties is of special importance for the implementation of measures, goals and priorities of the future National Crime Prevention Strategy especially on the local level. The results of prevention would probably be more modest without their support. Because of that, the National Council would have a role to provide guidelines for the action of political parties. This would be done by detecting main causes behind criminal behaviour and by defining the methods of actions (i.e., in the form of campaigns and prevention projects, as well as by different guidance). The topic that is closely related to previous issues is the lack of a public debate on the forms of crime prevention, even though some public opinion polls indicate that the "fear of crime" is of highest concern for the citizens (Public polling on the reforms of police in Serbia, 2009). That is an additional reason for the political parties to spare some room in their agenda for the prevention of crime.

Continuing the process of designing and adoption of the National Crime Prevention Strategy it is necessary to encourage a public debate. The initiators of that process should be both the MoI and civil society organizations. Through the process of adoption of the National Strategy and the work of the National Council, the MoI would assume the role of the key promoter of the crime preventive measures. This will be done by encouraging the campaigns and programs and by supporting innovative ideas for crime prevention. The exchange of information between the above stakeholders should reveal the shortcomings of the future draft strategy, and also establish necessary contacts and coordination mechanisms that will be of particular importance for the strategy implementation and consequently for the work of the National Council. It would be worthwhile that the process of designing and adoption of the National Crime Prevention Strategy does not repeat the scenario of the National Strategy for Fighting Organized Crime, which was adopted without public debate (Djordjević, 2009: 53).

4   MODEL OF INSTITUTIONAL CRIME PREVENTION FRAMEWORK

In the previous section we showed that the development of the institutional crime prevention framework requires the creation of a strategic and action plan, support of political parties, MoI, and launching of a public debate. In addition, it

is necessary to source the finances and make selection of appropriate human resources. The main purpose of this section is to offer a model of an organizational structure of crime prevention in Serbia wherein the main roles would be given to the National Crime Prevention Council and crime prevention task teams.

The National Crime Prevention Strategy should offer a solution on creation of the crime prevention task teams that would operate within the MoI. The task teams should provide regular reports and assessments to the National Crime Prevention Council, and in their operations would rely on the Council's analyses and counselling. In this way the National Council would be given the role of the main advisory, coordination and oversight authority (i.e., assessment of the work of task groups) for crime prevention.

While creating the crime prevention institutional framework, divisional and project models are used, as typical models of the organizational structure. We believe that these models are suitable for various reasons. The divisional model is used because it can be applied to large organizations, like the MoI, where the so-called divisions (in our case task teams) are relatively autonomous territorial units. This model enables decentralization of action and centralization of supervision and control of action. The project model of organizational structure in the development of the institutional crime prevention framework is used as it implies: development of a complex and comprehensive organizational structure; the targets and priorities of action of the bodies are clearly defined;[5] wide scope of the project and its importance to the society; some facts of the action are immeasurable and/or the results become visible at a later date.

Starting from the view that criminality (i.e., criminal actions) appears on the local level, in large cities, as well as in small towns, we come to the position that the most effective prevention policies are exactly those that are implemented on the local level.[6] That was pointed out in the Communication to the European Commission, the Council and European Parliament, as well as in the resolution of the Council on setting up a European Crime Prevention Network of 30 November 2009. Another reason in favour of the fact that the setting-up of the institutional national crime prevention framework should be decentralized is the fact that the only measurable results in the field of crime prevention were achieved through the implementation of the "Community Policing Project" at Kragujevac, Novi Sad, Bujanovac and some other towns, as it was pointed out in the Initial Framework (Melish & Djurdjević, 2004).

Our solution implies that task teams should operate within the framework of the division of the country into districts, according to the Law on Regional Develop-

---

[5]   This aspect was accomplished, as the goals and priorities were clearly listed in the section two of the Initial Framework of the National Crime Prevention Strategy.
[6]   Interview with Dr Slaviša Vuković, assistant professor in Crime Prevention, Academy of Criminalistic and Police Studies, Belgrade, 9 February 2010.

ment from 2009.[7] Also, the setting-up of the task teams represents the starting point of the project model of the organizational structure and it is in compliance with the divisional model. Seven task teams for crime prevention would be active in the territory of Serbia and would operate in the Regions of Vojvodina, Belgrade, Western, Eastern, Central, Southern regions and in the Region of Kosovo and Metohija. We suggest that the headquarters of each task team are to be located in the central police administration of a respective region. The above described territorial structure results in a decentralized structure, wherein each team would carry out its activities in the appropriate region (Article 5, the Law on Regional Development, 2009).[8]

Each team would ideally consist of five members – the representatives of police, local government, social welfare centres, elementary and secondary schools, and local organizations of the civil society. We suggest that the team coordinator should be a chief of one of the regional police headquarters. The composition of the National Council should be different due to its specific role of main coordination and supervisory unit. The Council should consist of five members, and one of the members should be exclusively in charge of monitoring pre-accession funds of the European Union, grant aid by the international community, donations and other forms of aid to the crime prevention projects. The Chief coordinator of the National Council and of the teams as well, should hold a high position at the MoI. One of the roles of the National Council Coordinator is to organize regular meetings with the representatives of the Ministries of Finance, Public Administration and Local Self-Government, Education, Youth and Sports, Health, Labour and Social Policy and Culture for the sake of concretization of the crime prevention measures on the national level. With the view of more efficient implementation of the crime prevention programs, and in case some crime prevention team proves to be more active in launching and implementing prevention programs, the chief coordinator should make it possible for that team to take over the role and become a "leading team" in the crime prevention in Serbia. This way, other teams would get necessary guidelines and at the same time strive to generate new ideas on crime prevention.

Even though each team would operate autonomously, it is necessary to establish a sufficient and elaborate horizontal coordination between the teams. This would improve the exchange of information between the participants in the process that is of importance especially for the assessment purposes upon completion of the crime prevention project. First, it is necessary to establish proper cooperation between the teams from the "neighbouring regions". These regions have similar, or the same, level of development and thus identical causes of criminal

---

7   Originally, the idea was to set up crime prevention task teams at each regional police administration. The idea was abandoned due to high financial expenses and difficult, or, let us says, impossible horizontal coordination of 27 teams.

8   Possible solutions are police administrations in Novi Sad, Belgrade, Valjevo, Pirot, Kragujevac, Niš and Priština.

behaviour. Team coordinators who are chiefs of regional police administrations, play a special role in the exchange of information between the regions. Second, it is necessary to establish adequate procedures of communications between all teams, and to organize meetings twice a year. We suggest that the first meeting should be organized in the region with best results, while the second should be organized in a region with the lowest achieved goals and priorities. That would enable comparison of results, enable insight into shortcomings and strengths/advantages, and offer possible alternatives or directions for the future activities. The task of each team on the annual level is to produce a report and present it to the public (primarily to its local community), MoI and the Government of the Republic of Serbia. Presentation of a Joint Report to the European Crime Prevention Network is desirable, and it is the National Crime Prevention Council that is to play the main role in the making of this report. This would result in establishing proper comparative analysis of Serbia and the European Union member states practice in crime prevention activities.

Accessing qualified funds is seen to be necessary in order to effectively implement the activities of the National Council and of the teams. In order to achieve this objective it requires soliciting a variety of potential funders to invest in the National Council and their initiatives. We would like to note that according to the Indicative Project List that will be financed from the EU's Instrument for Pre-Accession Aid (IPA) – National Program 2010, over fifteen million Euros have been allocated for various projects dealing with crime prevention. Upon obtaining the candidate status for the EU membership, these funds will be significantly higher.

If it is possible to gain financial support in this manner, we want to avoid current practice of different advisory bodies that operate in Serbia (i.e., direct financing from the budget). We believe that the shift from one financing system to another enables or even requires, higher persistence of the employees in procuring the sources of finances, and stimulates innovativeness in building programs on crime prevention. This enables higher participation of the civil society organizations from all around Serbia through creation and implementation of common prevention programs; in other words, a dialogue that is indispensable for this type of a problem. However, in the first year of their work, the National Council and the teams will require the support of the Government of the Republic of Serbia and of other key political stakeholders.[9]

Additional reason for spurring new ideas within the teams is a concept that is also envisaged by the project model of organizational structure that the teams are to be dissolved. This means that their work will be completed once the project is completed and established goals are attained. We are of the opinion that this

---

[9] This support is not only financial, it also comprises the process of making, adoption and implementation of the National Crime Prevention Strategy, launching public debates and speaking in favour of creation of the National Crime Prevention Council. We repeat, it is necessary to interpret prevention as a crucial aspect of pursuing a policy.

is equally applicable even to the prevention teams, as in the scenario of unsatisfactory results of the teams and their reports, or in the case of nonexistent interest for the creation of innovative crime prevention programs. If this is the case, we don't see any reason for the existence of such an inefficient body. This does not mean that by completion of one program and upon its evaluation the crime prevention team has necessarily to be dissolved. Instead, it means that the personnel are to be assigned to new tasks and programs. In so doing, the experience and dilemmas from the previous tasks and programs are of great importance. Along the same line, in the prevention program implementation stage the project model will enable hiring of additional personnel, whose salaries will be provided from the budget of a specific project instead from the state budget.

Human resources are of crucial importance to the project model. That is why it is very important to have clear and precise selection criteria and to ensure full adherence to those criteria during selection (of members/employees). It is necessary also to secure that the crime prevention teams consist of the experts from the field. Human resource building is thus of equal importance. From the beginning of their work crime prevention teams should launch volunteer and internship programs for the elementary and secondary school pupils and students. This is how future human resources are built and a direct contact is established with the main target group — youth, and an insight is obtained into their major problems, or causes of criminal behaviour of young persons. During that process it is also necessary to establish proper contacts with youth offices with the purpose of stimulating youth to create and implement the programs of crime prevention for young persons, and the contacts with municipal security councils. The youth of political parties — on the local level — should play an important role in the implementation of the crime prevention campaigns.

5   "SOMEWHERE TO GO, SOMETHING TO DO, SOMEONE TO TALK TOO"

The title of the final section of the working policy proposal is the slogan of the latest strategy of youth integration in Great Britain in 2007 (Blyth, 2009: 14). The slogan tells us that it is necessary to start building an institutional framework for the crime prevention in Serbia by designing the National Crime Prevention Strategy. It is the way to start debate on the prevention of criminal behaviour and crime in Serbia. By setting up the National Crime Prevention Council and by building the teams we are to start „talking" about the problem and make the first step in fighting criminal behaviour.

The sociologists Renato Matić and Anita Groznica, who teach at the Police College and the Faculty of Philosophy in Zagreb (Croatia) respectively, have correctly

put noted that" "opting for crime is evident as an acceptable and simple way for achieving desired goals with almost no danger posed, without unacceptable or without any sanctions at all" and that all countries of the Western Balkan are moving around in the so-called "enchanted circle of crime" that implies the "condition when crime is stubbornly fought by the same logic that has actually enabled its development (calculation of costs made to match partial and individual interests instead of common and general ones)" (Matić & Groznica, 2008: 145-159).

Using the British slogan we want to plead and urge for an action that will take us out of the "enchanted circle of crime". We are aware that the realization of such an ambitious goal requires a lot of time, but it is necessary to start from somewhere.

6   INSTEAD OF MAKING CONCLUSIONS: RECOMMENDATIONS FOR THE FUTURE

6.1   Strategic approach to crime prevention

- It is necessary that the MoI, in particular the Department for Organization, Prevention and the Community Policing Operation in cooperation with the Bureau for Strategic Planning continue the work on design and adoption of the National Crime Prevention Strategy. This will be achieved by launching a public debate and presenting main concepts and findings of the Strategy to the members of the Parliament (the Defence and Security Committee), civil society organizations and experts, to enable them to participate in the process and thus contribute to the quality of the Strategy.

- The Government should commit to organizing public debates in the process of adoption of national strategies. For that purpose, it is necessary to amend the Government Rules of Procedures, whereby public debate is obligatory for the process of preparation of laws, while according to the Government resolution on amendments and modification of the Rules, a public debate may be organized on the issue of development strategies.

- The Department for Organization, Prevention and Community Policing Operation needs, upon adoption of the Strategy, should create an action plan for the Strategy implementation and setting up the National Crime Prevention Council no later than six months from the date of Strategy adoption.

- It is necessary to improve the coordination between the MoI, in particular its Division for Finance, Human Recourse and Common Affairs, with the Ministry of Finance that plays a decisive role in terms of long-term planning that is needed for efficient crime prevention.

6.2   National Council and Crime Prevention Task Teams

- The Department for Organization, Prevention and Community Policing Operation in cooperation with the Academy of Criminalistic and Police Studies and civil society organizations should produce a concrete plan for setting up the first crime prevention team consisting of the personnel who had been engaged in the creation of the Strategy. The chief of the Department should be the Chief Coordinator in setting up the first team.

- The Chief Coordinator, acting in cooperation with the Human Resources Directorate, Directorate for Education, Training, Professional Development and Science and the experts from the Academy of Criminalistic and Police Studies are expected to make selection of executive positions in the first crime prevention team (e.g., in the Belgrade region).

- It is necessary to find suitable premises for the work of the team, and necessary IT and other equipment. A press conference, brochures, website and other promotion tools should be created to inform the public about the work of the Council.

- At the beginning of the crime prevention teams' work it is necessary to produce typology and database on the crime prevention mechanisms in Europe, identify prevailing forms of crime in Serbia and most endangered groups of the society; start the work on making guidelines (i.e., methodological framework).

REFERENCES

Bauck, H. (2005). *Strategic Analysis — Knowledge to Lead.* Oslo: The Norwegian Police Directorate, Analysis and Crime Prevention Section.

Blyth, M., & Solomon, E. (2009). *Prevention and youth crime: Is early intervention working?* Bristol: Centre for Crime and Justice Studies.

Bodson et al. (2008). *International Report on Crime Prevention and Community Safety: Trends and Perspectives.* Montreal: International Centre for the Prevention of Crime (ICPC). Retrieved August 10, 2010, from http://www.crime-prevention-intl.org/uploads/media/pub_201_1.pdf

Dave Melish, D., & Djurdjević, Z. (2004). Results of Assessment of the Project – Police in the Local Community and Safe Community of Serbia. *Nauka, bezbednost, policija, 9*(2-3), 215-236.

Democratic Party of Serbia. (2008). *Declaration on Reconciliation of Democratic Party and Socialist Party of Serbia.* Retrieved May 28, 2009, from http://www.ds.org.rs/dokumenti/Deklaracija_o_politickom_pomirenju_i_zajednickoj_odgovornosti_DS_SPS_2008.pdf

Djordjević, S. (2009). Strategic Response of Serbia to Organized Crime. *Western Balkans Security Observer 4*(15), 44-55.

European Commission. (2004). *Crime Prevention in the European Union*, Communication from the Commission to the Council and the European Parliament, COM(2004) 165 final, Brussels, 12.3.2004.

European Council. (2001, 2009). *Council Decision setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA, 2009/902/JHA*, 30.11.2009.

Loader, I. (2002). Policing, securitization and democratization in Europe. *Criminology and Criminal Justice 2*(2), 125-153.

Matić, R., & Groznica, A. (2008). Hrvatsko društvo i začarani krug kriminala (Croatian Society and the Enchanted Circle of Crime). *Revija za sociologiju, 39*(3), 145–159.

Simić, M. (2009). Banalna čarka u trenu se preobati u ubistvo [Minor argument turns into murder]. *Politika Online*. Retrieved February 22, 2009, from http://www.politika.rs/rubrike/Tema-nedelje/maloletnicki-kriminal-usrbiji/Banalna-charka-u-trenu-se-preobrati-u-ubistvo.lt.html

Strategic marketing. (2009). *Public polling on the police reform in Serbia*, November 2009. Retrieved February, 2010, from http://www.mup.sr.gov.yu/cms/resursi.nsf/OEBS-Istrazivanje.ppt

The Ministry of Interior of the Republic of Serbia. (2010). Development Strategy of the Ministry of Interior 2011-2016, December 2010, from http://www.mup.gov.rs/cms/resursi.nsf/2011-2016-DEVELOPMENT-STRATEGY-OF-THE-MINISTRY-OF-INTERIOR.pdf.

Šulović, S. (2010) Đaci masovno kriju batine zbog straha od osvete [School children mostly hide that they have been beaten for fear of reprisal]. *Blic Online*, Retrieved January 23, 2010, from, http://www.blic.rs/Vesti/Drustvo/173542/Daci-masovno-kriju-batine-zbog-straha-od-osvete

Law on Police (2005). *Official Journal of the Republic of Serbia*, no. 101/05, Retrived August 26, 2009, from http://www.parlament.gov.rs/content/lat/akta/akta_detalji.asp?Id=296&t=Z

Law on Regional Development (2009). *Official Journal of the Republic of Serbia*, no. 51/09, Retrieved July 8, 2009, from http://www.parlament.gov.rs/content/lat/akta/akta_detalji.asp?Id=661&t=Z

The Republic of Serbia Statistical Office (2009). Juvenile Offenders 2004 – 2008, Statement no. 138, year LIX. Retrieved May 28, 2009, from http://webrzs.stat.gov.rs/axd/dokumenti/saopstenja/SK11/sk11122008.pdf

PREVENTIVE POLICY
OF SCHOOL VIOLENCE IN THE
REPUBLIC OF MACEDONIA

Authors:

Vesna Stefanovska and Natasha Jovanova

ABSTRACT

Purpose:

The legal and institutional capacities of schools in combating school violence among pupils will be recognized including identification of the staff attitudes toward school violence.

Design/methodology/approach:

The study utilized a quantitative and qualitative approach to data collection that included a survey among school staff and review of legal regulation related to prevention of school violence.

Findings:

Regarding school prevention policy, school policy, way of school violence treatment, and effectiveness of measures undertaken will be identified and presented.

Research limitations/implications:

The results can be generalized for the territory of Skopje, the capital of the Republic of Macedonia, given the quantitative and qualitative nature of the research which has encompassed 14 schools chosen by certain criteria.

Practical implications:

The research findings can be used as useful source of information regarding school violence and prevention policy for combating violence.

Originality/value:

This paper shows the existence of school violence among pupils and should be of particular interest to schools, parents, Centres for Social Work, Ministry of interior and the Ministry of Education and Science in order to prevent school violence.

Keywords: School Violence, Pupils, Prevention, Policy

1   INTRODUCTION

Over the past few decades we have been witness to major changes in societies at global level, which have produced, apart from positive effects, a series of negative consequences. Increased violence in all segments of society has also generated increased aggressiveness and violence among children. Violence among children in schools is an issue which is recurrent subject of discussion both among school professional and general public, as well in the Republic of Macedonia (Jovanova & Stojkovska, 2010). Considerations and research continue in search for answers to several very important aspects related to violence at school. Discussions tackle several essential questions, namely: *how widespread is the school violence, what are its phenomenological and etiological characteristics, what consequences it produces and which measures and programmes are the most efficient to prevent this type of violence?*

School violence is a growing concern requiring necessarily the responsibility, before all, by students themselves, as well as family, school, local community, media, civil sector and police. They are factors of protection that through certain preventive mechanisms of control and protection constitute parts of preventive policy of the educational system aimed at this phenomenon reduction. Safe school environments are seen to be a prerequisites for a successful education process, which in turn is the basis for the proper development and professional guidance of young people in the society.

2   GENERAL REFLECTIONS ON SCHOOL VIOLENCE

2.1   Phenomenological aspects of school violence

Previous studies have focused mostly on physical violence and aggressive behaviour of boys in elementary and high-schools. This can be explained by the fact that school personnel and parents could more *easily identify physical violence, as well as by certain stereotypes according to which violent pattern of behaviour is specific exclusively to boys.* Nevertheless, the results from the school violence research during the last couple of decades have indicated that *girls alike appear as persons standing behind violence, using however different forms of violence, such as verbal and psychological* (Dawn, 2008). It often happens that a group of female students typically isolate another female student from certain activities, games, associations with, attaching abusive nick-names or making comments on dressing style or spread false gossip for a longer period in order to trigger repulsiveness and embarrassment (Jovanova & Stojkovska, 2010). This form of violence *often remains overlooked both by school personnel and victim parents.* Nonetheless, we have to note that *these subtle methods of violence can cause equally serious consequences, and sometimes even greater than in the case of physical violence!*

School violence can express itself in many different forms. The most simple expression of such violence is the division in direct and indirect, as well as physical or verbal violence. The Child Protection Policlinic in Croatia, based on their research involving 25 primary schools and students from IV to VIII grades of primary school in 13 Croatian cities, concluded that violence could occur in several forms, namely: a) *emotional* – through intentional exclusion of the victim from common activities in the class or the group or ignoring; b) *sexual violence* assuming unwelcome physical contact and abusive comments; c) *cultural violence* through insulting on ethnic, religious and racial basis; d) *economic violence* which involves stealing and money extort (Child Protection Policlinic, 2004).

Based on the research results concerning school violence on global level, we can offer some general observations; meaning that there are different or *changing phenomenological characteristics of school violence, increasing proportion of girls involvement, replacement of lighter with more severe forms of violence, more direct with more subtle forms of violence and there is also increase in group violence in schools* (Jovanova & Stojkovska, 2010).

2.2   Consequences deriving from school violence

Olweus (1993), who was the first to initiate studies in bullying among boys in Scandinavia, encouraged research in other European countries as well (especially in United Kingdom) in 1970s and 1980s and in Australia in 1990s (Graycar, 2003). Besides the amount of violence in schools, forms of and reasons for the violence, researchers began to focus on consequences caused in victims, bullies and witnesses. Evidence of negative consequences from school violence keeps accumulating. Based on the results of longitudinal studies, it was concluded that enduring exposure to school violence often undermined the health and the wellbeing of vulnerable students. It was maintained that numerous consequences that could occur with the victim, such as loneliness, depressiveness, sorrow, fear, uncertainty, low self-confidence and even sickness remained in later life as well.

Based on research completed in Croatia in 2003, the results showed that victims of violent behaviour in schools when aged twelve or younger expressed feelings of greater depression than did those young persons who had not been victims of such behaviour. The research revealed links between violent behaviour during school age and criminal behaviour later in life, as well as that children occurring as bystanders in violent behaviour and frightening in schools could become more prone to higher risk of aggressive behaviour tolerance in future (Child Protection Policlinic, 2004)

Consequences from school violence can be severe and even fatal. Mona O' Moore of the Anti-Bullying Centre, Trinity College Dublin, stated: "*There is a growing body of research which indicates that individuals, whether child or adult who*

are persistently subjected to abusive behaviour are at risk of stress related illness which can sometimes lead to suicide". Accordingly, victims (and perpetrators) of school violence can suffer from **enduring emotional problems in behaviour, depression, anxiety and low self-confidence** (Jovanova, 2008).

Given the potential consequences that could result from these types of student behaviour, we inevitably come to the question: what could be done to reduce school violence, and how can we grow positive atmosphere and environment for children to live and learn in? *Preventing the violence and aggressiveness with young people is valuable per se, and for the fact that the scale of violent and aggressive behaviour in early age corresponds to more certain movement towards later problems in behaviour.* (Department of Health and Human Services, Centre for disease control and prevention, 2007: 53).

3   THEORETICAL AND METHODOLOGICAL FRAMEWORK OF THE RESEARCH AND ANALYSIS OF RESEARCH FINDINGS

The expanding prevalence of violence in society today has been motivating us more and more towards a deep and serious consideration of violence among children and young people in schools as destructive factor influencing the future of our society.

With reference to the prevalence of this deviant issue, in 2001/2002, the World Health Organization carried out a survey in health behaviour in school-aged children concerning the spread of bullying among 13 year-old boys and girls around the world. The survey involved 36 countries, including the Republic of Macedonia. According to the results obtained, the percentage of children bullying others two or more times during the previous couple of months in the Republic of Macedonia was 7 % for girls and 13 % for boys. The percentage of those victimized two or more times in the past couple of months was 12.1 % for girls and 13.6 for boys. Given the results, Republic of Macedonia is somewhere in the middle of the scale according to the level of bullying frequency, which should in no case be underestimated (Craig & Harel, 2004).

However, the manner of reaction to school violence is a matter of particular interest (i.e., whether there are appropriate legal and institutional mechanisms in place for an efficient prevention of the problem). Information confirms that there have been no in-depth surveys in both professional theory and practice to enable scientific analysis of the efficiency of measures undertaken to prevent school violence, how can they achieve their goal and meet the needs not only of the school, but also the student and damaged party.

The immediate reason for a survey of this kind is related to the awareness of the positive research findings and innovative programmes for school violence prevention in many countries in the world. In this regard, if we expect that schools assume a greater responsibility in its' role of children upbringing, and if we want the measures undertaken against students with certain deviant behaviour to be in their "best interest" towards protection, training and proper development, we should establish a system of pedagogical measures that will influence students to accept their responsibility, but will also provide assistance and support in overcoming the reasons and the negative consequences of their adverse behaviour.

Taking into account that the school is an environment where children grow-up, develop, learn and receive training, while teachers and entire school personnel are carriers of and responsible for the performance of all those functions, we have set a task to get better acquainted with the preventive policy of primary and secondary schools in the Republic of Macedonia and the efficiency of its implementation, by way of empirical analysis.

More specifically, the subject of theoretical and empirical elaboration of the work is the legislation reflecting the preventatitive policy of the educational system for school violence prevention, as well as inconsistencies and weaknesses encountered in its implementation. The role of school personnel in the prevention of this phenomenon should be even more prominent given the fact that they are competent and responsible for establishment and provision of sound and safe school environments. Thus, by way of analysis of the views of school personnel, we are able to discover that their approach to the seriousness of the phenomenon of school violence, measures they undertake and the readiness for innovative and new ways of application towards violence prevention.

On the basis of reassessment of the legal and institutional framework, the ultimate goal is to propose new innovative solutions (i.e., a more appropriate preventive model to comply with the generally accepted practice of introduction of programmes for school violence prevention in accordance with international standards and the best practice in certain countries in the world).

The basic hypothesis that: *school violence is a serious problem based on the magnitude and the nature of negative behaviours of young people* has been taken as starting point. The seriousness is measured by qualitative and quantitative frequent manifestation of negative behaviours and conflicts in schools and through consequences arising from these negative behaviours. Specific hypotheses subjected to verification include: *there is no appropriate legal framework for school violence prevention, there is a lack of children upbringing function of schools in education and conflicts resolution and traditional disciplinary measures do not reduce school violence.*

Empirical data was gathered by way of polling technique through written survey containing open and closed questions. The sample included respondents from several offices in 14 primary schools in the capital of the Republic of Macedonia – Skopje. The main criterion in the selection of primary schools was the proportional representation of students of different ethnic communities in the capital, primarily in urban areas of the city. The survey was conducted in the period May - June, 2010 (see Table 1).

Table 1: Research sample of school personnel, according to ethnic background, gender, position in the school and age.

Research sample	71 respondents (school staff)
Ethnic background	%
Macedonians	65,7
Albanians	22,9
Turks	1,4
Roma	10,0
Serbs	/
Bosnians	/
others	/
gender	%
male	24,3 %
female	74,3 %
position	%
teacher	64,3
pedagogue	16,1
psychologist	10,7
principal	8,9
Age structure	
25-35	36,7
36-45	19,6
46-55	18,2
Over 55	23,8

School violence in the Republic of Macedonia is a phenomenon which has gone unrecognized by educational institutions, by professionals as well as by the general public as representing a problem that could grow into a serious threat to the establishment of safe school environment and successful educational process for young people. In both electronic and printed media, we can find oc-

casional articles on the phenomenon of violent behaviour among students or between a student and a teacher in certain primary and secondary schools, but the problem remains recorded only in the archives of media without profound approach thereto by the competent state institutions. Relevant indicators can also be found on 'You Tube' Internet sites. These are actually amateur recordings made by cell phones revealing violent behaviour (e.g., fights, breaking of school equipment) among students in classrooms, schoolyards, during classes. Records titled *"fight in geography", "fight in Dimitar Miladinov", "fight in Goce Delcev Tetovo", "female fight in economic school Prilep"* represent but a small sampling of video entries that can be found on the Internet network (Jovanova & Stojkovska, 2010).

Based on the above, we raise the question whether there is an appropriate legal framework to address the phenomenon of school violence in the Republic of Macedonia on one side, and which measures should be undertaken to prevent it, on the other.

The existing legal framework (i.e., the statutes and the laws on primary and secondary education prescribe the pedagogical measures and the manner of their pronunciation towards students for their inappropriate behaviour). Thus, under Article 57 of the Law on Secondary Education (Official Gazette of the Republic of Macedonia no. 44/95), for violation of duties and failure to fulfil the obligations, a student can be given a *written warning, warning before exclusion and exclusion from public school.* In addition, statutes of primary and secondary schools also include *reprimand, oral warning, reduced grade in behaviour, transferring the student to another class and transferring the student to another school* (Official Gazette of the Republic of Macedonia no.103/08)**.** These measures apply in the following cases: irregular attendance of school; violation of the rules of conduct towards other students, teachers and adults; improper attitude towards school property and disruption of training and educational work in the classroom and school.

Concerning the principles upon which they should rely, the law specifies that pedagogical measures should be unbiased, balanced and fair, which means they should be proportional to the level of severity of the violated rule. Such legal formulation indicates that pedagogical measures are much more focused on the level of responsibility of students and their inappropriate behaviour, instead on the consequence and damage made on the victim.

As far as the nature of pedagogical measures is concerned, we can agree that given the fact that the measures are pronounced gradually (i.e., *reprimand, oral and written warnings*), that more stringent penalties will follow in case of failure to correct. It has been repeatedly evidenced that frightening as an element of retributive justice fails to produce correction effect. A young person should realize the fault, but administering warnings have little effect on this. For example,

for the student who has physically injured his/her fellow student, there is a low probability to realize the harmful consequences of their deviant behaviour if only warned. There is even lower probability that their disrupted relationship is re-established. Only if the student hears of how the injured student feels he can realize the pain caused thereby.

Also, the *lower grade in behaviour* is a measure of retributive nature and it is essentially a penalty pronounced *"as deserved"*. In other words, it means: "*you did a bad doing, you have got a problematic behaviour and therefore your grade in behaviour will be lowered. The measure will be entered in your student's records and everybody will know that you have lowered grade in behaviour"*. What does the previous comments and observations reflect other than it is a form of stigmatizing the offending student! According to Article 42 of the Statute: "*when positive changes with the student occur, the pronounced pedagogical measure reduced grade in behaviour shall be withdrawn."* Nevertheless, positive changes with student can occur only if the school enables his/her reintegration in the school community.

Transferring a student to another class is used on in extreme cases where school discipline and where prior mentioned pedagogical measures have failed to influence positively the delinquent behaviour of the student. But, should students be separated because of disrupted relations? The relationship remains disrupted. Or, if a teacher is not able to cope with the discipline of a student and proposes that she/he *is transferred to another class or another school,* as last and most stringent measure, it would mean: "*you do not belong here, we are transferring you to another school"*. However, this means that the problem is actually transferred to another school.

Can such policy of coping with the school discipline solve the violence? No. In essence, due to shortage of resources, teachers and school administrations resort to quick solving and low budget disciplinary measures that "expel" students from schools and thus have no influence in terms of their improved behaviour, nor they provide appropriate learning environment in this way. Abandoning a problematic student does not mean a problem less for the school. Due to the separation of educational and training functions of the school, avoiding responsibilities by school personnel and leaving the problems to others to solve, we lose our feeling of community. Expelling will not remove the problem, but simply relocate it for a certain period and from a given place (Jovanova & Stojkovska, 2010).

The survey examining the views of school personnel on school violence contained certain questions through which the views of the school personnel on certain school violence related aspects can be measured: *presence of the issue, phenomenological and etiological characteristics, application of measures towards perpetrators and victims and their views concerning prevention of school violence.*

Based on the results, we may note that *mainly the school personnel do not perceive violence in their school as a serious problem.* Around 39 % of respondents answered that it was a serious problem, 40 % of the respondents stated that it was not very serious problem, while 20 % of them maintained that violence in school was not a serious problem. *With reference to the results on the frequency of the violence in schools, 55.7 % of the respondents maintained that it happened rarely in their school*, 31.4 % answered that it happened frequently, while 11.4 % said that there was no violence in their school. Through the question *"how many students have been victims of maltreatment or teasing in the school once in a week"*, we may note that the school *personnel recognizes mostly male students in higher percentage as victims to school violence*, while 35 % of the respondents answered that no single girl has been a victim to maltreatment or teasing in their school. However, *it is possible that these results may be questioned, especially given the fact that the school personnel recognizes and notes the physical violence much easier than the psychological one, which is though more common among female students.*

With reference to phenomenological characteristics of school violence as observed by school personnel's point of view, answers of the respondents indicate that 20.3 % of the school personnel recognize "hitting, kicking, pushing" as the most common form of violence (indicating that the percentage of only physical violence identification is the highest). "Teasing, mockery, discrediting, indecent gestures" as a form of violence is recognized by 14.5 % of the respondents. The other 21.7 % of the respondents maintain that the combination of "hitting, kicking, pushing" and "teasing, mockery, discrediting, indecent gestures" is prevalent. It is worth mentioning that only 15.7 % of the respondents recognized social isolation and exclusion as a form of violence both as independent form or in combination with other forms of violence in schools.

When it comes to group violence, based on the question of who commits the violence most frequently: *the school personnel maintained in higher percentage that groups committing violence were composed of boys and girls (18.3 %) or 16.9 % responded that the groups were composed of boys only.* 18.3 % of the respondents declared that violence in their school was most frequently committed individually by boys only, while 2.3 % responded that it was committed individually by girls. For 11.4 % of the respondents violence in their school was committed mostly by boys, both individually and in a group.

With reference to school personnel views on the possible reasons/motives for the school violence, we may conclude that the *personnel recognizes in highest percentage the feeling of power wanted to be achieved by students through violence commitment over another student (24.3 %), jealousy existing with students (7.1 %), as well as triggering or getting certain attention (5.7 %).* Part of the school personnel indicated "to feel powerful" and "low level of self-confidence

existing with students" as the most frequent combination (14.3 %) of reasons for violence commitment in their school.

The questions concerning the measures undertaken towards perpetrators and victims of violence did not get any answer in 19 % of the surveys. This approach indicates either absence of interest with part of the school personnel or fear from placing certain information out of the school to the public that could have negative repercussions over the status of the school and consequently over their job position. Other responses lead to the conclusion that the: *most often applied measures towards victims include: talking to them and their parents and, if required, referring the case to centres providing social and psychological assistance. On the other side, the most frequent measures applied by the school personnel towards the perpetrators of school violence are those specified in the Statute of the school.* Based on the answers, it may be noted that the school personnel has not demonstrated any creativity or innovation in coping with the violence in schools, i.e. they act with lack of interest. *The school personnel most often focuses only on the measures specified in their rulebook (oriented mostly to penalties) and with no initiative for introduction and implementation of measures and programmes based on the principles of restorative justice.*

Considering the fact that the highest percentage of the school personnel responded that traditional measures specified in statutes were applied towards perpetrators, respondents were asked about the effects of these measures in preventing or reducing the violence in schools. Around 60 % of the respondents maintained that mainly positive effects of measures undertaken could be recognized, 14 % responded that measures did not cause any effect, and 5 % of the respondents pointed out that their efficiency depended on the type of the specific case. To the question of what kind of measures should be undertaken for violence prevention in their school; around 50 % of the school personnel answered as follows: *talking, bringing perpetrators face to face with victims and measures of punishment.* Considering the fact that we can not talk of any prevention in school violence without the support of and cooperation with parents as the most important ring in the process of bringing up and education, the school personnel was asked on how much the parents participated in violence prevention. Around 57 % of respondents answered that parents participated, and only 26.5 % pointed out that parents were not included in school violence prevention. However, despite such responses, there was contradiction in relation to the next question: *how do you assess the cooperation with parents when their child is involved in school violence?,* because more than 55 % of the respondents declared that the cooperation with parents was without results, insufficient, at low level or very difficult, and only 24 % of the respondents maintained that the cooperation with parents was at satisfactory level.

4 CONCLUSIONS AND PROPOSALS FOR SCHOOL VIOLENCE OVERCOMING IN THE REPUBLIC OF MACEDONIA

Based on the analysis of the legal framework, we may conclude that the legal acts of the Ministry of Education and Science and the Bureau for Education Development of the Republic of Macedonia do not include documents or policies for prevention of and coping with school violence. The Macedonian educational system, in case of *violation of duties and failure to fulfil the obligations by the student,* focuses on punishing rather than on trying to 'correct' the student. Little to no effort is directed to correcting the harm, and there is no evidence of any efforts towards reintegration. Finally, there are no provisions for the victims! Traditional disciplinary measures focused on threat, punishment and exclusion do not have the effect of school violence reduction, nor they can establish a cohesive school environment. Students are often repeaters and under traditional disciplinary measures they can not take over the responsibility for their deeds and realize the consequences of the deed.

In addition to the above, neither the laws nor the statutes of primary and secondary schools define the goals of pedagogical measures, nor is the role of the parents is recognizable as an important factor in school violence overcoming.

With reference to the views of the school personnel on school violence, we can recognize the basic weaknesses of school policies in general, and in the segment of the violence in the school environment in particular.

The results of the research lead to several general conclusions with regard to deficiencies of school policies, namely:

- Absence of distinction of certain more subtle forms of violence by school personnel, and consequently *non-established standards of behaviour in terms of prohibition of psychological violence in schools.*

- In coping with the violence in schools, the personnel *undertakes only traditional measures specified in official acts of the schools, without demonstrating any initiative and enthusiasm towards application of different measures based on restorative justice, through which the interests of all stakeholders will be balanced. The current school policies define only traditional measures oriented towards the student-perpetrator, while victims as a category in need for necessary assistance and support are omitted.*

- School personnel still lacks any developed awareness and skills or there is a lack of interest in relation to *compulsory implementation of certain restorative programmes and exercises, preferably within regular curricula of schools in order to build positive attitudes in children. This indicates the absence of restorative approach in school policy.*

Finalization of the legal framework with bylaws, certain preventive programmes and adoption of National Strategy for school violence prevention are imperative steps. Specific subject of regulation should be certain preventive measures. Thus, for example, in many countries around the world, school conflicts are resolved through *restorative measures,* which focus on the disrupted relation, elimination of harmful consequences and active participation of the parties in problem resolution instead on the punishment of the perpetrator. Although there are numerous definitions of restorative justice, the generally accepted is the definition of Tony Marshall, according to which restorative justice is a process in which parties meet to resolve the conflict and its implications for the future (Marshall, 1999).

When it comes to school conflicts, the goals of restorative practices include increased responsibility of students, their acceptance in the school environment, assistance to and protection of victims, and encouragement of the school itself to deal with its conflicts. It is responsible to provide safety and appropriate conditions for studying, and consequently it should provide efficient control mechanisms to rely upon reparation of relations, restitution (i.e., correction of damage and reintegration of the student). So, restoration measures are alternatives of the measures suspension and exclusion from the school, which offers an environment that, will improve learning. Some practitioners, instead of the term *restorative justice* use the term *restorative discipline* in school (Swanson & Owen, 2007).

Good practice of development of preventive strategy for school violence assumes establishment of the concept *"discipline that restores"* which is a strategy for greater respect, cooperation and responsibility in school. Based on such an approach, delinquent behaviour is perceived primarily as disruption of human relations, and just afterwards as violation of certain school rule. In addition to this, the conflict, besides the primary victim, involves other persons affected by the deed (e.g., other students, parents, and teachers). As secondary victims, they should take part in the process of the problem overcoming as well, because they are above all members of the same community and share the same responsibility.

Restoration type practices of conflicts resolution enable the transgressors to learn from their mistakes (i.e., young students are trained by their own experience, as other participants in restoration process can say why her/his behaviour is unacceptable and how has it affected them) (Barton, 2001:6). Discipline should not have authority and employ force, but it should build relations of trust between student and teacher.

Among different types of restoration programmes, the most widely spread types of restoration programmes are conferences, circles and school boards for responsibility. Their goal is to encourage the students to take an active part in the process of resolution which should achieve reconciliation and re-establishment of the disrupted relationship. Subject of the agreement or the restoration

measures may be compensation of damage done, oral or written apology, essay composing, visiting certain counselling centres, etc. (O'Brien, 2005).

Theoretical and practical training of the school personnel in the application of restorative measures is necessary segment. Professional qualifications, specific knowledge of restoration justice and permanent scrutiny of new reforms in school violence prevention have unquestionable role in the achievement of efficient results based on the plan for this issue elimination.

In general, there is an agreement that pedagogical measures should include benefits for the *school,* for the *student* (assistance in overcoming the difficulties in learning), for the *family* (support in the conduct of intensified supervision, referral to counselling, inclusion in the school community) and for the *community* (removal of graphite). So, restorative justice in schools should help the parents to take an active part in the educational process of their children and the student to respect others and not terminate education. In this way only, the school may achieve its training and educational functions (McElreai, 1997).

The research results presented in this chapter have shown the need to adopt and introduce a system of discipline maintenance in the Republic of Macedonia to address the needs of the fault making students, their schoolmates that have been injured and the school which needs to establish sound and safe environment.

REFERENCES

Askly, J., & Burke, K. (2005). "*Implementing restorative justice: A guide for schools*". Illinois Criminal Justice Information Authority, Retrieved June 15, 2010, from http://www.icjia.state.il.us/public/pdf/BARJ/SCHOOL%20BARJ%20GUIDEBOOOK.pdf .

Bargen, C. (2003). *Safe schools: Strategies for changing a culture.* VOMA Connections, no. 13.

Boyle, D.J. (2005). Youth Bullying: Incidence, Impact, and Interventions. *Journal of the New Jersey Psychological Association, 55*(3).

Bullying. A practical guide to coping for schools. Third Edition Edited by MICHELE ELLIOTT, 2002, p. 126.

Child Protection Policlinic (2004). *Violence among children.* Zagreb.

Claassen, R. (2002). *An Introduction to "Discipline that Restores.* (DTR).

Classen, R. (1993). Discipline that restores. *Conciliation Quarterly Newsletter, 12*(2).

Cowie. H., & Dawn, J., (2008). *New perspectives on bullying.* New York: Mc Graw Hill-Open University press.

Craig, W., & Harel, Y. (2004). "*Bullying, Physical Fightingand Victimization*". In Currie et al (Eds.), *Young People's Health in Context: Health Behaviour in School-Aged Children* (pp. 133-144) (HBSC) Study, International Report from the 2001/2002 Survey.

World Health Organization, Retrieved march 20, 2008, from http://www.prevnet. ca/Bullying/BullyingStatistics/tabid/122/Default.aspx.

Department of health and human services, Centre for disease control and prevention (2007), "Morbidity and mortality - The effectiveness of Universal School Based Programme for the prevention of violent and aggressive behaviour", vol 56, no RR 7. Retrieved September 05, 2010, from www.cdc.gov/mmwr/pdf/rr/rr5607.pdf

Hoover, J.N., & Oliver, R.L. (2008). *The Bullying Prevention Handbook: A Guide for Principals, Teachers and Counsellors*, 2nd edition in Bloomington: IN: Solution Tree Press, Retrieved august 10, 2010, from http://www.scribd.com/doc/19014288/Principles-of-Bullying-Prevention.

Jovanova, N. (2008). *Nasilstvo pomegu decata i mladite.* Godisnik na Policiska akademija.

Jovanova, N., & Stojkovska, V. (2010). „Prevention of the school violence among students„ in Sourcebook „Security, ecological security and perspectives of the Republic of Macedonia". Skopje: Faculty of security.

Law on Primary Education (2008). *Official Gazette of the Republic of Macedonia* no.103/08.

Law on Secondary Education (1995). *Official Gazette of the Republic of Macedonia* no. 44/95.

Marshall, T. F. (1999). *Restorative Justice: An Overview.*

McElreai, F. (1997). Win-Win" Solutions to School Conflict, *Contemporary Issues in Education Law: Strategies for Best Practice.* Sydney, Australia, 7-9 July.

Needlman, R. (2010). *Effective Anti-Bullying Programs in Schools.* Retrieved March 20, 2010, from www.effectiveantibullyingprogramsinschools.com.

O'Brien, S. (2005). *Restoring schools: A case of school accountability boards.* VOMA Connections, No21.

Orpinas, P., & Horne, A.M (2008). *Bullying prevention-creating a positive school climate and developing social competence.* Washington: American Psychological Association,.

Pepler, DJ., Craig, WM., & Connolly, J. (1997). *Bullying and victimization: the problems and solutions for school-aged children.* Fact sheet prepared for the National Crime Prevention Council of Canada. Ottawa: National Crime Prevention Centre, Department of Justice.

Riese, J. (2003). *Anti-bullying program aims to shift culture in schools: is this restorative justice in action.* VOMA Connections, No13.

Riestenberg, N. (2003). *Aids, Administrators and all the teachers you can get*, VOMA Connections, No13.

Swanson, C., & Owen, M. (2007). *Building bridges: integrating restorative justice with the school resource officer model.* International Police Executive Symposium. Working Paper no 1.

Wachtel, T. (2003). Restorative practices on schools. *An antidote to Zero tolerance.* VOMA Connections, No13.

Ристевска, С., & Ѓорѓиевска, Г. (2004). *Прирачник за родители на ученици од основно образование.* Католички служби за помош.

3.
CRIMINAL INVESTIGATION – ORGANISATIONAL ASPECTS

THE SLOVENIAN NATIONAL BUREAU OF INVESTIGATION – AN ATTEMPT TO RESPOND TO CONTEMPORARY UNCONVENTIONAL FORMS OF CRIMINALITY

Authors:

Aleksander Jevšek and Gorazd Meško

ABSTRACT

Purpose:

The purpose of this article is to present organizational changes as well as changes in methods of criminal investigation of the Slovenian DIC that are necessary in the investigation of complex criminal offences.

Design/methodology/approach:

The authors use a comparative analysis of the European investigation bureaus and a descriptive method in presenting specific organizational and operative aspects of responses to unconventional forms of criminality in contemporary society.

Findings:

The commitment to economic crime and corruption has always been difficult to investigate. Modus operandi of complex criminal offences is a challenge for a systematic and possibly effective prevention and response of the state. Legitimate and legally-based responses to such crimes are a contribution to democracy and the rule of law. The Slovenian society has witnessed many changes in criminality recently, especially in criminality related to the abuse of the Internet, which has become a vehicle for the commission of financial crimes, child pornography, hate crimes, illegal drug trafficking. The Slovenian NBI faces many challenges to adapt to the investigation of sophisticated forms of criminality and protection of Slovenian and European society.

Research limitations/implications:

This article is based on a pilot study, as the National Bureau of Investigation was not established until January 1, 2010. A more in-depth study will be possible after several years of operation of the NBI.

Practical implications:

The establishment of the NBI is intended to allow a more effective and efficient detection and investigation of specific forms of unconventional deviance (especially

economic crime, corruption, organized crime and other forms of serious criminality) which can seriously damage Slovenian society and have broader consequences.

Originality/value:
This is the first such article on the National Bureau of Investigation of the Republic of Slovenia.

Keywords: Unconventional Crime, National Bureau of Investigation, Slovenia, Analysis

1   INTRODUCTION

Over the past decades, there have been incredible dynamics and development in the search for the most effective strategies and models for reducing criminality. In this period, the police of developed countries have searched and formed new approaches for a more successful fight against crime with special emphasis on the fight against economic crime, corruption, money laundering, organized crime and other serious forms of criminality. These activities are based on findings that such perpetrators quickly, efficiently and intensively started taking advantage of the vast possibilities of the information revolution In the past two decades Slovenia has in the course of the information revolution experienced a very intensive development that has fundamentally transformed Slovenian society (Dvoršek & Frangež, 2009). This is evident not only in the increasing use of modern means of communication and information (mobile phones, the Internet) but also in the organization of work processes and their understanding. Economic and organized crime quickly made use of the modern information technology. This was followed by the transformation of the manner and operation of criminal groups and the emergence of new forms of criminality. However, economic crime and crime related to public finance and corruption do not represent only a security and criminal law problem, but also endanger the essence of the rule of law and transparency of marketing mechanisms. If a country is unsuccessful in reducing crime, it means there is a loss of development potentials and is a direct danger to the country's international competitiveness and its economic and social development, while at the same time having a negative impact on social equality and lawful operation of democratic institutions. In general, it can be said that the transitional structural transformations that accompanied the transition form a socialist to a capitalist socio-economic regime also brought more problems in terms of criminality, the increase of which can be causally linked to variables like a stronger stratification, greater poverty and a parallel increase of wealth, unemployment, intensified economic, social and value-normative uncertainty, cultural messages that weaken consumer hedonism and possibly faster material success (as a status measure), reduction of the social state (i.e. reduction of the social, publicly guaranteed security) and tattered authority of state bodies (Svetek, 2005).

In addition to traditional and conventional forms of criminality, new unconventional forms of criminality are also increasingly in our area. Conventional criminality is typically focused primarily on the threat to the safety of people, property and law and order. Unconventional criminality, however, is used to achieve political, economic, religious and other goals with the help of corruption on the highest levels and highly-developed information technology. Unconventional criminality also consists of various forms of organized crime related to the smuggling of illegal drugs, people, weapons and organized crime in the field of economic crime and high technology crime (Lopez-Rej, 1975). The author mentions the most frequent forms of conventional criminality: robberies, thefts, rapes, car thefts, break-ins and physical violence. The most frequent forms of unconventional forms of criminality on the other hand are: liquidations and abductions of people, political and racial persecution, corporate criminality, terrorism, corruption in politics, army and police and other.

Organizational and methodological adjustment to these new circumstances was indispensable in order for law enforcement to efficiently fight new, unconventional forms of criminality and continue to ensure security to individuals and society.

2 ASSESSMENT OF THE SITUATION IN THE FIELD OF ECONOMIC CRIME AND CORRUPTION

For the past few years, the Criminal Police have primarily been dealing with economic crime, which can be seen from the increasing number of criminal offences dealt with and the growing observed economic damage as a result of criminal offences. The number of economic criminal offences from 2001 to 2009 ranged from 5,837 criminal offences in 2004 to 9,259 criminal offences in 2009. In 2009, economic crime exceeded the nine-year-long average by 24.3 %. In 2009, the material damage due to economic crime amounted to 193 billion EUR hence, the nine-year-long average is exceeded by 106.9 %.

Table 1: Movement of economic crime and material damage cause in the period 2001 to 2009 (Police, 2009)

	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of criminal offences	7,215	8,527	7,168	5,825	6,115	8,471	7,962	7,459	9,259
Damage caused (in millions of €)	70.1	81.4	59.7	100.1	69.4	87.0	106.8	112.5	193.2
Investigated criminal offences in %	95.3%	95.6%	96.7%	94.4%	95.5%	97.3%	96.3%	96.3%	95.3%

The trend of a higher activity and efficiency, at least in terms of the performance of law enforcement, is evident and statistically verifiable primarily for 2008 and 2009 when the fight against such crime was set as the absolute strategic priority of the Ministry of the Interior and the police. However, due to existing organizational and institutional limitations it is not expected that the trend will continue. The reason for this is that law enforcement groups have limited human and financial resources. With a clear setting of priorities and the existing way of organization, only limited progress can be achieved, but no major improvement in terms of quality and sustainability.

Analyses undoubtedly show that the existing organization of the police and the competence of law enforcement, work methodology, strategies and priorities are not systemically appropriate for responding to new demanding forms of criminality and are not comparable to the best modern practices in this field in other selected European countries.

Therefore, at the end of 2008, the Ministry of the Interior started the project that introduced conceptual changes in the organization and work of the Criminal Police at the state and regional level. This would provide for a systemic, sustainable and quality progress in the field of prevention and investigation of the most serious forms of economic crime and corruption as well as other more severe forms of crime demanding specialized skills.

In February 2009, the working group for the preparation of a concept for a more successful and efficient response of law enforcement to new forms of criminality conducted a thorough analysis of the work of the Criminal Police at state and regional levels. The analysis of the problematic situation showed the following deficiencies that had an impact on the work efficiency of the police in the investigation of economic crime, corruption and other serious forms of criminal offences:

- **Inappropriate legislation**
  There was no legal basis for a multidisciplinary approach to the investigation of economic and organized crime, inappropriate provisions of the Decree on the cooperation of the State Prosecutor's Office of the RS and the Police in detection and investigation of perpetrators of criminal offences).

- **Inappropriate organization of the Criminal Police**
  Overlapping of operational and non-operational tasks in the Criminal Police and too many tasks outside the specialised areas of investigation.

- **Inappropriate personnel policy**
  Too low a number of adequate qualified personnel, fluctuation of personnel as a result of underrated employment posts and remuneration.

- **Inappropriate material resources**
  Too slow introduction of developed technologies.

- **Inappropriate education and training**
  A closed training system.

- **Insufficient inter-institutional cooperation**
  Disconcerted actions of all CJ institutions involved in the pre-trial procedure.
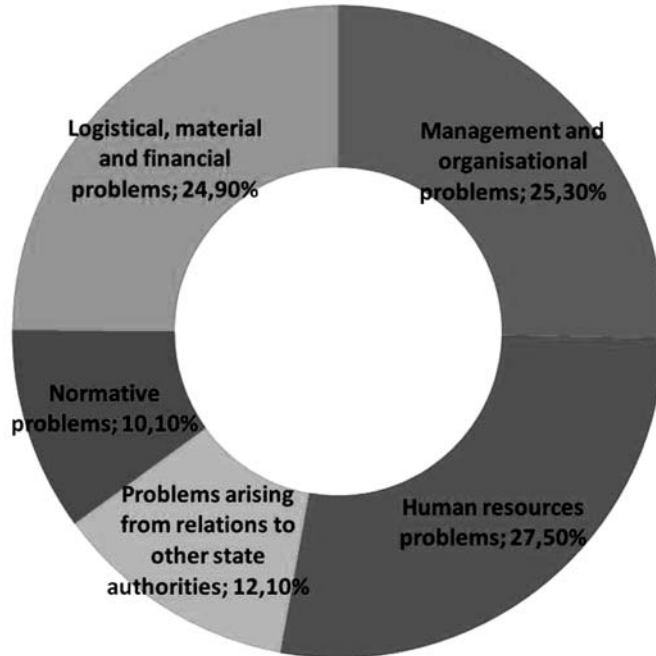
Figure 1: Analysis of the problematic situation at regional and state levels (Police, 2009)

In order to achieve improvement in the investigation and also prevention of such forms of criminality, the process of the detection and prosecution of a criminal offence was studied in detail, which begins with the detection of a criminal offence and includes the participation of other state bodies and their special skills and expertise, leads to a charge in a longer or shorter period of time. The competent state bodies and institutions already take part in the pre-trial procedure, but the cooperation is not coordinated. As a result, the procedures are longer and, in some instances, inefficient from the standpoint of tactics and methodology of work in the pre-trail procedure. Consequently, in practice, there is an unnecessary loss of time when the police ask other competent state bodies and institutions that are obliged to submit certain data to the police pursuant to the Criminal Procedure Act for the needed data, and there is a duplication of the cases dealt with (e.g. one of the state bodies, in accordance with its competence, is already dealing with a case in which, in the opinion of the police, a suspicion of an economic criminal of-fence or corruption originates; however, the police are not informed about it

until they ask this state body for the data). While studying this process, it has been found that there can be no progress without shortening and optimizing the aforementioned process, and the police cannot take a step forward in this area on their own.
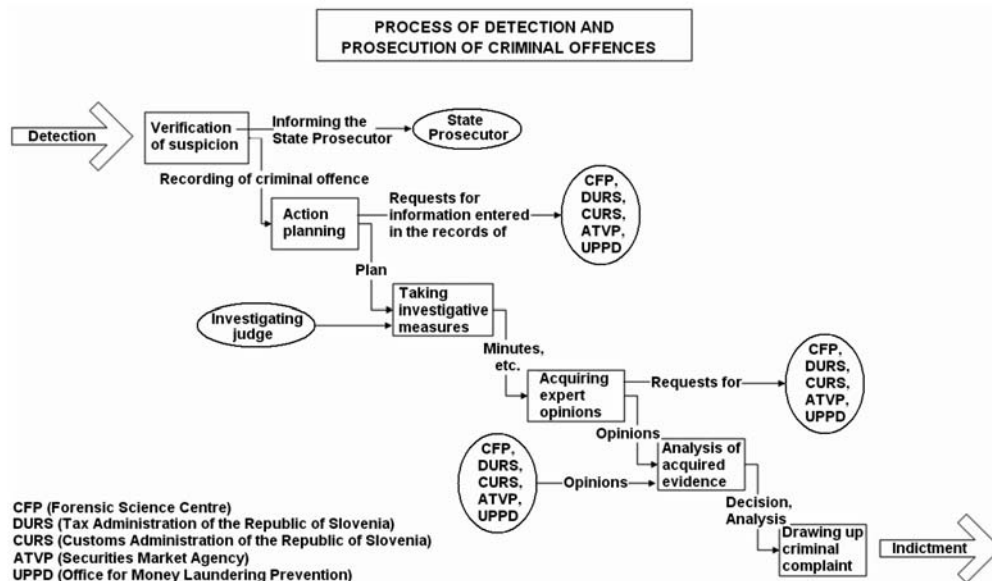
Figure 2: Process of the detection and prosecution of a criminal offence (Police, 2009)

Another very pronounced problem is the temporary preservation and permanent withdrawal of the advantage acquired by the perpetrator with the execution of a criminal offence. In the period 2004 to 2009, the police conducted 365 financial investigations with the purpose of identifying the property originating from organized and economic crimes. As a result, 172 motions to temporarily preserve property were sent to the State Prosecutor's Offices by the police. In 138 cases no property or reasons for a motion to temporarily preserve property was found in the financial investigation. According to the police data, on the basis of the motions forwarded to the prosecutors (only) 17 decisions to temporarily preserve property were issued by the courts. It needs to be pointed out that the police do not have precise data on the issued decisions of the courts, and currently, there is no legal basis for the direct exchange of data between courts and the police. This is a clear sign of systemic problems in this field in the entire *chain of justice* – from the Police to the Office of the Prosecutor to the Judiciary.

Table 2: Overview of the number of financial investigations in the period 2004 – 2009 (Police, 2009)

YEAR	FINANCIAL IN-VESTIGATIONS	REPORTS	IN PROCESS	DECISIONS
2004	10	2	8	1
2005	47	25	22	5
2006	35	24	11	1
2007	70	39	31	4
2008	83	48	35	3
2009	120	44	65	
TOTAL	*365*	*172*	*172*	*17*

By reviewing the situation on the basis of which 83 financial investigations were conducted in 2008, and from all these investigations, according to data available to us, the investigating judges issued only 3 decisions on temporary protection of a request for the deprivation of an illegally acquired pecuniary advantage, it is evident that change is needed in this field. Specially trained and specialized financial investigators will provide for a consistent conduction of financial investigations and propose deprivation of the illegally acquired pecuniary advantage.

3   ESTABLISHMENT OF THE INTERDEPARTMENTAL WORKING GROUP FOR THE PREPARATION OF THE NBI PROJECT

On the basis of the described deficiencies and problems frequently encountered by law enforcement in their fight against economic and organized crime and corruption, a concept for a more efficient detection and prosecution in this field was formed by an internal working group of the Ministry of the Interior. On 6 April 2009 on the initiative and upon invitation of the Ministry of the Interior and the police, the concept was presented to the state bodies and institutions participating in the process of detection and prosecution of crime: State Prosecutor General, representatives of the Office of the State Prosecutor General, Ministry of Justice, Ministry of Finance, Corruption Prevention Commission, Office for Money Laundering Prevention, Competition Protection Office, Court of Audit, Customs Administration, Tax Administration, Securities Market Agency and Information Commissioner. Following adoption of the concept by consensus of all stated bodies, the Government of the Republic of Slovenia appointed an interdepartmental group consisting of the employees of the police and the Ministry of the Interior as well as representatives of the

Office of the State Prosecutor and most other supervisory institutions in the Republic of Slovenia (Tax Administration of the RS, Customs Administration of the RS, Office for Money Laundering Prevention, Competition Protection Office, Corruption Prevention Commission) and the Project Council consisting of the State Secretaries of the Ministry of the Interior, Ministry of Justice, Ministry of Finance, Ministry of Public Administration and Office of the State Prosecutor General.

In the context of searching for the best solution and good practices in this field, a comparative review and analysis of the organization of the Member States of the EU and recommendations and findings of organizations such as the OECD and Council of Europe in the fight against economic and organized crime and corruption was carried out. Based on these analyses and reviews it has been found that the Finnish model of the National Bureau of Investigation, which Slovenia wished to upgrade with this project using a multidisciplinary approach and an adapted "one-stop office" concept, is most appropriate. In this model, specialized investigation groups would have common headquarters that would enable optimal protection of secret data and data relevant for the course of the case investigation procedures.

Subsequently, the interdepartmental working group, under the authority of the Director of the Criminal Police Directorate, divided the work into six thematic packages: legislation, personnel and labour law status of the employees of the NBI, material and technical support, education and training, reorganization of the Criminal Police Directorate, prototype group for the preparation of information source and data that needs to be reviewed.

The network of target situations that would bring greater success in the limitation, detection, investigation and prosecution of the mentioned criminal offences and primarily in the field of increasing the confiscation and deprivation of illegally acquired pecuniary advantage includes providing a proper organization of supervisory institutions and law enforcement, improvement of the cooperation between institutions, adoption of an adequate legal basis for work, ensuring better qualification of the personnel, ensuring proper material and technical conditions for work and implementation of a consistent criminal policy.

Among the fundamental institutional proposals of the mentioned working group was the establishment of the NBI that would be autonomous but work in the framework of the police at a state level and would provide a key contribution to the realization of the listed goals. At the same time, it was necessary to adopt the amendment to the Police Act as a logical and essential next step of the last amendment to the Criminal Procedure Act on the initiative of the Ministry of the Interior that provides for the optimization of the pre-trial procedures and closer cooperation of experts from numerous disciplines at the beginning and

throughout the entire process of the investigation of criminal offences (amendment of Article 160.a of the Criminal Procedure Act that introduces specialized investigation groups).

The NBI was launched on 1 January, 2010. In the first stage of the selection procedures for heads of investigation and investigators, twenty-seven criminal police officers started work. On 20 June 2010, the provisions of the Act amending the Police Act entered into force, which provided a legal basis for the selection and appointment of the Director of the NBI. At the end of June, upon the conclusion of the selection procedure, the Director of the NBI was appointed. Until the Director was appointed, the NBI was headed by his assistant with authorization to lead the Bureau.

4 COMPARATIVE ARRANGEMENTS IN SELECTED LEGAL SYSTEMS[1]

4.1 Finnish National Bureau of Investigation

The tasks of the Finnish National Bureau of Investigation (Finnish: *Keskusrikospoliisi – KRP*) are focused primarily on the detection, prevention and investigation of organized crime (of inter-regional or international nature) and other most serious forms of criminality. Among these, emphasis is put, above all, on the investigation of: financial criminality, money laundering, computer criminality, unsolved murder cases, new forms of criminality, complex and corruption criminal offences. Its fight against organized criminal groups and other individuals is targeted and originates in the assessment of risks and threats to society coming from organized criminal groups and individuals. Crime analysis intelligence is the main tool of a focused and targeted functioning of the Bureau. The Finnish National Bureau of Investigation also provides for professional support to other offices within the police and other security authorities dealing with: forensic investigation, international police cooperation, special investigation tasks, crime intelligence activities and operational crime analysis. In addition to the central unit, the Finnish National Bureau of Investigation also has regional units.

4.2 Irish National Bureau of Investigation

In the framework of the Irish police (Irish: *An Garda Siochana*), the National Bureau of Investigation (i.e. *An Biúró Náisiúnta um Imscrúdú Coiriúil*) is organized at the central level. The Bureau was established as a response to the needs for an

---

[1]   Of the 27 European police, we selected four which have a similar organization of the police as Slovenia.

efficient fight against organized crime and other serious forms of criminality. It was established by the merging of several national investigation units. In the detection and investigation of crimes, the Bureau is focused primarily on: unsolved murders, robberies of motor vehicles, serious and organized forms of crime, extortion, thefts of art, domestic violence, more serious forms of sexual violence, sexual violence against children, theft of intellectual property, mail robberies and frauds. The responsibility for the investigation of criminal offences lies with the regional/local police units, and the Bureau offers assistance to regional/local units in all areas of investigation in the form of specialized investigation groups. The regional/local principal of the police unit asks the National Bureau of Investigation for assistance in the investigation of organized crime and other serious forms of criminality. The acceptance of the task can also be determined at the request of the leadership of the police.

4.3   Dutch National Bureau of Investigation

The Dutch National Bureau of Investigation (Dutch: *Dienst Nationale Recherche*, DNR) is organized in the framework of the National Police Services Agency. The Bureau conducts investigations of organized crime and other serious forms of criminality extending beyond the regional level and beyond the national border of the Netherlands. Special emphasis is put on investigations related to: synthetic drugs; smuggling of people; larger organized criminal groups; crime connected to transport hubs (ports, airports); great frauds; serious forms of economic crime; terrorism and war crimes. In performing their work, it is independent from regional police units; however, it puts great emphasis on the cooperation of the police and investigation groups in the detection and investigation of criminality. The Bureau is divided into individual offices at the central and regional level. In addition to investigation tasks, the Bureau lays great stress on preventive measures.

5   CONCEPTUAL PLACEMENT OF THE NBI INTO THE SYSTEM OF THE DETECTION AND PROSECUTION OF CRIMINAL OFFENCES IN SLOVENIA

The NBI is part of the Slovenian police and, as an autonomous criminal investigation unit of the General Police Directorate, works within the framework of the Criminal Police Directorate. It exclusively performs operational tasks demanding top-qualified personnel and state-of the-art equipment. The Bureau is responsible for the detection and investigation of economic crime, corruption and other forms of serious crime whose complexity calls for special investigator training, organization and equipment as well as a harmonized and joint performance of tasks of various institutions at national and international levels.

In performing its work, the NBI is embedded and connected to the General Police Directorate and the police stations at a regional and local level through the operational information exchange system and the performance of its tasks throughout the Republic of Slovenia. Criminal Police officers and police officers of Police Directorates and police stations also participate in the final stages of the work of NBI investigators (house searches, detention, custody).

The NBI has no special internal organizational units with individual heads, but includes the director and his assistant, heads of investigations, senior criminal inspectors – investigators and professional technical personnel. The NBI's activities are based on highly professional work. Based on the case dealt with, a group of investigators for every individual case will be formed and appointed according to the special skill they possess (e.g. securities market, banking, taxes, customs, competition protection and corruption prevention).

5.1   Autonomy and responsibility of the National Bureau of Investigation

The NBI is headed by a director with years of experience in the prosecution and detection of criminality who is professionally and operationally independent, when performing his functions. The head of the Bureau is appointed by the Director General of the Police, taking into account the opinion of a special professional commission composed of representatives of the State Prosecutor's Council, a representative of the Office for Money Laundering Prevention and a recognized expert in the fields of security authorities, criminalistics/criminal investigation, criminal law or law enforcement, appointed by the Minister of the Interior.

In addition the general conditions, the candidate for the Director of the NBI also needs to meet the conditions laid down by the Police Act for the candidate for the Deputy Director General of the Police. When deciding which cases the NBI will deal with and investigate, the Director of the NBI is autonomous and will use the criteria given in the Act Amending the Police Act.

This concept ensures the professional independence of the Director of the NBI, who has an important and exclusive responsibility in accepting the cases to be investigated. The selection procedure for the Director of the NBI is unique within the Slovenian police and, in this respect, is comparable to the selection procedure for the Director General of the Police. Politics is excluded from the decision-making process. It is of vital importance that the same system is envisaged for a potential dismissal of the Director – this is not possible without the approval of an external professional commission.

The initiative to refer a case to the investigation of the NBI can be communicated to the Director of the NBI by the Director of the Criminal Police Directorate, as

well as the Head of the Criminal Police Division of the Police Directorate, Head of the Group of State Prosecutors for the Prosecution of Organized Crime, Head of the individual District State Prosecutor's Office or the leadership of state bodies and institutions from the first paragraph of Article 160.a of the Criminal Procedure Act. The rejection of the initiative shall be explained in writing by the Director of the NBI. In the event of dispute concerning the acceptance or referral of the investigation between the Director of the NBI and the Director of the Criminal Police Directorate, the decision is made by the Director General of the Police. All necessary support in the operational work of the NBI is provided by the Criminal Police Directorate and the Divisions of the Criminal Police of Police Directorates. Communication and manner of cooperation shall be prescribed by the Director General of the Police.

To check the effectiveness, transparency and indirect monitoring, the Director of the NBI will need to prepare annual reports on the work of the NBI and inform the Minister of the Interior about them; who will, in turn, inform the Government of the Republic of Slovenia on the report and the Government will inform the competent Committee.

5.2   Investigators and inter-institutional cooperation

In addition to the Director and his assistant, only a certain number of heads of investigation and investigators will be employed in the NBI as an operational unit. All employees will be granted the senior criminal inspector title. The Systematization Act provides for adequate (above-average) tariff wage grades and 86 employees. Heads of investigation, investigators and professional technical personnel have entered into an employment relationship with the NBI for an unlimited period of time. The selection procedure for candidates to be employed at the NBI was, upon proposal of the Director General of the Police, prescribed by the Minister of the Interior and also includes the participation of a special selection commission. The candidates for the Assistant Director, heads of investigation departments and investigators in the NBI will have to meet the prescribed requirements laid down in the rules regulating the employment of public officials. They, *inter alia*, have to have work experience in one or several fields of law enforcement, including taxation, customs, financial instruments market, financial operations, money laundering prevention, corruption prevention, competition protection, illicit drugs and/or previous career in inspectorates.

To ensure that the tasks in the investigation and the detection of the serious forms of economic crime are carried out by the most qualified investigators and heads of investigation, the Director of the NBI shall assess the work of the assistant of the Director of the NBI, heads of investigation and investigators every four years. Hence, the amendment of the Act introduces necessary continuity to the

NBI as well as necessary positive fluctuation to guarantee the best effects in the performance of its tasks.

To successfully tackle modern forms of crime, it is vital to optimize the pre-trial procedure and ensure close cooperation of experts from numerous disciplines at the beginning and throughout the entire process of the investigation of criminal offences (this was also reflected in the last amendment of Article 160.a of the Criminal Procedure Act, which introduces specialized investigation groups). Experts from the widest fields will be employed at the NBI, and the NBI will take the cooperation one step further, as external experts will become part of specialized investigation groups under the authority of State Prosecutors. The groups will be comprised of investigators of the NBI and, depending on the concrete case dealt with, also of external experts from relevant fields from other state bodies as well. The external experts, who are professionally autonomous, will perform tasks from their field of activity and will therefore need no police authorization. They will work in specialized investigation groups only for the period determined by the State Prosecutor. In accordance with the provision of the Criminal Procedure Act, the written decree on the establishment of a specialized investigation group upon the prior written approval of the leadership of the state bodies and institutions from Article 160.a is issued for every case, by the head of the competent Office of the State Prosecutor ex officio or on the initiative of the police. Furthermore, the specialized investigation group will have its own operational head, who will be the representative of the police or an investigator of the NBI. A more concrete cooperation in the specialized investigation group will be defined by the amended Decree on the cooperation of the State Prosecutor's Office of the RS and the Police in detection and investigation of perpetrators of criminal offence. Undoubtedly, the specialized investigation groups, which will be one of the basic manners of work of the NBI, will meet the needs for a more efficient multidisciplinary approach in the detection of serious forms of criminal offence and, above all, organized and economic crime and corruption.

6 CONCLUSION

The NBI project also brought an opportunity for other organizational changes within the existing organizational structure of the Criminal Police Directorate. With the reorganization of the Criminal Police Directorate, the "Crime Intelligence Centre" (CIC, Center za kriminalistično obveščevalno dejavnost) was established whose activities are mainly "Intelligence-led policing" (ILP).[2]

---

2   After almost two decades of the development of the ILP, we can speak about the first and second generation ILP. The first generation ILP was developed in Great Britain in the framework of the NMI (National Intelligence Model). In new definitions of ILP, a shift from the setting of guidelines to direct operational police activity in the direction of setting guidelines for the management and operation of police work at

The CIC will perform Crime Intelligence (CI) tasks in the Crime Intelligence process and its activity will cover operational Crime Intelligence Analysis, Strategic Crime Intelligence Analysis, work with informants and information and system development of Crime Intelligence.

On the proposal of the head of the interdepartmental working group, the Government of the RS extended the term to the working group with the purpose of evaluating the project for the first time in the second half of this year and submitting proposals for its completion. The final assessment on the success and efficiency of the establishment of the NBI will be prepared at the beginning of 2013.

The establishment of the NBI is an important milestone in the detection and prosecution of the most serious forms of economic crime, corruption, organized and other severe forms of criminality in Slovenia. In addition to urgent organizational and methodological changes due to the adjustment of the detection and prosecution to new unconventional forms of criminality, special added value comes from the change in the process of detection and prosecution of criminality. In the area of efficient detection and prosecution of economic (and other forms of) crime, quite a number of strategies and action plans have already been set out. Their deficiency is that they were based on partial changes and not on a multidisciplinary approach, which was the basic principle of the NBI. A multidisciplinary approach ensures optimal utilization and exchange of information, skills and experience of different institutions in the country dealing with prevention or detection and prosecution of criminality. Taking into account the high standards for the protection of personal data, there is by far not enough exchange of information between institutions. However, for more successful and efficient detection and prosecution of new unconventional forms of criminality, the multidisciplinary approach represents not only a challenge but is increasingly becoming an indispensable condition in investigation of complex crimes which require top specialists and devoted criminal investigators. However, the establishment of the NIB is an attempt to use modern specialised police organisation in fighting against the most sophisticated forms of criminality. Time will show the effects of the activities of the NIB.

REFERENCES

Dvoršek, A., & Frangež, D. (2009). Slovenska kriminalistična policija Europol, med»kriminalstrategie« in »criminal intelligence«. In T. Pavšič Mrevlje (Ed.), *Varstvoslovje med teorijo in prakso: zbornik prispevkov10. slovenski dnevi varstvoslovja. 4. – 5. junij 2009.* Ljubljana: Fakulteta za varnostne vede.

---

a systemic level can be observed. ILP is therefore a managerial philosophy and approach for the management of a certain system (the Police) (Ratcliffe, 2008).

Finnish Police – *National Bureau of Investigation*, http://www.poliisi.fi/nbi.

Interpol,European police and judicial system, http://www.Interpol.int/public/region/ Europe/pjsystrms/Deafult.asp

Lopez, M.R. (1975). *Criminological Manifesto.* Criminology.

Medium-term development plan and plan of work of the police for the period 2008 –2012 (2008). Ministry of the Interior of the Republic of Slovenija.

Policija (2010) *Annual report on the work of the police (2009).* Ljubljana: Ministrstvo za notranje zadeve, Policija.

Policija (2009). Working material of the working group for the implementation of the National Bureau Of Investigation establishment project. Ljubljana: Ministrstvo za notranje zadeve, Policija.

Policing online Information system, http://polis.osce.org/countries/.

Ratcliffe, H.J. (2008). *Intelligence – Led Policing.* Cullompton, Devon: Willan Publishing.

Resolution on National Plan on the Prevention and Combating of Crime for the Period 2007 – 2010 (2010). *Uradni List RS, 40/2007.*

Svetek, S. (2005). Značilnosti kriminalitete v Sloveniji. *Revija za kriminalistiko in Kriminologijo, 56*(2), 124 – 128.

CRITICAL SUCCESS FACTORS IN ESTABLISHING A NATIONAL CRIMINAL INTELLIGENCE MODEL IN SLOVENIA

Authors:

Damjan Potparič and Anton Dvoršek

ABSTRACT

Purpose:

The purpose of this paper is to identify and analyse the success factors that are pre-requisite for establishing a national criminal intelligence model in Slovenia.

Methodology:

By means of a qualitative descriptive analysis the authors analyse existing findings on criminal intelligence in the creation of the Intelligence-led Policing model (ILP) and assess their applicability to the development of ILP in Slovenia.

Findings:

This paper identifies nine critical success factors that need to be addressed in establishing the national criminal intelligence model in Slovenia.

Practical implications:

The findings are useful for the Slovenian police in establishing the national criminal intelligence model and serve as the basis for further in-depth and more targeted discussion on developing and implementing ILP. In addition, the findings are useful for other EU Member States that do not yet have a national criminal intelligence model in place.

Originality/value:

The paper represents an attempt to generalise experience and views regarding the establishment of a national criminal intelligence model. Furthermore, the paper draws the attention to the fact that, in order to ensure efficient functioning of ECIM, the Member States must establish national criminal intelligence models based on the principles of intelligence-led policing.

Key words: National Intelligence Model, Intelligence-led Policing, Ecim, Criminal Intelligence, Critical Success Factors

1   INTRODUCTION

Law enforcement organisations have found themselves in a position requiring something to be done to address the security challenges resulting from rapid changes in crime while at the same time continuing to provide security to citizens in a situation of an increasingly larger gap between the crime rate and available resources. Tilley (2008:373) determined that this gives rise to new policing strategies and models that represent criticism of traditional policing models, which according to Clarke and Eck (2008:18) are characterised by relying on law enforcement and by a lack of focused direction. This lack of focused direction stems from the fact that traditional policing models are based on patrolling, rapid response to telephone calls, investigation of criminal offences, and other criminal investigation activities that do not distinguish between details concerning people, places, time, or circumstances. As a rule, systems based on the traditional policing model respond to the public demand to reduce crime by increasing the number of officers, reducing response time, enhancing police visibility, increasing the number of arrests, and trying to increase the rate of cases solved. However, in traditional policing models, the media and police officials do not focus on what is really important, which is more accurate data regarding the perpetrator and the object, time, place, reason, and manner associated with committing a criminal offence. Analysing this would enable more objective decision-making for adequate crime prevention and reduction measures.

One new model that can clearly be viewed as an important movement in twenty-first-century policing is intelligence-led policing (ILP) (Ratcliffe, 2008:4). ILP development arose from the realisation that quality criminal intelligence constitutes the lifeblood of a modern law enforcement organisation, making it possible to clearly understand criminal offences and crime, identify perpetrators of criminal offences, establish interconnected criminal offences, and predict problems (HMIC, 1997:1). ILP is based on criminal intelligence, which can be defined as police activity aimed at lawful collection of information from every available source and analysing it in order to provide tactical and strategic criminal intelligence. The final product of this process is criminal intelligence, which, according to Europol's definition (Brown, 2007:338), is based on raw information about crimes, events, perpetrators, suspects, and so on. Criminal intelligence is the enhancement of this basic information, providing additional knowledge about criminals' activity. Criminal intelligence provides information that is normally unknown to the police and is intended to be used to enhance investigators' efforts; it is "information designed for action."

Criminal intelligence function is not a new idea in the police. The concept of criminal intelligence in the police began to develop in English speaking territories in late 19th century, when police management positions were increas-

ingly held by personnel with experience in military intelligence. In the 1970s, the development of criminal intelligence function was on the rise, leading to the setting up of standards for the establishment and operation of criminal intelligence units in the police. The concept of criminal intelligence, which emerged as a response to the ineffectiveness of crime-fighting efforts, ultimately strengthened its position when criminal intelligence was recognised as an important tool in fighting organised crime (Peterson, 2005:5, Potparič & Dvoršek, 2010:16-17).

However, one of the main limitations in the application of the concept of criminal intelligence so far has been its reactive nature. In practical terms, criminal intelligence has therefore often been viewed as a repository of sensitive information rather than a proactive resource that could produce information critical for preventing crime and apprehending offenders. An additional problem consisted in the fact that intelligence units tended not to produce consistent, specifically defined products. Instead, intelligence reports tended to be written on an ad hoc basis to address critical matters (Carter, 2009:52). This realisation played a significant role in developing criminal intelligence towards the ILP concept. This concept, contrary to the traditional understanding and use of intelligence exclusively as support for individual investigations, envisages using intelligence in strategic planning and resource allocation, introducing a move from investigation-led intelligence to intelligence-led policing (Ratcliffe, 2008:88, IACP, 2002:13).

Ratcliffe (2008:87) defines the following key features of ILP:

- It is a management philosophy and a business model;
- It aims to reduce crime as well as prevent and reduce criminal offences;
- It uses a top-down management approach;
- It combines analyses from crime scenes with criminal intelligence on the perpetrators of criminal offences;
- It uses criminal intelligence for objective decision-making concerning police resource allocation; and
- It focuses enforcement activities on active and serious offenders.

The Hague Programme: Strengthening Freedom, Security, and Justice in the European Union (Council of the European Union, 2004a), introduced ILP principles in European security architecture. In this context, establishing the European criminal intelligence model (ECIM) represented implementation of the ILP concept in the EU.

Slovenia is one of the EU member States that has yet to set up a proactive criminal intelligence model, and was assessed as early as 2006 by EU experts as still lacking a criminal intelligence concept enabling a proactive approach to reducing crime.

The setting up of a Slovenian national criminal intelligence model[1] will represent the basis for the implementation of a policing model based on the ILP concept. We can determine that ILP is vitally dependent on an established and operating criminal intelligence model, the latter being a prerequisite for the police organisation to function as a business model where criminal intelligence is integrated into the central framework of all police business and decision-making. According to Ratcliffe (2008:112), the existence of the ILP model is dependent on efficient operation of the following three components: the interpretation of criminal environment, the application of intelligence by analysts to influence the thinking of decision-makers, and decisions taken by decision-makers regarding resource reallocation and the selection of the most appropriate crime reduction tactics on the basis of criminal intelligence products. It is with the implementation of the third component that transition from the traditional national criminal intelligence model to the ILP model is actually achieved. Namely, in the existing traditional criminal intelligence model, a criminal intelligence process is deemed to be successfully concluded with the delivery of a criminal intelligence product.

According to Carter (2009:82), Nike's "just do it" slogan, promoted by some experts in relation to setting up the ILP model, is somewhat inadequate, given that an enforcement agency must have a certain foundation as a prerequisite for introducing a new policing concept. In attaining the set objective, a major role is played by identifying and understanding the critical factors necessary for setting up and implementing the new model.

This paper presents a detailed overview of the development of the ILP concept in the Slovenian police, as well as the directions of development of the ECIM, given that the analysis of critical factors must take into account the strategic environment in which a national criminal intelligence model is being set up.

2   SLOVENIA AND ILP

In its Memorandum on Basic Policing Guidelines for 2003–2007, the Slovenian Ministry of the Interior (MNZ) realised as early as in 2002 that the increasing gap between the crime rate and available resources made it imperative to change the way the Slovenian police operated. According to the memorandum, "the police (especially criminal police) have the capacity to successfully deal with a certain

---

[1]   A national criminal intelligence model can be viewed as a generalised police management framework designed to formalise and professionalise at the national level all criminal intelligence processes that are taking place at various levels. In formalising criminal intelligence processes we use the intelligence cycle, which comprises the following phases: tasking, collection, evaluation, collation, analysis and dissemination of intelligence. The model is instrumental in articulating organisational structures, processes and ideas related to criminal intelligence function and their mutual relations affecting coordinated operation of the model, which is ultimately aimed at crime reduction. Individual components of the national criminal intelligence model will be further analysed below.

number of criminal offences a year. In the face of a notable increase in statistically recorded criminal offences in recent years (from 37,000 offences in 1997 to 74,000 offences in 2001), it is obvious that police officers have had a large workload, which has forced them to focus enforcement activities on the most serious crimes, on priority areas defined in EU policies and on new crime that is on the rise." At that point, the memorandum did not yet provide clear guidance regarding the changed manner of policing or define a way to determine priorities in the Slovenian police, which, given the limited resources, would have yielded better results.

It was not until the Resolution on the National Crime Prevention and Deterrence Program for 2007–2011, according to which identifying types of crime, predicting them, and taking proper action must not rely only on people's feelings, experience, and intuition but on a professional approach based on scientific findings that provides certain answers and guidance, that objective criminal intelligence was set as the direction to take in developing policing in Slovenia. Criminal intelligence activity was to be implemented through collecting, evaluating, analysing, and communicating criminal intelligence, which would represent the basis for decision-making and planning police activities. This wording indicates that Slovenia made the decision to implement the ILP concept in crime prevention and reduction as a response to an increasing gap between the crime rate and available resources.[2]

It should be noted that as early as 2005, at the October JHA Council meeting, Slovenia took part in adopting conclusions related to setting up the ILP concept in EU internal security architecture. One of the conclusions of this meeting addresses setting up and employing a joint ILP methodology to be sought by all EU bodies, agencies, and member states in a coordinated manner. This gives a clear indication that the member states adopted the ILP concept at the highest level, making a commitment to be involved in the activities to implement the new concept in the EU (Council of the European Union, 2005).

Unfortunately, the reality in Slovenia and most EU member states has failed to match the conclusion above concerning the ILP concept. The fact remains that ILP was embraced by only a few member states, and the majority did not express great enthusiasm for setting up the new concept, which also entails a cultural shift for most member states' law enforcement organisations (House of Lords, 2008:27). It is a question whether the member states' senior representatives even understood the meaning of the ILP concept or realised the changes

---

[2]   The evaluation by EU Council experts on exchanging information and criminal intelligence with Europol and EU member states represented a notable contribution to the introduction of the ILP concept into the resolution on crime prevention and deterrence. In their report (Report on Slovenia SN 1378/1/06 REV 1, Brussels, 13 March 2006), EU Council experts recommended setting up an enforcement concept based on criminal intelligence that would enable a proactive approach and priority planning in fighting crime. During the discussion on the report in the EU Council working group (Multidisciplinary Group on Organised Crime), Slovenia declared it would observe the recommendations (Resolution on the National Crime Prevention and Deterrence Program for 2007–2011, 2007).

that would have to be made in law enforcement organisations for the new law enforcement activity model to replace the traditional model.

In Slovenia, however, not even the clear requirements for setting up the ILP concept stipulated in the Resolution on the National Crime Prevention and Deterrence Program for 2007–2011 yielded any progress in developing criminal intelligence model as the basic component of the ILP model. In this context it should be noted that the 2008 Guidelines and Mandatory Instructions for Drawing up an Annual Policing Plan (MNZ, 2007:1), which are prescribed by the minister every year, established the requirement to strengthen criminal intelligence, and the 2010 Guidelines and Mandatory Instructions for Drawing up an Annual Policing Plan (MNZ, 2009: 1) even established that the reorganisation of the police at the institutional, organisational, and management levels should take the ILP concept into account in investigating serious and organised crime. However, annual police plans from 2008 to the present, despite the clearly stated objective to ensure implementation of the tasks and measures in the Resolution on the National Crime Prevention and Deterrence Program for 2007–2011 and in the Council and Commission Action Plan implementing The Hague Programme, have not defined any activities towards establishing the ILP concept.

According to some experts, it is mainly due to insufficient awareness of the significance of criminal intelligence, which is evident from the wording of annual and multi-annual policing plans, that the Slovenian police have not yet begun implementing the goal established in the Resolution on the National Crime Prevention and Deterrence Program for 2007–2011 (Dvoršek & Frangež, 2009:11).

2010 saw a notable move forward in the Slovenian police with a major reorganisation, which also took into account the need to strengthen criminal intelligence, leading to the establishment of the Criminal Intelligence Centre within the criminal police at the national level. This centre will be in charge of further developing criminal intelligence towards setting up a national criminal intelligence model based on the ILP concept.

Simultaneous to preparations to establish the Criminal Intelligence Centre, in early 2010 the director of criminal police in early 2010 convened a panel discussion on further development of criminal intelligence, attended by criminal police management at the national and regional levels, representatives from the Ministry of the Interior, and a representative from the Faculty of Criminal Justice and Security, the University of Maribor. This meeting discussed the current state of affairs in criminal intelligence in the Slovenian police; the ILP concept was explained, the significance of strategic analysis in the ILP concept was emphasised, the project of modernisation of the police information system in activities regarding the development of informant handling was presented, and the potential direction of developing criminal intelligence in the Slovenian police was indicated, while highlighting specific types of cooperation with the ECIM.

This panel discussion revealed that the current level of developing criminal intelligence in Slovenia did not allow direct transition to the ILP model. Nevertheless, the ILP concept remains the main objective and strategic orientation of the Slovenian police.

Based on the presentations at the meeting and the discussions, conclusions were adopted concerning the activities necessary to provide an adequate basis for transitioning the Slovenian police to the ILP concept in crime prevention and reduction. These conclusions were as follows:

- The Slovenian police need a comprehensive criminal intelligence model at all levels of policing, to be used in decision-making. To this end, setting up a criminal intelligence model begins with improving the existing system;
- Capturing and processing data must rely on modern information technology;
- Collecting, recording, and exchanging information within the police must be enhanced;
- Connections with external institutions must be improved in the context of comprehensive crime detection;
- An adequate personnel and organisational setup must be ensured;
- Necessary professionalisation of informant handling must be ensured;
- Analytical capacities must be strengthened;
- The information and criminal intelligence protection system as part of criminal intelligence must be upgraded; and
- It is necessary to study the possibility of introducing rewards to motivate police officers to perform criminal intelligence tasks (Panel discussion on criminal intelligence, 2010).

A further conclusion of the panel discussion was to set up a working group to direct and monitor all activities for setting up the criminal intelligence model in the Slovenian police. In our opinion, this working group should begin by focusing particular attention on identifying the most significant factors affecting the establishment of the criminal intelligence model in the Slovenian police.

3   DEVELOPMENT OF ILP IN THE EU

After the terrorist attacks on 11 September 2001 in the US and 11 March 2004 in Madrid, information exchange became one of the most important topics in the discussion on EU security policy. The EU member states and the Commission have actively set out to establish a common investigation area that would remove barriers to information exchange and create conditions for mutual cooperation driven by criminal intelligence, which means that a reactive approach in

the fight against serious forms of international crime and terrorism is replaced by a proactive approach (Potparič, 2009a).

As a result of these efforts, The Hague Programme: Strengthening Freedom, Security and Justice in the European Union emphasized the need to create a prosecution mechanism based on intelligence, the essential elements of which are availability of and access to information, acquisition of European criminal intelligence, and strengthening trust between law enforcement authorities at the European and international levels. The Hague Programme has thus introduced an innovative principle of availability of information and criminal intelligence as a measure that should considerably improve the flow of information and criminal intelligence within the EU. The principle of availability means that throughout the EU a law enforcement officer in one member state that needs information to perform his duties can obtain this from another member state and that the law enforcement agency in the other member state that has this information will make it available for the stated purpose, taking into account the requirement of ongoing investigations in that country (Council of the European Union, 2004a).

Activities as part of implementing the principle of availability of information and criminal intelligence are leading to more open borders between EU member states for exchange of information and criminal intelligence, although national borders still determine where member states exercise their police powers (European Data Protection Authorities, 2007:5). It is the discretion of police powers at the national level that enables systematic collection, storage, analysis, exchange, and use of the information obtained. Effective performance of these activities, which represent important elements of ILP, is a precondition for efficient implementation of the principle of availability and thus the switch to a proactive approach in reducing crime in the EU.

Because The Hague Programme called for operationalisation, it was decided at a 2005 meeting of interior ministers that an ECIM should be set-up, based on ILP principles. The ECIM was proposed by the UK and is intended to achieve the following:

- Create conditions to enable EU member states and competent institutions to use common methodology to curb serious and organised forms of crime in the EU;
- Improve shared knowledge about serious and organised crime based on effective collection, exchange, and analysis of information;
- Enhance the effectiveness of Europol and other EU institutions;
- Achieve better operational results in identified priority areas; and
- Establish greater responsibility of ministers regarding the performance of tasks for the needs of the Council of the EU (Nunzi, 2007:147–148).

The ECIM is intended to ensure more effective reduction of serious forms of crime in the EU security area based on threat identification by means of the intelligence cycle developed in the course of traditional intelligence activity. It begins with strategic understanding of present and future threats based on available information and criminal intelligence provided to Europol by EU member states. In this process, Europol was assigned the role of being a central point in the EU to receive, store, and analyse the data collected and draw up an Organised Crime Threat Assessment (OCTA). With the OCTA, data from the criminal environment is interpreted to prepare a threat assessment, thus enhancing common knowledge about the criminal environment and threats originating from it by identifying the most dangerous criminals and criminal networks and determining priority areas for reducing serious and organised forms of international crime. Interior and justice ministers, within the Council of Ministers, set strategic priorities of the EU, and police chiefs of the EU member states, joined together in the European Police Chiefs Task Force (EPCTF), ensure that strategic priorities are translated into operational activities and again transmit the information and experience gathered to Europol for the next round of the intelligence cycle. This new approach to crime prevention in the EU should create a basis for police forces from different member states to jointly plan investigations based on the best available criminal intelligence (Brady, 2007a).

There are, however, certain difficulties and drawbacks in the functioning of the ECIM. Despite the fact that the OCTA represents a very important segment of ILP in the EU, some member States are still very sceptical about the usefulness of the OCTA's findings in achieving operational results (HENU, 2009; Goold, 2009:19). On the other hand, Ratcliffe (2008:81–82) maintains that the OCTA, which Europol presents as the main product of criminal intelligence, does not prove that the concept of ILP is really being implemented in the EU. Namely, the main premise of the new model (i.e. that criminal intelligence guides activities against a criminal environment and that it plays the main role in allocating resources) still has not been embraced in practice because OCTAs do not actually bind anybody to use their findings. Similarly, Brady (2007a) found that neither governments nor member states' police forces take the ECIM seriously enough. Nevertheless, consent regarding establishing the ECIM in the EU is an important step towards promoting the use of ILP methods, a fact confirmed in a special study by the European Parliament (Goold, 2009:17–18), which sees important factors in the ECIM and OCTA that should significantly contribute to harmonising police practices in the EU and to introducing modern intelligence-led strategic planning, which will ensure the quality of threat assessments for guiding police activities at both the national and EU levels.

The conclusion can therefore be drawn that the ECIM cannot operate efficiently without established national criminal intelligence models that are characterised by an understanding of the ILP principles. This is also indicated by Goold (2009) and

Brady (2007b), according to whom there is still a significant problem concerning the provision of information and intelligence to Europol by EU member States, on which Europol is almost entirely reliant. EU member States still frequently have reservations when it comes to giving agencies such as Europol more authority in criminal prosecution, and in practice law enforcement authorities prefer to co-operate bilaterally in cross-border investigations and exchange information and criminal intelligence on an ad hoc basis, using bilateral agreements as the basis.

The Slovenian police also face similar difficulties because some investigators do not understand the principles of ILP and the essence of one of the most important tools that Europol uses to provide proactive operational support to member states in their investigations; that is, Analytical Work Files (AWF), which do not receive sufficient quality information. We should be aware that the system of AWF, along with structured contributions from member States, contributions from European law enforcement agencies, information from the private sector, and information from open sources, represents one of the most important data sources for drawing up the OCTA (Ratzel, 2006).

It is important to bear in mind that even though law enforcement authorities may be aware that better communication and information exchange could lead to more effective investigation and allocation of resources, these environments are permeated by a culture in which information is seen as power. By withholding information, investigators try to maintain power, prove their importance in the workplace, and thus ensure promotion (Ratcliffe, 2008:130).

That the ECIM has not yet reached the desired level of effectiveness is indicated by the Europol Strategy for 2010–2014, which lists among its main goals further development of the ECIM and promotion of principles on which the ECIM is based (Europol, 2009). Further development of the ECIM was also set as a priority goal by the trio Presidency of the Council of the EU consisting of Spain, Belgium and Hungary, which will lead the Council from 2010 to 2011 (Council of the European Union, 2010a:12).

What seems very promising is the Harmony Project, which was launched by Belgium in cooperation with the Netherlands, the UK, and Europol. The project was spurred by the recognition that the security architecture system within the EU, which is intended to ensure effective cooperation of law enforcement authorities, is still to a large extent not harmonised and deficient. As a result of this situation, decisions made at the highest level in the EU are often not implemented at the operational level in the member states. Similarly, numerous initiatives and projects in police and judicial cooperation are not always harmonised with the set priorities in the EU and with the established ECIM. The Harmony Project is intended to harmonise the functioning of all subsystems within the ECIM and establish a real European policy cycle. This should achieve coherence in implementing activities at the horizontal level (i.e., be-

tween EU agencies observing the priorities set at the EU level) and vertical level (i.e., integration of priorities and decisions adopted at the EU level into national strategies), which will improve effectiveness in serious crime prevention and reduction in the EU as well as optimise the use of resources available to the member States and EU agencies for fighting crime. Europol and COSI (Standing Committee on operational cooperation on internal security), which, among other, is replacing the EPCTF, will play a key role in this process. Based on the Harmony Project the JHA Council in late 2010 adopted Council Conclusions aimed at establishing and implementing a multi-annual policy cycle in the field of serious and organised crime in order to tackle the most important criminal threats in a coherent and methodological manner (Belgian Integrated Police, 2010; Belgian Presidency of the European Union, 2010). Harmony Project confirms our conclusion that national criminal intelligence models, as ECIM sub-systems, must operate in a coordinated manner in order to increase the efficiency of crime fighting efforts in the EU.

A proactive approach based on ILP is also contained in the Stockholm Programme (Council of the European Union, 2009) as an important principle on which internal security strategy for the protection against organised crime, terrorism, and serious crime must be based. Unfortunately, the interior and justice ministers of the EU member states have missed an opportunity to specifically emphasise the need for intensified promotion of ILP principles in setting up the genuine European law enforcement culture mentioned in the Stockholm Programme, which is definitely very important for establishing an effective ECIM. One possible reason for this is also that representatives of the member states at the strategic level are often unfamiliar with the essence of ILP and do not understand it; therefore they cannot be expected to see that poor understanding of ILP principles is an obstacle to building an effective system of crime reduction and prevention in the EU. This view is supported by the House of Lords report (2008:27), which states that officials from member states are unable to tell, some years later, whether the agreements reached in 2005 concerning the establishment of a common ILP methodology have yielded any results or not, or to what extent the concept has been implemented, and that they do not understand at all what result should represent a final goal.

EU Internal Security Strategy, whose main objective is to integrate the existing strategies and conceptual approaches while acknowledging the Stockholm Programme, in fact emphasises proactive and intelligence-led approach to policing as the key elements of crime prevention and reduction in the EU. Internal Security Strategy, which was adopted in the beginning of 2010 will be translated into an operational strategy with an operational plan put in place by 2014 following a decision taken by the European Interior Ministers in 2010 (Belgian Presidency of the European Union, 2010; Council of the European Union, 2010b).

All of this leads to the conclusion that the ECIM can only operate effectively once the member States have grasped and supported the principles the model is based on. According to Carter (2009:79-84), the member States that have not yet set up their national criminal intelligence models as ECIM sub-systems (the ILP model) must be aware that there is no universally accepted definition of ILP or manual for its use, which means that in introducing an ILP model the member states must take into account and take advantage of different experience and generally accepted ways of implementing the ILP concept. Established criminal intelligence is a prerequisite for its evolution into an ILP model. It must be borne in mind that national criminal intelligence models represent ECIM subsystems, and that the ECIM can only carry out its mission once effective functioning of subsystems guarantees effective functioning of the ECIM as a system.

4   CRITICAL FACTORS TO BE SATISFIED IN DEVELOPING AND IMPLEMENTING A NATIONAL CRIMINAL INTELLIGENCE MODEL IN SLOVENIA

Adopting a decision to establish a national criminal intelligence model, which represents the foundation for the implementation of the ILP model, is just the beginning of a usually difficult and long process in which the understanding of critical factors represents the starting point for successfully dealing with this process.

As has been determined above, the implementation of the ILP model is dependent on a certain foundation in the form of a criminal intelligence model that formalises and connects all criminal intelligence structures and processes. In the case of countries such as Slovenia, which are characterised by individual unconnected elements of criminal intelligence, all those elements must first be formalised and integrated in an adequate organisational model. Only on this foundation can we start integrating criminal intelligence into the central framework of all police business and decision-making, which is vital for the transition to the business model (the ILP model), which is characterised by priority identification methods, decision-making methods at the strategic and tactical level, and standards to implement the criminal intelligence process.

However, in trying to identify the most important factors for successfully setting up an ILP model, one encounters (Ratcliffe, 2005) a problem posed by poor documentation of existing ILP models. With few exceptions, such as the British National Intelligence Model, there is very little specialist literature on this that could familiarise police officers with existing ILP models and help them understand the factors crucial in setting up such a model.

As previously mentioned, the basis for developing an ILP model has already established criminal intelligence capacities within a law enforcement organisa-

tion, which must be adapted to the characteristics of each individual organisation and based on a good understanding of the new concept of policing. Carter (2009:120–121) maintains that the timeframe, resources, and need for international assistance in implementing the ILP model largely depend on established criminal intelligence capacities within the organisation. The less developed intelligence capacities are, the greater is the need for foreign assistance and resources, and the longer is the time needed for implementing the model.

It can be seen that a transition to the ILP model requires a serious project-based approach, which provides an opportunity for successful and effective implementation of a new criminal intelligence model provided that critical factors have been identified. Therefore, by analysing what is known about criminal intelligence in developing the ILP model, nine critical factors have been identified affecting implementation of a future Slovenian criminal intelligence model, which should be based on the ILP concept:

- Management commitment and cooperation (John & Maguire, 2004; Peterson, 2005; IALEIA, 2005; Fuentes, 2006; Carter, 2009; U.S. Department of Justice, 2009);
- A project-based approach (John & Maguire, 2004; U.S. Department of Justice, 2009);
- Organisation structure adjustment (John & Maguire, 2004; Peterson, 2005; Guidetti, 2006; Fuentes, 2006; Clarke, 2006; U.S. Department of Justice, 2009; Carter and Carter, 2009);
- Education, training, and awareness-raising (John & Maguire, 2004; Cheurprakobkit & Puthpongsiriporn, 2005; Peterson, 2005; Guidetti, 2006; U.S. Department of Justice, 2009; Carter & Carter, 2009);
- Information and criminal intelligence management plan (John & Maguire, 2004; Guidetti, 2006; Carter, 2009);
- Improving analytical capacities (John & Maguire, 2004; Peterson, 2005; Carter, 2009; U.S. Department of Justice, 2009; Carter & Carter, 2009);
- Connecting the ILP concept with the concept of community-oriented police work (John & Maguire, 2004; Clarke, 2006, Kleiven, 2007; Carter, 2009; Carter & Carter, 2009);
- Legal regulation (Peterson, 2005; Fuentes, 2006); and
- A cultural shift to embrace the ILP concept (John & Maguire, 2004; Cheurprakobkit & Puthpongsiriporn, 2005; Fuentes, 2006; Tilley, 2008; Ratcliffe, 2008; Carter, 2009)

4.1   Management commitment and cooperation

In their report summarising the results of implementing the National Intelligence Model in the UK, John and Maguire (2004) stress the importance of management commitment to intelligence-led policing in implementing and operat-

ing an ILP model. This need has also been stressed by many other authors. This commitment is articulated through public appearances of police officials that fully support implementation of the new model for which human and other resources instrumental to the project are made available. It is also important that senior management tasked with supervising implementation of the model be able to communicate the objectives of the new ILP model to the agency's staff and to incorporate intelligence into their strategic and tactical decisions. It therefore follows that, in order for implementation of an ILP model to be successful, high-ranking police officials need to be educated about the key challenges of the new concept so that they will be able to publicly demonstrate their commitment to ILP and lead by example.

This concept presents a major challenge for police officials in police organisations like Slovenia's because they lack experience in intelligence-led policing and need to grasp the essence of the new proactive model, which no longer focuses merely on intelligence-led investigations, but is primarily concerned with establishing intelligence-led policing. In a situation in which resources are limited, officials can enhance proactive policing through their redistribution and allocation, and thus consolidate their confidence in the new method of work. Ratcliffe (2004) determined that criminal intelligence is a relatively new discipline in the law enforcement environment, in which senior managers are recruited from among investigators whose view of criminal intelligence is that of case support. They prefer to think that providing strategic analytical support and criminal intelligence are merely tools for improving arrest statistics, which is an attitude that should be avoided in developing intelligence-led policing.

4.2   A project-based approach

A national criminal intelligence-led model can be successfully and effectively implemented if it develops systematically, involving a project approach and project management principles. With a systematic approach it is easier to accomplish the objectives, use the resources to their fullest potential, reduce the risk during the implementation phase, and avoid repeating mistakes, thus making the implementation environment more predictable.

Gottschalk and Gudmundsen (2008:180) found that implementation is important for four reasons. First, failure to carry out a strategy can result in lost opportunities, duplicated efforts, incompatible organisational units, and wasted resources. Second, unsuccessful implementation creates difficulties in achieving the objectives of the new policing model. Third, lack of implementation leaves police officers dissatisfied and reluctant to continue working in the new policing framework. Finally, lack of implementation creates problems related to establishing and maintaining priorities in strategic planning.

4.3   Organisation structure adjustment

To guarantee the success of implementing and operating an ILP model, it is crucial to introduce organisational change to structures at the national, regional, and local levels, which, connected in a coordinated system, enable a smooth flow of both strategic and tactical information and criminal intelligence so that they become available to decision-makers at various levels. Strategic criminal intelligence products should not be viewed merely as products that apply to the national level or the broader perception of a law enforcement agency; their true value is that they can be used in managerial planning and resource deployment processes at all levels of policing, including regional, and local. With this in mind, regional and local police officials' accountability must be developed further.

Furthermore, it is very important to incorporate the tasking and coordination phase in the organisational structure. This phase ensures that intelligence is permanently used in the decision-making process. Ratcliff (in press: http://jratcliffe.net) has found that "ILP is not just about intelligence, but about policing." If no intelligence function is incorporated in the decision-making process, then intelligence-led policing cannot take place at any level of the police organisation.

4.4   Education, training, and awareness-raising

There is a broad consensus among experts that a new policing model cannot be successfully and effectively implemented without investment in education, training, and raising awareness. These activities are the key elements of introducing change in any organisation. Training must begin early enough, first of all targeting police leadership as the key driving force of organisational change, after which expertise is then transferred top-down to all levels of police organisation, including patrol officers. The Slovenian police can use the capacities of the Police Academy, the core task of which is police officer training, and take advantage of the programmes organised by CEPOL in the context of ILP and criminal intelligence policing at CEPOL (European Police College).

The report on the implementation of the National Intelligence Model in the UK (John & Maguire, 2004:55) stresses that police education and training are pivotal to "winning hearts and minds" and making staff embrace the new framework of policing, thus preparing them to become actively involved in the implementation phase and follow-up processes.

Education and training play a significant role in transforming the existing police culture which sometimes resists change. Cheurprakobkit and Puthpongsiriporn (2005: 296), for example, claim that education and training programmes delivered by police academies play an important role in police organisations. Freshly

trained police recruits can be used as agents of change, who will further disseminate the new policing values and methods.

In her study focusing on police culture and integration of an analytical approach in intelligence-led policing, Cope (2004) emphasizes that police culture is likely to represent a serious obstacle to implementing a new model of policing. Her paper stresses the need for additional training of both police officers and analysts so that a positive working environment is established for their interaction.

It is important that training also continue after police employees leave their law enforcement training institutions. The new model and its advantages and objectives, including a new manner of policing, should be promoted through continuous awareness-raising programmes and training courses targeting all police employees.

4.5   An information and criminal intelligence management plan

As a rule, criminal intelligence systems function on the basis of an information management plan, the purpose of which is to formalise all processes in the intelligence cycle, thus ensuring effective operation of the criminal intelligence system. When introducing an ILP model, this plan must be upgraded to suit the ILP concept and contain all essential components of its operation. According to Carter (2009:100–101), such an ILP model plans consist of seven components: Strategic Priority, Intelligence Requirements, a Collection Plan, Analysis, Intelligence Products, Operational Responses, and a Process Review. The purpose of an information and criminal intelligence management plan is to ensure that the responsible staff know and perform their tasks properly, thus enabling effective operation of the ILP model.

With reference to this, John and Maguire (2004:55) stress that the standardisation of intelligence practices and products should not be overlooked. In this way, activities and products could be used across and between levels of police organisation, and also in cooperation between EU member states.

4.6   Improving analytical capacities

Analysis is a vital component of a criminal intelligence system. Without analysis there are no intelligence products. A police organisation must realise that the effective operation of an ILP model significantly depends on quality analytical capacity that is able to provide timely and quality criminal intelligence products supporting police activities at both the tactical and strategic levels.

Police organisations like Slovenia's, whose criminal intelligence capacity is under-developed, often lack developed strategic analysis. Enormous effort and work is required when setting up a strategic analysis to shift the traditional perception of intelligence activity as mere case investigation support towards understanding that intelligence can be used in strategic planning and resource allocation, which is a key characteristic of any ILP model. Despite limited resources, the new approach allows police officials to still successfully pursue the main goal of reducing crime.

A well-developed analytical capacity will enable crime analysts to perform their duties well and include recommendations for action in the intelligence product. This is not the case with military and defence analysts, who leave the interpretation to end-users that have been trained to interpret intelligence products (Ratcliffe, 2004).

4.7   Connecting the ILP with community-oriented policing

Prior to implementation, the new concept needs to be considered in the light of existing policing practice in the police organisation. In the Slovenian case, the ILP model must be harmonised with the concept of community-oriented police work, which has been defined as a framework for policing (MNZ, 2002).

Some authors (see Carter, 2009; Clarke, 2006) believe that ILP and community policing are compatible. According to them, the ILP concept is a logical improvement of proactive community policing. Community support is important for the ILP concept and its effective operation. It is especially important (Carter, 2009:87) to use the potential of the partnership between the police and the community built under the concept of community policing in the sense of analysing community intelligence for crime prevention and deterrence. Studies conducted in the UK as part of the National Intelligence Model (Kleiven, 2007:270; John & Maguire, 2004:22–23) have demonstrated that a lack of community intelligence, which theoretically represents a key component of the National Intelligence Model, significantly impacts the identification of priorities in the local community that should be taken into consideration together with regional and national priorities. The paradoxical effect in practice has been that the priorities identified with the responsibilities of a police unit have not matched actual community concerns.

4.8   Legal regulation

The protection of human rights and freedoms is one of the most important areas that need to be taken into consideration when establishing a criminal intelligence model (Peterson, 2005:19–20). Because the Slovenian police force does not have a tradition of intelligence policing and this area still has a nega-

tive connotation in both the professional community and general public, special emphasis should be placed on legal regulation of criminal intelligence.

A priority task is to regulate the gathering of information from different sources, especially the use of covert measures such as surveillance, undercover operations and informants, which constitute significant elements of ILP systems (HMIC, 1997; Guidetti, 2006). Covert measures conducted as part of criminal intelligence need to be precisely set out by law due to potential abuse and non-selective use. The regulation of this area seems to represent a considerable professional challenge because the professional community and general public need to be convinced that the use of covert measures should be made available for gathering information not primarily aimed at criminal prosecution. In addition, it should be taken into account that lower legal standards apply for gathering information in criminal intelligence systems than for providing evidence in criminal procedures (Fuentes, 2006: 16).

Prosecution authorities should definitely be attracted to take part in the creation of a national criminal intelligence model, especially in legal regulation of criminal intelligence. Certainly they will have a role to play in approving and supervising the implementation of covert measures in criminal intelligence. Moreover, the involvement of prosecution authorities in such a discussion could improve the participation of prosecution and police authorities in analytical work files (AWF), which are an important tool of the ECIM (for more information, see Potparič, 2009b).

4.9   A cultural shift to embrace the ILP concept

The significance of organisational culture for implementing the new model has already been touched upon in this paper. In embracing the new concept of policing, one needs to be aware that goals such as purchasing appropriate information technology, a changed organisational structure, and establishing information and criminal intelligence management can be achieved in a relatively short period of time. However, much more time and effort are required to change the existing organisational culture in order for all staff members of a law enforcement organisation to be responsible to effectively carry out their specific tasks in a criminal intelligence system, which represents a dramatic shift from traditional policing methods. A senior U.S. police official illustrates how dramatic the shift represented by the new concept of policing really is: "It's not about numbers and arrests, it's about having an impact on the criminal entity . . . . In the past a lot of guys, myself being one of them, were rewarded by the number of scalps brought in. Now, I never ask for quantity of drugs or number of arrests. But I look at the number of intelligence entries going into SIMS (Statewide Intelligence Management System)" (Ratcliffe & Guidetti, 2008:123).

Carter (2009:124) believes that establishing ILP requires staff resocialization enabling internalisation of the new work method through a change in attitudes, values, and beliefs. Carter is convinced that the commitment of management and redistribution of resources for ILP play a significant role in effective resocialization. According to John and Maguire (2004:52), effective resocialization prevents a "yo-yo effect" between reactive and proactive policing, which could otherwise considerably increase the costs of establishing a new criminal intelligence model.

On the one hand, some experts argue that rewards should be used to establish a new culture paradigm for a law enforcement organisation (Kelly & Abrials, 2003:26; Office of the Director of National Intelligence, 2008:11, Carter, 2009:127). On the other hand, it is interesting that Belgium regulates one of the key elements of its criminal intelligence system through prosecution (a negative sanction), that element being an obligation requiring all police officers to communicate any relevant item of information to special police squads established for gathering and processing information (Council of the European Union, 2004b:15).

Based on experience gained through establishing an ILP model at the New Jersey State Police (with a tradition of intelligence), Guidetti (2006:80–81) emphasises another element of establishing the new policing model. He argues that this is much more effective if outside experts take part in it.

5   DISCUSSION

Based on a qualitative descriptive analysis, a number of factors have been identified that play a critical role in setting up a national criminal intelligence model in Slovenia and that should be taken into account by the Slovenian police in implementing the new policing model. These factors are: management commitment and cooperation; a project-based approach; organisation structure adjustment; education, training and awareness-raising; an information and criminal intelligence management plan; improving analytical capacities; linking the ILP concept to the community policing concept; legal regulation; a cultural shift to embrace the ILP concept.

In creating a national criminal intelligence model, not all analysed factors carry the same weight. In assessing their weight, different national characteristics have to be taken into account. For example, in the case of Slovenia, when assessing the organisation structure adjustment and the related police officials' accountability development at the regional and local level, we will have to determine whether such an orientation might conflict with tendencies aimed at centralising the criminal police and diminishing the authority of police managers at regional police direc-

torates. The latter currently still head both uniformed and criminal police sections at the regional level, where criminal intelligence units will be established. Those criminal intelligence units at the regional level, along with the criminal intelligence unit at the national level, need to become the focal point of the Slovenian police organisation, representing the driving force of proactive police activity.

With regard to the fact that in introducing the new work concept the already established policing practice has to be taken into account, the creation of the Slovenian criminal intelligence model must by all means involve the uniformed police, which is responsible to implement community-oriented policing. This will ensure actual involvement of uniformed officers in generating community intelligence, which represents an important segment of the ILP model. Added to that, the uniformed police carry a large part of the responsibility for preventing and reducing crime at the local level, which is an additional reason to immediately include the uniformed police in criminal intelligence activities.

In terms of the cultural shift to embrace the concept of the ILP as one of the key critical partners, Slovenia should consider the assistance of experts from abroad with comprehensive theoretical and practical knowledge in ILP. It is namely difficult to imagine that middle management, which will most probably have overall responsibility for establishing the new policing model at the Slovenian police, could confidently and effectively raise their superiors' awareness and convince them that a shift to the new model is a good idea. In order to win management support for introducing the ILP concept, it is necessary to include top experts that can provide first-hand experience from an operational level, convince staff, and contribute to a change in their culture based on traditional policing. In this regard, Slovenia might seek assistance through EU twinning projects providing both additional funds and assistance of outside experts. This reflects the statement by Carter (2009) above, indicating that external assistance in implementing the ILP model is inversely proportional to the existing criminal intelligence capacities of an organisation.

Furthermore, the attraction of external experts, particularly potential EU assistance, would provide a greater guarantee that the Slovenian criminal intelligence model will actually be compatible with ECIM and will efficiently function as its sub-system.

6   CONCLUSION

This paper establishes that the ILP concept represents the main direction of development of criminal policing in the EU. Both in the EU and elsewhere in the world, law enforcement authorities are increasingly identifying ILP as a model enabling an understanding of the complex and dynamic criminal environment,

helping define priorities in resource allocation, and contributing to efforts to predict criminal trends and manage future threats, which introduces a completely new feature compared to traditional reactive police models.

Further development of ILP and the resulting increase in law enforcement authorities' effectiveness in combating crime in the EU will not be possible without national criminal intelligence models created in a professional and scientifically based manner that, together with the responsible EU agencies, constitute an effective ECIM. Consequently, in order to ensure effective functioning of the ECIM, EU member states must create national criminal intelligence models that will ensure effective functioning of the ECIM as a system through effective collection, analysis, and exchange of information and criminal intelligence, and ultimately by using joint crime reduction methodology. This provides the conditions to implement the principle of availability of information and criminal intelligence, which plays a decisive role in setting up an environment that enables a piece of information to be found, used, and exchanged without any difficulty, which is of vital importance for the operation of each criminal intelligence system.

Awareness of and taking into account the critical factors identified in establishing a national criminal intelligence model will ensure greater effectiveness of the entire implementation process. Furthermore, because the implementation should take into consideration the strategic environment in which a national criminal intelligence model is being established, the obligation to actively participate in the ECIM and keep track of its development is imposed on the EU member states, thus ensuring coordinated development of criminal intelligence at the national and EU level. Subject to minor adjustments, the established findings are also useful for other member states that have not yet set up a criminal intelligence model.

Setting up national criminal intelligence models in the EU member states provides the conditions for effective functioning of the ECIM, bringing us closer to one of the most important objectives of the EU: providing a high level of security, freedom, and justice for all EU citizens.

REFERENCES

Belgian Integrated Police (2010). *Harmony – a generic european crime intelligence model.* Retrieved August 20, 2010, from http://police-eu2010.be/mu-eu2010/en/projects/harmony/

Belgian Presidency of the European Union (2010). *The European Interior Ministers approve a European security plan to be put in place by 2014.* Retrieved August 22, 2010, from http://www.eutrio.be/pressrelease/european-interior-ministers-approve-european-security-plan-be-put-place-2014

Brown, S.D. (2007). The meaning of criminal intelligence. *International Journal of Police Science and management, 9*(4), 336-340.

Carter, D. (2009). *Law Enforcement Intelligence: A guide for State, Local, and Tribal Law Enforcement Agencies.* Second Edition. School of Criminal Justice, Michigan State University. Retrieved January 15, 2010, from https://intellprogram.msu.edu/CARTER_Intelligence_Guide_2d.pdf

Carter, D., & Carter, J. (2009). Intelligence- Led Policing: Conceptual and Functional Considerations for Public Policy. *Criminal Justice Policy Review, 20*(3), 310-325.

Cheurprakobkit, S., & Puthpongsiriporn, S. (2005). Service culture for the implementation of community policing: a case study of the Malaysian police. I*nternational Journal of Police Science and Management, 7*(4)*,* 286-299.

Clarke, C. (2006). Proactive policing: Standing on the shoulders of Community-Based policing. *Police Practice and Research, 7*(1), 3-17.

Clarke, R.V., & Eck, J.E. (2008). *Priročnik za policijske (kriminalistične) analitike – v 60 korakih do rešitve problema.* Ljubljana: Faculty of Criminal Justice and Security, University of Maribor.

Cope, N. (2004). Intelligence led policing or policing led intelligence?. *The British Journal of Criminology,* 44(2), 188-203.

Council of the European Union (2010b). *Draft Internal Security Strategy for the European Union: "Towards a European Security Model.* 5842/2/10. Retrieved August 22, 2010, from http://register.consilium.europa.eu/pdf/en/10/st05/st05842-re02.en10.pdf

Council of the European Union (2010a). *JHA Trio Presidency Programme* (January 2010 - June 2011). 5008/10. Retrieved June 25, 2010, from http://www.statewatch.org/news/2010/jan/eu-council-jha-trio-5008-10.pdf

Council of the European Union (2005). P*ress Release 2683rd Council Meeting, Justice and Home Affairs*, 12645/05. Retrieved May 27, 2010, from http://europa.eu/rapid/pressReleasesAction.do?reference=PRES/05/247&format=HTML&aged=0&lg=sl&guiLanguage=en

Council of the European Union (2004b). *Provisional findings of the two »peer evaluation« mechanisms affecting the Union fight against terrorism.* 9876/04. Retrieved April 22, 2010, from http://statewach.org/news/2004/jun/eu-plan-terr-eval.pdf

Council of the European Union (2004a). *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union.* OJ C 53, 3.3.2005. Retrieved January 17, 2009, from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:053:0001:0014:EN:PDF

Council of the European Union (2009). *The Stockholm Programme – An open and secure Europe serving and protecting the citizens.* 17024/10. Retrieved July 23, 2010, from http://www.se2009.eu/polopoly_fs/1.26419!menu/standard/file/Klar_Stockholmsprogram.pdf

Dvoršek, A., Frangež, D. (2009). Slovenska kriminalistična policija med "Kriminalstrategie" in "Criminal Intelligence". In T. Pavšič Mrevlje (Ed.), *Varstvoslovje med teorijo in prakso: zbornik prispevkov10. slovenski dnevi varstvoslovja. 4. – 5. junij 2009.* Ljubljana: Fakulteta za varnostne vede.

European Data Protection Authorities (2007). *Common position of the European Data Protection Authorities on the use of the concept of availability in law enforcement.*

Spring conference, Cyprus, 10-11 May. Retrieved January 25, 2010, from http://www.personuvernd.is/media/frettir//Declaration_on_the_Principle_of_Availability,_Common_Position,_Checklist_-_final.doc

Europol (2009). *Europol Strategy 2010 – 2014.* 1424-73r1. The Hague, 2 November. Retrieved June 9, 2010, from http://register.consilium.europa.eu/pdf/en/10/st06/st06517.en10.pdf

Fuentes, J.R. (2006). *Practical guide to Intelligence-Led Policing.* New York: Center for Terrorism at the Manhattan Institute. Retrieved January 28, 2010, from http://www.state.nj.us/njsp/divorg/invest/pdf/njsp_ilpguide_010907.pdf

Goold, B. (2009). *Development of the Organised Crime threat assessment (OCTA) and internal security Architectur*e. Brussels: Directorate General Internal Policies on the Union – European parliament.

Gottschalk, P., & Gudmundsen, Y.S. (2008). Police culture as a determinant of intelligence strategy implementation. *International Journal of Police Science Management, 11*(2), 170-182.

Guidetti, R. (2006). *Policing the Homeland: Choosing the Intelligent Option.* Monterey, California: Naval Postgraduate School. Retrieved June 10, 2010, from https://www.hsdl.org/?view&doc=61122&coll=limited

HENU (2009). *Heads of Europol National Units Meeting.* Malta, 4-5 May.

HMIC (1997). *Criminal Intelligence – A Thematic Inspection On Good Practice.* Retrieved June 14, 2010, from http://www.nationalarchives.gov.uk/ERORecords/HO/421/2/hmic/crimint1.pdf

House of Lords (2008). *European Union Committee, 29th Report of Session 2007-08, Europol: coordinating the fight against serious and organised crime.* London: The Authority of the House of Lords. Retrieved May 14, 2010, from http://www.publications.parliament.uk/pa/ld200708/ldselect/ldeucom/183/183.pdf

IACP (2002). *Criminal Intelligence Sharing Report.* Retrieved July 15, 2009, from http://www.theiacp.org/Portals/0/pdfs/Publications/intelsharingreport.pdf

IALEIA (2005). *Intelligence Led Policing: Getting Started.* Third edition. International Association of Law Enforcement Intelligence Analysts, Inc. Retrieved June 8, 2010, from http://www.ialeia.org/files/other/Intelligence%20Led%20Policing-Getting%20Started.pdf

John, T., & Maguire, M. (2004). *The National Intelligence Model: Early implementation experience in three Police Force areas.* Working Paper Series. Paper 50. School of Social Sciences, Cardiff University.

Kelly, J., & Abrials, D. (2003). Overcoming Information Sharing Obstacles and Complexity. *The Police Chief, 70*(11), 24-28.

Kleiven, M.E. (2007). Where's the intelligence in the national Intelligence Model?. *International Journal of Police science & Management, 9*(3), 257-273.

MNZ (2002). *Memorandum on Basic Policing Guidelines for 2003–2007.* Retrieved January 21, 2010, from http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/DP-DVN/usmeritve/MEMORANDUM__KONCNA.doc

MNZ (2007). *The 2008 Guidelines and Mandatory Instructions for Drawing up an Annual Policing Plan.* 007-30/2007/10.

MNZ (2009.) *The 2010 Guidelines and Mandatory Instructions for Drawing up an Annual Policing Plan.* 007-308/2009/1.

National Crime Prevention and Deterrence Program for 2007–2011 (2007). *Varnost, 3.*

Nunzi, A. (2007). Exchange of Information and Intelligence among Law Enforcement Authorities - A European Union Perspective. *International Review of Penal law, 78*(1-2), 143-151.

Office of the Director of National Intelligence (2008). *United States Intelligence Community Information Sharing Strategy.* Retrieved April 23, 2009, from http://www.dni.gov/reports/IC_Information_sharing_strategy.pdf

Panel discussion on criminal intelligence (2010). Gotenica, April 15, 2010.

Peterson, M. (2005). *Intelligence-Led Policing: The New Intelligence Architecture.* Retrieved May 15, 2009, from http://www.ncjrs.gov/pdffiles1/bja/210681.pdf

Potparič, D. (2009a). The Implementation of the Principle of Availability of Information and Criminal Intelligence as an important strategic Criminal Investigation Measure. *Varstvoslovje,* 11(3), 438-454.

Potparič, D. (2009b). Učinkovito sodelovanje med Europolom in Eurojustom pomembno tudi za Slovenijo. *Pravna praksa, 28/290*(48), 10-12.

Potparič, D., & Dvoršek, A. (2010). Setting up proactive criminal intelligence in EU Memeber States. *Revija za kriminalistiko in kriminologijo,* 6(1)*, 15-27.*

Ratcliffe, J.H. (in press). Intelligence-led policing: Anticipating risk and Influencing Action. In: Peterson, M., Morehouse, B., Wright, R (Eds), *INTELLIGENCE 2010: Revising the Basic Elements.* IALEIA. Retrieved July 21, 2010, from http://jratcliffe.net/papers/Ratcliffe%20(draft)%20ILP-Anticipating%20risk%20and%20influencing%20action.pdf

Ratcliffe, J.H. (2008). *Intelligence-Led Policing.* Devon: Willan Publishing.

Ratcliffe, J. H. (2005). The effectiveness of police intelligence management: A New Zealand case study. *Police Practice and Research, 6*(5)*,* 435-451.

Ratcliffe, J.H. (2004). The Structure of strategic thinking. In J. Ratcliffe (Ed.), *Strategic Thinking in Criminal Intelligence.* Sydney: The Federation Press, 1-10.

Ratcliffe, J. H., & Guidetti, R. (2008). State police investigative structure and the adoption of intelligence-led policing. *Policing: An International Journal of Police Strategies & Management,* 31(1)*,* 109-128.

Ratzel, M.P. (2006). *Organised Crime Threat Assessment.* Retrieved November 11, 2010, from http://polis.osce.org/library/f/2657/419/OSCE-BEL-EVT-2657-EN-Presentation%20by%20Max-Peter%20Ratzel,%20Director%20of%20Europol.pdf

Tilley, N. (2008). Modern approaches to policing: community, problem- oriented and intelligence-led. In T. Newburn (Ed.). *Handbook of Policing.* Devon: Willan Publishing.

U.S. Department of Justice (2009). Navigating Your Agency´s Path to Intelligence-Led Policing. Retrieved April 25, 2010, from http://www.rodgersgroupllc.com/Navigating_Your_Agencys_Path.pdf

EUROPOL'S ROLE IN THE FIGHT AGAINST CONTEMPORARY FORMS OF CRIME

Authors:

Eldar Šaljić and Zvonimir Đorđević

ABSTRACT

Purpose:

The authors provide an overview of the activities of the European police office Europol through the provisions analysis of the Convention on the EUROPOL: the establishment of EUROPOL, the scope of work, organization and data processing, with special emphasis on the role of analytical work files.

Design/Methodology/Approach:

This article is based on the application of theoretical work to the European police competence in the fight against organized crime through qualitative methods (i.e., the descriptive method and contents analysis), as well as through the application of primary and secondary written sources.

Findings:

The analysis includes commandments of three additional protocols to the Convention which are an integral part of the legal framework of the EU.

Originality/Value:

The article is one of its kind in the review of the new solutions of fight against contemporary forms of crime. This is why this article is expected to be of interest to the criminal police.

Keywords: European Union, Europol, Common European Foreign And Security Policy, European Security Strategy, European Anti-terrorist Policy, Organized Crime, Criminal Procedure Legislation, Security.

Article Type: Review paper

1   INTRODUCTION

Beginning in the 1990s with the end of the Cold War and the advent of globalization, many criminal organizations ramped up their operations and expanded them worldwide. These organizations are believed to have been helped by weakening government institutions in some countries, more open borders, and the resurgence of ethnic and regional conflicts across the former Soviet Union and many other regions. Crime networks have exploited expanding trade and financial markets, while benefitting from rapidly advancing technology, broadened international travel, and improved global communications. Mainly due to its clandestine nature, international crime is difficult to measure.

Transnational organized crime tends to develop in nations where law enforcement institutions are weak and citizens have limited economic alternatives. Farmers frequently turn to drug cultivation, boosting the international narcotics trade. Unemployed citizens seek work abroad and fall victim to people-trafficking rings. Across the globe, government corruption and illicit trade fuel and sustain each other. Transnational crime is believed to most frequently originate in regions such as sub-Saharan Africa, the former Soviet Union, Latin America, and the Caribbean, but its effects are global. Many experts maintain that terrorists are increasingly funding themselves through crime. They have been linked with criminal groups in money laundering, counterfeiting, and other activities. Collaboration between the two groups could heighten threats to the United States and its interests.

2   DEFINITIONS

There is no single accepted definition of transnational organized crime. In 1994, researchers defined "transnational crime" to include offences whose inception, prevention, and/or direct or indirect effects involve more than one country (Mueller, 1998).

Experts believe transnational organized crime networks vary considerably in structure, strength, size, geographical range, and the scope and diversity of their operations.

The United Nations sought a suitably broad definition in its Convention against Transnational Organized Crime, to which the United States became a party in December 2005. According to the U.N., organized crime groups consist of "three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offense in order to obtain, directly or indirectly, a financial or other material benefit." Organized crime can involve top officials.

3   ORGANIZED CRIME VS. TERRORISM

Definitions of organized crime and terrorism sometimes overlap. Both groups frequently operate in decentralized cell structures, tend to target civilians, and use similar tactics such as kidnapping and drug dealing.

Many experts distinguish the groups by motive: criminals are driven by financial gain and terrorists by political, sometimes religious goals. But clearly discerning groups' motives can be challenging.

Terrorists are increasingly seen as supporting themselves through criminal activity (Kaplan, 2005). Funding for the March 2003 Madrid train attacks, for instance, came from drug dealing (Zarata, 2005). Some crime bosses also appear to dabble in terrorist acts.

The Dubai based Indian mobster Aftab Ansari, for example, is believed to have helped fund the 9/11 attacks with ransom money earned from kidnapping (Rollie, 2005). Further, definitions merge because a growing number of extremists may feel justified in committing the criminal activities themselves, on the grounds that such acts square with their ultimate "terrorist" aims.

Organised crime is therefore a priority area for EU legislation and its fast-growing justice and home affairs agenda (JHA). In 2004, member states agreed a radical expansion of EU powers in crime and policing, issues which cut to the bone of national sovereignty.

In negotiations on the EU constitutional and reform treaties, governments agreed to drop national vetoes on decisions about crime and policing, though actual law enforcement will remain strictly national. They also agreed to make it easier for the EU to initiate criminal legislation and align national court procedures (Brady, 2007).

Initial sceptics, police on the ground throughout Europe have come to view the EU police office, Europol, more favourably and a potentially useful channel for co-ordinating the fight against organised crime. Also, in a world where crime respects no border, they have been convinced that gains are to be made from more proactive cross-border police co-operation: 'By making Europe a safer place, we add to the safety and security of this country', says one senior police officer at the London metropolitan police. Our security starts, not just at our own borders, but in the Greek islands or the Finnish frontier'. Much remains to be done, however. EU bodies have won the acceptance of the European law enforcement community; not its universal admiration. Europol has yet to become indispensable in cross-border investigations, partly due to serious bureaucratic problems that inhibit its usefulness. Governments are in the process of negotiating a major overhaul of the organisation's basic powers.

These sensitive reforms have national support because the governments consider the EU as important to their efforts to dismantle and disrupt the worst organised crime and to seize the financial assets of gangs. Police and magistrates cannot fully dismantle such cross-border European crime networks by acting only within their own borders. Transnational gangs carry out crimes in one country while their leadership and financial assets remain safely hidden abroad (Europol Threat Assessment 2006: 20). Law enforcement co-operation across Europe as a whole has yet to match the degree of co-operation achieved by the criminals. Still, concerns over national sovereignty as well as cultural and legal differences constrain effective cross-border investigations of organised crime.

4   POLICE CO-OPERATION IN EUROPE

Countries also have different rules for starting investigations and gathering evidence. These different rules make it harder to work seamlessly on investigations together. In Britain, for example, it is illegal to use phone taps as evidence in court but police can and do rely on closed circuit television (CCTV) footage. By contrast, France sees phone tapping as legitimate and human rights-compliant, but considers indiscriminate use of CCTV footage as far more intrusive. In some other European countries, public CCTV cameras are unknown; in Denmark, for example, they are banned by law.

Police may be able to circuvent these differences when working informally with their foreign colleagues. But they and the courts still face a range of obstacles to the conduct of cross-border investigations and prosecutions. If they need a witness summons, an order to compel somebody to produce evidence, a search-and-seizure warrant or an order to freeze bank accounts, they may have to ask a court in another country to issue one.

Their main tool for getting this kind of work done is the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, under which judges approve requests for help with investigations and prosecutions from abroad. In 2000, the Council of Europe updated the convention to include requests for undercover operations abroad, the interception of phone and Internet communications across borders and surveillance operations such as 'controlled deliveries' (where authorities secretly monitor crimes such as drug trafficking to unearth a criminal network).

Even revamped, the Council of Europe convention is too complex and inflexible to provide a basis for modern crime-fighting: the new changes are taking years to ratify and requests can take weeks, months and even years to be answered. The UK, for instance, requires too much detail from countries making requests

while the Spanish bureaucracy can misplace requests altogether (Eurojust, Annual Report 2005: 46).

Aside from the pitfalls of formal legal co-operation, European governments have made efforts to boost operational co-operation among police. This is especially true between those countries that have abolished border controls between them in Europe's passport-free zone.

The zone currently consists of 15 countries: the 'old' EU minus Britain and Ireland with the addition of Norway and Iceland (Switzerland decided in a 2005 referendum that it would soon join too). By 2008, except for Cyprus, the countries that became EU member-states in 2004 will join as well.

Police forces from Schengen countries have extra powers to pursue crimes with a cross-border dimension. For example, Dutch officers can carry out surveillance on suspects in Belgium, with or without prior notification. Italian policemen can follow a suspected drug smuggler in 'hot pursuit' into Austria until the local police arrive. Officers across the Schengen area also share information on suspects, stolen goods and cars via the Schengen information system (SIS), a multinational police database. Although Britain and Ireland choose to maintain their own border controls, they do use parts of the Schengen agreement. Britain participates in cross-border surveillance operations and has signed up for the SIS system. So too has Ireland.

Police in parts of the Schengen area co-operate even more intensely thanks to a patchwork of bilateral and multilateral agreements. Co-operation is most sophisticated when countries share land borders, have similar legal systems and face common threats from the same organised gangs or terrorists. For example, police in the Benelux countries assist each other in every day law and order matters and even have common standards for training and equipment. Before the 2006 FIFA World Cup, Germany and Austria signed a treaty placing their police under each others' command at need and allowing officers from each to carry out unrestricted undercover operations in the other's territory. Germany later signed a similar treaty with the Netherlands. The Nordic countries have been running joint patrols and police stations in sparsely populated border regions for years. So too have the Spanish with their French counterparts along the Pyrenees.

EU police chiefs work together to combat some of Europe's most notorious heads of organised crime through the European police chiefs' task force (PCTF). The informal body meets four times a year at Europol's offices in The Hague as well as in Brussels. The body plans joint European operations against organised crime networks with Europol and Interpol. At first, these meetings were little more than talking shops for senior EU law enforcement officers. But the PCTF began proper operations in May 2005 with the Swedish-led *Operation Callidus*, a successful EU-wide crackdown on child pornographers involving hundreds of

police officers from Sweden, Britain, Denmark, France, the Netherlands, Malta, Norway and Poland.

The EU police chiefs organise their work by appointing multi-country policing teams using a planning system called COSPOL (Comprehensive Operational Strategic Planning for the Police). COSPOL simply refers to how the police chiefs divide responsibility for various investigations. Each COSPOL investigation is led by a 'driver', a country directly affected by a particular criminal network and responsible for leading operations against it (Sweden, for example, was the driver country for *Operation Callidus*; similarly Poland leads COSPOL operations against East European crime).

5   EUROPOL PROGRAMS AGAINST ORGANIZED CRIME

Interior and Justice Ministers now meet in the EU's Council of Ministers (or JHA Council) to close legal loopholes between member states' criminal laws and agree legislation and practical steps to make cross-border police investigations easier. All 27 countries must currently agree unanimously on any new measure. Officials develop new proposals in an enormously complicated web of committees making up four different levels of decision-making. These include working groups on police, customs and criminal justice co-operation as well as the so-called 'multi-disciplinary group on organised crime'. This is a group of national policing experts with powers to evaluate crime fighting methods throughout the EU. Staff from the Council's secretariat and the European Commission help with first drafts of legislation and evaluate previous EU agreements. Two of the most important committees are COREPER, the powerful grouping of national ambassadors to the EU and a committee of high-ranking Interior and Justice Ministry officials (called CATS, after its French acronym). (Anderson, den Boer, Gilmore, Raab, & Walker, 2003)

A major part of the Council of Ministers' work in JHA involves replacing the slow Council of Europe procedures for police and criminal justice co-operation with faster, more efficient EU rules, such as 'warrants' speeding up the extradition of suspects and sharing of evidence between the member states. Eurojust, a unit of senior prosecutors, judges and police officers nominated by the member states, helps with making these legal agreements work in practice, and co-ordinates multi-country prosecutions in the EU. Eurojust's caseload has been growing rapidly since it began operating in 2003: for example, the unit reported a 31 % increase in its workload in 2006 and a 54 % rise the previous year (Eurojust Annual Report 2006: 24). While Eurojust mostly deals with prosecutions, Europol is the EU's main tool for assisting investigations into transnational organised crime. Europol gathers and analyses intelligence on crimes ranging from drug

trafficking to counterfeiting and terrorism. Its office is organised on a hub and spoke structure. All member states send police officers to its headquarters in The Hague. These officers act as spokes, sharing information directly with each other and a hub of Europol crime analysts.

These police analysts comb the combined body of European criminal intelligence for transnational trends and links that can be missed by national or regional police forces concentrating on their own backyard. Europol officers cannot make arrests or initiate investigations but they can assist during investigations and be present during the questioning of suspects if allowed by a member state. Since 1999 Europol has focused on developing the analytical abilities needed to add value to national investigations.

In 2005 Interior Ministers agreed on a 'European criminal intelligence model' (ECIM), a non-state policing plan for co-ordinating investigations against organised crime throughout the EU, according to a method called intelligence led policing. Intelligence-led policing is a British inspired law enforcement theory that stresses intelligence gathering and the targeting of police resources on the worst criminals.

The objective is to get police from different countries to plan investigations together using the best intelligence available. The ECIM sets out how the EU can achieve this by ensuring national police forces, Europol's criminal intelligence analysts and the police chiefs' operations work together against the same criminal threats.

The model follows several steps. First, member State police forces share intelligence with Europol, which draws up an assessment of the overall assessment of the threat facing the EU from organised crime. Based on this assessment, the Council of Ministers agrees which law enforcement priorities their police will tackle together. The EU police chiefs then mount joint operations against the criminals and feed back information and lessons learned into Europol, in time for the next threat assessment to be prepared.

EU member States tested this new way of working together for the first time in 2006. Based on Europol's first threat assessment, EU governments set four regional priorities in the fight against organised crime in Europe. These were drugs and human trafficking by African gangs operating in the Mediterranean; Albanian gangs trafficking both heroin and women from the Balkans; commodity smuggling in the Baltic Sea region; and illegal factories for synthetic drugs in Belgium, the Netherlands, Germany and the UK (ENFOPOL 30: 1-3). Initial evidence suggests that neither governments nor police are taking the ECIM seriously enough; though this was also the initial reception of the establishment of Europol. But the adoption of an EU law enforcement model is a significant step forward. The model is also a subtle attempt to promote the use of intelligence led policing methods throughout the EU.

In private, police officers worry that some EU initiatives are more politically mo-
tivated than tailored to meet their needs when co-operating in the field. Officers
are supposed to organise multi-country COSPOL investigations using EU legisla-
tion to set up joint investigation teams (JITs). Under the legislation, police from
several different countries have powers to work on the same investigation as a
team, almost as if they were all working in a single jurisdiction. JITs have the po-
tential to be an innovative tool in the fight against cross-border organised crime.
But so far police have only set up a handful mostly on drug trafficking, fraud and
terrorism and none involve more than two countries each. Police argue that this
is because JITs are too bureaucratic to start and complicated to operate and say
they prefer to use the old Council of Europe procedures or informal agreements.
EU officials counter that JITs will become more common, and more ambitious,
as soon as police and prosecutors get used to the new system.

Europol is wholly reliant on criminal intelligence received from the member
states. So it has had to work hard to prove its files can add value to national
criminal investigations.

Under its current Director, Max-Peter Ratzel, Europol is slowly convincing mem-
ber states of its potential. 'Europol has matured', says one senior UK police of-
ficer. 'Its analysts understand better what we need from them and are starting
to deliver. We are doing a lot of business through Europol now'. For example,
aside from its improved intelligence work, police say the simple fact of having
officers from 27 European countries on the same corridor in The Hague is an
unparalleled resource in day-to-day police cooperation. But major challenges
remain. However, some member States still do not give Europol sufficient, or
consistent, support. For example, in 2006, while one member state contributed
over 500 pages of criminal intelligence to Europol's first organised crime threat
assessment, another offered only a single page. So memember states send police
officers to Europol without the necessary authority at home to help other col-
leagues resolve cross-border issues. This poses real difficulties for building trust
and strengthening co-ordination in international investigations. Officers become
uncertain about the level of co-operation they should expect from their foreign
counterparts. The same problem inhibits the work of Eurojust where prosecu-
tors do not have a similar level of powers. Only some Eurojust prosecutors have
basic powers to issue and activate formal requests for evidence and authorise
controlled deliveries, phone taps and undercover operations, for example.

Europol's effectiveness is also stymied by its founding convention which made
the body awkward to manage and hampered the actions of its staff. Even minor
administrative decisions of its Director need the unanimous approval of all 27 EU
countries represented on its management board. Moreover, under the conven-
tion, Europol analysts and ordinary police officers can only work together via the

liaison officers in The Hague, themselves working through special units based in national capitals. The result can be a bureaucratic standstill.

The member states tried to free up Europol's bureaucracy by tweaking the convention after the body started work in 1999. They added new protocols to the convention giving Europol officers simpler procedures to work with, as well as more powers to investigate money laundering and assist ongoing multi-national investigations on the ground. But since such changes needed to be ratified by all EU national parliaments, they have only just entered into force after a delay of several years. Hence the member states are junking the old convention. Europol will be re-established using EU legislation that can be more easily amended in future, like the agreements used to set up Eurojust or the EU border agency, Frontex.

Under the new legislation, Europol will get wider investigative powers covering more crimes, be less bureaucratic and have more freedom to gather intelligence and information like DNA data. It will also report yearly to the European Parliament and have some communication with national parliaments, making it somewhat more accountable. These changes fall far short of turning Europol into a US-style Federal Bureau of Investigation (FBI). FBI officers in the US have full police powers to investigate over 3,000 federal crimes. The EU has no such body of federal criminal laws for Europol to police. Indeed Europol's 'added value' to national police forces would be destroyed if the office became a competitor with operational powers. Hence the new-look police office will not be able to arrest people or start investigations independently of the member states.

Such reforms are needed. But they fail to address the fundamental problem of European police cooperation: the different roles played by prosecutors and police across the EU. Representatives to both Europol and Eurojust need to have equivalent powers if either organisation is to function properly. The obvious way to overcome such challenges would be to merge both Europol and Eurojust to form a single European law-enforcement coordination body, incorporating also the police chiefs' task force. A single body could underpin a uniform level of co-operation across the EU whatever the national law enforcement structures. It would also prevent duplication in intelligence-gathering and analysis and ensure better follow-through from investigation to prosecution in cross-border cases. Both Eurojust and Europol are due to co-locate in 2009, the ideal opportunity to initiate this merger.

6   CONCLUSION

The aim of EU co-operation should not be to centralise law enforcement co-operation in bodies like Europol and Eurojust. Nor should all forms of police co-operation be subject to formal procedures. A mixture of formal and informal

channels guarantees the best results. Rather the EU should become a focal point for the emergence of a new pan-European community of police officers. In this respect, law enforcement officials have much to learn from their counterparts in customs.

Due to the fact that their work has always been international in nature, cooperation between European customs officials is highly sophisticated, particularly in the areas of information-sharing, joint threat assessments and co-ordinated seizures of illegal goods. European governments are making a serious, long term investment in cross-border law enforcement co-operation against organised crime. It is important, therefore, to recognize that the processes and structures of policing and other state activities are comprised of a multitude of dimensions and institutions which are not necessarily in tune with one another. For our theorizing of the rule of law, an important implication of the developments of bureaucratization at the level of policing is that we need to recognize a fundamental irony of the modern political state from its origins through its further evolution.

The centrality of the state in any discussion on law and police needs no introduction, but it is also important to contemplate the evolution of the state and its functionally divided components, specifically the legal system and the forces of internal coercion. Developing a bureaucratic apparatus to fulfil the state's concentrated and growing arsenal of functions, the State's powers are dispersed across a multitude of institutions, the organization and activities of which the state can no longer carefully control. As the case of international police cooperation shows, the institutions that develop and multiply during the State's continued development cannot be assumed to always be carefully disciplined by the center of the state.

Not only does the evolution of the modern State bring about that the spontaneous collective attention of society is inevitably relaxed, but the functionally divided state institutions that are created in response to the weakening influence of tradition also lead to a diversification of the objectives of state power. Furthermore, the expansion of State bureaucracies such as the police has ironic consequences because as the State grows, the relative power of its center weakens.

In the end, there is no common end to the State, of course, but it also does not suffice to merely enumerate the state's multiple functions. What is particularly important is that the many functions of the state are not always neatly harmonized, for they each have their own instruments and institutions that develop in relative autonomy to one another and with respect to the center of the State. A State with many means will also have many ends. Therefore, whatever model that is suggested towards the adoption of constitutional democratic principles at the global level of law and politics in order to decrease the chances of terrorism must also

take into account the manner in which effective control of terrorism is currently accomplished by international cooperation among public police agencies.

REFERENCES

Anderson, M. (1995). „*Theory, Law and Practice*, Oxford, Clarendon Press". *Policing the European Union* .

Bruggeman, W. (1997). "Policing in Europe : a new wave ?". *European Institute of Public Administration, 1.*

Deflem, M. (2006b). "Europol and the Policing of International Terrorism: Counter-Terrorism in a Global Perspective." *Justice Quarterly, in press.*

Kaplan, D. (2005). "*Paying for Terror: How Jihadist Groups are Using Organized Crime Tactics and Its Profits to Finance Attacks on Targets Around the Globe*," U.S. Newsand World Report.

Marotta, E. (1999). „Europol's role in counter-terrorism policing". *Terrorism and Political Violence.*

Moore, A. (2004). „Police and Judicial Co-operation in the European Union". *Cambridge University Press; 2004.*

Mueller, G. (1998). "Transnational Crime: Definitions and Concepts". *Transnational Organized Crime*, vol. 4.

Rollie, L. (2005). "Terrorists and Organized Crime Join Forces". *International Herald Tribune.*

Sappho, X. (2004). "Organised Crime in the Balkans: Pitfalls of Threat Assessment". *Security Policy Group, The Management Centre.*

The United Nations Convention Against Transnational Organized Crime. Retrieved from http://www.unodc.org/unodc/en/crime_cicp_convention.html

Zarata, J. (2005). *Treasury Department press release.*

4.
CRIMINAL INVESTIGATION OF SPECIFIC CRIMES

INVESTIGATION AND PREVENTION OF CHAINED VAT FRAUDS

Authors:

Darja Bernik, Bojan Škof and Bojan Tičar

ABSTRACT

Purpose:

The purpose of this research was to identify and describe: 1) the most appropriate investigative methods for detecting, and 2) administrative organisational methods for preventing, special cases of chained VAT frauds (i.e., carousel frauds) in the European Union and Slovenia.

Design/methodology/approach:

The methodology used is a descriptive and comparative analysis with synthesis applicable to Slovenian tax practice. Using causal consecutive analysis, the authors identify the most appropriate investigation methods for detecting and preventing carousel frauds. On the basis of email interviews with tax experts from different Member States, the comparative method is applied. Furthermore, the authors examine the direction of international cooperation between different branches of government in particular EU Member States and international cooperation between different international organisations. All the solutions are then placed into the context of the Slovene tax environment.

Findings:

The most important factor for the detection and prevention of chained VAT frauds is the development of administrative cooperation between different branches of government in particular Member States (i.e., tax and customs authorities, financial institutions, police, ministries of justice) with the possibility of on-line exchange of data and international cooperation between different international organisations on the basis of joint investigation teams.

Research limitations/implications:

Our comparative analysis was limited as the email interviews were performed within one international tax consulting group and answers were not received from experts of all Member States. The results partially represent the subjective views of tax experts.

Practical implications:

A useful source of information for different branches of government about the direction in which administrative cooperation should be developed and for investigation teams to recognise the most appropriate investigation methods for the detection and prevention of VAT chained frauds.

Originality/value:

Through comparative analysis of methods for the investigation and prevention of tax frauds within the EU, the paper significantly contributes to the identification of the most appropriate methods in the fight against carousel fraud in the EU as well as in Slovenia and indicates their development for the future.

Keywords: Vat Fraud, Carousel Fraud, Tax Fraud, European Tax Legislation, International Organisations, Administrative Cooperation, Police, Jurisdiction

1   INTRODUCTION

Lately, within the framework of harmonised EU VAT legislation a special type of chained VAT fraud has appeared called "carousel fraud", which causes significant budgetary VAT income deficits in certain Member States. For instance, according to the Reckon study (Reckon LLP, 2009), in 2006 the average VAT gap in the 25 EU Member States was estimated to be 12 % of the theoretical VAT liability. The VAT gap in Slovenia in the year 2006 was estimated to be 4 %. According to this study, the VAT gap represents all VAT losses as it is estimated to represent the difference between the amount of VAT calculated on the basis of total estimated consumption (which is subject in theory to VAT) and actual VAT revenues. There are several assessments of VAT losses in the EU. For instance the empirical assessment made by the Vienna Institute for International Economic Studies (Christie & Holzner, 2006) estimated that in the years 2000 – 2003 the average VAT losses in all Member States were 5.3 % of GDP. According to this study, all the VAT losses in Slovenia (which arise from unpaid VAT, tax avoidance, tax fraud, uncollected VAT, VAT not recovered and VAT from incomplete consent) were estimated to be 3.1 % of Slovene GDP. Such VAT losses, which arise also in part from carousel frauds, represent a serious problem for particular state budgets, which is why we have to understand them better to be able to detect and combat them.

Carousel fraud is a type of cross border VAT fraud within the EU, where goods are delivered from one Member State to the domestic market of another Member State by a trader who disappears (i.e., missing trader) and does not submit a VAT return and/or other reports (such as INTRASTAT report) and does not pay VAT to the tax authorities. The goods in question are then sold again through a chain of domestic companies into the same or other Member States so that the goods move around in a circle. In a carousel fraud, individual owners of temporarily established companies, usually with fictitious addresses and fictitious (i.e. non-existent) representatives double-cross the tax system and illegally gain tax benefits. Normally this causes huge VAT income deficits in the state where they are registered for VAT purposes or where they are established. Usually such fictitious companies issue false or

misleading invoices for VAT (e.g. they state the VAT number of another VAT payer or a non-existent VAT number), fictitious transport documents, supply orders and other supporting business documents. Such documents are not in accordance with tax legislation and/or accounting standards. Furthermore, this represents a risk for the buyers of goods that they won't be able to deduct input VAT on the basis of VAT invoiced and charged in this manner. In the event of a tax inspection, the tax authorities could refuse the buyer that right, if the buyer knew or should have known about the fraud. The extension of carousel fraud was identified in early 2005. At that time different examples of chained VAT fraud were encountered, especially in trade in the following goods: mobile phones, mobile cards, computers, computer chips, microprocessors, central processing units, electronic storage medium devices and other electronic devices used for the storage, processing or recording of electronic data and other software equipment, Viagra, cattle, ink cartridges and other high-value goods. Some examples extended their influence with financial transactions to third (non- EU) countries such as: Gibraltar, Switzerland, Luxembourg, Dutch Antilles, Dubai, USA, and the Caribbean Islands (Weber & Bontems, 2005). Cobain and Seager (Cobain & Seager, 2006) in connection with tax fraud also mention other financial tax havens: the Comoros Islands, the Cook Islands and the Seychelles.

An important turning point regarding the fight against fraud in connection with the change of VAT legislation is represented by the judgment of the European Court of Justice in the joined cases C-354/03, C-355/03 and C-483/03 – Optigen Ltd. and others (European Court of Justice [ECJ], 2006). In the judgment it was decided that as the transaction is vitiated without the taxable person knowing, or having any means of knowing, about the fraudulent activities, the rights of a taxable person who carries out such transactions to deduct input VAT cannot be affected. The judgment represents the basis for how the tax and other authorities (e.g. customs authorities & police) should react in inspections connected with VAT frauds, as they have to prove that the buyer knew or should have known that he is involved in fraudulent trade. Consequently, different Member States have introduced this definition into their legislation and in addition they have also introduced the conditions for when the taxable person should have known or would have had any means of knowing about fraudulent activities.

In light of the possible negative consequences, stated above, for state budgets and for the buyers who accidentally buy goods within such fraudulent chains of trade, it is important to develop excellent investigation methods to fight against fraud so that innocent persons and/or entities are not randomly affected and so that fraudsters don't slip through the system. The fraudsters, as we know, are always one step ahead. This also means that investigation methods must be developed incorporating modern techniques. In addition, it is really important

that international cooperation between different branches of government and different organisations is based on an on-line exchange of data. Inevitably, different experts from different branches of government will have to cooperate on the basis of joint investigation team work to be able to interconnect knowledge from different areas.

2   METHODOLOGY

Applied methods of research are based on a critical review of theoretical and empirical literature. In particular, the authors closely examined the legal basis for VAT and for administrative cooperation within the EU and the investigative methods applied in practice to detect and prevent chained VAT fraud. Different solutions have been developed based on actual experience. A presentation of the known facts, with the support of causal consecutive analysis, has led the authors to a critical evaluation of the current situation and to the identification of possible solutions for the problems studied (i.e., the most appropriate investigative methods for the detection and prevention of the type of VAT fraud called carousel fraud). The applied methods are: the abstraction and concretisation method and the descriptive method which is connected with the dialectical and compilation method.

With the comparison method, on the basis of email interviews with tax experts from different Member States, the authors compare already known facts – detected cases, legal administrative regulation and the methods applied in practice in different Member States to detect and prevent the problem under consideration. The method of the comparative study of cases is concluded with the compilation method. Based on synthesis, all partial findings are finally combined and the most appropriate investigation methods for the detection and prevention of carousel fraud within the framework of EU legislation are presented. The solutions also incorporate existing administrative organisational and informational systems of specific government branches and their extant databases with coordination between competent institutions and organisations. The authors then use an applied synthesis and place the best solutions in the context of the Slovenian tax environment.

3 DEVELOPMENT OF ADMINISTRATIVE METHODS FOR DETECTION AND PREVENTION OF CHAINED VAT FRAUD IN THE EU

Administrative solutions of different branches of government are:

a) Methods used by tax authorities: targeted controls, including intensified controls within the VAT registration procedure, and establishing specialised units for the examination of tax fraud (e.g. the Slovene tax authorities established a new special investigational analytical department which employed 8 tax inspectors in 2008, and 36 tax inspectors in 2009; (Fidermuc, 2010)) with the purpose of stricter and more targeted investigations and/or tax procedure development. As an example, Denmark has introduced the possibility of repealing or abolishing a person's VAT number, the possibility of additional insurance of VAT payments with the withholding of VAT for up to 12 months after the registration date, the possibility of shortening the due dates for VAT return submissions, with consequent shortening of the credit period, and with the introduction of collaterals on registration, with the introduction of new investigation tools or investigative computerised software and cooperation with legitimate companies in the most affected industrial sectors. As of 1 January 2010, with the amended act on VAT (ZDDV-1-UPB2, 2010) Slovenia has also introduced similar measures to Denmark's, such as the additional insurance of VAT payments with the withholding of VAT for up to 12 months after the registration date. It has also addressed, by advertising, raising the awareness of taxpayers regarding carousel fraud, indications of fraud, how to recognise "missing traders", what to do if a criminal act is suspected (e.g. the Slovene tax authority has officially informed taxpayers on their website about how they should proceed if they do business with "missing traders" and what their responsibility is; (Davčna Uprave Republike Slovenije [DURS], 2008), and through administrative cooperation with other tax authorities within the EU (on-line cooperation), with police, customs authorities, with further developing the VAT Information Exchange System (VIES) in the direction of issuing personal data - investigation certificates with details of the exact company name and registered address of the tax payer;

b) Methods of the customs authorities: new investigation techniques (e.g. the scanning of identification numbers of mobile phones and creating new databases, cooperation with other customs authorities within the European Union, with stable cross controls of INTRASTAT data, with the establishing of specialised units of customs officers (e.g. the Austrian Kontrolle illegaler Arbeitnehmerbeschäftigung (KIAB) unit) were established for the purpose of detecting illegal employment and unregistered companies (Heller, 2004);

c) Methods of financial institutions: money laundering methods and trends, which are dictated by the Financial Action Task Force (FATF) which is the most

important organisation in the fight against money laundering and was established at the summit/meeting of the G7 nations in Paris in 1989 (FATF, 2000); FATF provides the Member States with recommendations of possible proposals on effective anti-money laundering measures with the purpose of detecting suspicious financial transactions. Such counter-measures also include a focus on customer identification, identification of customers' owners and an assessment and analysis of the risk of cooperation with a particular client in accordance with European Parliament and Council (2005). The risk of money laundering is higher if the client does business or performs transactions with "off-shore" financial centres (the list of risk factors was covered in a study of the International Monetary Fund – (Zoromé, 2007); the verification of data on the exact payers/contributors and the detection of suspicious financial transactions contributes greatly to detecting and preventing criminal acts in general as well as carousel fraud in particular. For instance, in September 2006, UK and Dutch investigators, in cooperation with the Dutch Ministry of Justice, carried out simultaneous raids in the Netherlands and in the Caribbean and detected a money chain which led to the Caribbean bank unit of the First Curacao International Bank (FCIB) where fraudsters had stashed hundreds of millions of dollars after deploying elaborate carousel fraud scams to defraud a number of European governments, including the UK, German and Dutch governments (Neil, 2007). Consequently, 2,500 bank accounts of UK citizens were frozen by FCIB bank (Cobain & Seager, 2006);

d) Methods of other organisations (e.g. the European Anti-Fraud Office (OLAF) were established by the Commission of the European Union in 1999 (Commission of the European Communities, 1999). The mission of OLAF is to protect the financial interests of the EU, to fight fraud, corruption and any other irregular activity, including misconduct within European institutions. OLAF also supports the Commission in its fight against fraud through cooperation with the Member States and makes suggestions for amendment of relevant EU legislation; with the intention of creating better communication and mutual help OLAF has developed its own information system to fight against fraud (Anti-Fraud Information System (AFIS); Eurojust - the European Union's Judicial Cooperation Unit, established in 2002 to enhance the efficiency of the competent authorities within Member States when they are dealing with the investigation and prosecution of serious cross-border and organised crime (Eurojust, 2008) Immediately after its establishment, Eurojust began to cooperate with OLAF and in 2004 both organisations together founded the Liaison Working Group with the intention of increasing the level of cooperation, to avoid a conflict of interests in the area of the protection of financial interests and to better understand common cases (OLAF, 2006); Europol – The European Police Office, which in general deals with preventing and combating fraud, terrorism, unlawful drug trafficking and other serious forms of international organised crime, in 2004 also signed an agreement with OLAF on mutual assistance with the intention of avoiding the dupli-

cation of work and to combine the advantages of analytical resources, which are assured by Europol, as well as the operational experiences of OLAF (OLAF, 2006); due to the exchange of practical experience Europol and Eurojust also agreed on mutual assistance regarding cross border issues at a joint level and lower levels (Europol, 2008); they should cooperate within the Joint Investigation Team (JIT), i.e. informal network of experts, as agreed in Council Document Number. 11037/05 (Council of the European Union 2005); cooperation between different organisations (among police, customs or other governmental body from another Member State, which according to the legislation of that State has power to prevent, detect and investigate criminal acts) is of paramount importance and entails the exchange of existing information; mutual agreement regarding the exchange of information was adopted in December 2006 by the Council Decision Number. 2006/960/PNZ (Commission of the European Union, 2006 and 2007), substantial progress was made regarding the simplification of exchange of information and intelligence data among law enforcement bodies of the EU Member States; for data exchange it is reasonable to use existing information systems (such as the Schengen Information System and the Visa Information System (VIS)), the European fingerprint database of asylum applicants and illegal immigrants (EURODAC), AFIS, VIES, Eurocanet network for spontaneous data exchange with the purpose of the early detection of missing traders. EUROFISC is a decentralised network for the exchange of information on VAT fraud, Custom Integrated Systems (CIS) including the Integrated Tariff of the European Communities (TARIC), the New Computerised Transit System (NCTS), and similar) and connect them in a fixed Common European Information system with the possibility of "on-line" access with some access restrictions (complete/partial access) to some sensitive information for different system users in respect of legislation on personal data protection.

It is important to develop administrative methods in the fight against tax fraud. As each State has the jurisdiction to exercise control over tax only at a national level, administrative cooperation between different organisations within the EU and different branches of government, in particular between Member States is necessary, as is the exchange of information between them on an "on-line" basis. This means that a Member State is not able to manage its own tax system without information from other Member States (Žnidaršič, 2009). This is why not only the development of administrative methods is important, but also the amendments of legislation on administrative cooperation within the Community are necessary. In addition to the above, the further development of administrative cooperation in the area of tax jurisdiction is vital, which is why the following should also be considered:

– <u>on-line exchange of information</u> (over the internet in real time) between tax authorities for their internal needs and not just on the basis of official requests;

– <u>further development of VIES</u> – automatic on-line access to information about tax payers and their legal addresses and some other non-sensitive information for all users;
– <u>the incorporation of all tax authorities from different Member States into EUROFISC</u> and their active collaboration in its development;
– <u>to allow possible access to the EUROFISC system for other international organisations (Europol, Eurojust, OLAF) and joint investigation teams</u>, which deal with concrete cases of fraud; and
– <u>further agreements on administrative cooperation between customs authorities, financial institutions, police, judiciary and the possibility of on-line access to their information systems</u> (Schengen Information System (SIS II), Visa Information System (VIS), EURODAC database of asylum-seekers' fingerprints) for their internal users including restrictions relating to the protection of basic human rights such as the presumption of innocence.

The development of administrative cooperation in the tax area has to develop in the direction of further cooperation with other branches of government. In particular the automatic provision of some sensitive data to internal users or authorised officers in recognised public institutions should be provided as they have to respect data protection rules. Furthermore, automatic access to some non-sensitive data (i.e., legal address of taxpayers, their yearly turnover, legal ownership, directors, members of the board and similar) should also be granted to external users.

4   COMPARATIVE ANALYSIS OF INVESTIGATION METHODS FOR DETECTION AND PREVENTION OF CHAINED VAT FRAUD

Following the above mentioned key ECJ judgment published in January 2006 in the cases of carousel frauds Optigen Ltd. and others (ECJ, 2006) the Member States have started to think about amending domestic VAT legislation and about developing new investigation methods in the fight against chained VAT frauds.

Owing to the existence of comprehensive tax legislation and administrative measures in individual Member States, it is necessary to extract what is essential in developing different investigative methods of prevention and detection. Primarily, for those countries where missing trader/carousel fraud is a serious issue for discussion, we are interested in what steps, if any, have been taken to combat it, what steps, if any, are planned for the future and which products are affected. The answers to the questions posed have been acquired on the basis of email interviews with tax experts from individual states with the help of a survey. The survey was performed within the tax group Grant Thornton in September and October 2006. The results, which were gathered according to the questions sent by e-mail, are presented in the Table 1 below.

Table 1: The results of a survey on carousel frauds from September and October 2006 for selected countries

	Is missing trader/ carousel fraud a serious issue for discussion in your country?	What steps, if any, have been taken to combat it?	What steps, if any, are planned for the future?	Which products are affected?
Germany	**Yes** - the assessment of the tax authorities of VAT losses from MTIC fraud is €15 billion	From the beginning of 2002, provisions about joint liability and tax inspections without prior notice have been introduced	Introduction of the reverse charge system (proposal rejected by the EC Commission)	Computers, computer related components and electronic products such as mobile phones
France	**Yes** - the assessment of the Ministry of Finance of all losses from VAT fraud on intra-EU transactions is €13-19 billion	In September 2006 the implementation of new VAT rules for non established entrepreneurs (for instance obligatory registration, if a tax payer performs supply of goods with assembling)	Introduction of joint liability at the start of 2007	Mobile phones, computer components, cars, jewellery, waste
Denmark	**Yes** - accurate assessments are not available	Cooperation with the police, with the Chief Public Prosecutor, with the tax authorities of other Member States, intensified tax control system, joint liability but if other persons involved have been in good, collaterals	Further measures against carousel frauds are not known	Small but very expensive computer components, mobile phones, telephone cards, CDs with computer software, CPUs for computers
Netherlands	**Yes** - accurate assessments are not available	As from January 1, 2002 the regulation about several liability for all the links in the fraudulent chain was introduced, legal means of civil law (void agreements), redefining the supply of goods as false supplies	Further measures against carousel frauds are not known	Mobile phones, telephone cards, computer parts
Finland	**No** - mentioned in public, but not important. Accurate assessments are not available	Joint unit for combating economic crime	Further measures against carousel frauds are not known	Mobile phones are the most commonly affected product

	Is missing trader/ carousel fraud a serious issue for discussion in your country?	What steps, if any, have been taken to combat it?	What steps, if any, are planned for the future?	Which products are affected?
Ireland	**Yes** - accurate assessments are not available	Strict administrative procedures for VAT registration, dedicated carousel fraud team	Further measures against carousel frauds are not known	High-value smaller goods, mobile phones
United Kingdom	**Yes** - the assessment of the tax authorities of the value of VAT frauds is £8 billion (approx. €12 billion)	Intensified tax control system, cooperation with police, custom authorities, data exchange with other tax authorities from other Member States, introduction of new VAT legislation – limited by the Commission	Derogation – introduction of reverse charge system for some defined products	Mobile phones, computer components (chips, processors, CPUs), electronic media for data storage, processing and recording)
Sweden	**Yes** - accurate assessments are not available	Special unit within the tax authority (operates in Stockholm, Gothenburg and Malmoe) and separate public body that deals with economic fraud as a whole	More money and other resources to fight carousel frauds to both bodies	Mobile phones, mobile cash cards, computer software, expensive food, designer clothes
Portugal	**Yes** - accurate assessments are not available, but some analysts refer to VAT specific frauds with annual amounts of up to 10 % of the total net VAT revenue	In 2005 amendments were introduced to the VAT Code to deny VAT refunds to entities involved in a commercial circuit where this kind of fraud has occurred provided that they had/should have had knowledge of the intent to commit a fraud as well as in connection with joint liability	Further measures against carousel frauds are not known, but because of the high risk developments will probably occur	Computers, related components and electronic products (of small size but high value)
Slovenia	**No** – not mentioned in public. Accurate assessments are not available	Stricter controls performed by Slovene tax authorities in some business areas, stricter VAT registration procedures	Further measures against carousel frauds are not known	Cars, waste, construction services

Source: Survey conducted within the tax consulting group Grant Thornton in September and October 2006. Comparative analysis conducted by Darja Bernik on the basis of internal data from Grant Thornton.

The results which were gathered by the survey are deficient as they only represent tax advisers' subjective points of view. Furthermore, answers were not gathered from all states. However the outlined aim was achieved. On the basis of the comparative survey, it could be concluded that in all the above states, with the exception of Finland and Slovenia, at the time (in September and October 2006), when e-mail interviews were gathered, carousel fraud was a serious issue. The author came to the conclusion that after the crucial judgment in the cases of Optigen Ltd. and others, Member States began to think about taking steps towards searching for new methods for the detection and prevention of carousel fraud in connection with amendments to domestic VAT legislation (introduction of joint liability, introduction of the reverse charge system, introduction of stricter VAT rules for non-residents regarding VAT registration procedures, guarantees and similar). Alternatively, they should search in the direction of additional administrative measures against VAT fraud (cooperation with the police, the Chief Public Prosecutor, with the tax authorities of other Member States, an intensified tax control system, introduction of joint or special investigation teams and similar) as shown in the above table.

Furthermore, in connection with the question of which steps, if any, are planned in the future we obtained information as to the direction in which changes of the EU VAT legislation will go (namely in the direction of a reverse charge system and the regulation about joint and several liability). We have also gathered general data as to which products are most affected in particular states, or generally the products the trade in which presents a higher risk for traders of becoming involved in carousel fraud. Consequently, traders who trade in affected (high-risk) products must be especially careful. With the help of the comparative survey of the methods for the detection and prevention of carousel fraud and with the review of the development of investigative methods and other secondary sources of data, the authors concluded which are the most appropriate methods for detecting and preventing tax fraud in the EU. These are the introduction of joint liability and of the reverse charge system for high-risk products, the formation of special investigation units or working groups of experts for detecting and preventing tax frauds, stricter tax procedures for the VAT registration of a new taxpayer, the introduction of different collaterals, the introduction of targeted tax inspections without prior notice and the on-line exchange of information within the framework of administrative cooperation within the EU including the development of information systems for exchange of data.

In Slovenia by the end of 2006, it was not then certain how serious the problem of carousel fraud was. Nevertheless the Slovenian tax authorities indirectly introduced some measures to combat VAT fraud such as stricter and more targeted tax inspections of particularly risky areas on the basis of asymmetries of data by controlling the VAT returns and cross-checking the data with the intra-community acquisitions and deliveries according to INTRASTAT data. The

Slovene tax authorities also introduced stricter VAT registration procedures for foreign companies, where according to the act on VAT (ZDDV-1, 2006) and the VAT rule book (PZDDV, 2006) they could request additional documents (such as contracts, delivery notices, declarations about the purpose of their activities in Slovenia) to find out the exact purpose of their activities in Slovenia. Additionally some measures were introduced in the sense of insurance of VAT liability (i.e. the transfer of VAT liability to the buyer of goods, but only if the delivery of goods is carried out by a tax payer, who is not registered for VAT purposes in Slovenia, according to article 76 of Act on VAT (ZDDV-1, 2006); or with joint liability of customs payers at the moment of import of goods according to the article 128 of VAT rule book (PZDDV, 2006). The joint liability, in the sense that it was introduced for instance in the Netherlands, Denmark, and Germany, was introduced by Slovenia as of 1 January 2010 along with the amended act on VAT (ZDDV-1-UPB2, 2010). Each tax payer can be jointly responsible for the payment of the unpaid VAT by its supplier of goods, if on the basis of objective circumstances, he knew or should have known that with such a purchase he was taking part in a transaction, which has the intention of avoiding the VAT payment. In relation to article 199 of the EU VAT Directive No. 2006/112/EC (Council of the European Union, 2006b), Slovenia, with the amended act on VAT, valid from the beginning of 2010, has also introduced the reverse charge mechanism. The mechanism has been introduced for construction services, supply of waste and some services connected to waste processing, the supply of real estate, where optional taxation is used (provided the seller and the buyer sign an agreement about the fact that the seller will charge the buyer VAT in order that the buyer also gains the right to deduct VAT).

5   APPLICATION OF ADMINISTRATIVE METHODS IN THE FIGHT AGAINST FRAUD IN THE SLOVENE TAX ENVIRONMENT

According to the comparative analysis of administrative methods for the prevention and detection of chained VAT frauds in selected EU Member States, and according to a critical review of theoretical and empirical literature, a close examination of the legal basis for VAT, for administrative cooperation within the EU and the investigative methods applied in practice, the authors identified the most appropriate methods in the fight against chained VAT frauds. Using applied synthesis, the methods were placed also in the Slovene tax environment.

Further to the findings from previous research, the authors concluded that in Slovenia within the scope of administrative solutions for different branches of government, some additional measures should be introduced. Above all it would be necessary to:

– reform the information system of the tax authorities with regard to internal networking, exchange of data, the awareness of taxpayers and development of risk management measures (i.e. verification of risky taxpayers);
– join the Eurocanet network and to actively participate in its development with the aim of improving the exchange of data with tax authorities from different Member States;
– introduce additional collaterals for the purposes of additional insurance of tax debts in a similar way to Denmark; above all to ensure that VAT after the registration period will be paid (e.g. to withhold VAT recovery for 6 months after the registration or to introduce collateral in the amount of 6 months' estimated VAT liabilities at the time of VAT registration, which must be paid within 8 days after receipt of a written order or to introduce additional insurance when the VAT has not been paid on several occasions or when the capital has suddenly been reduced);
– to perform tax inspections without prior notice in cases where fraudulent activities are suspected (in connection with a police investigation);
– to introduce a procedure for the fast withdrawal of a VAT identification number to prevent the continuation of VAT fraud in cases of VAT number abuse, where the main purpose is that the other tax payer gains unwarranted tax benefits (i.e., unjustifiably gains the right to deduct VAT);
– staff training in the field of developed investigation methods for detecting and preventing tax frauds within the framework of cooperation between different branches of government within Slovenia and from other Members States and cooperation with international organisations, which are involved in investigation of well organised international crime (participation on domestic and international conferences and seminars, in working groups and exchange of information about possible practical cases, which have been already detected);
– establishment of joint investigation teams (Bernik, 2009) with the purpose of effectively detecting and preventing frauds in line with Council Document Number 11037/05 (Council of the European Union, 2005) and agreement about cooperation with OLAF (OLAF, 2006) to establish an informal network of experts from different areas: police, justice, tax and customs authorities, financial institutions, statistical offices which have the purpose of gathering data, etc., within the framework of already existing EU legislation and active participation in further agreements on mutual assistance; and
– introducing of new customs, financial and other high technology investigation techniques (such as scanning of data, computer systems for automatic control of transactions - the systems which are used mainly by banks and credit cards issuing companies, which search for anomalies with the help of "what if" scenarios (Millman, 2007)).

In Slovenia it would be beneficial to reinforce some other investigative methods for preventing and detecting tax fraud, which have already been mentioned in

part 3, such as: stricter and targeted tax inspections in the high risk sectors – in the sectors where there is trade in so called "risky goods" (mobile phones, computer equipment, waste, microprocessors, central processing units, electronic storage medium devices and other electronic devices used for the storage, processing or recording of electronic data, software equipment and some other high value goods), cooperation with legitimate companies in affected trade sectors, introduction of new investigative methods within tax, customs and police inspections, settled cross checking of INTRASTAT data about possible asymmetries, the detection of illegal employments and non registered companies with the further empowering of employment inspectors, etc.

6   CONCLUSION

The most important matter for the detection and prevention of VAT chained frauds and other type of frauds is the further development of administrative cooperation between different branches of government in particular Member States (e.g. tax and customs authorities, financial institutions, police, ministries of justice) with the possibility of on-line exchange of data between these different branches of government with unlimited access to their databases. Furthermore, the cooperation between different international organisations (such as OLAF, Europol, Eurojust) is essential. The cooperation should be performed on the basis of joint investigation teams which would deal with the actual cases.

With the comparative analysis which has been performed of the administrative methods for prevention and detection of chained VAT frauds, on the basis of interviews with tax experts between particular Member States, and with the highlighting of European VAT legislation and other administrative organisational solutions involving the cross-border integration of different branches of government and cooperation between different international organisations, and also with the consolidation of all findings, partial solutions and proposals, the authors have identified the most appropriate methods for the detection and prevention of carousel frauds in the EU. With the application of methods to the Slovene tax environment the authors have detected also the most appropriate methods to detect and prevent such VAT frauds in Slovenia. Consequently, the authors have proposed some additional measures that should be introduced in order to efficiently detect and prevent VAT fraud in Slovenia. Some chained VAT frauds have recently been detected, but undoubtedly with the introduction of new suggested investigative methods, and on the basis of networking with different experts from different areas under the umbrella of a new national investigation office, more such fraudulent activities will be detected. The new National Bureau of Investigation (in Slovene: "Nacionalni preiskovalni urad") will have to be pro-active in the field of staff training as the police officers who are employed there have limited knowledge about investigating such phenomena and possible types of response to

such crime. Some authors (Meško, 2004; Meško, Sotlar, & Kury, 2007; Nalla, Johnson, & Meško, 2009) stress the importance of specialisation and quality training of police officers. In addition, a new analytical tax investigation department within the Slovene tax authorities will play an important role in investigating and detecting new types of VAT fraud. Both investigative bodies within different branches of government should also closely cooperate with each other. On the other hand, it is most important that all the state institutions/authorities from different branches of government will have to actively cooperate with international organisations (such as OLAF, Europol, Eurojust, FATF, UN and others which fight against fraud or organised crime). Consequently, we can genuinely expect more cases of tax fraud to be detected and a lower tax deficit.

As developments in the EU go ever further in the direction of an additional strengthening of administrative cooperation between different Member States, the more there will be further changes in EU legislation. Finally, the developments dictate the establishment of a single model for the detection and prevention of frauds within the legal framework of the EU which would, on the basis of the synthesis, gather under its umbrella administrative organisational solutions and through the coordination of responsible organisations also provide legal solutions. In such a model, information technology solutions should also be included which would grant all users unlimited access to their databases and allow for the on-line exchange of data.

REFERENCES

Bernik, D. (2009). Finančna policija da ali ne? *Davčno-finančna praksa, 1*, 14-15.

Christie, E., & Holzner, M. (2006). *What Explains Tax Evasion? An Empirical Assessment Based on European Data.* Wiener Institut für Internationale Wirtschaftsvergleiche, wiiw Working Papers, 40.

Cobain, I., & Seager A. (2006). *Carousel Fraud - Follow the Money: the Multibillion Pound Trail that Led to Caribbean Bank.* Retrieved November 21, 2006, from http://www.lawteacher.net/Money%20Laundering/0006.html

Commission of the European Communities (1999) Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF). *The Official Journal of the European Communities, L 136/1999*, 20–23.

Commission of the European Union (2008a). *Commission Staff Working Document on Measures to Change the VAT System to Fight Fraud (COM(2008) 109 final).* Retrieved February 2, 2008, from http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/SEC(2008)249_en.pdf

Commission of the European Union (2008b). *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee on a coordinated strategy to improve the fight against VAT fraud in the European*

Union. Retrieved December 1, 2008, from http://ec.europa.eu/taxation_customs/ resources/documents/common/whats_new/COM(2008)807_en.pdf

Commission of the European Union (2008c). *Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions, Proposal for Council Regulation amending Regulation (EC) No 1798/2003 to combat tax evasion connected with intra-Community transactions, COM (2008) 147.* Retrieved March 17, 2008, from http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/ COM(2008)147_en.pdf

Commission of the European Union (2007). *Administrative Co-operation and Mutual Assistance – Overview.* Retrieved January 9, 2007, from http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/gen_overview/index_en.htm

Commission of the European Union (2006). *Communication from the Commission to the Council in accordance with Article 27(3) of Directive 77/388/EEC.* Retrieved July 19, 2006, from http://ec.europa.eu/taxation_customs/resources/documents/ COM(2006)404_en.pdf

Council of the European Union (2006). Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. *Official Journal of the European Union, L 347/2006*, 1–118.

Council of the European Union (2005). *Joint Investigation Teams - Proposal for designation of national experts.* Retrieved June 8, 2005, from http://register.consilium. europa.eu/pdf/en/05/st11/st11037.en05.pdf

Davčna Uprava Republike Slovenije (2008). *Poslovanje z "neplačujočimi gospodarskimi subjekti" in odgovornost gospodarskih subjektov za plačilo utajenih davčnih obveznosti.* Retrieved January 21, 2008, from http://www.durs.si/si/novice/poslovanje_z_neplacujocimi_gospodarskimi_subjekti_in_odgovornost_gospodarskih_subjektov_za_placilo_utajenih_davcnih_obveznosti/

Eurojust (2008). *What is Eurojust? What is Eurojust doing?* Retrieved September 10, 2008, from http://eurojust.europa.eu/

European Court of Justice (2006). *Judgment of the Court (Third Chamber) in Joined Cases C-354/03, C-355/03 and C-484/: References for a preliminary ruling from the High Court of Justice of England and Wales, Chancery Division (United Kingdom) in Optigen Ltd, Fulcrum Electronics Ltd and Bond House Systems Ltd v Commissioners of Customs &Excise (Sixth VAT Directive – Article 2(1), Article 4(1) and (2) and Article 5(1) – Deduction of input tax – Economic activity – Taxable person acting as such – Supply of goods – Transaction forming part of a chain of supply involving a defaulting trader or a trader using an unauthorised VAT number – Carousel fraud).* Retrieved January 12, 2006, from http://eur-lex.europa.eu/LexUriServ/site/en/ oj/2006/c_074/c_07420060325en00010001 .pdf

Europol (2008). *Eurpol/Eurojust – Joint Investigation Teams. Historical Background.* Retrieved September 13, 2008, from http://www.europol.europa.eu/index. asp?page=content_jit

European Parliament (2008). *Poročilo o o usklajeni strategiji za izboljšanje boja proti davčnim goljufijam (2008/2033(INI)).* Retrieved July 17, 2008, from http://socialistgroup.org/ sides/getDoc.do?type=REPORT&reference=A6-2008 0312&language=SL&mode=XML] .

European Parliament and Council (2005). *Direktiva Evropskega Parlamenta in Sveta 2005/60/ES z dne 26. oktobra 2005 o preprečevanju uporabe finančnega sistema za pranje denarja in financiranje terorizma.* The Official Journal of the European Union, 309/2005.

Financial Action Task Force (2000). *Report on Money Laundering Typologies 1999-2000.* Retrieved February 3, 2000, from http://www.fatf-gafi.org/dataoecd/29/37/34038120.pdf

Fidermuc, K(May 26, 2010). Goljufi iščejo svoje priložnosti pri DDV. *Delo,* p. 9.

Heller, H. (2004). *Combating Fraud Actively and Offensively.* Vienna: Federal Ministry of Finance.

Meško, G. (2004). Partnerschaftliche Sicherheitsgewährleistung: Wünsche, Ideale, Hindernisse. *Kriminalistik, 58*(12), 768-773.

Meško, G., Sotlar, A., & Kury, H. (2007). Polizei und private Sicherheitsdienste in Slowenien: Ergebnisse einer empirischen Untersuchung. *Kriminalistik, 61*(1), 31-40.

Millman, R. (2007). *Fighting fraud with technology.* Retrieved January 4, 2007, from http://www.itpro.co.uk/features/101223/fighting-fraud-with-technology.html

Nalla, M., Johnson, J.D., & Meško, G. (2009). Are police and security personnel warming up to each other?: a comparison of officers' attitudes in developed, emerging, and transitional economies. *Policing – An International Journal of Police Strategies and Management, 32*(3), 508-525.

Neil, S. (2007). Deuss: Bank has Obeyed Law. *The Royal Gazette Online.* Retrieved February 1, 2007, from http://www.theroyalgazette.com/apps/pbcs.dll/article?AID=/20060922/NEWS/109220125

European Anti-Fraud Office (2006). *Report of the European Anti-Fraud office, Sixth Activity Report for the Period 1 July 2004 to 31 December 2005.* Retrieved July 11, 2006, from http://docufin.be/interfdanl/nieuws/bestanden/EN_var__PFCARF1_Annual-Report-PDF-Version-11-07-2006.pdf

Pravilnik o izvajanju davka na dodano vrednost – PZDDV *[Rules on implementation of the Value Added Tax Act]* (2006) *Uradni list RS*, (141).

Reckon LLP (2009). *Study to quantify and analyse the VAT gap in the EU-25 Member States.* Retrieved September 21, 2009, from http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_cooperation/combating_tax_fraud/reckon_report_sep2009.pdf

Weber and Bontems (2005). *VAT Carousel Fraud, Developments on EU level.* Retrieved May 27, 2005, from http://www.abax.lu/documents/35fr_Carousel_fraud_270505.ppt

Zakon o davku na dodano vrednost – ZDDV-1 [Act on VAT*] (2006). Uradni list RS*, (117).

Zakon o davku na dodano vrednost (uradno prečiščeno besedilo) – ZDDV-1-UPB2 [Act on VAT] (2010). *Uradni list RS*, (10).

Zoromé, A. (2007). Concept of Offshore Financial Centers: In Search of an Operational Definition. *IMF Working Paper WP/07/87.* Retrieved February 3, 2008, from http://www.imf.org/external/pubs/ft/wp/2007/wp0787.pdf

Žnidaršič, K. (2009). Boj proti davčnim goljufijam – okrepljeno administrativno sodelovanje*. Davčno-finančna praksa, 10(2)*, 14–16.

SPECIFICITIES OF CRIMINAL PROCEDURE FOR MONEY LAUNDERING OFFENCE IN SERBIA

Author:

Tatjana D. Lukić

ABSTRACT

Purpose: The national characteristics and factual specificities of money laundering and its active participants resulted in high difficulty in providing the evidence when money laundering offences become the subject of criminal procedure.

Approach: The analysing and processing subject in this paper are the modifications of process principles. The special attention in the paper is paid to the new authorizations of the competent authorities in disclosing and providing the evidence of money laundering, integrated financial and criminal investigatins, money laundering and confiscation of propery acquired by crimanal offence.

Findings: In Serbia the criminal procedure for money laundering offence does not represent the special process form, but the process variability characterized by specific foundations, and does not result in the specific procedural structure. For that reason the criminal procedure for money laundering offence has a specific process solutions which, first of all, refer to the disclosure and providing the evidence of these criminal offences.

Value: Bearing in mind all specificities of the criminal procedure for the organized crime offences and money laundering referring to the modifications of process principles, the special organization of the authorities competent for revealing, providing the evidences, prosecution and judging of the criminal offences, as well the specific authorizations of these authorities, it may be concluded that all legal and other conditions for the successful struggle against money laundering have been fulfilled both at the national and international level. Although a lot of progress has been made, there is still space for improvement in this field.

Keywords: money laundering, criminal procedure, Republic of Serbia

1 INTRODUCTION

Being confronted with the challenges such as the organized crime, terrorism and other exceptionally serious criminal offences including money laundering, great social danger of this offences and specificities in relation to the "common"

crime, the special new regulations of criminal law, criminal procedural law and regulations regarding justice organization for preventing, revealing and combating money laundering have been established in Serbia. The special authorities for the struggle against these criminal offences established on the basis of these regulations have the significantly broader authorizations prior to the criminal procedure and during the criminal procedure than the authorities in charge of the criminal prosecution in the regular-general criminal procedure. This assumes the essential deviations from the principles of criminal law and the criminal procedural law generally accepted to the present day as well as the traditional comprehensions of the criminal responsibility and the penalty of criminal offence perpetrators.

The structure of criminal procedure is one of the legal disciplines which is mostly and profoundly conditioned by legal bases of the system in each country, its attitudes and reactions to the criminal offences, as well as the attitudes towards the personal rights and freedom of its citizens. Antagonism expressed in desire to act more efficiently in the struggle against criminality on one side and on the other side to disable the excess and unjustified limitation of human rights and freedom of the person accused in criminal procedure resulted in constituting a series of indispensable limitations in the action of the competent authorities in criminal procedure and the criminal repression in general.

In order to achieve the efficient struggle against the serious forms of crime (organized crime, terrorism and money laundering), the reforming of the criminal procedural legislation in Serbia was going and still goes to the direction of establishing the process variabilities and special police, prosecuting and court authorities for certain types of criminal offences and their special organizations and competences. Such trend is not only the specificity of Serbia, but also of the surrounding countries, as well as all of other European and world countries which started the decisive struggle against the most serious forms of crime. The adaptation of criminal procedure physiognomy to these forms of crime implies the introduction of the new measures and actions for revealing and providing the evidences of criminal offences, modifications of some process principles as well as the modifications of some process institutions. All these novelties represent the *particularities (specificities)* of criminal procedure for criminal offences of organized crime, terrorism, money laundering and other serious criminal offences.

The struggle against money laundering is inseparably connected with the struggle against organized crime, and all specificities in revealing, providing the evidences, criminal prosecution and actions at law for the offences of organized crime refer also to the criminal offence of money laundering.

First of all, the specificities of criminal procedure for the above mentioned offences imply the existence of specifically specialized legal authorities, the existence of special principles, as well as the deviations from the existing principles of

criminal procedure, special methods for providing the evidences for these criminal offences such as: surveillance and recording of telephone and other conversations and communications by other technical means; secretly monitoring and optical (and acoustic) recording of persons; engagement of concealed investigator; simulated conclusion of legal acts and rendering of services; controlled deliveries; using (and processing) of personal data contained in computerized data bases as the evidence in criminal procedure; witnesses in procedures (criminal law, process law and witness protection programme); special rules concerning the confiscation of property acquired by criminal offence.

In chapter XXIX a of the Law of Criminal Procedure of RS are given the special provisions of the procedure for criminal offence of the organized crime, corruption and other exceptionally serious criminal offences including the money laundering[1]. Material provisions about these criminal offences can be found in the Criminal Code of the Republic of Serbia of 2005 and in Serbia there is a special Law on the organization and competence of the state authorities in combating the organized crime of 2002.

The Law of Criminal Procedure (article 504a para.3-8) is giving a list of criminal offences to which the special provisions of the Law of Criminal Procedure for the offences of the organized crime, corruption and other serious criminal offences apply. In fact, these provisions define the legal notion implying the organized crime under which the criminal offence was committed by the organized criminal group (or its members), i.e. the group which is composed of three or more persons which, for a certain time limit, act with one consent in order to commit the criminal offence for which the four years of imprisonment or even heavier penalty for acquiring the financial or some other benefits, even indirectly, are prescribed. The criminal offence of corruption means: abuse of official position (article 359, Criminal Code), trade by influence (article 366 Criminal Code), bribe-taking (article 367 Criminal Code) and bribe-giving (article 368 Criminal Code) – article 504a para.5 Law of criminal Procedure.

The „other exceptionally serious criminal offences" for which somebody is brought to justice according to these special provisions of the Criminal Code, even though not being the result of the actions of the organized criminal group, include the criminal offences stated in article 504a, par. 6 and 7 (more than twenty incriminations, starting from homicide, money forgering and laundering, illicit production and illicit trafficking in drugs to the criminal offence of threatening to the constitutional system and state security, international terrorism and war crimes).

The criminal offence of money laundering is prescribed in article 231 of the Criminal Code of the Republic of Serbia. The perpetrator of money laundering criminal offence can be any person (and responsible person in legal person which knew,

---

[1]   These are regulated by the Law of Criminal Procedure of 2001.

i.e. could know and was bound to know that money or the property represent the proceeds acquired by criminal offence) which makes the conversion or transfer of property knowing that it originates from the criminal offence or which acquires, holds and uses the property knowing that, at the moment of its receipt, it originates from the criminal offence (threatened imprisonment from six months to five years). The qualified form of a case is that money exceeds the amount of 1.500.000 dinars (threatened imprisonment from one to ten years). It is necessary to mention that this offence has a lot of similarities with the criminal offence of concealment[2] (article 221 Criminal Code). It might be said that it represents its special form, but can not be in conjunction with this offence.

2　MODIFICATIONS OF PROCESS PRINCIPLES IN THE PROCEDURE FOR THE OFFENCES OF ORGANIZED CRIME AND MONEY LAUNDERING

The principles of collectivism and professionalism of the law-court in the criminal cases of organized crime are applied without any exceptions and the court chamber is exclusively composed of the professional judges. It means that in the procedures for the criminal offense of organized crime no principle of participation of the citizens in trial is applied. The absence of the lay magistrates in the composition of the court chamber for the cases of organized crime is the consequence of the principles of professionalism of judges. Ratio legis of such solution which represents an exception in relation to the general rules is in the nature of the criminal offences of organized crime and the persons against which the legal proceedings for such offences are taken, due to which it is considered that the professional judges are more suitable for these trials, since it can not be expected from the citizens being the lay magistrates in such cases to have the necessary degree of resistance to the possible problems which might arise during such procedures. At the same time, the numerical composition of the court chamber of the first and second instance is defined in some other way, while all criminal offences in the court of third instance are tried by the court chamber consisting of five judges at call (except in the procedure of extraordinary remedies – Request to safeguard the rule of law declared against the decision of the court chamber of the Supreme court of cassation due to the violation of law, when the decision is taken by the court chamber consisting of seven judges).

In the court of the first instance the criminal offences of the organized crime are tried by the court chamber consisting of three judges at call, while in the traditional procedures only by one judge – when the special provisions of the shortened procedure are applied (for criminal offences for which the fine or the

---

2　Concealment is the criminal offence implying the concealment, spreading, purchasing, taking in pledge or providing the things, in any other way,　for which it is known that they are acquired by criminal offence or obtained by their selling or in exchange of them (threatened fine or imprisonment to three years).　Article – Criminal Code.

imprisonment to five years are mostly prescribed); court chamber: one judge at call and two lay magistrates (small court chamber) – for criminal offences for which the imprisonment to 15 years is prescribed and two judges at call and three lay magistrates (big court chamber) – for criminal offences for which the imprisonment of 15 years or even heavier penalty can be sentenced (art. 24, para.1 Law of criminal procedure).

The court chamber of the second instance in the procedures for the offences of organized crime consists of five judges at call (article 504g Law of criminal procedure), while the court chamber of the second instance in the regular procedures always consists of three judges at call, disregarding the form of the first instance procedure (general or shortened), seriousness of criminal offence for which it is tried and the composition of first instance court chamber (small or big court chamber) and the form of the second instance procedure (session of court chamber or second instance trial) – (article 24 para.2. Law of criminal procedure).

The principle of emergency in the procedures for criminal offence of the organized crime, money laundering and other serious criminal offences is explicitly anticipated in the Law of criminal procedure, but without precisely stating which this emergency consists of. The official persons participating in the criminal procedure for these criminal offences are obliged to act immediately (art. 5046 Law of criminal procedure). The reason for introducing the principle of emergency into these procedures is not precisely determined by the Law of Criminal Procedure. By emphasizing the emergency of these procedures the law-giver practically points out to its firm determination to conduct the procedure of such serious forms of crime vigorously and without any delay, but surely these procedures can not be conducted quicker than objectively, considering all possible relevant circumstances and of course, the desirable speed must not be detrimental to the procedure. Although the success in revealing and providing the evidences of these criminal offences depends on the speed of conducting the procedure, no special measures have been anticipated to secure the emergency of procedure.

The principle of directness, although not specifically defined in the Law of criminal procedure, represents the principle on which the whole procedure is based. The directness exists when the actions necessary for the formation of the court decision should be made directly before the court, i.e. by the court authorities that should take a decision. First of all, this principle refers to the actions of providing the evidences and decision making. Although undoubtedly significant rule, our Law of Criminal Procedure anticipates the exceptions from this rule. These exceptions are valid in all kinds (i.e. for all forms) of criminal procedures and are as follows: a) possibility of reading the statements of witnesses, co-defendants, sentenced persons, as well as the finding and opinion of experts during the main trial, in case the investigated persons passed away in the meantime, are mentally ill or can not be found, or if their arrival to the court is impossible or significantly

difficult due to old age, illness or any other reason or if the witnesses or experts do not want to give their statement at the main trail (article 337, para.11 Law of criminal procedure). However, this exception is also possible in some other cases, and upon the agreement of the parties, the court chamber may decide to read the report of the former hearing of witnesses or experts, although the witness or the expert is not present, and even not called to the main trial (article 337, para.2 Law of criminal procedure). There are some other exceptions such as that the trial is possible in the absence of the accused which ran away (article 304 para.3 Law of criminal procedure) and the trial in the absence of the accused which did not respond to the subpoena (article 445. para.3 Law of criminal procedure).

These exceptions are the distinctive features of the procedures for serious criminal offences. Another exception from this principle is anticipated by the provision of article 109g para.3 Law of Criminal Procedure according to which the specific way of witness hearing is acceptable by means of video conference connection. This represents one of the special witness protection measures on the basis of the decision made by the competent court.

The principle of the publicity is one of the basic principles of criminal procedure. The public of the criminal procedure (party and general, direct and indirect) is today the constitutional principle and the right of the accused to fair trial (article 32. of the Constitution of the Republic of Serbia of 2006). The constitution has the special provisions of the public trial before the court (article 142 para.3 of the Constitution of the Republic of Serbia) according to which the trial before the court is open for public and may be limited only in accordance with the Constitution. The public may be excluded from the whole procedure or a part thereof only for the protection of interests of national security, public order and morality in democratic society, as well as for the protection of the persons under age or privacy of the participators in the procedure (article 32 para.3 of the Constitution of the Republic of Serbia). This principle reaches its full intense at the main trial. According to our Law of Criminal Procedure in the general procedure the public is always excluded if so required by the interests of: a) morality, b) public order c) national security, d) protection of private life of the participators in the procedure, e) if necessary considering the special circumstances due to which the public could violate the interests of justice (article 292[3]).

The exceptions from the principle of the public characteristic for the procedure taken against the organized crime offences and other serious offences: the first exception refers to the possibility of excluding the accused during the hearing of witnesses for his own safety, what represents an exception from the rule of not excluding the party public. Namely, according to article 324 of the Law of Criminal Procedure the court chamber may decide to remove the defendant from the

---

[3]   This reason for the exclusion of the public is anticipated by article 6 para 1 of the European convention on the protection of human rights and the basic freedoms of 04.09.1950 with the protocols No. 4, 6, 7, 11, 12 and 13.

court-room if the co-defendants or the witnesses refuse to give their statements in the presence of the defendant or if the circumstances show that they will not tell the truth in his presence. Although this solution is not explicitly connected with the procedure for the organized crime offence and other serious offences, it has a lot of justification for this procedure. Another exception refers to the exclusion of general public when, as a rule, the hearing of witness collaborator is made without the presence of public (article 504ž), except in cases when the court chamber, to the proposal of the public prosecutor and with the consent of the witness, decides otherwise. Such situation is opposite to the situation in regular procedure where the main procedure is public, as a rule, and public may only be exceptionally excluded, while in this case a part of the main trial with the hearing of the witness collaborator, is, as a rule, made without public and exceptionally in the presence of the public.

3   SPECIAL PROVISIONS FOR THE ORGANIZATION OF COURT, PUBLIC PROSECUTOR'S OFFICE AND OTHER PROSECUTION AUTHORITIES

Considering that money laundering is connected with the actions and activities of the organized criminal groups, the point in question of this part of paper are the provisions of the Law on the organization and competence of the state authorities in combating the organized crime which anticipate the special prosecution authorities and trials (prosecutors' offices, police and courts) for this type of criminal offences, their special organization and special competences.

Prosecutor's office for the organized crime. The prosecutor's office for the organized crime is competent for the procedure in cases of criminal offences precisely listed in the Law on the organization and competence of the state authorities in combating the organized crime. The Law on the organization and competence of the state authorities in combating the organized crime is applied for revealing, criminal prosecution and trials of the following criminal offences: 1. criminal offence against the organized crime, 2. criminal offence against the constitutional system and safety of the Republic of Serbia (article 320. Criminal Code), 3. criminal offence against the official responsibilities (articles 359, 366, 367 and 368 Criminal Code) when the accused, i.e. the person to which the bribe is given, is the official or responsible person discharging the duty of public function on the basis of elections, nomination or assignment by the National Assembly, Government, High Judicial Council or the State council of prosecutors (independent authorities with the seat in Belgrade which provide and guarantee the independence of the public prosecutors and public vice prosecutors), 4. criminal offence of abusing the public office (article 359, par. 3, Criminal Code), when the value of the acquired property benefits exceeds the amount of 200,000,000 dinars, 5.

criminal offence of international terrorism and criminal offence of terrorism financing (article 391 and 393 Criminal Code), 6. criminal offence of money laundering (article 231, Criminal Code), if the property which is the subject of money laundering originates from the criminal offences from points 1), 3), 4) and 5) of this article, 7. criminal offence against the state authorities (article 322 para.3 and 4 and article 323, para.3 and 4 Criminal Code) and criminal offences against judiciary (article 333 and 335, article 336, para.1,2 and 4 and article 336b, 337 and 339 Criminal Code), if committed with the criminal offences from points 1) to 6) of this article.

The prosecutor's office for the organized crime is the prosecutor's office of the special competence established for the territory of the Republic of Serbia with the seat in Belgrade (article 13. par. 2-4 Law on public prosecutor's office of 2008). In case of competence collision with the other prosecutor's offices, the collision is solved by the Republic public prosecutor (article 17 par. 2 of the Law on public prosecutor's office). The Law anticipates the possibility that the prosecutor's office for the organized crime may establish the departments outside its seat.

The prosecutor's office is represented by the Prosecutor for the organized crime in the procedures before the courts of the first and the second instance for criminal offences from his own competence and carries out other activities defined by the law (article 30. para 3 of the Law on public prosecutor's office). When proposing the applicants for the Prosecutor of the organized crime (hereinafter referred to as the Prosecutor), i.e. the vice Prosecutor, the priority is given to the applicants possessing the necessary skilled knowledge and experience from the field of combating the organized crime and corruption. The Republic public prosecutor may, upon the proposal of the Prosecutor, assign the vice prosecutor to the prosecutor's office for the organized crime with his written consent. Such assignment lasts not longer than four years and may be extended by the decision of the Republic public prosecutor upon the proposal of the Prosecutor with the written consent of the assigned vice prosecutor. If necessary for conducting the criminal procedure, the Prosecutor may, from the state authorities or organizations, require to assign the employed to the works in the prosecutor's office for the organized crime. This assignment to the works is executed by the consent of the employed and lasts not longer than one year.

Service for combating the organized crime. The service for combating the organized crime (hereinafter referred to as the Service) has been established within the ministry competent for the internal affairs for doing the police activities concerning the criminal offences. The Service undertakes the actions according to the requirements of the Prosecutor in accordance with the law. The minister competent for the internal affairs assigns and releases the superior of the Service against the opinion provided by the Prosecutor and brings the acts for regulating the works of Service in accordance with the law. A Section for strug-

gle against money laundering is formed in the Department for struggle against the organized financial crime.

Special departments of the competent courts. For the procedure in cases of criminal offences from article 2 of the Law on the organization and competence of the state authorities in combating the organized crime the competent court is Higher court in Belgrade, as the court of first instance, for the territory of the Republic of Serbia. For making a decision in the second instance in cases of criminal offences from article 2 of this law the competent court is the Appellate court in Belgrade. The collision of competence between the regular courts for the procedure in cases of criminal offences from article 2 of this law is solved by the Supreme court of cassation.

Higher court in Belgrade forms the Special Department for the procedure in cases of criminal offences from article 2 of this law (hereinafter referred to as Higher court Special department). This Special Department is managed by the president of Higher court special department. The president of Higher court special department is appointed by the President of Higher Court in Belgrade from the judges assigned to works in Higher court special departments for the period of four years. The president of Higher court special department must have at least 10 years of experience in the field of criminal law. The judges in Higher court special department are appointed by the president of Higher Court in Belgrade for the period of six years with their written consent. The judge of Higher court special department must have at least eight years of experience in the field of criminal law. Exceptionally from the provisions of the Law on judges, the High Judicial Council [9] may assign the judge from the other court to the works in Higher Court department, for the period of six years, with his written consent. The judge so assigned must fulfil the conditions from para.4 of this article. For the assignment to Higher court special department, the priority is given to the judges possessing the skilled knowledge and experience from the field of combating the organized crime and corruption.

Appellate court in Belgrade forms the Special Department for the procedure in cases of criminal offences from article 2 of the Law on organized crime (hereinafter referred to as the Appellate court Special department). This Special Department is managed by the president of Appellate court Special department. The president of Appellate court Special department is appointed by the President of Appellate court in Belgrade from the judges assigned to the works in Appellate court Special department for the period of four years. The president of Appellate court special department must have at least 12 years of experience in the field of criminal law. The judges in Appellate court special department are assigned by the president of Appellate court in Belgrade for the period of six years with their written consent. The judges of Appellate court special department must have at least ten years of experience in the field of criminal law. Exceptionally from the provisions of the Law

on judges, the High Judicial Council [4] may assign the judge from the other court to the works in Appellate court special department, for the period of six years, with his written consent. The judge so assigned must fulfil the conditions from para.4 of this article. For the assignment to the works in Appellate court special department, the priority is given to the judges possessing the skilled knowledge and experience from the field of combating the organized crime and corruption.

4 SPECIAL AUTHORIZATIONS OF THE COMPETENT AUTHORITIES IN REVEALING AND PROVIDING THE EVIDENCE OF CRIMINAL OFFENCES OF THE ORGANIZED CRIME, MONEY LAUNDERING AND OTHER SERIOUS CRIMINAL OFFENCES

Apart from the material and organizational criminal law, the struggle against the organized crime and money laundering requires the special criminal process law. The experience proved that the traditional process means and methods for achieving the objectives are almost totally inefficient and therefore, especially in the field of collecting the evidences, they have been substituted with the new and more efficient solutions referring either to the latest technical means or to the criminal prosecution authorities and their associates.

According to the Law of criminal procedure, the special operational crime investigation measures for revealing, providing the evidence and preventing of the organized crime and money laundering are: *Surveillance and recording of telephone and other conversations or communications by the other technical means and optical recording, Control of business and personal accounts, Rendering of simulated business services and rendering of simulated legal transactions, Concealed investigator, Controlled delivery, Automatic computerized search of personal and other data connected with them, Witness collaborator,* but in this article we will analyse only those measures which is the most important for detecting and prosecuting money laundering offences.

Control of business and personal accounts. Our criminal process law anticipates the possibility of controlling the personal and business accounts of the suspect (article 234. Law of Criminal Procedure) when there is a suspicion[5] that he committed the criminal offence for which the imprisonment of at least four years is threatened. The public prosecutor may require from the competent state authority, bank or other financial organization to make the control of business operations for which there are the bases of suspicion that the criminal offence

---

[4] High Judicial Council is an independent authority with the seat in Belgrade which provides and guarantees an independence of the courts and judges.

[5] It assumes the bases of suspicion and not reasonable suspicion.

was committed and to get the documentation and data which may serve as the evidence of criminal offence or the data on the property acquired by criminal offence, as well as the information on suspicious money transactions in the sense of Convention on money laundering, seeking, confiscation and taking away of proceeds acquired by crime and terrorism financing. The public prosecutor is obliged to inform the investigating judge about the request and collected data.

Upon the written and explained request of the public prosecutor the investigating judge may decide to request from the competent authorities or the organization to suspend, temporarily, the certain financial transaction, payment, i.e. the issuance of suspicious money, securities or objects for which there is the basis of suspicion that they derive from the criminal offence or from the profit acquired by criminal offence or that they are intended for committing or concealing of criminal offence. In this request the public prosecutor shall designate the content of measures and actions he proposes. The decision of the investigating judge is to be made as the verdict against which the owner of the assets has the right of appeal on which it will be decided by extrajudicial council. If the public prosecutor does not take the proceedings against crime within six months from the day of getting known the data collected by the application of this measure or if he declares that he will not use them in the procedure, i.e. that he will not require to start the procedure against the suspect, all submitted data shall be destroyed under the supervision of the investigating judge about which the report will be made by the investigating judge.

According to the Law on money laundering prevention and terrorism financing (article 56) the Administration for money laundering prevention is authorized to issue the written order for the temporary suspension of executing the transactions if it estimates that there is the based suspicion for money laundering or terrorism financing and to inform the competent authorities for undertaking the measures from their competence already mentioned above. In the cases of emergency the director of administration may issue the order orally which has to be confirmed in writing on the next working day at the latest. The temporary suspension of executing the transactions may last 72 hours from the moment of temporary suspension of transaction execution. If this term falls into non-working days, it will be extended for another 48 hours according to the order of Administration. According to this law the obligor is authorized, to his own initiative, to suspend the execution of transactions up to 72 hours if he suspects that it concerns money laundering or terrorism financing.

The Administration for money laundering prevention is also authorized to issue the order for monitoring the financial operations of the party – all operations and transactions. This measure is defined by the order for the period of three months from the date of order issuance and may be extended for one month at the time and can not last longer than six months from the date of order issuance.

In cooperation with the Tax administration and in accordance with its authorizations according to art. 57 and 56 of the Law, the Administration for the prevention of money laundering in 2009 issued 147 orders to the banks for monitoring or suspension of transactions.

Automatic computerized search of personal and other data connected with them. This measure consists of automatic search of already saved personal and other data connected with them and their automatic comparison with the data referring to one of the criminal offences specifically listed so that the persons not suspected for being connected with the criminal offence could be excluded (negative search raster). This measure is ordered by the investigating judge upon the detailed proposal of the public prosecutor and may last not longer than six months and can be extended for another three months in case of important reasons.

Two conditions are anticipated for the application of the stated measures : a) to exist the bases of suspicion that the person or the persons prepare the criminal offence or that the person or the persons committed the criminal offence of the organized crime or any other criminal offence from article 504a of the Law of Criminal Procedure(where money laundering is also included) and b) that this criminal offence could not be revealed, proved or prevented by any other way or would be connected with significant difficulties and hazards. The stated measures are applied on the basis of the written and detailed order of the investigating judge upon the request of the public prosecutor. An exception is the controlled delivery approved by the public prosecutor. Lodging an appeal to each order is excluded. The measures may last for the certain time period but may be extended if necessary. When stipulating and extending the measures the investigating judge is obliged to estimate whether this measure is indispensable and whether its same result could be achieved in the manner with less limitations of the citizens rights. The measures are implemented by the authorities of internal affairs. After the implementation of measures the authorities of internal affairs submit to the investigating judge and the public prosecutor the special report with the prescribed contents. If the public prosecutor does not start the criminal procedure within the specified time after the cease of measures, all collected data must be destroyed and the persons to which the collected data refer will be informed about the application of measures, if possible to determine their identity.

5   CONFISCATION OF THE PROPERTY BENEFITS ACQUIRED BY CRIMINAL OFFENCE

The struggle against money laundering is directly connected with other forms of struggle against the crime, primarily by confiscation of illegally acquired property benefits.

The confiscation of the property acquired by criminal offence is the specific criminal law measure with the objective not to permit in any case that the perpetrator of criminal offence becomes wealthy by committing this offence. Therefore this measure is imposed according to the official responsibilities and obligatory, in favour of society. The measure of property benefit confiscation can be imposed by court verdict proclaiming the defendant guilty, by the decision on the court warning or by the decision on the application of correctional measures, as well as by the decision on obligatory psychiatric treatment and keeping which is the safety measure imposed in separate procedure (article 517 par. 1 Law of Criminal Procedure). In articles 513-510 the Law of Criminal Procedure sticks only to the questions how to determine the property benefits technically and the position of the persons in process to which this measure is applied. The property benefit is confiscated according to the official responsibility.

This measure can be applied to the accused, but also to the third persons to which such property benefit has been transferred. According to article 91, para 2 of the Criminal Code of Serbia is prescribed that the property benefit acquired by criminal offence will be confiscated from the persons to which it has been transferred without compensation or with the compensation which obviously does not correspond to the real value. The property benefits include money, valuable objects and any other property benefit acquired by criminal offence and if the confiscation is not possible, the perpetrator shall be under obligation to pay the amount equal to the acquired property benefit. Such counter value, is in fact, the amount of illegally acquired property benefit determined by free court estimation and in this case it is not allowed the property benefit confiscated in this way to be converted into the property penalty.

The property benefit is confiscated according to the official responsibilities, in the full amount, disregarding the assets of the responsible person. The court is obliged to collect the proofs and to find out the circumstances important for defining the property benefits. It can not be released from such obligation by sending to a law-suit, but it is obliged to define the property benefits by itself in the real amount. Only if the defining of the real amount would cause the incommensurable difficulties or significant delay in the procedure, the court may weigh out the amount of property benefit according to its own discretion. The representative of the legal person to which the benefit belonged or the person to which the benefit was transferred are given a fair hearing in the previous procedure and at the main trial. These persons are authorized to propose the evidences concerning the defining of property benefit and, upon the permission of the court president, to ask the questions to the accused, witnesses and experts. An exclusion of public from the main trial does not apply to them. They receive the copy of verdict, i.e. the decision if the measure of property benefit confiscation has been applied to them since they have the right to appeal to the verdict,

i.e. the decision, as well as the right to the repetition of procedure concerning such decision on the confiscation of property benefit.

The legal basis for the confiscation of property benefit is any court verdict by which it was confirmed that the criminal offence had been committed and that in the criminal procedure no associated action for damages covering the amount of property benefit in full had been adjudged to a person sustaining a loss.

In the general criminal procedure, the property benefit can not been confiscated temporarily and in advance, but only as a safety measure by court verdict at the end of the procedure, but therefore the temporary safety measures are possible (article 516 Law of Criminal Procedure).

If it concerns the offences of organized crime or any other serious criminal offences including money laundering, the procedure for the confiscation of property benefit runs according to the provisions of the separate Law on the confiscation of property acquired by criminal offence of 2008.

According to this Law it is possible to confiscate not only the property benefit acquired by the criminal offence for which the person was legally sentenced, but also the property resulting from the criminal offence what is the wider notion which implies the property of the accused, witness-collaborator or testator (a testator is considered a person against which the criminal procedure has not been taken or was suspended because of his death, but in the criminal procedure taken against the other persons has been determined that he had participated in the criminal offence together with these persons to which this law can be applied), *which is in obvious disproportion to his legally acquired proceeds.* In order to confiscate the property benefit acquired by criminal offence, the first move is to track down, what can be achieved by financial investigation with the criminal investigation and its objective is to reveal and identify such property what can be done by special methods and bookkeeping examination. If the public prosecutor submits the request during the first instance procedure, the owner of suspicious property is called to the main trial in order to declare whether he denies such request of the public prosecutor and the decision on the adoption of this request makes an integral part of the verdict of condemnation, if the owner does not deny the request or if it is assumed that he does not deny it. When reaching a verdict by which the accusation is rejected or the verdict of release, the court shall, with these verdicts, reject the request of the public prosecutor for permanent confiscation of property and abandon the decision on the temporary confiscation if made before (article 29, par. 1,2 and 4 Law on forfeiture of assets derived from crime). The decision on the request based on the merits will be made in the separate procedure only if the owner of property at the main trial in the criminal procedure denies the request (art.29, par. 3 Law on forfeiture of assets derived from crime), or if the request is submitted after the validity of the verdict of condemnation.

6   CONCLUSION

Bearing in mind all specificities of the criminal procedure for the organized crime offences and money laundering offences in the Republic of Serbia referring to the modifications of process principles, the special organization of the authorities competent for revealing, providing the evidences, prosecution and judging of the criminal offences, as well the specific authorizations of these authorities, it may be concluded that all legal and other conditions for the successful struggle against money laundering have been fulfilled both at the national and international level. Although a lot of progress has been made, there is still space for improvement in the field of combat against money laundering.

REFERENCES:

Ustav Republike Srbije (Službeni glasnik RS br.98/2006)

Krivični zakonik Republike Srbije (Službeni glasnik RS br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009 i 111/2009)

Grubač, M. (2010). *Krivično procesno pravo.* Beograd: Službeni glasnik.

Zakonik o krivičnom postupku Republike Srbije („Sl. list SRJ", br. 70/2001 i 68/2002 i "Sl. glasnik RS", br. 58/2004, 85/2005, 115/2005, 85/2005 - dr. zakon, 49/2007, 20/2009 - dr. zakon, 72/2009 i 76/2010)

Zakon o organizaciji i nadležnosti državnih organa u borbi protiv organizovanog kriminala (Službeni glasnik RS br. br. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 - dr. zakon, 45/2005, 61/2005 i 72/2009)

Zakon o oduzimanju imovine proistekle iz krivičnog dela (Službeni glasnik RS br. 97/2008)

Zakon o sprečavanju pranja novca i finansiranju terorizma (Službeni glasnik RS br. 91/2010)

Lazarević, Lj. (2006). *Komentar Krivičnog zakonika RS.* Beograd: Moderna admnistracija.

Lukić, T. (2008). *Posebnosti krivičnog postupka za organizovani kriminal, terorizam i korupciju.* Novi Sad: Izdavački centar Pravnog fakulteta u Novom Sadu.

Milovanović, M. (2005). Pranje novca i oduzimanje imovine proistekle iz krivičnog dela – pravna kontroverza. *Puls- magaziin za korupciju*, 7-8, 52-59.

Sokolović, R. (2005). *Policija i krivični postupak.* Beograd: Poslovni biro.

Stajić, Lj., Jovašević, D. (2003). Bezbednost i pravni aspekti pranja novca. *Nauka, bezbednost, policija,*1, 93-117.

THE APPLICATION OF SPECIAL INVESTIGATIVE MEASURES IN DETECTING AND PROSECUTING ORGANIZED CRIME AND TERRORISM

Authors:

Aleksandar R. Ivanović and Aleksandar Faladžić

ABSTRACT

Purpose:

The purpose of this research was to point out the basic guidelines for effective practical application of special investigative measures in detecting and prosecuting organized crime and terrorism on the territory of the Republic of Serbia and Bosnia and Herzegovina.

Design/Methodology/Approach:

This article is based on the application of current theoretical work of the judiciary and prosecution of the Republic of Serbia, and Bosnia and Herzegovina through context positivist and deductive paradigm.

Findings:

The aim of this article is to take into consideration the features of contemporary forms of crime manifestation, as well as the fact that the use of conventional operational-tactical and investigative measures and actions are often of limited scope, especially in countering the tendency of organized crime and terrorism. The authors emphasize the role and the importance of specific investigative techniques in fighting these forms of crime, with special emphasis on the criteria and conditions for their implementation according to the regulations of the criminal procedure legislation of the Republic of Serbia, and Bosnia and Herzegovina.

Research limitations/implications:

The research is limited to the criminal procedure legislation of the Republic of Serbia, and Bosnia and Herzegovina.

Practical implications:

Lawmakers can benefit from the results and make some necessary changes in the regulations of criminal procedural legislation of the Republic of Serbia, and Bosnia and Herzegovina, which can enhance activities in the field of countering organized crime and terrorism.

Originality/value:

This chapter is the result of joint research and critical analysis of the legislation of special investigative measures in criminal and procedural legislation of the Republic of Serbia, and Bosnia and Herzegovina, performed by the authors and dealing with this issue in one or another country.

Keywords: Organized Crime, Terrorism, Special Investigative Techniques, Criminal Procedure Legislation, Security.

1   INTRODUCTION

In addition to the level of substantive criminal law, the fight against organized crime and terrorism requires a series of actions and measures intended to thwart the perpetrators of criminal acts to commit the criminal activity and avoid punishment. Although there are no generally considered definitions of these forms of crime, we can say with certainty that there is a consensus of most authors in terms of the constituent elements of these socially negative phenomena. Thus, by the majority, organized crime is defined as a permanent and organized criminal enterprise whose intention is to profit from illegal activities and its existence is held permanently by using force, threats, monopoly control, and /or by corrupting public officials. As for terrorism, we thought that the most acceptable definition is an official FBI one, according to which terrorism is the unlawful use of force or violence against persons or property to intimidate or coerce governments, the civilian population, or any segment thereof, in furtherance of political or social objectives.

The main characteristics of these forms of criminal manifestation are: high level of organization, internationalization, recidivism, professionalization and specialization, the application of violence, cruelty and ruthlessness, and more frequent abuse of modern technical and technological achievements. For this reason, there is a need to find appropriate measures and resources in their suppression and prevention. The criminal legislation of many countries, the classical tools and methods applied in the prevention and suppression of the most difficult and most complex of modern criminal activities and organized crime, are replaced by new and more effective solutions, tools, methods and techniques. It is unthinkable to prevent and combat terrorism and organized crime without the application of modern tools, methods and techniques. Implementing these measures and actions violate the rights and freedoms of citizens which are guaranteed by a huge number of international and national documents, but it is proved they are necessary and represent one of the most effective mechanisms available to the State in the fight against organized crime and terrorism.

The introduction of specific procedures aimed at detecting and proving the acts of organized crime and terrorism in a more efficient way, which makes the arranging process to significantly deviate from the principles and traditional institutions of regular criminal proceedings. The focus of the proceedings is transferred to the earliest phase, instead of the investigation, evidence actions are taken in preliminary investigation which is understandable reason because the later would not be effective or are by their nature such that they afterwards can not be taken, for example., secret audio and visual surveillance of a suspect. Status of a suspect is obtained when there are grounds for suspicion that the person is preparing or participating in the preparation of criminal acts of organized crime. It is not required that a criminal offence should be committed, which means that the citizen becomes suspect earlier than in the normal procedure when the offense does not belong to organized crime.

For the effective implementation of these measures, in accordance with the European standards for the protection of human rights, the countries must construct the basic legal framework to enable the implementation of measures and develop the appropriate by-laws and institutional structures and functional mechanisms, and with well-trained officers on the practical implementation of these measures.[1]

2   MODERN METHODS IN COUNTERING ORGANIZED CRIME AND TERRORISM PROVIDED FOR NORMATIVE-LEGAL ACTS OF BOSNIA AND HERCEGOVINA

The Code of Criminal Procedure of Bosnia and Herzegovina (B&H) in Chapter IX - Special investigative actions, provides the possibility of the following special investigative actions:

Surveillance and technical recording of telecommunications (Article 116, paragraph a) of the CPC B&H) are measures of the bodies of criminal procedure which authorize the secretly restricting basic rights to private and family life, home and correspondence. This measure includes secretly monitoring and recording the conversation over telecommunication means. The legislature does not limit the application of this measure, considering means of communica-

---

[1]   International Association for Criminal Law – ADIP the XVI Congress held in Budapest 1999 adopted a resolution which specifies the conditions that need to meet to the results obtained by the special investigative methods and can be used as valid evidence in criminal proceedings. These conditions are: a) that expressly provided for by law (principle of legality), b) that there are not milder measures for achieving the same objective (principle of subsidiarity) c) it is a very serious criminal act (the principle of proportional) d) had previously obtained the consent of a judge or to be performed under his supervision (principle of judicial supervision).

tion, so this special investigation measure relates to all the technical resources (e.g., stationary, mobile, audio, and visual) communication at a distance which are used by companies for maintenance of telecommunication services. This investigation measure also applies to e-mails. HOWEVERE, The measure may not exceed six months in total.

The computer systems access and computerized data processing (Article 116, paragraph b) of the CPC B&H) is a measure that allows comparison of the citizens' personal data, that are stored in databases and other appropriate registers, with the data contained in police records and other registers with automatic data processing. Positive search is used to determine the circle of suspects toward some of the registered properties, and the negative search excludes from further testing a person who is not suspect. This action is a fast and efficient method that allows for the extracting and comparing of different registered data which are in respect of a person located in the police and other databases. Measures can take a total maximum of six months.

Surveillance and technical recording of premises (Article 116, paragraph c) of the CPC B&H) is a measure which is administered by police agencies using different hidden technical devices in order to record objects, persons and subjects. Surveillance and technical recordings of premises is reflected in the optical and acoustic recording of a particular space and activities that take place in areas under supervision, such as the area where illegal drug sales, receiving and giving bribes and the like are performed. This measure not only concerns the person against whom it is used, but it can also take into consideration persons who have nothing to do with the criminal offense that is the subject of investigation. The measure may not exceed six months.

Covert following and technical recording of individuals, transportation assets, and objects that are related to them (Article 116, paragraph d) of the CPC B&H) is in practice often used tactical institute of observation, and the aim of this measure is to know the person's movement, with whom it associates or meets, with whom it is in contact and so on. The observation can be stationary and mobile, with or without the use of technical equipment. The measure may also not exceed three months.

The use of undercover investigators and informants (Article 116, paragraph e) of the CPC B&H) aims to provide monitoring and reporting on the criminal activities of a criminal group. The undercover investigator is a specifically trained police officer who acts under false identity and is not permitted to undertake activities that constitute incitements to a crime, nor actions that constitute a criminal offense. The undercover investigator monitors and reports on the activities, plans, developments and other matters related to the members of criminal organizations that are important for the criminal proceedings. This activity is usually used in complex cases and cases in which the implementation of measures is expected

for a longer period of time. The undercover investigator is allowed under its new identity to participate in the legal system. In terms of engaging the undercover investigators the B&H CPC doesn't specify a time frame in which this covert measure should be realized, because the time limitation of this measure could be a serious obstacle to its successful implementation. Secret police participation is possible through the use of an informant. The informant is not a police officer but it is a person whom the police, occasionally or permanently, secretly engages and is used for the purpose of obtaining information about the crime and its offender.

Simulated and controlled purchase of certain objects and simulated bribery (Article 116, paragraph f) of the CPC B&H) is a measure that consists of two different actions. In the case of simulated purchase by the police officer or other person, items that originate from a criminal offense or are intended for execution of criminal offense or are in any other way connected with the criminal offense, are subject of purchase. The simulated bribery is used to investigate criminal offences of receiving and giving bribes. During the implementation of this measure, it is very important to take into account that the suspect is not encouraged to commission the offense. The measure applies only to a single act.

Supervised transport and delivery of criminal offense objects (Article 116, paragraph g) of the CPC B&H), is a measure that implies secret monitoring of certain items whose trade is prohibited or illegal, with the aim of determining the organizers and all the other participants in the illegal activities, with deferred intervention. In this case, the measure may not exceed three months.

The principles on which this system of these investigative measures is based are: the necessity, the court decision, the existence of grounds for suspicion in connection with a criminal offense, the legal catalog criminal acts (against the integrity of B&H, against humanity and the values protected by international law, terrorism and criminal acts for which according the law a prison sentence of minimum of three years or more severe punishment may be imposed), distinctness of persons and types of measures and time constraints. During the implementation of special investigative measures, the police authority in no way should take actions that are inciting the commission of the offense.

The proposal for the implementation of the special investigative measures are given by the prosecutor, who in the preliminary proceedings must explain the actual need for their undertaking, and if he agrees with the proposal of the prosecutor should issue written (in exceptional cases, verbal) orders. According to the Code of Criminal Procedure of Bosnia and Herzegovina, the special investigative measures may be ordered against a person for whom there are grounds of suspicion that he alone or together with other persons participated or participates in the commission of specifically enumerated criminal offenses if there is no other way of collecting the evidence or its acquisition would repre-

sent serious difficulties. Special investigative measures may also be determined against person where there are grounds for suspicion that s/he will deliver to the perpetrator of the specifically enumerated criminal offenses information in relation to the offenses, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to those persons. By way of a written order the preliminary proceedings judge must suspend forthwith the execution of the undertaken measures if the reasons for previously ordering the measures have ceased to exist.

3   MODERN METHODS IN COUNTERING ORGANIZED CRIME AND TERRORISM PROVIDED BY THE NORMATIVE AND LEGAL ACTS OF THE REPUBLIC OF SERBIA

With the Law on Amendments to the Code of Criminal Procedure of 2001, from 31.08.2009, in chapter XXIX the special investigative techniques are standardized by the legislator in accordance with the recommendations of the resolution of the International Association for Criminal Law - ADIP from the XVI Congress, held in Budapest 1999. The special investigative measures according to the Law on Amendments to the Code of Criminal Procedure of 2001 from 31.08.2009 include:

Monitoring and recording of telephone conversations or other communications (Article 504e, 504ž and 504z of the CPC of Serbia from 2001) is a special investigation measure, whose enforcement provides evidential mechanisms to combat the worst forms of crime, while on the other hand, its use in contemporary society may endanger human rights and freedoms in the intimacy protection of communications (Aleksić & Škulić, 2002:224). By not accepting the application of technical devices in combating highly dangerous perpetrators of criminal acts, the state's "hands would be tied" and this would in fact made the state powerless, which would be very dangerous and deadly primarily for its citizens (Škulić, 2003:251).

Acting upon the written and reasoned proposal of a Public Prosecutor, the Investigative Judge may order surveillance and recording of telephone and other conversations or communication by other technological devices and video recording of persons for whom there are grounds for suspicion that they have committed criminal acts exhaustively defined in Article 504a.[2] The use of this measure is

---

[2]   The crimes to which the application of specific investigative measures may be require under Article 504a: a) the criminal offenses of organized crime (crimes committed by organized criminal groups or its members), b) the criminal acts of corruption and if they are not the result of activities organized criminal groups (abuse of official position, trading influence, bribe-taking and giving bribes), c) extremely serious crimes that were not the result of an organized criminal group activities (murder, aggravated murder, kidnapping, robbery, extortion, counterfeiting money, money laundering, illicit production and trade in

also envisaged when there are grounds for suspicion that there is preparation of any of the crimes listed in Article 504a, and the circumstances indicate that the criminal offense could not be detected, prevented, or proved in any other manner, or that would cause great difficulty or great danger.

The grounds for suspicion, necessary for issuing the order, must exist prior to the determination of special investigative measure of secret surveillance. The degree of certainty, grounds of suspicion in each particular case, is estimated by the Investigating Judge, who is responsible for issuing the order. The order shall include data on the person against whom the measure is applied, grounds for suspicion, the manner of implementation, scope and duration of the measure. The measure may last for up to three months and due to important reasons they may be extended by another three months. The implementation of a special investigative technique, or measures it is made up of, shall be terminated immediately when the reasons for their implementation cease to exist.

The execution of special investigative measure of secret surveillance is entrusted to the police, members of the Security-Information Agency (BIA) or the Military-Security Agency (VBA), who are required to submit daily written reports on the completed measures together with the collected recordings, to Investigating Judges and Prosecutors upon their request. The postal, telegraphic and other enterprises, companies and entities registered for the transfer of information (providers) have the obligation to enable police, or the Security-Information Agency (BIA) and the Military-Security Agency (VBA) to implement special investigative measure of monitoring and recording telephone conversations or other communications. These special investigative measures may be conducted, by order of the Investigative Judge, in apartments, other premises and in the open. The legal solution for implementation of the measure is rather general, because it is determined that the surveillance can be done in public places and premises that are not apartments. In practice, measures of covert audio and optical monitoring are reduced to: acoustic surveillance of the premises, cars and the suspect itself, as well as telephone connections, links and fax modem connections, downloading computer information (electronic mail), including computer radio emission, entry in the database, secret photographing and recording, visual object tracking and locating SMS messages in the mobile network which are sent by the person who conducts the measure in order to locate the requested person.

---

narcotics, crimes against the constitutional order and security of the Republic of Serbia, illegal manufacture, carrying, possession and trade of weapons and explosives, illegal crossing of state borders and people smuggling, trafficking, trafficking in minors for adoption, international terrorism, taking of hostages and terrorist financing), d) The criminal offense of war crimes and crimes referred to the ICTY Statute; and e) Crimes: Prevention of an official in the performance of official acts, assault on an official in the exercise of official action, giving false testimony, prevention and disruption of proofs; violation of the secrecy of the proceedings; escape and allowing escape of the person deprived of liberty and helping the perpetrator after the commission of the crime (if committed in relation to Art. 339).

Authorized police officials, or Security-Information Agency (BIA) or the Military-Security Agency (VBA), are not allowed to search the apartment or other premises, except when legal conditions referred have been met, and shall have the obligation to use an audio and video recording device to record their entry into the apartment or other premises and installation of technical devices for the implementation of a measure of secret surveillance. The aforementioned recording shall be delivered to the Investigative Judge together with footages and reports that are also obtained in the execution of this special investigation measure.

The Investigative Judge may order transcribing and description of all of or part of the recordings obtained through the use of technical devices. The Investigative Judge shall invite the Public Prosecutor to familiarize himself with the material obtained through the use of this special investigative technique. With the Criminal Procedure Code the possibility of using the so-called random findings is also provided. Namely, if the use of a special investigative technique results in evidence that there is criminal offense other than the suspected specific criminal offense, or that it is being prepared, such evidence may be used in criminal proceedings only if it refers to any of the criminal offenses that falls within the group acts in respect of which it might otherwise be undertaken. If the information obtained through the use of the above measures is not necessary for the criminal proceedings, or if the Public Prosecutor says s/he will not request the initiation of proceedings against the suspect, all of the collected material will be destroyed under the supervision of the Investigative Judge.

Rendering simulated business services and conclusion of simulated legal affairs (Article 504i-504k. CPC Serbia in 2001) are a special investigative measure. A Judge may or the investigative measure at the request of public prosecutor towards the person for whom there are grounds for suspicion. That alone or together with other persons who committed the criminal offense of organized crime as well as when there are grounds for suspicion that the person to whom such actions are determined, alone or together with other persons, committed any of the crimes specifically mentioned in Article 504a.

The condition for application of the measure of rendering simulated business services and conclusion of simulated legal affairs is the existence of special circumstances of the case which indicate that an act of organized criminal offense or some other criminal offense can be clarified and proved through the use of such techniques, and that it would be impossible or very difficult to clarify and prove it in any other way. According to the Criminal Procedure Code of the Republic of Serbia the maximum duration of these measures amount to nine months (six months duration of the primary, and then secondary extension of maximum three months). In the process of ordering and extending the measure, the Investigative Judge shall assess whether the implementation of the measure

is necessary and whether the same result may be achieved in another way that would not limit civic rights to such an extent.

The person, who in accordance with the order of the Investigative Judge renders simulated business services and concludes simulated legal affairs, does not commit a criminal offense by performing these activities. During the application of methods in the implementation of this special investigative measure, there should not be encouraging towards the commission of the offense. The measure rendering of simulated business services and conclusion of simulated legal affairs is usually used for the detection of criminal acts that are commonly referred to as "crime without victims" or "victimless crimes". This can include, for example, drug trafficking, arms smuggling, corruption crimes, or where both parties (seller and buyer) are interested in the secrecy of illegal business.

The special investigative measure, rendering of simulated business services and conclusion of simulated legal affairs, can be performed, in addition to police and members of the BIA, VBA-e, by other persons proposed by these authorities and determined by the Investigating Judge. The police, the Security-Information Agency or the Military-Security Agency shall produce daily reports on the implementation of the measure and present them together with the collected documents to the Investigative Judge and Public Prosecutor at their request. Upon the completion of this special investigative techniques, the police, the Security-Information Agency, or the Military-Security Agency shall present to the Investigative Judge and Public Prosecutor a special report which shall contain: the dates when the measure has begun and ended, data on the official person who has implemented the measure, description of the used technical devices, number and identity of persons targeted by the measure and assessment of the appropriateness and results of the implemented special investigative technique. Together with the report they are obliged to present it to the Public Prosecutor along with all the documents on the implemented special investigative technique, photographs, video, audio or electronic recordings and all the other evidence collected through the implementation of the special investigative technique. The implementation of a special investigative technique rendering of simulated business services and conclusion of simulated legal affairs shall cease upon the expiry of the deadline for its implementation or when the reasons for which it was ordered cease to exist. If the Public Prosecutor does not initiate criminal proceedings within six months after the cessation of these investigative measure, all the collected data shall have to be destroyed, and the persons to whom these data refer shall be informed about the implementation of the measure, if their identity can be established.

If the use of these special investigative measure results in evidence referring to a criminal offense other than the suspected particular criminal offense, that it has been committed, or that it is being prepared, such evidence may be used in

criminal proceedings only if it refers to any of the criminal offenses that falls within the group acts under which this measure might be undertaken.

Engagement of an undercover agent (Article 504m-504nj CPC Serbia from 2001): The undercover agent is defined in the literature as a police official who is assigned changed identity (false identity) for a period of time that in order to act secretly in contact with certain criminal community, to gather information that can be used to detect, clarify and prevent crime and above all those actions related to organized crime (Milošević, 2003:35).

According to the CPC of Serbia, the investigating judge may, at the request of the prosecutor, order that the engagement of an undercover agent when there are grounds for suspicion that he committed the criminal offense of organized crime, or if the offense committed by organized criminal group or its members and under certain conditions of their preparations for the commission of an offense, if the circumstances of the case indicate that the criminal offense can be clarified and proved in this way and that it would be impossible, or very difficult, to clarify and prove it in any other way. Such a defined way of using undercover agent in the legislature of Serbia has fully implemented the EU Recommendation No. R(96)8, which in the 37th paragraph recommends that the states implement and study the techniques for the using of an undercover agent.

The undercover investigator operates with a certain purpose and within the orders of his superiors and under control of other organs as well as by order of the prosecution. In addition, s/he must have a secure false identity, furnished biography, for which s/he must have all the necessary documents; must be well acquainted with the criminal underworld language; their manner of behaviour and clothing and all the activities identified with the criminal organization in which they are included. Prior to inclusion, the agent must study the psychology of criminal conduct of the organization well, so that on the basis of that knowledge could play a role in such criminal organization.

The undercover investigator must act according to the rules of criminal organization, and on the other side of the legal norms, which is a big commitment. In addition, they must consider the opportunity to return to the real situation after the execution of the task (Bošković, 2003:275). In this regard, the undercover investigator is assigned false name which must sound similar to his real name, or may be assigned the name that starts with the same letters as his real name. In this way, the undercover investigator facilitates the signing, and on the other hand in the event that someone recognize him on the street and called his right name, he can be apologized that the person did not hear his name well. In the false identity (i.e., for their place of birth, address, previous employment and other information), should be chosen the farthest location which the people in the criminal organizations or environment do not know well and cannot check, and find people who can confirm or refute these facts.

As a condition of engaging the undercover investigator it is necessary that there is a criminal organization, respectively that there are grounds for suspicion that persons belong to a criminal organization. The existence of a criminal organization implies that they had previously committed a criminal offense of criminal association, and the preparation of a criminal offense is related to another criminal offense that should arise from the activities of members of criminal organizations. So, the undercover investigator may be engaged only if there is a criminal organization, not just one that belongs to the organized crime but, in any organization which is characterized by the existence of certain groups of perpetrators associated with the common criminal purpose. According to the Criminal Procedure Code of the Republic of Serbia, the undercover agent under a pseudonym or code shall be appointed by the minister in charge of internal affairs, or the director of the Security-Information Agency or director of the Military-Security Agency or the person they authorize.

As a rule, an undercover agent is an authorized official of the police, BIA, or VBA, and if the particular circumstances require that, some other trained person, who under the terms of reciprocity, may be a foreign citizen. A person against whom criminal proceedings are in progress or have been convicted of a criminal offense which is prosecuted *ex officio*, or a person for whom there are grounds for suspicion that belongs to an organized criminal group, may not be an undercover agent. This special investigative technique shall last for as long as it takes for evidence to be collected and no longer than one year, or by the explained proposal of the Public Prosecutor, the Investigative Judge may extend the measure for a maximum of six months.

The undercover investigator submits periodic reports to their direct superior and a report will not be submitted if it would jeopardize his safety or the safety of others. The undercover investigator may, by the order of the Investigating Judge use technical means to record conversations, and means for taking pictures or audio and video recording. Once the engagement of the undercover agent ceases, the direct superior of undercover investigator shall submit to the Investigative Judge and Public Prosecutor the final report which shall contain: the dates when the special investigative technique has started and ended; alias of the undercover investigator; description of the used technical devices; number and identities of persons targeted by the special investigative technique and assessment of the effectiveness and results of the implemented special investigative technique. The report shall be submitted to the Public Prosecutor along with the photographs, audio and video recordings, documents accompanying these photographs and recordings and all other evidence obtained through the implementation of the special investigative technique. The undercover agent is prohibited from enticing or provoking somebody to commit a criminal offense and may be punished if he does so. If through the implementation of the special investigative technique, evidence has been collected of a criminal offense other than the criminal offense

for which existed grounds for suspicion or of its preparation, such evidence may be used in criminal proceedings only if it refers to some of the criminal offenses for which the Investigating Judge in the case of grounds for suspicion may issue a warrant for engaging the undercover investigator.

The undercover agent may be examined as a witness in the criminal proceedings. The examination shall be conducted in such a way as not to reveal the identity of the witness. The data pertaining to the identity of the undercover agent who is being examined as a witness shall represent an official secret. Other rules on the examination of protected witnesses shall be implemented as appropriate during the examination of the undercover agent. The judicial decision may not be based only on the testimony of the undercover agent who has been examined as a witness.

Controlled delivery (Article 504l CPC Serbia from 2001) is an institute which essentially deviates from the principle of legality of criminal prosecution, since the procedure actually does not start even though there are grounds for suspicion that a criminal offense which is prosecuted ex officio committed in the territory of the competent organ of criminal prosecution. The measure of controlled delivery consists of allowing illicit, or suspect consignments, to pass out of, through, or into the territory of one or more states, with the knowledge and under the supervision of their competent authorities, with regard to investigation conduct of an offence and the identification of persons involved in the commission of the offence. About the measure of implementation of controlled delivery, in contrast to other special investigative technique, is decided by the Republic Public Prosecutor or other public prosecutor in charge of the territory of Serbia, with the issuance of written approval for each individual delivery. This special action is implemented by the police or other government authorities who are professionally and technically trained for that with personnel and equipment. The Republic Public Prosecutor also determines method of its implementation. The controlled delivery is carried out with the agreement of competent authorities of the interested states and on the basis of reciprocity, as well as in accordance with the ratified international conventions and bilateral or multilateral agreements, where they regulate the contents of this special investigative technique in more detail. The controlled delivery may be undertaken only if the detection or arrest of persons involved in the illegal transport of narcotics, arms, stolen objects and other objects which result from a criminal activity or objects used for the purpose of committing a criminal offense would otherwise be either impossible or very difficult, or if the detection or proving of criminal offenses committed in connection with the delivery of illegal or suspicious shipments would be otherwise impossible or very difficult.

The goal of controlled delivery is the disclosure of the customer and the organizer of criminal business. The aim is to approach as much as possible the top of the criminal organization, for that reason the immediate arrest of traffickers and

subtraction of smuggled goods is delayed to the time until is collected enough knowledge, information and evidence about the criminal organization that is behind the smuggling. The measure of controlled delivery of the ratified international conventions implies that all states through which illegal or suspicious shipments are passing shall explicitly: a) agree to the entry in their territory of the relevant illegal or suspicious shipment and its exit from the territory of the state; b) guarantee that the illegal or suspicious shipment shall be constantly monitored by the competent authorities of the state in whose territory the delivery is taking place; c) guarantee that all necessary activities shall be taken to prosecute all persons who have participated in the delivery of illegal or suspicious shipments; and d) guarantee that the Republic Public Prosecutor, police, or other competent government authorities shall be regularly informed about the course and the outcome of the criminal proceedings against the persons indicted of criminal offenses which constituted the subject matter of the special investigative technique of controlled delivery.

Upon the completion of the special investigative technique of controlled delivery, the authorized official person of the police, or another government authority, shall submit to the republican Public Prosecutor a report which shall contain: the dates when the special investigative technique has started and ended; data on the official person who has implemented the special investigative technique; description of the implemented technical devices; number and identities of persons targeted by the special investigative technique and an assessment of the effectiveness and results of the implemented special investigative technique.

Automatic computerized search of personal and other related data (the CPC 504lj Serbia in 2001) is a special investigative measure that is new in the criminal procedure legislation of Republic of Serbia. So, it's a new special investigative measure, which in developed countries is of great importance, especially in connection with the completed computerization of personal and other data, and great opportunities which such information provide in collecting evidence.

The automatic computerized search of personal and other related data and their electronic processing may be ordered by the investigating judge on the proposal of the public prosecutor, only if there are grounds for suspicion that a criminal offense is conducted as specifically stated in Article 504a. The special investigative technique automatic computerized search of personal and other related data may exceptionally be ordered if special circumstances indicate that some of these crimes are being prepared, and facts indicate that this would be impossible or very difficult to prevent in any other way, or that there would be irreparable damage to the lives or health of people, or valuable assets.

The special investigative technique of automatic computerized search of personal and other related data shall consist of the automatic search of the already stored personal data and other data directly correlated with them, and their automatic

comparison with the data that refers to some criminal offenses and person that can be brought in connection with this criminal offense, in order to rule out as possible suspects the persons who are unlikely to be in connection with the criminal offense, and to identify those persons for whom there are grounds for suspicion on the basis of the collected data. The essence of this method is free access to law enforcement bodies to all the records that are being automated, which deviates from the principle of protecting privacy rights of citizens and information self-determination. The special investigative technique of automatic computerized search of personal and other related data may last for maximum six months, and it may be extended once again for three months due to important reasons. This special investigative technique is implemented by police, Security-Information Agency, Military-Security Agency, Customs authority or another government authority, or other legal persons who perform certain public duties under the law.

The special investigative technique of automatic computerized search of personal and other related data is ordered by the Investigative Judge at the proposal of the Public Prosecutor. The order shall contain: the statutory title of the criminal offense; specification of data whose automatic collection and sending is necessary; appointment of the government authority which has the obligation to collect the requested data automatically and to send them to the Public Prosecutor and police; scope of the special investigative technique and its duration.

All collected data shall be destroyed under the supervision of the Public Prosecutor and Investigative Judge if criminal proceedings are not initiated within six months after the implementation of the special investigative technique of automatic computerized search of personal and other related data.

Examination of cooperating witnesses (Article 504o-504ć CPC Serbia in 2001) is a special investigative measure which is regulated by the changes of the CCP from 2009 is very detailed and quite differently regulated in comparison to the solutions that had been provided by the CPC from 2001.

Cooperating witness is in the legislation of Republic of Serbia introduced by the CPC of 2001 as a new institute in the field of evidence that seriously deviates from the principle of division of criminal procedural functions. It is a person (suspect or defendant) who is forgiven his committed offense of organized crime because he is ready to testify truthfully about the crime in which execution he participated. According to this legal provision the Public Prosecutor may propose to the court, until the conclusion of the trial, to examine in the capacity of a witness the person for whom there are grounds for suspicion that he is a member of a criminal organization and who has explicitly admitted in its entirety and his confession is corroborated by other evidence. The same goes for members of the group or organization made up of three or more persons who are organized to commit criminal acts against constitutional order and security of the Republic of Serbia, against humanity and other goods protected by

international law. In order for a person against whom the criminal complaint was filed or criminal proceedings are conducted for an act of organized crime to become a cooperating witness, he must satisfy the following conditions: a) that there are extenuating circumstances under which according to the criminal law can be rid of their sentence or the sentence may be reduced; b) if the significance of his/her testimony for the detection, verification or prevention of other crimes of the criminal organization are prevailing over the harmful effects of the criminal acts he committed. Cooperating witness who gave evidence to the court and thus fulfilled its testimony obligations, telling the truth and that s/he will not omit anything, according to the original provisions of the Criminal Procedure Code of 2001 may not be prosecuted for the criminal offense of organized crime for which the proceedings are conducted. If the cooperating witness fails to act in keeping with his obligations related to their duty to speak the truth and that s/he will not omit anything, or if s/he refuses to take an oath before giving testimony or if the cooperating witness commits another act of organized crime offense, the Public Prosecutor will continue criminal prosecution and respectively initiate criminal proceedings.

In contrast to these conditions, the Law on Amendments to the Criminal Procedure Code of Serbia from 2009, provides that the Public Prosecutor may propose to the court to examine in the capacity of a cooperating witness a person for whom there are grounds for suspicion that s/he is a member of a criminal organization and who has explicitly admitted to this, against whom an order of inquiry has been adopted or a direct indictment has been raised for an organized crime offense, which s/e has confessed in its entirety and their confession is corroborated by other evidence. In order for a person to become a cooperating witness they must satisfy the following conditions: a) that this is opportune in view of the nature and circumstances of the criminal offense for which s/he is suspected of having committed; b) that there is reason for expecting the importance of their testimony for detecting, proving or preventing other criminal offenses by the criminal organization shall be greater than the damaging effects of the criminal offense which s/he is suspected of committing; and c) that in view of the existing facts, there is reason to believe that the determination of important facts in criminal proceedings would be impossible or very difficult if the cooperating witness was not examined.

Amendments to the Criminal Procedure Code of the Republic of Serbia from 2009 was stipulated that the cooperating witnesses may become persons against whom an order of inquiry has been adopted or a direct indictment has been issued for a criminal offense against the Constitutional order and security of the Republic of Serbia, or a criminal offense against humanity and other goods protected by international law, which has been committed by three or more persons who have organized to commit criminal offenses. As a cooperating witness may be examined a person sentenced for the criminal offense of organized crime or

as a member of an organized criminal group. In fact, the Public Prosecutor may propose to the court the cooperating witness a person sentenced as a member of an organized criminal group, provided that the significance of their testimony for the detection, verification or prevention of criminal acts of organized crime is better than a result of a criminal offense for which s/he was sentenced. This person cannot be a person who is convicted as an organizer of criminal organization or sentenced to imprisonment for forty years. If the court assessed that the cooperating witnesses gave the statement in accordance with legal provisions, the public prosecutor shall, upon final completion of the procedure conviction, request for modification of the final verdict from the court which prosecuted the cooperating witnesses as first instance. If the court assessed that the testimony of a collaborator is given in accordance with the provisions of the hearing of witnesses, the sentence will be reduced by at least one half. The cooperating witness can not be released from the duty to testify in the sense of Article 98, respectively, cooperating witness can be a person who otherwise would not have to testify because of kinship or legal relationship with the defendant. The cooperating witnesses is also obliged to answer individual questions by which s/he would be likely to expose him/herself or other persons close to him/herself to serious disgrace, considerable material damage or criminal prosecution.

The Code provides an absolute exclusion of certain categories of persons eligible for associate status of the cooperating witnesses, and this exclusion criterion is based on the role that a person has in the development of a criminal organization or position that the person occupies in the hierarchical ladder of a certain criminal organization. Thus, the cooperating witnesses may not be the person for whom there are grounds for suspicion that he has organized his own criminal group or together with other persons in such a way that his contribution has been considerable, or a person who led a criminal offense group in a long period of time.

In the case of examination of cooperating witnesses there is limited effect of the principle of public criminal proceedings. The Code stipulates that the examination of a cooperating witness shall be closed to the public, unless the chamber, upon the proposal of the Public Prosecutor and with the consent of the witness, decides otherwise.

In the Law on Amendments to the Code of Criminal Procedure of 2001 from 31.08.2009, there has been a significant change of the original provision of Article 504 which is regulated by special rules of procedure for the criminal acts of organized crime, corruption and other very serious crimes. With the abovementioned amends to the law there is regulation to the application of the same specific investigative measures that are prescribed and by the applicable law to almost the same way, except that their application is provided for a larger number of criminal offenses that are specifically listed in Article 504a.

4   CONCLUSION

With the comparative analysis of the type of special investigative measures that are determined by the legislation of the Republic of Serbia and Bosnia and Herzegovina, we can conclude that there is a very large choice of special investigative measures in the hands of law enforcement bodies which is certainly positive in terms of primarily successful fight against organized crime. The most significant difference is certainly the fact that the legislation of Bosnia and Herzegovina did not inject the institute "cooperating witness", and whose implementation is, as stated in the previous chapter, quite broadly and precisely defined in the legislation of the Republic of Serbia.

The difference is in the application of measure, "the use of undercover investigators and the use of informants" and in the sense that in Bosnia and Herzegovina, it clearly stipulates that a police officer may be hired as an undercover investigator while in the Republic of Serbia, there is the possibility of involvement of other person, for example, member of the BIA and VBA and other skilled and engaging person who may be foreign citizen. The difference is also that the use of informants in BiH is regulated as a special investigative action while in the Republic of Serbia their use is regulated with by-laws so their engagement has far less formal significance.

Also, when we analyze legal decisions regarding the types of special investigative measures, we can see that there are more differences but we can say that they are in the more formal sense. This primarily refers to the measure of "the secret audio and optical surveillance of the suspect", whose implementation is provided in Article 504e-504z of the Law on Amendments to the CPC RS from 2001. In fact, the actions prescribed by this measure were in B&H CPC developed and divided into three steps as follows: 1) surveillance and technical recording of telecommunications, 2) surveillance and technical recording of premises, and 3) secret surveillance and technical recording of persons, transport vehicles, and objects that are related to them.

With the comparative analysis of the legal definitions of criminal acts for which may be applied special investigative actions prescribed in the legislation of the Republic of Serbia and Bosnia, we can conclude that the possibility of its application is very broadly defined, and particularly in the case in Bosnia because in point 4 it was defined by the possibility of application of all criminal offenses for which by law may be imposed a prison sentence of three years or a more severe punishment. In this regard, we thought that we need more restrictive conditions to regulate the application of the special investigative measures in order to prevent abuse of these measures and the tendency to detect all criminal offenses of applied measures and actions that are not necessary and can easily cause or lead to a breach of fundamental rights and freedoms of citizens.

With regard to the legal definition of the manners of determining and duration of the special investigative measure provisions of Article 118 of B&H CPC, provides that the implementation of special investigative measure is determined by the order of preliminary proceedings' judge, on the explained proposal of the prosecutor. In exceptional circumstances the application of special investigative measures may be ordered orally by the preliminary proceedings' judge, if circumstances so require but that, within the 24th hours a written order must be brought. The B&H CPC precisely regulated the duration of some special investigative measures with the exception of the undercover investigators that there is no time limit in which the action must be completed and simulated and controlled purchase of certain objects and simulated bribery which stipulates as the one-act.

Special investigative measure pursuant to Article 504 of the current CPC of RS from 2001, upon the written and reasoned proposal of a Public Prosecutor, an Investigative Judge may order against a person on the grounds of suspicion that it alone or with others participated in or participates in the perpetration of the criminal offence for which the specific investigative measure can be determine. The degree of doubt in each case is estimated by the investigating judge when deciding on the issuance of orders. From this rule is excluded the application of specific investigative measure of controlled delivery which in contrast to other special investigative techniques, is decided by the Republic Public Prosecutor or other public prosecutor in charge of the territory of the Republic of Serbia, the issuance of written approval for each individual delivery, and implemented by the police or other government authorities which are for that purpose professionally and technically trained with the personnel and the equipment.

In terms of the approval of controlled delivery of the Republic Public Prosecutor legislator has decreed that the measure refers to the "illegal or suspicious package", which is allowed to be carried out in the case when it is not possible to determine the identity of the person who is involved in shipping, transportation or admission consignments for which the application wants to use. The Criminal Procedure Code of the Republic of Serbia is regulated by precise duration of all of special investigative measures.

With comparative analysis of the legal definition of ways of determining the duration of special investigative measures that are determined by the legislation of the Republic of Serbia and Bosnia and Herzegovina, we can conclude that the manner of determining the special investigative measures are principally the same and that largely reflects the recommendations already mentioned in the Resolution of the XVI Congress of the International Association for Criminal Law (principle of judicial oversight and the principle of legality). The only significant difference in the legal arrangements related to, as noted, the application of controlled deliveries, is in our opinion, the solution in the Republic of Serbia, in which this special investigative measure approved by the Republic Public

Prosecutor and not by judge, and the possibility approves the action in the case when the identity of "persons for which there is suspicion" is not known which is certainly a good way towards the successful fight against crime.

With regard to the duration of special investigative measures, the most important difference in terms of engaging the undercover investigators is the B&H CPC which does not specify a time frame in which to implement these measures while in Serbia it is provided it to be completed within one year with possibility of extension measure for up to six months. We think that the decision stipulated by the B&H CPC is correct, because the time limitation of this measure could be a serious obstacle to its successful implementation.

REFERENCES

Aleksić, Ž., & Škulić, M. (2002). *Kriminalistika.* Beograd.

Bošković, M. (2003). Teorijski i praktični aspekti primene novih metoda u suprotstavljanju organizovanom kriminalitetu. *Bezbednost, 45*(4),537-546.

Bošković, M. (2005). *Organizovani kriminalitet i korupcija.* Banja Luka: VŠUP.

Đurđić,V. (2006). *Krivični postupak Srbije.* Niš: Pravni fakultet.

Krivokapić, V. (2008). *Kriminalistička taktika*, Beograd.

Masleša, R. (2001). *Teorije i sistemi sigurnosti.* Sarajevo: Magistrat.

Milošević, M. (2003). *Organizovani kriminal – Zbirka propisa sa uvodnim objašnjenjima i napomenama.* Beograd.

Sijerčić-Čolić, H. (2008). *Krivično procesno pravo.* Sarajevo: Pravni fakultet.

Šaković, A. (2002). *Ekonomska kriminalistika – metodika sprečavanja i istraživanja ekonomskog kriminaliteta.* Sarajevo: Magistrat.

Škulić, M. (2003) *Organizovani kriminal-pojam i krivičnoprocesni aspekti.* Beograd: Dosije.

Zakon o krivičnom postupku Bosne i Hercegovine. (2009). *Službeni glasnik BIH, 3/03, 32/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 58/08, 12/09, 16/09*, 93/09.

Zakon o krivičnom postupku Federacije Bosne i Hercegovine. (2010). *Službene novine Federavcije BiH, 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 16/09*, 12/10.

Zakonik o krivičnom postupku Republike Srbije. (2009). *Službeni list SRJ,* 70/01, 68/02, i *Službeni glasnik Republike Srbije*, 58/04, 85/05, 115/05, 49/07, 20/09, 72/09.

SPECIFICS WITHIN THE CRIME SCENE INVESTIGATION OF AN EXPLOSION SITE IN THE CASE OF A SUICIDE TERRORISM ACT

Authors:

Milan Žarković, Mladen Bajagić and Ivana Bjelovuk

ABSTRACT
Summary:

Modern terrorism is one of the most serious threats to the security, and of all its forms the suicide terrorism stands out with the image of the perfect terrorist weapon. Although this terrorist tactic is few decades old, a growing number of these acts of violence in the world are testifying about its terrible efficiency and the aim to cause great material and human losses to the chosen target with the use of explosion effects and self-sacrifice of terrorists. Therefore the detection of intentions, plans and targets of suicide terrorism, as well as the definition of new strategies and operational plans for its prevention is the obligation of all states and international community as a whole. Considering that the special attention within the procedure of identification and attestation of relevant facts and detection of terrorists is paid to the crime scene investigation, most of the paper is dedicated to the investigation of an explosion site.

The objective of this paper is to indicate the specifics of the investigation of an explosion site, and in accordance with that to give recommendations for the actions that should be made on a crime scene - *lege artis*.

Purpose:

This paper presents practical procedures of collecting trace evidences from the bomb scene especially in the case of suicide terrorism act. Those specifics refer to the procedures in dealing with trace evidence through the packaging, transport, expert analysis in laboratories and engineer estimation of explosive mass charge which has been used with respect of modern European standards.

The aim of this paper is to signify the specifics in suicide bomb scene investigation and according to that, to give recommendations for bomb scene investigation *lege artis*.

Design/methodology/approach:

Theoretical

Findings:

This paper presents all sort of evidence at the explosion scene (i.e., destruction, demolition, heat, and fragmentation effect), gives the references for practical proce-

dures of collecting traces from the scene and provides recommendations for suicide explosion scene investigation *lege artis.*

Research limitations/implications:
The impossibility of performing experimental explosions that would completely match the real situations of suicide bomb scene.

Practical implications:
This article will improve bomb scene investigation procedures in the case of suicide terrorism act.

Originality/value:
This paper presents a purview of criminal procedures on the bomb scene consistent of European standards and introduces different methods to estimate explosive mass which has been used.

Keywords: Suicide Terrorism, Explosive Device, Crime Scene Investigation Of An Explosion Site.

1   INTRODUCTION – THE EMERGENCE, CONCEPT AND FORMS OF SUICIDE TERRORISM

Although it's one of the most serious threats to global security, terrorism is not a phenomenon of our time, but has a long history. In order to achieve their politically motivated goals, the terrorists are versatile in using various types of attacks. Those attacks includes murders, indiscriminate murders, tortures, hostage taking, bombing of civilian targets, ethnic cleaning and suicide attacks, which from the perspective of terrorists but also the victims, are becoming the most effective tools (Miller, 2009). A growing number of suicide terrorist attacks over the past decades testify to its extremely horrific efficiency. But, these attacks are not the new strategy and tactic of terrorist actions. The sacrifice of life of individuals for the purpose of terrorism has its origins back in the ancient times.

Looking at the history of terrorism, it can be noticed that the suicide attacks are actually very old *modus operandi* and that in any case are not the product of the twentieth century. The first suicides were registered two thousand years ago and they were the members of the Jewish sect Zealot/Sicarii in old Judea which was under the occupation of the Romans (Weinberg & Eubank, 2006; Anderson & Sloan, 2009). The oldest example of some suicide attack performed in the name of religion (Allah) is one of the most important events in the Islamic history – self-selected martyrdom of Hussein ibn Ali at the Battle of Karbala in the year 800 AD (Kushner, 2003). Next known example of self-sacrifice in the name of religion was the activities of the *Assassins* who

were active from 1090 till 1270. Assassins are religious sect that emerged at the end of the eleventh century in Iran. Assassins, Islamic Shi's, supporters of marginal teaching of Islam and opponents of the government in Baghdad, have prepared their members to die when performing their attacks. Not fearing the death, the Assassins were happy to sacrifice, with the greatest risks, in order to execute the persons who were sentenced to death by their leader (Kurmon & Ribnikar, 2003).

Death as a reward for those attacks was not something that should be avoided as within their opponents, but on the contrary the final destination of their search (Lewis, 2003). From then until the eighteenth and nineteenth century it is possible to trace the development of suicide attacks among Islamic communities in the whole area of Asia, as the reaction to the Western hegemony and colonial authority. The perpetrators did not understand death as a suicide, but as an act of self-sacrifice for the community and the glory of Allah. Religious duty and a desire to obtain individual awards have inspired their actions. That is why these attacks can be called the predecessors of modern terrorism. However, suicide attacks as terrorist strategy and tactics are not an exclusive feature of just one culture and religion i.e. Islamic culture and religion. Besides Islamic people, suicide attacks were the favourite tools of Russian radicals and their organization National will at the end of nineteenth century.

In accordance with the latest research in the twentieth and the beginning of the twenty-first century point out to the strong determination of terrorists to realize their imaginary political or religious objectives through suicide attacks. According to the "Chronology of World Terrorism", project of Rand Corporation in the year of 2003, from 144 suicide attacks performed from 1968 till 2003, two-thirds were performed in the period between 2001 and 2003 (Howard & Sawyer, 2004). However, in spite of the reduced total number of terrorist attacks, the number of suicide attacks with deadly consequences has increased significantly – in the period from 1980 till 2001 – 48 % of all death cases were the acts of suicide terrorists (Pape, 2003).

The beginning of the modern era of suicide terrorism is attributed to the bomb attack on the U.S. Embassy in Beirut in the year of 1983. Since then, the suicide terrorism became the most favourite terrorist strategy, which has deeply shaken the foundations of world's society, which consequences are thousands of innocent civilians and immense fear throughout the international community (Ronczkowski, 2007). The international public is familiar with suicide actions of Iranian revolutionary guard Pasdarana from the period after the Iranian revolution and during the war between Iran and Iraq, suicide attacks of Hezbollah (*Hizballah*), Palestinian Islamic Jihad, Hamas (*Harkat el-Mukawma el Islamiya* or *The Islamic Resistance Movement*) and other terrorist organizations from intifada period and later, Tamil tigers of Sri Lanka, Egyptian terrorist groups: Gamma al Islaimia

(*the Gama'a al-Islamiya*) and Egyptian Islamic Jihad, Kurdistan Workers Party-PKK, organized suicide groups in Iraq after the year of 2002 (Johnson, 2009), up to al Qaeda and the attack which occurred on the 11th of September 2001.

The concept of suicide terrorism is a delicate and a complex issue, as well as the concept of terrorism in general, but when it comes to suicide terrorism the differences and disagreements in understanding of what the suicide terrorism is, are getting even bigger and more visible. The problem is also of terminological nature since there are lots of terms that are being used for suicide terrorism - martyrdom operations, homicide attacks, genocide bombings, suicide bombings, and suicide attacks. In general, suicide terrorism is defined as terrorist act in which the attacker destroys or tries to destroy the target, in the same time deliberately sacrificing their lives as well as the lives of innocent persons (Atran, 2004). Robert Pap sees this type of terrorism as the most aggressive one, which is used in demonstration purposes or for assassinations with the aim to kill as many people as possible (Pape, 2003). However, in order to determine the concept of suicide terrorism it is necessary to indicate the substance and manner of how the suicide attacks are being committed. A suicide terrorist attack is a form of physical threats to people's lives and properties and causing fear and panic, which is committed by one or few persons (terrorists) with the use of some means of attack (explosive device, firearms, transportation, etc.). In the same time they knowingly sacrifice their lives and cause death or injuries to the direct victim of the terrorist attack, in order to fulfil the objectives of terrorist organizations. The essence of these attacks lies in the fact that the direct perpetrator dies deliberately in order to fulfil the objectives of terrorist organizations, as the carrier of suicide terrorists; attacks.

In the background there are terrorist organizations that are planning terrorist attack and the suicide terrorist bomber is appearing as the efficient mean and manner for the execution of terrorist attack, he/she is the last link in that chain, in which lots of actors are involved, starting from the religious leaders – commanders. The success of the entire operation depends directly from the deliberate death of the perpetrator. Suicide terrorism is a specific terrorist strategy and tactic, especially in terms of its emergence forms, and one of its main characteristics is intentional suicide action. Many are seeing it as a part of asymmetric warfare, self-martyr act of death (*self-martyrdom*) is being presented as the sacrifice made for the right fight for faith, even though, for example, in Islam the suicide is considered to be a great sin (O'Neill & McGrory, 2006). Thus suicide terrorism is consists of suicide attacks on people and property and deliberate sacrifice of terrorist's life, in order to achieve set terrorist objectives. Its bearers are extreme terrorist organizations, and its characteristics are immorality, secrecy and covertness, cruelty, surprises, non-selectivity, randomness and other tactical advantages (Whittaker, 2002).

In the last few decades specific emergence forms of suicide terrorism are being noticed as well as the means for the execution of these acts. Also, each suicide attack is distinctive and executed in a specific way. Past experiences are showing the suicide terrorist attacks, in accordance with the activities that are being undertaken and the execution manners can be conditionally divided into active and passive. Active *includes visible terrorist's activities – suicide bomber, which have immediate results (i.e., active suicide acts in which the consequences are happening simultaneously with the execution of terrorist attack). On the contrary with the active way there is the, not less dangerous,* passive *manner of execution of terrorist attack. Terrorist – suicide bomber acts insidiously, in a covert manner, and the effects of the attack are emerging later on and have long-term intensity of consequences. In this case, we are talking about possible suicide terrorism with the use of weapons for massive destruction.*

Having this in mind, it is possible to classify the following forms of suicide terrorism: 1) according to the number of direct executors: suicide terrorist attacks committed by one terrorist – suicide bomber and terrorist attacks committed by more terrorists – suicide bombers (synchronized suicide attack); 2) according to the used means for the execution of the attack: use of passenger vehicle, truck, plane, boat and bicycle/motorcycle; 3) according to immediate victim and the object of the attack: certain person, human collective, public buildings, government buildings and means of transportation; and 4) according to consistent opportunity: use of weapons for massive destruction for the execution of suicide terrorist attacks.

One of the key questions in the research of the phenomena of suicide terrorism is: what is the motivation of an individual or a group to execute this kind of operation. Namely, even though there are beliefs that only the lonely fanatic can execute a suicide attack that is not the case in practice. Suicide terrorists are usually mentally normal persons and the attacks are almost always planned, and the most of suicide attacks are executed by the persons who are aware of their death as well as of the death of their victims. Some of the most accepted motives are: belief in the objective of terrorist group and the wish for it to survive, revenge for the humiliation or brutality that was inflicted to the group, frustration and sense of humiliation, wish to gain fame of "shehids" and martyr, religious beliefs, ethnic nationalism, etc. In September 2003, in Jaf Center for Strategic Studies an article was published about Palestinian suicide terrorism in which Shaul Kimhi and Shmuel Even are developing typology of suicide terrorism against Israel. This study defines four prototypes of suicide terrorist: religious fanatic, ethnic fanatic, vigilante and exploited person. This analysis can be applied not only on Palestinian but also on all other suicide terrorists (Kimhi & Even, 2003).

If an organization or an individual will resort the use of suicide terrorism then there must be some vital facility to attack, for which a life would be sacrifice voluntarily. Reviewing some of the main objectives that terrorist groups are trying to achieve

with the execution of suicide attacks, we are able to see the following objectives: 1) achieve of important political objectives, 2) punishment of state or society for the badness that were caused to their communities or religion, 3) specific targets (political leaders, statesmen, etc.), 4) causing a large number of victims in order to gain public support for their objectives, and 50 revenge (Sprinzak, 2000).

There are two basic types of suicide operations: those that are executed on the battlefield and actions that are executed far from the battle line. In suicide attacks that are being executed far from the battlefields, suicide bombers, as in accordance with some rule, are acting alone. However, even though the suicide action is and individual act in most of the cases, attacker-suicide bomber is the last link in the long chain. After the decision of an attack is made, its execution requires the following separate operations: 1) selection of aim (target); 2) intelligence gathering; 3) recruitment; 4) physical and spiritual training; 5) acquisition and preparation of explosive; 6) transport of bombers into the area of where the target is located; and 7) execution of the attack.

Dozens of terrorists and accomplices are usually involved in these tasks, and they will not commit suicide, but the operation cannot be fulfilled without their participation (Levitt, 2006). Suicide bombers are executing their attacks either with the use of improvised explosive devices or with the use of vehicles loaded with explosives. Suicide bomber hides the explosive device on the body and detonates it on the place where the biggest damage would be made or he/she is using the car-bombs. Both ways are bringing advantages to the terrorists. Individual attacker can easily enter some building and can come closer to the target. Car-bombs allow massive victims if being used against "soft" targets or the possibility of penetration if being used against "hard" targets.

Manner of use of improvised explosive devices in suicide terrorist purposes can be divided in three groups: suitcase or backpack which is carried by the attacker, belt which is on the attacker and hand grenade or grenade which is exposed by the attacker a moment before the detonation. Suitcase, backpack or some other form in which the explosive device is being carried is limited with the size and it can be identified in an easier way and then separated from the attacker. Grenades of hand grenades are use on places that are crowded with people, especially in the buses or other means of public transportation. Belt in the form of an improvised explosive device is the primary method which is used in suicide attacks. It is carried under the clothes and this device cannot be used without the physical search and it cannot be easily separated from the terrorist.

On the other hand, from the executed suicide attacks, certain characteristics of suicide vehicles loaded with explosives all around the world can be made, such as: broken cars/trucks loaded with explosives; one suicide vehicle loaded with explosive; more suicide vehicles loaded with explosive; vehicle loaded with explosive against targeted point; vehicle loaded with explosive against crowd of people or facilities; support to the suicide vehicle loaded with explosive against convoy.

2   EXPLOSION AND THE EFFECTS OF AN EXPLOSION ON THE ENVIRONMENT

Thorough knowledge of physics and effects of an explosion on its target is the assumption of adequate procedures on an explosion site, and after that the forensic analysis that has the aim to determine the cause of an explosion – determination of what was the type of the explosive device that was planted, type and weight of the explosive use in suicide terrorist attack, identification of person who made the device, identification of victims of the attack, as well as the assessment of the damage.

Explosion is a fast chemical reaction of disintegration of explosive's substances, followed by sudden rise of pressure, abrupt release of large quantity of energy in a short time interval and a shock wave as the consequence that occurs in the surrounding area. Within the reacting layer of explosive, products of reaction are under a great pressure, and the speed of disintegration process is supersonic. Explosion process is spreading thanks to the compression of the layers of the explosive substances. This process is characterized by a sudden rise of pressure on the site of an event and it is followed by a shock wave that spreads through layer after layer of explosive substances until all the explosive substances are disintegrated. Sudden rise of pressure is causing a huge demolition of the environment around the site of an explosion (Stamatović, 1996).

There are two types of explosions due to chemical reactions, which are reflected in the type of damage they cause at surroundings. When the speed at which the chemical reaction moves through the explosive is greater than the speed of sound in that material explosion is called detonation. If that speed is lower than the speed of sound, the process is called deflagration. Depending of its nature, explosive may or may not need an initiating material called a detonator to set it off.

Thus, there are primary (initial) and secondary (brisant) explosives. Explosion of an initial explosive will start the explosion process of a brisant explosive. Brisant explosives are powerful source of energy, and in the short period of time they are capable to make a huge mechanical work in a minimum volume and as such they are in a very wide use (e.g., mining, oil and metal industry, agriculture, constructions, traffic engineering, etc.), and very often are use for the production of explosive-killing devices for terrorist purposes, especially if they are plastic in its consistency because like that they can create different forms that can be adapted to the items in which they are being placed. Otherwise, explosives can also be divided in accordance with their form: solid, liquid and gas. There are, essentially two groups of explosives with which forensic scientist will have to deal: commercially produced explosives used industrially and by the military, and improvised, or home-made, explosives which are often used in improvised explosive devices (Beveridge, 1998).

Since the main objective of a criminal procedure is the determination of explosive's origin, and then the supply source for the concrete case, it is important to distinct brisant explosives in accordance with their use – *military and commercial explosives.*

When an explosion occurs, gas products of that explosion are being created in the air, and there very rapidly they reach the value of high pressure and temperature, and soon after that they begin to expand into the surrounding and the air in that surrounding starts to move. In that moment the air layer that is in contact with the gas products is compressed (Jaramaz, 1997). In the same time a shock wave that has the velocity of a detonation was already created in the surrounding air. The biggest part of the explosion's energy is being transformed into the shock wave with destruction effects. As time progresses those gas products are spreading, shock wave front is moving with the speed that is greater than the speed of products' expansion, so gas products will occur after the shock wave. After certain time period gas products of the explosion will reach the pressure equal to the atmospheric pressure. A shock wave is spreading radial from the explosion site, so that the ideal shock wave, as the explosion consequence, has the spherical shape. Atmospheric in-homogeneity can cause nod-ideal behaviour of the air shock wave front. Energy from the shock wave is uniformly spread along the spherical surface with the radius that grows rapidly (with the speed of shock movement). Due to the growth of the mentioned radius the concentration of energy decreases rapidly and the shock wave then loses its efficiency. In realistic conditions a shock wave is limited and it changes and modifies its spreading direction, shape and strength of the front. So for example, a shock wave front in the room can travel through the door opening and damage the items and material in the other room, which are located in the direct line with the door. A shock wave front can also project from a solid obstacle and then be redirected. This can result in a significant increase or possible decrease of pressure depending of the characteristics of the obstacle in which it strike.

Explosion results from the almost instantaneous conversion of a solid or liquid into gas after detonation of an explosive material. Gas rapidly expands outwards from the point of detonation and displaces the surrounding medium. This expansion of gas causes an immediate rise in pressure, creating a blast wave that subsequently dissipates over distance and time (Wolf, Bebarta, Bonnett, Pons, & Cantrill, 2009). After a short time, the pressure behind the front may drop below the ambient pressure. During that negative phase, a partial vacuum is created and air is sucked in.

The explosion is a gas-dynamic phenomenon that, under the ideal theoretical conditions, appears as the spherical pressure wave front that is spreading in the surrounding. Mechanical work of the explosion is made on the basis of chemical potential energy of the explosive substances. That energetic potential

is then being converted into the heat with the slight losses of chemical, thermal and mechanical character. Chemical losses are occurring due to the secondary chemical reactions and radial spreading of the non-reacted explosive substances, thermodynamic losses are the consequences of environment warming, while mechanical losses are the consequences of the resistance of the environment to the spreading of gas products of the explosion. We distinguish two main forms of the mechanical work of the explosion (detonation) – *brisance and demolition effect of the explosion.*

Brisance (destruction) effect of an explosion means tearing, breaking and crushing of the environment that has the direct contact with the explosive charge, as the result of the shock of gas products of explosion/detonation that are located under a very high pressure in the immediate surroundings (at the distances that do not exceed 2 to 2.5 calibre of the explosive charge). This effect is the result of the strong shock of the gas products of detonation and it appears immediately after the chemical reaction is finished. It is the strongest in the case of contact detonation. With the increase of distance from the explosive charge, and with the decrease of the values of pressure, density, velocity and other parameters of detonation wave, the mechanical effects of detonation on its end are decreasing. Destruction effect is very important property of the explosive charge and it is the result of sudden spread of the large quantity of hot gases into the environment. Gases can spread with high velocity and they can break, tear, crush, and cause considerable destruction to the environment.

Demolition (shock wave) effect of an explosion is manifesting by breaking and throwing out the environment in which the explosion/detonation has occurred and it is driven with the spreading of the explosion products to relatively low pressures and with the pass of the shock wave through the surrounding. It is based on the effects of the shock wave movement and spreading of gas products of detonation at the certain distance from the centre of detonation until the pressures of detonation products and environment are equate. In the ideal conditions the shock wave is spreading radial from the explosion site. Shock wave energy is uniformly spreading along the spherical surface with the radius that is growing rapidly (with the speed of shock movement). Due to the growth of the radius the concentration of energy is decreasing rapidly and the shock wave is losing its efficiency. Behind the border areas of the demolition effects there is a significantly larger area of week shock waves and area of sound waves. In principle the difference between the destruction and demolition effect is that the area of destruction has the volume in the immediate vicinity of the explosive charge, while the demolition area has the larger volume around the explosive charge. Scarify zone and the area of radial cracks of the environment are spreading behind the demolition area. The size of these areas depends on the characteristics of the explosive charge and the environment in which the detonation is occurring.

Besides these basic forms of the mechanical performances of an explosion to the environment there is also the *fragmentation effect* since that the fragments of an explosive device (whether it is formational, improvised or if it was made with partial improvisation of formational explosive device) can cause serious damage and injuries far away from the centre of an explosion. A fragmentation effect of explosive devices is conditioned with the destruction and crushing (i.e., of the dismembering of the casing of the explosive device during an explosion). Fragments of the casing of an explosive device scatter radial in all directions in relation to the centre of the explosion. They are characterized by high initial velocity, which enables them to cause all sort of damage when they hit the target. Efficiency of fragmentation effect on the target depends on the distance of the explosive device to the target, size of the target, material and shape of the explosive device, used explosive charge and ways of its initiation and characteristics of crushing the casing of an explosive device into fragments – number, individual volume and shape of fragments, direction and way of emergence of fragments bundle and effective range of fragments. Explosions with natural fragmentation create fragments with different volumes, irregular shape and sharp edges, from which 40 % are lethal. Explosion with controlled fragmentation creates fragments with optimal shape by engraving lines into the external or internal surfaces of casing of an explosive device, while defragmentation is related to previously produced fragments that have the shape of metal balls, cubes, sticks, etc., which are inserted into the casing of an explosive device or into the explosive charge, in dependence of the construction.

With improvised explosive devices fragmentation effect at the target also depend of the way in which the device was made. But, it also on the elements that are located next to the mentioned explosive device. In this way the fragmentation effect of an explosive device that was placed next to some car is increased with the use of parts of that car since they scatter into the surrounding area. The effect of a shock wave is felt in the surrounding area up to certain distances (it depends of type and volume of charge) so the effect of an improvised explosive device can be enhanced by adding metal pieces into the explosive charge. With that, the effect on the target becomes fragmentation – demolition.

In order to achieve a planed political goal, suicide terrorist are determined to use even the hardest physical force over the previously chosen victim or over some random victim. With the desire to cause grievous destruction or demolition of some object; to cause big number of deceased, mutilated or injured persons at the places where people are gathering in large number; the suicide terrorist chooses the type of explosive and type of device accordingly. That is why, most often, the following explosives are being used in the terrorist's attacks: TNT, penthrite (PETN), hexogen (RDX), octagon (HMX), PBX (Plastic Bonded Explosives), C4, etc., as representatives of the most powerful explosives. In order to increase the fragmentation effect different metal pieces are being placed into the

device, for example small pellets, nails, etc. Devices with such charges are mostly placed (planted) in shopping malls, open markets, streets, inside transportation vehicles with large number of passengers, on bus stations, etc. Improvised explosive devices can contain from few grams of explosive placed into a suitcase, bag, book, notebook, etc., up to few kilograms of explosive places inside a car, truck, train, etc.

As the explosion in its essence if exothermic chemical reaction, we can speak about the *thermal (heat) effect of an explosion* on the environment. In the area that is surrounding the explosion site gas products of an explosion and the air are heated up to high temperatures. This energy can cause the emergence of secondary fires in the explosion site, which are increasing already caused damage and complicate the investigation process. Duration and intensity of heath greatly affect the potential damage and injuries from the explosion.

As the shock wave of an explosion spreads, damaged parts of big structures are falling to the ground and significant localized seismic shakes can be transmitted through the soil. These seismic effects, negligible for small explosions, can produce additional damage on the structures located in the surrounding area, so we also have the *seismic effect of an explosion* on the environment.

The effects of an air shock wave, created with the detonation of some brisant explosive depend of the volume of used charge and they are shown bellow in the Table 1 (Stamatović, 1996).

Table 1: The Effects of Blast Wave

No.	Possible damage	Distance (m)			
		m_e = 0,5kg	m_e =1kg	m_e = 2kg	m_e = 5kg
1	Safe	35÷100	50÷150	70÷200	110÷330
2	Partial damage of glass	7÷20	10÷30	15÷40	20÷70
3	Demolition of solid walls, damage to bridges	1	1,4	2	3
4	Dangerous zone for unprotected person	3,5÷7	5÷10	7÷14	11÷22
5	Dangerous zone for person in armoured vehicle	1,1÷6,7	3,4÷6,7	4,7÷9,4	7,4÷14,7

Sadowsky suggests an equation for overpressure calculation $>p$ created by the explosion of certain explosive mass m_e at the distances R from the centre of an explosion:

$$\Delta p = \frac{0.84}{R} + \frac{2.7}{R^2} + \frac{7}{R^3},$$

where $\overline{R} = R \big/ m_e^{1/3}$,

Cook suggests the following equation:

$$\Delta p = 114.87 \big/ Z - 188.32 \big/ Z^2 - 1945.97 \big/ Z^3,$$

where $Z = R \big/ m_e^{1/3}$

The above mentioned equations can be used for the calculation of mass that can be used for explosives - m_e. After the damage is registered at the scene, and when their distance from the centre of an explosion it can be measured with the use of Table 2 which shows the influence of an explosion's overpressure to the damage and injuries in the surrounding area.

Table 2: The Influence of an Explosion's Overpressure to the Damage and Injuries in the Surrounding Area

No	Overpressure Δp [bar]	Sort of demolition or damage
1	0,02	Glass breakage or spatter
2	0,04	Outbreak of windows wings
3	0,10	Complete breakage of all sorts of glass, damages on windows and doors frames
4	0,12	Demolition of roofs and walls of light wooden buildings
5	0,17	Serious damage of mortar
6	0,20	Injured people
7	0,30	Damage of high-rise building made of bricks
8	0,40	Damage of skeletal constructions
9	0,45	Demolition of overhead electrical lines and damage of open traffic means
10	0,48	Complete demolition of high-rise masonry buildings
11	0,60	Demolition of skeletal constructions
12	0,70	Serious damage of seismic reinforced concrete objects
13	2,00	Death of people

There is no universal model for the calculation of necessary overpressure and its impulse for the demolition of objects because of their different structure and sensitivity. Mainly used are experimental data, but also the experience that the effect of detonation on the surface of soil in relation to the effect of detonation in the air is almost two times bigger when using the same explosive charge and the same volume. This phenomenon is explained with easier spreading of waves

through the air and some sort of interaction with the waves that were rejected from the surface of the soil. From the aspect of criminal-technique this fact is extremely important and it is used for anti-terrorists purposes. By leaning an explosive on some object, which they want to destroy, the damage effect is doubled in relation to the effect of the same charge which was placed freely. Viewed through the prism of the selection of person who, in the realization of a terroristic act, is placing the explosive device by leaning the explosive on some object, which they want to destroy, the effect of damage is doubled in relation with the effect of the same explosive charge that was placed freely near the object.

As the suicide terrorist attack means the deliberate self-sacrifice of terrorist and very often the situation is that the terrorist activates the device on his body or close to it, the explosion effect on the environment includes all sorts of blast injuries (e.g., tearing, crushing, burns, hearing loss, etc.) and other mentioned effects in dependence of sort and volume of the explosive and characteristics of the environment.

2.1   Criminal proceedings and forensic investigation of traces after an explosion of an unknown explosive device within suicide terrorist act

Having in mind the war environment in the past 20 years, and with that the easy access to the formational explosive devices, within the forensic practice of the countries in the region there were cases where for the start of an explosion people have used hand grenades, mines, grenades and other sorts of explosive devices. Behaviour of the first arriving police officer at the explosion scene, as well as of any other official who is involved in its investigation, must not be impulsive, hasty and chaotic, but planned, calm and systematic. That is not easy to do especially in case of large accidents, including the ones that are being manifested as suicide terrorist acts. This is due to the fact that the officials and all other present persons can often end up in a very risky situation.

The existence of numerous risks from injuries and infections requires, with the definition of necessary human and technical resources, the provision of protection equipment for the officials who are engaged in the investigation. In the same time, protection measures must be in the function of preservation of material evidence. Complexity and delicacy of behaviour on the scene of an event is partly the consequence of the encounters with extremely traumatic situations. Specific problems and difficulties are connected with the tragic events that resulted with numerous human victims and huge material damage. Solving that kind of situation and the behaviour in those, especially complicated, circumstances requires the engagement of large number of different services. Cooperation between them, as well as within each team, flexibility and ability to adapt are of crucial importance for the success of overall efforts used for determination and repair

of situation that occurred at the scene of an explosion. In the context of that, police officers and forensic officers who are in charge for the investigation on the explosion scene must respect the fact that the objectives, methodology and equipment for investigation and securing of evidence don't have to be familiar or understandable to other participants, and that all engaged services and individuals shall need some time for organization. At the same time, all persons who are not involved in investigation must be prevented from entering the scene and from the insight into the situation. Moreover, special attention must be paid when dealing with the relatives and friends of the persons for whom there is a suspicion that they have been the victims of the explosion (because of the so called state of shock and despair caused by the loss of their loved ones or because of the expectation of the news about their fate).

Viewed through the prism of the need for medical treatment, among the persons who are present at the explosion scene we can distinguish the following groups: persons whose lives are not in jeopardy; persons who are barely alive (they need medical help to stay alive); persons who were killed. Even thought they are not physically injured or if they have just minor injuries, all persons who were present on a scene of an explosion need treatment and help (Tucker, 1999).

Adequate treatment of injured persons and handling killed persons means the engagement of numerous services (e.g., fire and rescue, and other rescue services, ambulance, teams for scene of crime investigation, police, etc.) and urgent establishment of efficient command structure. Action plans for emergency situations consider police, gendarmerie, fire and rescue, ambulance, civil protection, military, etc., as emergency services because they are able, due to the nature of their work, to react first and they are ready to engage other service and local community.

One of the first tasks of police officers and forensic officers who are in charge for dealing with injured and deceased persons, is to define the scale and consequences of the explosion, position, configuration and other characteristics of the place on which the explosion has happened, location, number and condition of injured and deceased persons and after that to give recommendations for the engagement of other specialized services and individuals. Priority treatment also includes: rescue and provision of help to the injured persons (including the definition of the necessary medical help); determination of the capacities of local medical services for accommodation, human resources and organization potential; creation of temporary places for the first aid near the scene of an event; coordination of transport for injured persons; creation of temporary documents for the register of number, condition and identity of injured persons; creation of temporary information on where the injured persons are being sent for further medical treatment (this is also done for the easier creation of the missing persons list); definition of number of injured persons who have left the scene of an event in the state of shock (Interpol, 1997).

In order to enable systematic search, more precision in the location of details (including the spots where the bodies were found) and preparation of documents about all that, team for identification must provide maps of the zone of an explosion, define zones in where persons were killed and then to identify them. This is particularly important on large areas and includes the choice of fixed-point and drawing of parallel lines on the selected distances (for example on every ten meters). Each team should have a person in charge for the work inside a defined sector, protection equipment and the equipment for handling of bodies and their remaining. One of the questions within the process of victims' identification is the dilemma on which body parts should be found and identified in order to verify the death of the missing person.

Determination of criminal-justice and criminal-procedures relevant information also implies adequate handling with items found on the scene of an explosion. That involves finding and locating them on the scene of an explosion; marking and documenting in the conditions in which they were found; individual packing and packing in larger joint bags; making documentation about that; transportation to the central location for the property with the appropriate documentation; registration of the moment and ways of transportation and handover; arrangement and record keeping with the lists that were prepared in such way to enable the complete and correct registering, as well as fast finding; securing of packages and storage of collected items; preparation of items for further usage, which will be used for identification purposes; investigation and verification of items with the aim of finding the details that are necessary for their classification and identification with the use of photography and special packaging of items that were identified as personal belongings; preparation of documents for the return of property to the owners of specified recipients (Interpol, 1997).

As each investigation has its own characteristics that may facilitate, but also to complicate the determination of the cause of an event, the investigation after an explosion and securing of traces that remained after an explosion also has its characteristics. First of all the biggest part of the scene of an event is destroyed, items are scattered, and often the scene has been affected by fires resulting from the explosion. Considering all above mentioned it can be said that determination of the causes of an explosion and other relevant circumstances is not an easy task. The purpose of the forensic investigation of mass casualty incidents is manifold; it includes establishing the minimal number of individuals' involved, rapid identification of the victims and perpetrators, recovering bullets and shrapnel, and elucidating the modus operandi (Hiss, Freund, Motro, & Kahana, 2002). A forensic investigation of the scene of an explosion after a suicide terrorist attack, as mass casualty incident, basically has the same objectives, but also to undertake the measures that will enable the determination of the explosion's cause – type of device that was used, type and volume of the charge that was used, how the explosive charge was initiated, etc. Procedures on the scene of an event

involve the determination of the centre of an explosion (seat of explosion). Most often it is recognized in the zone of an explosion that was destroyed the most such as the crater as the distinctive trace in the cases where the brisant explosive was used as the charge Investigation of relevant circumstances of an event and determination of the facts includes the determination of the direction in which the shock wave was moving and which was created due to the radial spreading of gas products from the centre of the explosion in all direction.

Investigation of the explosion scene is primarily made by the members of the forensic team – criminal-technique officers and anti-diversion officers (Scene of Crime Officers and Bomb Squad Examiners). Their task is to collect all relevant information visually before any official enters the area of an explosion. The relevant information included information that later on will have evidentiary value in front of the court of law. Crime scene investigation is not a mechanical process relegated to technicians who go through a series of steps to process a crime scene. It is dynamic process that requires an active approach by the scene investigator who must be aware of the linkage principle of the evidence, use scene analysis and definition techniques and be able to offer an opinion on the reconstruction of the scene (Miller, 2009).

Forensic investigation of the scene of an explosion represents just one segment of the entire investigation as a very complex and multidisciplinary investigation work. If an investigation is considered as a criminal-justice and criminal-procedure institute the investigation represents a system of actions with which, in accordance with the provisions of the Code on criminal procedure, items, traces and other circumstance that are important for the elucidation of the case are notices, professionally processed and registered within the investigation documentation. Thereby, the investigation is not just a simple sum, but a designed system of criminal and other actions that the members of the investigation team are undertaking in accordance with the criminal tactics and techniques, especially respecting the requests of criminal methods (Žarković, 2009).

The code on criminal procedure considers the investigation as a unity of criminal-tactics and criminal-technique (forensic) actions. Its primary task is finding and securing of material traces that are connected to the criminal act/event. Objective of an investigation is to determine the facts that are important for the criminal proceedings. However, it will be possible to get the answers to all the questions just through the investigation that is why, with the determination of possible answers, legal and criminal assumptions should be made in order to create versions of possible perpetrator (Korajlić, 2009). Detail criminal-technique examination of the explosion scene is required when conducting an investigation with the previous mandatory testing whether there is a risk from new explosions, because the safety and prevention of new casualties is the most important and in this case those are police officers. Within the police practice of

the Republic of Serbia as well as within the countries in the region, actions on a crime scene are divided to criminal-tactics and criminal-technique actions. The final result of an investigation is the report with complementary documentation (photo-documentation, video recordings, sketch, situation plan, official note on criminal-technique examination of a crime scene, etc.).

Necessary actions that should be undertaken at the scene of an explosion in the case of a suicide terrorist attack include:

- gathering of data in connection with the explosion which occurred (operational knowledge, statements of eye-witnesses, etc.) – information phase;
- review of the explosion site and manifestation of destructions with the definition of borders of the explosion site;
- creation of the investigation team (forensic team with expert's knowledge, investigative judge, prosecutor, ambulance, etc.);
- determination of risks from new explosions and securing of the explosion site;
- creation of plans of the actions that should be undertaken at the scene of an explosion;
- provision of undisturbed work of medical staff as well as for the professional teams;
- establishment of the position at the scene of an explosion;
- finding, labelling and securing material traces in accordance with general regulations for investigation of a crime scene;
- photography and video documentation of traces at the scene of an explosion before and after the items are moved;
- measuring and graphic documentation (design of the sketch of the scene of an explosion);
- clearing of the scene of an explosion and finding of possible fragments of the device and scattered items that were scattered with the ejection nature of the explosion;
- documenting the spots on which the victims were found, victims' look and details that could be used for identification; and
- collecting the traces from the scene of an explosion to the laboratory for further analyses.

Traces of an explosion include changes that as the consequence of an explosion are left at the scene of an explosion, on objects, items, people, animals and plants. Traces can be found visually or with the help of different devices that can enhance human senses. Given the multiplicity of the explosion's effects on the environment, traces of the explosion differ as the result of thermal (heat), brisant or destructive effect of an explosive, shock wave effect, fragments from the explosive device – cause of the explosion and micro traces of an explosive substance that were in the direct contact with the explosive.

As the consequence of the *thermal effect* of the explosion to the environment in the very centre of the explosion and its vicinity there are traces in the form of melting and deformation of plastics, metal and other material, changes of the colour of metal, burning paper, woods, fabrics and plastic, so burned or partially burned flammable items, and if there were living beings in that area the injuries in the forms of burns can be found on the skin of people or animals, as well as burned hair and fibbers. Fire can also occur as a consequence of the thermal effect of an explosion.

As the consequence of the *brisant-destruction effect* of the explosives to the environment there is a creation of a crater on the surface, opening of a wall or tearing of the elements on the constructions such as traces in the form of destroyed, broken, crushed, fragmented, deformed and scattered items and materials. These changes show the typical characteristics on which the direction of the shock wave effect can be determined. The biggest destructions occur on the path of the shock wave. So for example it can happen that the whole windows are intact while the whole walls are destroyed. Based on the changes on the material and the level of damage, as well as on the direction of the shock wave, the centre of an explosion can be determined. Material in the centre of an explosion (e.g., wood, brick, glass, etc.) is broken in the smallest pieces. Finding the centre of an explosion, that is, the part of the scene of an explosion in which there is the biggest destruction because of the brisance, destruction effect, is of the key importance for the elucidation of the causes of an explosion since in that area one can find traces of explosive and parts of the explosive device, and in the same time from the dimensions of the created damages (opening or crater) one can get the date about the volume of the explosive that was used to create the explosion.

During undertaking the investigation after an explosion the dimension of the crater is measured and the shape of crater is described (circular, elliptical, conical or in the plate form). The shape and the dimension of the crater do not depend just on the type of used explosive but also on the material and condition of the surface and that is why it is important to note the kind of surface on which the explosion have occurred (e.g., sand, loose soil, dry and beaten soil, concrete, asphalt, brick, wood, etc.). If, for example, the unknown explosive device have exploded under the car chassis it is necessary to note, besides the dimension of the opening, the data about the thickness and shape of broken elements.

Calculation of the volume of the explosive charge based on the dimension of crater *r* – radius line and *h* – depth, is made in accordance with the following formula (Vlaškalin, 1995):

$$m_e = k_1 f(n) h^3;$$

$$f(n) = 0{,}4 + 0{,}6\ n^3$$

k_1 – coefficient that depends of the sort of the soil and the type of the used explosive charge; *f(n)* – function of crater; coefficient of crater $n = r/h$

Damages that were made as the *consequence of the shock wave effect* are situated on the path on which the shock wave is moving – spreading of the products of detonation into the surrounding area. So besides the crater and openings, there are destructions of walls and objects, damages of concrete constructions and mortar, extrusion of windows and doors frames from the walls, moved or turned items or objects, deformation and rupture of items, broken glass, etc. All damages that occur on some scene of an explosion must be registered and correctly described and it is mandatory to note down their distance from the centre of an explosion. It is also necessary to determine the distance in which 50% of glasses are broken and then measure their dimensions (i.e., length, width, & thickness). Measured distances are entered into the crime scene sketch in the way they were measured. In such instances, based on equations and tables needed for the emergence of certain effects, one can calculate the volume of the used explosive. It is also important to enter the positions of surrounding building into the sketch due to the possibility that the glass can break because of the shock wave reflection from the surrounding walls, especially if the buildings are close to each other.

On the scene of an explosion one can find parts of explosive devices as the consequence of the *fragmentation effect.* Depending on the type of devise used those parts cam be formational or improvised explosive devices, igniters or parts of the igniters, parts of burned or unburned fuse, parts of detonation caps, time mechanism, parts of current circuit, parts of container (casing) in which the explosive was placed, etc. Traces that originate from the fragments of an explosive device are very important from the criminal-technique aspect, since on their basis on can determine, in most of the cases, type of used explosive device and they way it was initiated. Sometimes it is enough to have a very small fragment in order to make some conclusion about the type of the explosive device, especially if that device is from serial production (formational devices). Since during the explosion fragments are scattered radial in all directions, the biggest quantity of fragments can be found in the central zone inside the crater and its vicinity, but also on the surfaces normal to the direction in which the fragments were scattered. At the bottom of crater one can find fragments of the casing of the device or of the initiation device due to the fact that the detonator is often stacked into ground while the explosive device is being placed. Knowing that during the explosion the surrounding soil collapses into the crater, and also due to the detonator that was stacked into the ground, after the measures of the shape and dimensions of the crater are done, it is necessary to do the excavation – removal of surplus of soil from the crater and removal of the surface layer of the soil. Finding of detonators and parts of detonator or the residues of activated fuse with cotton fibbers and melted insulation of certain colour can enable the creation of the conclusion about the way of initiation and the origin of the initiation device. At the scene of an explosion one can find the source of electricity (e.g., batteries, etc.) and parts of the conductors and with that the conclusion can be that the electric way of

initiation was used. If at the scene of an explosion one finds parts of an igniters (e.g., ime mechanism, springs, gear-wheels, mobile phones, electrical parts, etc.) the conclusion about what type of and igniters was used can be made. Parts of casings (containers) can also be found (e.g., pieces of paper, plastic, wood, metal, etc.) that can also lead to the perpetrator (for example, if the perpetrator has left the traces of papillary lines (fingerprints) when touching the material). All the fragments that were found and that originated from the explosive device must be seized from the scene of an explosion, after they were photographed and after their dimensions and the coordinates on which they were found were entered into the sketch of the explosion site, since based on these data together with the numerous fragments the conclusion can be made on what volume of the explosive was used.

At the sight of the suicide terrorist attack, the perpetrators mostly keep the device with them (inside the clothes, shoes, bags, and other items that can be carried) so in those cases fragments of the device can be found inside those objects or the objects in the vicinity.

Traces of the explosive substance are usually found on the fragments of the device and on the surface that was in the direct contact with the explosive. The best place to seek residues from an explosive is at the seat of the explosion or in/on the objects which were very near the seat at the time of the detonation. Occasionally the explosive charge that was used can be identified by packaging materials which survived the blast (Beveridge, 1998). For sampling and packaging of traces on the scene of an explosion it is necessary to have a specialized kit with the instruments for taking samples (spatula, spoon, scalpel, brush, magnet, tweezers, etc), packages of traces (plastic bags, containers made of glass, plastic and metal with hermetical seal), markers for labelling the traces, optical means of assistance for easier finding and other equipment. When sampling the traces of explosive for further laboratory examination it is possible to use the explosive detector, as well as service dogs that are specially trained for explosion detection. Material for examination of the type of explosive is secured with the spoon and then packed into the plastic bags that are sealed. If, for example, a powder explosive was used the sample is secured with the brush. From the objects that were exposed to the effects of explosion products acetone swabs are taken and packed into appropriate containers. For comparison purposes it is necessary to take the sample of soil situated on the larger distance from the crater in order to know the composition of soil that was not disturbed with the effect of an explosion. There on the scene it is possible to perform the so called spot-test of the reaction which serves for determination from which group type of explosives is the explosive used in that case, but such gathered evidence are not recognized in front of the court of law. Of course, such analyses are not enough and it is necessary to make a more detailed examination of explosives in the forensic laboratory through the registration of colour change. It is also necessary to do the analyses

with the attested equipment that satisfies the quality standards in which the standardized examination methods are applied and where the personnel were adequately trained for the work on that equipment in accordance with the quality management system. The quality of modern apparatuses and the quality of personnel are not the only conditions that should be provided.

In addition, it is important that personnel should move its capacities and use its potentials to fulfil the established tasks. (Miloševi>,Bjelovuk, & Kesi>, 2009). Once the traces are collected from the scene of an explosion, they are analyzed with the use of analytical chemistry procedures (e.g., gas chromatography, high performance liquid chromatography, etc.) in order to determine which substance was used.

If on the explosion site there are dead or injured persons, based on the injuries on their bodies (that are measured during an autopsy or forensic-medical examination) and the distance on which that happened, the calculation of the volume of used explosive for the actual explosion can be made (Bjelovuk, 2005). Traces that originate on the bodies of people and animals appear in the form of injuries from explosive devices and their parts – fragments (e.g., metal fragments, pellets, cubes, sticks, etc.) that were released by the explosion of some ordnance (e.g., bombs, mines, grenades, improvised explosive devices, etc.). As a rule those are mechanical injuries in the forms of torn pieces, destructions, defects in the shapes of small holes, burns caused by the thermal effect of an explosion, as well as the injuries caused by the shock wave of the overpressure as the detonation product (so called blast injuries) in dependence of the place where the persons was situated in relation to the centre of an explosion in the moment when the explosion occurred.

Differences exist between bombs prepared by terrorists and those of traditional warfare. Operating on limited budgets, terrorists have discovered methods for packing bombs with nails, metal bolts and similar object to inflict maximum injuries. Open, closed, and ultra-confined spaces result in differential injury patterns based further on the type of blast injury. Mortality is the highest in ultra-confined spaces such as buses (Kashuk, Halperin, Caspz, Colwell, & Moore, 2009).

All traces that are found on the explosion scene must be secured as described in the investigation report, photographed, video recorded, measurements taken of the site and the position and size of any traces. Based on documented evidence a sketch of the explosion scene must be made, and then the seizure of traces from the scene for further laboratory examinations. After gathering and documenting the evidence, the first thing that should be done is to take photos of the explosion scene in the shape in which it was found, and then traces should be marked by placing the numbers next to each trace. After that and in accordance with the regulations for the crime scene photography, photos of the explosion scene and each trace must be taken. Then measurements should be taken and data entered into the sketch, traces are seized from the scene caring that they are packed in-

dividually, report on investigation is written as well as other written documents. All traces should then be packed into special containers on which one must write serial number, place from where it was seized, venue, date and time of investigation, as well as the name of the person who seized the trace.

While seizing the traces one has to care that the traces are packed in hermetically sealed containers so that they would not be contaminated during the transport. Investigation report and other written documents, photo-documentation, and situation plan (drawing of the explosion scene in the appropriate scale that was made on the basis of the sketch of the explosion scene) are made in the official premises. Investigation report, as the main procedural document, should contain the descriptions of all traces and all actions that were undertaken by the investigation team on the explosion scene and it has to be consistent with all other elements of investigation documentation.

The investigator will probably need to carefully survey the explosion scene to recover explosive fragments. Some may be embedded in the bodies of victims, and here medical staff will need to carry out x-ray devices to identify any evidence and, if possible, recover it for forensic investigation.

A suicide bomber is, of course, an important source of such evidence. Suspect surfaces must be swabbed with various solvents to extract invisible chemical traces of explosive residues. There is nearly always a part of the bomb that did not explode and these residues can be very informative. Small items that may bear explosive residues can be placed in a beaker and agitated with a suitable solvent. The solvent has to be chosen to match the explosive — diethyl ether may be used for organic materials, while water dissolves inorganic materials such as potassium chlorate.

3   CONCLUSION

The challenge of understanding the variety, diversity, and complexity of events that cause harmful consequences are important when trying to answer questions about the nature of actual event, causes, actors and other questions that are important for its elucidation, and large informative potential of the scene on which it happened, are requiring the performance of numerous activities on that location. In addition to the array of measures, a significant part of any such investigation is the criminal procedures (i.e., crime scene investigation). Despite the complexity and diversity of actual events and necessary interweaving of certain phases of the protocol of crime scene investigation, the protocol is essentially the same for any crime scene investigation. As Byrd (2000) notes, regardless of the complexity of the crime, the investigative approach should include a number of assumptions, responsibilities, and procedures in which the authorized subjects

must act quickly and without compromise after receiving information about the crime. That includes:

- a safe approach to the crime scene and its protection;
- a preliminary insight into the crime scene and determination of its borders;
- marking the possible points of arrival/escape used by the perpetrators;
- determination of the protection level;
- imposing of necessary crime scene security and protection measures;
- taking over the control over the situation at the crime scene, including the emotional control;
- establishing of the identity of persons who are present on the crime scene;
- gathering of information from the persons found on the crime scene having the knowledge about relevant circumstances;
- prevention of unauthorized entry of persons in the area of the crime scene; registration of identity data and entry reasons, i.e. exit of persons from the crime scene area;
- assessment of possibilities for gathering of material evidence;
- full understanding and correct usage of all necessary resources;
- use of adequate methods and techniques for finding the evidence;
- methodical search of the crime scene;
- finding all relevant evidence;
- marking, gathering and documenting all material evidence;
- proper handling and packaging of evidence;
- adequate documenting of the crime scene in general, and especially of important details, including the narrative description, taking photos of the crime scene, sketching of the crime scene; selection of competent experts for the analyses of evidence;
- performing the final review of the crime scene; compiling the comprehensive notes on all that have been observed and done.

The investigation of explosion sites is frequently challenging and time-consuming. However, a well planned approach and disciplined effort can yield positive results. The successful conclusion of an explosion scene investigation is directly correlated to the quality and quantity of information collected. In this paper we attempted to provide to point out the diversity of possible evidence that can be found at an explosion scene (e.g., destruction, demolition, and heat and fragmentation effect) and practical procedures of collecting traces from the explosion scene especially in the cases of suicide terrorism act. Those specialties refer to procedures of dealing with traces through the packaging, transport, expert analysis in laboratories and engineer estimation of explosive volume charge.

The aim of this paper was to signify the specialties in suicide explosion scene investigation and based on the evidence provided to a series of recommendations for explosion scene investigation *lege artis.*

REFERENCES

Anderson, S. K., & Sloan, S. (2009). *Historical dictionary of terrorism.* Lanham: Scarecrow Press Inc.

Atran, S. (2004). Mishandling Suicide Terrorism. *The Washington Quarterly*, *27*(3), 67-90.

Beveridge, A. (1998). *Forensic Investigation of Explosives.* London: Taylor & Francis.

Byrd, M. (2000). Duty Description for the Crime Scene Investigator. Retrieved August 14, 2010, from http://www.crime-scene-investigator.net/

Bjelovuk, I. (2005). Obrada tragova nakon eksplozije nepoznate naprave. *Bezbednost, 2,* 302-310.

Disaster victim identification – guide. (1997). *International Criminal Police INTERPOL.* Retrieved July 24, 2010, from www.fbiic.gov/public/2008/apr/ Disaster _Victim_ ID_Guide.pdf.

Hiss, J., Freund, M., Motro, U., & Kahana, T. (2002). The Medico-Legal Aspects of the El Aqsah Intifada. *Trauma, 4,* 549 -553.

Howard, R. D., & Sawyer, R. L. (2004). *Terrorism and Counterterrorism: Understanding the New Security Environment.* Guilford: McGraw-Hill.

Johnson, T. A. (2009). *The War of Terrorism: A Collision of Values, Strategies, and Societies.* New York: CRC Press.

Kashuk, J., Halperin, P., Caspz, G., Colwell, C., & Moore, E. (2009). Bomb Explosions in Acts of Terrorism: Evil Creativity Challenges Our Trauma Systems. *Journal of American College of Surgeons, 29*(1), 134-140.

Kimhi, S., & Even S. (2003). Who are the Palestinian Suicide Terrorists?. *Strategic Assessment, 6*(2), 28-34.

Korajlić, N. (2009). *Kriminalistička metodika otkrivanja, razjašnjavanja i dokazivanja eksplozija.* Sarajevo: Centar za sigurnosne studije.

Kurmon, B., & Ribnikar D. (2003). *Asimetrični ratovi.* Beograd: Vojska.

Kushner, H. W. (2003). *Encyclopaedia of terrorism.* London: Sage Publications.

Levitt, M. (2006). *Hamas: politics, charity, and terrorism in the service of jihad.* London: Yale University Press.

Lewis, B. (2003). *The Assassins: A Radical Sect in Islam.* New York: Basic Books.

Miller, T. M. (2009). Crime Scene Investigation, In J. Stuart, & J.J. Nordby (Eds.), *Forensic Science: An Introduction to Scientific and Investigative Techniques* (pp.115-135). New York: CRC Press.

Milošević, M., Bjelovuk, I., & Kesić, T. (2009). Quality Management System In Forensic Laboratories. *Journal of Criminalistics and Law, 14*(2), 1-10.

O'Neill, S., & McGrory, D. (2006). *The Suicide Factory: Abu Hamza and the Finsbury Park Mosque.* London: Harper.

Pape, R. A. (2003). The Strategic Logic of Suicide Terrorism. *American Political Science Review, 97*(3), 1-19.

Ronczkowski, M. R. (2007). *Terrorism and Organized Hate Crime: Intelligence Gathering, Analysis, and Investigations.* New York: CRC Press.

Sprinzak, E. (2000). Rational Fanatics. *Foreign Policy, 120,* 66-74.

Stamatović, A. (1996). *Fizika eksplozije.* Beograd: Ivexy.

Tucker, W. R. (1999). *Disaster and emergencies: managing the response.* London: Institution of Fire Engineers.

Vlaškalin, Z. (1995). *Vazduhoplovno bombardersko naoružanje*, Beograd: Politop-P.

Weinberg, L., & Eubank, W. L. (2006). *The Roots of Terrorism: What Is Terrorism.* New York: Chelsea House Publishers.

Whittaker, D. J. (2002). *Terrorism: Understanding the Global Threat.* London: Longman.

Wolf, S. J., Bebarta, V. S., Bonnett, C. J., Pons, P. T., & Cantrill, S.V. (2009). Blast Injuries. *The Lancet, 374*(9687), 405-415.

Žarković, M. (2009). *Kriminalistička taktika.* Beograd: Kriminalističko-policijska akademija.

5.
POLICE AND POLICING

DEVIANCE AND POLICE ORGANISATIONAL CULTURE IN SLOVENIA

Authors:

Emanuel Banutai, Jerneja Šifrer and Gorazd Meško

ABSTRACT

Purpose:

The purpose of this article is to examine the correlation between police deviance and police organisational culture in Slovenia.

Design/Methodology/Approach:

Data for the study were gathered from 847 police officers in eleven Police Directorates in Slovenia in 2006. In the preliminary study (Banutai, Meško & Šifrer, 2009) five factors of police organisational culture emerged. The factors are: 1. Management – cooperation & support, 2. Management - trust & encouragement, 3. Officers' commitment (responsibility), 4. Work challenges, and 5. Citizens – police officers relationship. A regression analysis was conducted to explore if any of the factors of police organisational culture can predict police deviance.

Findings:

A comparison of police officers who support deviant behaviour and those who do not shows that significant differences are found in regard to understanding of management – cooperation and support, officers' commitment, work challenges, and citizens – police officers relationship. Due to the fact that about 20 percent of police officers expressed a deviant perspective on police work, it is necessary to take into consideration police ethics influence and legal perspectives of policing on basic and all on-the-job trainings. It is also responsibility of top and middle management to assure professional policing in accordance with the rule of law, respect of human rights and people's dignity.

Research limitations/implications:

This research was conducted on representative sample of Slovenian police officers with the questionnaire used in Slovenia for the first time.

Originality/Value:

Research on police organisational culture and deviance has been a topic of study for more than 40 years worldwide, while little has been done on these organisational issues in Slovenia. This research explores organisational culture and deviance in the Slovenian police, examining the various perceptions among line officers.

Keywords: Organisational Culture, Police Deviance, Management, Slovenia.

1   INTRODUCTION

There has been some previous research examining the influence that organisational culture has on management of organisations. Using Denison's (1983: 5) words, a "strong" culture that encourages the participation and involvement of an organization's members appears to be one of its most important assets. At the beginning of the 1990s Meyerson (1991: 256) noted that "*culture was the code word for the subjective side of organizational life...*". Nevertheless, organisational culture has long been acknowledged as an important element in managing organizations. But is that organisational culture homogeneous across various organizations or can an organization influence organisational culture preferences? On one hand, studies show that organisational culture is not a homogeneous construct, and that variations exist. They incorporate both the integration and differentiation perspectives, helping to understand and identify organisational culture. On the other hand, organizations' influence on ideal organisational cultural preferences are limited, if any (Kwantes & Boglarsky, 2004).

As Paoline (2003) explains, occupational cultures are a product of diverse situations and problems, which all members confront and to which they all equally respond. Police organisational culture, being a topic of study for more than 40 years (Paoline, 2004), originates from two environments of policing, occupational (in relationship to general society, i.e. citizens) and organisational (in relationship to the formal organisation, i.e. supervisors) environment. Two most widely cited elements of the first environment are the presence (or potential) for danger and the unique coercive power and authority over citizens. The two biggest issues of organisational environment are unpredictable and punitive supervisory oversight on one hand and the ambiguity of the police work on the other (for more, see Paoline, 2003).

Keeping that in mind, police and police officers among others represent the criminal justice system in general as well as a legitimate source of restraints in a free society. Thus, police have the responsibility of maintaining order, but within strictly limited legal constraints (Barker & Carter, 1994). The question that arises is what happens if police officers' behaviour is inconsistent with these legal constraints. Does police deviance occur? Following the everlasting Latin phrase *'Quis custodiet ipsos custodes?'* (or Who will guard the guards?), originally intended to the corruptible guard (*custodes*) of "Juvenal's woman that requires lock and key to stay put..." (Sosin, 2000: 201-202), the problem of police deviance becomes clearly evident. Barker et al. (1994) defined police deviance as police officers' activities that are inconsistent with officers' official authority, values, and standards of ethical conduct.[1]

---

[1]   Making the term more clear, Plitt (1983) summarized large number of improper behaviours and rule violations in police: lying/perjury, use of excessive force, physical violence, failure to report misconduct of a fellow officer, failing to complete report, failing to obey a direct order, abuse of sick leave, failure to

The aim of this paper is to study and examine the level of police culture and deviance in the Slovenian police. In past, little work has been done on police organisational culture and deviance in Slovenia but the situation is improving lately. The Ministry of the Interior implemented many organisational changes in Slovenian police at various levels after 1991. This was primarily due to a professionalization of police organizations, which was a change in the existing organisational climate, historically connected in the centralized structures of central bureaucracy[2] of the former Yugoslavian system (Gorenak, 1996). Pagon and Lobnikar (1995) examined the sexual harassment issues among Slovenian police officers, whereas Pagon, Duffy, Ganster and Lobnikar (1998) explored personal and interpersonal determinants of police deviance. Closely after Pagon, Kutnjak Ivković and Lobnikar (2000) examined attitudes and behavioural intentions regarding corrupt police behaviours. Pagon and Lobnikar (2004) closely studied the integrity level among Slovenian police officers, whereas Gašič and Pagon (2004) examined the level of organisational commitment and its impact on personal turnover. More specifically, the authors examined the influence of demographic, managerial, and job characteristics on organisational commitment, and assessed the influence of organisational commitment on personal turnover. Also, the gender differences among police officers as regard to intolerance towards officers' improper conduct were studied by Pagon, Lobnikar and Anželj (2005). Another study examined police officers' perceptions regarding organisational climate in the Slovenian police (Nalla, Meško, Lobnikar, Dobovšek, Pagon, Umek, & Dvoršek, 2007). More precisely, various dimensions of police organisational climate in large, midsize, and small police departments were examined. Nalla, Johnson, and Meško (2009) compared officers' attitudes in developed, emerging, and transitional economies between police and security personnel. Recently Rydberg, Nalla, and Meško (2010) examined the perceived value of college education and experience to police work in emerging democracies.

In present study we examine two things; the police officers' various perceptions of organisational culture and correlation between police culture and with police deviance in Slovenia. Historically, many things have changed in Slovenia in the last two decades, i.e. after gaining independence from former Yugoslavia in 1991. Among other things, Slovenia also reorganized its police forces (Pagon, 2006). The Slovenian police became an autonomous body within the Ministry of the Interior in 1998. Today police tasks are performed on three levels: the national, regional and local level. Organisationally, the Slovenian police are composed of the General Police Directorate, regional Police Directorates and Police

---

adequately enforce traffic laws, excessive parking tickets, misuse of firearms, unauthorized release of police records, sleeping on duty etc.

[2]   Police organizations of former Yugoslav republics were not so centralized and governed from Belgrade as one might expect. There were tendencies of federal government and the Ministry of the Interior (MI) of Yugoslavia to create one common Yugoslav police organization but especially Slovenian and Croatian MI strongly opposed these plans. Keeping that in mind, the Slovenian police were indeed quite centralized as an organization within its national (republic) borders but quite independent from federal Ministry of the Interior.

stations. The Police headquarters are situated in Ljubljana (Kolenc, 2003). Most recent reorganization of Slovenian police took one step forward, particularly in the field of prevention, detection and investigation of most serious forms of economic crime and corruption. Thus, the National Bureau of Investigation was established on 1 January 2010 as an autonomous operational body within the Criminal Police Directorate at General Police Directorate. Altogether, there were 7842 police officers and 766 detectives (criminal investigators) employed by the Slovenian police in 2009, which gave the ratio of 382 police officers and 37 detectives per 100,000 inhabitants. Their average age was 37 years, and nearly 80 per cent were males (Policija, 2009, 2010).

2   ORGANISATIONAL CULTURE

Denison (1996) explored the implications of similarities and differences between organisational culture and organisational climate. A comparison of 1990s culture research with the organisational climate literature of the 1960s and 1970s shows curious similarity. This led Denison to conclude that these two research traditions should be viewed as differences in interpretation rather than differences in phenomena. For the purposes of this paper both the organisational culture and organisational climate literature was examined, thus focusing more on organisational culture.

In general, organisational culture can be understood as a (deep) structure of organizations (Denison, 1996), rooted in the values, beliefs, and assumptions held by organisational members (Weick, 1979; Denison, 1983; Brown & Starkey, 1994). It includes the sense of identity of its members, and influences commitment of its members to the organization beyond themselves (Willmott, 1993), linking police organisational commitment to other individual factors, including education, age and rank (Hunt & McCadden, 1985). Organisational culture consists of informal rules (Deal & Kennedy, 1983) with a "set of symbols, ceremonies and myths that communicates the underlying values and beliefs of that organization to its employees" (Ouchi, 1981: 41). When we speak about organisational culture, according to Sarros, Cooper, and Santora (2008: 147) "we are referring to the meaning inherent in the actions, procedures, and protocols of organisational commerce and discourse", whereas culture can also be described as "the normative beliefs (i.e. system values) and shared behavioural expectations (i.e. system norms)" (James, Choi, Ko, McNeil, Minton, Wright et al., 2007: 21).

Organisational culture influences employees both directly and indirectly (Boke & Nalla, 2009). Research from mainstream business organizations suggests that organisational climate influences productivity, effectiveness, performance (Denison, 1990; Denison & Mishra, 1995; O'Reilly, 1989), job satisfaction, (Jackofsky & Slo-

cum, 1987), innovativeness (Lorsch, 1985) and, leadership and decision-making (Sapienza, 1985). Subcultures within larger organizations are shaped by conditions such as differential interaction based on structure, location, size, and division of labour; shared experiences, leading to common sense-making; and similar personal characteristics; and social cohesion (Louis, 1985; Trice & Beyer, 1993).

2.1   Police Organisational Culture

The concept of culture in police literature is primarily drawn from anthropological and sociological research (Chan, 1997). It started to develop around the 1970s, when researchers acknowledged the power of police culture in shaping police behaviour (Skolnick, 1966; Willson, 1968; Van Maanen, 1973, Manning, 1977), and its influence in general (Goldstein, 1977, 1990; Reuss-Ianni, 1983, Reiner, 1985, Kelling & Kliesmet, 1996). Essentially, police culture is a set of ideas, customs, accepted practices, information and rules of conduct, and core skills that define "good police work" and give meaning to police work (Boke et al., 2009).

As Paoline (2003) points out, the hazard at police work originates from two environments that police officers work in: (1) occupational and (2) organisational environment. Occupational environment consists of officer's relationship to general society and two mostly cited elements of this environment are the presence or potential for danger, and coercive power as well as officer's authority over citizens (Bittner, 1974; Van Maanen, 1974; Reiner, 1985; Manning, 1995; Skolnick, 1994). The second environment consists of officer's relationship to the formal organization (i.e. supervisors). Two major issues police officers confront in this regard are unpredictable and punitive supervisory oversight, and the ambiguity of the police role (McNamara, 1967; Bittner, 1974; Manning, 1995).

Skolnick (1966) asserts that police develop a "working personality" as a consequence of their work environment, especially because of two essential elements of their work conditions—danger and authority. Skolnick claims, that potential dangers from routine police work can lead police officers to become suspicious towards citizens. Individual, organisational and environmental factors affect officers' understanding of their organisational culture. Police culture, so Paoline (2004), consists of five attitudinal dimensions: (mostly negative attitude towards) citizens, (also negative attitude towards) supervision, (unfavourable supervisors' focus on) procedural guidelines, role orientation (crime-fighter role, disregarding service, order maintenance, and community policing role), and policing tactics (in favour of aggressiveness and selectivity).

An interesting approach of understanding the police work and police culture is Cosner, Brickman, and Payne's (2004) view. According to the authors, there are two major dimensions that build up the police work environment: *the salient dimension* (with clear set of performance demands) and *the implicit dimensi-*

on (with subtle, less observable demands). Among the latter dimension's two elements (organisational culture and social climate), studied by Harrison and Stokes (1992) and Moos (1994), organisational culture consists of four types: power, role, achievement, and support.

Discrepancies between what police officers are officially supposed to do and what they actually do results in role conflict, often leading to the development of informal rules and shortcuts (Nalla et al., 2007). Supervisors and police line officers have different job priorities (Paoline, 2003). Supervisors implement the policies of organizations, while line officers do the 'street work' with limited resources and within the confines of environmental constraints. Thus, police management makes policy for organizations by manipulating discretion and using resources for only some of them (Nalla et al., 2007). As for role conflict, due to the nature of police work some police officers often experience role ambiguity. These include law enforcement, order maintenance and service (Paoline, 2003). The ambiguity (for officers) originates from supervisors, who expect officers to treat all situations on the street equally. Even though police officers can use discretion powers in daily work, the same style to each situation cannot always be employed (Skolnik, 1994). Hagan (1989) argues that in doing so police officers can distance themselves from organisational goals and policies. This distinction between organisational expectations and reality (on the street) results in stress and anxiety.

There are few mechanisms offering a way to deal with stress. Brown (2000) discusses features of formal and informal police culture, explaining how these can generate or dissipate sources of stress, helping or hindering officers to deal with negative consequences of stress. Paoline (2003) explains that two coping mechanisms coming from occupational environment are suspiciousness and maintaining the edge, while other two mechanisms come from officers' organisational environment – lay low (or 'cover your ass – CYA) and crime fighter image. This can results in many ways, officers can do their job on a minimally acceptable level, avoiding dangerous calls, and focus primarily on safety as they fear negative feedback from the management if they fail to meet organisational expectations. This can lead to 'street bureaucrats' by selective law enforcement (Nalla et al., 2007: 105).

2.2   Police Deviance

Police deviance has been approached from different perspectives. Most typically acts like 'use of force' (Kania & Mackey, 1977; Sherman, 1980; Friedrich, 1980), 'misconduct' (Lynch & Diamond, 1983; Geller, 1984) and 'corruption' (Barker & Wells, 1982) have been used to define the subject. A broader perspective is represented by Barker and Roebuck's (1973) definition, where police corruption

is understood as any forbidden act[3], namely the misuse of the officer's official position for actual (or expected) material reward or gain.[4]

To confront the problems in defining police deviance and to address some issues that were not sufficiently encompassed Barker et al. (1994) conceptualized the deviance in a two-point typology: (1) occupational deviance and (2) abuse of authority. Authors perceive *occupational deviance* as any deviant behaviour that is committed during the course of normal work activities or under police officer's authority (manifested in police corruption and police misconduct forms). Because it's concentrated on police officer's performance as a member of an organization, this type of deviance has an internal locus. On the other hand, *abuse of authority* has an external locus. In this case officer's behaviour toward citizens exceeds legal constraints, therefore being deviant regardless of his intent. Thus, the authors define this second element as any officer's action to violate legal citizen's right, to injure or insult them, or to manifest superiority over them in the course of normal 'police work' (manifested in legal, physical and psychological abuse). Another important distinctions exist between these two elements; namely distinction in motivation[5], department's liability[6] and in peer tolerance, the latter being greater for abuse of authority than for occupational deviance (Barker et al., 1994). Interestingly, officers who report illegal or unethical actions about peers are perceived to be deviant (Cancino & Enriquez, 2004), because this conduct is regarded as undesirable from the police point of view. Therefore, the authors suggest that in order to preserve police culture both secrecy and solidarity must influence peer retaliation.

One should also keep in mind Tittle's control balance theory in police deviance where, as Hickman, Piquero, Lawton, and Greene (2001: 498) summarize, "*...the amount of control to which one is subject relative to the amount of control one can exercise (the control ratio) affects both the probability of deviance as well as the specific form of deviance.*"

Theories about police deviance are covered by three categories: *sociological theories* focusing on situational factors (the conduct of suspects, the context of suspect-police encounters, gender, race, and socioeconomic status); *psychological theories* emphasizing officers' attitude and personality traits;[7] and *organisational theories* exploring the role of organisational culture (Armacost, 2003). According

---

[3] Forbidden by law, rule, regulation, or even ethical standard.

[4] Especially money, goods, services, discounts etc.

[5] Occupational deviance being largely motivated by personal benefit and gratification of police officer, whereas the abuse of authority is largely motivated by the officer's intent to accomplish any police goal.

[6] Liability is more likely to be established for abuse of authority than occupational deviance - deprivation of civilian rights (external vs. internal locus of control).

[7] As author stresses out there is a connection between various sociological factors and officers' behaviour, but many sociological factors that correlate with police violence are difficult or impossible to change, thus becoming less useful in creating solutions to police deviance. Psychological theories also imply that police departments have adopted to control some forms of police deviance and that the use of personality tests

to Armacost, theoretical and empirical studies on policing suggest that organisational factors might be an important determinant of police deviance and an important and often neglected part of the solution. The organisational context includes both the culture of policing in general and the culture of particular police organizations. Police brutality as a part of police deviance is a systemic problem that requires a systemic solution. And harm-causing conduct by institutional actors can have a significant organisational component. Therefore police culture has a powerful and determinate influence on the behaviour of individual police officers.

3   METHODS

Survey instrument

This study is drawn from a large survey designed to assess police officers' perceptions on various dimensions of organisational culture. Data were collected in June 2006 in all 11 Police Directorates in Slovenia. Participation was voluntary. 1000 questionnaires were distributed to police officers. 847 police officers responded (almost 85 % response rate). The sample is random stratified.

The questionnaire is divided into two sections. The first section was designed to collect socio-demographic information on police officers, including age, gender, years of experience, prevailing work etc. Second section was designed to evaluate perceptions about organisational culture. It includes 89 statements on a five-point Likert scale from 1 (meaning 'Absolutely disagree') to 5 (meaning 'Absolutely agree').

The current study has adopted Zeitz, Russell, and Ritchie's (1997) dimensions[8] and also included several different dimensions designed to suit the Slovenian context. In preliminary study (Banutai, Meško, & Šifrer, 2009) we conducted factor analysis using varimax rotation and we got five factors of police organisational culture (Management – cooperation & support, Management - trust

---

when hiring new officers can identify officers who are prone to such acts, the studies suggest that officers' personalities and attitudes have very little connection to their conduct (Armacost, 2003).

[8]   In their article Zeitz et al. (1997) present a survey instrument designed to measure total quality management (TQM) and supporting organisational culture. In their study, 13 a priori dimensions of TQM and 10 a priori dimensions of organisational culture or climate were operationalized in a 113-item survey designed to measure the level of culture and TQM as experienced by individual members. The instrument was successfully administered to a diverse sample of organization members. A factor analysis of results from 886 respondents indicates that seven TQM and five culture dimensions, comprising only 56 of the original items, account for most of the scale variance. This produces a relatively compact instrument that allows researchers and practitioners to measure perceived culture and TQM implementation among all types of employees, work contexts, and TQM program levels. Revised index scores were found to be significantly related to stage of formal TQM program, thus supporting scale validity. (http://gom.sagepub.com/cgi/content/abstract/22/4/414).

& encouragement, Officers' commitment (responsibility), Work challenges, and Citizens – police officers relationship). Using those factors a discriminant analysis for several characteristics (gender, age, years of police experience, and prevailing work) was also performed.

For the purposes of this study, we conducted regression analysis (Enter method) to find out if any of those five factors of police organisational culture can predict police deviance. The dependent variable used is the statement "*I will never report against my fellow officer even if he has violated rules (-)*" (measured on a five-point Likert scale from 1 - 'Absolutely disagree' to 5 - 'Absolutely agree').

In addition, we performed several one-way analyses of variance to find out the differences regarding gender, age, years of police experience, and prevailing work in police deviance. The dependent variable used was again "*I will never report against my fellow officer even if he has violated rules (-)*".

Characteristics of the sample

The socio-demographic characteristics of the police officers are presented in Table 1. The most respondents are under 30 years old (43.5 %), and only 0.9 % are over 50 years old. Most of the police officers are men (87.3), only 12.7 % are women. Most of the respondents finished high school (89.6%). Approximately one third (32.1 %) of respondents have been working in the police force for less than five years, 7.5 % have been working there practically all their careers. Most work at the state border (38.1 %) followed by patrolling (25.9 %). Only 5.6 % of respondents' parents or relatives also served in the military/police force. By its structure, the sample is very close to the entire population of police officers[9], and it is sufficiently large.

Table 1: Characteristics of the sample (N = 847)

Demographics	n	% *
Age		
Under 30	356	43.5
31 – 40	315	38.5
41 – 50	140	17.1
over 50	7	0.9
Gender		
Female	104	12.7
Male	713	87.3

---

[9]   There were 7857 police officers employed by the Slovenian police in 2006 (Policija, 2006).

Demographics	n	% *
Educational level		
high school	723	89.6
higher school	29	3.6
vocational college	45	5.6
university degree	7	0.9
postgraduate degree	3	0.3
Years of work in the police force		
Under 5	264	32.1
6 – 10	158	19.2
11 – 15	157	19.1
16 – 20	102	12.4
21 – 25	79	9.6
Over 25	62	7.5
Prevailing work		
patrolling	195	25.9
traffic	84	11.2
community policing	37	4.9
criminal investigation	77	10.2
front desk officer	52	6.9
management	21	2.8
state border	287	38.1
Have your parents/relatives served in the military/police force?		
Yes	46	5.6
No	780	94.3

* Valid percent.

4   ANALYSIS AND RESULTS

Preliminary study

Factor analysis was conducted in preliminary study. We used 28 statements (items loadings over 0.45). KMO was 0.936, and Cronbach's Alpha was 0.917.

The dimensions of organisational culture at Slovenian police that emerged from factor analysis are:

- Management - Cooperation and Support *(Police management tries to make this organization a good place to work; My supervisor cooperates well with police officers)*,

- Management - Trust and Encouragement *(Creativity is actively encouraged in this department; My superiors encouraged me to pursue higher education for professional development)*,
- Officers' Commitment (Responsibility) *(Officers in the police department are aware of its overall mission; There is a strong commitment to quality of work at all levels of the police department)*,
- Work Challenges *(The job requires me to use a number of complex or high-level skills; Police officers have to be sensitive to the community's needs in which they work)*, and
- Citizens – Police Officers Relationship *(Police officers have reason to be distrustful of most citizens; If a police officer is kind to people they usually abuse him/her).*

First four factors explain 54.6 % of total variance. Additional analysis of management factor gave two sub factors: cooperation and support; trust and encouragement. These two factors explain 58.6 % of total variance. Factor loadings, means and standard deviations are presented in Table 2.

Table 2: Factor analysis

Item		Factor loadings	M	SD
	Factor 1: Management - trust and support		2.74	0.749
	Factor 1a: Management - cooperation and support		2.84	0.825
v4	Police management tries to make this organization a good place to work.	0.786	2.73	0.996
v12	My supervisor cooperates well with police officers.	0.776	3.02	1.054
v5	Top police managers in my department set clear goals for quality improvement.	0.766	2.76	1.064
v13	My supervisor is cooperative and a good team player.	0.754	2.91	1.099
v6	Police managers here try to plan ahead for changes that might affect our performance.	0.743	3.15	1.123
v3	Police managers in this organization follow up on suggestions for improvement.	0.735	2.68	1.015
v11	My supervisor gives credit to people when they do a good job.	0.687	2.69	0.996
v17	Police officers in my unit analyze their work to look for ways of doing a better job.	0.452	2.58	1.021
	Factor 1b: Management - trust and encouragement		2.64	0.764
v44	Officers in my work unit are encouraged to try new and better ways of doing the job.	0.776	2.75	0.922

Item		Factor loadings	M	SD
v43	We are encouraged to make suggestions for improvements in our work.	0.758	2.73	1.028
v45	Creativity is actively encouraged in this department.	0.743	2.49	1.204
v46	Those who come up with new ideas get rewarded in this department.	0.700	2.58	1.071
v67	My superiors encouraged me to pursue higher education for professional development.	0.611	2.37	1.058
v42	My supervisor shows complete trust in officers' ability to perform their tasks well.	0.611	2.89	0.959
v38	Managers in our department reward police officers who perform very well.	0.594	3.20	0.974
v40	Within reason. officers in this organization can say what they want without fear of punishment.	0.565	2.40	1.069
v32	Overall. I have trust in the top management of (the Slovenian) police.	0.525	2.56	1.041
	Factor 2: Officers' commitment (responsibility)		2.92	0.704
v19	Officers in my unit know their primary duty is to serve the people in the community.	0.805	3.07	1.024
v20	Officers in my unit think of the citizens when they do their work.	0.796	3.11	0.987
v16	Police officers in my work unit believe that quality improvement is their responsibility.	0.680	2.91	0.909
v7	Officers in the police department are aware of its overall mission.	0.679	3.11	1.123
v1	There is a strong commitment to quality of work at all levels of the police department.	0.664	2.72	1.026
v52	I trust my fellow officers to do what is in the best interests of the organization.	0.484	2.63	0.929
	Factor 3: Work challenges		3.92	0.699
v24	The job requires me to use a number of complex or high-level skills.	0.786	4.38	0.836
v22	Police officers have to be sensitive to the community's needs in which they work.	0.688	3.59	0.980
v25	I have new and interesting things to do in my work.	0.668	3.78	0.976
	Factor 4: Citizens – police officers relationship		3.21	0.784
v58	Police officers have reason to be distrusting of most citizens.	0.824	3.14	1.074
v73	If a police officer is kind to people they don't abuse him/her.	0.810	3.08	1.100

In Table 3 correlations between factors are presented. The most significant correlation (0.772) is between Factor 1a (Management – cooperation and support) and Factor 1b (Management – trust and encouragement). Positive correlation (0.460) is also between Factor 1b (Management – trust and encouragement) and Factor 2 (Officers' commitment), and (0.454) between Factor 1a (Management – cooperation and support) and factor 2 (Officers' commitment). Very interesting is a negative correlation (but very small -0.068) between Factor 2 (Officers' commitment) and Factor 4 (Citizens – police officers relationship).

Table 3: Correlations (Pearson Correlation)

Factors	F1a	F1b	F2	F3	F4
F1a: Management - cooperation and support	1.000				
F1b: Management - trust and encouragement	0.772 **	1.000			
F2: Officers' commitment (responsibility)	0.454 **	0.460 **	1.000		
F3: Work challenges	0.177 **	0.161 **	0.216 **	1.000	
F4: Citizens – police officers relationship	0.076 **	0.059	-0.068 *	0.106 **	1.000

* Correlation is significant at the 0.05 level (2-tailed).

** Correlation is significant at the 0.01 level (2-tailed).

Furthermore, in a preliminary study (Banutai et al., 2009) a discriminant analysis for several characteristics was performed. There were significant differences regarding gender and years of police experience in all factors, except work challenges. Significant differences were also revealed regarding prevailing work in all five factors. No significant differences emerged regarding prior parents/relatives police employment.

Previous research suggests gender differences when it comes to police work. The perception, that female police officers are better in situations where 'emotional labour' of police work is needed, can be found (Fielding & Fielding, 1992). As policing remains atypical employment for women, some even argue (Breakwell, 1986) that women might fail to conform to gender expectation in job choice and risk suspicion, and having a partner or a child makes them even more vulnerable. Given the fact that police organizations are historically male-dominated, men often do not accept women as equal members of the team. Sometimes it can escalate to the point where policewomen are subject to sexual harassment (Smith & Gray, 1983; Pagon & Lobnikar, 1995; Brown, 1998; Holdaway & Parker, 1998; Pagon, 2002).

Regression analysis

With regression analysis we tried to find out which, if any, of the five factors are predictor variables (independents) of police deviance. The dependent variable used is the statement "*I will never report against my fellow officer even if he has violated rules (-)*" (measured on a five-point Likert scale from 1 - 'Absolutely disagree' to 5 - 'Absolutely agree'). The results of the regression analysis show that the regression model is statistically significant, but the R^2 is rather low (0.083). Their B weights and p-values are presented in Table 4.

Table 4: Summary of Regression analysis

Predictors – Factors	B	p
F1a: Management - cooperation and support	0.163	0.032
F1b: Management - trust and encouragement	0.041	0.617
F2: Officers' commitment (responsibility)	-0.245	0.000
F3: Work challenges	0.217	0.000
F4: Citizens – police officers relationship	0.263	0.000

Table 4 shows that four factors are statistically significant: Management – cooperation and support, Officers' commitment, Work challenges, and Citizens – police officers relationship (considering low value of R^2). The analysis revealed that among all independent variables, Citizens – police officers relationship had the greatest influence on police deviance, followed by Officers' commitment (negative influence), Work Challenges and Management – cooperation and support. In other words, a higher level of management's cooperation and support, work challenges, citizens-police officers' relationship, with a lower level of officers' responsibility, result in lower level of police deviance.

Analysis of variance

We performed several one-way analyses of variance to find out the differences regarding gender, age, years of police experience, and prevailing work in police deviance. The dependent variable used was again "*I will never report against my fellow officer even if he has violated rules (-)*". There were significant differences regarding all characteristics:

- Male police officers (mean is 3.45) are found to be less deviant than female ones (mean is 3.05).
- Older police officers are found to be less deviant than younger ones (M: under 30 years old 3.09, between 31 an 40 years old 3.52, between 41 and 50 years old 3.86, and over 51 years old 4.0).

- Police officers with more years of police experience are found to be less deviant (means: under 5 years 3.06, 6 to 10 years 3.24, 11 to 15 years 3.56, 16 to 20 years 3.66, 21 to 25 years 3.66, and over 26 years of police experience 3.98 years), meaning also that older police officers tend to be less deviant than their younger colleagues.
- 'Traffic police officers' are found to be the most deviant of all (3.00), followed by 'patrolling police officers' (3.10), 'community policing officers' (3.11), 'state border officers' (3.16), 'front desk officers' (3.40), 'criminal investigation officers' (3.46), and 'management officers' (3.90).

These results are in accordance with theory and research that confirms the link between organisational commitment and police occupational deviance. As Haarr (1997: 796) determined, patrol officers routinely engage in one or more 'general' types of police deviance[10]. Officers with low level of organisational commitment tend to engage in work avoidance and manipulating activities against the organization. Those with medium levels of commitment also tend to engage in any of those four 'general' types of deviance. Officers with high level of commitment to the organization tend to engage in deviant activities for the organization (violating rules and regulations to do their job), because of the external locus also known as abuse of authority (Barker et al., 1994), and a willingness to accept informal rewards.

5   DISCUSSION AND CONCLUSION

This paper examines the correlation between police deviance and police organisational culture in Slovenia. Although the primary study was not specifically designed to measure police deviance and it's correlation with police organisational culture, the findings of the present study partially hold the theory. Results indicate that organisational culture is statistically important, but rather a weak predictor of police deviance (low R^2). The analysis of present study reveals that the relationship between citizens and police officers had the greatest influence on police deviance, followed by work challenges and management, more precisely cooperation and support between peers and subordinates. Interestingly, the results indicated negative influence of officers' commitment and responsibility on police deviance, meaning a high level of police officers' commitment and responsibility results in lower level of conformity. These data support the argument by Haarr (1997) that organisational commitment in a policing organization has a significant influence for explaining police officers' various patterns of deviant behaviour. Researchers interested in studying police culture and deviance

---

[10] 'General' types of occupational deviance in which patrol officers with low, medium, and high levels of commitment to the organization tend to engage are: work manipulation and avoidance, deviance for organization, deviance against the organization, and (accepting) informal rewards from the community.

may consider alternative approaches for further research on other elements of organisational culture and its influence on different levels of organisational commitment, including opposing attitudes towards police deviance.

Among others, the results also imply that male police officers are likely to be less deviant than female. In other words, male police officers are more likely to report a fellow officer if he has violated rules. This may reflect the predominantly male population and the role of women in the police organization. On the one hand, according to Garcia (2003) it is well known that policing has always been defined as a masculine occupation, therefore female police officers often have to put greater effort into their work to get accepted. This could also result in higher tolerance for police deviance and not reporting against fellow officers so strictly. But on the other hand, many researchers (Garcia, 2003: 341) have found that no matter what behaviours women in police display or what tasks they have accomplished, they are still not equally accepted. Interestingly, Hickman et al. (2001) find gender to be a significant predictor for the deviance behaviour in certain cases. To be more specific, male police officers were less likely to report a fellow officer who engages in physical abuse. But since gender was not significant predictor in other cases like driving under influence (DUI), no general conclusion regarding the willingness to report such behaviour could be made.[11] Generally speaking, Hickman at al. (2001) summarize that there are two basic types of control for use in managing police deviance: (1) external controls (courts, government, citizen oversight etc.), and (2) internal controls (use of rules and bureaucratic measures). They offer one method for reducing the risk of police officers' deviant behaviour, namely a more prosocial police force with clearer role which should also lead to a more balanced control ratio.

As the results of present study show, the relationship between citizens and police officers tends to be the highest predictor of police deviance. In other words, the high level of community (and problem-oriented) policing results in low level of police deviance. Work challenges and management relations within policing organization (referring mostly to cooperation and support between peers and subordinates) also turned out to be an important predictor of police deviance. As Goldstein (1994) acknowledges, the review of police incidents often depends on witnessing police officers, which rarely accuse or report against a fellow officer. There are various reasons why police officers will remain behind the 'blue curtain'. Some of the reasons are common 'enemies', interdependency among officers, false allegations, difference between formal policy and field practise, and occupational immobility.

It is very important that police leaders subscribe to the same informal code, as do subordinates. Goldstein (1994) also stresses the importance of police chiefs' reputations for fairness in regards to investigation and review of alleged wrong-

---

[11]   It is believed that it may be the case of higher tolerance for physical abuse among male officers.

doing. In doing so police chief can anticipate the impact of his actions on suspected officers as well as on the public, which might result in unhappy personnel and low morale in the department. By placing police officers into community or problem-oriented policing, officers tend to find useful newly gained autonomy, leading also to increased job satisfaction and police performance (Greene, Hickman, Henderson, Stokes, Pelfrey, & Piquero, 1999; Hickman et al. 2001).

Among other results, the findings also indicate that older police officers with more years of working experience tend to be less deviant than younger and less experienced officers. Significant differences also revealed that police officers in traffic tend to be the most deviant among police officers, and police chiefs are found to be less deviant. This may reflect the frequency of communication with general population during police work, the years of experience (resulting in police ranks) and the nature of the system's mechanisms for accountability. It might be that the less street work and more office work results in lower level of police deviance. It could also be interpreted as a matter of opportunity, where police officers have more public contact that may equal more opportunity for deviance. Generally speaking, there is a need to consider the efficiency of these findings in the international context of other police organizations; attention should be given to additional research.

In summary, this research demonstrates a link between police organisational culture and police deviance. It provides somewhat new insight into the complexity of police deviance. Because the data were collected in 2006, there is a need to consider the validity of interpretations for the current situation in Slovenia where police reform is underway. We believe that this study may serve as useful lens to further study various deviant behaviours of police officers.

REFERENCES

Armacost, B. E. (2003). Organizational Culture and Police Misconduct. *Public Law Working Paper*, 03-6. Charlottesville, VA: UVA School of Law. Retrieved Sept 16, 2010, from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=412620

Banutai, E., Meško, G., & Šifrer, J. (2009). *Police organizational culture in Slovenia - preliminary exploration.* 46th annual meeting, ACJS, Boston, March.

Barker, T., & Carter, D. L. (1994). *Police deviance* (3rd ed.). Cincinnati: Anderson Publishing Company.

Barker, T., & Roebuck, J. (1973). *An Empirical Typology of Police Corruption.* Springfiled: Charles C. Thomas Co.

Barker, T., & Wells, R. O. (1982). Police Administrators: Attitudes Toward the Definition and Control of Police Deviance. *FBI Enforcement Bulletin, (March)*, 8-16.

Bittner, E. (1974). Florence nightingale in pursuit of Willie Sutton: A theory of the police. In H. Jocob (Ed.), *The potential for reform of criminal justice*. Thousand Oaks: Sage.

Boke, K., & Nalla, M. N. (2009). Police Organizational Culture and Job Satisfaction: A Comparison of Law Enforcement Officers' Perceptions in Two Midwestern States in the U.S. *Journal of Criminal Justice and Security, 11*(1), 55-73.

Breakwell, G. (1986). *Coping with Threatened Identities*. London: Methuen.

Brown, A., & Starkey, K. (1994). The effect of organizational culture on communication and information. *Journal of Management Studies, 31*(6), 807-828.

Brown, J. (2000). Occupational culture as a factor in the stress experiences of police officers. In F. Leishman, B. Loveday, & S. Savage (Eds.), *Core Issues in Policing* (2nd ed.). Harlow, New York: Longman.

Brown, J.M. (1998). Aspects of discriminatory treatment of women police officers serving in forces in England and Wales. *British Journal of Criminology, 38*(2), 265-283.

Cancino, J. M., & Enriquez, R. (2004). A qualitative analysis of officer peer retaliation: Preserving the police culture. *Policing: An International Journal of Police Strategies & Management, 27*(3), 320-340.

Cosner, T., Brickman, T., & Payne, R. (2004). *Exploring the Implicit Police Work Environment*. Seattle: IPMAAC Conference on Personnel Assessment "Moving from Valleys to Vistas: Discovering Creative Solutions to Assessment Challenges".

Chan, J. (1997). *Changing police culture*. Cambridge: Cambridge University Press.

Deal, T. E., & Kennedy, A. A. (1982). *Corporate cultures: The rites and rituals of corporate life.* Reading: Addison-Wesley.

Denison, D. (1983). Bringing corporate culture to the bottom line. *Organizational Dynamics, 12*(2), 5-23.

Denison, D. (1990). *Corporate culture and organizational effectiveness*. New York: John Wiley & Sons.

Denison, D. (1996). What is the difference between organizational culture and organizational climate? A native's point of view on a decade of paradigm wars. *Academy of Management Review, 21*(3), 619-654.

Denison, D. R., & Mishra, A. K. (1995). Toward a theory of organizational culture and effectiveness. *Organization Science, 6*, 204–223.

Fielding, N., & Fielding, J. (1992). A comparative Minority: Female Recruits to a British Constabulary Force. *Policing and Society, 2*, 205-218.

Friedrich, R. J. (1980). Police Use of Force: Individuals, Situations, and Organizations. *The Annals, 452*(1), 82-67.

Garcia, V. (2003). "Difference" in the Police Department : Women, Policing, and "Doing Gender". *Journal of Contemporary Criminal Justice, 19*(3), 330-344.

Gašič, D., & Pagon, M. (2004). Organisational Commitment in the Slovenian Police Force. In G. Meško et al. (Eds.), *Policing in Central and Eastern Europe: Dilemmas of Conteporary Criminal Justice*. Ljubljana: Faculty of Criminal Justice and Security, University of Maribor.

Geller, W. A. (1984). Police Misconduct: Scope of the Problems and Remedies. *ACJS Today, (February)*, 6-8.

Goldstein, H. (1977). *Policing a Free Society.* Cambridge: Ballinger.

Goldstein, H. (1990). *Problem-Oriented Policing.* New York: McGraw-Hill.

Goldstein, H. (1994). Controlling and Reviewing Police-Citizen Contacts. In T. Barker, & D. L. Carter (Eds.), *Police deviance* (3rd ed.). Cincinnati: Anderson Publishing Company.

Gorenak, V. (1996). Organizational Changes in Slovenian Police in the Period between 1989 and 1996. In M. Pagon (Ed.), *Policing in Central and Eastern Europe: Comparing Firsthand Knowledge with Experience from the West.* Ljubljana: College of Police and Security Studies.

Greene, J. R., Hickman, M., Henderson, K., Stokes, R., Pelfrey, W., & Piquero, A. R. (1999). *Measuring What Matters: Assessing Community Policing in Philadelphia.* Washington: Final report to the National Institute of Justice.

Haarr, R. N. (1997). "They're making a bad name for the department" Exploring the link between organizational commitment and police occupational deviance in a police patrol bureau. *Policing: An International Journal of Police Strategies & Management, 20*(4), 786-812.

Harrison, R., & Stokes, H. (1992). *Diagnosing Organizational Culture.* San Francisco: Jossey-Bass/Pfeiffer.

Hagan, J. (1989). Why is There So Little Criminal Justice Theory? Neglected Macro and Micro-Level Links Between Organization and Power. *Journal of Research in Crime and Delinquency, 26*, 116-135.

Hickman, M. J., Piquero, A. R., Lawton, B. A., & Green, J. R. (2001). Applying Tittle's control balance theory to police deviance. *Policing: An International Journal of Police Strategies & Management, 24*(4), 497-519.

Holdaway, S., & Parker, S.K. (1998). Policing women police: uniform patrol, promotion and representation in CID. *British Journal of Criminology, 38*(1), 40-61.

Hunt, R. G., & McCadden, K. S. (1985). A survey of work attitudes of police officers: commitment and satisfaction. *Police Studies, 8*, 17-25.

Jackofsky, E. F., & Slocum, J. W. (1987). A causal analysis of the impact of job performance on the voluntary turnover process. *Journal of Occupational Behavior, 8*, 263-270.

James, L. R., Choi, C. C., Ko, C.-H. E., McNeil, P. K., Minton, M. K., Wright, M. A., et al. (2007). Organizational and psychological climate: A review of theory and research. *European Journal of Work and Organizational Psychology, 17*(1), 5-32.

Kania, R., & Mackey, W. C. (1977). Police Violence as a Function of Community Characteristics. *Criminology, 15*(1), 27-48.

Kelling, G. L., & Kliesmet, R. B. (1996). Police Unions, Police Culture, and Police Abuse of Force. In A. W. Geller, & H. Toch (Eds.), *Police Violence.* New Haven, London: Yale University Press.

Kolenc, T. (2003). *The Slovene Police.* Ljubljana: Ministry of the Interior of the Republic of Slovenia, Police, General Police Directorate.

Kwantes, C. T., & Boglarsky, C. A. (2004). Do Occupational Groups Vary in Exposed Organizational Culture Preferences? A Study of Six Occupations in the United States. *International Journal of Cross Cultural Management, 4*(3), 335-354.

Lorsch, J. W. (1985). Strategic myopia: Culture as an invisible barrier to change. In R. H. Kilmann, M. J. Saxton, & R. Serpa (Eds.), *Gaining control of the corporate culture*. San Francisco: Jossey Bass.

Louis, H. R. (1985). Sourcing workplace cultures: Why, when, and how. In R. H. Kilmann, M. J. Saxton, & R. Serpa (Eds.), *Gaining control of the corporate culture*. San Francisco: Jossey Bass.

Lynch, G. W., & Diamond, E. (1983). Police Misconduct. In S. H. Kadish (Ed.), *Encyclopedia of Crime and Justice*. New York: The Free Press.

Manning, P. K. (1977). *Police Work: The Social Organization of Policing*. Cambridge: MIT Press.

Manning, P. K. (1995). The police occupational culture in Anglo-American societies. In W. Bailey (Ed.), *The encyclopedia of police science*. New York: Garland Publishing.

McNamara, J. H. (1967). Uncertainties in police work: The relevance of police recruits' background and training. In D. Bordua (Ed.), *The police: Six sociological essays*. New York: Wiley.

Meyerson, D. (1991). Acknowledging and uncovering ambiguities. In P. Frost, L. Moore, M. Louis, C. Lundberg, & J. Martin (Eds.), *Reframing organizational culture*. Thousand Oaks: Sage.

Moos, R. H. (1994). *Work Environment Scale Manual*. Palo Alto, CA: Consulting Psychologists Press Inc.

Nalla, M., Meško, G., Lobnikar, B., Dobovšek, B., Pagon, M., Umek, P., & Dvoršek, A. (2007). A comparison of Officers' Perception of Police Organisational Climate in Large, Midsize, and Small Cities in Slovenia. In G. Meško, & B. Dobovšek (Eds.), *Policing in Emerging Democracies - Critical Reflection*. Ljubljana: Faculty of Criminal Justice and Security, University of Maribor.

Nalla, M., Johnson, J. D., & Meško, G. (2009). Are police and security personnel warming up to each other? A comparison of officers' attitudes in developed, emerging, and transitional economies. *Policing, 32*(3), 508-525.

O'Reilly, C. (1989). Corporations, culture, and commitment: Motivation and social control in organizations. In M. Tushman, C. O'Reilly, & D. Nadler (Eds.), *Management of organizations: Strategies, tactics, and analyses*. Cambridge, Ballinger.

Ouchi, W. (1981). *Theory Z: How American business can meet the Japanese Challenge*. Reading: Addison-Wesley.

Pagon, M. (2002). Deviance, violence, and victimization: are the police a part of the problem or a part of the solution. In M. Pagon (Ed.), *Policing in Central and Eastern Europe: Deviance, violence, and victimization*. Ljubljana: College of Police and Security Studies.

Pagon, M. (2006). Slovenia. In D. K. Das, & M. J. Palmiotto (Eds.), *World Police Encyclopedia (Vol. 2)*. New York, London: Routledge.

Pagon, M., Duffy, M.K., Ganster, D.C., & Lobnikar, B. (1998). Understanding police deviance: Personal and interpersonal determinants. *Security Journal, 11*, 179-184.

Pagon, M., Kutnjak Ivković, S., & Lobnikar, B. (2000). Police integrity and attitudes toward police corruption: A comparison between the police and the public. In M. Pagon

(Ed.), *Policing in Central and Eastern Europe. Ethics, integrity, and human rights* (pp. 383-396). Ljubljana: College of Police and Security Studies.

Pagon, M., & Lobnikar, B. (1995). Spolno nadlegovanje v slovenski policiji. *Zbornik strokovno znanstvenih razprav, 9*, 217-240.

Pagon, M., Lobnikar, B. (2004). Police integrity in Slovenia. In C.B. Klockars, S. Kutnjak Ivković, & M.R. Haberfeld (Eds.). *The Contours of Police Integrity* (pp. 212-231). Thousand Oaks: Sage.

Pagon, M., Lobnikar, B., & Anželj, D. (2005). Razlike med spoloma glede prizanesljivosti do nepravilnih ravnanj policistov. In G. Meško, M. Pagon, & B. Dobovšek (Eds.), *Izzivi sodobnega varstvoslovja*. Ljubljana: Fakulteta za policijsko-varnostne vede.

Paoline, E. A. III (2003). Taking stock: Toward a richer understanding of police culture. *Journal of Criminal Justice, 31*, 199-214.

Paoline, E. A. III (2004). Shedding light on police culture: An examination of officers' occupational attitudes. *Police Quarterly, 7*(2), 205-236.

Plitt, E. (1983). Police Discipline Decisions. *Police Chief, (March)*, 95-98.

Policija (2006). *Annual Report on the Work of the Police 2006.* Ljubljana: Ministry of the Interior, Police. Retrieved Jan 10, 2010, from http://www.policija.si/eng/images/stories/Statistics/report2006.pdf

Policija (2009). *Annual Report on the Work of the Police 2009*. Ljubljana: Ministry of the Interior, Police. Retrieved Jan 10, 2010, from http://www.policija.si/eng/images/stories/Statistics/AnnualReport2009.pdf

Policija (2010). *About the police.* Ljubljana: Ministry of the Interior, Police. Retrieved Jan 10, 2010, from http://www.policija.si/eng/index.php/aboutthepolice

Reiner, R. (1985). *Politics and the Police.* New York: St. Martin's Press.

Reuss-Ianni, E. (1983). *Two Cultures of Policing: Street Cops and Management Cops.* New Brunswick: Transaction Books.

Rydberg, J., Nalla, M., & Meško, G. (2010). The Perceived Value of College Education and Experience to Police Work in Slovenia. *Journal of Criminal Justice and Security, 12* (4), 408-423.

Sarros, J. C., Cooper, B. K., & Santora, J. C. (2008). Building a Climate for Innovation Through Transformational Leadership and Organizational Culture. *Journal of Leadership and Organizational Studies, 15*(2), 145-158.

Sapienza, A. M. (1985). Believing is seeing: How organizational culture influences the decisions top managers make. In R. H. Kilmann, M. J. Saxton, & R. Serpa (Eds.), *Gaining control of the corporate culture.* San Francisco: Jossey-Bass.

Sherman, L. W. (1980). Causes of Police Behavior: The Current State of Quantitative Research. *Journal of Research in Crime and Delinquency, 17*(1), 69-100.

Skolnick, J. H. (1966). *Justice Without Trial. Law Enforcement in Democratic Society.* New York: Wiley.

Skolnick, J. H. (1994). *Justice Without Trial: Law Enforcement in Democratic Society.* New York: The Free Press.

Smith, D.J., & Gray, J. (1983). *Vol 4: The Police in London*. London: Policy Studies Institute.

Sosin, J. D. (2000). Ausonius' Juvenal and the Winstedt Fragment. *Classical Philology, 95*(2), 199-206.

Trice, H., & Beyer, J. (1993). *The cultures of work organizations.* Englewood Cliffs: Prentice Hall.

Van Maanen, J. (1973). Observations on the Making of Policeman. *Human Organizations, 30*, 407-418.

Van Maanen, J. (1974). Working the street: A developmental view of police behavior. In H. Jacob (Ed.), *The potential for reform of criminal justice.* Thousand Oaks: Sage.

Weick, K. E. (1979). *The social psychology of organization.* Reading: Addison-Wesley.

Willmott, H. (1993). Strength is ignorance: slavery is freedom: Managing culture in modern organizations. *Journal of Management Studies, 30*(4), 515-552.

Willson, J. Q, (1968). *Varieties of Police Behavior: The Management of Law and Order in Eight Communities.* Cambridge: Harvard University Press.

Zeitz, G., Russell, J., & Ritchie, J. (1997). An employee survey measuring total quality management practices and culture. *Group & Organization Studies, 22*(4), 414-444.

TRAUMATIC SYMPTOMATOLOGY AND COPING STRATEGIES IN POLICE WORK: INSIGHTS FROM RESEARCH CONCERNING THE WAY FORWARD

Author:
Tinkara Pavšič Mrevlje[1]

ABSTRACT

Purpose:
The paper is based on a review of traumatic stress in an occupation which carries potential risk for those who work in it– the profession of law enforcement. The aim is to gain an overview of the literature, to examine suitable areas for fruitful future research, and to identify priorities for sustaining a healthy workforce. Secondary traumatic stress is discussed as research in the field of posttraumatic stress within police work shows the presence of posttraumatic symptomatology, but the stress engendered may be related to the traumatic exposure of another. Since coping strategies are ways in which an individual attempts to deal with (traumatic) stressors, a review of studies on coping strategies employed by police workers is also presented.

Methodology:
literature review.

Findings and value:
Research shows the presence of posttraumatic symptomatology among police officers. However, the symptoms are not necessarily so severe that they significantly impair performance. The conclusion recommends coping strategies that have been shown to be effective among law enforcement personnel and identifies future areas for research.

Keywords: Traumatic Stress, Posttraumatic Stress Disorder, Police, Coping.

---

1   INTRODUCTION

Many papers that present results from empirical studies start with vignettes or anecdotes describing events in police work that are traumatic in their nature and hence often have traumatic impact on police personnel. Even though living through such events is a very individual experience, research usually targets police personnel in general in order to be able to outline effective preventive measures. This paper offers a review of recent studies on traumatic events, their aftermath, recommends coping strategies that have been shown to be effective among law enforcement personnel, and identifies possible areas for future research.

2   WHAT IS TRAUMATIC STRESS?

Natural disasters and human violence may cause psychological trauma in people who experience or witness them. Posttraumatic stress disorder (PTSD) is perhaps the most common psychiatric disorder that occurs in response to trauma (Yehuda, 1998). For a PTSD diagnosis three main criteria are described in DSM IV TR (American Psychiatric Association, 2000) including:

- The causal or etiological prerequisite of having experienced traumatic event(s) (e.g. the person was involved in a car accident that posed a serious threat to his/her life).
- The phenomenological requirement of experiencing some or all of the symptoms.
- Sufficient duration (more than one month) and clinically significant impairment in life functioning (i.e., the person is not able to perform usual tasks at work and has difficulties in social relations).

Three clusters of symptoms constitute the phenomenology of PTSD (McFarlane, 2008):

- Intrusive re-experiencing. The person re-experiences the event through unwanted and involuntary memories that may recur spontaneously or can be triggered by real or symbolic stimuli.
- Avoidance and numbing of emotional experience. The person avoids all situations that are reminiscent of the traumatic events and is in a state of emotional blunting.
- Increased arousal. It is indicated by sleep disturbance, difficulties with memory and concentration, hypervigilance, irritability and an exaggerated startle response.

Most people do not develop PTSD after exposure to a sudden, high-magnitude stressor (Breslau, 1998) therefore a single traumatic event alone is not enough to cause posttraumatic symptomatology. Many factors are found to be significant in determining the development of PTSD: these include individual charac-

teristics (e.g., biological tendencies, developmental level, life experiences, past trauma exposure, life stress), aspects of high-magnitude stressors (e.g., severity, intentional or accidental nature, duration), and posttraumatic life experiences and resources (e.g. social support, medical and psychological treatment, and posttraumatic life stress) (Carlson, Dalenberg, & Muhtadie, 2008). However, no clearly identifiable pattern has emerged concerning which factors and in what combination will precipitate the onset of PTSD.

3   WHAT CONSTITUTES SECONDARY TRAUMA?

Posttraumatic symptomatology is experienced by immediate victims of traumatic events. However, persons exposed to *consequences* of violent, tragic, disastrous events, shocking images and/or traumatic affects and memories of survivors of such events can experience posttraumatic symptoms as well. Being indirectly exposed to trauma in this way may evoke responses very similar to PTSD. It is this which is captured in the term *secondary traumatic stress disorder* (STSD). STSD symptoms are nearly identical to PTSD, with the exception that STSD symptoms are an affective response to someone else's traumatic experience. There are a number of terms that describe this concept: compassion fatigue (Figley, 1995), vicarious traumatisation (Pearlman & Saakvitne, 1995), work-related burnout (Pearlman & Saakvitne, 1995) and critical incident stress (e.g. Paton, 2006). The distinction between the terms mentioned is not always clear (Baird & Kracen, 2006); sometimes they are used interchangeably. In spite of certain overlaps and similarities between the terms, there are also important differences (e.g., Pearlman & Saakvitne, 1995; Sabin – Farrel & Turpin, 2003). In its beginnings, research on STSD primarily focused on mental health professionals who worked with traumatized people, mostly victims of sexual abuse. It soon became clear that similar psychological processes occur in other occupations as well - as a response to witnessing disturbing experiences of others.

For the purpose of this enquiry *secondary traumatic stress* seems important as while on occasion police officers may experience stress that is direct, and primary, much of the day to day stress they experience is secondary and derives from being (constant) witnesses to others' trauma.

4   SECONDARY TRAUMA AND POLICE WORK

The very nature of police work is stressful; people of this profession are exposed to different traumatic events or their aftermaths.[2] The onset of posttraumat-

---

[2]   It should be noted, however, that the nature of police jobs differs and therefore the possible psychological consequences as well. For example, being a child homicide investigator who is confronted with specific cases

ic symptomatology is expected to a certain degree (van Patten & Burke, 2001; Stephens & Long, 2000) and the prevalence of PTSD and depression among police officers is expected to be higher than in the general population (Darensburg, Andrew, Hartley, Burchfiel, Fekedulegn, & Violanti, 2006). It may be possible that police officers are more vulnerable to secondary trauma because they and their families live with the knowledge that they may experience primary trauma any day in the course of their work (M. Wilkinson, personal communication, November 27, 2010). Research on related professions that involve trauma work has also been undertaken, for example on fire fighters (Beaton, Murphy, Johnson, & Nemuth, 2004; Mitani, Fujita, Nakata, & Sirakawa, 2006; Corneil, Beaton, Murphy, Johnson, & Pike, 1999; Bryant & Harvey, 1996), criminal law solicitors (Vrklevski & Franklin, 2008), fire fighters and paramedics (Regehr, Hill, Goldberg, & Huges, 2003), rescue personnel (Ben-Ezra, Essar, & Saar, 2006), aid workers (Jones, Müller, & Maercker, 2006; Fullerton, Ursano, & Wang, 2004) and body handlers (Solomon, Berger, & Ginzburg, 2007). Results from all these studies suggest the likelihood of secondary trauma stress reactions in such high-risk groups, manifested in depersonalization, exhaustion, subjective distress, depression and higher rates of mental health stress leave.

The research into traumatic stressors and their consequences on police workers utilises different research approaches and their results are consequently difficult to compare. Moreover, when trying to identify the factors that are most stressful for police workers, the question of the nature of the stressors arises: are they operational, organizational or both? Secondary trauma sits well in an operational stress framework which is defined as being caused by duties such as dealing with violence, victims and offenders. However, organizational stress, caused by tasks as shift work, administration, workload, working overtime has been more fully demonstrated empirically (e.g., Hart, Wearing, & Headey, 1995; Bishop, Tong, Siew-maan, Yong-peng, Enkelmann, Khader, Ang, Tan, & Koh, 2007). In comparison to other occupations, police work might be assumed to be more emotionally demanding and traumatic taking into account the working tasks performed and police officers reporting more (traumatic) stress consequences might be expected. But in considering this evidence one must take into account a selection effect – not everyone applies and is later selected for this job. In addition it has been argued that the "macho" police culture probably discourages the admission of emotional problems (Kop, Euwema, & Schaufeli, 1999).

In keeping with the wider field of trauma research, disposing factors that increase the individual's vulnerability when exposed to traumatic events are also found in police work research. These include genetics, personal characteristics, current state of health, family pressures (Waters & Ussery, 2007); previous trauma exposure, pre-existing symptoms of traumatic stress and lower levels of so-

---

that deal with (intentional) human violence and that he/she follows for a longer period of time differs considerably from being a police officer in traffic control who is present on the site after a car accident.

cial support (Regehr, LeBlanc, Jelley, Barath, & Daciuk, 2007). What has become clear is that officers exposed to high levels of trauma may develop clinical symptomatology which invites clinical analysis and may require clinical intervention. However, the main concern of future research must be to look at what may help to protect officers' work.

4.1 Which situations are most traumatic in operational police work?

A Swedish study (Karlsson & Christianson, 2003) tried to identify situations that were perceived as traumatic and stressful by police officers, and explore what their feelings and memories about the situations were like. Results showed ten different traumatic events in the line of duty, among them armed threat (27.2 % of respondents), traffic accidents (24.7 %), murder (9.9 %), threats (8.6 %), accidents (7.4 %), investigations (6.7 %), suicide (5.6 %) and informing relatives or victims of accidents, crimes of violence etc. (5.6 %). Visual memories of the traumatic experiences were the most vivid of all sensory memories. Incidents like suicides, accidents and homicides often involve the sight of damaged bodies, badly injured people and blood. Auditory memories were commonly reported in connection to (armed) threats: most often the sound of shots. Olfactory memories were related mostly to accidents, traffic accidents and suicide (e.g., smell of petrol, something burnt, oil, and/or fire). A high level of psychological distress and discomfort was reported in all categories of traumatic events.

4.2 Who within a force is most likely to be affected?

Another finding of the 2003 study by Karlsson and Christianson was that many of the reported traumatic events occurred many years ago, one-third in the first five years of the officer's career. The authors concluded that this might be so because the first confrontation with a traumatic event is experienced most intensely or because police officers become better prepared and develop strategies to protect themselves from overwhelming impressions. However, both conclusions are not necessarily alternatives.

In a study focused on PTSD and depression among police officers (Darensburg et al., 2006) a high prevalence of PTSD (35 %) among the participating police officers was found compared to other populations. The researchers concluded that the elevated prevalence may largely be due to the nature of police work. The study also noted that gender did not affect PTSD symptoms. However, female officers had a higher prevalence of depression. PTSD symptoms increased with age. Since age was positively correlated with years of service, the older officers were more likely to have been exposed to more traumatic incidents.

The finding of increasing symptomatology in the latter study might seem to contradict the 2003 study which concluded that officers may develop better protec-

tive/defensive strategies with years of experience. However, while encountering frequent traumatic situations certainly activates a person's adaptive capacities, it is important to note that this does not necessarily mean that the consequences of chronic/cumulative stress are gone or reduced.

Police officers may have different roles within a force, but may experience similar stressors. Nevertheless, some are unique to specific jobs, such as:

- *Criminal investigators* (Sewell, 1994) need to follow the case they are working on with all its details, sometimes working on more cases simultaneously and being under pressure to provide a speedy investigation solution. These officers who are repeatedly exposed to interpersonal, manmade violence and trauma, child fatalities in particular, are particularly at risk for illnesses as PTSD and DESNOS[3] (van Patten & Burke, 2001). A study of criminal investigators discovered that the participating investigators exhibited more stress-related symptoms compared to a group of non-patient (normal) adults, but less than a standardization group of adult psychiatric outpatients (van Patten and Burke, 2001). Thus the investigators report more stress than the average citizen, but not so much as to become significantly impaired and not be able to continue to operate in their assigned jobs.

- *The Internet Child Exploitation* (ICE) *teams* are subject to horrific contents such as graphic images depicting the sexual abuse of children (Burns, Morley, Bradshaw, & Domene, 2008). Their work was found to have negative effects on officers' physical and emotional well-being; they experienced intrusive images and thoughts about the material they encountered within their duties and were unable to talk about their work. Research participants found themselves to be far more protective of children, including their own children, than before and felt the need to teach others about the inherent danger of the Internet and how to stay safe while using it.

4.3   What are the effects on the workforce?

PTSD and STSD have major consequences. Violanti, Castellano, O'Rourke, and Paton (2006) indicate that experiencing a traumatic event at work, in this instance 9/11, should be considered as a precipitating factor in psychological disruption among police officers since it was implicated in increased rates of *suicide ideation, significant relationship loss and substance abuse*. Suicidal ideation among police officers was also found to be associated with burnout components: great emotional demands, higher levels of exhaustion and cynicism and lower levels of efficacy are indicators of more suicidal ideation (Burke & Mikkelsen, 2007).

---

[3]   *Anxiety Disorder Not Otherwise Specified.* It includes disorders with prominent anxiety or phobic avoidance that do not meet criteria for any of the specific Anxiety Disorders defined or anxiety symptoms about which there is inadequate or contradictory information (DSM-IV-TR; APA, 2000).

4.4   Are these conclusions robust?

By reviewing the studies regarding police traumatic stress, there is accumulating evidence that there are different sources and various magnitudes of stress. The human mind-brain is programmed to respond instantly, initiating a whole person response, to perceived threat. "The amygdala's capacity to respond to danger produces almost instantaneous response in the body in the form of increased heart rate, respiration and blood pressure and enabling increased response from the musculature of the body" (Wilkinson 2006: 77).

There are studies where focus on the physiological (and perhaps more objective) foundations underpin stress research. One such study observed heart rate as a primary indicator of autonomic nervous system activation and of physical evidence of police officer stress (Anderson, Litzenberger, & Plecas, 2002). Results demonstrated increased physiological stress (usually expected during physical activities of increased intensity) during situations of potential threat (e.g., hand on holstered gun) and during periods of anticipation (i.e., rates high above resting heart rates were noted at the beginning of the shift and when called in back up roles to critical incidents). An additional important finding is that police officers involved in critical incidents *remained affected* for sometime; their *heart rate remained elevated* for the rest of the shift for all tasks, including report writing.

Elevated cortisol levels are also considered a biomarker for stress (Hellhammer, Wüst, & Kudielka, 2009). A study on PTSD and cortisol patterns (Violanti, Andrew, Burchfiel, Hartley, Charles, & Miller, 2007) showed expected cortisol patterns for police officers with no and mild PTSD symptoms when waking up: low initial values were followed by a rise and a fall. However, the officers with severe PTSD symptoms had a low initial value that then increased and *remained elevated.* The same was detected with officers with medium PTSD symptoms, yet cortisol decreased later than in those with milder PTSD symptoms. The data suggested *altered response of the HPA[4] axis* to several standard challenges for the moderate and severe PTSD groups of police officers.

5   FOSTERING COPING AND RESILIENCE IN A POLICE FORCE

Resilience can be best defined as "the capacity of a system exposed to hazards to adapt, by resisting or changing, in order to reach and maintain an acceptable level of functioning and structure" (Lanius, 2008 in Wilkinson,

---

[4]   Exposure to intensely distressing events triggers the release of stress responsive neurohormones, among which are also hormones of the hypothalamic-pituitary-adrenal (HPA) axis (e.g., cortisol). These hormones help the organism deal with acute and chronic stress by increasing blood sugar, blood pressure, pulse, etc. (van der Kolk, 1996; Scaer, 2001).

2010: 3). Understanding and fostering resilience is crucial in a work force where stress and traumatisation is a risk factor. We often think of resilience to go on coping. One of the most frequently used definitions of coping in literature reviewed is Lazarus and Folkman's (1984: 141) that defines coping as: "*constantly changing cognitive and behavioural efforts to manage specific external and/or internal demands that are appraised as taxing or exceeding the resources of the person.*" The body of literature concerned with coping is wide-ranging (Moos & Holahan, 2003). However, perspectives can be grouped in two clusters:

- *dispositional perspective,* that emphasizes relatively stable and enduring personality, attitudinal, and cognitive characteristics, and
- *contextual perspective,* that understands coping responses in the context of specific stressful encounters.

Empirically, the latter approach is more often used, perhaps because there is some evidence that situational coping is only modestly linked to coping dispositions (Carver, Scheier, & Weintraub, 1989). Lazarus and Folkman (1984) considered to be representatives of the contextual approach, distinguish two coping styles: problem- and emotion-focused. Problem-focused coping includes defining the problem, finding, assessing and choosing among alternative solutions, and acting, while emotion-focused coping is directed at regulating emotional response to the problem and among others encompasses avoidance, minimization, distancing, selective attention and finding positive outcomes in negative situations.

Lazarus and Folkman (1984) also state that a person's coping style also depends on the individual's resources (e.g., health, energy, beliefs, problem-solving and social skills, social support, and material resources) and on the constraints that may mitigate the use of resources (e.g. personal and environmental constraints). In the context of trauma parallel concepts are found: resilience and vulnerability.

The development of PTSD is a process and different factors influence its outcome. Vulnerability factors increase the possibility of a pathological outcome while resilience factors may do just the opposite (McFarlane & Yehuda, 1996). The concept of resilience does not have a common definition or a universal understanding of its constituent elements, however it is generally taken to mean quality of character, personality and coping ability (Agaibi & Wilson, 2005), all factors that promote well-being and stout-heartedness in unusually stressful situations (Berk, 1998).

5.1   What works?

5.1.1   Problem-focused strategies that lead to direct action

Police officers prefer *problem-focused strategies that lead to direct action* (Biggam, Power, & MacDonald, 1997; Bishop et al., 2007). Biggam et al. (1997) link such style of coping to the specific police culture, its training and socialization since unpredictable and uncontrollable situations are frequent in this occupation.

5.1.2   Adequate support

Officers more satisfied with their *social support* tend to show less psychological distress (Bishop et al., 2007) while younger officers rely on it more than older ones and female officers more than their male co-workers (Biggam et al., 1997). However the way in which social support affects coping remains unclear. In a study on police forensic technicians, Hyman (2004) found a very high level of perceived social support, but it was not used for coping with work-related stress. *However in stressful environments social support may exacerbate stress rather than mitigate it.* Therefore protecting the social support system from undue stress must be part of any long term solution.

Discussing traumatic events especially with people who had a similar experience is a natural coping mechanism and a specific aspect of social support (Stephens & Long, 2000). However, not all types of communication bring positive results. In a study on communication as a buffer between traumatic stressors and health effects, results showed a weakening of traumatic physical symptoms which related to *talking to peers* about the trauma and positive talk about work (Stephens & Long, 2000).

In the exploratory study researchers of Internet Child Exploitation teams described their coping strategies and general resilience (Burns et al., 2008). Among other factors that helped them in coping with the imagery they are exposed to at work, the participants reported adequate mental preparation to seeing traumatizing images and deliberate dissociation from the content of the images (e.g., shutting down the emotions, pretending the victims were not real children). They also accentuated some mitigating factors, such as personal characteristics, having supervisors that understood the nature of their work, sense of control (how, when and where to view) and organizational, social and psychological support.

The solution lies in a relational approach, because as Lewis, Amini, and Lannon (as cited in Dales & Jerry, 2008: 305) point out: "people do not learn emotional modulation as they do geometry or the names of state capitals"; rather they learn it implicitly from "the presence of an adept external modulator". "Through just one relationship with an understanding other, trauma can be transformed and its effects neutralized or counteracted" (Fosha, 2003 in Wilkinson, 2010: 3).

5.1.3   Thorough selection and assessment procedures

Overall results of police officers' coping styles give insights on the potential consequences of (traumatic) stress and ways of dealing with them. Nevertheless, there are variations between officers in the coping strategies utilized and these were studied in researches that examined the relationship between coping styles and personality. *Officers with more positive personality traits such as conscientiousness (i.e., organized and thorough),extroversion, and openness adopt positive reappraisal and coping strategies that are more effective.* Officers with high levels of neuroticism and low on conscientiousness choose less effective strategies that involve avoidance (Bishop et al., 2007). Avoidance, defined by behavioural disengagement, mental disengagement and denial, was also linked to sleeping difficulties, depression and somatisation.

In a study of emergency workers, out of which 31 % were police officers, individuals with more adaptive personality traits had a minor use of avoidant coping strategies, meaning they disclosed their traumatic experiences more easily and were more willing to be exposed to places and situations connected to the traumatic incident (Marmar, Weiss, Metzler, & Delucchi, 1996). Distancing and escape-avoidance coping were also shown to undermine resilience by contributing to slightly poorer mental health (Pole, Kulkarni, Bernstein, & Kaufmann, 2006). It appears that avoidance does not lead to coping behaviours that favour successful adaptation after traumatic events. However, some experiences may be overwhelming (e.g., seeing dead bodies, body parts, or being exposed to horrible smells) and healthy avoidance does mean defending against re-experiencing the traumatic event. Moreover, the process of alternating between re-living an acceptable level of traumatic memories and then later avoiding them is essential for an integration of the event's meaning into the memory structure and may hence reduce the psychological distress.

5.1.4   Early intervention and counselling

The primary goal of any intervention following trauma is reducing the suffering and improving work and private life functioning that might have been impacted by traumatic experiences. There are many different programmes developed and implemented for this purpose, each trying to target the specificity of the traumatic event (e.g., body handling, domestic violence, natural disasters), the group at risk (e.g., first response services, street patrols) or focusing on negative (e.g., debriefing, one-to-one counselling) or positive outcomes like post-traumatic growth (for detailed presentation see Fay, Kamena, Benner, & Buscho, 2006; Paton, 2005; Raphael & Wilson, 2000; Shalev, 1995). Two of more widely promoted approaches give an idea of possible interventions when help becomes necessary:

- *Critical Incident Stress Management* (CISM) is an approach designed to assist emergency workers or similar professionals to effectively cope with stressful and/or traumatic events (Robinson, 2000). It includes pre-incident training (as primary prevention), individual crisis intervention, defusing, Critical Incident Stress Debriefing (CISD) and support of significant others (Mitchell & Everly, 2000). CISD is the part of CISM that offers a space for reflection, support and emotional release. It can be effective in one session or can lead to a longer-term treatment if necessary (Schlossberg & Collarini Schlossberg, 2007).

- *Hotline support offered by peers.* This approach is based on the premise that only an officer can comprehend the pressures, demands and experiences of police work. Peer counselling follows the spontaneous support and help that officers seek from more experienced colleagues. The mutual understanding mentioned above is, however, not enough. Peer counsellors need training in many fields, such as counselling skills, crisis intervention, warning signs of acute and chronic stress, suicide assessment and substance abuse (Waters & Ussery, 2007). This knowledge is important because the counsellor needs to decide whether a referral to a licensed mental health professional is needed.

It should be noted that further referral to mental health specialists outside the organization when needed is offered in both approaches.

6   CONCLUSIONS

Posttraumatic symptomatology, possibly meeting the criteria for PTSD, develops when a complex concurrence of factors takes place: exposure to a traumatic event or its dramatic consequences, personal characteristics, previous stressful and traumatic experience, and coping strategies. The studies reviewed offer important, but nonetheless partial and cross-sectional insight into the consequences of traumatic experiences within police work. Further urgent research is required as there is a serious shortage of longitudinal data that would unfold the issues of cumulative traumatic exposure and how police workers cope and/or adapt to that.

Regular exposure to traumatic events, whether low or high impact, may slowly break down an individual's psychological adaptive capacities. The consequences of this will be felt not only at work and in job performance but in the officer's sense of well-being, relationships, and home life. Some employees are at risk for suffering from stress-related problems that can become chronic mental health disorders and impair performance of key life roles (Whealin, Ruzek, & Southwick, 2008). In addition, exposure to trauma will have serious effects not only on the individual, but on his/her co-workers and eventually on the whole organization as well (Hormann & Vivian 2005). In an institution such as the police, the

importance of having psychologically (and physically) healthy persons cannot be overestimated, workplace well-being is key and the commissioning of appropriate research to facilitate this a necessity. Out of this research one may conclude that an adequate solution will emerge from an approach that is both problem solving (cognitive) and socially supportive (relational).

REFERENCES

Agaibi, C. E., & Wilson, J. P. (2005). Trauma, PTSD, and Resilience. A review of the Literature. *Trauma, Violence and Abuse, 6*(3), 195-216.

American Psychiatric Association (2000). *Diagnostic and statistical manual of mental disorders DSM – IV – TR (4th edition)*. Washington DC: APA.

Anderson, G. S., Litzenberger, R., & Plecas, D. (2002). Physical Evidence of Police Officer Stress. *Policing: An International Journal of Police Strategies & Management, 25*(2), 399-420

Baird, K., & Kracen, A. C. (2006). Vicarious Traumatization and Secondary Traumatic Stress: A Research Synthesis. *Counselling Psychology Quarterly, 19*(2), *181–188.*

Beaton, R., D., Murphy, S., Johnson L. C., & Nemuth, M. (2004). Secondary Traumatic Stress Response in Fire Fighters in the Aftermath of 9/11/2001. *Traumatology, 10*(1), 7-16.

Ben-Ezra, M., Essar, N., & Saar, R. (2006). Gender Differences and Acute Stress Reactions Among Rescue Personnel 36 to 48 Hours After Exposure to Traumatic Event. *Traumatology*, *12*(2), 139-142.

Berk, J. H. (1998). Trauma and Resilience During War: A Look at the Children and Humanitarian aid Workers of Bosnia. *Psychoanalitic review*, *85*(4), 639-658.

Biggam, F. H., Power, K. G., & MacDonald, R. R. (1997). Coping with the Occupational Stressors of Police Work: a Study of Scottish Officers. Stress *Medicine, 13*, 109-115.

Bishop, G. D., Tong, E. M. W., Siew-maan, D., Yong-peng, W., Enkelmann, H. C., Khader, M., Ang, J., Tan, V. L. M., & Koh, D. S. Q. (2007). Stress on Patrol: Stress and Coping Among Police Officers. In C. Kwok-bun (Ed.), *Work, Stress and Coping among professionals* (pp. 61-83). Leiden, Boston: Brill.

Breslau, N. (1998). Epidemiology of Trauma and Posttraumatic Stress Disorder. In R. Yehuda (Ed.), *Psychological Trauma* (pp. 1-30). Washington: American Psychiatric Stress.

Bryant, R. A., & Harvey, A. G. (1996). Posttraumatic Stress Reactions in Volunteer Firefighters. *Journal of Traumatic Stress, 9*(1), *52-62.*

Burke, R. J., & Mikkelsen, A. (2007). Suicidal Ideation Among Police Officers in Norway. *Policing: An International Journal of Police Strategies and Management*, 30(2), 228-236.

Burns, C. M., Morley, J., Bradshaw, R., & Domene, J. (2008). The Emotional Impact on and Coping Strategies Employed by Police Teams Investigating Internet Child Exploitation. *Traumatology, vol 14*(2), *20-31.*

Carlson, E. B., Dalenberg, C., & Muhtadie, L. (2008). Etiology. In G. Reyes, J. D. Elhai, and J. D. Ford (Eds.), *The Encyclopaedia of Psychological Trauma* (pp. 257-264). New Jersey: John Wiley & Sons, Inc.

Carver, C.S., Scheier, M.F., & Weintraub, J.K. (1989). Assessing coping strategies: A theoretically based approach. *Journal of Personality and Social Psychology*, *56*(2), 267–283.

Corneil, W., Beaton, R., Murphy, S., Johnson, C. & Pike, K. (1999). Exposure to Traumatic Incidents and Prevalence of Posttraumatic Stress Symptomatology in Urban Firefighters in Two Countries. *Journal of occupational health psychology, 4*(2), 131-141.

Darensburg, T., Andrew, M. E., Hartley, T. A., Burchfiel, M., Fekedulegn, D., & Violanti, J. M. (2006). Gender and Age Differences in Posttraumatic Stress Disorder and Depression Among Buffalo Police Officers. *Traumatology, 12*(3), 220-228.

Dick, P. (2000). The Social Construction of The Meaning of Acute Stressors: A Qualitative Study of The Personal Accounts of Police Officers Using a Stress Counselling Service. *Work & Stress, 14*(3), 226–244.

Fay, J., Kamena, M. D., Benner, A., & Buscho, A. (2006). A Residential Milieu Treatment Approach for First-Responder Trauma. *Traumatology, 12*(3), 255-262.

Figley, C. R. (1995). *Compassion Fatigue: Coping With Secondary Traumatic Stress Disorder In Those Who Treat The Traumatized*. New York: Brunner – Routledge.

Fullerton, C. S., Ursano, R. J., & Wang, L. (2004). Acute Stress Disorder, Posttraumatic Stress Disorder, and Depression in Disaster or Rescue Workers. *The American Journal of Psychiatry*, *161*(8), 1370-1376.

Hart, P. M., Wearing, A. J., & Headey, B. (1995). Police stress and well-being: Integrating personality, coping and daily work experiences. *Journal of Occupational and Organizational Psychology, 68,* 133-156.

Hellhammer, D.H., Wüst, S., & Kudielka, B. M. (2009). Salivary Cortisol as a Biomarker in Stress Research. *Psychoneuroendocrinology, 34*(2),163-71.

Hormann, S., & Vivian, P. (2005). Toward an Understanding of Traumatized Organizations and How to Intervene in Them. *Traumatology, 11*(3), 159-169.

Hyman, O. (2004). Perceived Social Support and Secondary Traumatic Stress Symptoms in Emergency Responders. *Journal of Traumatic Stress, 17*(2), 149-156.

Jones, B., Müller, J., & Maercker, A. (2006). Trauma and Posttraumatic Reactions in German Development Aid Workers: Prevalence and Relationship to Social Acknowledgement. *International Journal of Social Psychiatry*, *52*(2), 91–100.

Karlsson, I., & Christianson, S. Å. (2003). The Phenomenology of Traumatic Experiences in Police Work. *Policing: An International Journal of Police Strategies and Management, 26*(3), 419-438.

Kop, N., Euwema, M., & Schaufeli, W. (1999). Burnout, Job Stress and Violent Behaviour Among Dutch Police Officers. *Work & Stress, 13*(4), 326-430.

Lazarus, R. S., & Folkman, S. (1984). *Stress, Appraisal, and Coping*. New York: Springer Publishing Company.

Marmar, C. R., Weiss, D. S., Metzler, T. J., & Delucchi, K. (1996). Characteristics of Emergency Services Personnel Related to Peritraumatic Dissociation During Critical Incidence Exposure. *American Journal of Psychiatry, 153*(7), 94-102.

McFarlane, A. C. (2008). Posttraumatic Stress Disorder. In G. Reyes, J. D. Elhai, & J. D. Ford, (Eds.), *The Encyclopaedia of Psychological Trauma* (pp. 483-491). New Jersey: John Wiley & Sons, Inc.

McFarlane, A. C., & Yehuda, R. (1996). Resilience, Vulnerability, and the Course of Post-traumatic reactions. In B. A. van der Kolk, A. C. McFarlane, & L. Weisaeth (Eds.), *Traumatic Stress. The Effects of Overwhelming experience on Mind, Body, and Society* (pp. 155-213). London: The Guilford Press.

Mitani, S., Fujita, M., Nakata, K. & Sirakawa, T. (2006). Impact of Posttraumatic Stress Disorder and Job-related Stress on Burnout: a Study of Fire Service Workers. *The Journal of Emergency Medicine, 31*(1), *7-11.*

Mitchell, J. T., & Everly, G. S. Jr. (2000). Critical Incident Stress Management and Critical Incident Stress Debriefings: Evolutions, Effects and outcomes. In B. Raphael & J. P. Wilson (Eds.), *Psychological Debriefing. Theory, Practice and Evidence* (pp. 71 – 90). Cambridge: Cambridge University Press.

Moos, R. F., & Holahan, C. J. (2003). Dispositional and Contextual Perspectives on Coping: Toward an Integrative Framework. *Journal of Clinical Psychology*, *59*(12), 1387-1403.

Paton, D. (2005). Posttraumatic growth in protective services professionals: Individual, cognitive and organizational influences. *Traumatology, 11*(4), 335-346.

Paton, D. (2006) Critical Incidence Stress Risk in Police Officers: Managing Resilience and Vulnerability. *Traumatology, 12*(3), 198-206.

Pearlman, L. A. & Saakvitne, K. W. (1995). *Trauma and the therapist: Countertransference and vicarious traumatization in psychotherapy with incest survivors.* New York: W.W. Norton & Company.

Pole, N., Kulkarni, M., Bernstein, A., & Kaufmann, G. (2006). Resilience in Retired Police Officers. *Traumatology*, *12*(3), 207-216.

Raphael, B., & Wilson, J. P. (Eds.), (2000), *Psychological Debriefing. Theory, Practice and Evidence.* Cambridge: Cambridge University Press.

Regehr, C., Hill, J., Goldberg, G. & Hughes, J. (2003). Postmortem Inquiries and Trauma Responses in Paramedics and Firefighters. *Journal Of Interpersonal Violence*, *18*(6), 607-622.

Regehr, C., LeBlanc, V., Jelley, R. B., Barath, I., & Daciuk, J. (2007). Previous Trauma Exposure and PTSD Symptoms as Predictors of Subjective and Biological Response to Stress. *Canadian Journal of Psychiatry, 52*(10), *675-683.*

Robinson, R. (2000). Debriefing with Emergency Services: Critical Incident Stress Management. In B. Raphael & J. P. Wilson (Eds.) *Psychological Debriefing. Theory, Practice and Evidence* (pp. 91 – 107). Cambridge: Cambridge University Press.

Sabin-Farrell, R., & Turpin. G. (2003). Vicarious traumatization: implications for the mental health of health workers? *Clinical Psychology Review*, *23*(3), 449-480.

Scaer, R. C. (2001). *The Body Bears the Burden. Trauma, Dissociation, and Disease*. New York: The Haworth Medical Press.

Schlossberg, H., & Collarini Schlossberg, A. (2007). First Responders: Coping With Traumatic Events. In E. K. Carll (Ed.), *Trauma Psychology, Issues in Violence, Disaster, Health, and Illness* (pp. 273-288). Westport: Praeger Publishers.

Shalev, A. Y. (1995). Debriefing following traumatic exposure. In R. J. Ursano, B. G. Mc-Caughey, & C. S. Fullerton (Eds.), *Individual and Community Responses to Trauma and Disaster: the Structure of Human Chaos* (pp. 201-219). Cambridge: Cambridge University Press.

Solomon, Z., Berger, R., & Ginzburg K. (2007). Resilience of Israeli Body Handlers: Implications of Repressive Coping Style. *Traumatology, 13*(4), 64-74.

Stephens, C. & Long, N. (2000). Communication with police supervisors and peers as a buffer of work related traumatic stress. *Journal of organizational behavior, 21*(4), 407-424.

Van der Kolk, B. A. (1996). The Body Keeps the Score. Approaches to the Psychobiology of Posttraumatic Stress Disorder. In B. A. Van der Kolk, A. C. McFarlane, & L. Weisaeth (Eds.), *Traumatic Stress. The Effects of Overwhelming Experience on Mind, Body, and Society* (pp. 214-241). New York: The Guilford Press.

Van Patten, I. T., & Burke, T. W. (2001). Critical incident stress and the child homicide investigator. *Homicide studies, 2*(2), 131-152.

Violanti, J. M., Castellano, C., O'Rourke, J., & Paton, D. (2006). Proximity to the 9/11 Terrorist Attack and Suicide Ideation in Police Officers. *Traumatology, 12*(3), 248-254.

Violanti, J. M., Andrew, M., Burchfiel, C. M., Hartley, T. A., Charles, L. E., & Miller, D. B. (2007). Post-traumatic Stress Symptoms and Cortisol Patterns, Among Police Officers. *Policing: An International Journal of Police Strategies & Management, 30*(2), 189-202.

Vrklevski, L. P., & Franklin, J. (2008). Vicarious Trauma: the Impact on Solicitors of Exposure to Traumatic Material. *Traumatology, 14*(1), 106-118.

Waters, J. A., & Ussery, W. (2007). Police Stress: History, Contributing Factors, Symptoms, and Interventions. *Policing: An International Journal of Police Strategies & Management, 30*(2), 169-188.

Whealin, J. M., Ruzek, J. I., & Southwick, S. (2008). Cognitive-Behavioral Theory and Preparation for Professionals at Risk for Trauma Exposure. *Trauma, Violence and Abuse, 9*(2), 100-113.

Wilkinson, M. (2006) *Coming into Mind. The mind-brain relationship: a Jungian clinical perspective.* London & New York: Routledge

Wilkinson, M. (2010). *Changing minds in therapy: Emotion, attachment, trauma & neurobiology.* New York & London: Norton.

Yehuda, R. (1998). Neuroendocrinology of Trauma and Posttraumatic Stress Disorder. In R. Yehuda (Ed.), *Psychological trauma* (pp. 97-132). London: American Psychiatric Press Inc.

PERSONAL DATA PROTECTION IN THE POLICE SECTOR IN THE REPUBLIC OF MACEDONIA

Authors:

Akimovska Maletic Iskra and Gogov Bogdancho

ABSTRACT

Purpose:

The purpose of this paper is to determine the level of implementation of European standards for the protection of personal data in the police sector in Macedonia, particularly in terms of police use of information and computer technology in the collection and data processing.

Design / methodology / approach:

The text is based on the study of relevant professional literature, analysis of legal documents of the Council of Europe and the European Union and the Macedonian regulations that prescribes the protection of personal data.

Findings:

This article presents the basic guidelines for building a system to protect personal data in the police sector in Republic of Macedonia. There are four groups of questions that Macedonia should change to provide a quality system: adequate legislation (legal and secondary), data processing must be necessary and appropriate to achieve the purposes for which data are collected, transparency of operations of processing data and establishment of independent supervision over processing of data by the police.

Research limitations / implications:

In the Republic of Macedonia, there is almost no research on the practical application of standards for personal data protection in police work and there is lack of transparency in the development of criminal intelligence database.

Practical implications:

The findings are useful for law enforcement authorities, which should have a detailed knowledge of the essence and purpose of the implementation of the data protection principles.

Originality / value:

This article may be useful to the police services to implement the principles of personal data protection in the construction and use of criminal intelligence database and daily police work.

Keywords: Protection Of Personal Data, Databases, Crime, Police Work

1   INTRODUCTION

As a result of the need for using the personal data of individuals, in order to protect public safety, public health, suppressing crime, etc., there is a growing need for more complete and more detailed legal standardization of this area. The need for exchange of the personal data kept in the public sector is becoming more prominent, as well as their protection from the private sector which requires reaching agreements on the rules between the states, between the police, and within he private sector, as well as passing regulations and laws which define the functioning of the public sector. Therefore, protection of personal data, as protection of the basic freedoms and rights of an individual has been regulated in most of the European countries and has been a subject of many directives, resolutions, recommendations and guidelines brought by the Council of Europe, the European Parliament, the Council of the European Union and the Geneva-based United Nations' Commission on Human Rights. In some countries, mostly the EU Member States, but also some others (e.g., Australia, New Zealand, Hong Kong, and Canada), general laws have been adopted on personal data protection, based on the basic principles of the OECD guidelines (1980) and the European Convention of the Council of Europe (1981).

The laws stipulate strict rules in terms of the collection, processing and transfer of the data in the public, but also in the private sector. The enforcement of the law is under the authority of a special and independent public officer (Commissioner, Trustee, Ombudsman, etc.). Other countries pass separate laws which regulate certain aspects of privacy (i.e., areas for which there is a greater protection need and interest). Such an example can be found in the USA where there are no general law, but as needed and most commonly when abuses occur, a separate Bill is passed or the existing one is supplemented, which regulated a separate area (Dimitrijević, 2009).

The Republic of Macedonia, as a candidate country for membership of the European Union, has undertaken certain changes in the legislation concerning the personal data protection but the question is if they are completely in accordance with the legislation in the European Union.

2   PERSONAL DATA PROTECTION

When speaking of personal data, it should be pointed out that the term *'data'* is comprehended as a synonym for the term *'information'*, and thus the protection of personal data relates to the freedom to require, accept and give information, which is guaranteed by Article 10 of the European Convention on Human Rights. Also, the directives for personal data protection of the European Commission limit the internationally guaranteed rights to require, accept and give

information without the influence of the public authorities and regardless of the borders, in order to protect the equally guaranteed international privacy rights and protection of the private life. In fact, data protection has not been entirely encompassed by Articles 8 and 10 of the European Convention for the Protection of Human Rights, but has been connected to broader issues and other rights protected by the European Convention for the Protection of Human Rights. This is why the protection of data is seen as a new right *sui generis.* Ewoud Hondius(i. e., who is known as intellectual father of the Convention of the European Commission for protection of personal data), 20 years ago was saying that we cannot have adequate protection of personal data if it is not connected with the practice that is based on the European Convention of human rights (Foundation for Information Policy Research, 2004).

The fact that the protection of data is all the more perceived as a right *sui generis*, related to Articles 8 and 10 of the European Convention on Human Rights was one of the main reasons for their special protection. First of all, there was consideration for the preparation of an Additional Protocol towards the European Convention on Protection of Data, adding the protection of data to the catalogue of rights in the Convention, as a new independent right. And finally, the Council of Europe adopted a special agreement, a Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention no. 108), mainly because the Convention on Human Rights is open only to the Council of Europe Member States, while the separate Convention allows states which are not members to become a party (Foundation for Information Policy Research, 2004).

Regardless of whether personal data protection will be perceived as a right emanating from the right to private life in Article 8 or as a new *sui generis* right, it is significant that from European legal perspective this is a basic right. Also, in many EU countries this is considered to be a constitutional issue (although the exact constitutional basis for data protection may differ among the Member States).

Protection of personal data, as protection of the basic freedoms and rights of an individual, has been legally regulated in most of the European countries and has been a subject of many directives, resolutions, recommendations and guidelines brought by the Council of Europe, the European Parliament, the Council of the European Union and the Geneva-based United Nations' Commission on Human Rights. Certain confusion is noticed in reference to the nature, goal and purview of the personal data protection. In any case, all major international instruments for personal data protection – the Guidelines of the United Nations and OECD, the Convention of the Council of Europe and the Directive of the European Union for protection of personal data - point out the connection between the protection of personal data and the two "classical" human rights for respecting of privacy or "private life" and freedom of speech.

3 LEGAL FRAMEWORK FOR PROTECTION OF PERSONAL DATA

When talking about the legal framework brought on European Union's level referring to personal data protection, the Convention for Protection of Individuals with Regard to Automatic Processing of Personal Data should be mentioned at the very beginning, adopted by the Council of Europe. The signatory countries of the Convention have an obligation to harmonize their national legislation with its basic principles, whereas it was left to them to decide while regulating this matter in terms of the content and extent of the protection of personal data. The principles they need to abide by are the principles of lawful and fair processing of data, the principle of data accuracy, the principle of information and the principle of availability of data, with some appropriate exceptions (i.e., protection of the security of the country, public safety, monetary interests of the country, crime prevention, protection of the rights and freedoms of others), the principle of non-discrimination (i.e., special protection of the special categories of personal data), as well as data on racial origin, nationality, religious and other beliefs, political and union preferences and sexual life, personal health data, criminal convictions, etc. (Dimitrijević, 2009).

Article 8 of the Convention is considered intrinsic, as it provides for the interested party to find out whether personal data relating to themselves is stored in the automated data file, to be familiarized with the data contained thereof and to establish rectification of the incorrect data, as well as to file a lawsuit should any of these rights be violated (Convention 108, 1981).

Following the adoption of the Strasbourg Convention (1981), the differences of the internal legislation represented barriers for free data stream among the signatory countries, due to which in 1995 the European Union adopted the Directive 95/46/EC, referring to the free movement and processing of data. The Directive established a framework which requires for a balance of the high level of protection of the privacy of individuals and the free movement of personal data within the European Union. The domain of this Directive, however, refers to automated data (databases of clients) and data contained or need to be contained in non-automated systems (traditional paper files). Furthermore, it is provided that every individual has a right to judicial remedy for any violation of the right guaranteed by national law, as well as a right to be compensated for the damages. The point here is that the Directive provides for establishment of one or more independent public authorities responsible for control and application of the provisions passed by a Member State in accordance with the Directive. The authority needs to be endowed with investigative powers, effective powers of intervention and delivery (Foundation for Information Policy Research, 2004).

The next that should be pointed out in this context is the Directive for Protection of Personal Data (1998), which determines a framework for the individual

rights. In fact, the Directive determines that the information processing activity should be righteous; it requires that the individuals for which data for processing are collected be informed and given the opportunity to decide how the said data would be used. Further on, it establishes a right to access to the personal data and provides for judicial protection and compensation if these rights are violated (Dimitrijević, 2009). In 2001, the Commission adopted Decision 2001/497/EC on standard contractual clauses for the transfer of personal data to third countries under Directive 95/46/EC, which stipulates standard contractual clauses in order to provide adequate level of protection with respect to personal data transferred from the European Union to third countries. Actually, the Decision requires that the Member States make sure that the companies or bodies that use these standard clauses in the contracts relating to the transfer of personal data in third countries will provide "appropriate protection level" of data. In 1991, Recommendation No. (91) 10 of the Committee of Ministers to Member States on the communication to third parties of personal data held by public bodies, was adopted, which contains principles applied in terms of the automatic data processing, collected by public bodies and which may be communicated to third parties.

The internationally adopted principles on privacy, known as Code of Fair Information Practices by OECD should be called to attention. The Code contains the following principles: principle of fair handling, principle of incompatibility, principle of reasonable interval, principle of data accuracy, principle of updating data, principle of data safety, principle of data confidentiality, principle of data availability and principle of data integrity (Dimitrijević, 2009). Attention in this area should also be drawn to the OECD Recommendation of the Council concerning guidelines governing the protection of privacy and trans-border flows of personal data, containing principles pertaining to the protection of privacy and trans-border flows of personal data. The issue here is the principle of limitation of data collection, the principle of data quality, the principle of specification of the purpose of data collection, the principle of limiting the use of the data, the principle of transparency, the principle of participation of the individual and the principle of accountability. The exceptions from these principles, such as the ones connected to national security, national sovereignty and public order should be as rare as possible and known to the public.

4 PROTECTION OF PERSONAL DATA IN THE POLICE SECTOR

The regulation stipulating the general protection of personal data within the European Union, the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, does not apply to processing operations pertaining to public safety, de-

fence, state security (including the economic welfare of the country, when the processing operation is connected to state security issues) and to the activities of the countries in the areas of criminal law. Therefore, the different instruments should be taken into account which were adopted by the Member States in terms of the activities of the third pillar of legislation of the European Union (i.e., the Schengen Convention), the documents for creating the European Police Office (the Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Decision of the Council of the European Union, dated 28 February 2002, which created Eurojust, in order to enhance the fight against the serous forms of crime. All these documents are based upon the basic rule, according to which the authorities of a certain country who need to access information or exchange data with other countries must be subordinated to a system which will at least abide by the provisions of Convention no. 108 of the Council of Europe (Gogov, Kalajdziev, & Marusic, 2008).

Considering the need to balance the interests in the society for preventing and suppressing crime, as well as keeping public peace and order, on one hand is to protect the interests of the individual and his right to privacy, while on the other, based on Article 8 of the Convention for Human Rights and Basic Freedoms and having in mind the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data from 1981, Recommendation no. (81) 15 was adopted that regulates the use of personal data in the police sector. This document recommends the governments of the Member States to be guided by the principles set forth in the Recommendation in their domestic law and practice.

The principles are, in fact, applied during collection, filing, storage and communication of personal data for police needs, which are subject to automatic processing. Personal data is any information which can be used for identification of the individual. The term for police needs is used for all activities that police authorities have to do for prevention and deal with offences and to maintain public order. The principles may be applied to personal data which are not subject to automatic processing, as well as to data connected to a group of people, associations, foundations, companies, corporations or any other body that would directly or indirectly consist of individuals, regardless of whether the said bodies possess characteristics of a legal person. The provisions of this Recommendation should not be interpreted as limiting in respect to the possibility of the Member State to broaden, when appropriate, some of these principles of collection, filing and use of personal data for goals pertaining to state security.

The Recommendation contains the following s eight principles:

1.   *Control and notification* – Each member state should have an independent supervisory authority outside the police sector which should be responsible for ensuring respect for the principles contained in this recommendation.

2.   *Collection of personal data* – for police purposes collection of personal data should be limited to only that data that is necessary for the prevention of a real danger or the suppression of a specific criminal offence. Any exception to this provision should be the subject of specific national legislation.

3.   *Storage of personal data* – for police purposes storage of personal data should be limited to accurate data and to such data as are necessary to allow police bodies to perform their lawful tasks within the framework of national law and their obligations arising from international law. Where data which have been collected for administrative purposes are to be stored permanently, they should be stored in a separate file. In any case, measures should be taken so that administrative data are not subject to rules applicable to police data.

4.   *Use of data* by the police – personal data collected and stored by the police for police purposes should be used exclusively for those purposes.

5.   *Communication of data* to:

  a) *Police bodies* for police purposes should only be permissible if there exists a legitimate interest for such communication within the framework of the legal powers of these bodies.

  b) *Other public bodies* should only be permissible if there exists a clear legal obligation or authorization or if these data are indispensable to the recipient to enable him to fulfil his own lawful task and provided that the aim of the collection or processing to be carried out by the recipient is not incompatible with the original processing, and the legal obligations of the communicating body are not contrary to this. Furthermore, communication to other public bodies is exceptionally permissible if the communication is undoubtedly in the interest of the data subject and either the data subject has consented or circumstances are such as to allow a clear presumption of such consent, or if the communication is necessary so as to prevent a serious and imminent danger.

  c) *Private parties* should only be permissible if, in a particular case, there exists a clear legal obligation or authorization, or with the authorization of the supervisory authority.

Communication of data to foreign authorities should be restricted to police bodies, if a clear legal provision exists under national or international law. In the absence of such a provision, if the communication is necessary for the prevention of a serious and imminent danger or is necessary for the suppression of a serious criminal offence under ordinary law and provided that domestic regulations for the protection of the person are not prejudiced.

6.   *Publicity, right of access to police files, right of rectification and right of appeal* – the supervisory authority should take measures so as to satisfy itself that the public is informed of the existence of files which are the subject of notification as well as of its rights in regard to these files.

7.   *Length of storage and updating of data* – this principle provides that measures should be taken so that personal data kept for police purposes are deleted if they are no longer necessary for the purposes for which they were stored.

8.   *Data security* – this principle means that all the necessary measures should be taken to ensure appropriate physical and logical security of the data and prevent unauthorized access, communication or alteration.

5   PROTECTION OF PERSONAL DATA IN THE REPUBLIC OF MACEDONIA

The Constitution of the Republic of Macedonia guarantees every citizen respect and protection of the privacy of his personal and family life, the dignity and reputation. Namely, the citizens are guaranteed protection from violation of their personal integrity, which arises from their data registration through data processing.

Additionally, the Law on the Protection of Personal Data (LPPD, 2005, 2008) regulates the issue perceiving the protection of personal data as basic freedoms and rights of the natural persons, and especially the rights to privacy regarding personal data processing. Personal data is considered to be every information pertaining to the identified natural person or a natural person that may be identified, while a person that may be identified is a person whose identity may be determined directly or indirectly, especially based on the registration number of the citizen or on the basis of one or more marks, specific for his physical, physiological, mental, economic, cultural or social identity (LPPD, 2005, 2008: Article 2). A subject of personal data is considered to be every natural person to whom the processed data refer.

Processing of personal data may be performed following a previously attained consent by the subject of the personal data, for execution of a contract in which the subject of the personal data is a contractual party or upon the request of the subject of personal data, prior to his approaching to the contract, for fulfilment of the legal obligation of the controller, protection of the life or the intrinsic interests of the subject of personal data, for performing public interest works or an official authorization by the controller or a third person to whom the data were revealed, unless the freedoms and rights of the subject of personal data prevail over such interests.

The Law (LPPD, 2005, 2008: Article 8) stipulates that processing of special categories of personal data is forbidden. Exceptionally, it may be performed: based on the specific consent of the subject of personal data given for the processing of such data, unless it was stipulated by law that the prohibition for processing of such data may not be recalled by specific consent by the subject of the personal data; if it is necessary for conducting the concrete rights and obligations of the controller in the field of labour law, to the extent and with appropriate guarantees determined by laws in this area; if necessary for the protection of the intrinsic interests of the subject of personal data or of another person, if that person has physical handicap which prevent him from giving consent or is mentally incapable to give consent; if the processing is conducted within the operation of institutions, associations or any other non-profit organizations for political, philosophical, religious, syndical or any other goal, provided that the processing of data refer exclusively to their members and that the data are not revealed to third parties without the consent of the subject of the personal data; if the processing refers to data which the subject of personal data has made known to the public; if necessary for determining or establishing individual legal interests; if necessary for acquiring, fulfilling and protection of the rights of the subject of the personal data in a procedure before authorities; if necessary for medical prevention goals, diagnosis, treatment or administering a public health institution, and it is done by a person whose profession is to provide health care under oath for keeping the secrecy of the data which s/he has found out while performing his duty.

The Law provides for certain situations when the rights of the subject of personal data may be limited in special cases, when their practicing would endanger the fulfilment of the controller's obligations, prescribed by law. These cases include: protection of the security and defence of the country, finding and prosecuting crime committers, protection from violation of the ethical rules of a certain profession, protection of important economic and financial interests of the European Union, and protection of the rights and freedoms of the subject of personal data or the rights of other natural persons.

The Law also provides for a special protection of the personal registration number of the citizen, which may be processed only following a specific agreement by the subject of the personal data, in order to fulfil the legally determined rights and obligations of the subject of the personal data or the controller, as well as in other cases prescribed by law. The personal registration number of the citizen may be processed when performing activities, such as getting a loan, collecting a debt, insurance, renting, establishing a trading company, health and social care, employment and other services in favour of the subject of personal data.

For the purposes of supervising the lawfulness of the activities undertaken during the processing of personal data on the territory of the Republic of Macedonia, a

Directorate for Protection of Personal Data was established, as an independent state body, with features of a legal person. The Office, through its inspectors for protection of personal data, performs inspection supervision of the enforcement of the Law on the Protection of Personal Data (LPPD, 2005, 2008) and the regulations arising from the Law. If it is determined that a violation occurred of a certain right guaranteed by Law, the Director brings a Decision, against which an appeal may be filed for initiating an administrative proceeding before the competent court within 15 days of receiving the Decision. If during the supervision the inspector determines violation of this or another law, he files a request for initiating a violation procedure, led by the Commission for Deciding upon Violations.

In 2005, the Republic of Macedonia passed the Law on Ratification of the Convention for Protection of Individuals regarding Automatic Processing of Personal Data, Convention 108 (LRCPIAPPD, 2005), ratified on 24 March 2006 and it became effective on 1 July 2006. Also, on 4 January 2008 the Republic of Macedonia signed the Additional Protocol to the Convention 108 regarding the supervisory bodies and the trans-border flows of personal data. What needs to be point out here is that in the Law on Ratification of the Convention 108, in Article 3 paragraph 1 line 3, the Republic of Macedonia stated that she would not apply three grounds, among which leading criminal proceedings, which is an unclear term and is not contained in the Convention (Gogov et al., 2008). Namely, in Article 9 item 2-a of the Convention, exceptions and restrictions will be allowed for protecting national security, public safety, monetary interests of the State or suppression of criminal offences. With the amendments to the Law on the Protection on Personal Data (LPPD, 2008), the meaning of these provisions was broadened on processing personal data for the protection of the interests of security and defence of the Republic of Macedonia, as well as processing personal data when leading a criminal proceeding. Until then, this issue was covered only with the provisions of the Law on the Police (LP, 2006), which stipulates that the police collects, processes, analyses, uses, assesses, transfers, stores and erases data, and processes personal data under conditions and in a manner set forth in this and in a special law; keeps records on the personal and other data, fir the collection of which has been authorized with this Law, in order to reveal crime, as well as for finding and capturing offenders.

By adopting the amendments to the Law on the Protection of Personal Data, (LPPD, 2008) the condition was fulfilled for concluding a Strategic Agreement between the Republic of Macedonia and the European Police Office and a Law on ratification the strategic agreement between Republic of Macedonia and the European police Office (LSARMEPO, 2008) was adopted, which represents a condition for starting negotiations for concluding an Operational Agreement with EUROPOL.

6   SPECIFIC LEGAL ISSUES FOR PERSONAL DATA PROTECTION IN THE REPUBLIC OF MACEDONIA IN THE POLICE SECTOR

In the past several years, the Republic of Macedonia has taken significant steps forward in the personal data protection. However, this does not mean that the situation is satisfactory when speaking about the legal solutions. One good example about the inconsistency with the adopted international standards is the Law on Amending and Supplementing the Law on the Electronic Communications, (LEC, 2010). This Law interferes with the criminal law, which is entirely inappropriate since it provides for new authorizations for the police and the secret services, beyond those previously foreseen with the Law on Criminal Procedure (LCP, 2004, 2008) and the Law on Communication Surveillance (LCS, 2006, 2008). Namely, instead of purely harmonizing the Law on the Electronic Communications in the part arranging the obligations of the operators and the public communication service providers previously set forth in the Law on Communication Surveillance. This Law now establishes possibilities for an easy and direct interference of the police and the secret services into the privacy, without referring to or connecting with the conditions and procedures for implementation of the special measures from the Law on Criminal Procedure, Law on Communication Surveillance or the Law on the Internal Affairs. All this enables actions by the police or the secret services as per their own judgment and without any approval or control by the court or the public prosecutor.

According to item 47 of Article 4 of the Law on Amending and Supplementing the Law on the Electronic Communications (LEC, 2010), the Ministry of Internal Affairs is the competent body for communication surveillance, which has a permanent and direct approach to the electronic communication networks and the facilities of the operators of the public communication networks and the public communication service providers.. The operators, on the other hand, are obligated upon the request by the competent state bodies to submit data on the traffic when this is necessary to prevent or discover crime, to administer proceedings or when this is in the interest of the security and defence of the Republic of Macedonia. By this, the bases for implementation of the measures are also much broader than those provided by the Law on Communication Surveillance. According to article 8 paragraph 1 of the Law: "The court may order monitoring of the communications when there are grounds for suspicion that a crime is being organized, underway or has already been committed, for which prescribed imprisonment is at least four years, as well as for crimes for which there are grounds that are being organized, are underway or committed by an organized group, gang or another criminal organization, for the purposes of collecting data and evidence necessary for the successful leading of criminal proceedings, that may not be collected in any other way or their collection would be linked to major difficulties." Consequently, this

clearly shows that the police would have access to data without having to fulfil the conditions provided by the Law on Communication Surveillance.

The operators of the public communication networks and the public communication service providers are obligated to enable the competent body, the Ministry of Internal Affairs, constant and direct access to their electronic and communication networks, as well as "conditions for independent takeover of traffic data". There is no mention of the court or the public prosecution anywhere, as bodies competent for stipulation and implementation of the measures set forth in the laws, which the police only conduct on their demand or order. This approach is contrary to the Constitution of the Republic of Macedonia (Amendment 29, which replaces Article 17 of the Constitution of the Republic of Macedonia, exclusively requires a court decision in order to digress from the right to inviolability of all forms of communication), which in several provisions very clearly and unambiguously expresses reservation in terms of the bodies with special competencies and therefore determines the court as the sole body that may decide upon the interventions regarding the basic rights and freedoms.

According to the new legal solutions the all the more weak controlling role of the court and the public prosecution becomes even less real, in a situation when the operators and the public communication service providers will not have to be given a court order.

The amendments to the Law on the Electronic Communications actually introduce two "new" special investigation measures, which until now have not been explicitly envisaged in either our Law on the Criminal Procedure or the Law on Communication Surveillance. Namely, the measure that consists of "delivery of traffic data" or "listing" of the contacts made by a land line or mobile phone, e-mail or similar has been practiced by the police and the secret services for a long time. In this way, the data obtained on the suspect, his/her habits, contacts, movements, etc., after being processed by the analytical department of the police, represent an extraordinarily useful tool in discovering and preventing crime, but also for security and even political goals (often abuses). In addition, the police have the possibility for locating and monitoring movement and the contacts through the mobile telephony or through the monitoring of internet connections by a computer, which is a measure very similar to secret surveillance, which is now provided by the Law on Criminal Procedure, but it is much more efficient, since it practically enables monitoring of the movement and contacts of the suspects for a longer period in the past (practically, since the introduction of the mobile telephony and the Internet. For the state bodies, on the other hand, such measures represent a big saving in time and resources, compared to the classical methods of operational surveillance by physical persons. The principal problem is, of course, the large intrusiveness of these measures, especially having in mind

their duration (more precisely, the long period of time they can easily take). Also, the cited legal solutions which enable the unlimited collection of communication data (listing) and the location of the individuals are not in accordance with The European Court of Human Rights, which has long since characterized these measures as serious interferences in the right to privacy, which therefore require the same or similar regime as wire-tapping and the other special investigation methods. The first and most famous case where the so called "metering" (listing) was treated is the Malone v. the United Kingdom case from 1984 (Malone v United Kingdom, 2 Aug. 1984, Series A. 82), when the European Court on Human Rights determined that the acquisition of the dialled numbers' details, the time of call and their duration had not been regulated by clear rules that would refer to the extent and way of practicing discretion by the authorities. The same is true for the Macedonian case.

Moreover, the European Court of Human Rights characterizes the secret surveillance practice also as interference in the privacy guaranteed by the European Convention on Human Rights in the well-known case Klass v. Germany (Klass and others v Germany, 6 Sep. 1978, Series A no. 28). Ever since, the Court in Strasbourg is constantly stressing the need for the national laws to provide appropriate protection of the arbitrary and uncontrolled interference of the state into the privacy of the individuals. It is not enough for the state to adopt just any kind of regulation and to consider that human rights have been satisfied. In many rulings, the European Court of Human Rights addresses the quality of the national laws, which primarily have to be clear enough in order to give the citizens sufficient indication about the conditions and circumstances in which the authorities are empowered to reach for secret and potential interference into the rights to respect private life and correspondence (Malone vs. the United Kingdom, Khan vs. the United Kingdom, etc.).

The European Court of Human Rights states that the domestic laws must define at least the following protection mechanisms: the nature of the punishable acts for which surveillance may be ordered; definition of the categories of persons whose communication may be monitored; the maximum duration of such monitoring; the procedure that must be followed for analysis, use and keeping of the information obtained; the precaution measures that must be taken if the information is announced to other persons and the circumstances in which the information obtained may or must be deleted, while the records destroyed. The law has to be expressed with such degree of concreteness so that the circumstances in which it would be exercised would be predictable enough in sense that the citizens would know when the police or other security bodies could monitor their telephone or other private electronic communication These mechanisms have not been incorporated in the subject law, which represents a serious threat to the privacy.

7   CONCLUSION

Protection of personal data is undoubtedly an area defined with the legislation of the European Union via numerous legal instruments, whose application facilitates the process of accepting the standards of European law in the field of protection of personal data. These standards, as part of *acquis communaitaire* of the European Union are binding for the Member States of the European Union, as well as for those aspiring to become part of the big European family, above all the candidate countries for membership in the European Union. In this respect, passing legislation that is fully harmonized with the international instruments in the field of protection of personal data and establishing an independent supervisory body in the countries, which would be responsible for enforcement of the legislation in this field, should indisputably be a priority to the countries that strive to become part of the European Union.

We may conclude that the measures which are legalized now in Republic of Macedonia do not consistently follow the principles of lawfulness, proportion and subordination as an elementary protection from self-will and abuses. In accordance with the requirement for necessity and proportionality, stressed by the European Court for Human Rights, the measures may not be implemented except for the most difficult acts of crime and the organized crime. Furthermore, a sufficient, righteous, and independent control system has to be secured over the application of all measures that interfere with the privacy of the citizens.

The laws that allow intrusion of privacy should contain provisions that would allow the citizens to have access to an independent institution (e.g., a judicial court) where they could legally dispute every implementation of these measures towards a person, as well as the way it was done and the goals which were meant to be achieved with such measure.

Bearing in mind that the risks of subjectivity are always significant when the empowerments of the state bodies are realized in secrecy and due to the fact that the implementation of the methods for secret communication surveillance, in practice are not open to control by the concerned individuals or the broader public, it would be contrary to the rule of law if the legal discretion awarded to the executive power is expressed as uncontrollable power. More generally, having the guarantee that personal information (personal data) will not be collected and used in manners that totally escape from the individual's control is indeed a precondition for the individual to feel genuinely free from unreasonable constraints on the construction of his identity (Rouvroy, 2008).

In order to value the security and secrecy of the personal data, the deadline for keeping unprocessed traffic data, which is now the same as the maximum international standard of 24 months it should be decreased like in many of the

European Union countries, where most commonly the minimum 6 months deadline is accepted. The existence of databases with a large number of personal data of the citizens is a threat by itself for the privacy and a possibility for their abuse.

REFERENCES

Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows (2001). *Official Gazette of the Republic of Macedonia*, (103).

Commission Decision 2001/497/EC of 15 June 2001 on standard contractual clauses for the transfer of personal data to third countries under Directive 95/46/EC (2001). Official Journal L 181 of 04.07.2001.

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981). Strasbourg, 28.1.1981.

Dimitrijević, P. (2009). *Pravo informacione tehnologije*, Osnovi kompjuterskog prava. Sven, Niš.

European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1995). *Official Journal* L 281 of 23.11.1995.

Foundation for Information Policy Research, UK Information Commissioner Project: *Privacy & Law Enforcement*, Paper No. 4, The legal framework, February, 2004.

Gogov, B., Kalajdziev, G., & Marusic, M. (2008). Personal data protection in the criminal law system. *Macedonian Review for Criminal Law and Criminology.*

Law on Ratification of the Convention for Protection of Individuals regarding Automatic Processing of Personal Data (2005). *Official Gazette of the Republic of Macedonia,* (79.

Law on ratification the strategic agreement between Republic of Macedonia and the European police Office (2008). *Official Gazette of the Republic of Macedonia,* (17).

Law on the Police (2006).*Official Gazette of the Republic of Macedonia*, (114).

Law on the Protection of Personal Data (2008). *Official Gazette of the Republic of Macedonia*, (7), (103)

Organization for Economic Co-operation and Development (OECD), *Recommendation of the Council concerning guidelines governing the protection of privacy and transborder flows of personal data*, adopted by the Council 23 September 1980 15, No. 2-3, 2008).

Privacy & Human Rights (2007). *An International Survey Of Privacy Laws And Developments, Electronic Privacy Information Center and Privacy International.*

Recommendation No. (91) 10 of the Committee of Ministers to Member States on the communication to third parties of personal data held by public bodies, adopted by the Committee of Ministers on 9 September 1991.

Recommendation No. R (87) 15 Of the Committee of Ministers to Member States regulating the Use of Personal Data in the Police Sector (Adopted by the Committee of Ministers on 17 September 1987 at the 410th meeting of the Ministers' Deputies).

Rouvroy, A. (2008). *Privacy, Data Protection, and the Unprecedented Challenges of Ambient Intelligence, in Studies in Ethics, Law, and Technology.* 2(1).

Wacks, R. (2010). Privacy. *Oxford University Press.*

6.
SECURITY & SAFETY
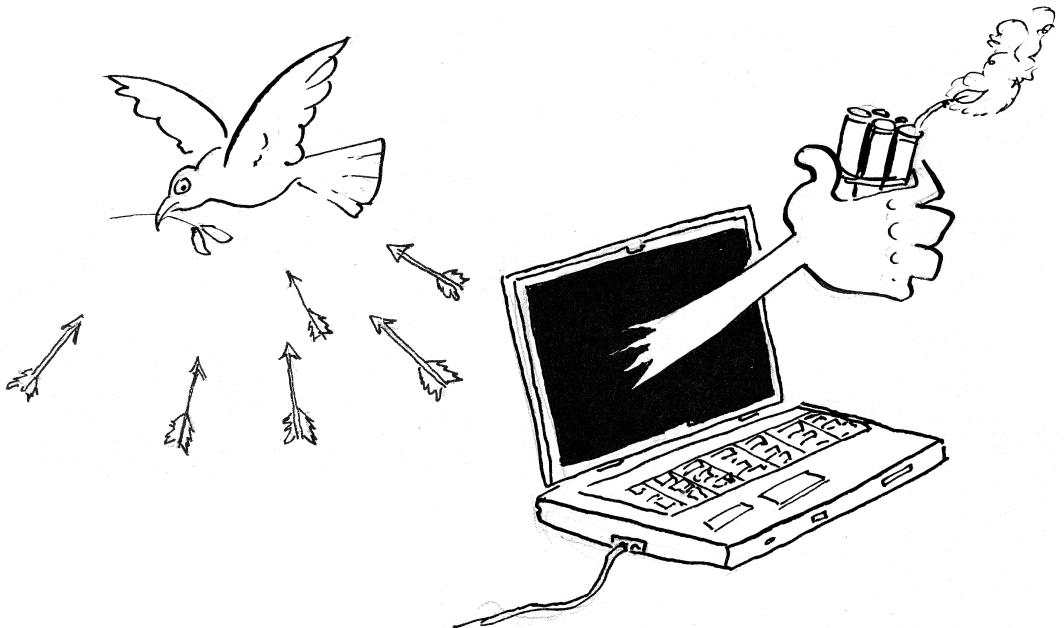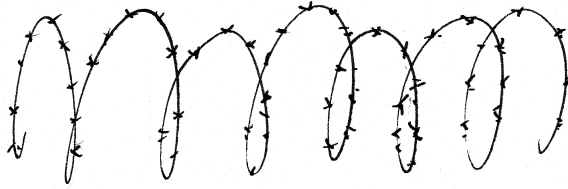
THEORETICAL ASPECTS OF PRIVATE INTELLIGENCE

Authors:

Jaroš Britovšek, Andrej Sotlar and Maj Fritz

ABSTRACT

Purpose:

The purpose of this article was to establish a theoretical framework in order to explain private intelligence.

Design/methodology/approach:

An in-depth analysis of social theories has been used to explain the existence and functioning of private intelligence in a modern world.

Findings:

Based on our research, three major theoretical perspectives were identified as significant regarding private intelligence. Adaptive Realism Theory defines the key variables of intelligence and explains the phenomenon of intelligence as a whole. Neoliberalism represents an important theoretical basis for the explanation (and justification) of the changes to the security environment and the subsequent phenomenon of security and intelligence privatisation. The information society enables a fast and relatively cheap access to (public) information, which has considerably facilitated the work of intelligence organisations (public and private alike).

Research limitations/implications:

This article is based on an examination of different theories that could be used to explain privatisation of intelligence.

Practical implications:

The article is a source of information for individuals who wish to understand the basics of private intelligence, as well as for academics that are eager to conduct further research on this matter.

Originality/value:

This paper provides a theoretical framework to understand private intelligence.

Keywords: Private Intelligence, Adaptive Realism Theory, Neoliberalism, Information Society

1   INTRODUCTION

In June 2010, the *Washington Post* published the results of a two-year research project on the US national security system. Under the directions of investigative journalists Dana Priest and William M. Arking, more than twelve journalists of the aforementioned newspaper undertook an investigative inquiry into a branched intelligence security system which came into existence in the USA after the attack on September 11, 2001. The results were staggering.

Washington Post established that 1,271 government organisations and 1,931 private enterprises are engaged in activities linked to homeland security and intelligence matters. Over 854,000 persons, 265,000 among them are not government employees, but are working for private enterprises, have permission/licence to access data of the highest degree of secrecy. Analysts prepare more than 50,000 intelligence reports and analyses from the data acquired by intelligence work. It was ascertained that a great deal of intelligence organisations take up identical/similar matters and practise similar work, which indicates disorder in the intelligence security system and unnecessary expenditure of money and time. For example, 51 government organisations and military headquarters monitor cash flow between terrorist groups.

Washington Post estimates that 30% of individuals engaged in US intelligence work are private contractors. CIA has allegedly established an agreement with 114 private enterprises which represent a third of those working for the agency, that is 10,000 employment positions. The majority of contractors are former members of armed forces or intelligence services. As quoted by the newspaper, 50 private enterprises are engaged in making intelligence analyses, 50 private enterprises in producing and analyzing air and satellite shots, 47 private enterprises work in the field of collecting intelligence data (including human intelligence - HUMINT) and 50 private enterprises collect technological intelligence data. According to available data, a third, that is 533 private enterprises working in the national security field have appeared since the year 2001.

We can see that the private security and military activities have experienced a rapid growth in the past decade. Private enterprises working in the field of national security have become of such importance that government organisations and armed forces can no longer perform without their help.

In the article, we aim to theoretically elucidate operation of private enterprises, performing duties, recently still under the State's competence, for government agencies in the contemporary world. We state that reasonable clarification of the private intelligence starts with three theoretical concepts. The first two theories ensue from the security and economy field – realism, with an emphasis on the sociological note and liberalism, stressing a free initiative. The third concept applies to the information society and emphasises the meaning of data and knowledge access.

2 (PRIVATE) INTELLIGENCE THROUGH THEORIES

2.1 Defining intelligence

As for scientific studies on intelligence, we recognize certain difficulties. Intelligence has been defined as a »trade« and was not considered as a subject of scientific studies. Owing to its mysteriousness and concealment only, journalists and historians took interest in the intelligence and the work of intelligence services. In the past few years, scientists and the academic public have devoted their attention to intelligence. Using theories, they have attempted to explain and define the phenomenon of intelligence as an occurrence that has accompanied the mankind throughout the history.

The basic difficulty in studying intelligence can also be seen in the understanding of this activity and the term itself. In Europe, the term is linked to informing and gathering information. Slovenes use the term "obveščati", meaning "to inform", Germans use the term "Nachrichten", meaning "news" and Russians use the term "razvedka", meaning "to investigate". English speaking states use the term "Intelligence". Sherman Kent (1949) maintained in his work "Strategic Intelligence for American World Policy" that the term "intelligence" is understood as knowledge and organisation that produces this knowledge and also the activity of such organisation. In Slovene literature we can find definitions of various authors who define intelligence in its broader and its narrower sense (Anžič, 1997; Purg, 1995; Šaponja, 1999). In its narrower sense it covers (public or secret) gathering of data, its processing or analysis, its interpretation and its provision to the user. In its broader sense it includes also covert operations and counterintelligence (Purg, 1995).

Loch Johnson (2009) asserts that the theory of intelligence must include all basic elements of this activity, meaning the functions of the intelligence cycle – planning and directing, gathering data, analysing and interpretation and dissemination to the user. At some stage, the theory must also cover the counterintelligence, secret operations and supervision over the intelligence.

However, not all intelligence organisations perform covert operations; therefore, they do not represent an essential part of the intelligence. We are inclined towards the thesis advocated by Slovene authors that the definition of the intelligence is sufficient in its narrower sense. We determine that the counterintelligence, as a data protection activity, must be recognized as a part of the intelligence. It does not matter if an individual organisation performs data protection for an individual client or a user or protects its own data. In any event, each intelligence organisation protects at least its own data, if not for a client.

As a consequence, intelligence is a cycle activity. Its main purpose is to provide a client or a user with intelligence data or products fit for use. The intelligence

cycle process is concurrently accompanied by counterintelligence, whose main purpose is to protect information and the intelligence cycle, or as Whithead (2003) says, counterintelligence could also be described as the »other side of the intelligence coin«.

When it comes to the definition of private intelligence, a question arises whether there is a difference between (state) intelligence and private intelligence? We claim that there is no difference aside from the ownership – private or governmental. Singer (2003: 61) states that "intelligence of the quality available to state agencies is increasingly available on the open market".

2.2   Adaptive Realism Theory

Jennifer Sims, professor at the American Georgetown University, has defined intelligence within the frameworks of her academic study on intelligence, as an activity of »collecting, analysing and providing information to clients for the needs of competition« (Sims, 2009: 154). She explicated this definition with a theory that she named Adaptive Realism Theory which is linked to the dynamics of international political relations (Sims, 2009: 158). According to Sims, the basis of a theory is to explain a phenomenon by means of generalisation. The theory is built by observing a phenomenon, gathering data, which is used to establish a pattern which, in return, is used to explain connections between variables. This explanation is then used to explain the phenomenon itself (Sims, 2009).

Sims (2009: 154) ascertains that the intelligence or, according to her, the intelligence cycle that wants to succeed and ensure a proper support to a client must optimise four main functions: collection, transmission, anticipation and counterintelligence.

The more data sources an intelligence activity has, the higher the chance of collecting the exact and quality data. This holds on a presumption that three main functions of intelligence are constant. This statement is true only when a client receives the right data at the right time. The second main function is transmission, which is of crucial importance for a successful collection of data. With the function of the transmission (transfer and use) of an intelligence product into concrete life situations, a client's trust in an intelligence organisation and collected data is of great importance. When a client collects the data personally, the data is to be trusted and suits for the basis of deciding. But when a client finds his range of collecting data to be limited, he must hire an intelligence agency to collect, handle and deliver the final intelligence data. The data becomes of true value only after the analysts have given a decisive added value to the collected data with their knowledge and previsions. But an analysis may be biased, as an interest of an intelligence organisation is to satisfy the client and to gain advantage before competitors. Therefore, it is important for a client to trust and to rely

on the intelligence products. This trust can be established if a client estimates the products through a process of revision, inspection and valuation with regard to how these products help him to reach decisions. The whole system decays in a moment when a client does not trust the information provided by an intelligence organisation.

The third function – anticipation – is therefore of utmost importance. The client who trusts the information that comes from his intelligence organisation has to learn to accept and rely on the information, even though it is not to his liking. The former American president Kennedy, for example, listened to his CIA director regarding unconfirmed information that the Soviet Union was setting up nuclear missiles on Cuba. The director suggested that they perform spy plane flights over Cuba in order to confirm the information. Despite his dislike for the news, Kennedy listened to the advice and relied on the assessments of the intelligence organisations. The flights over Cuba provided invaluable information which was decisive in the subsequent resolution of the Cuban missile crisis.

The success of any intelligence relies upon the ability of a client and intelligence officers to find the balance in their relationship between trust and cooperation on one side, and distance and vigilance on the other. A successful intelligence also requires the final - fourth function. Every intelligence organisation has to be able to protect its data and activities. This is called counterintelligence that can be divided into offensive and defensive counterintelligence. Defensive counterintelligence entails the protection of ones own information and functions from breach and theft, while its offensive aspects are comprised of deceiving the opponent or competitor by means of faulty data, leading them to draw incorrect conclusions. This is called the art of deception (Sims, 2009).

Sims' theory actually defines the key variables of intelligence and explains the phenomenon of intelligence as a whole – private and state "owned" intelligence. Both sectors use the same methods of intelligence; the private sector is even several steps ahead. As said by Uesseler (2008: 127): "Because of the immense capital private industry has at its disposal, the private sector is generally several steps ahead of intelligence agencies when it comes to knowledge-production instruments and methods."

2.3   Neoliberal theory – a convenient apologist of private intelligence

The theory of adaptive realism explains intelligence and its basic traits. However, until recently, intelligence was the domain of the state and its institutions. To explain the phenomenon of private intelligence, one has to rely on theory which defines the social and economic environment, allowing private intelligence to emerge in the first place.

According to Saad-Filho and Johnston (2005:1) "we are living in a time of neoliberalism". When discussing neoliberalism, one mostly refers to economic liberalism which holds that the state should refrain from interfering with the economy and allow as much freedom as possible to individuals in order for them to operate in the free market. Neoliberalism has its roots in Adam Smith's idea of the "invisible hand of the market" and the understanding of human nature in his theories. However, the concept of neoliberalism is today viewed as the new paradigm of economic theory and policies - as the ideology of modern capitalism - and at the same time as the revival of Smith's 19th century economic theories. Neoliberalism has replaced the concept of Keynesism, the essence of which was the state's interference with the market and which was the main theoretical framework for the Western economy and politics between 1945 and 1970. From that time on, the West is thought to be in the process of neoliberalism (Martinez & Garcia, 2001).

Neoliberalism is "in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices. The state has to guarantee, for example, the quality and integrity of money. It must also set up those military, defence, police and legal structures and functions that are required to secure private property rights and to guarantee, by force if need be, the proper functioning of markets. Furthermore, if markets do not exist (in areas such as land, water, education, health care, social security, or environmental pollution) then they must be created, by state action if necessary. But beyond these tasks the state should not venture. State interventions in markets (once created) must be kept to a bare minimum because, according to the theory, the state cannot possibly possess enough information to second-guess market signals (prices) and because powerful interest groups will inevitably distort and bias state interventions (particularly in democracies) for their own benefit" (Harvey, 2005:2).

When discussing neoliberalism, Thorsen cites Blomgren. Blomgren's definition is in accordance with Harvey's definition; however, Blomgren's definition is clearer and more concise: "Neoliberalism is commonly thought of as a political philosophy giving priority to individual freedom and the right to private property. It is not, however, the simple and homogeneous philosophy it might appear to be. It ranges over a wide expanse in regard to ethical foundations as well as to normative conclusions. At the one end of the line is 'anarcho-liberalism', arguing for a complete *laissez-faire*, and the abolishment of all government. At the other end is 'classical liberalism', demanding a government with functions exceeding those of the so-called night-watchman state" (Thorsen, 2009: 13).

Martinez and Garcia (2001) did a quick summary of the main points of neoliberalism: the government of the free market; lowering social expenditure; deregula-

tion; privatisation; and replacing the term "public good" with the term "individual responsibility". Among these points, privatisation has a special position. The neoliberal concept supports the idea of selling state-owned companies, goods and services to private investors. In our case, this concerns the privatisation of intelligence activities. We should add that this is not always a case of selling certain services of the state, but rather the "outsourcing" of certain activities. This means that private individuals can provide such services, either instead of the state or with its cooperation.

2.4 The information society as the tool of private intelligence?

When discussing intelligence, apart from the intelligence cycle, there is also the so called "intelligence triangle". It is used to define three variables which are related to a certain piece of intelligence information. These are: timeliness, price and reliability of a piece of information. In theory and often also in practice, we can only assure two of the variables regarding the information. If the information is obtained on time and it is cheap, the reliability is often questionable; if the information is timely and reliable, the price becomes an issue and if the information is reliable and cheap, there is always the question of whether we have obtained it in time. This is the dilemma of all organisations involved in intelligence. This dilemma is somewhat diminished if the information gathering is done by the state which has at its disposal the necessary means and technology. However, in the private sector all of the three variables mentioned become of the utmost importance, especially the price. After all, the goal of private intelligence is profit.

When trying to explain the growth of private intelligence we must also touch the topics of information revolution and the availability of information, information flow and information processing.

In accordance with Castells' theory, information society is the new mode of human existence where the organized production, storage, retrieval, and utilization of information play a central role (Castell, 1996).

When talking about the information society we must be aware that it should be viewed as a tool for easier, faster and cheaper functioning of private intelligence organisations rather than a basic prerequisite for their creation.

There are several types of information in the field of intelligence: public information, which is freely available and represents 90% of all information in intelligence activities; "grey information", the access to which is legal, but is not publicised or widely available and which represents 9% of all information; and classified information which is gathered via espionage and represents 0.9% of all information in intelligence (Dedijer, 2005; Reed in Friedman, 2002). At least, these are the claims or calculations of the above mentioned authors.

The information society therefore enables a fast and relatively cheap access to (public) information, which has considerably facilitated the work of intelligence organisations (public and private alike). While state funded intelligence organisations have done their work throughout the history even without high technology, we can hardly imagine a private intelligence organisation turning any profit without an access to high technology and the informatisation of processes. This is why we claim that while the information revolution is not the basic prerequisite for the rapid growth of private intelligence, it is a factor or a tool which enables the success and profit of private intelligence.

3   CONCLUSION

In this article we have tried to find and present three basic theoretical concepts which can be used to explain the multi-layered phenomenon of private intelligence. We should mention that the focus has been on the theoretical aspects of the definition of the phenomenon and, therefore, we have not touched upon the many moral and legal dilemmas which may occur as a result of the privatisation of intelligence. Neither have we touched the theory of all the possible means of control in existence, nor whether or not private intelligence should be controlled.

The changes which occurred after the end of the Cold War have considerably changed the contemporary security environment. The rise of untraditional, non military threats has forced the makers of national security systems to change the concepts which were dominant from the time of World War II. These changes brought about the principle of asymmetry when dealing with threats. Together with the new threat paradigm, the factors that also contributed to the changes in the security environment were also the information revolution and the victory of neoliberalism worldwide. Information that used to be unavailable became available over night, and the resulting technology based information flow coupled with globalisation has given a new value and meaning to information used advantageously by states, private organisations and individuals alike. Neoliberalism also represents an important theoretical basis for the explanation (and justification) of the changes to the security environment and the subsequent phenomenon of security privatisation. One of the main ideas of neoliberalism is the lessening of the state's influence and the emphasis of the role and responsibility of an individual. Therefore, the activities in the field of security, which used to be in the hands of the state, are now becoming a part of the private sector and a part of the services in the free market.

We are aware that the studied phenomenon poses many questions; therefore, further academic and theoretical study of private intelligence is essential. This

article, besides opening new issues and dilemmas, also defines and explains a theoretical basis for the emergence of private intelligence, which, in the past decade, has become a successful phenomenon in several Western countries, particularly in the USA.

REFERENCES

Anžič, A. (1997). *Varnostni sistem Republike Slovenije.* ČZ Uradni list Republike Slovenije: Ljubljana.

Castells, M. (1996). Information Age: Economy, Society and Culture, Volume I: The Rise of the Network Society. Oxford: Blackwell.

Dedijer, S. (2005). Obveščevalna knjižnica v obveščevalnem živčnem sistemu Slovenije? *Organizacija znanja 10(3)*, 124–129.

Friedman, R. S. (2002). Review Essay – Open Source Intelligence. *NATO Open Source Intelligence Reader,* (pp. 17–23). Retrieved May 15, 2009, from http://www.oss.net/dynamaster/file_archive/030201/254633082e785f8fe44f546bf5c9f1ed/NATO%20OSINT%20Reader%20FINAL%2011OCT02.pdf

Harvey, D. (2005). *A Brief History of Neoliberalism.* Oxford: Oxford University Press.

Johnson K. L. (2009). Sketches for a theory of strategic intelligence. In P. Gill & S. Martin (Eds.), *Intelligence Theory.* New York: Routledge.

Kent, S. (1949). *Strategic Intelligence for American World Policy.* Princeton: Princeton University Press.

Martinez, E., & Garcia, A. (2001). What is »Neoliberalism«? A brief Definition. Retrieved May 26, 2009, from http://www.irtfcleveland.org/economicjustice/antiglobalization/WhatIsNeoLiberalism.pdf.

Purg, A. (1995). *Obveščevalne službe.* Ljubljana: ČZP Enotnost.

Saad-Filho A., & Johnston D. (2005). Introduction. In A. Saad-Filho, & D. Johnston (Eds.), *Neoliberalism – A Critical Reader* (pp. 1-6). London: Pluto Press.

Sims, J. (2009). Defending adaptive realism: intelligence theory comes of age. In P. Gill, S. Marrin, & M. Phythian (Eds.), *Intelligence Theory* (pp. 151-165). New York: Routledge.

Singer W. P. (2003). *Corporate Warriors.* New York: Cornell University Press.

Šaponja, V. (1999). *Taktika dela obveščevalno varnostnih služb.* Ljubljana: Visoka policijsko-varnostna šola.

The Washington Post (2010). *Top Secret America - A Washington Post Investigation.* Retrieved July 29, 2010, from http://projects.washingtonpost.com/top-secret-america/.

Thorsen, E. D. (2009). *The Neoliberal Challenge*. Retrieved July 29, 2010, from http://folk.uio.no/daget/neoliberalism2.pdf.

Uesseler R. (2008). *Servants of War Private Military Corporations and the Profit of Conflict.* Brooklyn: Soft Skull Press

Whitehead, S. (2003). *Corporate Counterintelligence – protecting business information.* Retrieved May 25, 2009, from http://cbr.co.za/regular.aspx?pklRegularId=1390.

THE SECURITY OF JUDICIAL BODIES IN THE REPUBLIC OF SLOVENIA

Authors:

Marjan Miklavčič and Kaja Miklavčič

ABSTRACT

Purpose:

This article analyses the security problems of the judicial bodies of the Republic of Slovenia, which have been strongly shaped by the security occurrences in courts, prosecutor's offices and the State Attorney's offices.

The aim of this article is to demonstrate the importance of the right level of security in the judicial bodies for the untroubled execution of jurisdictional functions. According to the risks and security challenges linked within the internal and external security environment, the aim is also to present the current situation of the security architecture and the evaluation of threats being posed to the jurisdictional organs in the Republic of Slovenia.

Methodology:

For the scope of the article, a descriptive method was used to explain the organisational structure of jurisdictional system of the Republic of Slovenia. The data was obtained from legal acts and several security directives. Furthermore, within the causal method, the sources of current conditions of discussion were identified and analysed. Personal expertise was used for the introduction of problems and proposals.

Findings:

The Jurisdictional system of the Republic of Slovenia works in a relatively stable security environment, which can change dynamically according to the impact of different internal and external security factors. The Ministry of Justice of the Republic of Slovenia is aware of those objective circumstances. It also recognises the fact that before the year 2004, security assurance in the courts was insufficient.

Since 2005, security in the courts has been intensely modified in terms of the security policy of judicial bodies, which is based on various types of prevention, forms of physical and technical protection and with the cooperation between those responsible for security tasks in the wider security environment (i.e., Police, Prison Administration, private security agencies, etc.). Modifications to the development of security management has occurred on the three levels: the systematic level, which is the responsibility of the country; the organisational level, which is subject of leaders of judicial bodies; and the individual level, which is created by individuals, especially by judges, state prosecutors and state defenders.

Originality/value:

The article emphasises and attempts to extend the understanding of the importance of the security function in jurisdictional bodies of the Republic of Slovenia, which, according to security challenges, has been neglected far too often.

Keywords: Jurisdictional System Of The Republic Of Slovenia, Judicial Bodies, Security Environment, Security Policy, Security Management, Protection, The Broken Window Theory.

1   INTRODUCTION

The judicial system of the Republic of Slovenia functions in a relatively stable environment that changes dynamically depending on various internal and external safety factors. Unforeseeable security phenomena such as anonymous bomb and physical threats and other security events to the judicial system can quickly change the security environment in judicial institutions, thereby resulting in unpredictable damage to people, property and the judicial system (Ministrstvo za pravosodje, 2008). The Ministry of Justice of the Republic of Slovenia became aware of these objective circumstances with the additional fact that before 2004, security provisions in the courts, state prosecutor's offices and Attorney General's offices were insufficient and were not given proper attention.

Typical security events and incidents related to judiciary officials and parties within the proceedings and intentionally caused damage and insults, such as an anonymous bomb, physical and verbal threats, as well as other security occurrences that happened during a recent time period, especially from the year 2007, call for a higher level of awareness of employees in judicial authorities. With changes to the security environment recently brought about by the financial and economic crisis due to unemployment, violence, and more crime, the institutional service providers have been required to provide personal security and security to the employees as well as parties in the judiciary system.

In Slovenia, there is an awareness that the security of judicial authorities is created at the local level; meaning in the living security environment where individual security events occur. Accordingly, the coordination of security tasks has been intensified with other internal security providers aiming at ensuring fast external response to the security needs of the judicial authorities and exceptional events related to judiciary officials and other employees in the judiciary system.

Since 2005, security infrastructure has been installed in courts as a part of the security policy implementation within judicial authorities in the Republic of Slovenia that nowadays is based on various forms of prevention, forms of physical and technical protection and partnership cooperation between the security

service providers[1] in a broader internal security area (Pravilnik o določitvi varnostnih standardov poslovanja sodišč, 2007). In addition, the Ministry of Justice is well aware of the fact that the security of employees in the judiciary system is not only limited to the workplace in the courts, state prosecutor's offices and Attorney General's offices since the complexity of the security problem requires the level of personal security of judicial officials and staff to exceed the workplace and therefore, the Ministry and judicial authorities pursue the objective of the provision of better knowledge of personal security measures.

The development of security management in Slovenia followed the security policy creation in judicial authorities at three levels, at the system level mainly being dealt with by the state, the organisational level that is within the competence of the heads of judicial authorities (in particular, directors of courts) and at the individual level, created by individuals, particularly judges, state prosecutors and attorneys general (Miklavčič, 2008).

Slovenia seeks to support the establishment of the security architecture of judicial authorities in such a way as to express the dignity of these authorities and their openness whereas simultaneously, security procedures and measures would be provided ensuring the sufficient security and function of bodies to the employees and clients (Pravilnik o določitvi varnostnih standardov poslovanja sodišč, 2007). The greatest success in creating the security architecture of the Slovene judicial authorities was achieved with the trust built between the judicial authorities and the Ministry, on the one hand, and the cooperation of the Ministry, judicial authorities and internal security providers on the other hand. The exchange of information among institutions made remarkable progress and thus also preventive activities can be applied to respond to security challenges, which was not the case in Slovenia in the past (Ministrstvo za pravosodje, 2008).

2   SECURITY AND THE CHANGED SECURITY ENVIRONMENT IN JUDICIAL AUTHORITIES IN THE REPUBLIC OF SLOVENIA

The security paradigm at the beginning of the 21st century differs greatly compared to the past traditional and conventional risks, problems and threats. It has acquired some significant new characteristics and thus has had an impact on the perception and understanding of security in modern society (Grizold, 2005). New security risks and asymmetric security threats are generated by, and under the influence of the globalisation processes covering a broader international security environment. Within the security provision efforts, all this poses new challenges and problems to states and the international community (Vuk, 2005).

---

[1]   Ministry of the Interior – the Police, Sector for the execution of criminal sanctions of the Republic of Slovenia, private security agencies, municipal warden services, etc.

"Security is a situation whereby balanced physical, mental and material existence of an individual and community is ensured in relation to other individuals, communities and nature" (Grizold, 1992: 6). This is an inherent structural element and relates to the society, the state as well as the international community (Anžič, 1997). Due to the impact of the globalisation process and internationalisation, the modern society has become more vulnerable in the changed security environment (Ministrstvo za obrambo, 2005).

The Republic of Slovenia, also faced with modern risks and sources of security threats, is aware of the consequences of globalisation and mutual dependence. Accordingly, it modifies and adapts its national-security system and as stated in the Resolution on National Security Strategy of the Republic of Slovenia (ReSNV, Ur. l. RS, št. 27/2010) sources and risks of security environment are analysed and thus the grounds of security policy are defined that ensures the security of citizens, protects basic values in the society and takes parts in the provision of security and stability in a broader international community. In doing so, it takes into consideration its realistic situation and position in a narrow and broader international environment (Vuk, 2005). Judicial authorities are an integral part of the security environment of which they create with their activities within a set of systemic-organisational solutions of the comprehensive functioning of the state in ensuring national security through the exercise of judicial authority in accordance with Article 3 of the Constitution of the Republic of Slovenia. Judicial authorities retain their basic function of exercising judicial authority, ensuring respect for human rights, fundamental freedoms and democracy and the rule of law (Ustava Republike Slovenije, Ur.l. RS, št. 33/91). With the new Resolution on National Security Strategy of the Republic of Slovenia (2010), judicial authorities were given a special role and importance in ensuring internal security. According to Jimmie H. Barrett, protecting courts and judges means protecting democracy and the rule of law (Meško, 2010a), therefore in the security environment judicial authorities represent a category which, due to the need of untroubled execution of jurisdictional functions, requires a sufficient security level and therefore a certain form and scope of security.

The security of judicial authorities in Slovenia can be viewed as a situation that needs to be maintained so as to preserve their functions and purpose. The security of individuals, property and data located in courts, prosecutor's offices and the State Attorney's offices also needs to be protected against the threat sources (Pravilnik o določitvi varnostnih standardov poslovanja sodišč, 2007). The issue of judicial authority security and their security risk in Slovenia can only be understood when looked at from a broader perspective, because only thus we can comprehend a broader importance of proportional security provision to judicial authorities, the establishment of their security architecture with its final product enabling security to an individual and responses to concrete security threats to judicial officials, other staff and parties to proceedings (Miklavčič, 2008).

3   SECURITY POLICY IN SLOVENE JUDICIAL SYSTEM

Grizold (2004) defines security policy in the broadest sense as, all the activities that a government has conducted or will conduct to attain the highest national goal. He stresses that it concerns advance preparations against the threats in nature, society and among societies. In the narrow sense, security policy is defined by a set of all measures, activities and actions aiming to the establishment and operation of the national security system.

The policy of internal security of the Republic of Slovenia is based on the respect for constitutional principles, regulations and principles of international law and adopted obligations in the international community (ReSNV, 2010). As is the case in other countries, the system of the internal security provision in the Republic of Slovenia is based on the operation of classical state bodies such as the Police, Customs, intelligence services, judicial authorities, inspection and other bodies of formal control. These security system institutions implement the internal security policy through strategies mainly emphasising the guarding and protection of human life, personal safety and property, the fight against crime, protection of state institutions, its representatives, key infrastructure and the maintenance of law and order (ReSNV, 2010).

Until 2005, the security of judicial authorities was neither adequately professionally nor sufficiently regulated. The provision of security was more or less left to inventiveness of directors of courts and other judicial officials or heads of individual bodies (Miklavčič, 2009). After 2006, the Ministry of Justice started to implement the security policy that now represents the highest level of security provided to judicial authorities, officials and other staff and parties to proceedings with the implementation of security and other measures and mainly with the activation of the professional part of institutional security providers (Miklavčič, 2009). Undoubtedly, it is the organisational-security process in the judicial system that is, due to rapidly changing security environment, in a constant process of modification and therefore no ideal or final solution can be expected. Comprehensive security architecture of judicial authorities in Slovenia will constantly have to be upgraded and in the future it will be derived from creativity, dynamism, a high level of awareness, professionalism and responsiveness and thus result in a strong security culture.

3.1   Security measures in the judicial system

When shaping the security policy and planning security measures, the Ministry of Justice followed the proposals of the Government of the Republic of Slovenia listed in the Framework of Economic and Social Reforms to Increase Welfare in Slovenia, recommendations of the National Assembly of 27 October 2005, point III – Justice, and the Convergence Programme for 2005-2008. On that basis, the

Ministry in cooperation with the Supreme Court of the Republic of Slovenia and Office of the State Prosecutor General of the Republic of Slovenia developed the Operational working plan being the integral part of the Lukenda Project, which represents numerous measures and thus reducing backlog of court cases (Ministry of Justice, 2005). In the Permanent work programme with accompanying measures it also envisages better security in the courts because during the preparation phase, it was recognised that in an environment of insufficient security and a problematic working environment, judicial functions could not be executed (Ministrstvo za pravosodje, 2005). With this project the management of security phenomena in courts and the provision of optimal security of judges, court staff, parties and other persons in courts became one of the priorities of the Ministry (Ministrstvo za pravosodje, 2005).

In December 2005, the Ministry of Justice systematically started to introduce a modern concept of security policy in judicial authorities when, on the basis of the Judicial regulations, it invited the court presidents to prepare threat assessments of the courts. Based on the analyses of threat assessments and the security environment situation, the Ministry of Justice prepared implementing documents that in addition to in the courts also included judicial authorities where security was to be improved. Thus, the Ministry together with court directors and heads of other judicial authorities and other bodies in the Republic of Slovenia started the planned proportional and coordinated introduction of security measures. Significantly, more financial resources were provided for security in the judicial system than in the previous period to be intended for the construction of efficient security systems in individual judicial authorities (Ministrstvo za pravosodje, 2008).

In the long run, the Ministry of Justice set up an objective to establish efficient security architecture to be achieved by the following short-term goals (Ministrstvo za pravosodje, 2005):

- sufficient security in courts – modernisation of the Slovene judiciary system,
- employment of internal sources of knowledge,
- transfer of good practices,
- establishment of security counselling between the Ministry of Justice and courts (partnership relation),
- development of security management as an integral part of the execution of the judicial office and management in the judicial system,
- establishment of security-counselling councils (institutional providers of security services),
- training of judges and court staff,
- modernisation of technical protection,
- establishment of physical protection in all courts, and
- monitoring of security measure implementation and security phenomena in courts by a security expert of the Ministry of Justice.

The analyses of the security situation of judicial authorities revealed that the security and technical equipment was inadequate and the forms of physical protection and other security measures were insufficient, inefficient or even non-existent. On the basis of the document dealing with the issues of security and related problems the Ministry prepared these objectives in regard to the improvement of the situation (Ministrstvo za pravosodje, 2006):

- *upgrading the systems of technical protection*;
- *establishment of physical protection* in courts and the provision of assistance in case of emergency*;*
- *building security culture* with the employees by training them in adequate training courses;
- *preparation of threat assessments* and their confirmation and consequently the development of security plans, House rules and other documents to ensure security;
- *provision of adequate and suitable premises* for the operation of judicial authorities with adequate security architectural solutions; and
- other implemented security measures.

As deemed necessary for the installation of suitable security architecture in courts and based on the Courts Act (Ur. l. RS, št. 94/07), the Ministry of Justice issued the Rules on security standards of court operations in 2007 (Ur. l. RS, št. 41/07), where security standards of the operations of all Slovene courts were determined to ensure optimal forms and scope of court protection and the highest level of security. This Act was followed by the modification of provisions of the chapter in the Court rules governing the security in courts.

Recognising that security is indivisible, the Ministry of Justice and judicial authorities established a partnership that until that time was weak in the security area. A strategic and integrated approach, including all providers of security services at the national and local levels, was applied. Apart from assessments and analyses of security risks, the forms of partnership cooperation also included concrete measures[2] (Ministrstvo za pravosodje, 2005).

The establishment of security architecture in an individual judicial authority was assisted by the Ministry of Justice (Ministrstvo za pravosodje, 2008) so that security architecture was established independently in accordance with the size, location, importance and threat assessment.

The threat assessments and protection plans indicate that the level of security threat in courts is moderate and is negatively impacted by increased crime level in individual environments, decrease of the social standard of the population, domestic violence, unemployment, etc. (Miklavčič, 2009). In a broader security

---

[2] Among these measures there are financing, control, security policy creation, reporting and information provision, etc.

environment where judicial authorities operate, these security phenomena exert direct and indirect impact on the provision of security. Security events and the security environment thus required proportional introduction of adequate security measures in the judicial system which have recently been shown to reduce threat level.

According to recent changing security environment and security events related to judicial authorities, the emphasis has been placed on the introduction of a security policy of positive response to individual security threats. With the amended Court Act and the Court Rules, suitable systemic and organisational solutions were introduced that were related to the forms of security management in courts and the security culture of the employees in the judiciary system (Ministrstvo za pravosodje, 2010). The form of work and cooperation have proven to be positive, especially in terms of cooperation with other bodies, organisations and institutions whose activities are directed at the promotion of better security and the promotion of security self-organisation (Ministrstvo za pravosodje, 2010).

Based on the introduced measures and improvements in security management in judicial authorities, last year there were less security events recorded than in the previous period (Ministrstvo za pravosodje, 2010). On the basis of the analyses of individual cases, these events are tougher and with the potential to have more negative impacts on the health and life of the employees or property of judicial authorities. To a higher extent, individual security phenomena were dependent on the external security environment where the dynamics can no longer be predicted. Due to security challenges with direct negative impacts on the work of judges, during the next period; the cooperation of key security service providers will also be necessary to ensure optimal security in courts, prosecutor's offices and the State Attorney's offices and the high level of security of the employees in their living environment.

3.2   Measures improving the feeling of safety

The measures that only improve the feeling of safety whereas the security is not really improved could be placed into the "broken window theory" that was developed by James Wilson and George Kelling in 1982 (Kovačič, 2010). The theory is based on the relationship between disorder and the level of crime and offers the explanation that the maintenance of law and order and the cleanliness of public places result in less egoistic behaviour followed by less crime and on the other side a higher level of rationality in society (Wilson & Kelling, 1982).

On the basis of the study and analyses of the existing security systems in courts and other judicial authorities with the proposals concerning security improvements and priorities prepared by the Ministry of Justice of the Republic of Slovenia in October 2006 and the analyses of security events and the security ar-

chitecture level of the judicial authorities until 2010, it can be claimed that the broken window theory also applies to Slovenia when discussing security in the judiciary system.

Let us imagine two courts in different parts of Slovenia. The first court has updated all the documents ensuring adequate security levels such as security reminders, a security plan and threat assessments, house rules, and the control of security services is provided whereas the judges and other staff attended training sessions on security that consequently raised the level of organisational and security culture in the court. The court premises and the surrounding areas are well arranged, order is respected and it is common knowledge that the president of the court together with his or her deputy manages the court in the manner that enjoys the respect of the employees and parties to proceedings. The consequence of this situation is that there are less security events and the court, as well as the judicial officials and other staff members are respected in the environment. The parties coming to court can feel its dignity. Most importantly is that the threshold of security tolerance, the acceptance of the security environment in the court, is at a high level, creating a friendly security atmosphere for the employees and the clients. Consequently, less frequent security incidents or events are recorded that disturb the court's operation.

In the other court, where little or nothing was done in the field of security management and where security services do not play their roles and the tidiness and order are at a low level as well as the security culture of the employees, a kind of situation with "security chaos" is dominant. This is accompanied by inadequate organisational structure and frequent security incidents, complaints of clients and anonymous complaint letters, etc. The security risk level in this court is high since parties to proceedings are less security tolerant, which is the result of the message being sent to the environment as regards the security architecture level.

The perception of the security of judicial authorities is to a great extent connected with order, self protection, security culture and due respect to the rules and this is where problems are most frequently encountered. For people, judicial institutions still have special symbolic meaning and the majority of them believe that those institutions, especially courts, are safe (Meško, 2010b). Therefore in the future, the necessary better security of judicial authorities will need to be ensured with better organisational solutions in courts, prosecutor's offices and the State Attorney's offices. Like Barrett argues in his book (Meško, 2010b), judicial authorities should also contemplate crime prevention through environmental design and situational prevention measures, building construction in accordance with the theory of defended territory, use of restraining measures and other technical support. Moreover, court safety inspections should be performed every day, week and month in accordance with security plans (Meško, 2010b). In Slov-

enia there is still sufficient manoeuvring space since the development of security culture, security management and control have not been optimised nor have fully utilised the options of dynamic security policy areas, security training and the awareness of the employees.

4 SECURITY HAS ITS PRICE

The state, its institutions and ultimately its citizens feel the economic and financial crisis in all areas. It brings numerous, already mentioned side products with a negative impact on the atmosphere in society. The negative impact of the financial crisis in particular due to social injustice intensifies a feeling of ineffective policy in the judiciary system.

The crisis is also mirrored in investments into judicial authorities where an investment deadlock is to be expected. In the implementation of the security policy, the judicial authorities are faced with the dilemma of how much funds to allocate to individual areas forcing the state to look for an efficient organisational and financial formula to ensure the judicial authorities undisturbed operation and judicial officials and other staff the implementation of security measures for an optimal security level. A decrease of funds and the tightening belts in the field of internal security has, in most cases, proven to be the wrong choice because the consequences are too severe and irreparable and in the long run a decreased budget can also be reflected in the capacity to respond to security threats. The introduction of security measures that have to be supported by financial resources requires proportionality, rationality and prudence. This also applies to judicial authorities. When creating the security policy in judicial authorities the fact is that security has its price and that needs to be understood so that the state will have to play its role much more reasonably.

5 CONCLUSION

On the basis of this article, it can be established that after 2006 there was an important shift in the security of judicial authorities, which is the consequence of dynamic events in the changing security environment of the judiciary. The Ministry of Justice together with judicial authorities faced a number of challenges and while creating the security policy and security synergy, the mental and organisational patterns concerning security perception were reshaped. As a result, the security architecture of judicial authorities changed and thus also the provision of optimal security level, regardless of security incidents.

It can also be claimed that the Republic of Slovenia started to build the security architecture of judicial authorities recently was lucky not to have recorded any

security incidents with severe consequences. However, it is not wise to tempt fate and Slovenia will need to intensify its development and upgrade its "soft security", such as the forms of self-protection, security management, security training, etc. The security of judicial authorities has to become the primary concern of key players, in particular the directors of courts, since the security management implementation in court rooms is a precondition of safely conducted trials.

The experience from the past opened the next important chapter on the creation of the security concept of judicial authorities that relates to the protection of the life and health of judicial officials, their family members and other staff in their living environment. With cooperation, care, professional approach and suitable reaction, the Republic of Slovenia will have to ensure determined responsiveness of all institutional security service providers so that in the living environment, meaning local environment, it will also provide optimal security level for the employees and consequently, all the citizens.

Slovenia ensures a relatively high security level in the judiciary system but we need to be aware of the fact that a modern security environment is extremely complex and unpredictable and therefore updated, integrated and coordinated approaches are needed. Undoubtedly, in the future, the security environment will have to be further analysed and measures will have to be identified that will efficiently resist security threats. The implementation of the security policy of judicial authorities cannot neglect the level of proportionality, rationality and reasonableness since the Ministry of Justice and judicial authorities are faced with the problem of financial limitations. Reduction of the budget in the field of security can lead to severe and irreparable consequences, and in the long run, also an inefficient response to security threats. Accordingly, Slovenia will have to realise that security has its price and play its role more reasonably. In the future, the judicial authorities and Ministry of Justice will have to ensure security through more efficient organisational solutions, better order, self protection and a higher security culture with respect of the rules.

REFERENCES

Anžič, A. (1997). *Varnostni sistem Republike Slovenije*. Ljubljana: Časopisni zavod Uradni list Republike Slovenije.

Grizold, A. (1992). Oblikovanje slovenske nacionalne varnosti. In A. Grizold (Ed.), *Razpotja nacionalne varnosti; Obrambne raziskave v Sloveniji* (59-93). Ljubljana: Fakulteta za družbene vede.

Grizold, A. (2004). Teze za pogovor pri predsedniku republike na temo v svetu dejavna in prepoznavna vloga Slovenije. V *Pogovori o prihodnosti Slovenije pri predsedniku*

Republike Slovenije: V svetu dejavna in prepoznavna Slovenija (42-50). Ljubljana: Urad Predsednika Republike.

Grizold, A. (2005). *Slovenija v spremenjenem varnostnem okolju.* Ljubljana: Fakulteta za družbene vede za založbo Hermina Krajnc.

Kovačič, M. (31.07.2010). Varnostni teater ima svojo ceno. *Dnevnik,* Retrieved September 1, 2010, from http://www.dnevnik.si/tiskane_izdaje/objektiv/1042377549.

Meško, G. (2010a). Jimmie H. Barrett: Protecting court - a practitioner's guide to court security: (Varovanje sodišč - priročnik za praktike o varnosti na sodiščih). *Revija za kriminalistiko in kriminologijo, 61* (2), p. 228-231

Meško, G. (2010b). Jimmie H. Barrett, Protecting court - a practitioner's guide to court security, Mill City Press, Minneapolis, 2009, 137 pp. *Varstvoslovje, 12* (2), p. 235-239.

Miklavčič, M. (2008). *Management v sodstvu.* Ljubljana: Planet GV.

Miklavčič, M. (2009). *Varnost v pravosodju: Varnost na sodiščih.* Ljubljana, Ministrstvo za pravosodje, Center za izobraževanje v pravosodju. Not submitted for publication.

Ministrstvo za obrambo (2005). *22. mednarodna delavnica o globalni varnosti: Varnostna strategija za novo desetletje.* Not submitted for publication.

Ministrstvo za pravosodje (2005). *Odprava sodnih zaostankov: Projekt Lukenda.* Retrieved September 1, 2010, from http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads /2005/PDF/projekt _Lukenda.pdf.

Ministrstvo za pravosodje (2006). *Varnostni elaborat s predlogom varnostnih izboljšav in prioritet.* Not submitted for publication.

Ministrstvo za pravosodje (2008). *Doseženi cilji na področju pravosodja v mandatu 2005-2008.* Ljubljana: Ministrstvo za pravosodje.

Ministrstvo za pravosodje (2010). *Informacija Ministrstva za pravosodje o izvrševanju in nadgradnji Projekta Lukenda – realizirane zaposlitve sodnega osebja po Projektu Lukenda.* Ljubljana, št. 007-85/2006, dated August 19, 2010.

Pravilnik o določitvi varnostnih standardov poslovanja sodišč. (2007). Ur.l. RS, št. 41/2007.

Resolucija o strategiji nacionalne varnosti Republike Slovenije (ReSNV,) (2010). Ur.l. RS, št. 27/2010.

Ustava Republike Slovenije (1991). Ur.l. RS, št. 33/91.

Vuk, P. (2005). *Spremembe v mednarodnem varnostnem okolju.* Ljubljana: Ministrstvo za obrambo, Direktorat za obrambno politiko, Sektor za obrambno planiranje.

Wilson, J.Q. & Kelling G.L. (1982). Broken Windows: The police and neighborhood safety. *The Atlantic Monthly, 249* (3). Retrieved September 1, 2010, from http://www.theatlantic.com/past/politics/crime/windows.htm.

THE POLITICS OF PEACEKEEPING: THE CASE OF FORMER YUGOSLAVIA

Authors:

Bernarda Tominc and Andrej Sotlar

ABSTRACT

Purpose:

The main aim of this article is to highlight the ethno-political conflict in former Yugoslavia. The new wave of conflicts after the Cold War influenced the decision making process of crisis management in international organisations and their member states. The purpose of this article is also to analyse the patterns of peacekeeping, military and other interventions in Former Yugoslavia.

Design/methodology/approach:

The current study presents an overview and exploratory analysis of the politics of peacekeeping using qualitative research methods.

Findings:

The efforts of international community to bring peace and security to the Balkans and to create durable stability have a long history. However, the war in Bosnia and Herzegovina joined a broad range of institutions and countries at the same "peace table". No matter how difficult it is to achieve cooperation between international organisations, as well as among their member states, the study points out the importance of such cooperation within the dynamic context of the contemporary security environment, especially in relation to case studies of intra-state conflicts. The cases of intervention in Kosovo, Bosnia and Herzegovina and others show that decision making has been shifted to several institutions. Problems of coordination and failed crisis respond occurred as a consequence of this fragmentation.

Comparing to the cold war period, there haven't been any clear guide-lines on how to proceed in maintaining peace since 1991. In Former Yugoslavia, the military force was used to enforce peace in Croatia and Bosnia, and to achieve a peaceful resolution of disputes in Macedonia and Kosovo. As Cottey (2008) states, the new model of peace operations lies in the middle ground between traditional UN peacekeeping and classical humanitarian interventions and combines elements of both. Regarding the national sovereignty vs. human rights, the decision making process shifted in favour of the latter.

Practical implications:

There are many general lessons to be drawn from this international experience, lessons that are applicable to other parts of the world and other similar circumstances.

Originality/value:

This artcile provides detailed information on the politics of peacekeeping and it offers an initial evaluation on the policy decision making process. This paper extends understanding of international efforts to bring peace and stability to the region.

Keywords: Peace Operations, Peacekeeping, Balkans, International Security, Policy Making, International Use of Force, Politics of Peacekeeping.

1   INTRODUCTION

A comprehensive institutional structure of military and non-military factors has been established in order to provide peace, security and stability worldwide. The importance of international and institutional cooperation was already a part of the security agenda during the Cold War and by the end of the 20th century it replaced in some way the traditional concept of national security. Majority of the second half of the 20th century was primarily characterised by a bipolar division of the world and security was regarded mostly as a state concern. Changes in the international security environment have fostered the redefinition of the concept of security at all three levels - individual, national and global/international. As a result, the security, defence, military and other policies of international and regional organisations as well as their member states have fundamentally changed.

Dannreuther (2007) argues that there have been three major shifts in the understanding and conceptualization of international security since the end of the Cold War: a) the significant reduction in the expectation of a major war between the great powers and the changing nature of war; b) the shift of global focus and attention from the East-West to the North-South axis, along with the growing scepticism about the state role as a sole, or the most effective, security provider; c) the problematic relationship between power and legitimacy and the role of norms and international cooperation in a unipolar international system.

There was no longer a common enemy defined to the East or to the West and no need for an exclusive defensive policy against the threat from the other side of the iron curtain. This historical turning point brought numerous uncertainties and unpredictability to the international community. The challenge to the existing international system was the emergence of new threats and the resurgence of old and familiar ones, like weapons of mass destruction and terrorism. New challenges, like demographic growth, financial, economic and social risks, environmental security, climate change, struggle for water and oil, migrations, cyber-threats, abuse of information technologies, military threats, terrorism, proliferation of conventional weapons and weapons of mass destruction and nuclear technology, organized crime etc. are reasons for accepting new strat-

egies and defence policies on the national (State), international and regional level (security and political institutions and non-governmental institutions). The transatlantic international community embraced new tasks and started to play an increasingly proactive role in conflict management in non-member states as well, with so called "out of area" missions. But, the emergence of new threats did not mean that the scourge of the war had been eliminated. Brutal civil interstate wars emerged in the beginning of the 1990s all over the world (e.g., Rwanda, Yugoslavia, Soviet Union, Liberia, Myanmar, Sri Lanka, and Tajikistan).

Several reasons for the emergence of short or long-term[1] conflicts can be found worldwide: resources (degradation of renewable resources (Smith, 2004)), national/ethnic diversity, ideology, autonomy, repressive political systems, decolonisation, economic factors (weak economy), the interaction of these and many other causes etc. In the case of former Yugoslavia, the secession and the territory are the basic reasons for most conflicts that during the time escalated to severe conflict or war. Armed conflicts are defined as open, armed clashes between two or more centrally organized parties, with continuity between the clashes, in disputes about power over government and territory (Smith, 2004). Clausewitz defined war as 'an act of force to compel our enemy to do our will' and 'the continuation of policy by other means' (Clausewitz, 1985). The impact of the state failure manifested in the form of civilian suffering, refugee flows, and the spill over political conflict and violence across local borders became especially evident with the collapse of Yugoslavia and drew international attention and intervention (Hoyt, 2003: 217)

While the great powers are no longer the primary actors of global conflict concern, regional and international organizations (meaning the United Nations (UN)), Organization for Security and Cooperation in Europe (OSCE), European Union (EU), North Atlantic Treaty Organisation (NATO), Council of Europe (CoE)) form a new mission: to project stability in a post-cold war world, to play a key role and retain responsibility for stabilizing the Euro-Atlantic security environment and to maintain international peace and security. Globalisation, ideological supremacy and economic strength of some super powers should be taken into account, as well. However, the USA had an influence on the security situation in Europe in the past and it still remains a central concern of the USA in the beginning of the 21st century.

Contemporary peace operations are of a complex nature, they involve diplomatic, military, economic, social, cultural and other aspects; a multi-dimensional approach is therefore necessary. The second reason for a multi-dimensional approach lies in several unsuccessful operations, which have shown excessive bureaucratization on the one side, and on the other side, these institutions were not prepared for new forms of conflict early in the 1990s. Today's practice is a

---

[1]   It is extremely difficult to bring armed conflicts to an end. Smith (2004) has proven that 30 per cent of armed conflicts active in 1999 lasted longer than 20 years, and 66 per cent lasted longer than five years.

reflection of so-called lessons learned in the early 1990s. In addition, the contemporary nature of peace operations requires the involvement of other entities like NGOs, civil society at large, governments, prominent individuals (special representatives) to ensure economic progress, social development, establishment of a basic level of political culture, etc. and on the basis of it to ensure sustainable peace and security. The organizational enlargement process is also designed to assist in the transformation of the countries involved and to promote peace, stability, democracy, human rights, rule of law and market economy locally and globally. Large-scale violations of human rights, refugees, genocide witnessed massive growth of NGOs, particularly those engaged in peacekeeping, for example in former Yugoslavia, Rwanda, Afghanistan, Sierra Leone, Haiti, etc. The collapse of the communist regime in Yugoslavia and Soviet Union enabled the expansion of previously forbidden NGOs.

2   CONFLICT MANAGEMENT IN FORMER YUGOSLAVIA

There is the obvious wave of new conflicts[2] in the post-Cold War and the ethno-political conflict that demands most concerns of the international community for causing civilian suffering, refugee flows and destroying natural/cultural heritage. Contrary to the past, when the ethno-political conflict was in the domain of state internal affairs, we can nowadays notice special interest of different actors in conflict. Not only that the great players in the Cold War era haven't shown any evident interest, according to international agreements, the troops from the permanent members of the UN Security Council (UN SC) were excluded from settling conflicts, as an example. Neither was the use of military force to maintain peace the common case during the Cold War. Operations were generally non-coercive, impartial, accepted by the involved parties, deployed after ceasefire.

A plethora of actors were involved in conflict management and conflict resolution in the beginning of the 1990's in former Yugoslavia - from regional and international intergovernmental organizations (IGO's) to non-governmental organizations (NGOs and INGOs). The ethno-political conflict, as a new post-cold war security threat, increasingly challenged UN, NATO, OSCE, and EU. These institutions are of main interest in our analysis, regardless of many others organisations that have an important role in conflict resolution (World Bank, CoE, The Stability Pact, NGOs etc.). These organisations have mechanisms that are internationally accepted, they have capabilities, budgets and interest.

---

2   The definition of conflicts is about the clash of interests (positional differences) over national values of some duration and the magnitude between two or more parties (organized groups, states, groups of states, organizations) that are determined to pursue their interests and achieve their goals (HIIK, 2009).

Worldwide, almost all post-Cold War conflicts have been intrastate conflicts. Among the 118 armed conflicts that arose between 1990 and 1999 (100 primarily civil wars; 2 essentially civil wars; 5 wars of independence; 10 inter-state wars; and 1 trans-national war), only ten conflicts can be strictly defined as inter-state conflicts (Smith, 2004) (see Figure 1).
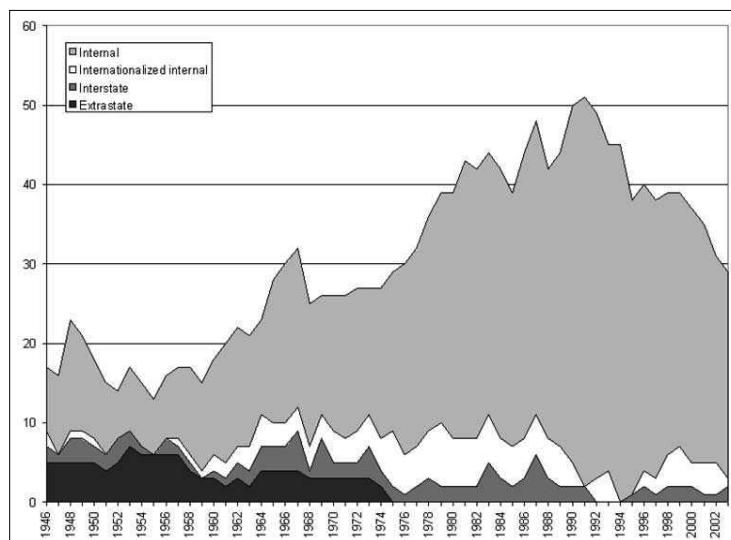
Source: (Eriksson & Wallensteen, 2004: 627)

Figure 1: Number of Armed Conflicts by Type, 1946–2003

The conflicts erupted in the era of political power vacuum (Rusu & Schmeidl, 2008) after the breakdown of Eastern Allies, new security architecture emerged in Europe, and since IGOs were faced with new security challenges, there was a strong demand for structural reorganisation. The main problem in the beginning of the 1990's was that there were no clear guide-lines on how to proceed in maintaining peace in the contemporary social environment. In former Yugoslavia, for example, the military force was used to maintain peace in Croatia and Bosnia and in Macedonia and Kosovo for peaceful resolution of disputes. The new model of peace operations lies in the middle ground between traditional UN peacekeeping and classical humanitarian intervention and combines elements of both (Cottey, 2008). The decision making process in conflict management shifted in favour of human rights in contrary to national sovereignty. Intervention in the interstate war has been normally justified as a prevention of humanitarian disaster. Intervention, meaning "the direct and coercive application of military force in international conflict to affect their course and outcome", is a regular feature of international politics (MacFarlane, 2002: 103). The right to intervene for humanitarian purposes was also accepted as a new jus-

tification for UN Peace-keeping operations. But as security is not just a military issue and conflict resolutions are rarely limited to military actions, there are a range of non-military factors. However, IGO's had some successes in their efforts to stabilize the conflict arena and suffered also some failures, but they learned valuable lessons for the future from each other.

The Western Balkans has been the most conflict-torn area in Europe (Prezelj, 2001; HIIK, 1992) throughout history and this has been particularly true in the last 20 years. Long-lasting latent conflict[3] in former Yugoslavia transformed to manifest conflict[4] in the 1980's with Milošević and his nationalist politics. Some of these conflicts developed into crisis[5] and war.[6] Kaufman (1996) concludes that ethnic civil wars can only be ended through forced separation of the populations.

2.1   Development of events in former Yugoslavia

After the declaration of independence, the Republic of Slovenia was pushed into the 10-day war in 1991. The international community supported the idea of a unified Yugoslavia and despite the manifested conflict they were not willing to recognise the independence of Slovenia. However, war in Slovenia ended under the political support of the European Community, officially with the Joint Declaration (UL RS, 1991), known also as the Brioni Declaration, which gave Slovenia its independence. After the withdrawal of the Yugoslavia's Peoples Army in October 1991, Slovenia gained full international recognition of its sovereign territory, initially by the European Community, which was at that time led by Germany.

Secession of the Republic of Croatia[7] resulted in occupation from the Yugoslav People's Army in 1991, even before the war in Slovenia had ended. Serbian minority opposed to the new Croatian Constitution, where their status as a minority was not provided. The Yugoslav People's Army assisted local Serbian forces, whose intention was the secession from Croatia of the territories populated mainly by Serbian entity. The war spread in 1992 after 16 cease-fires had been broken in 1991 (HIIK, 1992) and this was the milestone when the international community became actively involved in the Yugoslav conflict with the UN peacekeeping operation in Croatia, named UN Protection Force (UNPROFOR).

---

[3]   A positional difference over definable values of national meaning is considered to be a latent conflict if demands are articulated by one of the parties and perceived by the other as such (HIIK, 2009).

[4]   A manifest conflict includes the use of measures that are located in the stage preliminary to violent force. This includes for example verbal pressure, threatening explicitly with violence, or the imposition of economic sanctions (HIIK, 2009).

[5]   A crisis is a tense situation in which at least one of the parties uses violent force in sporadic incidents. A conflict is considered to be a severe crisis if violent force is used repeatedly in an organized way (HIIK, 2009).

[6]   A war is a violent conflict in which violent force is used with certain continuity in an organized and systematic way. The conflict parties exercise extensive measures, depending on the situation. The extent of destruction is massive and of long duration (HIIK, 2009).

[7]   The violence in Croatia started in 1990 in Kninska Krajina between Croats and Serbs. Croat Serbs started with the revolt against the new Croat government after the first democratic election in Yugoslavia.

The mandate of this mission was to settle the conflict between Croats and the Croatian Serbs (so called Homeland war). To end the war and to recapture the Serbs from occupied territories, Croatia started two major operations, Storm and Flash, in 1995.

UNPROFOR's mandate was to monitor so called UN Protected Areas, to demilitarize those areas and later, also a few other areas of Croatia. UNPROFOR also monitored the implementation of the cease-fire agreement in Croatia between hostile parties and was replaced with the United Nations Confidence Restoration Operation (UNCRO) in March 1995.

The mandate of UNCRO was to continue monitoring the ceasefire agreement and the agreement that provided peaceful reintegration of Eastern Slavonia, Baranja and Western Sirmium into Croatia (short Basic Agreement) (Basic Agreement, 1995), and to force the implementation of UN SC resolutions, to observe demilitarization and UN Protected Areas and policing, to advance the process of reconciliation and the restoration of normal life, to monitor human rights, to facilitate the return of refugees and displaced people and to deliver international humanitarian assistance etc. UNCRO was terminated in January 1996 when United Nations Mission of Observers in Prevlaka (UNMOP) was established with the main task to monitor the demilitarization of the Prevlaka Peninsula. Following the successful completion of its mandate, the Mission was terminated in December 2002 (UN, 2002). Another mission that emerged after the termination of UNCRO was United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) with the mission to continue the implementation of the Basic Agreement to facilitate demilitarization, to monitor the return of refugees and displaced persons, to maintain peace and security in the region by building a civil society infrastructure (i.e., civilian police, prison system, civil administration and public services, and organize elections), by economic development and by spreading democratic values (human rights and fundamental freedoms). After several extensions, the mission was terminated in October 1997. The part of the mission that took care of the development and training of civilian police was transferred to a new mission, the United Nations Civilian Police Support Group (UNPSG).

OSCE has been actively involved in post-war reconstruction in Croatia since 1996. After the official invitation of the Government of the Republic of Croatia, the OSCE Mission to Croatia started assisting the Croatian authorities and other subjects in the development of society, in ensuring the viability of democratic institutions, processes and mechanisms (protection of human rights, the rule of law, training police forces) and in monitoring the post-conflict development of the society. The OSCE Mission cooperated tightly with UNTAES and UNPSG. The main effort of the OSCE since 2008, when the OSCE Office in Zagreb replaced the OSCE mission, is proper prosecution of war crimes and cooperation with the

International Criminal Tribunal for the former Yugoslavia, and the reconstruction of living facilities and the return of refugees and displaced persons to their pre-war homes and territories.

After the declaration of independence of Bosnia and Herzegovina in 1992, UN SC spread the mandate of UNPROFOR to operate in both the Croatian and B&H territory, for the civil war in Bosnia and Herzegovina became a reality and later caused a massive humanitarian problem. The war in Bosnia and Herzegovina escalated in 1993 after the first conflicts arose between the Croats and Bosniaks in October 1992. Namely, despite the Serbia and Croatia fight for territories in Croatia, they made a common plan on the partition of Bosnia and Herzegovina. It came to ceasefire between the Croats and Bosniaks in 1994, subsequently to the signing of the peace agreement. Bosniak and Croat forces became an ally to reconquer territories occupied by Bosnian Serbs. With the support of the Serbian government and the Yugoslav People's Army, Bosnian Serbs leaders promised independence of the territories mainly populated by Serbs and proclaimed the Serbian Republic. Bosnian Serbs carried out a mass execution of Bosniaks and Croats to "clean their territories" and create exclusively Serb areas. The siege of Sarajevo and Srebrenica were the bloodiest of all conflicts in former Yugoslavia.

UN invoked Chapter VII of the Charter and gave the UNPROFOR mission to Bosnia and Herzegovina (B&H) the following tasks: to ensure the security and functioning of the Sarajevo airport, to monitor the no-fly zone, to ensure the delivery of humanitarian relief, and to monitor the "safe areas", provided by the Vance-Owen peace plan. UNPROFOR also monitored the implementation of a cease-fire agreement in Bosnia and Herzegovina. However, after the termination of UNPROFOR in 1995, UN remained present in Bosnia with the United Nations Mission in Bosnia and Herzegovina (UNMIBH), which was composed of the International Police Task Force (IPTF) and a civilian office. The UN SC renewed the mandate of UNMIBH on several occasions. Following the successful conclusion of its mandate, UNMIBH was terminated on December 31, 2002, in accordance with UN SC Resolution 1423 (2002) dated July 12, 2002 (UN, 2003).

The complex nature of operations and deterioration of the situation in Bosnia and Herzegovina challenged the UN with the tasks that their forces and member states were unable or unprepared or even unwilling to undertake, so other IGOs took the responsibility for conflict management in former Yugoslavia. UN SC Resolution 819 enabled the establishment of "safe areas" and Ryan (2000) interpreted this as an admission of UN that they could not protect the population of Bosnia as a whole and that its personnel might only be able to defend people at risk within designated zones. NATO supported UNPROFOR activities with the use of air power, especially in 1995, with the 'Operation Deliberate Force' that made signing the Dayton peace agreement possible, and after which NATO also took over the leading role in B&H. Between 1995 and 2004, NATO led

a peace support force in Bosnia and Herzegovina, helping to maintain a secure environment and facilitating the country's reconstruction in the wake of the 1992-1995 war. This was the first "out of area" operation and since then, NATO has been active in a spectrum of crisis management operations – from combat and peacekeeping, to training and logistics support, to surveillance and humanitarian relief (NATO, 2010). Nearly 2000 NATO air strikes (HIIK, 1995) on Serbian positions near Pale in May 1995 caused that Serbs seized UN personnel to act as hostages. UNPROFOR was replaced by the NATO Peace Implementation Force (IFOR, NATO's first peacekeeping operation) with a much broader mandate and after a year, it was replaced with NATO Stabilisation Forces (SFOR). Both were NATO-led multinational forces with a UN SC authorization, with the main tasks to support the reconstruction of the state and to monitor security and safety in the region. In light of the improved security situation, NATO terminated its peace support operation in December 2004 and the European Union deployed a new force called Operation Althea, according to UN SC Resolution 1575. As a part of the Common Security and Defence Policy (CSDP), it has been appointed to have been the most important peacekeeping and crisis management mission of the EU. NATO left some officials behind to assist the government in reforming its defence structures, as well as for counter-terrorism activities, intelligence gathering and apprehending war-crimes suspects. In order to continue the fulfilment of the Dayton Peace Agreement, EUFOR Althea had taken over the main peace stabilization role and the tasks that have been transferred from NATO. EUFOR Althea has been contributing to the maintenance of safety and security in Bosnia and Herzegovina with the following main objectives of operation: countermine activities, military and civilian movement control of weapons and ammunition, management of weapons and ammunition storage sites (EU, 2010). Despite the challenging political environment, the EU supports the process of state reforms (a defence reform together with NATO). It also supports B&H toward EU membership, and cooperates with the International Criminal Tribunal for former Yugoslavia which is responsible for proper prosecution of war crimes. The very first mission launched under CSDP is the European Union Police Mission (EUPM) in B&H that replaced UN IPTF in 2003; their mandate has recently been prolonged until 2011.

The EU Police Mission's key tasks are to strengthen operational capacity and joint capability of law enforcement agencies engaged in fight against organized crime and corruption; to assist and support the planning and conduct of investigations in the fight against organized crime and corruption in a systematic approach; to assist and promote development of criminal investigative capacities of B&H; to enhance police-prosecution cooperation; to strengthen police-penitentiary system cooperation; to contribute to ensuring a suitable level of accountability (EU, 2010).

The Dayton agreement is the basis for the development of the OSCE Mission to Bosnia and Herzegovina. It was formed in 1995 with the intention to support the

multi-ethnic society of B&H in establishing a sustainable and stable security and defence environment through the development of democratic political institutions, strengthening the civil society, protecting human rights and supporting Bosnia and Herzegovina in progressing towards Euro-Atlantic integrations. As Bosnia and Herzegovina made a significant progress in its democratic, institutional and defence reforms that were set when B&H joined Partnership for Peace in December in 2006, NATO formally invited the country to join the Membership Action Plan in April 2010. However, Bosnia and Herzegovina has already been contributing to international peace and security as member of ISAF forces since 2009.

The FYR Macedonia is a case of strong inter-institutional cooperation between NATO, OSCE, and the EU. The attention of international community has been focused there since 1992. Next to the mandates in Croatia and B&H, UNPROFOR was deployed also in FYR Macedonia. This was the first-ever 'preventive peace-keeping force' (Ryan, 2000) whose main obligations were to monitor and report any developments along the borders of FYRM with Albania and Yugoslavia and to stabilize the independent, but internationally not-recognised state. When the Security Council in March 1995 decided to restructure UNPROFOR, the same tasks were carried on by UNPREDEP (United Nations Preventive Deployment Force). Unlike in other operations, the Macedonian government itself asked for intervention and NATO deployed three operations, the Essential Harvest Operation to disarm ethnic Albanian groups, the Amber Fox Operation to assist international delegations in implementing the peace plan, and the Operation Allied Harmony to assist the government in ensuring stability throughout the Macedonian territory. The OSCE Spill Over Monitor Mission to Skopje is the Organization's longest-serving field mission where the original mandate called on the Mission to monitor developments along the borders with Serbia and in other areas that may suffer from the spill over of the conflict in former Yugoslavia. For a very short period in 2003, a military operation CONCORDIA was launched by the EU to enable implementation of the August 2001 Ohrid Framework Agreement. Namely, in 2001, there was an armed conflict between Macedonian troops and Albanian extremists. EUPOL PROXIMA in partnership with local authorities and OSCE continued to help reform the state's infrastructure (Ministry of Interior) and to assist local police to achieve European policing standards (the consolidation of law and order, police cooperation, border police). In December 2005, the EUPAT replaced the PROXIMA mission. The framework for their work is the EU ESDP and it includes mostly support and advising tasks, monitoring and mentoring the local police on priority issues that were set already for PROXIMA; in the field of border police, public peace and order and accountability, this means fighting against corruption and organised crime.

The Conflict in Kosovo started back in 1968 with students' demonstrations and demands for more rights for the Albanian ethnic group. Such acts were possible

under the amended constitution in 1975. A consequence of economic crises in Yugoslavia, new tensions arose in the early 1980's. Kosovo was under a new wave of demonstrations and the Albanian minority demanded the status of a federal republic. The conflict manifested during the violence in 1998. Aware of experiences in past conflicts in former Yugoslavia, NATO and others entered into settling the conflict in Kosovo in order to end widespread violence and prevent humanitarian disaster.

In this part of Europe, the UN currently has only one mission, the Interim Administration Mission in Kosovo (UNMIK). Unlike other missions in former Yugoslavia, this mission was deployed after a 78-day NATO campaign in 1999 with the main task to keep this region stable by developing state infrastructure, implementing democratic standards and supervising development. NATO's Kosovo Force (KFOR) was deployed under the mandate of UN SC Resolution 1244 with the main task to preserve peace and security and to support the development of security structures in this multi-ethnic society. But their attempts were crushed in 2004 as new waves of violence erupted between Albanians and Serbs. After Kosovo's declaration of independence in 2008, the international community stayed in Kosovo with UNMIK and KFOR, but as a smaller force; the main responsibility lies with the European Union's Rule and Law mission (EULEX). The EULEX is a technical civilian mission, meaning that it does not govern or rule in Kosovo. It is the largest civilian mission ever launched under the EU. CSDP monitors, mentors and advises local authorities in establishing a democratic multi-ethnic society and in supporting efforts for integrating into the European community. EULEX focuses mainly on tasks that ensure the rule of law in police, judiciary, customs, and correctional services and those that ensure a successful fight in contemporary security threats, such as terrorism, corruption and serious financial war crimes. The OSCE Mission in Kosovo is the largest OSCE field operation. It is mandated with institution- and democracy-building and promoting human rights and the rule of law.

OSCE Mission to Serbia (OSCE Mission to the Federal Republic of Yugoslavia and OSCE Mission to Serbia and Montenegro) was established in 2001 to provide assistance and to monitor the democratization process, the development of mechanisms for human rights protection (law enforcement agencies, judiciary system) and media development, and to monitor the return of refugees and displaced persons. United Nations High Commissioner for Refugees provide advice and support in order to facilitate the return of refugees to and from neighbouring countries and from other countries of residence, as well as of internally displaced persons to their homes within the territory of Serbia.

The OSCE Mission to Montenegro was established in 2006 after the Republic of Montenegro became independent. Their main tasks are to support authorities in the democratization processes, in economic development, in building state

institutions, in the legislative reform, the police reform, the media reform and in environmental protection.

IGOs have some common interests in conflict management and conflict resolution, like preventing conflict, stopping violence once it has started and helping to build an environment where conflict is less possible. But still, there have been disagreements on how to prevent and settle conflict, mostly because of their capabilities and missions. The EU has been most successful in the post-conflict era in the areas of economic development and democratisation processes, the latter with OSCE. Despite the fact that the EU has also started to develop military capabilities, NATO is still the most capable and the most successful in situations where military force is required. The UN plays both a prevention role and a post-conflict reconstruction role. In order to be successful, cooperation between the players is an important matter. The issue of funding is the most conflict one between member states and IGO's. There have been several disagreements between the UN, NATO and the EU in former Yugoslavia, especially when the discussion centred around how to react to the Serb's provocations with their attacks on "safe areas" in 1994. There were some disagreements about the termination of weapons embargo for Bosnian Muslims too. The UN operation was unsettled also by tensions between the UN and NATO and between the permanent members of the Security Council (Ryan, 2000). But NATO operations in the FYRM demonstrated strong inter-institutional cooperation between NATO, EU, and OSCE. There were some tensions in relation to other organisations and individual countries, for example with Russia which adopted the most pro-Serb attitude for cultural and political reasons (Ryan, 2000). Lessons learned from past successes and failures made IGOs and their member states more effective in responding to complex and diverse conflicts, as well as to inter-state conflicts or internal conflicts, and to detect signs of potential escalation on time. As seen in the Croatian case and in Kosovo, it is not enough only to sign a cease-fire agreement in order to resolve the conflict, it has to result in signing a peace agreement, and the implementation of it has to be monitored by IGO's.

3   POLITICS OF MAJOR PLAYERS

Security is an integral part of politics and policy making. Multilaterism is a necessary component of contemporary conflict resolution strategies. Issues on the conflict in former Yugoslavia received higher priorities on the political and security agenda than it was anticipated. Since the early the 1990's NATO, OSCE, EU and UN have been cooperating to maintain international peace and security. The complexity of the new types of conflicts required finance, forces, commitments that were also behind the national interests. IGO's were given new powers and legitimacy for their security management tasks. In the 1980's, states started to

strengthen their roles in mediating conflicts, and permanent members of the UN with their troops were also included and involved. Western powers are also more incorporated into the institutions and their regimes of global governance. They have mechanisms and powers to influence budgets (i.e., Germany, US) for lobbying (36.000 lobbyist in Brussels), and they have global political influence that derives from their economic power and historical reputation (France).

Intervention in the interstate war was normally justified as the prevention of humanitarian disasters. Dannreuther (2007) concluded that such interventions are normally directed by developed states from the North and that the idea of an emergent norm of humanitarian intervention comes primarily from northern countries, which have the capacities and military resources to intervene effectively. The North also dominates the other countries in terms of its' economic and political power. Criticism of southern states is connected to colonial memories (e.g., China and India). Chomsky (2000), for example, also criticises humanitarian interventions as a smokescreen for traditional imperialists and western geostrategic objectives.

There have been many successes but also some failures in the history of conflict management and conflict resolution, there have also been some disagreements in the political playground, as well as strong supporters in security issue decisions. Alongside general motives of international and regional institutions in maintaining a secure and safe environment in Europe, we can find a combination of interests of national origin. In the very beginning of the post-Cold War era, during the Gulf war, multinational cooperation proved to be more difficult than many hoped. National interests remained a major element when deciding about interventions, particularly on the part of the USA (Hoyt, 2003). Dannreuther (2007) argues that strategic and political consideration will always be the critical drivers of policy making and the decision making process.

3.1   United Nations

In September 1991, foreign ministers of the five permanent members of the Security Council issued a statement recognizing the central role of the United Nations in maintaining peace and security and pledging support for preventive diplomacy and increased peacekeeping efforts (UN, 2009). The role of the UN in peace and security management was basically set in the UN Charter in 1945. Article 24 confers on the Security Council primary responsibility for the maintenance of international peace and security, and Chapter VII gave the powers to Security Council to respond to threats to peace, breaches of peace and acts of aggression (Charter of the United Nations, 1945). This means that the UN Charter demands a pacific settlement of disputes from member states (Chapter VI), but in case of conflict, it also provides the use of force as a tool (Chapter VII). Chapter VIII made it possible for regional organisations to participate in conflict manage-

ment and conflict resolution. UN SC began to approve peacekeeping operations under Chapter VII of the UN Charter after the Cold-War. The UN SC expectations were that the arbiter should be the one using force (United Nations, 2004).

Some proactive and reactive actions are listed in the Charter. The most common mechanisms until the end of the war were political and economic sanctions, quiet diplomacy, and economic sanctions. Since the Cold War, the operational face of the UN in international peace and security have become peacemaking, peacekeeping, peace enforcement and post- conflict peace building in civil wars and in situations of violent conflict, and human rights standards.

Peacekeeping is not mentioned as a mechanism for settling conflict in the UN Charter. The UN initiated PKOs increasingly as a response to interstate rather than intrastate conflicts (Wood & Sorenson, 2005). The term peacekeeping is defined in particular documents after the year 1990 along with resolutions, and it could be regarded as a mechanism of the UN Charter between Chapter VI and Chapter VII. For example, an Agenda for Peace (UN Security Council, 1992) defines preventive diplomacy, peacemaking and peace-keeping. It also defines peacekeeping operations as a mechanism for achieving status quo and as a mechanism for the implementation of peace agreements. The definition was additionally set in The Supplement to Agenda for peace in 1996 (Secretary - General, 1996). Definition of peacekeeping operations could be found in the Brahimi report in 2000, where it allows the use of force and other robust mechanisms to maintain peace and to protect the lives of civilians. The UN also adopted the United Nations Peacekeeping Operations Principles and Guidelines for peacekeeping in 2008 (UN DPKO/DPA, 2008).

Obviously, military mechanisms alone cannot stop conflict, and the awareness that conflicts have deeper roots lead the UN to establish two major organs to deal with peacekeeping operations: the Department of Peacekeeping Operations (DPKO) and the Department of Political Affairs (DPA). Many other organizations and entities are trying to resolve various social problems (cultural differences, poverty) to prevent the eruption of conflict (e.g., WFP, WHO, UNICEF, and UNHCR). Since DPKO and DPA have had problems with the provision of material resources in this field, the UN established the Department of Field Support (DSF).

In the evolution of UN peacekeeping, the third generation of UN peacekeeping[8] or the so-called operations for building peace and institutions were essentially characterised by conflicts in Croatia, Bosnia and Herzegovina, FYR Macedonia, and recently by the events in Kosovo. There were over 60 UN SC Resolutions on

---

[8]   Authors mostly divide the evolution of United Nations peacekeeping to three major time periods. According to Wood and Sorenson (Wood & Sorenson, 2005) those are: the end of World War II and the formation of the United Nations until the mid-1980s, the mid-1980s until the end of the Cold War, and the post-Cold War period.

former Yugoslavia between September 1991 and July 1994 (Ryan, 2000). The total number of UN SC Resolutions on former Yugoslavia up to today is 183. There were 57 resolutions adopted on the situation in B&H, 34 on Croatia, 8 on Croatia and B&H, 14 on FYR Macedonia, 1 on Slovenia (about the acceptance of new member) and 36 on International (Criminal) Tribunal for former Yugoslavia. Interesting, there were only 3 resolutions adopted on Kosovo in 1998 and 1999.
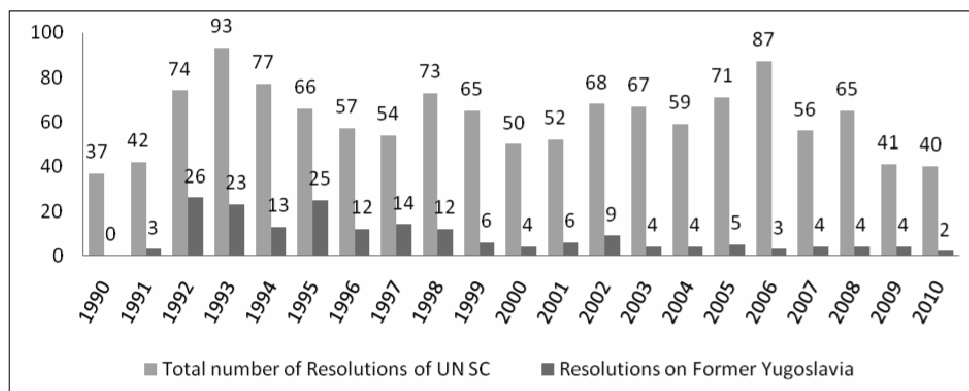

Figure 2: The number of UN SC resolutions on former Yugoslavia from 1991 - 2010

Bosnia, in particular, pointed out the weaknesses of UN-controlled peacekeeping. They were incapable of maintaining peace and unable to halt the violence and ethnic cleansing. This disastrous UN peacekeeping experience in former Yugoslavia made some countries shift their participation from UN PKOs to regional organisations of multinational peacekeeping operations (such as NATO and EU) which took over the leading role in conflict resolution in this area. There is also self-criticism of the UN. Prevention requires early warning and analysis that is based on objective and impartial research. Although the United Nations had some early-warning and analysis capacity scattered among different agencies and departments, the Secretary-General has not been able to establish any properly-resourced units, able to integrate inputs from these offices into early-warning reports and strategy options for purposes of decision-making (United Nations, 2004).

Since 1948, the UN established 64 peace operations, 16 of them are ongoing operations. Only one UN operation is active in former Yugoslavia – UNMIK. Since the Kosovo government is unable to provide effective state administration, UNMIK acts as an international administration and supports the government.

See for example: K. A. Mingst and M. P. Karns, The United Nations in the Post-Cold War Era (Boulder, CO: Westview Press, 1995), Chapter 6; S. M. Hill and S. P.Malik, Peacekeeping and the United Nations (Aldershot: Dartmouth Publishing Company, 1996).

3.2   NATO

The new security environment, since the early 1990's, mostly characterised by the disintegration of the Warsaw Pact, the collapse of the Soviet Union and communist regimes in Central and Eastern Europe, and the unification of Germany all questioned NATO's future existence. However, since new security threats emerged and the instability in South Eastern Europe was threatening to spill over and directly or indirectly endanger NATO and its member states, the existence of a regional security organisation was necessary and member states decided to adopt an Alliance according to new circumstances. Member states defined the transformation of NATO in the London Declaration 1990 (NATO, 1990); they decided to continue with common defence and arms control, they set new goals and tasks for a reinvented NATO, they would support EU (EC) and CSCE (OSCE) but also have demands towards them. The Allies invited Eastern European countries to establish a regular diplomatic liaison with NATO, so the declaration is also treated as a basis for an enlargement of the alliance. Enduring peace remains the main goal of the Alliance. To maintain peace and security, NATO has military, political and economic mechanisms. Initially, they however did not want to break the defence policy to stop the ethnic conflict in former Yugoslavia.

The need to respond more actively to ethnic conflict in Europe has been crucial to the reshaping of NATO's post-Cold War identity as well as for the development of NATO's operations (Medcalf, 2008). The international community was deemed inadequate and failed to perform effectively and NATO overgrew the mission only to support UN, EC and OSCE and since its first intervention in the Balkans in 1995, the tempo and diversity of NATO operations have only increased and NATO has been given the main responsibility to conduct peacekeeping operations. NATO's first air campaign - Operation Deliberate Force, which lasted for two-and-a-half weeks in 1995, launched a series of precision strikes against selected targets in Serb-held B&H and effectively ended the "out-of-area" debate that dominated intra-Alliance discussions on NATO's role since the end of the Cold War (NATO, 2005). Since then, NATO has been engaged in missions that cover a full spectrum of crisis management operations[9] – from combat and peacekeeping, to training and logistics support, to surveillance and humanitarian relief. Membership action plan is one of NATO's preventive diplomacy mechanisms in conflict management that diminishes the risk of conflict outbreak. Partnership for Peace is a military dimension of the NATO partnership programme, and the Partnership Action Plan is a political dimension. Each of the programmes is an individual plan (Individual Partnership Programme- IPP; Individual Partnership Action Plan - IPAP). Through its cooperation framework with non-member countries, the Alliance supports the defence and security sector reform, empha-

---

[9]   NATO terminology uses the 'term peace support operation'; later on it was replaced by the term 'crisis response operations'.

sizing civilian control of the military, accountability, and restructuring of military forces to lower, affordable and usable levels (NATO, 2010).

NATO could be involved in NATO – only operations, but since contemporary conflicts are complex, NATO can act as a leading institution together with other organisations in so-called NATO-led operations. Or, NATO could support other coalitions of member and partner states, mainly those of a military component. The last option is the case in the Balkans. Namely, from the beginning the conflict in the Balkans did not affect NATO or NATO member states directly. As a result, NATO just politically and logistically supported (NATO, 1991a) the UN, OSCE and the European community (EC) to resolve the Yugoslav crisis, as understood from the statements of ministerial meetings ((NATO, 1992 a)(NATO, 1992 b)(NATO, 1992 c). The Alliance continued with its defensive policy and it was still focused on the original role of collective defence, and also the international community did not see NATO as an instrument to respond to ethnic conflict. Since the conflict in the Balkans continued and the UN was unsuccessful in managing it and considering the fact that the security of each state is inseparably linked to the security of its neighbours, NATO was forced to extend its areas of responsibilities, from defending the Allies to defending as well non-member states, later known as the "out-of-area" non-Article 5 missions. The basis for peace missions in 1991 was set though the adoption of the Alliance's New Strategic Concept. That Strategic Concept states in paragraph 41: "Allies could, further, be called upon to contribute to global stability and peace by providing forces for United Nations mission." (NATO, 1991 b) (Medcalf, 2008).

The first public reference to a NATO peacekeeping role (Medcalf, 2008) was noted in the Ministerial Communiqué of The Defence Planning Committee and the Nuclear Planning Group of the North Atlantic Treaty Organisation that met in Ministerial sessions in Brussels in May 1992, where it was stated that NATO "will consider ways in which resources and expertise might be available for CSCE peacekeeping activities" (NATO, 1992 a). The Final Communiqué of the Ministerial Meeting of the North Atlantic Council includes the Oslo Decision on NATO support for peacekeeping activities under the responsibility of OSCE (NATO, 1992 b). In 1992, NATO started Maritime and air operations on the Adriatic to support the UN in enforcing and monitoring economic sanctions and an arms embargo. The joint NATO-WEU Operation Sharp Guard replaced the separate NATO and WEU operations Maritime Guard and Sharp Fence in June 1993 (NATO, 1996). No fly zones over BiH were monitored by NATO's operation Sky Monitor or Deny Flight.

During 1995 and up to 2003, NATO lead IFOR, SFOR, KFOR operations in former Yugoslavia and their role reached a peak when NATO launched the air campaign Operation Allied Force in 1999 to stop the humanitarian catastrophe that was then unfolding in Kosovo. Non-NATO members also participated in NATO-led operations. As Medcalf (2008) observes, 18 non-NATO members participated

in IFOR. IFOR, SFOR and KFOR operated under Chapter VII of the UN Charter, deriving theirs authority from UN Security Council Resolutions 1031, 1088 and 1244 ((NATO, 2010 a), (NATO, 2010 b)). The UN gave IFOR a mandate not just to maintain peace, but where necessary, to also enforce it (NATO, 2010 a). As it was the case with IFOR, SFOR (NATO, 2010 a) and KFOR (NATO, 2010 b) were also a peace enforcement operation which were more generally referred to as a peace support operation. KFOR also derives its mandate from the Military-Technical Agreement between NATO and the Federal Republic of Yugoslavia and Serbia (NATO, 2010 b).

Nowadays, NATO peacekeeping forces in the Balkans continue to help in creating conditions necessary to restrict potential terrorist activities. Such assistance includes support to stop illegal movement of people, arms and drugs, which all offer an important economic source for financing terrorism. NATO forces also work with regional authorities on border security issues (NATO, 2010). "The Allies seek to enhance security and stability at the lowest possible level of forces consistent with the Alliance's ability to provide for collective defence and to fulfil the full range of its missions. According to the NATO Strategic Concept[10] (1999) the Alliance will continue to ensure that – as an important part of its broad approach to security – defence and arms control, disarmament, and non-proliferation objectives remain in harmony.

3.3   European Union

The basic principle of the European Union's foreign and security policy is to support multilateral cooperation. The EU is therefore closely tied to UN and NATO in conflict management and it takes care of implementing important peace and security initiatives. Crisis management operations of the EU are part of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP).[11] The EU security governance tasks are primarily political, economic and diplomatic, and at the very end, military.

The discussions and the development of CFSP started late in 1960 when the idea of European political cooperation arose and after the discussion on the European defence Community failed. This idea was further developed in the Maastricht Treaty and served as the foundation of CFSP which became the second pillar of the EU institutional framework. As EU had no operational capabilities, the Maastricht Treaty designated the Western European Union as the EU defence arm and as the connection to NATO. An important step towards managing conflicts is the Petersburg Declaration (Petersburg Declaration, 1992), where the tasks

---

[10]   The Strategic Concept is an official document that outlines NATO's enduring purpose and nature and its fundamental security tasks. The last SC was adopted in 2010.

[11]   The European Security and Defence Policy became the Common Security and Defence Policy with the Lisbon Treaty.

were initially formulated by the Western European Union (WEU) and where peacekeeping and peacemaking tasks, humanitarian and combat tasks are set. These tasks were upgraded and extended in the Lisbon Treaty with disarmament tasks, military advice and assistance tasks conflict and post-conflict stabilisation (Lisbon Treaty, 2007).

In 2003, when the European Security Strategy and "Berlin-Plus" Arrangements[12] were adopted, the ESDP became operational and since then, more than twenty peace operations have been set off. The ESDP has its roots in the European council meeting which was held in 1999 in Cologne, Germany.

At the 2000 EU Nice summit, it was agreed that the European security and defence policy would theoretically complement NATO, thus leaving NATO to be the first choice of a security institution in Europe. The "Berlin-Plus" Arrangements between EU and NATO, which emerged partly as a result of the EU military weakness, have institutionalised and consolidated EU – NATO relations (Medcalf, 2008). Hence, the EU's role as a security player is rapidly expanding and the Lisbon Treaty can be described as a Milestone of CFSP and CSDP.

In the 1990's the international community expected the EU to react in the evolving crises in former Yugoslavia. The EU tried to solve the conflict in Slovenia through diplomacy and civilian monitors; in Croatia, Bosnia and Kosovo, the EU contributed to the implementation of the peace process with civilian missions and military operations and cooperated with other IGOs in the stabilisation of the Balkans. Even more-so nowadays, the EU represents a leading force both with the police missions and military operations in BiH and Kosovo. EUPM in BiH was the first mission of ESDP that started in 2003, and the Concordia mission in FRY Macedonia was the second one. In fact, the EU is now looking at further enlargements in the Western Balkans which would eventually include BiH, Serbia, and Montenegro.

3.4   OSCE

The Organization for Security and Co-operation in Europe (OSCE)[13] offers a forum for political negotiations and decision-making and puts the political will of the participating States[14] into practice through its unique network of field missions (OSCE, 2010a). This means that the main goal of OSCE is to prevent conflicts from arising with early warning and conflict prevention mechanisms, to manage and to resolve ongoing conflict through crisis management instruments, and in the post-conflict rehabilitation period to transform the state

---

[12]   The NATO-EU cooperation in crisis management found its base in the so-called "Berlin-Plus" arrangements. Those arrangements allow the European Union to have access to NATO's collective assets and capabilities for EU-led operations, including command arrangements and assistance in operational planning. (EU, 2003; Waugh, 2003; NATO, 2010 b)

[13]   From 1975 till 1994 it was called the Conference for Security and Cooperation in Europe (CSCE).

[14]   The OSCE consist of 56 participating States including Canada and the United States, European states (including all the states of former Yugoslavia) and the successor states of the Soviet Union.

and society institutions to long-lasting peace and stability, and to deal with contemporary security challenges through a palette of mechanisms and institutions. The main principles of OSCE is to observe and to identify standards for the member States in terms of security measures. These principles are enshrined in the Helsinki Final Act (OSCE, 1975) - the founding document of OSCE. The OSCE comprises the questions related to security in Europe: political, military, economic, environmental, and human aspects of security. The OSCE was originally meant to exercise short-in-term fact finding and rapporteur missions for conflict prevention and crisis management (Kemp, 2008), but the reality was that soft-mechanisms like mediation of the UN and EU was too late and insufficient.

Several violence of the principle of peaceful settlement of disputes made that CSCE in the Helsinki decision (CSCE, 1992) has strengthen the instruments of conflict prevention and crisis management. The Helsinki document views peacekeeping as an important operational element of the overall capability of the CSCE for conflict prevention and crisis management to help maintain peace and stability by supporting an ongoing effort as a political solution. The co-operation with regional and transatlantic organizations (WEU, EU, UN, and NATO) is critical for conflict management. The CSCE also co-operates with representatives of the UN and other international organizations operating in areas of conflict. The OSCE High Commissioner on National Minorities is an additional conflict prevention tool, helping prevent ethnic tensions from developing into full-blown conflicts (OSCE, 2010b).

The main OSCE Institutions that are active in conflict prevention include: The High Commissioner on National Minorities (HCNM), The Office for democratic Institutions and Human Rights (ODIHR), The Conflict Prevention Centre and The Strategic Police Matters Unit. In the 1990's, the OSCE area from Vladivostok to Vancouver was faced with intra-state conflicts in the successor states of former communist states - Yugoslavia and the Soviet Union. The establishment of HCNM in 1992 in the Helsinki document 1992 is some sort of response to those conflicts. At its' meeting in Helsinki, the representatives of member States decided to respond more quickly to conflicts (CSCE, 1992) and the main aim of HCNM was to identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations among OSCE participating states. ODIHR is engaged in the battle against all forms of racism, xenophobia, anti-Semitism and discrimination. Through assessment, expert advice and assistance, SMPU supports the rule of law and fundamental democratic principles in member states. CPC was established by Vienna document 1990 (CSCE, 1990), the Charter of Paris for a new Europe (CSCE, 1990) and it is active in fields of early warning, conflict prevention, crisis management and post-conflict rehabilitation and it plays a key role in supporting OSCE field operations.

The Vienna document also defines the confidence- and security-building measures among CSCE member States (i.e., reporting on military forces, plans for the deployment of major weapons and equipment systems, military budgets and military activities). The states agreed on to make it possible for observers to perform a range of activities, relevant to security and stability of Europe.

While practical activities are conducted by field operation, the OSCE provides a framework for political dialogue on military reform, as well. An integral part of efforts in conflict prevention and post-conflict rehabilitation include a range of activities, such as border management and OSCE police operations. Since ethnic conflict is one of the main sources of large-scale violence in Europe, OSCE's approach is to identify - and seek for an early resolution of - ethnic tensions. The concept of rule of law forms a cornerstone of OSCE's human rights activities and there is a strong awareness that the economic prosperity is one of the cornerstones of stability. The Copenhagen Document (CSCE, 1990), a key OSCE document, further outlines commitments on democratic elections, the rule of law and other fundamental rights and freedoms. OSCE is active in combating contemporary threats, like terrorism and arms control. Monitoring elections, supporting, educating, training law enforcement agencies and other state institutions in the field of human rights, democratic values and standards are an additional responsibility of OSCE.

In the Charter of Paris for a new Europe (CSCE, 1990), the member States reaffirmed their commitment to settle disputes by peaceful means and to develop mechanisms for the prevention and resolution of conflicts among the States. At the Valetta meeting (CSCE, 1991) participating states set the principles for dispute settlement and provisions for a CSCE procedure in peaceful settlement of disputes. The idea of CSCE's peacekeeping and a possible CSCE role in peacekeeping was, for the first time, on the agenda in the Prague Document on Further Development of CSCE Institutions and Structures in 1992 (CSCE, 1992).

Debates on this continued until the Helsinki Summit meeting in December 1992. Some states supported traditional peacekeeping based on military participation within the CSCE framework, while others insisted on developing limited CSCE capacity of middle-sized missions with a mandate to observe and monitor ceasefire, and calling upon NATO or WEU when larger operations with a military component would be required - an idea which prevailed in the debate, not in the last place because it was supported by the USA (Velitchkova, 2002). The Helsinki document put the idea of Chapter VIII in the UN Charter into practice. It states that organisations should work closely together with the UN, especially in preventing and settling conflicts.

The conflict prevention and crisis management roles of the OSCE in B&H were mostly about the human and reconstruction dimension, focused on the post ceasefire era and concerned mostly with building a democracy. However, during

the war, some reporters were sent to the region to observe and to report on the development and situation. After the war experience in former Yugoslavia and the involvement in conflict management, OSCE became a significant player in the European security architecture.

4   CONCLUSIONS

As Smith (2004) concluded: "It is not ethnic diversity as such that is a cause of armed conflict, but rather ethnic politics". However, we can notice that strategic and humanitarian motives of international and regional organisations are interlinked. The legacy of former Yugoslavia is that the international community is together with non-member partners actively engaged in security and conflict management outside the borders, and above all, international community has been transformed by its experience in the Balkans. Together with member and partner states, they try hard to adopt to new security challenges and adapt themselves to these challenges.

But, organisations have more than just humanitarian and strategic interests in mind. States dictate the policies of organisations and most European states understand regional stability and peace as part of their foreign policy; they overtook leading roles in peace operations and, together with the US and Russia, they in a way form a new strategic triangle, regardless of the fact that Russia (Dannreuther, 2007) increasingly found itself an opponent rather than a partner in international security operations, such as in Bosnia and Kosovo. Multinational cooperation therefore proved that there were some difficulties since national interests and politics remained a major element in the decisions making process.

Unlike the majority of European states, the United States today favours missions that are of US national interest. When dealing with stability and peace, European states actually stress less on national interest. For example, in Germany, a leading power in EU, national interest is still not permitted as a basis for the German security policy. The reason is historical or from their lessons learned based on the misuse of power in their past. But France, a strong supporter of UN SC's revitalisation role sees UN as an important arena for their foreign policy and it recognizes other organisations as an important tool of national interests.

As noticed earlier, France as the permanent member of UN SC, could not cooperate in the 1st and part of the 2nd generation in peace-keeping operations, but surely played a significant role in the 3rd generation. UN also provides a high international status for France, and the status and influence in international community is also one of the reasons why other states are engaged in conflict resolution and management.

In the Gulf war there was a lack of public support for Germany to contribute military means in the conflict, but in former Yugoslavia, the historical memory of holocaust became alive and they did not want to see another one. There is also a strong political consensus in Germany about their military involvement abroad (Wood & Sorenson, 2005). Unlike in the US and Great Britain, Germany would act in conflict management only in missions that have UN SC's full mandate. This is also true for France, their decisions on conflict management are normally based on the mandate of UN, but regardless of the traditional statement of French policy, French armed forces also participated in NATO's war in Kosovo, despite the lack of an explicit mandate from UN SC. Considering the fact that this action was performed without the mandate of UN, it was problematic for the majority of European states. Still, NATO intervened in the Balkans even after other international organisations failed to solve ethnic conflict. With the success in stabilizing the Balkans, NATO proved its ability to be effective and capable in conflict management.

The French government decided to play an active diplomatic role to protect its national rank in the international environment but the tragedy in BiH dictated military cooperation in Kosovo. Kosovo is an example that reflects the strong American desire to avoid UN bureaucracy and command (Wood & Sorenson, 2005).

The European States normally defend involvement in conflict management with the protection of human rights and democratic values. First of all, the US must see the region as strategic and politically important to intervene. It is also interesting that multilateralism is one of the conditions of the US to gain positive support of public opinion. Public opinion is also very sympathetic to France's participation in peace-keeping, mostly as a justification for its permanent seat in SC UN. Germany's participation in peace-keeping reflects the increased attention being given to the EU and its Common Foreign and Security policy (Wood & Sorenson, 2005). Through EU and NATO operations, Germany's commitment to peace-keeping operations substantially expanded after the Cold War.

The difference between the US and European states is also in the aspect of military force use or soft power in peacekeeping. The US sees soft power operations as counterproductive to US strategic interests. However, the European states see such interventions as a central component to security governance.

In British thinking, the concept of peacekeeping in British doctrine allowed the use of force more than reactively for self-defence. However, this would have to be positively justified. Furthermore, interests, additional to interventions for humanitarian purposes and regional stability, are to increase international prestige/reputation, to protect one owns national rank, to maintain influence in the world and economic interest, to justify the size of military force and military budgets. Alongside crisis management, organisations have interest in arms control, disarmament and non-proliferation, mine action, fight against terrorism and other forms of organised crime.

REFERENCES

Basic Agreement. (1995, Nov. 12). *Basic Agreement on the Region of Eastern Slavonia, Baranja, and Western Sirmium.* Retrieved October 12, 2010, from Relief Web: http://www.reliefweb.int/rw/rwb.nsf/db900SID/MHII-68JC6Z?OpenDocument

Charter of the United Nations. (1945). *Charter of the United Nations.* Retrieved October 20, 2010, from United Nations: http://www.un.org/en/documents/charter/

Chomsky, N. (2000). *Rogue States: The Rule of Force in World.* London: Pluto Press.

Clausewitz, C. v. (1985). O vojni. *Časopis za kritiko znanosti.* , Y. 15, No. 75/76, p. 18-77.

Cottey, A. (2008). Beyond humanitarian intervention: the new politics of peacekeeping and intervention. *Contemporary Politics*, Volume 14, Number 4, p. 429-446.

CSCE. (1990, November 19). *Charter of Paris of a new Europe.* Retrieved October 27, 2010, from http://www.osce.org/documents/mcs/1990/11/4045_en.pdf

CSCE. (1992, July 9-10). *Conference for Security and Co-operation in Europe.* Retrieved October 27, 2010, from HELSINKI DOCUMENT 1992 THE CHALLENGES OF CHANGE: http://www.osce.org/documents/mcs/1992/07/4048_en.pdf

CSCE. (1990, June 29). *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE.* Retrieved October 27, 2010, from Copenhagen Document: http://www.osce.org/documents/odihr/1990/06/13992_en.pdf

CSCE. (1992). *Prague Document on Further Development of CSCE Institutions and Structures.* Prague: CSCE.

CSCE. (1991, February 8). *Report of the CSCE Meeting Of Experts on Peaceful Settlement of Disputes.* Retrieved October 26, 2010, from http://www.osce.org/documents/sg/1991/02/29158_en.pdf

CSCE. (1990, November 17). *Vienna Document 1990.* Retrieved October 28, 2010, from Vienna Document 1990: http://www.osce.org/documents/fsc/1990/11/4262_en.pdf

Dannreuther, R. (2007). *International Security: The Contemporary Agenda.* Cambridge: Polity Press.

Eriksson, M., & Wallensteen, P. (2004). Armed Conflict, 1989–2003. *Journal of Peace Research,* 625-636.

EU. (2010, September). *Common Security and Defence Policy.* Retrieved October 17, 2010, from European Police Mission in Bosnia and Herzegovina (EUPM): http://www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/100929%20FACTSHEET%20EUPM%20-%20version%209_EN.pdf

EU. (2010, April). *European Union Common Security and Defence Policy.* Retrieved September 31, 2010, from EU military operation in Bosnia and Herzegovina Operation EUFOR ALTHEA: http://www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/100928%20Factsheet%20EUFOR%20Althea%20-%20version%2021_EN.pdf

EU. (2003). EU-NATO: The Framework for Permanent Relations and Berlin Plus. Retrieved March 22, 2011, from Background: http://www.consilium.europa.eu/uedocs/cmsUpload/03-11-11%20Berlin%20Plus%20press%20note%20BL.pdf

HIIK. (1992). *Conflict barometer 1992.* Heidelberg: Heidelberger Institut für Internationale Konfliktforschung e.V.

HIIK. (1995). *Conflict barometer 1995.* Heidelberg: Heidelberger Institut für Internationale Konfliktforschung e.V.

HIIK. (2009). *Conflict barometer 2009.* Heidelberg: Heidelberger Institut für Internationale Konfliktforschung e.V.

HIIK. (2009). *Conflict barometer 2009.* Heidelberg: Heidelberger Institut für Internationale Konfliktforschung e.V.

Hough, P. (2004). *Understanding Global Security.* London & New York: Routledge.

Hoyt, T. D. (2003). Security and Conflict in the Developing World. In M. E. Brown (Ed.), *Grave New World: Security Challenges in the 21st Century* (pp. 213-229). Washington, D.C.: Georgetown University Press.

Kaufman, C. (1996). Possible and Impossible Solutions to Ethnic Civil Wars. *International Security*, 20, 4, 136–175.

Kemp, W. (2008). The OSCE and the management of ethno political conflict. In S. Wolff, & M. Weller, *Institutions for the Management of Ethnopolitical Conflict in Central and Eastern Europe* (pp. 129-148). Strasbourg: Council of Europe Publishing.

Lisbon Treaty. (2007, December 17). Retrieved October 22, 2010, from EULex: http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML

London declaration. (1990, December). Retrieved October 20, 2010, from Declaration on a Transformed North Atlantic Alliance: http://www.nato.int/cps/en/natolive/official_texts_23693.htm?selectedLocale=en

MacFarlane, S. N. (2002). *Intervention in contemporary world politics.* Oxford: Oxford University Press.

Medcalf, J. (2008). NATO and the ethnopolitical conflict. In S. Wolff, & M. Weller (Eds.), *Institutions for the Management of Ethnopolitical Conflict in Central and Eastern Europe* (pp. 53-77). Strasbourg: Council of Europe Publishing.

NATO. (2010). *Arms control, disarmament and non-proliferation in NATO.* Retrieved September 14, 2010, from NATO: http://www.nato.int/cps/en/natolive/topics_48895.htm

NATO. (1996, October 2). *IFOR.* Retrieved 10 23, 2010, from NATO/WEU Operation Sharp Guard: http://www.nato.int/ifor/general/shrp-grd.htm

NATO. (1992 a, May 26&27). *NATO.* Retrieved October 22, 2010, from Ministerial Communiqué of The Defence Planning Committee and the Nuclear Planning Group of the North Atlantic Treaty Organisation that met in Ministerial sessions in Brussels on 26 and 27 May: http://www.nato.int/cps/en/natolive/official_texts_23987.htm?selectedLocale=en

NATO. (June 1992 b). *NATO.* Retrieved October 22, 2010 from Final Communique of the Ministerial Meeting of the North Atlantic Council: http://www.nato.int/cps/en/SID-C5797C64-9842136E/natolive/official_texts_23983.htm?selectedLocale=en

NATO. (December 1992 c). *NATO.* Retrieved October 22, 2010 from Final Communique of the Defence Planning Committee of the North Atlantic Treaty Organization met in Ministerial session in Brussels, Brussels: http://www.nato.int/cps/en/SID-C5797C64-9842136E/natolive/official_texts_25971.htm?selectedLocale=en

NATO. (30. August 2005). *NATO.* Retrieved October 25, 2010 from Operation Deliberate Force: Ten years on: http://www.nato.int/cps/en/natolive/news_21451.htm?selectedLocale=en

NATO. (30. July 2010). *NATO.* Retrieved September 14, 2010 from NATO and the fight against terrorism: http://www.nato.int/cps/en/SID-0FDB0FF7-7E7D0779/natolive/topics_48801.htm

NATO. (1991a). *NATO Press Releasess.* Retrieved October 20, 2010, from NATO: http://www.nato.int/cps/en/SID-026A5792-01491D64/natolive/official_texts_23849.htm?selectedLocale=en

NATO. (2010 b, March 16). *NATO's role in Kosovo.* Retrieved October 25, 2010, from NATO's role in Kosovo: http://www.nato.int/cps/en/SID-E12F52E4-035AB48B/natolive/topics_48818.htm?selectedLocale=en

NATO New Strategic Concept. (1991 b, November). Retrieved October 20, 2010, from The Alliance's New Strategic Concept: http://www.nato.int/cps/en/natolive/official_texts_23847.htm?selectedLocale=en

NATO. (2010, October 8). *North Atlantic Treaty Organisation.* Retrieved October 15, 2010, from NATO operations and missions: http://www.nato.int/cps/en/natolive/topics_52060.htm#current

NATO. (2010 a, October 25). *Peace support operations in Bosnia and Herzegovina.* Retrieved October 25, 2010, from Peace support operations in Bosnia and Herzegovina: http://www.nato.int/cps/en/natolive/topics_52122.htm?selectedLocale=en

NATO (2010 b, October 27). *NATO-EU cooperation in crisis management.* Retrieved March 22, 2011, from NATO A-Z: http://www.nato.int/cps/en/natolive/topics_49217.htm

OSCE. (2010 a). *About OSCE.* Retrieved October 22, 2010, from: http://www.osce.org/about/

OSCE. (1975). *Helsinki Final Act.* Retrieved October 27, 2010, from Conference on Security and Co-operation in Europe Final Act: http://www.osce.org/documents/mcs/1975/08/4044_en.pdf

OSCE. (2010 b). *OSCE Activities.* Retrieved October 25, 2010, from Conflict prevention: http://www.osce.org/activities/13035.html

Petersberg Declaration. (1992, June 19). Retrieved 11 3, 2010, from WEU: http://www.weu.int/documents/920619peten.pdf

Prezelj, I. (2001). Vojaško ogrožanje nacionalne in mednarodne varnosti po koncu hladne vojne. *Teorija in praksa* , 38, No. 5, p. 848-861.

Rusu, S., & Schmeidl, S. (2008). Early warning and early action in the UN system: UNDP and OCHA. In S. Wolff, & M. Welle, *Institutions for the Management of Ethnopolitical Conflict in Central and Eastern Europe* (pp. 149-183). Strasbourg: Council of Europe Publishing.

Ryan, S. (2000). *United Nations and International Politics Studies in Contemporary History.* Houndmills, Basingstoke, England: Palgrave Macmillan (UK).

Secretary - General. (1996). *Supplement to an Agenda for Peace: Position Paper of the Secretary-General On The Occasion Of the Fiftieth Anniversary of the United Nations.* New York: UN.

Smith, D. (2004). *Trends and Causes of Armed Conflict.* Retrieved June 17, 2010, from UN: http://www.un.org.kg//index2.php?option=com_resource&task=download&no_html=1&file=3580

UL RS. (1991, 8 16). *Joint Declaration.* Retrieved 10 17, 2010, from Uradni List Republike Slovenije: http://www.uradni-list.si/_pdf/1991/Mp/m1991009.pdf

UN. (2003). *Bosnia and Herzegovina - UNMIBH - Mandate.* Retrieved October 17, 2010, from Peace and Security Section of the Department of Public Information: http://www.un.org/en/peacekeeping/missions/past/unmibh/mandate.html

UN DPKO/DPA. (2008). *United Nations Peacekeeping Operations Principles and Guidelines for peacekeeping.* New York: United Nations.

UN Security Council. (1992). *An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping.* New York: UN.

UN. (2009). *The A to Z of the United Nations Jacques Fomerand.* Lanham, Toronto, Plymouth, UK: he Scarecrow Press, Inc.

UN. (2002). *UNMOP.* Retrieved October 17, 2010, from UN Department of Peacekeeping Operations, Peace and Security Section of the Department of Public Information: http://www.un.org/en/peacekeeping/missions/past/unmop/

United Nations. (2004). *A more secure world: Our shared responsibility; Report of the High-level Panel on Threats, Challenges and Change.* New York: United Nations.

Velitchkova, G. (2002). *NATO-OSCE Interaction in Peacekeeping: Experience and Prospects in Southeast Europe.* NATO/EAPC.

Waugh, T. (2003). *Berlin Plus Agreement.* Retrieved March 22, 2011, from Berlin Plus Agreement: http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/berlinplus_/berlinplus_en.pdf

Wood, P. C., & Sorenson, D. S. (2005). Introduction. In D. S. Sorenson, & P. C. Wood, *The politics of peacekeeping in the post-cold war era* (p. 1). London and New York: Frank Cass.

MILITARY INTELLIGENCE AND ACTIVE DEFENCE AGAINST CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR/ EXPLOSIVES TERRORISM

Authors:

Anže Rode, Iztok Podbregar and Teodora Ivanuša

ABSTRACT

Purpose:

Our goal was to review Military Intelligence (MI) and its activities for active defence against CBRNE[1] terrorism. We used the Medical Intelligence (MEDINT) component to show the importance of national support (REACH BACK) to military intelligence.

Design/methodology/approach:

The entire paper is based on the assumption that the existing MI models do not follow the requirements of the contemporary security environment, nor do they allow for an appropriate response to the various security threats.

Findings:

We propose a copyrighted MI model, which could be used as an institutional solution for MI and its transformation. The model presents a contribution worth examining for the Alliance (NATO).

Research limitations/implications:

The presented model integrates national support to MI. It can be used also for other Intelligence Functional Disciplines - Subject Areas, where military intelligence activity lacks knowledge and experience. They, however, can be offered by national support elements. Of course, there will always be Intelligence Functional Disciplines - Subject Areas, which will have to be developed independently within MI (e.g. the armed forces intelligence, security intelligence, etc.).

Practical implications:

This new MI model, which includes national support to MI, will be an important contribution to the efforts aimed to provide security against CBRNE terrorism; it will add to the governmental efforts, activities, and measures to prevent attacks.

---

[1] CBRNE Terrorism - Chemical, Biological, Radiological, Nuclear/ Explosives – Terrorism.

Originality/value:

MI must be reorganized and upgraded to respond to future challenges. The proposed MI model could respond to the challenges of the future.

Key words: Military Intelligence (MI), MEDINT, CBRNE Terrorism, Active Defence, National Support.

1   INTRODUCTION

Conventional military threats to the humankind are being increasingly replaced by contemporary security threats. The main characteristics of the latter threats are asymmetry, complexity, trans-nationality, diversity and non-predictable structures, high level of organization and their users' skill in the use of modern communications. Some of these threats, such as CBRNE terrorism may shake the fundaments of the global stability (Rode, 2007).

Terrorism is a typical example of a contemporary asymmetrical threat. Prezelj (2007a) notes that the asymmetry refers to non-proportional operators (non-governmental actors against the government/state), the means they use, and their consequences (the minimum input for maximum results; for instance, to reach beyond the direct consequences of a bomb explosion).

States belong to the principle actors trying to ensure the security of citizens. They look for appropriate responses to threats, both in collaboration and networking with other countries and international bodies, as well as in the modified operation mode within their country. The solutions are not simple: an increasing complexity of threats means an increasing complexity of responses. An important factor to be included in a multi-disciplinary, multi-dimensional or multi-organizational response to complex threats is military intelligence (MI). MI provides data, which is the basis for a pre-emptive and active defence against terrorism (including CBRNE terrorism).

CBRNE threats to international and national security are generally understood in the context of a total war, as was expected during the "Cold War" between NATO and the U.S. as its crucial nation, and the Warsaw Pact of the Soviet Union. In the event of a conflict between the two blocs, escalation was expected from a "conventional" start to the mutual destruction with nuclear weapons. Some defence and military theorists studied the possibility of a "limited" nuclear war and discussed the possibility of various anti-ballistics and other shields. They came to the conclusion that the country that has fired the first shot or used nuclear weapons first would die second, as the other side would immediately react with retaliatory attack. Despite various agreements

on the reduction[2], today's nuclear potential suffices for the destruction of all humankind. Similar to nuclear weapons was the case of chemical and biological weapons: in the event of an attack, the attacked side would respond with the same weapons in addition to nuclear weapons. These facts have successfully "deterred" both sides[3].

At the end of the Cold War, the threat of CBRN weapons was transformed into the threat of the proliferation of weapons of mass destruction. Due to the economic and political collapse of the former Warsaw Pact countries, the fear spread that CBRNE weapons and materials would be dispersed. The global public acknowledged with fear that the various materials, which can be used to make CBRNE weapons, are not entirely under control. The most skilled experts in CBRNE weapons were seeking new masters and payers. With appropriate knowledge and materials, it is not difficult to make CBRNE weapons; even the terrorist groups with scarce resources might produce a dirty bomb (nuclear, chemical waste), or develop biological weapons.

CBRNE threats also include the use of weapons by states, weapons obtained through theft, weapons that can be made from the stolen materials (radiological or chemical / biological devices), dirty bombs and radiant or ecological risk that could be caused by an attack or sabotage. Storing and transportation facilities for nuclear, chemical and biological substances are especially vulnerable.

Today we are very clear and well-informed about the potential consequences of a nuclear attack (e.g. Hiroshima and Nagasaki), the use of chemical weapons in the WWI and following the Tokyo sarin incident (1985) or possible mass abuse of the agents in the case of H5N1 avian influenza virus (Podbregar & Ivanuša, 2007a) as a biological weapon. Clearly CBRNE terrorism is a great threat to international and national security.

We emphasise combating the weapons of mass destruction as an active defence against weapons of mass destruction, especially because a CBRNE terrorist attack should not be allowed to happen given the consequences of such an attack.

To obtain intelligence information, various Intelligence Functional Disciplines - Subject Areas were developed within the (military) intelligence sphere that have a specific purpose and meet the specific users' requirements for intelligence.

Military intelligence operations are a segment of a complex response to terrorism (Prezelj, 2007a) and complete the joint activity and the response of the State (total picture). But one must say that military intelligence activities cannot be self-suf-

---

[2]   Unfortunately, reductions were agreed only among the great players, nobody knows exactly what nuclear capabilities and potentials are available to some newly developed nuclear powers (Pakistan, India, Israel...).

[3]   Reference to the situation in WW II might be a good example of how both sides did not use the huge CB arsenal they possessed at that time. Hitler was particularly afraid of chemical weapons due to a personal experience.

ficient – MI needs support. The importance of national support (REACH BACK) to military intelligence is valuable, because it is the most rational way possible to ensure both, specific and expert support, which are usually insufficient in military intelligence. Through cooperation and coordination, one ensures the streamlining, flexibility, efficiency, and integrity of military intelligence activities.

2   MILITARY INTELLIGENCE AND NATIONAL SUPPORT

Military Intelligence operations are a collection of functions, processes, procedures and measures through which individuals, units and commands uninterruptedly and comprehensively survey, collect, process, analyse and turn data into intelligence in order to anticipate the evolution of the military, military-political and security situations and operations of actual and potential enemies as well as other military and security threats, with the aim to enable commanders and other decision makers, who decide on the employment of the Armed Forces, to take adequate and timely decisions at all levels of command (Vojaška doktrina, 2006).

In the perspective of civil-military relations we assume the military intelligence role as servants of civil government. The intelligence control functions at the Ministry of Defence have been designed to prevent MI from reaching beyond limits.

To obtain intelligence information, the (military) intelligence activity developed various Intelligence Functional Disciplines - Subject Areas; Armed Forces Intelligence, Biographic Intelligence, Economic Intelligence, Political Intelligence, Targeting Intelligence, Scientific and Technical Intelligence, Logistics Intelligence, Infrastructure Intelligence, Geospatial Intelligence, Engineer Intelligence, Sociological Intelligence, Medical Intelligence, and Security Intelligence (Joint intelligence doctrine, 2003; AJP-2.0, 2003). Intelligence Functional Disciplines - Subject Areas activities have a specific purpose and meet the users' specific information requirements. General information can lead to a functional product focus, to be used for a specific purpose in response to specific intelligence requirements.

Intelligence Functional Disciplines - Subject Areas cover many aspects of intelligence production, and often require specialized analytical expertise.

These disciplines are not mutually exclusive; one discipline may be a part of another discipline. The overlap of some categories is reflected in the classification of related entities, which may form a separate study, or require specialized intelligence professional expertise. National support to the MI means the inclusion and use of national scientific and professional institutions and their capabilities.

There are many definitions of terrorism, but they are not "globally officially accepted". NATO also tried to define terrorism in MC 161 NATO Terrorism Threat Assessment.

In the study of the military intelligence's role in the fight against terrorism, the authors of this paper are using their own definition of terrorism, whereby terrorism is associated with the method and objectives of terrorist activity (the victims). It is important that the use of terroristic methods (e.g., abducting hostages, poisoning water resources or attacking with a dirty bomb) is sufficient for the characterization of a terrorist. Therefore, terrorists are those who use terrorist methods, regardless of the causes, motives, and justification for their acts. The concept of terrorism also includes attacks against soft targets - the victims. If legitimate freedom fighters – under the international law of armed conflict and the Geneva Conventions - deliberately attack innocent victims (e.g. schools, hospitals and commercial centres), they become terrorists, which in our opinion, they would not be, if they attacked members of the armed and security forces (Rode, Ivanuša, & Podbregar, 2008). In this definition of terrorism, which is always also subjective, we deliberately do not take into account the motives behind the violent actions. We take into account the threat of violence, not just violent actions themselves.

In terms of its causes, types and characteristics, CBRNE terrorism is no different from terrorism, which is included in the general definition of terrorism. The difference lies in the means used in the attack, which are CBRNE agents. Because of the consequences of such an attack, and human and material losses, the authors believe that the only alternative is an active defence against CBRNE terrorism, where MI is crucial. Due to the nature of threats, one of the basic foundations of MI needs to be changed. This is the secrecy of operation which is linked to the "the need to know" principle. "The need to know" should be replaced by "the need to share with others". It is necessary to allow access to information to the widest range of users. Information exchange is necessary within MI, between services (INTER / INTRA), outside the country/government, bilaterally, within NATO and the EU, the UN, in international operations, as well as at strategic, operational and tactical levels.

In the active defence against CBRNE terrorism, Medical Intelligence (MEDINT) is particularly important. In the case of intelligence activities in the medical field, we are demonstrating the importance of national support (REACH BACK) to Military intelligence, since it is the most rational way possible to ensure both specific and expert knowledge needed by the military intelligence operations. The authors refer to REACH BACK as though it was an official term associated with the Intelligence Community. That is not the case, of course. "Reach back" is used generically to describe a pre-planned connection whereby the expertise of subject matter experts may be elicited in addressing complex problems. We assume that subject matter experts are available at a national level.

The entire paper is based on the assumption that some existing MI models do not follow the requirements of the modern security environment and do not

allow an appropriate response to security threats. As it was mentioned above, medical intelligence needs to be included in MI operations through national support (REACH BACK). This is also the most rational way to ensure the highest possible level of security for members of armed forces and all citizens.

3   MILITARY INTELLIGENCE MODEL

When studying security threats in the medical field, we are aware that the dimensions of threats to national security are much more complex than it was commonly expected. These threats to national security cover a wide area, where the threat of communicable diseases is particularly important and therefore strongly emphasized in all strategies and approaches (Opačić, 1988; Kraigher & Pahor, 2001; Van Loock et al., 2002; Reberšek Gorišek, 2003; WHO, 2003; Likar, 2005). The Anthrax letters were a milestone in the perception of danger, having impact not only on safety and public health, but also on other areas, which are directly or indirectly linked to it, such as policy, economics, diplomacy, military, and law.

Disturbances and psychological effects accompanying the deliberate dissemination of biological agents are well known in Europe (Benedek, Holloway, & Becker, 2002; Kraigher & Berger, 2006).

Military intelligence has a special interest in health threat to national security, particularly in the domain of the public health system. The system of monitoring and controlling communicable diseases is an important part of Public Health, an integral part of the overall government programme and of a network of regional institutions for health care and epidemiological surveillance and control (Kraigher & Berger, 2006).

Lifestyle changes, so does the natural environment. Hence, people visiting the remotest places could bring unusual diseases back to their countries. If we add members of the armed forces, who conduct their duties in the remotest, under-developed, and the most dangerous places, such risks become even higher. Extra attention should be paid to health threats for members of the armed forces, who carry out their tasks in crisis response operations. Many diseases have long incubation periods and also threaten family members, and consequently all citizens. Therefore, consideration should be given to specific preventive measures (not only obligatory vaccinations, but also quarantine, for example).

Population is also threatened because of the possibility of deliberate dispersion of biological agents in the role of biological weapons as well as the natural spread of agents, due to the existence of natural focal points and infection sources, and the natural spread of infectious diseases due to non-immune populations (Podbregar & Ivanuša, 2007b; Kraigher & Berger, 2006).

National capacity or potential to support national military intelligence activities are directed primarily to the developments after a particular event, but not to the prevention of the event. The programmes of protection against natural and other disasters require the improvement of mutual cooperation of ministries, government departments, public institutions and local communities in accordance with their interdisciplinary nature. But this is not the case in Slovenia and in general. Despite the protection system's continuing adjustment and resolution of threats and risks, one cannot see the related support for national military intelligence activities.

When it comes to supporting the national military intelligence activities in the active defence, in Intelligence Functional Disciplines - Subject Areas, where military intelligence activity itself does not have enough knowledge and experience, one can expect the biggest support from the experts and scientific research institutions, where these experts work.

Another important factor in ensuring national support to MI which should be mentioned is communications between individuals and units in the operations abroad and those on the national territory. This provides facilities and expertise, which is rare and is only available at home.

Military intelligence has sufficient staff with analytical skills and access to different intelligence. However, MI usually lacks professional staff that could properly evaluate all data and information, and request additional information and initiate appropriate responses. Experts have the necessary skills, experience, support of scientific institutes, universities and even the economy. Normally, they receive considerable funds from the government - the taxpayers - who can in turn also expect their contribution to safety. Because of the nature of the work, these experts do not have access to data and intelligence information, because normally they do not have clearances to access to classified information. This does not interfere with their work significantly, because classified data prohibits them, in the vast majority of cases, to publish the results, which is the essence of scientific research.

This leads to duplication of work, financial resources and intellectual potential, and diminished protection of resources and security. We do not reach the added value of synergy, where 1 plus 1 equals 3 (1 +1 = 3).

Intelligence Functional Disciplines - Subject Areas activities have a specific purpose and meet the user-specific information requirements. General information can lead to a functional product focus, to be used for a specific purpose in response to any user-specific intelligence application.

For active defence against CBRNE terrorism, Medical Intelligence activities with the national support (REACH BACK) are essential, since they provide specific and expert knowledge, which Military Intelligence activities usually lack (Figure 1).

From the model, it is clear that military intelligence processes data in intelligence cycles. In the event of CBRNE threats and due to the nature of such data, it is essential that intelligence in the medical field is included. Intelligence activities in the field of health care include medical, life sciences, epidemiological, environmental and other information that is related to human and animal health (Podbregar & Ivanuša, 2008). Apparently, the staffs have to have the expertise within the intelligence related to the medical field and be able to work in the intelligence cycle.

Medical Intelligence activities (Podbregar & Ivanuša, 2008) are composed of (a) an assessment of environmental and medical threats, which we may have been exposed to, (b) an analysis of medical facilities and skills in an area of operation and (c) an analysis of threats and its involvement in the risk management[4]. All of this should be done in accordance with the main work method – the intelligence cycle.

It is vital that medical information entered as input in the intelligence cycle of Medical intelligence. These data must be collected only by "responsible and dedicated medical staff" (Podbregar & Ivanuša, 2008), although others are also capable of this. These data are important for the analysts and are available to commanders after they had been processed.

Military intelligence sphere has trained personnel with analytical skills and access to international and classified data. Military intelligence with the exemption of military medical physicians lack professional medical personnel, who could request medical data and produce the required responses.

---

[4]   Medical Intelligence activities in more detail include:

– Environmental Health
Identify and assess environmental risks that can degrade force health or effectiveness including chemical and microbial contamination of the environment, toxic industrial, chemical and radiation accidents, and environmental terrorism/warfare. Assess the impact of foreign environmental health issues and trends on environmental security and national policy.

– Epidemiology
Identify, assess, and report on infectious disease risks that can degrade mission effectiveness of deployed forces and/or cause long-term health implications. Alert operational and policy customers to foreign disease outbreaks that have implications for national security and policy formulation, including homeland defence and deliberately introduced versus naturally occurring disease outbreaks.

– Life Sciences and Biotechnology
Assess foreign basic and applied biomedical and biotechnological developments of military medical importance. Assess foreign civilian and military pharmaceutical industry capabilities.
Assess foreign scientific and technological medical advances for defence against nuclear, biological and chemical warfare. Prevent technological surprise. Prevent proliferation of dual-use equipment and knowledge.

– Medical Capabilities
Assess foreign military and civilian medical capabilities, including treatment facilities, medical personnel, emergency and disaster response, logistics, and medical/pharmaceutical industries.
Maintain and update an integrated data base on all medical treatment, training, pharmaceutical, and research and production facilities (Podbregar & Ivanuša, 2008).
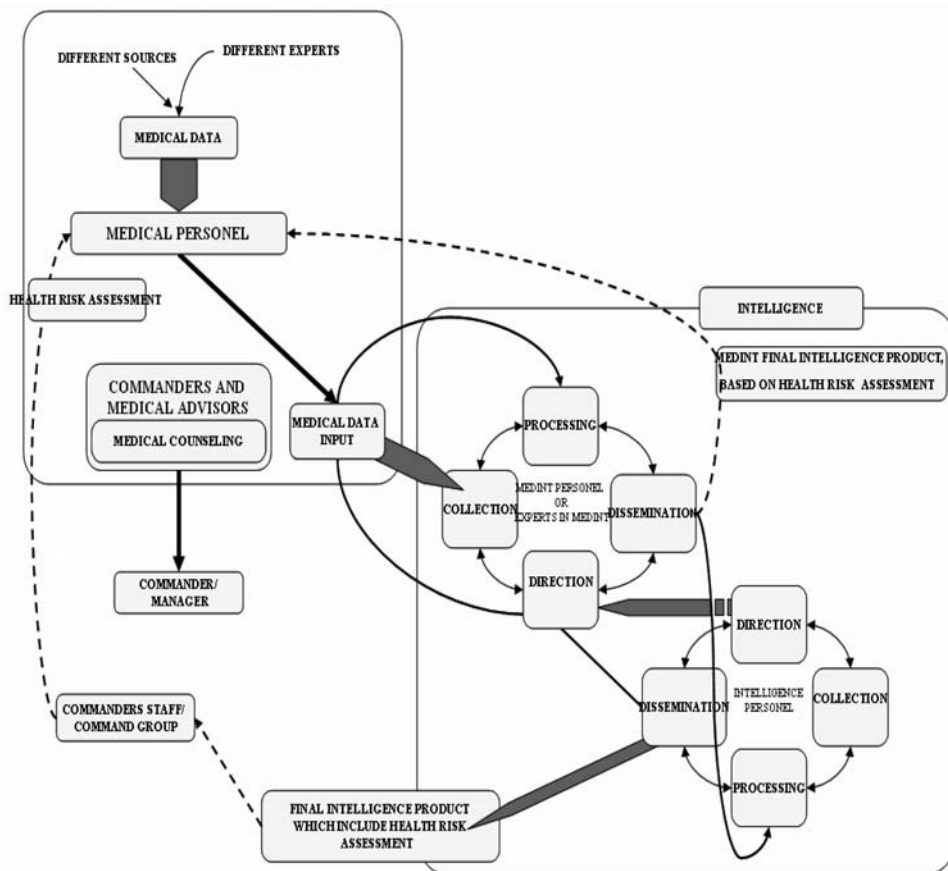
Figure 1: The role of intelligence activities in medical field in the relationship between the health systems and military intelligence activities

(Source: Podbregar & Ivanuša, 2008)

The medical staff (national support - REACH BACK) are not familiar with intelligence activities and intelligence cycle, and they have no access to "rough intelligence or to the final intelligence products " (Podbregar & Ivanuša, 2008).

We maintain that it is essential for a workable model, to have trained professional medical staff, familiar with the basic premises of (military) intelligence, the intelligence cycle and with access to classified information. This can be achieved if there is some kind of sustainable relationship and cooperation between professional personnel and military intelligence activities, preferably through an appropriate contract and co-operation by research. In this way, MI will be able to train medical staff to participate in intelligence activities in the medical field. At the same time, it is necessary to formalize and institutionalize the involve-

ment of medical personnel in the MEDINT intelligence cycle and total military intelligence, including communications links, the allocation of passwords and authorization for access to classified information. Military intelligence experts should be trained in the integration of the "received" support.

Podbregar & Ivanuša (2008) believe that integration of the medical profession and intelligence is of key importance. Requests for medical information are unjustified if they are available from public sources, if they are vulnerable because of their source, or if intelligence activity would reveal the purpose or the information marked as classified.

Any linkage between the military intelligence activities in the health system (national support - REACH BACK) must be planned to ensure the protection of resources, avoid duplication of work and the formation of gaps between them.

The authors are trying to convey the notion of reasonably breaking down institutional barriers that stand in the way of sharing information "up and down" the chain of responsible stakeholders.

However, in the case of the armed forces and their MI we must ask ourselves whether it is rational and efficient to implement intelligence cycles in Medical intelligence only with intelligence staff and use professional medical staff only to "prepare" the data as an input element in the intelligence cycle. We believe that it is justifiable to include the professional medical staff directly in the intelligence cycle of MEDINT, which is part of MI (Figure 2.). This finding can be generalized, and we said that the intelligence needed national support.

The model is useful both in individual states, as well as in NATO, because NATO (NATO Handbook, 2006) requires new models for operation in the future. NATO is in the course of a major transformation, because it wants to seek comprehensive and institutionalized solutions based on the past experience and the vision of the challenges in the future. NATO notes that modern strategic security objectives cannot be achieved only by military force. So NATO is looking for new tools and capabilities in the context of a comprehensive approach, because it is necessary to use all available military, political, civil capacity, knowledge and innovation.

This designed and proposed MI model can be used as an institutional solution for NATO members, which do not have enough resources[5]. The Alliance has models that allow data sharing and cooperation among states. Nevertheless, we believe that, especially in crisis response operations, this is not enough. Because of the responsibilities to their own members, deployed in crisis response operations throughout the world, the Alliance has to provide relevant intelligence.

The Alliance reasonably expects that its members will share intelligence. For the Alliance the internal organizational structure and MI modus operandi in mem-

---

[5] US National Center for Medical Intelligence (NCMI) at Fort Detrick, Maryland is the – by far – leading organization in MEDINT field. Other countries such as Canada, UK, Belgium, and Denmark have their own MEDINT sectors working efficiently for many years.

ber States are less important. In particular, MI may contact national support for various Intelligence Functional Disciplines - Subject Areas. With an appropriate involvement of national support in the provision of intelligence information, the contribution to the Alliance will be more evident.

The proposed MI model, which involves professional medical personnel (national support) directly into its Medical intelligence cycle, would remove the differences between "civil and military sphere," and would ensure specific and expert knowledge in the most rational and effective way. With this model we would also prevent duplication and waste of the most valuable resources (professional medical staff), which are needed both in the health system and in the MEDINT.

For the public safety in the case of CBRNE terrorism it is crucial to have a common assessment of regional security and cooperation among countries, within countries and between MI and national support. National support elements and modern microbiological laboratories must be prepared to take action in the event of an attack with CBRNE weapons.
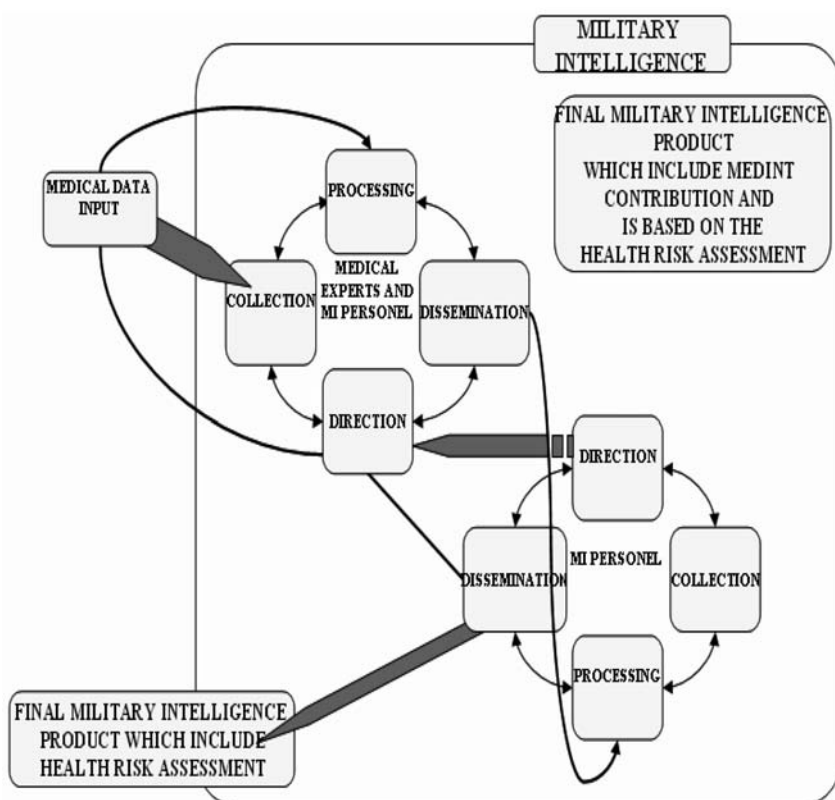

Figure 2: MI model which includes expert medical staff directly into its Medical intelligence cycle

(Source: Rode, 2010)

To address a wider problem of integration and cooperation of civilian and military medical systems Kraigher and Berger (2006) stated, that modern microbiological laboratories today generate large databases of agents that can be used for terrorist purposes around the world. National support - a system of public health, still maintains the protective vaccinations, and also draws attention to the excessively wide use (abuse) of antibiotics.

Through the cooperation between MI and national support elements in the active defence against CBRNE terrorism, both actors must develop procedures for response to the attack, since the measures, objectives and responsibilities of the involved must be clear. In addition, it is not to forget other parts of the national security system and "first contact" personnel; police officers, fire-fighters, rescuers and soldiers.

4   CONCLUSIONS

The presented model which integrates / includes national support can be used also for other Intelligence Functional Disciplines - Subject Areas, where military intelligence activity itself does not have enough knowledge and experience, which, however, can be offered by national support elements. Of course, there will always be Intelligence Functional Disciplines - Subject Areas that will be necessary to develop independently within MI (e.g. the Armed forces intelligence, Security intelligence, etc.).

For an effective pre-emptive and active defence against CBRNE terrorism, where national support (such as MEDINT) is vital, we need on both sides precisely defined, educated and qualified staff that will ensure effective cooperation and the strategic, operational and tactical useful intelligence end-products (Podbregar & Ivanuša, 2008).

Prezelj (2007b) also points out the necessity of cross-disciplinary and inter-organization multidimensional approach.

Our MI model, which includes national support, would be a contribution worth examining in the light of the efforts to provide security against CBRNE terrorism an addition to the States' efforts, activities and measures to prevent attacks from occurring.

All armies in Western democracies go through a period of intensive and ongoing reorganization, modernization and adaptation, the so-called transformation. This process has never in history been more rapid and intense, and in many areas solutions need to be invented "as we go"., In the field of organization, equipment, doctrine, tactics, and procedures, there is a need for a continuing search

for new solutions, learning from own and other experiences, and flexibility in thinking and processes (Rode et al., 2008).

MI is already complex enough, so it is very likely that such an organization will fulfil its mission also in less complex and extensive tasks. Purely military MI is the best in terms of command and control; however, it requires highly skilled commanders- managers-, who are familiar with information and security issues. In crisis response operations, homogeneous forces should be used that have been working and training together for a long time. We recognize, however, that MI requires specific expert knowledge, which can be obtained through national support. National support only needs to be connected to MI, as we suggested in the original model, and intelligence information should be passed on to the user, which advanced information communications systems permit. MI must be reorganized and upgraded to respond to future challenges. The proposed MI model could respond to the challenges of the future. Of course, the proposed model also has its limitations, since it is impossible for the model to cover all Intelligence Functional Disciplines - Subject Areas in the same way, but only those, which have been recognized by scientists and practitioners consensually as appropriate, and are also available at a national level. Eventually, the model will need to adapt to changes in the security environment (potential new threats and changes in relation to known threats to national security). In that manner, MI model will usefully include more Intelligence Functional Disciplines - Subject Areas. This open design will allow for the introduction of new Intelligence Functional Disciplines - Subject Areas and new modes of connection.

REFERENCES

AJP-2.0 Skupna zavezniška obveščevalna, protiobveščevalna in varnostna doktrina. Stanag 2190. (2003). Brussels: NATO Standardisation Agency.

Benedek, D. M., Holloway, H.C., & Becker, S.M. (2002). Emergency mental health management in bioterrorism events. *Emergency Medical Clinics of North America, 20*(2), 393-407.

Joint intelligence doctrine. (2003). National Defence Canada. Joint Doctrine Manual. Canadian Forces, Custodian: J2 PLANS POL 2003-05-21. Retrieved January 8, 2010, from URL=http://www.cfdcdf.forces.gc.ca/websites/Resources/dgfda/Pubs/CF% 20Joint%20Doctrine%20Publications/CF%20Joint%20Doctrine%20-%20B-GJ-005-200%20FP-000%20-%20Joint%20Int%20-%20EN%20(21%20May%2003).pdf

Kraigher, A., & Pahor, L. (2001). Značilnosti nalezljivih bolezni v Sloveniji v letih 1999 in 2000. *Ujma*, *14-15*, 175-178.

Kraigher, A., & Berger, T. (2006). Zdravstvena dimenzija ogrožanja nacionalne varnosti. *Varstvoslovje, 8*(1), 60-71.

Likar M. (2005). *Biološka vojna.* Ljubljana: Republika Slovenija, Ministrstvo za obrambo, Uprava RS za zaščito in reševanje.

MC 161 NATO Terrorism Threat Assessment (2005). Brussels: NATO Standardisation Agency. Retrieved April 23, 2011, from http://www.nato.int/ims/docu/terrorism.htm

NATO Handbook. (2006). Brussels: NATO Standardisation Agency.

Opačić, S. (1988). *Zdravstveno varstvo v hudih naravnih in drugih nesrečah ter vojni.* Ljubljana: Partizanska knjiga.

Podbregar, I., & Ivanuša, T. (2007a). Avian influenza: the threat of pandemic is real, if not inevitable who will protect the security/armed forces in the case of pandemic? In A. Jones (Ed.), *14th TIEMS Annual Conference, Trogir, Croatia, June 5th - 8th 2007. Disaster recovery and relief - current & future approaches* (pp. 29-36). Split: Hydrographical Institute of the Republic of Croatia: under authority of TIEMS, The International Emergency Management Society.

Podbregar, I., & Ivanuša, T. (2007b). Proliferacija orožja za množično uničevanje-CBRN/E: novodobni izziv varnostnim silam v boju proti terorizmu. *Bilten Slovenske vojske 9*(2), 117-121.

Podbregar, I., & Ivanuša, T. (2008). *Obveščevalna dejavnost na področju zdravstva – Medint. Znanstvena monografija.* Ljubljana: Zavod za varnostne strategije pri Univerzi v Mariboru.

Prezelj, I. (2007a). Nujnost medresorskega sodelovanja in koordiniranja v boju proti terorizmu: nekateri primeri iz Republike Slovenije. *Bilten Slovenske vojske 9*(2), 65-80.

Prezelj, I. (2007b). *Model celovitega ocenjevanja ogrožanja nacionalne varnosti Republike Slovenije.* Ljubljana: Ministrstvo za obrambo Republike Slovenije. Direktorat za obrambne zadeve. Sektor za civilno obrambo.

Reberšek Gorišek, J. (2003). Bioterorizem: trenutno ena najbolj aktualnih tem v medicini. *Naša bolnišnica, 4*(3), 24-25.

Rode, A. (2007). *Vojaška obveščevalna dejavnost.* Magistrsko delo. Celje: Fakulteta za logistiko.

Rode, A., Ivanuša, T., & Podbregar, I. (2008). *Vojaška* obveščevalna dejavnost v aktivni obrambi pred orožji za množično uničevanje. *Varstvoslovje: revija za teorijo in prakso varstvoslovja, 10*(3), 484-500.

Rode, A. (2010). *Vojaška obveščevalna dejavnost – aktivna obramba pred JRKB/E terorizmom.* Doktorska disertacija. Celje: Fakulteta za logistiko.

Van Loock, F., Gill, O. N., Wallyn, S., Nicoll, A., Desenclos, JC., & Leinikki, P. (2002). Roles and functions of a European Union Public Health Centre for Communicable Diseases and other threats to health. *Euro Surveill, 7*(5), 78-84.

Vojaška doktrina. (2006). Ljubljana, Poveljstvo za doktrino, razvoj, izobraževanje in usposabljanje: Defensor d.o.o.

WHO (2003). Health aspects of biological, chemical and radionuclear threats: a WHO interactive and searchable electronic library. *Wkly Epidemiol Rec, 78*(48), 414.

NATO STANDARDIZATION AGREEMENTS AS POSSIBLE LEGAL SOURCES IN NATIONAL LEGISLATION OF NATO MEMBERS

Authors:

Andrej Osterman, Albin Igličar, Teodora Ivanuša and Iztok Podbregar

ABSTRACT

Guaranteeing international security also depends on the level of interoperability of NATO forces and the forces of other countries as they work together in international operations. In the international security environment threats are constantly present, among them terrorism, which can also be successfully prevented by military forces. The success of their joint operations is directly linked with their interoperability. This can be attained through NATO STANAGs which are adopted at a NATO level and then implemented in the normative system of NATO's member countries. STANAGs, which are a type of the Alliance's unique military regulation, influence the national regulations of member countries, with its standards being implemented in their law. These standards can therefore be formally used as legal sources in the national legislation of NATO member countries, the regulative basis of which belongs to the Continental European legal system. STANAGs go through a normative cycle, by being adopted, amended or even revoked by a competent NATO authority. The protection of one's own forces against terrorism is specifically covered in NATO STANAGs on the subject of CBRN defence and military logistics.

Purpose:

It is important to describe and emphasise the fact that NATO Standardization Agreements (STANAGs) also play an important role in facilitating interoperability within NATO. They could therefore be treated as formal legal sources in those NATO countries whose regulations are based on the Continental European legal system.

Design/methodology/approach:

This article provides a summary of some references from NATO documents and other authors, and continues with some additional and substantiated findings of the authors of this article. In the paper, the deductive method, the comparative method and the descriptive method have been applied. The work undertaken is based on an interdisciplinary approach and focuses specifically on legal, security and defence studies.

Findings:

During the acceptance and verification procedures for the adoption of NATO STANAGs into national STANAGs, the former may bear an impact on existing national legislation. Such legal problems arise when the verification of a certain STANAG in

its entirety is urgently required for the provision of interoperability in the Alliance (the North Atlantic Treaty Organization), and when its normative implementation demands the alteration and completion of existing national legislation.

Research limitations/implications:

The interdisciplinary approach makes the selection of references more difficult, particularly due to the vast amount of defence, security and legal studies resources available. On one hand, the situation with NATO STANAGs and other NATO materials is very similar. On the other hand, the lack of information on STANAGs as a formal legal source is, in some ways, a constraint, but this also allows the author to take an original approach to writing.

Originality/value:

In order for NATO to operate efficiently, it is necessary to establish interoperability among the armies of its various allies. NATO STANAGs can play an important role here, as the common international security levels of NATO and the EU also depend indirectly on the effectiveness of NATO STANAG adoption and implementation procedures. Therefore, their potential in terms of being a possible source of law must be taken into account, as their normative implementation contributes immensely to interoperability among NATO members. In certain cases, with the exception of doctrinal documents, some STANAGs are very similar to legal acts, and that is why extreme precaution and an interdisciplinary approach are required. When implementing NATO STANAGs into national military standards, due consideration should be given to simple and complex legal circumstances, and national legislation.

Keywords: NATO STANAG, National Legislation, Continental European Legal System.

1   INTRODUCTION

Guaranteeing international security also depends on the level of interoperability of the military forces of NATO and the EU as they work together in international operations. Interoperability of military forces is partly achieved through NATO standardisation, via which NATO STANAGs (standardisation agreements) covering doctrine and procedures are adopted. It is therefore also necessary to devote legal attention to them, from the procedural and formal points of view. NATO STANAGs also contribute indirectly to international security, which is constantly facing unforeseeable changes and has global dimensions.

The changed international security environment, characterised predominantly by new threats such as terrorism and weapons of mass destruction, will require the armed forces of countries to continually modify their forms and types of operations (offensive, defensive, stabilisation, support, etc.). In the past, the international environment was mainly subject to classical military threats, such as attacks made by one or more countries on another country with limited or radical

goals, such as attacks on people, kidnappings, etc. These classical, or old threats, quickly gave rise to new modern threats. In the future, technological development will lead to even greater threats which remain unknown and perplexing. The threats of today will then become classical or obsolete. This will also need to be reflected in national legislation and the relevant NATO STANAGs. This is particularly important for those European countries that have recently acceded to NATO (Czech Republic, Hungary, Slovenia, etc.) and the aspirants. The protection of one's own forces against terrorism, including the potential use of weapons of mass destruction, can be covered by STANAGs on the subjects of military logistics and chemical, biological, radiological and nuclear defence. Therefore, their normative implementation into national regulations is particularly important and, as such, afforded greater attention.

The obligations of NATO members are governed by the North Atlantic Treaty, which specifies that members will, separately and jointly, maintain and develop their own defence forces as a basis for collective defence. Members are required to respect collectively agreed principles, policies and implementation procedures, including respect for the peaceful resolution of any neighbourly and international conflicts, in accordance with the provisions of the Charter of the United Nations. Cooperation within the Alliance requires the provision of the required military capabilities and their interoperability, which demands compliance with and ratification of NATO Standardization Agreements (STANAGs). They can be regarded as indirect legal sources to be implemented in the national legislation of NATO member countries.

In addition to appropriate legislation, all the entities that comprise the national security system of NATO member countries – including the armed forces as their essential component – must be coordinated. Operational integrity is ensured, both through appropriate national legislation and the jointly adopted NATO STANAGs, which can also become national military standards and are, according to a prescribed procedure, applicable as the national regulations of a NATO member country. The latter only applies to European NATO countries whose legal systems are based on the Continental European legal system, and is an essential element in understanding legal sources, such as NATO's STANAGs. There are also some countries within NATO, whose regulations are based on the common law legal system (e.g. the United States of America, the United Kingdom, etc.), which differs from the Continental European legal system.

2   INTERNATIONAL SECURITY ENVIRONMENT

During accession to and the actual entry into NATO and the EU, countries are increasingly being incorporated into the globalisation processes and global development movements. As part of the globalisation process, global changes to

the international security environment will also influence the national security of individual countries, as well in the sense of the occurrence of various negative effects, irrespective of the location of threats, changes, risks and other dangers around the world. The countries will adjust to them with the assistance of national legislation and other political documents, such as national security resolutions and similar.

The modern international security environment is complex, interdependent, subject to unforeseeable changes and has global dimensions. As a result of the emergence of new global centres of power and the resurgence of old ones, its multipolar character is being reinforced. All this is also reflected in security threats and risks. The decline in tension in relations between the countries of the Euro-Atlantic area has brought positive changes in the response to threats and security risks (Resolution on the National Security Strategy of the Republic of Slovenia, 2010).

The ensuing period will witness the continuation of EU and NATO enlargement. Accession to both international organisations will also be a characteristic of the wider region of South East Europe. Given the current trends, military threats made against territorial integrity and sovereignty are likely to be reduced; however, there will be an increase in threats that are shared by the Euro-Atlantic area, particularly terrorism and weapons of mass destruction. Those countries in the accession phase to NATO or the EU, or full members, also focus their international efforts on the reduction of the various risks associated with global armed conflicts and tensions, which can potentially lead to terrorist activity.

Security threats are engendered by some factors, such as globalisation, demographic trends, population growth, energy supply dependence and requirements, the need for and the accessibility of sources of food, water and other vital raw materials, environmental issues, climate change, the in/accessibility of technology, the dependence on modern information technology, and cultural differences. It is due to these factors that future crisis centres, in addition to those that already exist in the north, centre and east of Africa, will also emerge in areas which boast an abundance of energy resources, raw materials, food and water resources, and at the crossroads of various cultures and religions. Terrorist activity, in particular, will threaten transport and other energy resource lines. Security threats and risks will continue to occur in the form of rapidly-emerging security crises and crisis areas, terrorist threats and other asymmetric threats, the vulnerability of unstable countries, etc. They will be also accompanied by threats of uncontrolled proliferation and the potential use of nuclear weapons and other weapons of mass destruction, particularly on the part of those countries or groups that seek to obstruct globalisation processes and thereby acquire greater power and influence (Strategic Vision: The Military Challenge, 2004).

The countries that accede to NATO and the EU, and integrate themselves into these organisations, are required to focus their political activities, including legislative and military activities, on intensifying their integration into the international arena and increasing their participation in the creation of international security policy. Based on this approach, the possibility of the effects of military threats and some negative effects of trans-border networks on individual countries can be limited; the development of national economies as well as the strengthening of national security in the sense of a more efficient prevention of various threats, such as terrorism, crime, the spreading of infectious diseases, etc. can be encouraged. These processes should be reflected in the national legislation that serves as the basis for the legality of all processes and the adoption of NATO STANAGs, which ensure the interoperability of the Alliance's armed forces.

Terrorism of all types and possible forms will continue to remain the foremost threat to security despite the endeavours made by the international community to bring about its elimination or reduction. It will jeopardise the security of one or more countries, and international peace forces, irrespective of their various tasks. Globalisation and the accessibility of technologies and telecommunications will enable terrorist groups to increase the use of tactics such as flexibility, adaptability and surprise to a greater extent than before.

Terrorism poses a direct threat to the security of the citizens of NATO countries, and to international stability and prosperity generally. Extremist groups continue to spread to – and within – areas of strategic importance to the Alliance, and modern technology increases the threat and potential impact of terrorist attacks, particularly if terrorists were to acquire nuclear, chemical, biological or radiological capabilities (Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation, 2010).

The awareness of these threats is as important for the wider national security of a country as, in a narrower sense, its armed forces in ensuring protection and counter terrorism. NATO STANAGs can play an important role here, as the common international security levels of NATO and the EU also depend indirectly on the effectiveness of NATO STANAG adoption and implementation procedures.

The importance of survivability and force protection is an essential operating capability. It is a fundamental military principle that all military units must be able to protect themselves. Chemical, Biological, Radiological and Nuclear (CBRN) defence is an advanced guard for ultimate force protection (Podbregar & Ivanuša, 2007).

When taking the time sequence of some of the major terrorist attacks, such as 11 September 2001 in the US, 25 March 2004 in Madrid, and 24 January 2011 in Moscow, it can be concluded that terrorism represents a serious threat to the international security environment and therefore demands specific efforts to be made in all areas by NATO members. Similarly, the standardisation

of procedures, equipment and armament can contribute to a better protection against terrorism. As part of counterterrorist activity, national security systems and legislation are of vital importance in legal and organisational terms. As already mentioned, the successful prevention of terrorism and the proliferation of weapons of mass destruction can only be possible if such occurrences are perceived by national security systems in a timely manner, and the necessary measures taken. The measures implemented must be lawful, and supported by appropriate legislation in NATO countries.

The national measures adopted for the management of complex security threats can only be successful if they are complete and comprehensive, that is if they are multi-dimensional and multi-layered, and include various measures, such as economic, intelligence, military, diplomatic, transport, judicial, policing and other measures, aimed not only at eliminating the consequences of modern security threats, but also at removing the reasons for the occurrence of the threat in question (Grizold, 2005).

Moreover, the armed forces, as a constituent element of the national security system, can support the management of international threats, irrespective of their membership of NATO. International peace operations involve many countries. Broadly speaking, the armed forces of democratic countries make contributions to international peace, security and stability, and support national authorities and public institutions in the provision of security. The operation of the armed forces as part of the national security system also relies on its interoperability with other members, which can only be attained through the implementation of NATO STANAGs and the other necessary regulations and legislation of NATO member countries.

3   NORMATIVE IMPLEMENTATION OF NATO STANAGS

Normative regulation is as important as the highly trained personnel that operate weapons and equipment, and should be carried out in a timely and professional manner. The adoption procedure for NATO STANAGs may have a direct impact on existing national regulation. This legal problem appears in situations where it is necessary to ratify a specific STANAG in its entirety in order to ensure interoperability within the Alliance, and also to modify and supplement existing national regulations in advance. The generation of military capabilities declared for NATO and EU represents a major international commitment for a country. Its realisation demands the interoperability of the declared armed forces and, therefore, the military logistic system.

Prebilič (2006: 36) states, "...that military logistics is an activity related to the planning, preparation and provision of military materiel in support of military

units and their existence, movement and training in peace, mobilisation and combat structure during crises and combat operations during war".

The main principles ensuring the success of military logistics are the procedures and terminology of numerous NATO countries and the readiness of logistics for the full range of operations. The modus operandi of logistics is reflected in broader fields through the ability of commanders and their commands, and is precisely defined for each operational logistic planning (Podbregar, Ivanuša, & Lipičnik, 2006).

In NATO, the process of adopting STANAGs is set out by the Directive for the Development and Production of NATO Standardisation Agreements (STANAGs) and Publications (APs). This is the regulation governing NATO standardisation. The Directive defines the bodies that participate in the process, from development to the adoption and also cancellation of a NATO STANAG. In this way the competences and responsibilities of the NATO members taking part in this process are defined.

Popiel and Grabiec (2003: 6) state,"...standardisation is one of the measures by which NATO nations can support development of common military potential. It provides substantial contribution to an increase of operational effectiveness and enables better use of member nations economic resources. Standardisation brings an additional political virtue – it is an external demonstration of co-operation and solidarity among all Alliance nations. Due to that, NATO nations undertake efforts in different areas to improve and eliminate the cases of duplication in research, production development, procurement and defence system support."

Interoperability with the Alliance's armed forces is also ensured through the ratification of NATO STANAGs, which requires legal compliance with the national legal basis. To this end, the Republic of Slovenia, for example, has supplemented its existing legislation by amending Article 78 of the Defence Act (Zakon o obrambi, 2004) in relation to the Standardisation Act (Zakon o standardizaciji, 1999). Based on this, the Defence Minister endorsed the Rules on the implementation of internal standardisation in the MoD and the Slovenian Armed Forces. Article 29 of the Service in the Slovenian Armed Forces Act provided that the decision on the introduction of a STANAG is taken by the Minister. The rules detail the ratification procedure for NATO STANAGs, which constitutes the basis for their adoption as Slovenian military standards (SVS) which are required to conform to Slovenian (national) legislation.

3.1   STANAG as a possible legal source and its normative cycle

STANAGs should be treated as regulations or legal acts, and their specific features and importance for the military should be taken into account. From a legal perspective, the analysis of the contents of a STANAG can raise legal concerns

about the formal legal framework of the standard. Moreover, the STANAG is a unique regulation which, in addition to doctrinal guidance, can also determine mandatory measures or technical requirements for national armed forces. Similarly, STANAGs can also function as guidance or a recommendation.

In accordance with Alliance policy, national and NATO authorities are encouraged to develop, agree and implement concepts, doctrines, procedures and designs which will enable them to achieve and maintain interoperability. The requires the establishment of the necessary levels of compatibility, interchangeability or commonality in operational, procedural, materiel, technical and administrative fields (NATO Handbook, 2001: 314).

There are over a thousand NATO STANAGs. Their content varies greatly and ranges from doctrines to technical procedures, and can be more or less binding (recommendations). For this reason every STANAG needs to be evaluated separately in terms of whether or not it can be considered a formal source of law. Here it is necessary to take into account the fact that every country's legal system has its own specific characteristics. In Slovenia, for example, an implementing regulation adopted by a minister is also a source of law. For this reason some STANAGs that are currently implemented may be classified as formal sources of law, while in another NATO country it may not be possible to count the same STANAGs as a formal source of law. In the same way, some NATO members have military justice and others do not. In any case, a STANAG is not legislation and can therefore only belong in the group of implementing regulations, while even this can vary in NATO countries that use the Continental European legal system. The important considerations from the legal point of view are how STANAGs are created in the procedural sense, what they substantively regulate and what national regulations in a given country they affect when they are implemented. The question of whether a formal source of law can be said to have been be created may also depend on this.

Cerar, Novak, Pavčnik and Perenič (1998: 30) state, "...that a certain rule can only be used as a piece of advice and a recommendation for the rational and the desired, yet it does not involve mandatory conduct or the handling of those to whom it applies.

Pavčnik (2007: 287–288) states, "...that the formal and legal sources can be generated in different ways. One option is that competent national authorities create an appropriate formal legal source (for example, an act, a decree, rule, etc.). Another option is that national authorities, (e.g. courts) deal with specific matters and reach decisions, the effect of which is typical for general and abstract legal rules, (e.g. judgment as a legal source). The third option refers to the contents of the formal and legal source that is typically determined by social entities – be it spontaneously, (e.g. the creation of customs) or through organised operation, (e.g. rules of individual organisations)."

Bohinc, Cerar and Rajgelj (2006: 119) state, "…formal sources are generated, changed and cease to exist under the influence of material legal sources; they are general legal acts with predetermined formal elements: (1) competent entity; (2) prescribed adoption procedure; and (3) appropriate external identification.

Malcolm (2003: 3) states,"…a distinction has sometimes been made between formal and material sources. The former, it is claimed, confer upon the rules an obligatory character, while the latter comprise the actual content of the rules. Thus the formal sources appear to embody the constitutional mechanism for identifying law while the material sources incorporate the essence or subject-matter of the regulations."

Brownlie (2003: 3) states,"…it is common for writers to distinguish the formal sources and the material sources of law. The former are those legal procedures and methods for the creation of rules of general application which are legally binding on the addressees. The material sources provide evidence of the existence of rules which, when proved, have the status of legally binding rusels of general application."

Through their representatives in NATO committees and working groups, NATO members participate in the creation of the contents of NATO STANAGs which, according to the nationally prescribed procedure, become binding upon the armed forces or other national authorities. In this way, member countries can participate in the process of the standards' creation, both in terms of their form and content. Procedural rules for the ratification of a new NATO STANAG are specified for Alliance members who also have their own national procedural rules. It should be noted that the conduct of joint international operations is gradually altering the established relations with a direct impact on STANAGs. They can be regarded as a specific regulation and should therefore be treated as a possible formal legal source.

In social life, there can be a particular distinction between two methods of legally arranged social relations: between those with a planned creation of the contents of the legal rule, (e.g. act as a legal source), and between those whose contents are generated spontaneously and in a disorganised way, (e.g. customary practice as a legal source). This difference could justify the organised creation of a formal legal framework in the first instance and "spontaneous" development in the second instance (Pavčnik, 2007).

With the involvement of national armies in various peace operations abroad, certain rules of conduct and new rules of engagement are being created in a spontaneous and disorganised way. These rules may sometimes differ from those applicable at home or on military duty. They can be incorporated into existing NATO STANAGs through national military representatives in NATO working bodies by supplementing, modifying, revoking or creating new standards.

All this is based on lessons learnt. The process could well be defined as the normative cycle of NATO STANAGs. Peace operations are therefore of particular practical importance for the normative cycle of NATO STANAGs. With a planned and system-based approach towards the lessons learnt before, during and after peace operations, it is possible to develop additional expert proposals for the modification and supplementation of existing STANAGs.

Pavčnik (2007: 320–321) states, "...that to the decree as the central legal act, there are several other acts adopted by executive bodies [...].The main implementing regulations within the authority of individual ministries are the rules. Rules are a general legal act specifying individual clauses of an act, other regulation and acts of the state assembly, as well government acts, and EU regulations. The rules are issued by individual ministers or by several ministers together if their contents apply to the work areas of several ministers [...]. In practice, the rules commonly regulate the organisation of business operations and the modes of operation of a specific body. These matters can also be regulated through the terms of reference for collective bodies [...]. Typical implementation (administrative) acts are also guides and decrees. A guide sets out the operational methods of administrative bodies in the implementation of individual clauses of acts, regulations or other general (also implementation) acts, whereas a decree formulates measures of general importance".

In addition to the aforementioned legal formal sources, the operation of the armed forces is also defined in command and control acts, e.g. guidelines, mandatory guidance documents, decrees, rules, guides, directives, decisions, plans, orders and STANAGs. All of these entail a similar legal purpose for the armed forces as other formal legal sources (constitution, act, decree and rules). This applies to a group of NATO countries whose national regulations are derived from the Continental European legal system. A number of command and control acts were issued for military logistics and the CBRN defence. These two areas have a direct impact on the protection of one's own forces against nuclear, radiological, chemical and biological terrorist attacks. Other areas, such as personnel, communication-information and others, are also covered by a number of command and control acts regulating various organisational and other matters.

Pavčnik (2007: 321–322) further states, "...that law theory distinguishes between autonomous and heteronomous regulation. The difference is derived from the gap that exists between the law authority and the addressee of a rule, and from the addressee's relation to the contents of the rule. A rule is directly autonomous when originating from one's own will (self-regulation) and is integrated with its contents, while indirect autonomy of the will refers to the creation of the rule by a foreign will (a third person), although in terms of its contents it is agreed upon and considered as one's own because of its persuasiveness. A common

characteristic of heteronomous legal rules is that they are developed (created) by a foreign will. By their nature, they are not accepted by our own will in terms of content. The level of heteronomy is naturally diverse and may range from the fact that we act in accordance with the rule despite the content-related disagreement, and to the fact that the heteronomous (primary) disposition is violated, and the legal sanction is not followed voluntarily".

With regard to Pavčnik's explanation and our own legal position, the majority of NATO STANAGs could be mainly categorised as autonomous rules; this is due to the fact that they can, at our own discretion, be adopted in their entirety or with reservations, or can even be rejected. Only a small number of NATO STANAGs could be classified as heteronomous rules. They particularly include those that allow participation in joint Alliance operations if fully adopted (communications systems, staff work, etc.). STANAGs related to military logistics and CBRN defence and others (personnel, communication-information, etc.) could also fall within the category of heteronomous rules. This group includes, in particular, those STANAGs which must be strictly implemented and respected, or soldiers, equipment and armament may otherwise be put at risk. The heteronomous rules group also includes technical STANAGs.

Standardisation involves two processes: the process of national standardisation and the integration process into NATO standardisation processes. The first (national) is a pre-determined process based primarily on the national will. It ranges from launching an initiative, developing a draft STANAG, carrying out the ratification process, implementing and executing, reviewing the relevance, and – if the will exists – cancelling individual national STANAGs. Another NATO-related process is, similar to the previous process, also defined in advance and based on the national will.

It includes a study draft, national ratification, promulgation, implementation, review and – if the will exists – cancellation. STANAGs adopted in these processes must be respected, as they, similar to the rules, become binding. The processes described lead us to conclude that each STANAG has its own normative cycle from creation to revocation or cancellation, with the possibility of changes in between (Popiel & Grabiec, 2003).

Igličar (1994: 9) states, "...that the formal contents of a normative act also involve the procedure for its adoption and issuance by the competent legal entity. It is in the nature of the regulation that the importance of the contents as the desired final product of procedure affects its complexity, details and duration. This also underlines a number of fundamental theoretical issues on the procedural aspect of law; namely, that it is erroneous to believe that even the finest procedural rules alone can automatically generate legal content. The content is not a derivative of procedure, but the product of scientific judgment.

In order to successfully accomplish tasks, it is necessary that members of the armed forces become acquainted beforehand with the rules (regulations) and made aware internally of the importance of the strict observation of individual rules and the doctrinal subject matter of STANAGs, even more so when participating in joint international military operations with other countries. A special role here is given to prior education and training. The regulation adopted in advance allows military personnel proper conduct during actual crisis situations. Ideally, all the participants related to the operation of systems, including military logistics, should be familiar with all the relevant laws, decrees, rules, STANAGs, guidelines, mandatory guidance documents, decrees, guides, directives, decisions, plans and orders, but this is naturally a utopia. If all the regulations were mutually harmonised and fully observed by all participants, every participant would know in advance about the conduct of the other participants, although this is only possible in theory. The knowledge of regulations should, therefore, be divided into various levels and specialised with respect to the position and tasks allocated to an individual in the field of military logistics or CBRN defence.

If we compare examples of some formal legal sources researched by legal experts (Cerar, Novak, Pavčnik, & Perenič, 1998) with the form and contents of NATO STANAGs, the latter would be classified as a group of regulation, rules, instructions, contracts as a legal source and customary practice (expert and technical standards).

4   IMPLEMENTATION OF NATO STANAGS IN MILITARY LOGISTICS AND CHEMICAL, BIOLOGICAL, RADIOLOGICAL AND NUCLEAR DEFENCE

The protection of one's own forces against terrorism is specifically provided for by STANAGs on military logistics and chemical, biological, radiological and nuclear defence. In the field of the normative implementation of NATO STANAGs, each STANAG is unique in legal terms. This paper covers only two areas important for force protection: military logistics, and chemical, biological, radiological and nuclear defence. The efficient protection of military forces and capabilities also has a bearing on the level of national and international security.

In the first case, the purpose of NATO STANAG 2406 (Edition 6) – Land Forces Logistic Doctrine - ALP - 4.2(A) – is to determine a joint logistic doctrine for NATO land forces. This STANAG serves as a professional guide for NATO and national commanders, and land force component commands for the optimum use of the logistic sources available in multinational operations, for the full range of operations, ranging from crises to conflicts. The standard is also intended for Alliance-led operations involving non-NATO members.

The field of chemical, biological, radiological and nuclear defence (CBRN defence) is covered, in particular, by the Allied Joint Tactical Doctrine for CBRN Defence ATP-3.8.1 Volume 1, which specifies the basic tactical principles for operation in this area. Another relevant standard is NATO STANAG 2473 NBC (Edition 2) – Commander's Guide to Radiation Exposures in Non-Article 5 Crisis Response Operations. Chapter 1, entitled "Radiation characteristics", describes the various types of radiation: natural setting, α, β, gamma and neutron radiation, their penetration ability and effect on organisms. The chapter on "Radioactive sources" describes and lists various radioactive sources.

By way of example we may consider the influence of the NATO STANAG on CBRN defence on a law and a government decree in Slovenia, as a member of the NATO alliance. If Slovenia wishes to implement the NATO STANAG on CBRN defence in full, it must first amend the Ionising Radiation Protection and Nuclear Safety Act (Zakon o varstvu pred ionizirajočimi sevanji in jedrski varnosti, 2004) and the Decree on dose limits, radioactive contamination and intervention levels (Uredba o mejnih dozah, radioaktivni kontaminaciji in intervencijskih nivojih, 2004). Article 21(2) of the above Act provides that an employer may not order an exposed worker to perform the extraordinary tasks referred to in the previous paragraph if the exposed worker does not give his written consent to this. In view of the fact that the CBRN defence battalion and other units of Slovenia's armed forces could find themselves in conditions of having to operate in an area exposed to radioactive contamination, in such a case the commander would first have to obtain the personal consent of his soldiers to operation in a radioactive area, as required by law. From the military point of view this is unacceptable. An amendment to the above act is therefore necessary. Similarly, Annex C to NATO STANAG 2 473, 'Contamination limits for 7-day and 3-month operations', has a legal relation to the Decree on dose limits, radioactive contamination and intervention levels (Uredba o mejnih dozah, radioaktivni kontaminaciji in intervencijskih nivojih, 2004). It is therefore also necessary to amend this Decree and harmonise it with the STANAG for the needs of members of Slovenia's armed forces. In this example we can see the influence of the STANAG as a possible formal source of law on national regulations in Slovenia.

If taking a legal perspective and, in doing so, treating all the aforementioned NATO STANAGs as having adopted the applicable rules of the Alliance, this could imply that their contents are in direct legal contradiction to the national legislation of NATO countries whose legislation is derived from the Continental European legal system. In such legal cases, one could defend the position that individual members need to adjust their national legislation in advance (so as to) to enable their armed forces to fulfil the commitments undertaken by the state. This legal problem is – and will continue to be – present, particularly with new Alliance members who otherwise have a legal option to submit proposals for changes through the competent NATO committees and to leave their national

legislation unchanged, although legal disentanglement would be questionable. In relation to national regulations, such as laws, decrees, etc., the normative implementation of STANAGs for logistics and CBRN defence does not always require amendments to existing national legislation or decrees, but rather the issuing of command and control documents, (i.e. rules, guides, directives, decisions, plans and orders) within the armed forces.

5   CONCLUSION

In order to effectively counter terrorism, which represents a threat both to the national security of individual nations as well as to the entire international security environment, it is vital to ensure the interoperability of the armed forces within the Alliance. This can only be implemented by commonly agreed STANAGs within NATO. It is often difficult to understand the importance of these standards from the perspective of protecting one's own forces and others, particularly when dealing with STANAGs that regulate CBRN and military logistics, and specifically enable joint operations of units from various countries in the event that weapons of mass destruction are used by terrorists. NATO countries should, therefore, handle STANAGs from an operational perspective and, to a greater extent, from a legal perspective, especially when they are regarded as formal legal sources with reference to laws and implementing regulations. This particularly applies to NATO countries whose legislation is based on the Continental European legal system.

Ensuring national security within the scope of international security is also linked to NATO STANAGs. They should be treated as possible formal legal sources in cases where they are referred to in laws or implementation laws. In terms of norms, they are implemented, thereby ensuring the interoperability of NATO members. In some cases – with the exception of doctrinal documents – some STANAGs are similar to the rules and guides regarding their content. The evaluation process for STANAGs should, therefore, be precise and interdisciplinary. The same applies to STANAGs for military logistics and CBRN defence, which are also crucial to national security. The normative implementation of NATO STANAGs in national military standards may involve simple or rather complicated legal situations. Despite the legal complexity, a nation must give priority to compliance with the national legal order and the protection of individual citizens, as without people – be they soldiers or civilians – no system can exist or function.

NATO STANAGs should always be regarded as a unique regulation of the Alliance and should be implemented in the member countries' national legislations, the legal system of which is based on the Continental European legal system.

REFERENCES

AAP-3(I) Directive for the Development and Production of Nato Standardization Agreements (STANAGs) and Publications (APs). (2004). Brussels: NATO Standardisation Agency.

AJP-3.8 *Allied Joint Tactical Doctrine for CBRN Defence. STANAG 2484.* (2005). Brussels: NATO Standardisation Agency.

ALP-4.2(A) *Land Forces Logistic Doctrine, STANAG 2406* (Edition 6) (2010). Brussels: NATO Standardization Agency.

Allied Command Transformation, Allied Command Operations. (2004). *Strategic Vision: The Military Challenge.* (pp. 2-6). Norfolk: Allied Command Transformation Public Information Office.

Bohinc, R., Cerar, M., & Rajgelj, B. (2006). *Temelji prava in pravne ureditve za nepravnike.* Ljubljana: GV Založba.

Brownlie, I. Q. C. (2003). *Principles of Public International Law, Sixth Edition.* New York: Oxford University Press.

Cerar, M., Novak, A., Pavčnik, M., & Perenič, A. (1998). *Praktikum za uvod v pravoznanstvo.* Ljubljana: Časopisni zavod Uradni list Republike Slovenije.

Grizold, A. (2005). *Slovenija v spremenjenem varnostnem okolju.* Ljubljana: Fakulteta za družbene vede.

Igličar, A. (1994). *Zakonodajno odločanje.* Ljubljana: ČZ Uradni list Republike Slovenije.

Likar, M. (2005). *Biološka vojna. Ljubljana*: Ministrstvo za obrambo RS, Uprava RS za zaščito in reševanje.

Malcolm, N.S. (2003): *International Law , Fifth edition.* United Kingdom: The Press Syndicate of the University of Cambridge.

Pavčnik, M. (2007). *Teorija prava.* Ljubljana: Založba GV.

Podbregar, I., Ivanuša, T., & Lipičnik, M. (2006). The Aim of the Personnel Management in Military Logistics. In T. Kramberger, A. Lisec, & B. Rosi (Eds.), Proceedings of the *3rd International Conference on Logistics & Sustainable Transport*, Volume 1-2 (pp. 144-153). Celje: Faculty of Logistics.

Podbregar, I., & Ivanuša, T. (2007). Proliferacija orožij za množično uničevanje – JRKB/E: Novodobni izziv varnostnim silam v boju proti terorizmu. In *Bilten Slovenske vojske, 9(2)* (pp. 118-119). Ljubljana: Generalštab Slovenske vojske.

Popiel, H. & Grabiec, R. (2003). *Standardisation within NATO.* Warsaw: Military University of Technology, Institute of Command Systems Automation and Logistics.

Prebilič, V. (2006). *Vojaška logistika.* Ljubljana: Fakulteta za družbene vede.

Resolucija o strategiji nacionalne varnosti Republike Slovenije (2010). Uradni list RS, (20).

NATO STANAG 2473 (Edition 2) *Commander's guide to radiation exposures in Non-Article 5 Crisis Response Operations.* (2004). Brussels: NATO Standardization Agency.

NATO Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization (2010). Adopted by Heads of State and Government in Lisbon. Available: http://www.nato.int/cps/en/natolive/official texts 68580. Last accessed 8 March 2011.

NATO Handbook. (2001). Brussels: NATO Office of Information and Press.

Uredba o mejnih dozah, radioaktivni kontaminaciji in intervencijskih nivojih (2004). *Uradni list RS*, (49).

Zakon o obrambi (2004). *Uradni list RS*, (103-UPB1).

Zakon o standardizaciji (1999). *Uradni list RS*, (59).

Zakon o službi v Slovenski vojski (2008). *Uradni list RS,* (58).

Zakon o varstvu pred ionizirajočimi sevanji in jedrski varnosti (2004). *Uradni list RS*, (102-UPB2).

THE EFFECT OF INTERNAL SECURITY MEASURES ON THE OCCURRENCE OF STRESS IN SLOVENIAN ARMED FORCES

Authors:
Denis Čaleta and Branko Lobnikar

ABSTRACT

Purpose:

The effect of the implementation of internal security procedures on the stress level among members of national security bodies has, to date, received rather limited attention and has not received any special recognition or attention by the Slovenian military. A richer understanding of the measures used by the military (especially those that infringe upon the basic freedoms of its members), along with their consequences, is fundamental to understanding the stress to which military members are subjected. Within their legal frameworks, countries identify and define security standards for the protection of classified information and other security procedures such as video surveillance, work in restricted areas, security checking processes that ensure their national security bodies function smoothly and be prepared to new threats and challenges. This paper focuses on the Slovenian Armed Forces (SAF), where such security standards are integrated on the basis of certain restrictive measures based on various legal provisions. These measures, however, can/and do infringe upon the privacy of SAF members and thus cause additional stress to solders and other employees in SAF. The military profession is inherently stressful on account of the circumstances and situations its personnel face daily and restrictive measures, taken by the Slovenian Armed Forces. The basic purpose of the survey used in the study represented in this chapter, is to study the impact of SAF's internal restrictive measures on employees stress level. The goal of survey is to point to the fact that legal and other restrictions specific to the military cause additional stress in the personal and working lives of its members.

Methodology:

Between October and November 2009, a survey about effects of internal security measures administered to 500 survey of which 320 respondents (approx. 76%) completed the survey. The first part of the questionnaire referred to the factors of influence in the provision of internal security on the occurrence of stress among the organisation members. The factors were measured on the basis of questions in the form of a Likert scale statements. Respondents replied to statements on the basis of a five-point scale, where 1 meant that they "strongly disagreed with the statement" and 5 that they "completely agreed with the statement". The second part

of the questionnaire consisted of demographic data. With regard to the first part of the questionnaire, we conducted an analysis for internal consistency, using the Cronbach's α coefficient, and determined that its value was 0.712 – demonstrating that questioner had internal consistent and reliable.

Findings:

SAF members assess internal security factors as important stressors that tend to have a strong negative impact on satisfaction in working environment. Although the research could not statistically confirm the effect of age on the perception of stress with regard to the individual factors studied, there were certain differences in the perception of workplace-related stress factors in certain age groups. Differences stem from the process of socialisation in work processes, with regard to the social environment and the time of integration. The results showed that internal security measures are felt to infringe on the privacy of SAF members which in turn cause additional stress on individuals. By rejecting the hypothesis that *"restrictions at the workplace cause less stress to members with a longer period of employment in the organisation",* we set out to prove that stress caused by individual factors has an equally strong effect on all members, regardless of how long they have been employed in the organisation.

Limitations/applicability of research:

Although the research results and conclusions apply to the Slovenian Armed Forces, parallels may be drawn to other security organisations within the national security system, where the process of providing internal security is more prominent than in the social environment. Hence, we can expect similar studies in the future conducted on other comparable subjects, in both the national and international environment. The analysis conducted would thus be given its comparative effects in a wider context.

Originality/importance of the article:

In the article a scientifically relevant method were used to examine the effect of stressors related to the provision of internal security. The article is an original contribution to research in the field of stress assessment and stress management in the Republic of Slovenia, and focuses on a subject (SAF) which has, to date, received little attention. Although there are several studies addressing the problem of stress from different angles, research in this field in connection to the armed forces is rare. This research contribution will thus form a valuable basis for researchers and military practitioners in their further study of stress related to the provision of internal security measures in security organisations.

Key words: Stress, Internal Security Measures, Armed Forces, Slovenia

1   INTRODUCTION – THE IMPORTANCE OF STRESS MANAGEMENT AT THE WORKPLACE IN SECURITY ORGANIZATIONS

The present article seeks to explore the problem of stress and stress factors facing members of national security bodies in the implementation of internal security procedures[1] These factors are seldom studied in the work environment and not given special importance in the organisation, either with regard to security bodies or private sector entities. A deeper knowledge of security measures used by the military (especially those that infringe upon the basic freedoms of its members), along with their consequences, is fundamental to understanding the stress to which military and police personnel, as well as people working within the framework of the intelligence and security services, are subjected.

Within their legal frameworks, countries identify and define security standards for the protection of information and procedures that ensure their national security bodies function smoothly. This article focuses on the Slovenian Armed Forces, where such security standards are integrated on the basis of certain restrictive measures based on legal provisions. These measures, however, can significantly infringe upon the privacy of SAF members and thus cause additional stress in individuals. The military profession is inherently stressful on account of the circumstances and situations its personnel face daily and restrictive measures, taken by the Slovenian Armed Forces to provide internal security, serve only to intensify these stressful situations.

Today, stresss occupies a very important position in the organizational life of every individual. There are several factors which influence the importance of stress awareness. The complexity of the highly technologically-developed environment, where there is an increased risk of errors with possible catastrophic consequences for the wider social environment, increases the presence of stress. As a result of unexpected critical situations, individuals are required to make fast and, above all, correct decisions in a very short period of time. This puts an individual in a very stressful situation, as poor or incorrect implementation, or reaction, to such decisions may have a tremendous detrimental effects. Another important factor associated with the growing interest of the professional in the occurrence and effect of stress is the wide range of potential stressors present in different contexts of life. Driskell and Salas (1996) point to the areas where such complexity, in relation to highly stressful operations, has already been studied in detail. These areas include aviation, military operations, emergency medical assistance, mining, scuba diving, skydiving, police work, demining, fire fighting,

---

[1]   In this article, the term internal security refers to processes related to the protection of classified information, operation in areas where control is greatly enhanced, implementation of security clearances of employees before the assumption of their duties and during the time of their employment, as well as other measures for the provision of security within the organization.

among other areas. Umek (1997), Pagon, Lobnikar, Cooper, Sparks and Spector (1998), also highlight the importance of stress awareness in the police environment. Occupations associated with these areas of work are already associated with a highly demanding work environment and stress to which people who perform such duties are exposed. On the other hand, we have to be aware of the fact that stress is also present in everyday life, for example when working in the office or driving a car (Newhouse, 2000). Also everyday environment and activities present a series of stressors which may interfere with or affect the smooth functioning of activities, and cause a certain degree of stress in people. Stress has notably become a major problem in the workplace. In addition to consequences for an individual's health and well-being, it also leads to high costs for organisations, and greatly reduces economic performance and productivity. Along with a significant mental and psychological burden on the health of employees, stress is also reflected in increases of absenteeism, staff turnover, a lack of corporate security, poor work ethics, a lack of innovation and, above all, lowers productivity (Cox & Gonzales, 2004).

All these have a major impact on the productivity, cost increase, and the competitiveness of organisations in a difficult global economy. The problem of stress is present in both the private and public sector, and cannot be avoided today. Organisations are largely directed to increasing productivity and profit, and tend to forget the importance of the capital represented in their employees. In short, they are often unaware of the fact that the costs associated with the prevention of stress are often much lower than the costs of the measures needed to counter the effects of stress.

1.1   The impact of stress on workplace efficiency

The definition of stress is associated with a large number of different explanations and dependent on the approach taken by the professional circle defining it. Stress is defined as a discrepancy between requirements on the one hand, and the ability to manage these requirements on the other. The relationship between requirements and the ability to withstand pressure has a decisive impact on the perception of stress, both negative and positive (Looker & Gregson, 1993). Stress is the reaction of an organism to stimuli from the environment, and includes the signs of defence and adaptation. It is the state of tension in an organism, which triggers the defence mechanism when the organism faces a threatening situation. This is followed by a non-specific reaction of the organism, which either leads to defence or resistance (Plozza & Poozi, 1994). Battison (1996) claims that stress is not merely a medical condition but a combination of physical, mental, and emotional feelings resulting from pressure, anxiety, and fear. According to Battison, this is followed by a non-specific reaction of the organism, which either leads to defence or resistance.

It should be noted that stress is a mass phenomenon presented in a number of definitions which include two primary focuses: (1) in most cases, stress is caused by someone/something outside the human body; (2) the consequences of stress are internal, psychological and physiological, and are described as tension or strain (Selič, 1999). In his research, Ihan (2004) states that: "stress is a kind of a stereotypical, prepared-in-advance state of emergency, triggered by mental distress, a threatening injury, illness, excessive strain, starvation, cold or any other type of danger. It is a very powerful emotional state which affects the entire body, along with the state of mind, in a way that has proved optimal for survival throughout evolution".

The argument that stress can be uprooted cannot prevail as stress is present in all areas of a person's life. It is an inevitable consequence of interpersonal relationships and the ever changing environment which calls for constant adaptation (Pettinger, 2002). Past physical threats have been joined by psychological threats which affect a person's self-esteem, social security, position in society, relationship with family members, friends and colleagues (Looker & Gregson, 1993). Heller and Hindle (2001) argue, based on the results of their research, that stress affects not only individuals and organisations, but paralyses the entire country. It is society that carries the cost of public institutions, for example the functioning of the public health system or treatment of those who suffer from stress-related health problems or have retired early on account of their health. Stress at the workplace is the second major problem in the European Union, and affects 28 % of all workers. Research has shown that as much as 50-60 % of all lost working days within the EU are closely related to the problem of stress (Cox & Gonzales, 2004).

Stress in the military context refers to events or forces in the military environment, outside an individual, as opposed to a subjective internal response. To define a military environment we will use Bartone's (1998) definition which states that a military environment is an environment which includes barracks, prepared-in-advance areas for units stationed at overseas locations or on ships, and areas for the accommodation of units deployed abroad. The military environment includes a number of work environments associated with the military profession, ranging from office work, staff work, to combat missions and peace-keeping duties. Such an environment encompasses the cultural aspect, the way of life and the community aspect of the military profession.

Jelušič and Garb (2008) study the presence of stress from the military and social point of view, and argue that stress in the armed forces is a special form of work stress which results from the great demands that the military makes on its members and that far outweigh the stress factors in other professions. Soldiers have a highly stressful, physically, and mentally demanding occupation that is always potentially dangerous. All soldiers bear in mind the fact that each

moment may present a threat to their lives. Military commanders are starting to realise that psychological stress in military organisations brings a number of consequences which include increased risk, threat of death and serious injury due to accidents, negligence, and errors in the assessment of (or exposure to) various threats. In some circumstances, psychological stress may increase the risk of soldiers behaving inappropriately, consuming alcohol, breaking rules and disregarding their duties. It is also a prerequisite for the deterioration of soldiers' mental health, reduced morale and psychological readiness for the implementation of tasks. If we wish to prevent or reduce stress, and better prepare soldiers and commanders to deal with stressors, we must understand the source of psychological stress in the implementation of military tasks (Bartone in Croin, 1998; Grossman, 1995; Gabriel, 1991).

Bartone (Ibidem, 1998), Sweeney and McFarlin (2002) argue that most stressors that have so far been discussed relate to a high pace of work, long work hours, fatigue, lack of sleep or rest, separation from family, care and concern for the family, and loss of opportunities for further education and promotion.

Among the causes of stress at the workplace, Battison (1999) has identified factors associated with excessive control and lack of privacy. These two factors come closest to the cause of stress which can be directly and indirectly linked to internal security measures in organisations.

Such stressors are also perceived as important to the SAF members surveyed. Less attention, or none at all, has so far been given to causes of stress arising from measures for the provision of internal security within the organisation. These measures include the periodic security clearances of SAF members, work under constant supervision of technical assets and superiors, and the implementation of prescribed procedures in relation to data protection. All these factors indicate a certain encroachment on the freedom of every SAF member, and may undoubtedly be counted among restrictive measures. This article identifies ways and methods to alleviate or mitigate stressors, which may be achieved through the preparation and training of SAF members.

2   DESCRIPTION OF THE METHOD USED, THE QUESTIONNAIRE AND THE SAMPLE

The effective functioning of armed forces requires an awareness of the presence of stress amongst its members. Such awareness constitutes an appropriate prerequisite for the implementation of in-depth research, the results of which contribute to the implementation of activities required for the reduction of stress and thus for the increase of efficiency and satisfaction of employees. So far, no research has been carried out in the wider environment on the influence of in-

ternal security measures as potential stressors amongst the employees of specific organisations in the national security system (where such measures are largely present and pronounced).

2.1   The method used and description of the questionnaire

We used a quantitative non-experimental research method. The survey was conducted on the basis of a questionnaire prepared for the purpose of this research, and took place in October and November 2009. It was carried out anonymously, by voluntary participation of respondents. The first part of the questionnaire referred to the factors of influence in the provision of internal security on the occurrence of stress among the organisation members. The factors were measured on the basis of questions in the form of statements. Respondents replied to statements on the basis of a five-step Likert scale, where 1 meant that they "strongly disagreed with the statement" and 5 that they "completely agreed with the statement". Intermediate values corresponded to the value chain. The second part of the questionnaire consisted of demographic data which helped describe the sample of respondents. This part included questions regarding the respondents' gender, age, overall period of employment, current status in the organisation, period of employment in the organisation, current status in the organisation, level of education, and the degree of classified information the respondents had the right to access.

With regard to the questionnaire, we conducted an analysis of internal consistency for the first part of the questionnaire, using the Cronbach's α test, and determined that its value was 0.712, which was hardly enough to ensure the reliability of the questionnaire.

Hence, data was arranged and processed with the SPSS programme for statistical analysis. Descriptive statistics were used to describe the sample and make calculations on the basis of the frequency and descriptive analysis. We also conducted the analysis of variance (ANOVA) to examine several independent groups and determine whether the arithmetic means of groups differed in any way. The following hypothesis was analysed: *"Restrictions at the workplace cause less stress to members with a longer period of employment in the organisation."*

2.2   Sample description

The survey was conducted systematically. Five-hundred questionnaires were proportionally distributed to and completed in all SAF commands and units. This provided adequate data and a balance among the organisational structures which, in the performance of their duties, are faced with various forms of work and work environments, and consequently different forms of work restrictions. The research

sample included 320 respondents, of whom 246 were male, representing 76.9 % of the respondent sample and 77 were female, representing 23.1 % of the respondent sample, which slightly exceeds the percentage of female members in the overall structure of the Slovenian Armed Forces. The mentioned sample represents 4.21 % of all SAF members. Most respondents were aged between 31 and 40 years (Table 1) with the smallest group being between 51 and 60.

Table 1: Age of the respondents

Age	Frequency	Valid Percent	Cumulative Percent
18 - 30	81	25.3	25.3
31 - 40	127	39.7	65.0
41 - 50	91	28.4	93.4
51 - 60	21	6.6	100.0
Total	320	100.0	

The following information on the current status of SAF members is also important for analysing the research problem, particularly in relation to categories of employees which are more or less under the influence of restrictions at the workplace (Table 2). Data analysis shows that all categories of SAF members who work in environment close connected with restricted measures were included in the survey, along with the most senior officers and generals. The percentage distribution also reflects the distribution of employees in the internal SAF structure. We can thus confirm that the sample of the respondent population is representative of the entire SAF structure.

Table 2: Current position in the organisation at the time of data collection

	Frequency	Valid Percent
Leading position (General, Brigadier)	2	.6
Senior command position (Brigade, Battalion, VTP)	8	2.5
Leading staff position (Head of Division/Agency)	17	5.3
Higher staff position, other than a management function	23	7.2
Middle command position (Company, Platoon)	18	5.6
Lower staff position	101	31.6
Lower command position (Squad, Group)	33	10.3
Soldier position	102	31.9
Other	16	5.0
Total	320	100.0

3   RESULTS

Respondents were asked to determine to what extent the stated restrictions influenced the relaxed atmosphere at the workplace. The most important evaluated variables were: (a) the process of classified information protection, (b) work in security restricted areas, and (c) continuous video surveillance at the workplace. The answers were indicated on the scale from 1 ("very little") to 5 ("very much").

Table 3: "To what extent the stated restrictions influenced the relaxed atmosphere at the workplace?"

	N	Mean	Std. Deviation
Process of classified information protection	320	2.97	1.090
Work in security restricted areas	320	2.94	1.182
Continuous video surveillance at the workplace	320	3.19	1.426

The above results (Table 3) show that respondents evaluated all three factors as relatively important restrictions that significantly affect a relaxed atmosphere in the workplace and cause stress. The highest mean value was detected in the case of continuous video surveillance at the workplace. Another important factor was the relatively high dispersion of responses whose value, with regard to the standard deviation, was 1.426. A very high dispersion of responses was also detected in the other two variables. We will analyse these factors below in relation to age and determine whether age has a significant impact on the dispersion of responses with regard to age groups of the surveyed SAF members.

In the Table 4a in 4b the results in relation to two age groups - from 18 to 40 years of age and from 41 to 61 years of age are presented. This data is important to analyse the hypothesis that "older members with a longer period of employment in the organisation better handle stress caused by internal security measures at the workplace". The identified mean values show that the younger category of employees considers the process of classified information protection as more restrictive than the older generation, while work in security restricted areas is perceived as equally restrictive by both age categories. Interestingly, the third factor, represented by continuous surveillance at the workplace, is perceived as more restrictive by the older category of employees. Another interesting piece of information is the fact that the standard deviation of responses in all three categories is significantly higher for the older category of members.

Table 4a: The impact of the internal security factors on employees wel-being in relation to age groups – ANOVA – 1. part

	Age	N	Mean	Std. De-viation	Std. Error	95% Confidence Interval for Mean	
						Lower Bound	Upper Bound
Process of classified information protection	18 - 40	208	3.01	1.088	.075	2.87	3.16
	41 - 61	112	2.89	1.093	.103	2.69	3.10
	Total	320	2.97	1.090	.061	2.85	3.09
Work in security restricted areas	18 - 40	208	2.94	1.153	.080	2.78	3.10
	41 - 61	112	2.94	1.240	.117	2.71	3.17
	Total	320	2.94	1.182	.066	2.81	3.07
Continuous video surveillance at the workplace	18 - 40	208	3.16	1.379	.096	2.97	3.35
	41 - 61	112	3.24	1.514	.143	2.96	3.52
	Total	320	3.19	1.426	.080	3.03	3.34

Table 4b: The impact of the internal security factors on employees wel-being in relation to age groups – ANOVA – 2. part

		Sum of Squares	Df	Mean Square	F	Sig.
Process of classified information protection	Between Groups	1.076	1	1.076	.906	.342
	Within Groups	377.671	318	1.188		
	Total	378.747	319			
Work in security restricted areas	Between Groups	.002	1	.002	.001	.972
	Within Groups	445.870	318	1.402		
	Total	445.872	319			
Continuous video surveillance at the workplace	Between Groups	.495	1	.495	.243	.623
	Within Groups	648.255	318	2.039		
	Total	648.750	319			

On average, members who belong to the younger group perceive classified information protection as a more important stressor and a restrictive factor in their work environment than members who belong to the older group. Given the fact that F = 0.906; p = 0.342>0.05, we can determine that these differences

are not statistically significant. Similarly, the difference in the perception of continuous video surveillance at the workplace is also not statistically significant, as F = 0.243, 0.972>0.05. The same is true in the case of perception of work in security restricted areas, where F = 0.001, 0.972>0.05, which means that the differences between variances are not statistically significant.

4   DISCUSSION

In our study, three stress factors were defined: (a) processes of classified information protection, (b) work in security restricted areas, and (c) work in areas with continuous video surveillance. These stress factors were analysed regarding to two main age groups, namely from 18 to 40 years of age and from 41 to 61 years of age. Due to the results, presented in Table 4a and 4b we can reject the hypothesis that *"restrictions at the workplace cause less stress to members with a longer period of employment in the organisation"*.

Nevertheless, we can ascertain that respondents perceive the above-mentioned factors as stressful, as mean values of responses to the statements of stress highly exceeded the arithmetic mean of the five-step Likert scale and, depending on the group and the evaluated factor, range in value from 2.89 to 3.24. Results still point to certain specific features which are characteristic of a particular age group with regard to the evaluated stress factor. Processes of classified information protection with regard to the occurrence of stress were evaluated as more important by respondents in the younger age group. This can be explained by the fact that most of the older members began working in the time of the former common state of Yugoslavia, where security processes, social control, and safety culture were pronounced. They internalised these processes during the socialisation phase and still perceive them as more common than the younger generation. The younger generation, however, began working after the independence of the Republic of Slovenia when, for a time, classified information protection was not regarded as very important. During this time, a balance between the privacy of the state and an individual's right to be informed was heavily tilted in favour of the latter (Čaleta, 2008). After Slovenia's accession to international organisations, the country was forced to restore the security system to higher level. The younger generation was thus faced with various dilemmas, brought about by the need for an adequate and effective security system. There is, however, a diametrically opposite situation in the perception of continuous video surveillance at the workplace. In this case it is the older generation that perceive this factor to be more disturbing and stressful. This can be explained by the fact that the younger generation, up to the age of 40, grew-up in a time of unprecedented technical and technological development which included various forms of control, such as video

cameras. What the older generation perceived as fiction[2] at the time of their socialisation in the work processes, the younger generation perceive as a normal process and give it little attention.

In conclusion, it is necessary to emphasise that the effect of stress (which is the result of the implementation of internal security procedures) on members of the national security bodies is little studied and has not been given special importance within the military to date. A deeper knowledge of the measures used by the military (especially those that infringe upon the basic freedoms of its members), along with their consequences, is fundamental to understanding the stress to which military and police personnel, as well as people working within the framework of the intelligence and security services, are subjected.

Within their legal frameworks, countries identify and define security standards for the protection of information and procedures that ensure their national security bodies function smoothly. It is important to be aware of the fact that these measures can strongly infringe upon the privacy of SAF members and thus cause additional stress in individuals. The military profession is inherently stressful on account of the circumstances and situations its personnel face daily and restrictive measures, taken by the Slovenian Armed Forces to provide internal security, serve only to intensify these stressful situations. A more effective functioning of the organisation and a reduction in the stress caused by the above-mentioned factors will require an organised approach to dealing with these problems. Stress may only be reduced on the basis of a continuous systemic approach, implemented as a continuous process, from the time of arrival of individuals to the time of their retirement or termination of work in the security organisations which are subject to the above-mentioned stress factors.

REFERENCES

Bartone, T. P. (1998). Stress in Military Setting. In C. Croin (Ed.)., *Military Psychology: An introduction* (pp. 113-146). Santa Leo College, Simon & Shuster Custom Publishing.

Bartone, T., P., Adler, A., B., & Vaitkus, M., A. (1998). *Dimensions of psychological stress in peacekeeping operations.* Retrieved August 22, 2010, from http://findarticle.com/p/articles/mi_qa3912/is_199809/ai_n11005/pg_1

Battison, T. (1999). *Premagujem stres.* Ljubljana: DZS.

Cox, T., & Gonzales, E.R. (2004). *Arbeitsbedingter stress: Das europaishre Bild.* Informationen der europaischen Agentur. Retrieved July 24, 2010, from http://agency.osha.eu.int/publications/magazine/5/de/index_3.htm

---

[2]   In his novel *1984*, Orwell wrote: "Big Brother is watching you" a futuristic idea for that time but, today a reality we have to live with.

Čaleta, D. (2008). Varovanje tajnih podatkov v demokratično družbi. In P. Jambrek (Ed.), *Dignitas – Slovenska revija za človekove pravice* (pp. 249-265). Predoslje: Fakulteta za državne študije.

Gabriel, R. A. (1991). *Nema više heroja – Ludilo i psihiatrija u ratu.* Zagreb: Alfa.

Grossman, D. (1995). *On killing: The psychological case of learning to kill in war and society.* New York: Little, Brown and Company.

Heller, R., & Hindle, T. (2001). *Veliki poslovni priročnik.* Ljubljana: Založba Mladinska knjiga.

Ihan, A. (2004). *Do odprtosti z glavo.* Ljubljana: Založba Mladinska knjiga.

Jelušič, L., & Garb, M. (2008). Stresnost delovanja poveljniške strukture v mirovnih operacijah – pomen priprav. *Bilten Slovenske vojske, 10*(2), 83-101.

Looker, T., & Gregson, O. (1993). *Obvladajmo stres.* Ljubljana: Cankarjeva založba.

Newhouse, P. (2000). *Življenje brez stresa.* Ljubljana: Tomark.

Pagon, M., Lobnikar, B., Cooper, C.L., Sparks, K. & Spector, P.E. (1998). Managerial stress: a comparison between the police and the private sector. In M. Pagon (Eds.), *Policing in Central and Eastern Europe: organizational, managerial, and human resource aspects* (pp. 536-571). Ljubljana: Faculty of Criminal Justice and Security Studies.

Pettinger, R. (2002). *Stress Management.* Oxford: Capstone Publishing.

Plozza, L.B., & Poozi, U. (1994). *V sožitju s stresom.* Ljubljana: DZS.

Salas, E., & Driskell, J. E. (1996). The study of Stress and Human Performance. In E. Salas, J. E. Driskell (Eds.), *Stress and Human Performance* (pp. 1-45). Mahwah; New Jersey: Lawrence Erlbaum Associates..

Selič, P. (1999). *Psihologija bolezni današnjega časa.* Ljubljana: Znanstveno in publicistično središče.

Sweeney, D. P., & McFarlin, B. D. (2002). *Organizational Behavior, solutions for Management.* London: Macmillan.

Umek, P. (1997). *Stres in policijsko delo: gradivo za udeležence.* Gotenica: Upravna akademija MNZ.

About Editors and Authors

ABOUT THE EDITORS

Gorazd Meško, Ph.D., is Professor of Criminology and Dean at the Faculty of Criminal Justice and Security, University of Maribor, Slovenia. He was a visiting scholar at the University of Cambridge (1995) and Oxford (1996, 1999), as well as a visiting professor at Grand Valley State University, Michigan, USA (2000). He conducted a post-doctoral research (OSI-HESP) on crime prevention at the Institute of Criminology, University of Cambridge, UK in 2001. Currently, he is heading a national basic research project entitled "Crimes against the environment – criminological, victimological, crime-prevention, psychological and legal aspects" (2009– 2012). He is also involved in international projects on preparation of a WEB portal of colleges of security studies in Europe (eSEC), and a European master programme in urban safety (EFUS, Paris). In addition, Gorazd Meško is a member of the scientific board of the International PhD in Criminology at the Catholic University in Milan, Italy. He also serves as the editor of the Journal of Criminal Investigation and Criminology (orig. Revija za kriminalistiko in kriminologijo) and a member of the editorial board of the Policing – An International Journal of Police Strategies and Management. His research fields are crime prevention and provision of safety/security, policing, fear of crime, and crimes against the environment. His research interests include a variety of criminology topics, among which his current research projects include crime prevention, prevention of youth violence, policing and crimes against the environment. E-mail: gorazd.mesko@fvv.uni-mb.si

Andrej Sotlar (born 1967), earned his BA, MA and Ph.D. in defence studies at the Faculty of Social Sciences (University of Ljubljana). He is Assistant Professor in security system, Vice dean for international cooperation and Head of Chair of Intelligence and Security Studies at the Faculty of Criminal Justice and Security (University of Maribor). He is an expert in the field of national security, intelligence and security services and private security. E-mail: andrej.sotlar@fvv.uni-mb.si

John Winterdyk was the first student to obtain a Ph.D. in Criminology from Simon Fraser University in Vancouver, British Columbia (Canada) in 1988. He is currently the Director of the Centre for Criminology and Justice Research (CCJR) at Mount Royal University in Calgary, Alberta. The Centre focuses on studying crime prevention strategies and programs as well as assisting in developing social policy at different government levels. John has over 20 books to his credit and written dozen of peer reviewed articles that cover a wide range of criminology

and criminal justice projects. His primary areas of interest involve youth justice and comparative criminal justice. He is the former Editor of the *International Journal of Comparative Criminology* and sits on the advisory Board of several international journals. Some of his forthcoming projects include an edited book on human trafficking (Taylor and Francis), youth justice (OUP), policing in Canada (deSitter), among several others. When not ensconced in academia, John enjoys the great outdoors and in particular cycling and travelling with his wife. E-mail: JWinterdyk@mtroyal.ca

ABOUT THE AUTHORS[1]

Iskra Akimovska Maletic, Ph.D., Faculty of Security – Skopje, University "St. Kliment Ohridski". She is the author of two books and more than 30 articles in the field of administrative law, constitutional law, protection of human rights, and personal data protection published in professional and scientific journals in the Republic of Macedonia (FYROM) and abroad. E-mail: iskra.maletic@gmail.com

Mladen Bajagić has a Ph.D. in Political Sciences. He is a professor of International Security and the Head of the Department of Security Science in Academy of Criminalistic and Police Studies in Belgrade, Serbia. E-mail: mladenba@yahoo.com

Božidar Banović, Ph.D., is Professor of International criminal law at Faculty of Law in Kragujevac. He is the author of eight monographs and textbooks and seventy scientific and professional papers in Criminalistics, Criminal Law and Criminal Procedural Law. He has participated in several scientific research projects. E-mail: bbvsup@yahoo.com

Emanuel Banutai, Ph.D. Candidate and Junior Research Fellow, University of Maribor, Faculty of Criminal Justice and Security, interested in researching security (police) management, leadership competencies and police cooperation. Email: emanuel.banutai@fvv.uni-mb.si

Darja Bernik, M. Sc. Econ. of the Faculty of Economics, University of Ljubljana. She is a licensed tax adviser of the Slovenian Chamber of Tax Consultants (»ZDSS«) and the member of CFE (»Confederation Fiscale Europeenne«). She has many years of working experience as a Tax Manager in different international tax consulting groups. Her research interests include economic science, tax law and crime prevention. E-mail: darja@census.si

Igor Bernik is Assistant Professor of Information Sciences and the head of Information Security department at the Faculty of Criminal Justice and Security,

---

[1] Editors of this monograph are also (co)authors of chapters in this book. As they are presented in a section About the Editors they do not reappear in About the Authors section.

University of Maribor, Slovenia. His research fields are information system, information security and growing requirement for information security awareness. E-mail: igor.bernik@fvv.uni-mb.si

Ivana Bjelovuk, nee Djordjević is a M. Sc. in Mechanical Military Engineering. She is a lecturer of Criminalistic Technique and the President of the Council of the Academy of Criminalistic and Police Studies in Belgrade, Serbia. E-mail: ivamishel@yahoo.com, ivana.bjelovuk@kpa.edu.rs

Jaroš Britovšek, doctoral student at Faculty of Criminal Justice and Security, University of Maribor. He has written several papers regarding intelligence activities. E-mail: jaros.britovsek@mors.si

Robert Brumnik, holds Ph.D. in Organizational Sciences and is a PhD Candidate at the Faculty of Criminal Justice and Security, University of Maribor. He is a researcher of Identification and Intelligent Systems at Metra Research and Development group. E-mail: robert.brumnik@metra.si

Avrelija Cencič, Ph.D., a vice-dean of the Faculty of Agriculture and head of the department of MBMBB (Faculties of Agriculture and Medicine) and of the department of Biochemistry (Faculty of Medicine). E-mail: avrelija.cencic@uni-mb.si

Helena Cvikl, director of Vocational College for Catering and Tourism Maribor, senior lecturer at the Faculty of Tourism Studies Portorož – Turistica, University of Primorska, Slovenia. She is the author of many tourism-related projects for the Ministry of the Economy. The areas of her scientific work are: quality in tourism, hotel industry and standards, safety and security in tourism. E-mail: helena.cvikl@turistica.si

Denis Čaleta, Ph.D., is an assistant professor at Faculty of Government and European Studies. He is also a President of the bord of Institute for Corporate Security Studies. His research area includes counterterrorism in the national and international environment, the role of armed forces in the asymmetric security environment and classified information protection. E-mail: Denis.Caleta@mors.si

Bojan Dobovšek, Associate Professor in Criminal Investigation. Vice Dean at the Faculty of Criminal Justice, University of Maribor, Slovenia. E-mail: bojan.dobovsek@fvv.uni-mb.si

Petra Dolinar has a B.A. in Criminal Justice and Security from the Faculty of Criminal Justice and Security, University of Maribor, Slovenia. Email: petra.dolinar@gmail.com

Saša Djordjević, is a researcher at the Belgrade Centre for Security Policy. He graduated from the Faculty of Political Sciences in Belgrade, International Relations department. He is currently attending specialized academic studies in

European Affairs at the same faculty. He is interested in and has published on internal security in the European Union and Western Balkans. E-mail: sasadjordjevic@ccmr-bg.org

Anton Dvoršek, Ph.D., Associate Professor. His research and teaching interests are in the field of criminal investigation, criminal investigation strategy and criminal intelligence at the Faculty of Criminal Justice and Security, University of Maribor. E-mail: anton.dvorsek@fvv.uni-mb.si

Zvonimir Đorđević, Ph.D., International University of Novi Pazar. E-mail: eki80@live.com

Katja Eman, M.A., Junior Research Fellow, Teaching Assistant and PhD student at the Faculty of Criminal Justice and Security, University of Maribor, Ljubljana, Slovenia. Her research fields of interest are green criminology, environmental crime, environmental justice and organised crime. E-mail: katja.eman@fvv.uni-mb.si

Aleksandar Faladžić, Ph.D., employed in the Prosecutor's office of Bosnia and Herzegovina as a head of Department for investigation and supporting witnesses. Engaged in research in the field of combating and preventing organized crime. E-mail: aleksandar.faladzic@yahoo.com

Sergej Flere is Professor at the Department in Sociology, University of Maribor, Slovenia. He has published extensively in the field of sociology of religion, ethnicity, politics and education. E-mail: sergej.flere@uni-mb.si

Maj Fritz, M.A., doctoral student at Faculty of Criminal Justice and Security, University of Maribor. He has written several articles on intelligence, peace operations and private military companies. E-mail: maj.fritz@telemach.net

Roberto M. Gamboa, is a researcher and a teacher at the Institute Polytechnic of Leiria (Portugal) in a programme on Civil Protection. Safety and security are his significant research interests. He is a research partner in the eSEC European Project in the security domain. E- mail: roberto.gamboa@ipleiria.pt

Bogdancho Gogov, M.A., Faculty of Security – Skopje, University "St. Kliment Ohridski. His research and teaching interests include Criminology and Police science, Criminal Intelligence Analysis, Methodology for Combating Organized Crime. He has published several articles in scientific journals in Macedonia and took part as expert in preparing of new Criminal Proceeding Law of the Republic of Macedonia (FYROM). E-mail: bgogov@t-home.mk

Pedro M. Gonçalves, Institute Polytechnic of Leiria, ESTM – IPL, Santuário N.ª Sra. dos Remédios, 2520 – 641 PENICHE PORTUGAL.

Albin Igličar, Ph.D., University of Ljubljana, Faculty of Law, Full Professor of Sociology of Law and Legislative Processes. Poljanski nasip 2, 1000 Ljubljana,

Slovenia. In 2009 he published a book ″Views of Sociology of Law″ (GV Založba, Ljubljana). E-mail: albin.iglicar@pf.uni-lj.si

Aleksandar R. Ivanović, M.Sc., Assistant at the Department of law sciences at International University of Novi Pazar in the courses: organized crime, economic crime, national security and criminalistics. Engaged in research in the field of protection of national security. E-mail: aleksandarivanovic84@yahoo.com

Zvonimir Ivanović, LLD, Assistant lecturer of Criminalistics - tactics at the Academy of Criminalistics and Police Studies, Zemun, Belgrade, Serbia.. He published more than 20 scientific and professional articles in the fields of criminalistics and cybercrime. E-mail: zvonimir07@sbb.rs

Teodora Ivanuša, DVM, M.Sc, Ph.D., Assistant Professor at the Faculty of Criminal Justice and Security, Faculty of Logistics - University in Maribor. Kotnikova 8, 1000 Ljubljana. Former OF-5 Military Specialist and Advisor for Education and Special Tasks, National Representative in NATO / CNAD / AC225 / JCGCBRN. E-mail: teodora.ivanusa@fvv.uni-mb.si

Maja Jere is a Junior Research Fellow and a PhD student at the Faculty of Criminal Justice and Security, University of Maribor, Slovenia. Her research interests include crime prevention and provision of safety and security in local communities. E-mail: maja.jere@fvv.uni-mb.si.

Aleksander Jevšek, retired Director of the Criminal Police Directorate of the Republic of Slovenia and senior lecturer at the Faculty of Criminal Justice and Security, University of Maribor. E-mail: aleksander.jevsek@telemach.net

Natasha Jovanova, Faculty of Security – Skopje, University "St. Kliment Ohridski"-Bitola. She teaches victimology, juvenile delinquency and crime against children, and has experience from following research projects: "Students attitudes toward criminality", "The Feeling of safety among population in Skopje", "School violence", "The police role in implementation of Juvenile Justice Law". E-mail: natasa.akademija@yahoo.com

Andrej Kirbiš is a Teaching Assistant at the Department of Sociology, Faculty of Arts, University of Maribor, Slovenia. His current research interests include political culture and democratic consolidation in post-Yugoslav societies, mass values, citizen participation, media use, substance use, leisure activities and academic achievement. E-mail: andrej.kirbis@uni-mb.si

Miodrag Labović, Ph.D., is an Associate Professor of Criminology, Criminal law, Organized crime and Corruption at the University "St. Kliment Ohridski"- Bitola, Faculty of Security – Skopje. He is the author of three scientific books and co-author of many scientific research. He is a recipient of a prestigious scientific

award in The Republic of Macedonia (FYROM) - "Goce Delcev" in 2007. E-mail: mlabovic@yahoo.com

Branko Lobnikar holds Ph.D. in Human Resource management and is an associate professor at the Faculty of Criminal Justice and Security University of Maribor in Ljubljana, Slovenia. E-mail: branko.lobnikar@fvv.uni-mb.si

Tatjana Lukić, Ph.D., Vice-Dean for International Cooperation, assistant professor, teacher for the course Law of Criminal Procedure, Department for Criminal Law, Faculty of Law – Novi Sad, Republic of Serbia. Contact information: prodekan.mnsaradnja@pf.uns.ac.rs

Janez Mekinc, Assistant Professor in Management in Tourism at the Faculty of Tourism Studies Portorož – Turistica, University of Primorska, Slovenia, ex-president of the honorary arbitration court of the Codex of police ethics, an expert at the European Council in the program "Police and Human Rights". The areas of his scientific work are: safety and security in tourism and protection of human rights and freedoms. E-mail: janez.mekinc@turistica.si

Elizabeta Mičović, Ph.D. Her research interests include food safety and consumer protection, especially consumer's rights. At present, she is Undersecretary at the Ministry of Agriculture, Forestry and Food, in Food Safety Directorate. She is responsible for coordination of Food and Feed Safety area and consumer protection. E-mail: elizabeta.micovic@gmail.com

Kaja Miklavčič, graduated at the Faculty of Criminal Justice and Security, University of Maribor; currently a M.A. student at the Faculty of Economics, University of Ljubljana. Working as a volunteer and research assistant at Slovenian Non-Governmental Organisation Integriteta - association for ethics in public service. E-mail: kaja.miklavcic@gmail.com

Marjan Miklavčič, M.A., former director of the Intelligence and Security Service of Ministry of Defence; currently a secretary at the Ministry of Justice of the Republic of Slovenia; lecturer at the Faculty of Criminal Justice and Security, University of Maribor - specialised in terrorism and intelligence services. E-mail: marjan.miklavcic@gov.si

Susana M. Mendes, Institute Polytechnic of Leiria, ESTM – IPL, Santuário N.ª Sra. dos Remédios, 2520 – 641 PENICHE PORTUGAL.

Sílvia S. Monteiro, Institute Polytechnic of Leiria, ESTM – IPL, Santuário N.ª Sra. dos Remédios, 2520 – 641 PENICHE PORTUGAL.

José M. Moura, Institute Polytechnic of Leiria, ESTM – IPL, Santuário N.ª Sra. dos Remédios, 2520 – 641 PENICHE PORTUGAL.

Álvaro A. Oliveira, Institute Polytechnic of Leiria, ESTM – IPL, Santuário N.ª Sra. dos Remédios, 2520 – 641 PENICHE PORTUGAL.

Andrej Osterman, Ph.D., is a Brigadier (OF- 6) of the Slovenian Armed Forces and since May 2009 has acted as Deputy Force Commander of the Force Command. His main areas of professional interest include Military Logistics and Law. E-mail: andrej.osterman@mors.si

Iztok Podbregar, Ph.D., is Professor of Leadership and management in security organisations at Maribor University, Faculty of Criminal Justice and Security. E-mail: iztok.podbregar@fvv.uni-mb.si

Damjan Potparič, B.A. in Defence Studies, Specialist in Criminal Investigation, Head of Europol National Unit in the Criminal Police Directorate, Ph.D. Candidate at the Faculty of Criminal Justice and Security, University of Maribor. E-mail: damjan.potparic@policija.si

Anže Rode, Ph.D., is an officer in Slovenian Armed Forces, SVN SOF Commander. E-mail: anze.rode@gmail.com.

Tinkara Pavšič Mrevlje, M.Sc., is an Assistant lecturer at the Faculty of Criminal Justice and Security, University of Maribor, Slovenia, and a Ph.D. student at the Department of Psychology, Faculty of Arts, University of Ljubljana. Her research interests encompass issues relating to trauma and secondary trauma. E-mail: tinkara.pavsicmrevlje@fvv.uni-mb.si

Kaja Prislan is a graduate student at the Faculty of Criminal Justice and Security, University of Maribor, Slovenia. Her research interests include cyber crime and information security. E-mail: kajaprislan@gmail.com

Daniel Ruiz is a Peace Studies academic and a senior United Nations staff. He is presently researching on the links between organized crime, violent conflict and environmental degradation. His main interests are: Peace-Building, Transnational Organized Crime, Ecology, International Political Economy and Globalization. E-mail: danirru@gmail.com

Vesna Stojkovska, Faculty of security – Skopje, University "St. Kliment Ohridski"-Bitola. She teaches criminology, penology and crime prevention, and has experience in following research projects: "Is there a life during and after detention", "Stop for political abuse among children", Lectures: "Training of the police officers for the implementation of Juvenile Justice Law". E-mail: vesne_stojkovska@yahoo.com

Eldar Šaljić, Ph.D., International University of Novi Pazar. E-mail: ekisalja@yahoo.com

Alenka Šelih, Professor Emeritus, Faculty of Law, University of Ljubljana and Member of the Slovenian Academy of Sciences and Arts. Her research interests include criminology, victimology and criminal law. She has published extensively

in different languages. She is the editorial board member of two Slovenian legal journals and member of the editorial board of the European Journal on Criminal Policy and Research. E-mail: alenka.selih@pf.uni-lj.si

Jerneja Šifrer, University of Maribor, Faculty of Criminal Justice and Security, Researcher and Assistant Lecturer of Statistics and Methodology. E-mail: jerneja. sifrer@fvv.uni-mb.si

Bojan Škof, LLD, is an Associate Professor and the Vice Dean of the Faculty of Law, University of Maribor and Vice Rector of the University of Maribor. His research interests include tax and financial law. E-mail: bojan.skof@uni-mb.si

Marina Tavčar Krajnc is an Assistant Professor for the sociology of gender, sociology of youth, and didactics of sociology, and the head of the Department of Sociology, University of Maribor. E-mail: marina.tavcar@uni-mb.si

Bojan Tičar, LLD, is an Associate Professor and Vice Dean of the Faculty of Criminal Justice and Security, University of Maribor. His research interests include administrative law and Public Sector Law. E-mail: bojan.ticar@fvv.uni-mb.si

Bernarda Tominc, Teaching Assistant at the University of Maribor, Faculty of Criminal Justice and Security. Her research interest includes international political and security integrations, security threats in contemporary society, national security systems. E-mail: bernarda.tominc@fvv.uni-mb.si

Vladimir Urosević, Ph.D., Ministry of Interior, Republic of Serbia, Service for Combating Organized Crimes, Department for High-Tech crime, Chief of section – cybercrime suppression. He has published articles on hi tech crimes. E-mail: vurosevic@gmail.com

Saša Vučko, M.A., Assistant Teacher in Criminal Investigation, Faculty of Criminal Justice and Security, University of Maribor, Slovenia. She is a Ph.D. student at the Faculty of Criminal Justice and Security, University of Maribor, Slovenia. The subject of her research is criminal investigation and art crime. E-mail: sasa_vucko@hotmail.com

Milan Žarković, LLD, is a Professor of Criminalistic Tactics and the Head of the Department of Criminalistics in Academy of Criminalistic and Police Studies in Belgrade, Serbia. E-mail: mizarko@yubc.net