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ПОЛИЦИСКИТЕ НАУКИ И ПОЛИЦИСКАТА ПРОФЕСИЈА (СОСТОЈБИ И ПЕРСПЕКТИВИ)

INTERNATIONAL SCIENTIFIC CONFERENCE SECURITY AND EUROATLANTIC PERSPECTIVES OF THE BALKANS

POLICE SCIENCE AND POLICE PROFESSION (STATES AND PERSPECTIVES)

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SECURITY OF THE REPUBLIC OF MACEDONIA THROUGH THE PRISM OF MODERN GREATER ALBANIA ASPIRATIONS

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Abstract

The author of this paper focuses his scholarly interest on the modern security condition in the Republic of Albania from the aspect of the need for early warning vis-à-vis the (repeated) manifestation of Greater Albania aspirations. Thereby, he places the accent on the relevant aspects of the "Platform for Natural Albania", promoted in 2009 in Tirana, modern manifest forms of endorsement of Greater Albania aspirations towards the Republic of Macedonia, and the question of timely assessment and planning of the security and intelligence institutions in the Republic of Macedonia with regard to the efficient interception and prevention of the possible operationalisation of Greater Albania projections.

The paper is structured in three parts. The first part elaborates the relevant aspects of the "Platform of Natural Albania", while the second part presents the current manifest forms through which Greater Albania aspirations towards the Republic of Macedonia emerge and the existence of the Macedonian nation is negated. The third part of the paper is focused on the need for preparation of a serious security assessment in R. Macedonia, with a detailed systemic analysis of this conflict, by means of making security assumptions in view of its possible development and endangerment of the territorial integrity and national sovereignty and planning and preparation of the capacities of the security-intelligence sector to efficiently counter the possible security threat.

Keywords: *security, assessment, Greater Albania aspirations, early warning, nationalism, national sovereignty, territorial integrity*.

The modern security situation in the Republic of Macedonia, in the last 4-5 years, has been significantly burdened with the increasingly more accentuated expounding of Greater Albania pretensions by advocates in Albania and Kosovo. In 2009 in Tirana, Albania, a movement for "Natural Albania" was also formed, and these aspirations gained an organised form therewith a tendency to come into being and act, not only in Albania and Kosovo, but also in Albania's neighbouring states – Macedonia, Greece, Montenegro, and in parts of Serbia where population of Albanian nationality lives.[1] In addition to this movement the Greater Albania pretensions are

[1] The founder and leader of this movement is the professor in political sciences Koco Danaj, who in the past fifteen years in Albania has also appeared, *inter alia*, as an independent political analyst and political advisor to the leader of the Socialist Party, Fatos Nano, and to Albanian Prime ministers Ilir Meta and Pandeli Majko.

also expounded by the movement "Self-Determination" from Kosovo and the "Red-Black Alliance" from Tirana, Albania, which, together, are strongly present in the Republic of Macedonia as well among the members of Albanian nationality.[2]

Following the armed conflict in 2001 between the regular military-police forces of R. Macedonia and the KLA (UCK) members, which ended with the signing of the "Ohrid Agreement", there have been strong efforts in political terms to realise this document, with constant presence and aid of organisations from the international community. Concomitantly, the Republic of Macedonia is on the threshold of the NATO and European Union having met the criteria for full membership, which, for the present, has been obstructed by the unresolved name issue between R. Macedonia and Greece. What is particularly relevant is that the ARM is actively present in NATO missions and its structure and operations have been brought to absolute compatibility with NATO structures. However, in the building of the security strategy one has to take into consideration the phenomenon that may lead to a security disruption, and in that sense what is certainly included are the conspiracies and developments of Greater Albania pretensions through diverse organised forms. In that sense, this scholarly paper will elaborate on all relevant aspects contained in the platform for "Natural Albania" and their reflection on the security condition of (in) the Republic of Macedonia, respecting certainly the current problems of Western Balkans as a whole.

1. Relevant parts of the platform for "Natural Albania"

In Tirana in 2009 the leader of the movement for "Natural Albania", Professor Koco Danaj, published a special publication in which he gave a concise presentation of the issues about the foundations of this platform, the main points at the conference in Bujane, the historical ground of "Natural Albania", the relations with the neighbours, the means for the realisation of the idea for "Natural Albania", the need for a Second London Conference, and the stages of the formation of "Natural Albania".[3]

1.1. About the "historical ground of Natural Albania"

According to Professor Koco Danaj, the ground of "Natural Albania" lies in:

- the positive heritage of Albanians from the epoch of Skenderbey;
- the experience from the Prizren League;[4]

[2] The leader of the "Red-Black Alliance" in Albania is Kreshnik Spahiu, until recently the Vice President of the High Council of Justice, while the leader of "Self-Determination" in Kosovo is Albin Kurti, who has also appeared as the organiser of public protests of a more extreme character, whereby he and the members of this movement have also come to a physical clash with the members of the law enforcement.

[3] See: Koco Danaj, "Platform of Natural Albania", Tirana, 2009.

[4] It is the "Prizren league 1878-1881", when the map of "Ethnic Albania" was promoted, within which frameworks, for instance, was almost 50 percent of the current territory of the Republic of Macedonia, with the cities Ohrid, Bitola, Prilep, Veles, Skopje, Kumanovo, Tetovo, Debar, Struga and Kichevo.

- the all-Albanian assembly, held in Vllore in 1912;
- the documents of the Bujane Conference of 31.12.1943[5], which "proclaimed merger of Kosovo and Albania after the conclusion of the Second World War";
- the oath of the KLA in Kosovo, Macedonia and Preshevo Valley, in which it is said: "I, a soldier of KLA, do swear to fight for the liberation of the Albanian territories, and for their unification";
- the Constitution of the state of Albania, where it is stressed that the "unification of Albanians is a historical aspiration".

The basic stance of the platform of "Natural Albania" consists of the claim that the creation of Albania in 1912 was actually an uncompleted national project of the Albanians, since the "other parts of the Albanian territories remained or were annexed by the neighbours of Albania and Albanians". Namely, the all-Albanian assembly, held in Vllore in 1912 had a "pan-Albanian character", but it was annulled with the 1913 London Conference, whereby Albania was legitimised in its current borders, which is considered to be a "mistake towards the Albanian nation".

The Platform particularly stresses that the 1912 All-Albanian Assembly in Vllore actually "proclaimed independence of Natural Albania", not of Albania in its current borders. Thereby, it is accentuated that this Assembly was also attended by delegates from Kosovo, "from their capital Skopje".

The invoking to the oath of the KLA (Kosovo Liberation Army) members for "liberation and unification of Albanian territories" is based on the stance that the territories of current Kosovo, in the area of Medvegja, Bujanovac and Preshevo (Albanian nationalists call it "East Kosovo") and the part from the Republic of Macedonia, where Albanian nationality lives, historically belongs to Albanians and for that reason they have a right to liberate them and unite them with the state of Albania. As a matter of fact, for that reason in 1998 the People's Movement for Kosovo (LPK), which was behind the formation of the KLA, denoted three liberation

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This map presented and still presents a source of the territorial, ethnic and ideal homogeneity, as constants of Greater Albania nationalism.

[5] It is the Resolution that was adopted at the Founding Conference of the District People's Liberation Board of Kosovo and Dukagjin", held on 31.12.1943 and 1 and 2.01.1944, in the place Bujane, Tropoja district, Albania. This conference was organised by the District Committee of the CPY and the Main Staff of the People's Liberation Army of Kosovo and Metohija. The said resolution, *inter alia* underlies the following: "Kosovo and Metohija is an area which is mostly inhabited by the Shqiptare people, which has always as today wished to unite with Shqipnia (Albania). Accordingly, we feel obliged to point to the right path which the Shqiptare people should follow in order to realise its aspirations. The only path for the Shqiptare from Kosovo and Metohija to unite with Shqipnia is the joint struggle with the other peoples of Yugoslavia against the occupying power and its servants. That is the only path to win freedom, when all peoples, including the Shqiptare, will be able to state their view about their future with the right to self-determination and to secession. The guarantee for this is the People's Liberation Army of Yugoslavia, and the People's Liberation Army of Shqipnia, with which it is closely linked. In addition, guarantee to this are our big allies: the Soviet Union, Great Britain and America (the Atlantic Charter, Moscow and Tehran Conferences)."

zones of KLA – Zone 1, which included current Kosovo, Zone 2, which encompassed the territory of Macedonia, and Zone 3, which covered the area of Preshevo, Medvegja and Bujanovac.[6]

1.2. Political moment of (re)actualisation of the Greater Albania idea

The Platform elaborates on the question why it is necessary in these very years to present this idea, whereby a number of explanations are noted which have as their basis the thesis that the "main mission of Albanians for liberation and unification into one state has not been concluded". Thereby the following is pointed out:

- The 1878-1881 Prizren league has remained "uncompleted in its essence";
- The People's Liberation Fight (PLF) in the period of the Second World War did not fulfil the Albanian "national-liberation" demands either, so that more than 50 percent of the Albanian population have remained to live outside the state of Albania;
- KLA in Kosovo did not complete its mission either. Namely, "KLA managed to secede Kosovo from Serbia, without unifying it to the national stem – Albania";
- KLA in Macedonia did not accomplish its objective either – "it commenced as national-liberation one, and ended up with freedoms and rights for the Albanians, accepting another state as fatherland."

The completion of this "uncompleted Albanian national-liberation mission" is left as a mission for the "Albanian political elite from the triangle Tirana – Prishtina – Tetovo", with an emphasis that it has a ground also in the "European concept".

The arguments for the promotion of the idea for "Natural Albania" in this period are noted to be:

- the coming out of the Albanian issue from the "archives of the major powers", thereby becoming a geopolitical reality, having a need for "reaffirmation and reconfiguration";
- the major powers did wrong to the Albanians and now it is the time for them to correct it;
- in the region there is a political climate between the democratic governments and there are no longer taboo topics that cannot be discussed;
- the geopolitical changes in the region are in favour of the Albanian nation, so "it is the time for speech, arguments and action" of the Albanians.

The so far treaties internationally, including the Ohrid Framework Agreement of 2001, have contributed only partially to the solution to certain

[6] See: Tome Batkovski, Strategic-Intelligence Component of the Republic of Macedonia before the Armed Conflict in 2001, International Scientific Conference – Security in the Post-Conflict (Western) Balkans: Transition and Challenges Faced by the Republic of Macedonia, Skopje, 2011, pp.457-466.

issues, but have not solved the Albanian issue. Therefore, it would be necessary to hold a new London Conference ("London 2") at which "a total solution" of the Albanian issue would be reached. The so far solution, one state Albania and "division" into other four parts of the Albanian nation, is considered to be an artificial creation of the major powers, which should be corrected at a new London Conference (to take a decision on the creation of Albania in its "natural boundaries")

1.3. About the stages and means for the formation of "Natural Albania"

With regard to the stages for the formation of "Natural Albania", the Platform expressly underlines the following:

- Stage 1 – on the basis of the Constitution of the Republic of Albania, the presidents of Albania and Kosovo should elect a Council of Chiefs, composed of scholars, academics and experts in all fields;
- Stage 2 – creation of Albanian-Kosovo confederation;
- Stage 3 – federalisation of Macedonia;
- Stage 4 – solution to the problem of the Albanians in Chameria (North Epirus – Greece) – "to allow the Albanians to freely return to their homes";
- Stage 5 – unity of the Albanians into one state which will have several ethnic minorities inside its territory, as there will be national minorities outside Natural Albania".

With a view to easier and more successful realisation of the said stages, it is envisaged to form a Committee for Natural Albania, as supra-party organisation, which would include all territories of "Natural Albania".

According to the Platform, the way of realisation of the set goals for "Natural Albania" is the dialogue and democratic debate, together with the need to organise people's referendum, observing the democratic foundations for self-determination of the peoples.

The main motto on the way to the realisation of "Natural Albania", to which the Committee of "Natural Albania" should adhere, should be: "If we do not unite today, we shall see the national disintegration tomorrow, the unification of the Albanians is Europeanisation and stability in the region".

2. Current manifestations of Grater Albanian aspirations towards the Republic of Macedonia

Towards the close of 2011 and early 2012, there were several occasions of an open manifestation of Greater Albania aspirations towards the territory of the Republic of Macedonia and the members of the Macedonian nation.

A senior statesman and politician from Kosovo, in a column in one Skopje Albanian daily[7] presented the following stances:

A) The possible change in the Kosovo border, even if there is an exchange of territories between Serbia and Kosovo, would mean opening of the Pandora box, and it would, first of all, open the issue of the legitimate and historical claim of Kosovo for (as) a historical subject of the former vilayet within the frameworks of the Ottoman Empire, with Skopje as its capital;

B) National unity is a century-old aspiration of the Albanians living on "their ethnic territories" in Albania, Kosovo and parts of the territories of Macedonia, Serbia, Montenegro and Greece.

The said stances certainly arise from the "historical ground" of the Platform for "Natural Albania", which is, as a matter of fact, euphemism for "Ethnic Albania" and "Greater Albania", and in that sense, are not a novelty or surprise. The author places these stances in a hypothetical frame, respecting, for now, the strong position of the international community (read: USA) for no changes in the current borders among the states in the Balkans. However, from the aspect of the current political moment in the region, the importance of the author of the stances promoted in this way and the place and time of their promotion (Skopje – the capital of the Republic of Macedonia) deserve in any case greater attention from a security aspect (for the Republic of Macedonia).

At several sports matches in Kosovo, it has happened that some members of the audience in an organised way, through written paroles and calling out, negate the state of Republic of Macedonia and the Macedonian nation.[8] Specifically, it concerns the following:

- the national flag of the Republic of Macedonia was taken off the official post;
- the national flag of the Republic of Macedonia was set on fire;
- paroles were posted with the following content: "Macedonia does not exist"; "Macedonia will disappear in 2012"; "Bulgarians according to God, Macedonians according to Tito"; "Father Slav, mother Bulgarian, what are you?".

In connection with these manifestations, in particular at an international match with the participation of representations of the two states and with a special (national

[7] It is a column, published in the newspaper "Lajm", by Xhavit Haliti (Vice President of the Assembly of Kosovo, functionary of the ruling Democratic Party of Kosovo, at some point one of the central KLA (UCK) figures and participant in the 1999 Conference in Rambouillet, previously in the period prior to 1991 an active participant in the illegal organisations of Albanian nationalist provenance with "Marxist-Leninist" sign in Switzerland, which united in 1982 under the name Movement for Albanian Socialist Republic in Yugoslavia, and in the years before 1991 transformed into the People's Movement for Kosovo (LPK – Levizija Populore Kosoves).

[8] For instance, at the international handball match between the youth representations of Macedonia and Kosovo, which took place in Prishtina, on 16.02.2012, in honour of the independence of Kosovo.

occasion for the host), the following two aspects deserve attention from a security point of view:

- The existence of Macedonians, that is, the Macedonian nation, is negated for the first time at a public scene by Albanian nationalists. Actually, now the Albanian nationalists position themselves in the same ranks with the Greater Bulgaria and Greater Serbia nationalists who negate the existence of the Macedonian nation, claiming it to be an artificial creation, that is, a creation of the Comintern (Comintern creation);
- There are open and more accentuated claims that the Republic of Macedonia does not exist, that is, that it will disappear as a state. This is clearly an open attack on the Republic of Macedonia, for the present only through paroles and extreme actions (taking the national flag off and setting it on fire), behind which, without any doubt, is a threat that should not be underestimated in security respect.
- The aggressive appearance in public places by Albanian nationalists is an indicator for a created non-institutional power, which becomes reinforced and serves to exert pressure on the Republic of Macedonia.

3. Security implications and challenges for the Republic of Macedonia

Irrespective of the fact that for the present there is no international support for (new) change in the borders in the Balkans, and the fact that Albania is a NATO member, and Macedonia is on the threshold of becoming a full member of this military alliance and that both states are clearly determined with regard to Euro integrations, as Macedonia is waiting for a date for commencement of the negotiations to accede to the EU, Greater Albania aspirations that are dealt with in the "Platform of Natural Albania" and the current manifestations from this provenance should be taken quite seriously from the aspect of the security of the Republic of Macedonia. They should not be underestimated by any means. Namely, although the "Platform" stresses that its goals will be realised by means of a dialogue, debate and referendum, the security reality speaks that it does not correspond with the character of the set goals. Specifically, with regard to the Republic of Macedonia there is a set goal for its federalisation, as a third stage on the way to realise "Natural Albania". The federalisation itself would certainly imply formation of a separate Albanian state entity on the current territory of the Republic of Macedonia, according to the aspirations from the map of "Ethnic Albania" promoted at the Prizren League in 1878 (Skopje was already mentioned as the capital of the possible new Albanian state entity, according to the division into vilayets in the Ottoman Empire). In other words, the operationalisation of this stage envisaged with the Platform for "Natural Albania" would directly mean threat on the current setup of the state under the Constitution of R. Macedonia, that is, it would threaten its territorial integrity and national sovereignty. At the same time, the situation (position) of the members of the

Macedonian nation in the part of the territory of R. Macedonia to which the promoters of "Natural Albania" aspire would be threatened.

The repeated and more intensive promotion of Greater Albania aspirations and the negations of the Republic of Macedonia and the Macedonian nation realistically create a critical mass among the Albanian population in this part of the Balkans, which may be used by the creators of this greater nationalistic idea in some future security variant. In this context, there should be a serious approach in the analysis of the assessments of certain international subjects, such as, for instance, the International Crisis Group, according to which in 2014 R. Macedonia may disintegrate. Therefore, the institutions from the security-intelligence field in the Republic of Macedonia should penetrate thoroughly into all aspects of the possible new arrangement on the chess-security table in this part of the Balkans, starting from the vital state and national interests and goals.

It is clear that this is a conflict between the advocates of Greater Albania aspirations, on the one hand, and the legal and legitimate right of the Republic of Macedonia to preserve its own territorial integrity and national sovereignty, on the other hand. This conflict, for the present, has no elements of organised violence. Starting from the imperative of early warning, the security-intelligence institutions of R. Macedonia should make a security assessment of this conflict, observing all structural segments, such as: analysis of the current geo-strategic space; systemic analysis of the conflict itself; the influence of the foreign factor; the readiness of the defence, security and intelligence segments of the state to counter more extreme forms of action from Greater Albania positions in case of stirring up of this conflict and appropriate positioning (planning) of defence, security and intelligence capacities of the state to act in the presupposed security conditions.

In view of the preparation of the systemic analysis of this conflict, what is particularly relevant is to study the following issues:

- Perception of the objective and subjective side of the conflict;
- Recognition of the tendency of the conflict;
- Establishment of the influence of the international factor in all presupposed security variants;
- Identification of the subjects within the conflict (individuals, groups, organisations, associations…) which are characterised with extremeness and announcements for use of violent means;
- Study the readiness of the citizens of Macedonia (will component) to confront the possible threats on the state from Greater Albania positions.

At the same time, the exhaustive security-intelligence approach would have to respect the modern developments in the wider security aspect, first of all the turbulent situation in connection with the conflict between Israel and USA, on the one hand, and Iran, on the other hand, with indications for a possible military clash in the years to come, and the possible military intervention against Syria. That would certainly not remain without an indirect impact on the security conditions in this part of the Balkans.

SAFETY ANALYSIS OF THE PLAN FOR MANAGING THE CONFLICT OF 2001 IN THE REPUBLIC OF MACEDONIA

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Abstract

In this paper, the wider scientific and professional public will have the opportunity to follow a presentation, promotion and analysis of the plans for resolving the crisis of 2001 in the Republic of Macedonia.

In this context, the primary and key document that will be elaborated is "The plan - proposal and program for resolving the crisis in the Republic of Macedonia" put forward by the President of the country at that time, Boris Trajkovski. In accordance with this plan, i.e. with its implementation, the following plans for successful and complete managing of "terrorist activities by the Albanian terrorist groups" were prepared and implemented, as follows:

- Plan for trust-building measures in the process of crisis resolution;

- Plan for media campaign;

- Plan for activity of the security forces of the Republic of Macedonia;

- Plan for disarmament of armed Albanian extremists and collection of illegally held arms, munitions and explosives.

The complete safety, and in certain segments – political and historic analysis of the plans that were set forth in this work will shed a new light upon the overall process of resolving the crisis in the Republic of Macedonia, in coordination with all international organizations and institutions involved in the process.

***Keywords**: plan; crisis; managing the crisis; terrorism; terrorist groups*.

Safety Analysis of the Plan for Managing the Conflict of 2001 in the Republic of Macedonia

Following the beginning of terrorist activities of the Albanian terrorist groups on the part of the Macedonian territory that borders with Kosovo (a protectorate at that time), the President of the Republic of Macedonia, Boris Trajkovski, passed "A plan - proposal and program for resolving the crisis in the Republic of Macedonia". The plan - proposal was delivered to the Government of the Republic of Macedonia, NATO and other international organizations and institutions.

The essence of producing the Plan was that Republic of Macedonia promotes the national platform and the objectives of successfully solving the crisis. The beginning of the Plan underlined its fundamental idea: "To eradicate the Albanian terrorism, to establish peace, safety and rule of law on the entire territory of the country is a matter of utmost interest not only to

Republic of Macedonia, but also to its neighboring countries and the overall international community."[1]

The new threat to the safety of Republic of Macedonia was taken seriously as a terrorist threat (throughout the document, from the beginning until its ending, terms such as terrorism, terrorist activities and terrorist groups are used) which "is a treat to the territorial integrity and sovereignty of the country, the life and safety of the citizens and their rights, as well as the peace and safety of the region."[2]

The term terrorism, i.e. terrorist activities by the Albanian terrorist groups, was in the beginning adopted and used by all relevant international organizations and institutions that were more or less, directly or indirectly, involved in following and solving the conflict in the Republic of Macedonia. The Plan of the President of the Republic of Macedonia was in fact prepared in co-ordination with leading experts from the international communities, as was the case afterwards, when the Plan was put into effect, i.e. all operational plans were prepared "in mutual collaboration".

In order to resolve the crisis fully and successfully, the Plan underlined four basic and precise steps:

- "Activity of the security forces in order to protect all citizens and prevent terrorism from being spread, and if necessary, to implement the appropriate anti-terrorism measures.
- To intensify the political process by involving the legally elected representatives of the Albanians living in Macedonia, with the purpose of creating a civil society in which all civil and human rights will be promoted.
- Striving to resolve the crisis, Republic of Macedonia will implement "Plan for disarmament".[3]

By analyzing the basic premises which are the starting point in resolving the crisis, we may come to a conclusion that they stipulate a variety of combined forms and methods for actions in Macedonia (entirely in collaboration with and with the support of the international community): activity of the security forces by implementing the appropriate anti-terrorism measures, intensifying the political process (political measures) and a process of disarming Albanian terrorist groups (the final activity will lead to restoring and establishing the peace in the crisis regions of Republic of Macedonia).

[1] Boris Trajkovski, President of the Republic of Macedonia, Proposal – plan and program for solving the crisis in the Republic of Macedonia, Skopje, 2001, p.1.
[2] Ibid: p.1.
[3] Ibidem: p.1.

The general attitude and the basic premises that completely permeate the Plan, proclaimed the striving of our country to solve the crisis in a peaceful manner.

At the beginning, it is important to point out one characteristic about this Plan which is that it stipulates the possibility for the "foreign" – "external" – "international" terrorists to give up the arms and leave the country, a position which acknowledges the current circumstances that in Republic of Macedonia there is a presence of terrorist groups from the immediate neighboring countries, i.e. the region, as well as presence of international terrorist groups (the Near and Middle East).

Regarding the domestic terrorists, the Plan proposes a solution for their reintegration in the society once they have given up all their arms (a process that is still under way in Republic of Macedonia) as a result of the guarantees accorded to the international community with this Plan and with other "documents" that were adopted in the subsequent period.

As a result of the basic idea and the strategic determinations put forward in the "introductory part" of the Plan, it was inevitable to promote the primary objectives that are logical result of the basic premises set forth in the "preamble" of the Plan.

The primary objectives determined in the Plan are in correlation with the main objective and the activities to follow in the subsequent period in the attempt to solve the crisis, establish stable living conditions and to find a systemic and institutional solution to all conflicts with the purpose of creating a civil society. The three key objectives put forward in the Plan are:

- "Complete disarmament and dismissal of the terrorists;
- Removal of all forms of threats to the national sovereignty and the territorial integrity and securing complete normalization in the work of the state organs, the local self-government organs and other legal organs and organizations in the crisis-stricken region;
- Ensuring complete personal and property safety for all citizens and free movement, as well as exercising their civil and human rights and freedoms across the entire territory of Republic of Macedonia."[4]

The accomplishment of these objectives should have resulted in establishing stable conditions (especially in the crisis-stricken regions), continuing the creation of civil society within the institutions in the system, complete functioning of the legal regime

[4] Ibidem: p.2.

and the government institutions. In addition, it was inevitable to ensure complete personal and property safety of all citizens, as well as to ensure that they exercise their civil and human rights and freedoms in accordance with the international standards.

In order to set the parameters in the Plan leading to successful and complete end of the crisis (in compliance with all universally accepted standards in this area), the Plan had to include the following key assertions which would be of crucial importance to the later history of Republic of Macedonia and its further development:

- "To the Republic of Macedonia, any solution which stipulates any autonomy or special status for any part of the territory, or change of borders is unacceptable.
- The crisis, which began with the entry of terrorist groups from Kosovo, cannot be solved exclusively by military and police operations.
- The nature of the crisis requires additional political measures and diplomatic activities with the purpose of isolating, i.e. neutralizing the terrorists.
- All relevant political institutions in Republic of Macedonia should consistently support the Plan and program for solving the crisis, and thus to continue participating in the political process initiated by the President of Republic of Macedonia.
- KFOR and UNMIK should continue implementing measures against those who support and lead the terrorist actions against the Republic of Macedonia.
- Republic of Macedonia made an appeal to all countries to undertake all measures with a view to prevent financial and material support to the terrorists.
- The trust-building measures are crucial to establish the right path for the future; they have to be locally perceptible and familiar to the people in the surrounding area. This also requires a coordinated campaign in order to inform the public.
- The selection of international observers should be made beforehand, so that they are able to make contributions to building the trust. In order to achieve this, the discussions and arrangements with the potential observers must be made right away."[5]

Some of the key assertions in the President's Plan will play a crucial, even historic role in saving the vital state and national interests of the

[5] Ibidem: pp.2-3.

Republic of Macedonia in the course of the dramatic events in the period to follow. In this context, what is most important is to emphasize the first key assertion which implies that any solution which stipulates "any autonomy or special status for any part of the territory, or change of borders"[6] will be considered unacceptable.

This national and international determination ever since the beginning of the crisis put an end to all big state ambitions and secessionist ambitions and dreams of the main creators of crisis. This sent a serious message and provided a guarantee for protecting the territorial integrity and wholeness, i.e. for not changing the state borders of the Republic of Macedonia under any circumstances. At the same time, this put an end to all unachieved historic dreams related to the creation of anachronistic big states and reshaping of Balkan borders (especially the borders of the Republic of Macedonia). To illustrate, in the subsequent period, a precedent related to the reshaping of borders will occur, exactly at this part of the Balkans, but of the world borders as well.

The second key assertion, judging by its originality, will be of greater significance to the future academic research (historical, defense and geopolitical research), since it was publicly proclaimed in a document prepared at the highest state level that the crisis in the Republic of Macedonia began ("was imported") with the entry of terrorist groups from Kosovo (a fact often denied in vain by the NATO military structures stationed in the protectorate of Kosovo when faced with the proof of our Department of Defense Intelligence).

When we discuss the "role" and "successful mission" and duties of the KFOR and UNMIK forces stationed in Kosovo (initially stationed at the Macedonian – Serbian border at the time when Kosovo was a protectorate under their protection and monitoring) it is essential to analyze their duties as set forth in the fifth key assertion of the Plan.

According to the determinations in the Plan, "KFOR and UNMIK should continue (if they have acted that way by then – note by the author) to undertake measures against those who support and lead the terrorist actions against the Republic of Macedonia".[7] As to whether and to what extent KFOR and UMNIK fulfilled (carried out) these duties, there are data confirming the continuous crossing over the border with Kosovo of Kosovo terrorist groups in both directions, as well as of certain "groups" of mujaheddins and terrorist groups that are part of global terrorist organizations.[8] This ever present "enigma" will create a broad field of

[6] Ibid: p.2.
[7] Ibid: p.2.
[8] For more details please refer to: M. Kotovchevski, Conflicts, terrorism and penetration of wahhabism into the Balkans, Collection of Works – International science conference "The

scientific research in the future regarding not only this latest part of Macedonian history, but also the history of terrorism and its penetration in the Balkans and Western Europe in the twenty-first century.

The Macedonian crisis of 2001 is another example demonstrating the connection between the Islamic terrorism from the Near and Middle East with the Balkan terrorism. While the Republic of Macedonia fully and consistently performed the duties stipulated with this Plan, the international community (certain segments of it), as well as specific countries from the region and Europe didn't take any action whatsoever, not even in terms of inhibiting the economic and material support of the terrorists. In this context, it is absurd to discuss their dedication and efforts in relation to other specific measures that were inevitable to successfully fight against terrorism not only in Macedonia, but in Balkans and across Europe as well.

Another significant segment of the Plan was to define and elaborate the intention of Republic of Macedonia to successfully tackle the crisis by taking concrete actions:

- To isolate the terrorists operating in the northern and northwest regions of the country by preventing the support, logistics, receivers and support from the local people. The security forces of the Republic of Macedonia in collaboration with KFOR/NATO, each on their own side, should continuously intensify the control on the borders between the Republic of Macedonia and the Socialist Republic of Yugoslavia, on the part bordering with Kosovo, as well as on the borders with the Republic of Albania.
- To develop trust-building measures which are crucial to establishing the right path to the future, by:

- Locally perceptible improvements based on infrastructural and social projects in the areas where the terrorist activities occurred (including repair of dwelling objects, improvement of health care conditions, plumbing, roads etc.)
- Developing a plan for the individuals who are prepared to give up the arms within the stipulated time limit and to integrate into the social life.

- Announcing unilateral ceasefire

- The security forces will thereinafter be able to neutralize any kind of threat source;

- Initiating the disarmament process whose geographic dimensions will have to be determined and will be conducted in stages:

- Kumanovo - Lipkovo region

Balkans – A challenge to the safety of Europe and the international community", Ohrid, 2010, pp.11-37.

- Tetovo - Shar Planina
- Debar region
- the remaining parts of the country

- If the striving to peacefully solve the crisis does not produce the desired effect, the Republic of Macedonia will be forced to protect its constitutional regime by taking appropriate actions, while still taking maximum care of its citizens.
- Development of extensive coordinated Campaign for informing the public, within the informational operations."[9]

This part of the Plan underlined very specific activities which will later be transformed into specific operational plans developed by Macedonian experts, representatives of NATO, OSCE, and UN, as well as other representatives of the international community. What is characteristic about these planned activities (isolating the terrorists, trust-building measures, announcing unilateral ceasefire, the disarmament process) is that all of them, without exception, were accomplished as if on a movie tape (in accordance with this scenario written beforehand and directed by "the big players" along with our country) within the precisely established time limit ("up to the last minute") that was determined in the specific operational plans. With the purpose of being even more precise, all activities that were stipulated in the Plan (with no exception and up to the last minute) had been accomplished in accordance with "the plan" before the Ohrid Framework Agreement was signed.

Defining the objectives, key actions and main intentions – activities that were stipulated with the Plan for solving the crisis, are a solid foundation for establishing the stages of the safety operations which are inevitable for achieving complete success and eliminating the crisis. According to the creators of this Plan, the successful completion of all stages of these safety operations gradually influenced the success towards achieving progress in solving the crisis.

In order to complete all stages, the Plan also assigned specific tasks to the performers of the President's Plan.

It was projected for the safety operations to be performed in five consecutive stages:

- First stage – Preparation;
- Second stage – Isolation of the terrorists;
- Third stage – Ceasefire and disarmament;
- Fourth stage – Establishing peace and safety;
- Fifth stage – Re-establishment of normal peacetime conditions.

[9] Ibid: p.3-4.

In order to fully understand this important segment that was entirely and timely put to practice, the analyses will provide a presentation of all stages (their main objectives) and the specific tasks stipulated with the Plan.

"First stage – PREPARATION: This stage, which has already begun, requires coordination organizational – planning, political – diplomatic initiatives, individual and material preparations for implementation of operations that aim to disarm the terrorists.

In order to complete this stage, it is necessary to perform the following duties:

- The Government should pass a decision for determining the organization of the interdepartmental structure, its duties, the structure of the personnel, the material funds and the budget, so that it may operate as the Main Coordinating Body;
- To prevent the expansion of terrorist activities;
- To develop a Program for trust-building measures;
- To negotiate with the international communities on the manner of their involvement;
- To evaluate the necessary financial resources and to provide sources of financial aid for the reconstruction of buildings damaged during the conflict, as well as for the predicted infrastructural projects essential in the affected regions.
- To make an appeal to the Albanian terrorists to give up the arms.

Second stage – ISOLATION OF THE TERRORISTS: At this stage, an intensive media campaign should be initiated with the purpose of informing the Macedonian and international public about the Plan for solving the crisis. The implementation of trust-building measures will begin. The security forces will carry out operations for isolating the terrorists, in order to discourage them from continuing the terrorist activities, to shatter the cohesion and stop their supply chain.

Third stage – CEASEFIRE AND DISARMEMENT: The purpose of this stage is to establish a ceasefire and to conduct disarmament of the terrorists within the stipulated time-limit.

- To make an appeal to the Albanian terrorists to give up the arms
- To continue implementing the trust-building measures
- To implement the Plan for disarmament, which will be in accordance with NATO and the measures that KFOR implements in Kosovo

Fourth stage: ESTABLISHING PEACE AND SAFETY: The purpose of this stage is to create normal, peacetime living and working conditions, through the following activities:

- To create a plan for initiating infrastructural and social projects in the regions affected by terrorist activities; which will require a financial support from the international community.
- To continue the media campaign aiming to proclaim, explain and popularize the process of disarmament as the basis for achieving the goals in a civil society.
- Limited withdrawal of the security forces and continuing to isolate the terrorists.
- Simultaneous actions by the police forces, the representatives of OSCE and the European Union Monitoring Mission (EUMM).
- Further appeals to the terrorists, if necessary.

Fifth stage: RE-ESTABLISHMENT OF NORMAL PEACETIME CONDITIONS: The purpose of this stage is to provide the necessary conditions for the re-establishment of peacetime life and work. After completing their mission, the security forces will gradually begin to withdraw, until the regular police forces take over their task to ensure public peace and order. The implementation of the initiated infrastructural and social projects will continue - an action that requires that the established support of the international community continues."[10]

The main organs appointed to implement all fundamental stages for successful resolution of the crisis were the Government through its interdepartmental structure, the Main coordinative body known as Coordinative body for crisis management, the proper structures of NATO, OSCE, the European Union Monitoring Mission, KFOR in Kosovo, and the Centre for crisis management was appointed as the coordinator of all subjects and their activities (to be more precise, according to the decision of the Government, it was called Working group for crisis management).

After accepting and approving the President's Plan, out of all previously listed "participants" in the film "Macedonia 2001", mixed working groups were formed in which the "experienced international representatives", who arrived directly from the field – the crisis-stricken region of South Serbia, took an active part.

The main rehearsal of the implementation of identical operations in accordance with an identical plan was "successfully completed" in the dangerous Albanian – Serbian triangle of Preshevo – Medvegja – Bujanovac.

The further operationalization of the President's Plan contributed to the following operational plans:

[10] Ibidem: pp.4-5.

A: Plan for developing trust-building measures;

B: Plan for media campaign;

C: Mutual plan for use of security forces;

D: Plan for dismissal of the forces and establishing peace and stability;

E: Plan for coordination with the international communities.

The working groups, under the leadership of this text's author, in a relatively short interval of time prepared all stipulated plans, with the exception of the last one, taken into consideration the fact that this area was regulated with specific agreements and with the duty of the Centre for crisis management to coordinate the activities of all international factors involved. All the adopted plans were asserted and approved by the proper institutions in Brussels (in which we refused to make certain "corrections" and amendments, and the "bureaucracy" in Brussels made a failed attempt to change our name into Slavic Macedonians in the content of the plans).

The greatest repairer and final judge for the quality, justification, benefits or damages from this Plan will be history. But irrespective of all advantages and disadvantages of the Plan (the input and profit) to our country and its future as a unitary and democratic country, it is certain that with this Plan we proved that we are a serious and organized country, a stable international subject that possesses serious capacities for successful management of the most serious security crisis. In addition, our country proved that it can successfully control its security forces in complex safety surroundings, respect all international duties and successfully coordinate all activities with all international institutions and organizations involved, as well as with the representatives of all other contemporary countries.

Instead of conclusion, we can safely ascertain that the Plan and all other operational plans contributed enormously to gain strong international support and guarantees for the national safety of our country.

In the analyses of leading NATO experts it was clearly emphasized that the conflict in the Republic of Macedonia was the most properly managed conflict in the history of conflicts. In any case, the historical science and the future generations of researchers will deal with this "historical sequence" for many years ahead, in order to always shed new lights upon this relatively dark, unpredictable and hard-to-define conflict.

The analysis of the President's plan is simply one chain (opening chain) and one stone forming the mosaic of the enigma called Macedonia 2001

БЕЗБЕДНОСНА АНАЛИЗА НА ПЛАНОТ ЗА УПРАВУВАЊЕ НА КОНФЛИКТОТ ВО 2001 ГОДИНА ВО РЕПУБЛИКА МАКЕДОНИЈА

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Апстракт

Во трудот за прв пат на поширокатa научна и стручна јавност ќе и бидат презентирани, промовирани и анализирани плановите за справување со кризата во 2001 година во Р. Македонија.

Во тој контекст, како примарен и клучен документ ќе биде елабориран „Предлог планот и програмата за надминување на кризата во Република Македонија“ поднесен од страна на тогашниот претседател на државата Борис Трајковски. Врз основа на овој план, односно со неговата операционализација беа изработени и имплементирани следните планови за успешно и целосно справување со „терористичките активности од албанските терористички групи“ и тоа:

- План на мерки за градење на доверба во решавањето на кризата;
- План за медиумска кампања;
- План за употреба на безбедносните сили на Р. Македонија;
- План за разоружување на вооружените албански екстремисти и собирање на нелегално поседуваното оружје, муниција и експлозивни материи.

Со целосна безбедносна, а во определени сегменти и политичко - историска анализа на презентираните планови, ќе биде фрлена нова светлина врз севкупниот процес на справување со кризата во Р. Македонија во координација со сите инволвирани меѓународни организации и институции.

Клучни зборови: план; криза; справување со криза; тероризам; терористички групи.

SOCIALIZATION AND ADAPTATION IN THE PERCEPTIONS OF THE CITIZENS OF REPUBLIC OF MACEDONIA REGARDING POLICE WORK

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Abstract

Contemporary approaches - when treating socialization as a phenomenon - appear within the altered research paradigms and considerably altered context of the contemporary social and particularly political events. The socialization issue becomes a matter of interest when there is interest in science directed towards defining the consequences and their impact on the individual behavior regarding the functioning of the institutions and the system as a whole. The constant and systematic research of socialization started within the social, and particularly criminal and other sciences. Therefore, the definitions about socialization, especially the political one, are quite important in this work and have no tendencies of being comprehensive. They comprise all roles and emphasize the necessity of interdisciplinary approach.

Socialization is a process of social learning in which individuals and the social groups gain relatively permanent orientations and forms of behavior regarding institutions, processes and values.

This work analyzes the research results from the citizens' attitudes regarding the work of the police, and in my personal opinion, the issues regarding the orientations, processes and values expressed through the process of socialization will be emphasized. In this context we will focus on the research results which refer to identification of the individuals with the police, their role, forms of loyalty, and the general perceptions of the police within the society.

Key words: socialization, political socialization, identifications, values, processes, institutions.

Introduction

Contemporary transitional societies are characterized with increased level of criminalization. A lot of policies are redefined and established within these societies in direction of successful fight against crime. The attempts can be seen in the procedures for reformation of the normative framework,

the strengthening of the personnel within the institutions as well as the creation of social assumptions for fighting against crime. The state organs of police in the last two decades have been directed towards reduction and elimination of the reasons leading to crime. In this direction numerous institutions have been established, various forms of professionalism have been conducted, international and other associations have been engaged in the process of strengthening of the capacities for fighting against crime. The effects of all this are a subject of discussion and together with it, a lot of questions are to be answered. Here, we will not try to answer all of them. Our attention will be focused on the importance of the social climate and the relations as two factors influencing the criminalization effects over the society. Namely, we will try to determine to what extent is the existing civil society and its components functional when fighting crime in the country. In this context we will point out the variations regarding the influence of the socialization and adaptation (as elements of the cultural pattern) on the citizens' behavior, especially in the field of strengthening the awareness and the impact of the social community when fighting against crime as well as the issues connected with the efficiency of the policies in the fight against crime.

Socialization is a complex multileveled process which systematically prepares the family, the school and the community to get involved in the social community. According to the contemporary standings, the process of socialization also includes the process of individualization which implies the ability of the individual to change the social conditions in accordance to his / her personal needs. Elements of socialization which directly influence the individual are: the family, the educational system, the peers, the church, the social organizations, the means for communication, and many others. Some of them belong to the group of political socialization. These elements together with their adaptation contribute to creation of various types of perception, create systems of values, idols and norms, and mediate, i.e. convey these elements to the individual who is a subject of socialization.

Tradition and socialization are important cultural patterns. Tradition is related to the collective memory of a certain group, class, population or nation, i.e. it is the experience which manifests itself as separate identity through the various forms of separate sub-cultural themes. The contemporary society, especially the contemporary information processes and fast data transfers as well as the experiences, influence the mixture of cultures, traditions and experiences. History points out the resistance against vices, the culture of the youngest population, and the primitive cultures. They are characterized with strong emotions and feelings of threat. What is important for the different types of cultures, are the types of conflicts, the social conditions, and the general features of their historical development. Various

internal conflicts and changes influence tradition, and various differences and conflicts appear as a result of the ethnical, religious and other differences.

Socialization is related to gaining, maintaining and changing of the norms of the political system, i.e. enabling the individuals to act as political actors within a certain political system and preparing them for performance of certain political functions. This includes adequate civil training i.e. an answer to the question - How to become a good citizen in a political community? The process of socialization has three phases:

- basic socialization
- specific social socialization
- recruiting

The social influence also manifests in the system of moral norms, behavior and liability. In the criminological researches the liability for the criminal acts is emphasized. The most significant is the contribution of Tard and his theory of moral liability. According to this, the state of one person is connected to the memory which that person has about the social obligations (being aware that by acting in certain way he / she can breach the moral and social values embedded in the person in the socialization process), as well as with the level of social adaptation. This relationship is determined by basic elements according to which criminal liability can be defined. As a result of this, the issue about the moral and social liability, especially in the time of transition, becomes a matter of great interest. This is important because it is the period in which liability is breached, i.e. there is disregard of the moral rules and social liability which were characteristic till the fall of the Berlin Wall and the time afterwards when the moral system and values specific for the new time were built. Namely, according to the theory of moral liability, if the recalling of the social and moral liabilities is normal and stable then the person is responsible for his / her actions, but if the recalling is weaker and unstable, in that case this is not an issue of liability. As a result of this, we cannot require responsibility from the person who did not have time to adjust to the new social surrounding[1]. This discussion observes crime in its essence, i.e. its occurrence in the society, and it is directed against it. Because of that, it strives for using of all the possible measures for fighting against crime. That was a time when it was believed in the power of intimidation. What is also specific, is when serving the punishment – imprisonment in order to avoid the influence of imitation, it was insisted that the convicts should perform, in their cells, all forms of social interaction and get involved in them, for example being visited by activists from charity organizations and

[1]According to Zoran Sulejmanov: Criminology; ISPJR, Skopje 2003, pp. 214-215;

civil associations[2]. In this context, regarding the structure of the modern open society, the question raised is how much would intimidation be an answer, i.e. how much the structure of the civil society and the forms of socialization would contribute to the general model of responsible and active citizens? The answer to this question is very complex and multi-leveled, and we should take into consideration the following attempt to provide that answer.

Materials and methods

The results gained from the survey in the research related to socialization and adaptation vary a lot in the perceptions of the citizens about the level of police corruption. In this survey the standard questionnarire was used. Afterwards, it was performed a secondary analysis of state State Statistical Office data.

Results and discussion

In the base of the civil society is the free individual who consciously calls upon the legitimate and legal authorities and laws determined by the institutions of that society which implies a state in which the citizens, in terms of free, direct and general elections determine who will govern and lead the state in a certain period of time. Citizens are given rights and freedoms to arrange the conditions in which they live, according to their free will. The existence of the civil society is determined by two indicators:

- human and civil freedoms and rights
- free economy as an antipode of the state, directed society.

The freedoms and rights of the citizens are certainly the crucial elements of the civil society, because without them there is no advancement; with their help, individuals gain political and economic subjectivity as well as moral, religious and creative autonomy. The citizens' economic subjectivity is closely related to their autonomic position. The citizen is dependent on the freedom of market which means self-initiative, merging and market participation in accordance with the market conditions and laws.

It is very difficult for the civil society to operate unless autonomy is provided for establishment of social institutions such as university, religious

[2]Ibidem... p. 215

communities, scientific, artistic associations, professional, vocational, and civil associations (such as the non-governmental sector) in the society.[3]

Hence one of the issues that draw attention is the perception of the citizens about corruption in the country. From the results from the research conducted at the Faculty of Security named "Citizens' opinion regarding the police work" (a research which has been conducted in the Republic of Macedonia every year in the last five years in the period from 7th to 18th January) were obtained the following distributions[*]:

Table No. 1 Evaluate whether and how much you agree with the attitude that crime in the country is a big problem?

	2009	**2010**	**2011**	**2012**	**2009**	**2010**	**2011**	**2012**
	f	*f*	*f*	*F*	*%*	*%*	*%*	*%*
Totally disagree	12	11	11	9	0,91	0,84	0,76	0,70
I don't agree	27	35	36	26	2,06	2,68	2,50	2,02
I can't evaluate	108	75	105	85	8,23	5,73	7,29	6,62
I agree	527	495	539	568	40,17	37,84	37,43	44,24
Totally agree	638	692	749	596	48,63	52,91	52,01	46,42
Total	**1312**	**1308**	**1440**	**1284**	**100,00**	**100,00**	**100,00**	**100,00**

Source: Research on „The Citizens opinion regarding police work"

If my "for" and "totally for" stands are observed then we can conclude that the level of agreement was 88,80 % in 2009, 90,755 % in 2010, 88,80 % in 2011 and in 2012 it is at the similar level of 90,65 %. The issue which needs further deeper analysis is why besides the increased social efforts (especially of the state organization, the undertaken medium and other campaigns), the level of perception regarding corruption in the country is still high. The answer to this question is complex and multi-leveled. Here, it is used as an indicator for the attitude of the public towards this issue. An answer has to be given also to the question of how much are the actors in the civil society and the society itself in the function of legal awareness and social liability especially regarding the improvement and protection of the values in the contemporary civil society.

As to the functioning of the civil society, it is of no less importance to mention the existence and application of the principle for ruling of the right, i.e. the connection of the legislator as a creator of the laws for values which are considered a great achievement in the democratic societies and are a result of the long-term tradition of the countries and the systems with

[3]Cane Mojanoski: *The Basics of the Structure of Society*; „2nd August", Stip- Skopje, 2002, p. 147;

[*]The research team consisted of: the author, prof. Boris Murgoski Ph.D., Frosina Tashevska Remenski, Ph.D.

democratic characteristics. Closely related to the rule of right is the existence of a lawful state. It is almost impossible to understand the concept of the civil society if in that society the authority is not limited, i.e. the principle of power-sharing is not applied. Every authority besides the legitimacy it gains at elections needs to be organized in that way that it can be independent and use legal instruments for mutual influence and control. This is especially important for the relations among the legislative, executive and judiciary authority. The issue here is the social liability of the institutions towards the strengthening of the awareness regarding the application of right and respecting liability which directly influences the socialization as a global process. Namely, the following distributions were obtained in the last four years regarding the question of how much does the stand for toleration of violation of the laws generally influences the perception of criminalization and a-social behavior in the country?

Table No.2 Please assess whether and how much does the stand for toleration of violation of the laws in general influence the overall picture of society criminalization?

	f	*f*	*f*	*f*	*%*	*%*	*%*	*%*
	2009	**2010**	**2011**	**2012**	**2009**	**2010**	**2011**	**2012**
not influence at all	54	41	47	46	4,10	3,13	3,26	3,58
small influence	161	122	113	105	12,22	9,32	7,85	8,16
I can't evaluate	302	209	222	158	22,91	15,97	15,42	12,29
partial influence	297	333	402	402	22,53	25,44	27,92	31,26
big influence	466	599	652	572	35,36	45,76	45,28	44,48
No answer	38	5	4	3	2,88	0,38	0,28	0,23
Total	**1318**	**1309**	**1440**	**1286**	**100,00**	**100,00**	**100,00**	**100,00**

Source: Research on „The citizens' opinion regarding police work"

Even the most elementary analysis can show that the citizens' perceptions regarding the general relationship towards the violation of laws and non-existence of high legal awareness are growing every year. If we take a look at the positive stands regarding this claim, "partial influence" and "big influence" then it can be concluded that the perception in 2009 was true for 57,89 % of the respondents, in 2010 for 71,20 %, in 2011 for 73,19 % and in 2012 for 75,74 %. A simpler answer of this complex situation regarding the citizens' perception can be the fact that in practice, there are cases of insufficient abiding of the laws, i.e. the functioning of the legal mechanisms does not give the expected effects.

Table no. 3 Please assess whether and how much you agree with the attitude that the image for society criminalization is such because the main criminals are not prosecuted?

Year	**2009**	**2010**	**2011**	**2012**	**2009**	**2010**	**2011**	**2012**
	f	*f*	*f*	*f*	*%*	*%*	*%*	*%*
Not influence at all	106	55	52	42	8,28	4,21	3,62	3,27
Small influence	91	70	57	36	7,11	5,36	3,96	2,80
I cannot evaluate	226	111	150	115	17,66	8,50	10,43	8,96
Partial influence	196	162	200	221	15,31	12,40	13,91	17,21
Big influence	661	908	979	870	51,64	69,53	68,08	67,76
Total	**1280**	**1306**	**1438**	**1284**	**100,00**	**100,00**	**100,00**	**100,00**

If we take a look at the positive stands regarding the posed question, it is noticed that they vary between 2/3 and ¾ of the respondents' answers. Namely, in 2009 66,95 % had positive stand, i.e. they agreed, in 2010 the percentage is 81,93 %, in 2011 it is almost the same, i.e. 81,99 % and in 2012 it is 84,97 %.

The perception of the general idea about criminalization in the society, especially the activities for fighting against crime presented via the forms for massive detention of people, the violation of laws, the insufficient court closings, are all just part of the possible explanations for the complexity of the previous answers. In strengthening the perception for abiding by the laws, what is important is the contribution of the attempts to protect the personality of the accused in the criminal procedures and the acting of the state organs especially when determining the qualifications which more or less prejudge the court decisions as well as the conditions related to the sentence execution. Wilson and Hernstein are convinced that the biological and psychological factors determine both the personality of the victim and the criminal. Wilson points out the human nature as the most important reason for the existence of crime. He fights for some kind of neoclassical utilitarian criminal policy which will be based on strict punishments / fines, preventing the criminals from acting and severe techniques for crime control.[4]

Crime is a phenomenon which seriously threatens fundamental social values. It is manifested through separate or group committed crimes. It does not mean that the crime is a simple sum of individually committed crimes. It is also a mass phenomenon – a new quality, a wider social phenomenon that has its own specific reasons and origin, development and

[4]Bacanovic Oliver: *Understanding of the subject of Victimology*; Annual Book, Faculty of Security, Skopje, 2011, p. 116;

movement rules. Understood in this way, crime is closely linked to certain social structures and certain life conditions of a particular society[5].

From the data analysis of the state organizations in the Republic of Macedonia[6], it is obvious that the level of convicted perpetrators is different every year.

Table no. 4 Convicted adult perpetrators in the Republic of Macedonia in the period 2001 -2010, by types of criminal offences - Dynamics of Growth in % (chain indexes - 100);

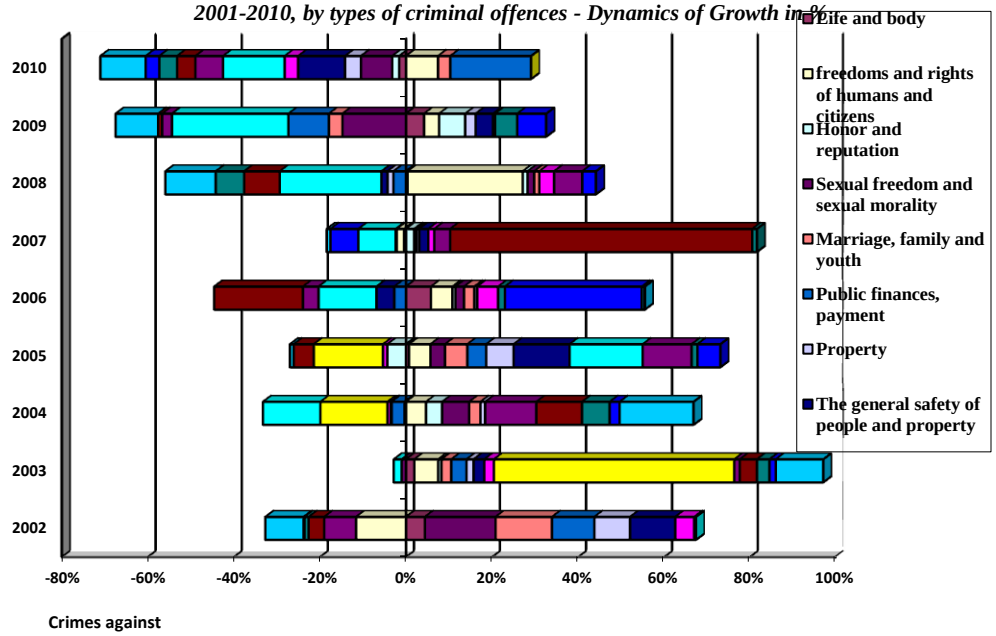
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
TOTAL	-	7,24	20,02	5,69	9,24	4,92	3,87	-1,41	3,14	-6,45
Life and body	-	7,18	20,63	-1,46	2,23	24,38	-3,38	0,85	8,38	-3,65
Freedoms and rights of humans and citizens	-	-18,97	59,57	21,33	15,38	20,95	-14,17	58,72	6,94	17,30
Honor and reputation	-	0,00	8,06	17,16	-13,38	2,94	15,71	2,47	12,05	-3,76
Sexual freedom and sexual morality	-	-26,92	-10,61	28,81	10,53	8,33	-2,20	3,37	-29,35	-16,92
Marriage, family and youth	-	21,49	24,49	12,02	16,10	10,08	1,15	2,64	-6,25	6,67
Public finances, payment	-	16,13	37,96	-13,76	13,62	-11,30	3,47	-6,34	-18,73	43,63
Property	-	13,60	17,71	5,01	19,83	2,81	5,37	-3,03	4,83	-8,60
General safety of people and property	-	17,19	26,67	-1,05	40,43	-17,42	17,43	-3,13	8,06	-25,37
Safety in public traffic	-	7,24	23,89	-3,37	-3,12	20,37	11,51	7,53	0,95	-7,30
The state	-	0,00	600,00	-71,43	-50,00	0,00	0,00	0,00	0,00	0,00
The armed forces	-	0,64	-19,79	-61,27	52,74	-56,50	-72,16	-51,85	-53,85	-33,33
Official duty	-	-12,12	13,79	54,55	35,29	-15,22	30,77	14,38	-4,57	-14,97
The judiciary	-	-5,94	43,18	48,68	-14,47	-86,55	585,57	-18,20	-1,84	-9,93
Legal traffic	-	-1,61	31,48	29,43	4,24	6,65	8,84	-14,49	10,24	-9,63
Others crimes	-	-0,32	15,87	10,68	16,58	133,55	-54,18	6,94	13,36	-7,36
Incriminated by special laws	-	-14,55	119,15	78,64	-2,72	2,79	-7,07	-25,73	-19,69	-24,51

***Source**:Perpetrators of criminal offences in 2010,SSO,Skopje, 2011, p. 51;*

[5]Frosina Tashevska Remenski: *Sociological Determination of Crime as a Social Phenomenon - contribution to sociology of criminality*, Annual Book, Faculty of Security, Skopje, p. 128;

[6]Data used from publication: Perpetrators of Criminal offences in 2010, State Statistical Office, Skopje, 2011;

Figure No.1 Convicted adult perpetrators in Republic of Macedonia, in the period 2001-2010, by types of criminal offences - Dynamics of Growth in %



***Source**: Perpetrators of criminal offences in 2010,*

Namely, using chain indexes can determine the level below and above one hundred, in cases with convicted perpetrators in R. Macedonia in the period 2001 - 2010.

Even the most elementary analysis points out that from 2006 to 2010 there is an increased number of convicted adults for 4,92 % in 2006 in comparison to 2005. This tendency continues in 2007 when the level of convicted persons increased for 3,87 %. The same situation with increase of 3,14 % is noticed in 2009 in comparison to 2008. But the conditions in 2008, i.e. 2010 in comparison to the previous years decrease for 1,41 % in 2008, i.e. - 6,45 % in 2010.

If you check the rates for convicted perpetrators in three groups of criminal offences in the period from 2001 to 2010, it can be noticed that the number of convicted adult perpetrators for crimes against public finances and payment records a high jump in 2010 compared to 2009 for 46,63 %, almost half and more were convicted this year. Specific is the number of convicted pepetrators for crimes against property from 19,83 % in 2005, which over the previous year fell by - 8,60 % in 2010 compared to 2009. The third fact is the general safety of people and property. According to this group of criminal offences in the Republic of Macedonia, the rate of increase from 40,43 % in 2005 over the previous year has a significant decline from one quarter (-

25,37 %) in 2010 compared to 2009. Similar trends can be identified also with the convicted perpetrators for crimes against official duty, which in 2005 notes a growth rate of 54,5 % compared to the previous year, in 2006 it grew by 35,29 %, and tendentions of declining observed in 2009 for - 4,57 % in 2009 over the previous year, i.e. - 14,97 % in 2010 compared to 2009.

This is the structure of convicted perpetrators, by types of criminal offences, gender and repeating of criminal offence.

Table No. 5 Convicted adult perpetrators in the Republic of Macedonia in 2010, by types of repeated criminal offences and gender

		total		**Previously convicted**		**Previouslyconvicted**	
Crimes against:	***Total***	***male***	***female***	***male***	***female***	***male %***	***female %***
Life and body	872	810	62	96	2	5,04	4,88
Freedoms and rights of citizens	217	202	15	37		1,94	0,00
Elections and voting	10	7	3	3		0,16	0,00
Work relations	19	17	2	5		0,26	0,00
Honor and reputation	179	141	36	16	1	0,84	2,44
Sexual freedom and sexual morality	54	52	2	10		0,53	0,00
Marriage, family and youth	272	214	58	45	7	2,36	17,07
Human health	343	337	6	130		6,83	0,00
The environment	82	79	3	7		0,37	0,00
Property	3612	3383	229	1159	20	60,87	48,78
Cultural monuments, archive materials and natural rarities	3	3				0,00	0,00
Public finances, payment	203	179	24	30	2	1,58	4,88
The general safety of people and property	100	95	1	12		0,63	0,00
Safety in public traffic	1764	1669	95	126	3	6,62	7,32
The state	1	1				0,00	0,00
The armed forces	4	3	1			0,00	0,00
Official duty	142	121	21	7	2	0,37	4,88
The judiciary	132	114	18	14		0,74	0,00
Legal traffic	481	418	63	60		3,15	0,00
The public order	535	517	18	115	3	6,04	7,32
Humanity and international law	67	65	2	21	1	1,10	2,44
Envisaged by special laws	77	73	4	11		0,58	0,00
Total	**9169**	**8500**	**669**	**1904**	**41**	**100,00**	**100,00**

Source*: CommitedcriminaloffencesinRepublic of Macedonia in 2010*p. 88-95;

From these data it can be cocluded that in Macedonia from 100 convicted persons in 2010, 13 were women, i.e from 1000 convicted persons, 127 were women.

Table No. 6 Convicted adult perpetrators by repeating criminal offence, by gender

	Total	%	male	%	female	%
For similar offences	990	50,90	965	50,68	25	60,98
For different offences	823	42,31	807	42,38	16	39,02
For similar and different offences	132	6,79	132	6,93	0	0,00
Total	1945	100,00	1904	100,00	41	100,00

Source*: Commited criminal offences in Republic of Macedonia in 2010* State Statistical Office, Skopje, 2011 p. 88;

The domination of men can be observed within the aspect of the involvement of the economic processes in the social communication in general. Namely, the Macedonian society pattern basically implies that the woman is the pillar of the family and she is centrally oriented towards the family and household care, whereas men provide the economic and other preconditions for the existence of the family. The other assumption is that effects of the socialization process are more expressed among the female population. Namely, if we take a look at distributions for recidivism among the convicted adults, it can be concluded that the criminal acts are repeated by a considerable part of the groups.

However, the general structure of recidivism shows proportions according to which among the women recidivists dominate those who repeat the actions of the same kind. But in each case there is the justified conclusion which points out "the mild punishment policy" and that "a certain number of sanctions are under the legally determined minimum"[7].

[7]Stojanka Mirceva, Violeta Caceva: *The Sentencing Policy of Macedonian courts towards child sexual abuse offenders*, Annual Book, Faculty of Security, Skopje, 2011, p. 145

TableNo.7 Convicted adult perpetrators by types of criminal offences and ethnic origin

		Ethnicaffilation								
Crimes against	otal	acedo nians	lbani ans	urki sh	om a	lac hs	erbi ans	osnia ks	ther s	nkno wn
TOTAL	**9169**	**5477**	**1908**	**293**	**926**	**12**	**92**	**66**	**139**	**256**
Life and body	872	642	100	36	46	1	10	5	12	20
freedoms and rights of humans and citizens	217	148	41	9	12	-	3	-	1	3
Elections and voting	10	2	8	-	-	-	-	-	-	-
Work relations	19	15	2	-	-	-	-	-	2	-
Honor and reputation	179	159	6	7	2	-	2	-	1	2
Sexual freedom and sexual morality	54	33	8	2	8	-	-	-	1	2
Marriage, family and youth	272	185	26	10	38	-	1	1	3	8
Human health	343	202	88	11	21	1	2	5	7	6
The environment	82	58	19	2	-	-	-	1	1	1
Property	3612	1861	682	140	695	1	28	32	56	117
Cultural monuments, archive materials and natural rarities	3	3	-	-	-	-	-	-	-	-
Public finances, payment	203	112	58	7	6	1	4	-	8	7
The general safety of people and property	100	63	26	4	2	1	-	1	1	2
Safeyinpublictraffic	1764	1165	419	38	35	3	20	8	20	56
The state	1	-	1	-	-	-	-	-	-	-
The armed forces	4	3	1	-	-	-	-	-	-	-

Source: *CommitedcriminaloffencesinRepublic of Macedonia in 2010*

The data indicate that participation of convicted persons from the Roma community is especially visible, with 10,10 % of the total number of convicted perpetrators. They are particularly convicted for criminal offences against property. Further come others ethnic groups, which basically follows the proportion of the population in the country. Namely, 59,73 % are Macedonians, 20,81 % Albanians, 3,20 Turks, 0,13 % Vlachs, 1,00 % Serbs, 0,72 % Bosniaks, 1,52 % others and 2,97 % with unknowh ethnic origin.

Conclusion

The obtained results point out to conclusion that the socialization as a process for adoption of the norms and rules of the culture determines the level of socialization and the liabilities towards it. It is a social value within which the norms and behavior patterns which are conveyed from one generation to another are adopted as components of the personality. These rules and values are adopted by the individuals as laws, not only to provide stable members but also better performers of the social tasks and roles. We

do not need the mutual norms and rules to understand what is requested from us by the others but to achieve inner agreement of the society with the external demands. Actually, the issue here is a cultural pattern for changing of the non-social nature.

The individual by nature is selfish, oriented towards his / her own personal needs. The essence of the social life is within the moral unity among the community members. It is especially characteristic for the civil society. However, the data analysis points out that it is not sufficiently organized nor autonomic in relation to the state authority and therefore it is especially "silent" or absent from the socialization processes, i.e. from the strengthening of the legal awareness and the awareness for social liability. We need to look for the reasons within the economic state, the limited and controlled financial resources and the created silence climate.

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CRISIS AND DEVELOPMENT DISCREPANCIES IN THE BALKANS AS A CHALLENGE FOR THE SECURITY IN THE REGION

Dr. sc. Dimitar Mirchev.

Dr. sc. Sinisha Daskalovski.

Abstract

In this paper is conducted a research attempt based on analysis of exhaustive literature on crisis, development and changes on the Balkans, especially in the countries of former Yugoslavia, in order to define the implications on the relations and arrangements of the security in the region, and especially on the security in the Republic of Macedonia. It is important to mention that after the termination of the Cold War on the Balkans and wider, the region experienced changes of greater extent, mainly positive. In the first decade of 21st century, the Balkans grows into a region which is calming and stabilizing, but still trying not only the national systems of defence and security, but also the international security structure. For one decade, the Republic of Macedonia answered the security challenges and risks, but as well as the other Balkan countries it was also under a great influence of the crisis and the changes, including the most recent ones which resulted from the recession and the financial crisis in Europe. The assumption which is followed by this paper is that the region needs balanced socio-economic development, in order to follow and answer the accessional standards of the Euro-Atlantic integration.

Key words: crisis, changes on the Balkans, implications, security, region

The region of the Balkans and the space of former Yugoslavia in particular, has often been viewed and assessed over the past two or three decades, as a delicate region in Europe, as a region full of contradictions, contrasts, disputes and conflicts; sometimes even as a region where ethnic, nationalistic, religious and other diversities historically and objectively gave rise to inter-ethnic disputes, conflicts and violence. There is no doubt that the violent and tragic conflicts that followed the dispersion of former Yugoslavia gave a good ground for such views. Some sources identify the state of relations in the Balkans using the term "balkanization", which would mean - a division of the country, territory, etc. into small, quarrelsome, ineffectual units (The Random House...1996, p. 113). The historian F. Schevill, recently coined the image of the Balkans as a region Balkania, which, contrary to

other parts of Europe, urged by the forces of geography towards racial, economic and political unification is "split into many geographic divisions, separated from one another by natural barriers, the different peoples settled on the soil have been greatly aided in an instinctive desire to maintain their separate individualities and down to this day have successfully resisted all efforts made to bring about their political unification" (Schevill, 1995, p. 13).

The assessment of the late US ambassador G. Kennan in his introduction to the Carnegie Endowment republished report on the Balkan Wars 1912-1913 in the year 1993, was that the Balkan's history has been repeating through times, that the "ancient hatreds" persisted in production of inter-ethnical violence and wars with the only differences in the war technologies (Kennan, 1993, p. 9). The British sociologist J. Allcock in his well documented study of the social origins and causes of the crisis in former Yugoslavia and the Balkans, quotes many sources and statements on significance of the violent history of the region that had recently led to the emergence of fanatic nationalism and hatred of other races. He then asks - what is to be expected from an area whose name has come to be synonymous for violence, fragmentation and disorder. (Allcock, 2000, pp. 2-5).

However, there is another line of analysis and interpretation of the reasons for the recent crisis, if a profound academic discourse is employed. In her masterly compiled study "Imagining the Balkans", the Bulgarian historian Marija Todorova makes a strong case for distinction of the production of scientific knowledge and the popular mythology in the discourse on the Balkans. Firstly, she provides a rich documentation that a good deal of the causes and reasons of the intra-Balkan conflicts were in fact imported from outside, and secondly, that the Balkans were coined as a myth, instrumental to the identification and self-identification of the Western-European or Western culture and values altogether. "As in the case of the Orient, the Balkans have served as a repository of negative characteristics, against which a positive and self-congratulatory image of the "European" and the "West" has been constructed" (Todorova, 1997, p. 188). V. Friedman, a specialist in Balkan linguistics and culture, in several of his studies demonstrates that the public and political stereotypes of the Balkans are nothing but an attempt to project the modernity of the region on the basis of its past, particularly the specific perception of the past. "Balkanism, he writes, is not predominantly a notion and synonymous of political and ethnic fragmentation. There exists a widely accepted meaning of the term "Balkanism" which is totally different from the term fragmentation. In linguistics, Balkanism is a property shared by unassociated languages at the Balkans. The grammatical structure of the languages at the Balkans confirms the centuries-long multilingual and multiethnic coexistence even at most intimate levels" (Friedman, 2001/2, p.152).

It is true that since long time ago, an intense process of interaction, interplay, mutual dependence and coexistence was imminent in the region, that most of the disputes or wars in the Balkans have not been inter-ethnic or inter-religious, that most of them have been either parts of broader conflicts or imported from outside. However, our main thesis is that an objective basis of the recent crisis in the region, not only on the soil of former Yugoslavia existed indeed and is still relevant, being identified in the patterns of the unbalanced and uneven development of the region as well as of the individual countries. If one disaggregates this thesis (or hypothesis) into details, several particular hypotheses could be constructed:

- communities (countries, states, federations like former YU) disperse or suffer of crises because of the large or extreme differences in their development rates and levels, particularly matched with diverse ethnic, religious, linguistic and cultural composition of the population.
- these differences are related to the uneven production and consumption of GDP, employment / unemployment rates, living standard, population extent, life expectancy and health protection, migration patterns, education levels and conditions, etc.
- the region of the Balkans has since long ago been a region demonstrating such discrepancies, it still witnesses uneven development rates, but individual countries most often have internal discrepancies frequently associated to underdevelopment and poverty of regions populated by ethnic, religious and cultural minorities. The disintegration and the conflicts in former Yugoslavia were a typical case of disputes on the basis of a lack of social cohesion and balanced development.
- Only at the final instance, economic and development differences obtain a form of ethnic and political conflicts.
- The uneven and unbalanced development still prevails in the Balkan region, regardless of the overall orientation of the countries to access and integrate into EU and NATO; Despite the huge amounts of foreign investments, assistance from EU and EBRD funds and credits, despite the favourable terms credits from IMF and WB, patterns and rates of their development in relative ratios do not change, at least not considerably.
- Although political relations among most of the countries in the region are now relaxed, legally regulated and mainly non-conflict while the remaining disputes are on their way of resolution (Serbia - Kosovo, Greece - Macedonia, Croatia - Slovenia, BiH, etc), there are still large disparities in their GDP, employment rates, personal incomes,

indebtedness, etc. Policies of overcoming of these disparities on regional level either do not exist or are ineffective. The Balkans requires a genuine policy of balancing the development, in addition to political cooperation and coordination of the efforts and projects of collective self-reliance upon joint resources (natural, material, human, managing, etc.). EU, SE, OSCE, NATO could significantly contribute to such policies and mechanisms.

A few statistical and research data will be provided here in favour of these theses.

GRD Per Capita (ppp) 2009 country rank
(SOURCE: CIA World Factbook, 2009)
http://www.photius.com/rankings/economy/gdp_per capita_2009_1.html

Rank	Country	$ per capita
114	Albania	6.000
110	Bosnia and Herzegovina	6.500
77	Bulgaria	12.900
65	Croatia	16.100
36	Greece	32.000
97	Macedonia	9.000
94	Montenegro	9.700
80	Romania	12.200
88	Serbia	10.900
41	Slovenia	29.500
82	Turkey	12.000

International Human Development Indicators
(TRENDS 1970-2010) - 169 countries
(Source: http://www.hdr.undp.org)

Rank	Country	Value- 0.000>1.000
68	**Albania**	**0.743**
75	**Bosnia and Herzegovina**	**0.710**
53	**Bulgaria**	**0.780**
42	**Croatia**	**0.810**
22	**Greece**	**0.850**
65	**Macedonia**	**0.749**
49	**Montenegro**	**0.769**
51	**Romania**	**0.785**
60	**Serbia**	**0.735**
25	**Slovenia**	**0.869**
62	**Turkey**	**0.754**

These sources are usually seen as competent sources and indicators of the human, economic and cultural development. The Human Development Report of UNDP and the WB, consists of analysis of 30 statistical indicators grouped in three clusters: economy, education, and health protection, while national statistics offered - are revised and pondered in the UN Statistical office. They do not differ considerably from year to year. Finally, they construct the Index of HD where most countries that are UN members are listed. The index ranks the countries on a ranking list from 0.000 to 1.000 index-values. So most of the Balkan countries belong to the group of medium developed countries, however, they are ranked from the 22nd place to the 75th place which indicates tremendous differences in development, in a relatively small regional territory.

In more details, the relative development rates of the Balkan countries have been analyzed in several studies having in principle similar results and conclusions. Mircev (2006, pp. 367-381) pointed out that the international position of individual countries (membership in NATO or EU, candidate status or not, etc.) unfavourably affects the direction of even development dynamics of the region. Two other sets of recent comparative studies (Arrchige and Mitrovic, (Eds). 2007; Eroglu, et all. (eds). 2008.), also give a deep insight in the matrices of transition of the Balkan countries into the modern market economies and democracies under conditions of delays in structural modernization. Discrepancies, these studies suggest, confront the challenges of effective and faster process of the euro-integration of the region.

The research of Boris Banovac in Croatia emphasizes the role of nationalism and regionalism as specific cultural identities on which a

community is based. Their interaction determines the social distance among groups of population in search for collective identities but also creates types of culture imposed to inducement or pacification of ethnic and cultural conflicts. Many other sources speak of the realities even within the individual countries where ethnic, cultural or group distances, disputes, tensions are clearly based upon features of living standard, unemployment rates, types of economic life etc.

Still, regardless of the advancement of the process of euro-integration of the individual countries and their present status in the EU (members, candidates, associated countries, etc.) over the past twenty years, the relative rates of development as well as the ratios of GDP values among them remained almost the same. In the case of the six republics of former YU, this was well demonstrated by Rudi Klanjsek of the University of Maribor: they were all able to advance economically to some extent, but the relative relations among them remained almost unchanged (Klanjsek, 2011). However, the republics that are closer to the EU had a better offer of credits and foreign investments, and currently their indebtedness per capita is higher as well as their economic vulnerability as they are more dependent on the European market and capital.

There is no doubt that politically and socio-culturally, the region of the Balkans is advancing, transforming, altogether having positive economic trends and moving slowly towards EU and NATO structures. Intra-Balkan relations are nowadays much more relaxed then some 10 - 15 years ago; there are no frequently open or violent conflicts; the cooperation process in the South-Eastern Europe functions well, just like some other regional initiatives (CEI, Adriatic-Ionian initiative, Dialogue among Religions, etc.). Mechanisms have been established to positively solve a few remaining problems: the Macedonian-Greek dispute over the name, the status of Kosovo, Slovenian-Croatian border dispute, the intra-BiH relations. The broadening policy of the EU has a great impact on harmonization of the legal systems and practices of all countries within the EU system.

Nevertheless, the Balkan needs a more balanced, faster and even development as an objective ground for sustainable growth, lasting stability and peace processes as well as regional security. Our analysis indicates several points of a medium or long term policies in this direction:

Priorities

- To solve as soon as possible, in a lawful, righteous and compromise way, the remaining neuralgic issues, like those of Kosovo, Bosnia-Herzegovina, the Macedonian-Greek dispute, Slovenian-Croatian dispute, employing not only the already established mechanisms in

the process, but also a bona fide and proactive involvement of the neighbours of the sides involved.

- To fully regulate intra-Balkan political relations, establishing even a Standing green table of Balkan countries' chiefs of states, or - further institutionalizing some of the regional initiatives like the PCSEE.
- To work out and adopt a regional policy of collective reliance upon own regional resources and potentials;
- To operatively utilize all-Balkan countries determination to full integration into the Euro-Atlantic structures (EU, NATO);
- To intensify unification and introduction of European standards in "technical systems": ecological, energy, communication, transportation, monetary, free flow of capital, goods, people, regardless of the political status of the individual states; To launch in this regard regional or neighbourly initiatives, like those of the Ohrid Group (Macedonia, Montenegro, Albania, Kosovo) chiefs of states - for joint ventures in gasification, electricity transfer, protection of mountains and lakes, construction of transport corridors, etc.

Strategies:

- To unify or harmonize and synchronize the international community (EU, US, NATO, UN, CE, OSCE, etc.) approach towards the Balkans, avoiding double standards, precedents, unfair compromises etc.
- To avoid unfavourable effects of the different political status of individual countries in the region: members, non-members, candidates, partners etc. in EU, NATO, WTO, SHENGEN, etc.
- To adopt policies of even, balanced, faster economic development of all Balkan countries, including balanced and even development within each individual country.
- To favour a single regional free, open, competitive market and privatized economies.
- To fully pacify the region and standardize the European and international values and contents of human rights and civic liberties, including ethnic, religious, gender, cultural and other rights, with an authoritative mechanism of implementation and protection.

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PUBLIC RELATIONS SIGNIFICANCE FOR COMMUNICATION IN CONDITIONS OF CRISIS

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Abstract

In the context of the overall reform processes within Macedonian society, the qualitative transformation of the Macedonian police is one of the more significant steps directed towards implementation of those standards used by the police in the member-countries of the European Union.

Setting the stress over the principles of reports to the public and work transparency is one of the essential changes in the above said direction. The introduction of the post of a spokesman in the sectors of internal affairs and their functioning in accordance with the above mentioned principles have made the work of the police much more accessible and available to the citizens of Republic of Macedonia.

The role of the spokesman as a person in charge of the direct contact with the public is on a daily basis and continual. However, the significance of the relations with the media and the public typically increases in conditions of crisis, i.e. in circumstances that arise when the media, the state institutions or certain influential groups with vested interest characterize them as such.

This paper gives an observation on the role that the relations with the public have in all sorts of conditions and circumstances, yet, with an accent on the one of the spokesman and the persons from the internal affairs sectors assigned to relations with the public in times of crisis.

Key words: public relations, spokesman, crisis.

Communication significance in modern conditions of police work

On the way towards realisation of one of the basic intentions of the Macedonian society – social European and Euro-Atlantic integration processes, the implementation of the standards present in the developed systems, in the first place in the European Union member-countries, is regarded as an essential one. Within the frame of the overall transformational

processes, special place is given to the reforms in the Macedonian police, its organizational set-up, its function and action, which slowly but undoubtedly become more and more compatible with the European norms and criteria. Work transparency and public reports are among the more significant innovations introduced in the context of reform measures in the police work. To pursue the objective as such, along with the work of the Public Relations and Information Sector of the Ministry of Internal Affairs, there are new public relations offices open and spokesman posts introduced in the internal affairs sectors, the latter of which with the responsibility for communication of the work of the sectors to the public.

In accordance with the provisions of Communications with the Public Manual, as a bylaw of the Law on Police (Official Gazette of the Republic of Macedonia no. 114/2006), the Department of Public Relations and Public Information shall be responsible for communications of the Ministry with the public, managed by the Assistant to the Minister. The sectors of internal affairs have at least one police official (spokesperson), who is authorized to communicate with the public. Communication with the media shall be performed by the Minister of Internal Affairs, whereas the Assistant to the Minister shall be responsible for regular communication with the media.[1]

In addition to the everyday routine contacts with the media, and depending on the nature of the information that is to be published, upon previous authorization, communication with the media within the frame of the sectors of internal affairs shall be performed by the police officials - spokespersons, as well as other employees at the Ministry who, after the communication, have an obligation to inform the Assistant to the Minister of the nature and contents of the communication with the media.

On issues related to the general working policy of the Ministry, communication with the media shall be performed by the Minister and the Assistant to the Minister. On issues related to terrorism, serious disturbances of public order and peace, special investigations, special operations of a central type (operations including two or more sectors of internal affairs), communication with the media shall be established by the Minister, the assistant to the minister and the police official from the sectors of internal affairs (spokesperson), upon previous authorization by the Sector of Public Relations and Public Information. The authorized police officials (spokespersons) shall perform communications with the public through several different forms: press releases, regular and special briefings, press-conferences, interviews and campaigns.[2]

[1] Internal Affairs Ministry of RM: *Communication with the Public Manual,* Skopje, 2007
[2] *Law on Police,* Official Gazette of RM No. 114/2006

The success of the work greatly depends on the level of information reaching the public but also on the interest that the written media and the electronic media take into reporting on the activities of the institution. Thus, it is necessary that those communicating on behalf of the institution or in charge of preparation of the public reports regularly assess the environment to be informed in order to decide which information is essential to be conveyed to the public. The media are the prime channel for this type of communication according to which their role is greatly evaluated in this sense. The communication with the public is the key factor for successful performance of the institution. Even the best results have no value, unless appropriately conveyed to the public.[3] Those in charge of the institution's public relations, as well as the internal affairs sectors, should unconditionally and always bear this in mind.

The activities and the investments in the process of communication should always be directed towards casting the light over the state of affairs:

- to enable learning something more about the importance of the activities of the institution
- to offer something more than a simple message: to touch the target group emotionally
- the target group should not be told what is the truth: it is necessary that the message delivered to the target group contains what the target group considers to be true[4]

The knowledge of the dynamics of the public is essentially important for those who practise public relations or help in this process. This is one of the key steps to be made before defining any activities in the public relations programme and getting to the public. It is a pre-condition for analysis of the needs of the future target groups and for deciding on the best mode for their acceptance.

In order to successfully realize the public relations programme, there are segments of the public most desirable to be encompassed and media or other instruments to be used in public relations to reach the set objective most efficiently. Some of these segments are easily discerned and reached. They belong to the so called *pre-packaged public*. In fact, they are well organized groups, the members of which gather around a common interest,

[3] Tome Gruevski: *Odnosi so javnosta*, Studiorum, 2007:23

[4] Zaneta Trajkoska, Marina Tuneva: *Strategy for Public Relations and the Role of the Spokespersons in MOI*, Journalism and Public Relations College, Workshop "Police and Media", 2011:7

thus presenting ideal target groups ready for those who practise public relations in the field of their interest.

In the public relations the audience presents fluid matter, i.e. every opportunity is used to reach each of its segments. Aside from the audience, there are other groups of interest, that is, people who are interested in a concrete issue. The interests of the different audiences and interest groups sometimes impose the necessity for the design of separate but complementary messages. It is not always easy to do this work, as the spokesman or the person in charge of the public relations may say something that could infuriate part of the audience or an interest group. In the public relations, the audience may consist of three groups: strong supporters, reserved ones, and the ones who keep opposing. As the resources are generally restricted, the efforts of the public relation officers have to be directed to those whose voice or opinion will matter in the accomplishment of the goals, but who are neither "for" nor "against" the certain issue.

The role of the public relations officer

The role of the public relations officer is most often a position closest to the management structures, either in the Ministry or in the sectors, presenting the image and voice of the institution and its most significant target groups. Besides, the public relations officer, in accordance with the responsibilities he is assigned to, acts as a link among the employees of different levels for the purpose of providing efficient internal communication. As a person in a direct connection with the field itself, via different target groups that he communicates with, he is also an essential source of information regarding the opinion and statements of the public on the conduct and the work of the institution.[5]

In accordance with the Law on Classified Information (Official Gazette of the Republic of Macedonia no. 9/2004), Ministers in their respective Ministries, among the others, shall determine classified information (including the Minister of Internal Affairs), as well as persons authorized by them by a written consent.

Information classification determines the degree of protection of information that must correspond to the degree of damages it would cause to Republic of Macedonia by unauthorized access or unauthorized use of the information.

[5] Zaneta Trajkoska, Marina Tuneva: *Communication skills - Review and Request on Spokespersons,* Journalism and Public Relations College, Workshop "Police and Media", 2011:11

Information to undergo classification, among the other, also relates to public safety, security and intelligence and counterintelligence activities of the State Administration Bodies of the Republic of Macedonia and, in line with this, the authorized persons shall determine the degree of classification of the information, performed according to the contents. On this basis, all individuals within the Ministry of Internal Affairs authorized for establishing communications with the public and the media (the Minister, the Assistant to the Minister and spokespersons of the sectors of internal affairs), shall establish communication in accordance with the requirements and provisions prescribed by the Law on Classified Information.

The officers who work and build their career in the field of public relations as well as police spokesmen should have knowledge and competences in four basic areas:

- Writing skills
- Research
- Planning
- Problem solving

The writing skills implicate the ability to formulate the ideas into written form with a clear, concise and creative style, using proper standard language, grammar and spelling.

The public relations officer has to be skilled and persistent in collecting information from different sources. The research skills are necessary for providing facts to be used as arguments for the stated stances and messages.

At the same time, the public relations officer has to plan well, to be well organized and oriented to details, but also to have an insight into the general context that he / she acts in. The public relations program names the use of instruments for communications and activities which have to be carefully planned and coordinated.

Due to numerous and various situations to be encountered in their every day work, the public relations officers has to be capable of solving problems. In that direction, it is necessary that he / she always has innovative ideas and fresh approach, which would make the public relations programme unique and widely accepted among the public.[6]

Aside from the above mentioned, the public relations officer (spokesman) of the internal affairs sector has to know the essence of the police work as well, its procedure and the steps of the police actions, the

[6] Zaneta Trajkoska, Marina Tuneva: *Strategy for Public Relations and the Role of the Spokespersons in MOI*, Journalism and Public Relations College, Workshop "Police and Media", 2011:11

legal regulations, etc., but also to have organizational ad interior communication skills for the purpose of constant contact with all relevant factors of the institution and uninterrupted flow of information. For a successful performance of the tasks within the plan of communication with the public, the spokesman has to know the conditions along with their origins and details, as well as the functional and organizational set up and the policies of the institution.

The role of the spokesman of the Internal Affairs Sector of Communications in times of crises

When talking about the role of the spokesman of the Internal Affairs Sector, it is essential to mention the significance of the relations with the media and the public increases and becomes more acquainted with the characteristic conditions of *crisis*, i.e. in circumstances that arise when the media, the state institutions or certain influential groups with vested interest characterize them as such. Situations of this kind frequently happen in the police work and therefore, their solution requires utmost earnestness, attention, and responsible approach.

A crisis situation may always be caused when connoted as such by the media, the state institutions or other influential groups of vested interest, regardless of the type of the event or of the proportions of the same. For instance, it may be a common disruption of public order and peace (fight, physical assault and alike), but due to an interesting specific aspect of certain features (such as international, inter-religious, political ones and alike), the media or other groups of vested interest may give serious dimensions to the event and cause a crisis situation in a certain area.

In our conditions, nearly regularly, the media, the state institutions, and the influential groups of vested interest give dimensions of a crisis to every of the specific events such as: terrorism, various forms of organized crime, abuse of drugs and incidents in correlation with drugs, various forms of violent crime, human trafficking, all serious types of trafficking, prostitution, rape and other sexual abuse, homicides, etc. The public is particularly interested and pays special attention when employees of Internal Affairs Ministry or of other state institutions are involved. In such cases, the police consider these situations as crisis and in the process of their resolving, it approaches them with special attention, particularly when informing the public. All these are situations directly resolved by the police, often in cooperation with other state authorities and institutions. Due to the fact that the media regularly qualify and present these situations as crisis situations, the police spokesman in charge of public relations has a specific role and task when informing the public. On one side, he / she has to respect the

principles of reporting and transparency and on the other side he / she has to remain calm and not to allow the information flow to become an obstacle to the police and pre-research procedure.

Communication in conditions of crisis implicates two main things: *preparation* and *respond*. In order to get prepared for the crisis, the institution has to design a detailed *communication-in-crisis plan* by appointing a communication team to carry out the plan. With the plan prepared, there is a higher probability that the institution will quickly respond to the crisis, taking urgent measures for control of the messages and recovery of public trust. The key elements of a good plan for communication in crisis are:

- Making a communication-in-crisis team
- Plan for internal communication
- Media strategy
- List of potential weaknesses and plan for handling the same
- Updating the information on the institution and its work programmes[7]

The communication-in-crisis team is formed by the sector chief who appoints the team members and gives the directions for the internal communication plan and defines the duties of the tam members. Basically, the communication-in-crisis team is supposed to be made of: the assistant of the Sector Chief, the Crime Department Chief, the manager of the corresponding organizational unit of the department (depending on the type of the problem caused by the crisis), the Police Department Chief (because of the inevitable participation in measures and activities by uniformed policemen), the Crisis Adviser, the chief of the corresponding local police station (depending on the region affected with the crisis), and the sector public relations officer (spokesman). If it is a large scale crisis, the USC Chief is necessary to join the team. Furthermore, when the crisis, and the causes, consequences, and solutions depend on some other countries or some other institutions, it is necessary that the managers of those institutions also join the team. When taking over the activities for solving the crisis, one of the fundamental tasks of the team, aside from the basic duties by the plan, is to provide continual communication and contact with the Internal Affairs Ministry (with the Minister, the BJB manager, the USC manager, the CPS chief, the police chief and the crime police chief, the MIA spokesman, as well as with the corresponding organizational unit manager, depending on the character of the crisis) and to follow their instructions.

[7] Zaneta Trajkoska, Marina Tuneva: *Комуникација во кризни ситуации* Journalism and Public Relations College, Workshop "Police and Media", 2011:21

The duties of the communication-in-crisis team include the design and realisation of the plan itself. The plan is put forward by the person in charge of the activities (the sector chief) who is most responsible for its implementation and for the complete solution to the crisis. The team members are assigned with tasks such as: collecting data from the employees, communications with the field in crisis, establishing relations with the media, developing an overview of the public reactions, etc.

The communication-in-crisis team have to decide on the person who will take over the role of a *spokesman*, that is, who will be in charge of the communication with the media. As the position of a spokesman of the internal affairs sector is given to people with significant experience in the public relations field, and with good knowledge in police work, they are the ones who, in pursuing the communication-in-crisis plan in conditions of crisis, will represent the institution in the communications with the media, with the state institutions, and with the other influential groups with vested interest. This person has to be experienced and ready to respond to the media requirements, as well as to the public expectations of corresponding information. At the same time, this person has to have enough information about the institution itself as he / she may be asked many questions at the briefings and the press conferences, which, if unanswered, may publicly cause an embarrassing situation for him / her and the whole institutions. His / her attitude and behaviour in the communication with the media and the public has to radiate with calmness and trustworthiness. The spokesman has to know to formulate the complex data into something comprehensible for the public, and he has to stress the key information which refers to the public interest in conditions of crisis.

The relations with the media present the most complex and responsible segment in the public relations and it is for this reason that this responsibility should be given to the most experienced in that field, that is, to the sector spokesman. Practically, it is the person most capable to establish open and trustworthy relation between the institution (internal affairs sector) and the reporters reporting on the crisis. Practically, he is the most responsible for realisation of the previously established media strategy, i.e. the person who directly carries it out.

When handling the crisis, the institution is suggested to make a self-evaluation in order to develop an insight into the possible origins of the crisis. The communication-in-crisis team recommends the list of potential crisis and decides on the key messages that are to be conveyed to the public.

During the crisis, within the communication-in-crisis plan, it is necessary to anticipate possible obstacles and problems that may cause difficulties in the realisation of the plan and abandoning the previously established strategy. In this context, the vital significance is given to the

experience of the team members who would be able to handle such difficulties and prepare the spokesman for a problem of this kind.

As a part of the plan for communication in crisis, preparation of materials and programmes for the institution is necessary. If a crisis arises, these pieces of information can be distributed to the reporters at the press conferences or at interviews.

The communication-in-crisis plan has to be constantly maintained and updated as old information is useless in times of crisis.

Very often, experts of the public relations field give their advice on what the person in charge of communication with the public should pay attention to, especially when communicating in conditions of crisis. We point out several pieces of advice, that we consider exceptionally significant:

- The public comes in the first place
- Take over the responsibility. The institution has to take over the responsibility for solving the problem
- Be open. Do not avoid the facts and do not try to mislead the public
- Never say: „No comment“
- Assign a person who will be exclusively responsible for communication with the public
- Provide a constant flow of information
- Do not make an impression that you hide information. Hiding information becomes news itself
- Learn the needs and dates of the media
- Be available
- Follow the reports of the media and the questions via studio telephone
- Communicate with the key target groups[8]

Conclusion

In the context of implementation of European standards in the Macedonian police work, and for the purpose of establishing the necessary atmosphere of transparency and report to the public, one of the most essential innovations is the introduction of the position of a *spokesman* of the Internal Affairs Sectors. Aside from the regular communication to the public, his /her role gets a particular emphasis in conditions of crisis which often happen.

[8] Zaneta Trajkoska, Marina Tuneva: *Advice and Techniques for Effective Communication with the Media*, Journalism and Public Relations College, Workshop “Police and Media“, 2011:22

Communication in conditions of *crisis* encompasses two main things: *preparation* and *respond.* In order to prepare for the crisis, the institution has to design a detailed *communication-in-crisis plan,* assigning a *communication team* to carry it out. With a prepared plan, the probability is greater that the institution will quickly respond to the crisis and will take urgent measures for control of the messages and successful recovery of the public trust. The key elements of a good plan for communication in conditions of crisis are: making a team for communication in crisis, plan for internal communication, media strategy, list of potential weaknesses and plan for handling the same, and update of information about the institution itself and its programme and work.

The obligations of the communication-in-crisis team include design and realisation of the plan itself. It could be fully realised only if all of the team members – factors for its realisation, most professionally and responsibly perform their tasks and duties, stick to the previously established strategy, respect the hierarchy and subordinate establishment, communicate and contact with one another, and be at service to the person who on behalf of the institution will be in charge of direct contact with the media and the public.

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CERTAIN ASPECTS OF SECURITY SCIENCE METHODOLOGICAL BASES

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Abstract

The paper deals with the following: (1) the security science concept, (2) the security science constituents, and (3) the possibilities of the security science research. According to this, it has been concluded that: (1) security agencies and their activities should be developed scientifically; that this development in security science knowledge is acquired by scientific methods; and that it offers proven knowledge to legal regulation. It is true that the activities of security agencies are not studied by security science only. Since these activities are very complex, they became the subject of numerous sciences and scientific disciplines. Each of them investigates the activities of the security agencies from its own aspects and allows security science to use the obtained results. However, that does not deprive them from obligation to come to key knowledge by their own research endeavors, (2) that knowledge of security has its constituent sciences. However, the subject has not been clearly and precisely defined yet, while the theory, method, and language are in the process of development. This means that security science is at the beginning of its constitution and development. It may develop faster or slower, depending on the systematic study of its subject area and meta research and; (3) the ability of scientific research of security phenomena is conditioned by theoretical fund and security science language. New scientific knowledge on security phenomena is essentially dependent on the quantity and quality of existing theoretical funds of security science. The fact is that security science have neither a complete nor a unique theory; they are a unity of often remote theories about narrower parts of security science' subject. Some are primarily theoretical and some are applied. Each of them has the character of a doctrine and (or) legal regulations; they are made of a series of attitudes, instructions and principles. There is a lack of correct definitions of the scientific laws that have the capital role in the research of security phenomena. This is why the research is very complex and unreliable, while the results are conditional and hypothetical.

Keywords: Security science, security, methodology

Introduction

In different modalities, security emerges together with the organized societies, especially – states. In ancient Greece (Athens), there were so-called antinomy, guards, sentinels and the like, as part of an ideally arranged state, in transition from oligarchy to democracy[1]. Although the concept (and term) "security" has changed throughout its long history of the state and law, it has kept the essential determinants of their own content and meaning. It is true that some guidelines were specific to the security of individual states or political systems; some lasted and faded, while others have remained universal and represent the definition backbone of this complex term.[2] Moreover, since that time, states, as well as the highly organized groups, corporations and state organizations have become complex systems; the security functions have significantly expanded and acquired a form of a system. Therefore, it is no longer possible to understand security and its function using common sense and experience, without a serious scientific approach. This is the source of the numerous attempts by many to start a "science of security", or "theory of security", or "security affairs management", or "security psychology", etc. There is no doubt that there is scientific knowledge in these attempts, but there is also conceptual and especially terminological confusion. However, it is inherent to any field of knowledge while trying to become a science.

Without any aspirations to give a complete answer to many open questions of such a young science in this paper, the following should be considered: (1) the concept of security science, (2) constituents of security science and (3) the ability of research subjects of security science.

The term of the science of security (security science)

In order to discuss the dilemmas of security science, first, we must define the term "security". Respecting the numerous authors who have established more or less correct definitions of this term, it seems that the most acceptable definition was given in the Military Lexicon. According to it "...Security can be defined as a state, organization, and function. Security as a state represents the protection of property, values, heritage, and society. In the political and security terms, it covers the entire protection of a state from all forms of subversive activities of foreign and domestic enemies and other

[1] Aristotle, *Politics*, Kultura, Belgrade, 1960, p. 212–216

[2] Bogoljub Milosavljević, *Science of Police*, Police Academy, Belgrade, 1997, pp. 3–21

harmful activities and influences. In relation to where the danger of the protected property comes from, it can be external and internal. External security refers to the independence, sovereignty, and territorial integrity of a state, while the internal refers to the smooth functioning of the concrete constitutional order, and socio-political, economic, and legal systems and the protection of other goods and objects of protection. As a protection mechanism, security uses different organizational forms (government and community agencies and organizations) and different features, based and regulated by constitutional and other legal acts and decisions of political authorities."[3] "As a function, security is an inseparable attribute of the state and involves the execution of security activities, to protect certain values, regardless of the social system, political system or a form of government. The function of security and security organizations make the security system."[4]

The security science should encompass all aspects of security. Members of the security agencies must be viewed as persons, as subjects of psychological study, or subjects of legal authorities in various legal disciplines, or assets used in the security system, which is the main subject of the technical sciences. Thus, we can say that the security science is interdisciplinary and summarizes the knowledge of various social and even natural sciences. As a science in the beginnings of its development, it inevitably relies on the already proven knowledge and methods of the so-called collateral sciences.

However, the goal of developing security science is to constitute an authentic science, with distinctive constituents. In addition, reliance on the already developed sciences not only facilitates, but also complicates the path to an authentic science. Namely, the social phenomena related to security have been studied and are still studied by these collateral sciences, primarily by sociology, psychology, and criminology. The security science is still "in the arms" of these sciences, from which it is difficult to withdraw without, at the same time, breaking the sensitive connections of knowledge of the universe. Specific knowledge of the security science and the methods by which that subject can be researched should be taken from the collateral sciences. Starting from this knowledge and with (adjusted to the subject) methods, we should start the research subjects of the security science to obtain authentic knowledge of this science.

It should be kept in mind that the public, the scientific one as well, does not accept with enthusiasm constitution of new sciences. This is the case with the security science. Disputes are not uncommon, even irony

[3] *Military Lexicon*, VIZ, Belgrade, 1981, p 56.
[4] S.Kovačević, *The Fundamentals of the System of SSP*, VŠUP, Belgrade, 1980, p.14.

sometimes, at the mention of this science. Opponents that are more serious mostly think that security is studied within the other sciences and that there is no basis for the constitution of a special science. The others, however, see the security agencies as a tool in the hands of government, reducing them to mere application of force. It is understood that such views are superficial, and often politically dosed. Modern knowledge of security should be developed as a science because of several facts:

- Security has become an extremely complex social phenomenon. In fact, the social phenomena in which the security agencies have an important and often delicate role are complex. The range of these phenomena is very wide, from quite simple, for example humanitarian, to very complex, for example, armed. At the same time, their authorization is strictly regulated, but the application of these powers lies in their responsibility. This means that, the use of force, especially the use of weapons, lies in a precise evaluation of the situation, particularly in assessing the possible consequences. The knowledge and conscience of the security is on a test. Because of all this, the security science should establish knowledge and develop the moral code of conduct in delicate social phenomena, for example, civil riots.
- Agglomeration has increased immensely[5], with all derivatives of civilization. Generations of immigrants have not adapted to urban life; there are numerous social, psychological, and political problems of individuals. Being unable to resolve these problems, individuals or groups indulge in the deviant behavior, not hesitant to use weapons. Since the social prevention is weak, the security agencies are left to cope with the growing and often meticulously planned crime. For the success of this fight, it is needed to possess knowledge and skills greater than the knowledge and skills of criminals. These security agencies should be provided with science; without science, common sense will remain on the surface, unable to compete with cleverly planned crime.
- In a complex multiethnic and multicultural environment, there are numerous problems among the various informal groups. Often, the tense relations between these groups lead to a conflict with serious political consequences and victims. Regardless of the effect of political factors for these conflicts to cease, the security agencies are left a delicate part of the work on the immediate calming. It is not enough, and sometimes even physically possible to neutralize the

[5] Agglomeration or wider city area is an expanded area of the city, which consists of a number of city and suburban areas, which together comprise a continuous urban area.

frustrated groups, it is necessary to act with reason, force of argument and even emotions. To make all these effective, members of the security agencies must be broadly educated, familiar with the mass psychology, psychopathology, and culture of certain informal groups, i.e. they need their scientific knowledge.

- Security agencies are forced to carry out an intensive fight against terrorism by increasingly common phenomenon of terrorism. To be successful in this, they need military knowledge, especially about weapons, tactics in anti-terrorist fight, management and command, fortification, and a number of actions toward a hostile population, propaganda, etc. In addition, units of the security agencies must be skillful in battle, i.e. prepared enough to take their actions smoothly, quickly, vigorously, and courageously. Science provides support for all this; without science, it would be difficult to expect success.
- The man in the security agencies is not an object, much less the means; he is the subject because he is thinking and brining decisions in given circumstances. He is expected to be initiative and inventive. Of course, it excludes arbitrariness and disorganization, and promotes the ability of individuals to contribute to the performance of tasks. Because of the unquestionable autonomy that members of the security agencies have in complex tasks, a specific, scientifically established organization is required. It provides a unique routing of the security agency units and their members in performing complex tasks in the maintenance of public order, especially in anti-terrorist operation tasks.

The constituents of the security science

It is known that some area of knowledge can be referred to as a science only if it has a clearly defined subject (which is not studied by other sciences as a core subject), then, theory, method and language. As much as the constituents are defined and developed, that much a science has been developed (constituted).

1). **The subject** is the most important constituent of any science. Knowledge is always associated with a subject and makes sense if it is relevant. Sciences are authentic if they have their own subject of study. Therefore, when reviewing the scientific status of security science, the question is whether they have a genuine and clearly defined subject of study. According to Lj. Stajić, Ph.D., the subject of this science could be determined in the most general sense as “the security of our society in the

broadest sense"[6]. If security is understood as a state, function, and organization, then the subject of security science may be limited to three areas:

- The state of security, as the presence or absence of any risk of compromising the values, achievements, and the entire society. In this sense "...subject matter includes all forms and sources, as well as holders of endangering the country…"[7]
- Security function, i.e.:
  - security and protection of the state sovereignty;
  - securing and protection of the independence and territorial integrity;
  - conduction of international politics and international relations;
  - exercise and protection of fundamental rights and freedoms of citizens.[8]

- Security organization, which may most consistently be identified through the work of security agencies in:
  - the domain of public security, and
  - the domain of national security.

Because of such a broadly distinctive subject of the research, it is inevitable that the existing theoretical fund is intensively arranged in the security science, to strive for an adequate methodological framework and categorical apparatus of these sciences, as well as for an adequate differentiation of scientific disciplines.

2) **The theory** is another important constituent of any science, and thus, the security science as well. There are no unique views on this constituent among the theorists. Starting from the attitude that science is universal for the mankind, that its truths are independent from individuals or even entire societies, it brings into question the merits of scientific knowledge of the security agencies and their activities. It is claimed that this knowledge is of national (doctrinal, normative) importance, and that it must be such, because it represents an extension of politics by other means; that is why the theory, limited by narrow national frameworks, is always pragmatic. It does not contain (or contains very little) universal theoretical facts, for example, scientific laws and postulates. Therefore, it is believed that knowledge of security is not a science, but only a positive doctrine coloured by local social conditions.

[6] Lj.Stajić, *The Fundamentals of Security*, Police Academy, Belgrade, 1999, p. 56.
[7] Ibid
[8] Ibid, p. 14.

Although the theory of any science of security actually contains many proper (national) attitudes, we cannot deny its scientific character. This is because of the fact that, with the peculiar views, given mainly in normative definitions and doctrines of individual countries, the theory of any security science has long been a series of proven scientific fact. The special theory of security science is built on these facts (concepts, principles). At the same time, the contradictions of specific positions with generally accepted theoretical facts are being avoided.

The theory of the security science is usually defined as a thought and guideline on the structure and functioning of security systems.[9] It includes the basic idea of the security system as a wholesome social phenomenon and a number of facts about different levels of cognitive aspects of the system. The facts are coherent and compatible with the basic idea; they are in function of the basic idea. From the point of the research, it is important to be thoroughly familiar with the basic idea, but also with the content of the security science theory. The facts contained in the security science theory have different cognitive achievement. There is a conceptual-category tool in the base of the theory. Furthermore, there are maxims, principles, postulates, and laws.

The conceptual system of security science categories comprises concepts and categories with different levels of generality. Regulated by systemic, analogous phenomena and processes, they comprise the activities of the security agencies. Some of them are defined (e.g. civil unrest), and some are not (e.g. protection of national security). Their construction is conditioned by general development of theory and research practice. However, scientific research is essentially determined by the state of categorizing apparatus for security science.

The largest part of the content of the security science theory is attitudes. Certain normative attitudes (doctrine), which constitute the applied part and the core of security science theory, are scientifically derived from general theory and specific security agencies' practices, for example, maxims and principles. Some, however, have derived approximately, without scientific verification, and have the meaning of hypothetical attitudes. The maxims of security science are scientifically established premises, which the organization and functioning of security systems are directed by. They depend on knowledge of the laws of the security system and on the adopted doctrine. However, since the doctrine (normative attitudes) is different for security systems of individual countries, therefore different maxims of

[9] „Any valid scientific theory is a system of knowledge that certain values are derived from certain theoretical abstract principles and which describes or explains an area – an object or a phenomenon.", Gligorije Zaječaranović, *Basic methodology of science*, Naučna knjiga, Belgrade, 1977., p. 196

security system have been adopted. However, in the operative practices, maxims have a function of the general premises that should be respected in order to achieve the objectives of the security agencies. In the research practice, maxims enable understanding of the agency as a research subject, but even more – they represent the theoretical support for the creation (design) of scientific research. In the latter case, the maxims are given the attributes of scientific laws.

The maxims are, by the cognitive values and function in the security agencies practice, similar to principles. These two concepts most often do not differ, significant difference may not be determined between them. It is only the notion that principles are scientifically based and obligatory for application, while the maxims are mostly experiential and oriented to practical use. The famous military philosopher Karl von Clausewitz even defines the maxims as laws for action, not in form but in spirit. The maxim is "...the spiritual meaning of the law, in order to leave judgment more freedom in the application where the diversity of the real world cannot be encompassed by the definite form of the law. Since judgment must motivate cases by itself, where the maxim cannot be applied, it becomes a real support or a guiding star for the subject in the action"[10].

In the security science theory, as well as in security doctrine, many premises are given as maxims. There are more of them in the doctrines that give priority to human factors and their qualitative values: initiative, morale, diversity, and the like. The maxims provide a choice, without being limited to "the only possible" variant such as regulations and orders. They are not suitable for the orthodox doctrine, the attitudes of which are conditioned by a technique, while the technique is still limited by opportunities, and therefore strictly defined usage variants. In the research practice, maxims are used, on one hand, to understand the actions of the security agencies, and on the other hand, as a source of research problems. In this second case, study aims to verify the principles, to narrow its vagueness, and, if necessary, to transform it into scientific law.

The hypothetical attitudes represent unchecked and experiential knowledge, which act as guidelines for action of the security agencies in practice.[11] They touch "...a multitude of circumstances which indicate the course, and which would be too numerous and insignificant for general laws"[12]. The theory of security science has many hypothetical attitudes. This testifies that it is not built, but it is vital and represents a significant source of

[10] Karl von Clausewitz, *About the War,* Vojno delo, Belgrade, 1951., p. 111

[11] We should distinguish attitudes as guidelines for the treatment of so-called directives that in the didactic and synthetized manner determine the phenomenon in connection with the actions of the police.

[12] Clauzewitz, ibid., p. 111

problems for research. Verification of hypothetical positions can reach scientific facts. Regardless of scientific merits, attitudes are merely relatively permanent facts. They necessarily vary with alteration of the basis they derive from, and are confirmed, corrected or rejected by theoretical and (or) practical verification. Every science, and thus the security science also, is more scientific if it contains fewer hypothetical attitudes, and more proven facts – especially scientific laws. About the existence of scientific laws in science at the beginning of its development, opinions have long been divided.

In an attempt to, at least reduce dilemma, we must consider whether there are general, vital, and constant regularities as assumptions of competent actions in the matter of security science, or these regularities are not studied as laws and formulated in the theory of that science. It is known that the security agencies in the same kind of phenomena, for example, the suppression of civil disorder, act – in similar or the same conditions – in the same or similar manner. Each individual or group action must be consistent with the general intentions (actions); each normative rule contains a number of general attitudes about certain forms of action of the security agencies, there are only a small number of attitudes on individual action. It is well known, for example, that, for suppression of civil unrest, the security forces are assigned according to the appropriate volume and aggression of the mass, and that for the successful keeping of civil order, the security agencies require close cooperation between citizens and the like. This means that there are universal, essential, and permanent regularities in the subject of security science.

It is understood that there are variations of these regularities and that they are not repeated in mathematically correct order. Variations violate regularities in the security science, but not to the extent to question these regularities. On the contrary, they usually confirm that there are regularities in many cases and we can reasonably talk about validity in the subject area of security science. Hence, it is probable that security science has the so called laws of tendency (probability) and the laws – empirical generalizations. The former are based on the regularities that occur in many cases, and the latter on experiences that are generalized. Very close to these laws are the principles. However, in order to incorporate them as a law into the theory of security science, they should be studied and verified. Then the theory of security science can become a reliable support for new research of security agencies and the phenomenon in relation to their action.

3) **The method** of security science represents a path – a way of acquiring knowledge of the subject area of these sciences. Although scientific knowledge is more conditioned by the epistemological basis of the

subject of study and theoretical fund, the method is cognitively the most dynamic constituent of security science. The creative power of research depends on it, and therefore the scientific scope of the study results. A line of theoretical (logical epistemological) and practical procedures, techniques and tools undertaken by scientific subjects in acquiring knowledge about the study subject case of security science, depend on the method. In the history of science, method was more questionable than any constituent was. This is because the method is complex, dynamic, heterogeneous, caused by a number of factors and it is thus its cognitive power is different. Discussions on the method of security science are also relevant, as the entire current methodology of the science.

The crucial question for security science is not whether it has a genuine method of research, but whether the security agencies and phenomena arising in connection with them may be studied with any methods. The most valuable methods, with the highest cognitive power, are usually the most universally applicable to very different research subjects. They are indeed adapted to the subject thus becoming part of the method of science that explores it. Thus, all so-called general, special, and the empirical methods are applicable in the study of various important subjects of the social and natural sciences. They are also applicable in the study of the security agencies and their activities, so we can say that security science has its own research methods. The methods of scientific organization and methods of operating work often do not differ from the scientific method in methodological debates. The consequence is to insist on direct intervention (implementation) of certain methods and procedures in the work of security agencies. Tendencies are to use effective, practical means of action of the security agencies, particularly in management and command of units in emergencies. There is no doubt that these efforts are justified and that, in fact, all research in security science are ultimately subordinate to them. However, not all methods can be used directly in the operational practices to its rational allocation. Some of them are not intended for that purpose, nor do the logical and technical bases provide them so. Some are, however, intended for direct rationally oriented practices, such as methods of scientific organization and operating methods close to them. These methods (and ways) are used primarily for the efficient preparation of the security sector (staff method, group work, etc.). They represent the methods of scientific knowledge, because on the one hand, they direct the practice towards tested methods, while on the other hand, they re-verify the procedures using practice and come up with new knowledge. All methods of operation research and methods of scientific organizations have such a role. To that extent, they can be used as a scientific method of the security agencies and their activities.

However, these methods differ from the so-called scientific methods, which are primarily used for research. The practice is the subject (object) and the criterion of the truth of scientific knowledge, the methods are used to learn it first, and later change according to survey results. Based on the results, first theories and norms (doctrine) change, and then the practice of the security agencies (organization and functioning), and the security system.

In the research of the subject of security science, there is a need for philosophical, primarily dialectical method as a way of thinking and cognitive orientation for other methods. This method is firstly specifies by general, then specific empirical and (possibly) cybernetic methods. Out of the general methods the most commonly used are the statistical and comparative method; of the special – a unique analytic-synthetic and inductive-deductive method and of the empirical – the content analysis and testing. Each of these methods has a specific function in the realization of the research (collecting or arranging and processing, data analysis or verification of hypothesis).

4) **Language** is the least controversial constituent of security science. It was developed initially in operational practice, but it was constituted with the emergence of the theory of this science. Language cannot be separated from the conceptual and categorical apparatus. As distinctive the conceptual system of categories is, so is the language of security science. It contains a series of terms, signs, and symbols that are common in scientific and operational practice. On the surface, it seems that the language of security science is communicative enough, concise, and clear for effective communication. However, it has many features significant for the security phenomena research:

- a large number of terms, including those which are designated as category terms, have derived in a conventional way. Regardelss of whether they were taken from another terminology or they have been made in our practice, they often lack semantically[13] logical support in the literary language. In fact, the terms do not correspond to concepts (correlates) to which they relate. It definitely has some impact on the research that relies on the precise meaning of concepts and terms.
- Because of the conventional origin of terms, the same concepts are differently named in the security science of certain countries. It creates certain difficulties in translating theoretical works, because the connection between conventional and literary meaning of the term is lost. Therefore, it is often said that the language of security

[13] Semantics is a scientific discipline which strudies the relationship between words (terms) and their subjective sense on one hand, and the meaning of words and language expressions, as subjective sense, on the other hand.

science is not communicative, while the theory is strongly limited by national and regional frameworks. This, among other things, conditions a relatively slow development of security science.

- In the operative communication of the security agencies a concise language is used. It is believed that concise and clear expressions are prerequisites of effective command and control. It is likely that it contributed to the language of security science to remain short of words related to terms and their explanations. Therefore, they are not suitable for scientific communication, so it is necessary to be studied (metalinguistic research) and developed.
- There are many so-called marginal terms in security science, the content of which partially (or as a whole) belongs to other terms. Such marginal terms do not have semantically adequate linguistic expressions (terms) and are often arbitrarily determined. This brought confusion in the language fund of security sciences.

The language of the security science is apparently stipulated by a number of facts, mostly by the subject and the scientific theory. Regardless of the extent to which it is developed as an operational language of communication, is not sufficiently developed as a language of science. It is therefore necessary to develop it in parallel with the theory of security science, through the study of security phenomena, especially through the so-called metalinguistic research. A step in this direction would be an encyclopedia of security and a security lexicon. These works have a capital importance in the security science language development.

From the above, it can be seen that knowledge of security has all the constituents of a science. However, the subject is not clearly and precisely defined yet, while the theory, method, and language are in the process of development. This means that security science is at the beginning of constitution and development. They may develop faster or slower, depending on the systematic study of their subject area and the meta-research. It is, after all, the destiny of all sciences, especially the young ones. Without the research of security practices, all intellectual (solely theoretical) efforts will be in vain.

The possibility of scientific research of the security phenomena

As in the other sciences, the ability of the scientific research of security phenomena is primarily determined by the characteristics of objects, theoretical fund (particularly its cognitive range), and the language of security science. It is true that the possibility of research is determined by the integral security science methodology, then, human resources, a common

attitude toward research, funds for research and the like. However, the research, particularly in its methods, is primarily dependent on the other constituents of the security science. The methodological theory insists on the unity of the subject and research methods. Epistemological characteristics of the subject determine the method. This means that the method of security science is as distinctive in relation to the methods of other sciences (as special security phenomena), as the subject of investigation in relation to the areas of reality that other disciplines explore. It is undisputable that the appearance of security features has certain implications for the method and, hence, the possibility of scientific research in security science.

- The fact that the security phenomena (especially the security system) are directed to social phenomena has resulted in an important role of the human (i.e. subjective) factors. Behaviour of people (members of the security agencies) in their relationships with the others is not and cannot be strictly programmed; it is always dependent on the personality; emotions, abilities, knowledge, and values, all of which of a great importance. Due to the subjective nature of the security sector, scientific knowledge is limited to the description, systematization, specific scientific explanations, and conditional scientific predictions. It is certain that we cannot expect exact research results as in natural sciences or the like or as it is expected by positivist science. However, the subjective nature of the activity of the security agencies conditions that for such (inexact, probable) results of research a complex methodological framework must be applied, or more methods to explore the psychological and social phenomena.
- This results into a conclusion that the security phenomena are an interdisciplinary research subject. Precisely because they are complex, dynamic, and hierarchical, and because they contain a variety of factors studied by different sciences, they cannot be reduced to elementary phenomena; the security phenomena are the subject of numerous scientific disciplines. A research in security sciences is interdisciplinary because they have to rely on the knowledge of these disciplines and to use methods that are used in them.
- Because some of the security phenomena are occasional, the research loses stable (permanent) empirical ground. Instead of real phenomena (e.g. civil unrest, terrorist activities, criminal acts, and the like) imitation and models, it becomes an empirical field. Therefore, some researches in the security science are model-like. This has significant implications for the possibility of knowledge. Namely, models cannot be identical, or even similar to their own originals. If they can be

similar in space, time, physical strength, and activity, they cannot be such for the qualitative values of the people, or by the results (e.g. losses); these values cannot be properly modeled, not even studied. Therefore, the results can only be conditionally reliable.

- Precisely because the security phenomena are occasional and occur in actual forms and contents, the research is difficult to verify. If the factual positions of the security science are performed inductively from the previous experience (as verification criteria), they may be as true and operating as this experience; the experience becomes outdated, losing power of facts and hypothetical attitudes begin to appear. They must be re-checked to ensure that they actually act as facts. At the same time, we should bear in mind that the views on a number of qualitative factors of people – members of the security agencies, can hardly be empirically verified and measured out of the actual activities of the security system. If the attitudes are theoretically verified, by determining compliance with the most general attitudes of the security science or even the normative attitudes (in the deductive way), there is a danger of positivism and vulgarization, for all the attitudes that are verified have to be consistent with the theory they are verified by. The exceptions in this type of verification confirm that the validity of the attitude that contradicts this theory, are quite rare. The theory is commonly accepted as apriori true in a positivist way. The research has the task to coordinate with the new attitudes with already established theory, by which the researches are made superfluous.

Apparently, the inductive and deductive verification methods alone are not enough reliable for the research of security phenomena. Each has certain advantages and disadvantages, and it is therefore considered that the verification can be correct only if it is dialectically derived using inductively deductive method. Only with a unique mutual theoretical and empirical verification it is possible to get to the factual attitude of security sciences.

The possibility of scientific research of the security phenomena is caused by the theoretical fund and language of security science. Here it should be noted that the new scientific knowledge about the security phenomena is significantly dependent on the quantity and quality of the existing theoretical fund of security science. The fact is that security science does not have constructed, or a single, unique theory; it is a set of often remote parts of the theory of narrow parts of the security science subject. Some are primarily theoretical and some applied. Each of them has the character of the doctrine and (or) legislation; they are composed of a series of views, guidelines and principles. There are not enough correct definitions

and scientific laws, which have a capital role in the research phenomenon. Therefore, the research is very complex and unreliable, and the results are conditional and hypothetical.

However, despite the aforementioned problems, security science like all the other "young" sciences is vital from the research aspect, and provides a huge number of problems for scientific research, fundamental, applied, and developmental. It is the underdevelopment of the theoretical fund and language of security science that guarantees that its vitality will be preserved for a long time. On the other hand, the emergence of new forms of threat to security which is inevitably conditioned by the development of society and technological advances represents a completely new area of research, which becomes a research field of the security science.

Conclusion

In an attempt to perceive the term of the security science, it can be concluded that:

- security sciences represent a group of sciences that comprehensively examine security in the broadest sense – as a condition, as function and organization;
- security science studies security as its core subject entirely and comprehensively. This means that security sciences are interdisciplinary and that it often seems they affect the subject areas of other sciences and disciplines; it is inevitable for a science which is at the beginning of its development. In order to properly constitute the security science as independent, it is necessary to run a series of fundamental researches of its subject area
- although there is a strong resistance for constituting a new science, or rather a group of sciences, for the subject area of security in the broadest sense, a number of undisputed facts indicate that the security as a subject is an extremely complex area of knowledge, and goes beyond the common ways of finding new and confirmation of the already existing knowledge.

A science cannot exist without clearly differentiated constituents that define it as independent. Security sciences have clearly defined constituents, which makes them an independent group of sciences:

- the subject of security science is security of society in the broadest sense;
- the security science theory is a thought and guidance on the structure and functioning of security systems which includes

conceptual and categorical apparatus, attitudes, and probably the laws of tendencies (probability) and the laws of empirical generalizations. The theory of security science, as any other science in the development process, is still not fully developed and defined yet, but further research of security as the subject area of security science shall eliminate the deficiencies noted, and properly shape and fill the theory;

- security science, as well as many other sciences and scientific disciplines, has its own methods, because security and the phenomena in relation to it can be comprehended using any scientific methods. The most valuable methods, with the highest cognitive power, are often the most universally applicable to a variety of subjects of research;
- language is the least controversial constituent of the security science. It was developed initially in the operational practice, but it was constituted with the emergence of the theory of this science. It contains a series of terms, signs, and symbols that are common in scientific and operational practice. It is necessary to develop it in parallel with the theory of security science, through the study of the security phenomena, especially through the so-called meta-linguistic research.

Research opportunities within the security science are large. True, there is a problem of underdevelopment of the security science theory because new scientific knowledge about the security phenomena is fundamentally dependent on the quantity and quality of existing theoretical fund. However, on the other hand, underdevelopment of the security science theory makes them, in fact, from the research point of view, very vital, and opens series of unresolved problems for future research that will model the theoretical fund of the security science and fill them with scientifically proven knowledge.

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DIMENSIONS OF SECURITY

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Abstract

In this paper we will analyze the development of security studies and the concept of security in terms of two interconnected key debates: on one hand, the "broadening" of security and, on the other, the "deepening" of security. These disputes already started for the period of the Cold War, but became particularly intense after the end of the Cold War. Broadening and deepening of the concept of security brought about several challenges.

The "broadening" or widening dimension concerns the expansion of security to other topics or sectors than the military one, such as political, economic, societal and environmental. Widening dimensions are fundamentally applied to the question of the source of threat to security.

The "deepening" dimension concern whether entities other than the state should be able to claim security threats, and have sought to extend the security agenda by shifting the focus away from the state to other levels of analysis. The deepening debate generally refers to the question of the referent object of security.

Key words: security, dimensions, security agenda, broadening of security, extensions of security

Introduction

The last decade has witnessed an outpouring of attempts to rethink the security issues. Whatever the merits of this literature as an aid to coping with the post-Cold War world, it has added little to our understanding of the *concept* of security. Emma Rothschild argues that many of the 'new ideas'

about security have eighteenth-century antecedents.[1] It has been argued here that the basic conceptual tools for rethinking security have been available at least since the publication of Wolfers' Article in 1952.

The multidimensionality of security is not a new discovery. Wolfers pointed out to the need for specification with respect to which are the values of protection from threats, by what means, and at what cost. The dimensions of security have not changed together with the end of the Cold War, but the substantive specifications of these dimensions that were from the time of the Cold War are likely to differ from those dating from the 1990s. Economic security, environmental security, identity security, social security, and military security are different forms of security, but not fundamentally different concepts.

During the Cold War era, security was overwhelmingly a matter of the state's sovereignty, its territorial integrity and its political autonomy. Since the late 1980s, however, the focus of security studies as a discipline has been broadened and deepened. It has moved away from merely military concerns and has had to include economic, societal, political and environmental issues, focusing on people rather than positioning on a state-centric perceptive of the security studies.[2]

Meanwhile, it came to be understood that the traditional approach to security was inadequate and that broader and more multi-sector approaches designed to identify other security domains were needed. This paradigmatic shift that took place during the 1980s broadened the concept of security in two different ways. First, security was not to be limited to military discourse, but instead to incorporate the economic, societal, environmental, and political domains which were both causes and effects of security. Second, the issues that needed to be addressed should not only be in reference to the state, but also to people, non-governmental sectors and the international community.[3]

The changes of the circumstances in the world and new issues do not necessarily require new concepts. Voting power, military power, economic power, and persuasive power are different forms of the same social phenomenon, i.e., power. The adjectives indicate the differences, while the noun draws attention to the similarities. Both are important.

Conceptualizing security at levels other than the nation-state is also not new. Although Wolfers focused on *national* security, he acknowledged

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[1] Emma Rothschild, What is Security?, In Barry Buzan and Lene Hansen (eds.*) International Security-Widening security*, Vol. III, Sage Publications, 2007, pp. 1-35.

[2] Michael, Sheehan, *International Security, an Analytical survey*, London: Lynne Rienner Publishers, 2005, p. 44.

[3] Martin, Shaw, *Global Society and International Relations*, Cambridge: Polity Press, 1994, p. 62.

that security could be discussed on higher and / or lower levels as well. And a book published one year after Wolfers' article still provides one of the most penetrating and useful accounts of security in many forms and at many levels.[4]

Although the approach to security presented here might seem to be incompatible with the literature on identity of politics and security,[5] this incompatibility should not be exaggerated. Individuals and nation-states are sometimes insecure about their identities, and they sometimes adopt policies to cope with this insecurity. Individuals, for example, may consult a psychiatrist; and nation-states may revise their immigration laws. Either situation could be described by the analytical scheme of the offered above.[6]

In sum, to the extent to which the new thinking about security focuses on conceptual issues rather than empirical or normative issues, not much is a novelty. Most of the 'new ideas' about security can be accommodated in the conceptual framework, which was elucidated by Wolfers in 1952. The United Nations Secretary-General recently called for a 'conceptual breakthrough' which goes 'beyond armed territorial security' to include 'the security of people in their homes, jobs and communities'.[7] It may well be that the world needs a theoretical breakthrough that provides a better understanding of the post-Cold War world, a normative breakthrough that expands the notion of a moral community, an empirical breakthrough that facilitates recognition of increased interdependence, and a political breakthrough that strengthens the will to pursue an expanded security agenda. But none of these requires a conceptual breakthrough that goes beyond the specifications identified by Wolfers.

The debate focuses respectively on the key point of the contemporary debate over the conceptualization of security: whether the security agenda should be broadened to incorporate other, nonmilitary issues and whether the agenda should be extended away from a statist view of what constitutes the correct "referent object" for security discourse.

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[4] Robert A, Dahl and Charles E. Lindblom, *Politics, Economics & Welfare*, Thamsaction Publishers, 1953, pp. 49-54.

[5] See, for example, David Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity*, Minneapolis, MN, 1992.

[6] Robert A, Dahl and Charles E. Lindblom, *Politics, Economics & Welfare*, Thamsaction Publishers, 1953.

[7] Emma Rothschild, What is Security?, In Barry Buzan and Lene Hansen (eds.*) International Security-Widening security*, Vol. III, Sage Publications, 2007, pp. 1-35.

The expanded conception of security: what are the threats to security?

The traditional view of security is defined in military terms, with the primary focus on state protection from threats to national interests. It was inextricably linked to national security, meaning the protection of territory from external military threats and attacks, which was recognized as the ultimate *raison d'être* of sovereign states. The establishment of the UN Security Council with the primary responsibility for the maintenance of international peace and security,[8] and its operation in practice, has gradually fostered an acceptance among states of the idea that the security of the international community, not simply the security of one state, can be undermined. This was no exception during the Cold War, when strategic balance of power rivalries and nuclear deterrence to stabilize international relations remained the dominant international security concerns.[9] However, such a traditional notion of security, as defined by reference to national survival, physical protection of state territory, and military power, has expanded its scope in the second half of the 20th century, particularly since the end of the Cold War. In contrast to the traditional concept of national security which focused on defending the core values of national independence, sovereignty and territorial integrity, the challengers of the traditional approach argue that a process of value change is under way and that it is desirable that this process continues and accelerates.[10]

From the 1980s onwards, and especially after the collapse of the Soviet Union, scholars of international relations increasingly began to emphasize the need for a broader understanding of security. They argued that it is misleading to confine security analysis to traditional military threats to the territorial integrity of states.[11] They criticized the intense narrowing of the field of security studies imposed by the military and nuclear obsessions of the Cold War. They argued that these traditional threats have not disappeared, but that other, non-military sources of threat now seemed more pressing. Although few scholars today defend such a narrow definition of

[8] Charter of the United Nations, 26 June 1945, 1 UNTS XVI (entered into force 24 October 1945) Art. 24.

[9] See, e.g., Kenneth Waltz, *Theory of International Politics*, New York: Random House, 1979; Thomas Shelling, *Arms and Influence*, New Haven: Yale University Press, 1966.

[10] Stojan Slaveski, Globalization processes and Macedonia: the question of identity, sovereignty and national values, in Trajan Gocevski and Toni Mileski (eds.), *Globalization, peace and security*, Ministry of defense of R. Macedonia, Faculty of Philosophy, Skopje, 2008, p. 299.

[11] John Garnett, European Security after the Cold War, in M.J. Davis (ed.), *Security Issues in the Post-Cold War World*, Cheltenham: Edward Elgar, 1996, p. 14.

security, no consensus on what a more broadly constructed conception should look like was yet achieved.

One of the most prominent attempts to widen the security agenda has been provided by Barry Buzan and his colleagues. They stress that the security of human collectivities is affected by factors in five major sectors: military, political, economic, societal and environmental. Generally speaking, military security concerns the two-level interplay of the armed offensive and defensive capabilities of states, and states' perceptions of each other's intentions. Political security concerns the organizational stability of states, systems of government and the ideologies that give them legitimacy. Economic security concerns access to the resources, finance and markets necessary to sustain acceptable levels of welfare and state power. Societal security concerns the sustainability within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom. Environmental security concerns the maintenance of the local and the planetary biosphere as the essential support system on which all other human enterprises depend. These five sectors do not operate in isolation one from the other. Each one defines a focal point within the security problem, but all are woven together in a web of linkages. Their common denominator is the threat to and defense by the state.[12] In other words, Buzan's concept of security, even with the formulation in terms of five sectors, has the state (and state sovereignty) as the core referent object of security.

In recent years, a variety of scholars have argued for a widening of the security agenda to cover a variety of economic, social, ecological and demographic issues. Among the most discussed non-traditional security issues are: transnational terrorism, organized crime, international migration, asylum seekers and environmental degradation. In the 1998 text book *World Security* a wide range of "new categories" of security challenges are examined, including arms proliferation, international migration, transnational crime, ethnic warfare and environmental degradation. According to the editors, it is likely that the future security environment will be characterized by the presence of many threats, each demanding the attention of the international policymakers. All "are likely to figure prominently in the global discourse on international peace and security"[13]. Chalk also emphasizes the range and diversity of threats to security. He identifies seven issues that are commonly associated with contemporary sources of transnational instability: internal war and conflict; terrorism; heroin and cocaine trade; piracy; the

12 Barry Buzan, *People, States and Fear, An agenda for International Security Studies in the Post-Cold War Era*, Second Edition, New York: Harvester Wheatsheaf, 1991.

13 Michael T Klare and Yogesh Chandrani (eds.), *World Security: Challenges for a New Century*, Third Edition, New York: St. Martin's Press, 1998.

transnational diffusion of infectious disease; environmental degradation; and unregulated mass population movements.[14]

Main types of extension

The growing influence of scholars seeking to broaden the security agenda has important implications for both academic and policy discourses. From the late 1980s onwards, there has been a tendency among academics, law enforcement agencies and political thinkers to develop a concept of security that links together a range of security issues as diverse as terrorism, drug trafficking, transnational organized crime, and illegal migration and asylum seekers. Moreover, there has been a blurring of the distinction between internal security (police, in a broad sense) and external security (involving diplomacy and military expertise), as the threat of a conventional military attack on Western Europe has declined. Bigo has termed this linkage of internal and external security a "security continuum".[15] The linkage between security fields lies at the core of the redefinition of Western European security following the collapse of the Soviet Union. In this part of the world the conceptual convergence of internal and external security has perhaps been more evident than elsewhere.[16]

In addition to the debate on broadening the focus of security studies to include non-military issues, conventional thinking about security was also challenged by those who criticized the state-centric approach of neorealist's. In their view, the privilege given to the state is inadequate to address problems of "common" or "human" security, which would need consideration on the level of the individual, sub-state groups or on the level of humanity as a whole.[17] Their aim to extend the security debate is closely related to the key debate discussed in the previous section. Wyn Jones correctly asserts: "When one begins to focus on security referents other than the state, it becomes apparent that "existential" threats to those referents -

14 Peter, Chalk, Transnational threats and the challenges of the 21st century, *Military Spectator*, vol. 170, no. 12, 2001, pp. 666-674.

15 Dudier Bigo, When Two Become One: Internal and External Securitizations in Europe, in M. Kelstrup and M.C. Williams (eds.) *International Relations Theory and the Politics of European Integration: Power, Security and Community*, London: Routledge, 2000.

16 Ferruccio Pastore, *Reconciling the prince's two "arms": Internal-external security policy coordination in the European Union*, Occasional paper No. 30, Paris: Institute for Security Studies of Western European Union, 2001.

17 Rens van Munster, *Logics of Security: The Copenhagen School, Risk Management and the War on Terror*, Political Science Publications 10/2005, Odense: University of Southern Denmark, 2005, p. 2.

whether they are individuals, nations and so on - are far broader than those posed by the military force."[18]

The notion of 'human security' has also added a new dimension to the expansion of the security concept, since the UN Development Programme (UNDP) captured it into policy discourse in its 1994 *Human Development Report*.[19] Human security has subsequently provided a theoretical foundation for the development of the 'responsibility to protect' concept as a policy agenda, which was officially endorsed in the 2005 World Summit Outcome.[20] One of the new aspects of this concept is that human population, as distinct from sovereign states and the international community, is recognized as an object to be protected from threats of genocide, war crimes, ethnic cleansing and crimes against humanity.

Second, the territorial context for security has changed. Security has traditionally been understood in relation to the state sovereignty and its territorial integrity, as expressed in Art.2 (4) of the UN Charter. However, as technological advancements have enabled exploration and exploitation beyond state borders, security concerns have extended geographically and spatially to different maritime zones, outer space, the Arctic, Antarctica, and even cyber space. Those new security frontiers are also not immune from the influence of an expanded concept of security, posing challenges to the existing legal regimes governing extra-territorial and non-territorial activities. Unlike the traditional territorial context in which sovereign states are the only objects of security concerns, it is possible to find a range of different objects which raise security concerns in these new frontiers. Thus, the international legal regimes that govern extra-territorial and non-territorial activities may form the subject of security inquiry in their own right.

Third, there has been a gradual move towards recognizing more diverse issues as posing security threats, spawning a growth of security literature in the areas of economic security, environmental security, energy and resource security, food security, bio-security, and health security. The expansion of security issues was formally acknowledged when state leaders gathered to meet at the Security Council in 1992 and referred to a range of non-military sources of instability in the economic, social, humanitarian and

[18] Wyn Jones, R, Travel without Maps: Thinking About Security after the Cold War, in Jane Davis (ed.) *Security Issues in the Post-Cold War World,* Cheltenham: Edward Elgar, 1996, p. 209.

[19] UN Development Programme, *Human Development Report 1994*, New York: United Nations, 1994, p. 22

[20] United Nations, General Assembly, Resolutions adopted by General Assembly at its 60th session*:* A/RES/60/1, 24 October 2005, Available at: http://www.un.org/depts/dhl/resguide/r60.htm

ecological fields as threats to international peace and security.[21] The 2004 Report of the UN Secretary-General's High-Level Panel identified economic and social threats, transnational organized crime, as well as inter-state conflict, internal conflict, terrorism, and weapons of mass destruction as global security threats.[22] The former UN Secretary-General's 2005 Report, *In Larger Freedom*, adds poverty, deadly infectious disease, and environmental degradation to the list, on the grounds that these can have equally catastrophic consequences.[23] However, many of those 'global security concerns' are still closely linked to the national security of (often powerful) sovereign states, and those non-traditional security threats tend to become significant, only to the extent that states themselves recognize the causal relationship between non-traditional security threats and potential armed conflicts – traditional international security threats.

The issues discussed in this paper reveal the multiple extensions of security proposed by scholars from the 1980s onwards. These extensions can be summarized in four inter-related themes. The debate on the "broadening" of security reveals two main types of extension concerning the source of the security threat.

- A *horizontal* extension can be observed in concepts of security to include a range of non-military threats, such as transnational terrorism, environmental degradation and international migration. The horizontal extension of security has been accompanied by a second,
- *Vertical* type of extension involving the extension of the political responsibility for ensuring security. Whereas in the traditional, neorealist concept of security state-level military forces were seen to play a crucial role in ensuring security, responsibility for security is now diffused in multiple directions: from national states, including upwards to international institutions, downwards to regional or local governments, and sideways to non-governmental organizations, to public opinion and the press, and to the abstract forces of nature or of the market[24].

[21] UN Doc S/PV.3046, 31 January 1992, especially the Presidential statement issued at the end of the proceedings, 1992, p. 143.

[22] Secretary-General's High-Level Panel on Threats, Challenges and Change, 'A More Secure World: Our Shared Responsibility', UN Doc A/59/565, 2 December 2004, p. 23.

[23] Kofi A. Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, New York: United Nations, 2005, Para. 78.

[24] Emma Rothschild, What is Security?, In Barry Buzan and Lene Hansen (eds.*) International Security-Widening security*, Vol. III, Sage Publications, 2007, pp. 1-35.

"Concerns about "broadening" the practices of security policy into other spheres of political life may well be founded... but the extent, to which practices of security are already part of the broader social, political, economic and cultural arenas, is not something that can simply be desired".[25]

Radical severance from traditional security studies commences with the multisectoral approach to the research on security. Statement of existence of other security sectors, apart from military, allows the possibility of other referent objects different from state and, in accordance with that, existence of much wider scope of security threats, being that their nature is varying in relation to the characteristics of particular referent object.

Deepening of security: rethinking the referent object of security

The state centrism of the traditional approach to security is a product of the fact that the approach is itself based on a realist understanding of world politics. As we have seen, state centrism is one of the central tenets of realism. From a realist perspective, states will behave in certain state-like ways no matter of their internal composition because of the constraining influence of the international anarchy. Thus, "states are still the main actors on the world stage and are likely to remain so for the predictable future".[26] Buzan has two main justifications for adopting this state-centric perspective: in his view the security dynamics at the international and sub-state levels are all mediated through the state and, normatively, states can in fact provide individuals with a level of security.[27]

Several scholars of security studies and international affairs have criticized the state-centric view of security, claiming that "any attempt to rethink security in the post-Cold War era must move beyond the traditional focus on the state as the referent object for security discourse".[28] These critics have sought to extend the security agenda by shifting the focus away from states to other levels of analysis, a feature common to the contemporary sociological theory. Brown has argued that the state-centric scope "fails to illuminate many of the momentous developments occurring within, above, and across the jurisdictions of the nation-states that are creating dangerous

[25] R, B, J, Walker, the Subject of Security, in Keith Krause and Michael C. Williams (eds.), *Critical Security Studies: Cases and Concepts*, Minneapolis, University of Minnesota Press, 1997, p. 76.

[26] Mearsheimer, J.J, E.H. Carr vs. Idealism: The Battle Rages On, *International Relations*, vol. 19, No. 2, 2005, pp. 139-140.

[27] Barry Buzan, *People, States and Fear, An agenda for International Security Studies in the Post-Cold War Era*, Second Edition, New York: Harvester Wheatsheaf, 1991.

[28] Wyn Jones, R, *Security, Strategy and Critical Theory*, London: Lynne Rienner, 1999, pp. 197-198.

incongruities in the world politics and society". Brown emphasizes that separate nation-states have become increasingly impotent in dealing on their own (i.e. through national laws and national institutions) with threats to security and safety: "Sovereign national enclaves of security and order, fenced off from the "chaos" of the world at large, are becoming unviable".[29] A striking example of this new reality is the transnational dimension of terrorism and counterterrorism. Since terrorism is facilitated by the new technologies of mobility and due to the fact that it appears to manifest itself in transnational networks, counterterrorism will be very ineffective if it is conducted unilaterally through national agencies.

While traditionalists favor the maintenance of the Cold War conception of security - defined in military and state-centric terms - the non-traditionalists have attempted to broaden and deepen the definition. The other group of oservers, so-called "wideners" with Barry Buzan in front, has challenged this conception of security by widening and deepening security studies agenda, both horizontally and vertically. Having in mind the horizontal dimension, the wideners think that in reality the security concept has expended from exclusively military to the political, economic, societal and environmental sectors. Vertically, the altered security concept should also be open to referent objects other than the state (individuals, social groups, humanity as a whole). These non-traditionalists argue that other issues, such as economic, environmental and social threats, endanger the lives of individuals rather than strictly the survival of states.

Two other types of extension can be identified with regard to the referent object of security, i.e. the sorts of entities whose security is to be ensured.

- Critics of the state-centric approach to security have argued for an *upwards* extension of the concept of security, from the security of nations to the security of the international system, or of a supranational physical environment.
- The concept of security is extended *downwards* from the security of states to the security of groups and individuals. It is important to note that these themes are not entirely new. Both the multidimensionality of security and the conceptualizing of security at levels other than the nation-state are not new 'discoveries', as we have sought to show in this chapter.[30]

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[29] Brown, S, World Interests and the Changing Dimensions of Security, in M.T. Klare and Y. Chandrani (eds.), *World Security: Challenges for a New Century*, Third Edition, New York: St. Martin's Press, 1998, pp. 1-4.

[30] D, Baldwin. The Concept of Security, *Review of International Studies*, Vol.23, No.1, 1997, p. 23.

Of particular interest is the fact that the multiple extensions of security have become increasingly dominant in academic and policy discourses of security. Thinking about security has been increasingly influenced by the four extensions outlined in this paper, reshaping the more traditional concept of security into a broader and more diffuse understanding of security. Analysts must broaden their conceptualization of security because the term has already been broadened in practice.

Traditional security studies tended to abstract military issues from their broader context by making series of often implicit assumptions about that context, based on realist premises, for example, such concerning the role and value of the state. It is not surprising, therefore, that analysts intend to undermine this traditional approach to the theory and practice. Observers such as R. B. J. Walker and Ken Booth stress the relationship between notions of security and deeper assumptions about the nature of politics and the role of conflicts in political life. For both scholars, notions of security are derived from these deep–rooted assumptions.

If analysts adopt the military focus, they will have little or no analytical purchase on many of those factors which create and accentuate conflict situations. For example, the dynamics of the (military) security situation in the former Yugoslavia cannot be understood without reference to the processes of identity formation and disintegration occurring in the region. To put it bluntly, if those who claim to be experts in security issues continue to conceptualize security in such a restrictive manner, then from Pristina to Belfast, and from Algiers to East Timor, they will continue to miss much of what is most relevant to the contemporary security agenda.

Deepening the conceptualization of security not only provides important means for criticizing traditional security studies, but it is also a vital part of reconstructing the approach on an alternative, more critically oriented basis. R. B. J. Walker argues that attempts at rethinking security must be harnessed to an attempt to work through more persuasive answers to those questions about the character and location of political life to which the state and states system have seemed such a natural response for many for so long.[31]

This, in effect, is a demand that the reconceptualization of security must be undertaken in conjunction with a deeper attempt to think through what emancipation might mean in terms of alternative institutions and practices.

[31] R, B, J, Walker, the Subject of Security, in Keith Krause and Michael C. Williams (eds.), *Critical Security Studies: Cases and Concepts.* Minneapolis, University of Minnesota Press, 1997, p. 63.

In the interim, it is enough to note that those who seek to deepen the conceptualization of security point out that traditional thinking about security is all too often based on understandings of world politics that are unreflective. Consequently, the intimate relationship between security and political theory generally must be restated, and critical approaches to security must anchor their work in attempts to delineate the contours of alternative forms of world politics.

The analytical distinction between traditionalists and non-traditionalists is not meant to suggest that consensus among the latter group has been reached. Indeed, there is disagreement between the two sub-groups, the so-called "wideners" and the "deepeners" about the concept.[32] The wideners argue that a predominantly military definition does not assume that the greatest threats to state survival may not be military, but environmental, social and economic. The deepeners, on the other hand, pose the question of whose security is being threatened and support the construction of a definition that allows for individual or structural referent objects, as opposed to the state.

Conclusion

There can be no doubt that the end of the Cold War has added legitimacy and credibility to the demands for a broader security agenda: the collapse of the Soviet bloc and the numerous problems that have emerged since its demise, have highlighted the inadequacy of adopting a military conceptualization of security.

With the rising complexity of the agenda of the international relations, specifically with the increase of economic and environmental challenges and the appearance of the new security challenges, risks and threats, emergence of the new actors of the international relations, the traditional view of the individual concept of security, i.e. its essence, has been significantly narrowed.

However, the two sets of critics have objected to the current attempts to broaden the concept of security traditionally used in the field of security studies. On one hand, traditionalists have argued that such a move will lead to a loss of focus; on the other hand, some commentators have pointed to the dangers of observing problems such as those associated with environmental degradation, as security issues. Most analysts are now willing, at least rhetorically, to admit nonmilitary issues into the security agenda.

[32] Buzan, Barry, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis*. Boulder, CO: Lynne Rienner, 1998; Krause, Keith, and Michael C. Williams, Broadening the Agenda of Security Studies: Politics and Methods, *Mershon International Studies Review* 40, 1996, pp. 229-54.

The drastic change of the security ambient, whole reconfiguration of the system of global relations of power and force at the end of the Cold War and the emergence of completely new security challenges, risks and threats, only added to strengthening of the debate on redefinition of the concept of security. The essential point of the debate was an issue of whether and how to broaden and deepen the security concept without bringing its logical rationality into the dispute, how to widen the focus of the research onto different, nonmilitary sectors, and keep the concept unique, meaningful and a useful tool for the analysts.

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SERBIAN PERSPECTIVE ON CLOUD COMPUTING SECURITY PROBLEMS

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Abstract

In recent years, cloud computing has emerged as one of the fastest-growing segments of the information technology industry. The ability to leverage economies of scale, geographic distribution, open source software and automated systems to drive down costs, makes cloud computing an attractive option for businesses. But many of the advantages of cloud computing are accompanied by collateral legal, reputational and security risks. In contrast to traditional solutions, where the IT services are under proper physical, logical and personnel controls, cloud computing moves the application software and databases to the large data centers, where the management of the data and services may not be fully trustworthy. Serbian cyber infrastructure is a part of global network, and it is very vulnerable to cyber-attacks. Cyber crime shows a growing trend in the Republic of Serbia and cloud computing represents a new opportunity for cyber criminals to expand their illegal activities in area that yet is not fully covered by law enforcement agencies. It presents a great opportunity for cyber criminals to relocate criminal resources and therefore hide evidence in order to evade detection. The Authors are trying to present a preview of possible risks that cloud computing can bring to the area of cyber crime in the Republic of Serbia.

Key words: cloud computing, cyber crime, cyber infrastructure, cyber police

Introduction

Cloud computing, as a product, includes a variety of different types of services and infrastructure models, each with its own advantages and many known, but also unknown, disadvantages. A key feature of non-private clouds, the pooling of resources using a common infrastructure serving many

clients at once, implies both an increased risk of inadvertent or unauthorized access to data by others in the cloud and an inability to pinpoint with any specificity where data resides at a given moment, or, for the sake of speculating, where it could be going[1]. Special issue is the question of accessing virtualized resources via the Internet by everybody interested in doing so – criminals, police, spies and industry.

Considering the complex regulatory issues surrounding data protection across various jurisdictions, the inability to know where one's data is located, or if and when the data may be moved to another state or country, implies a good deal of potential legal risk. Also there are issues of: eDiscovery - Where is the data? Who owns or possesses it? If requested, how does one retrieve, analyze or protect this data? How does one enforce retention rules, and who is responsible for the disaster recovery plan? Pain Points for Organizations - including accessibility issues, confidentiality concerns, verification of data integrity, risk identification and mitigation, as well as insider threats from cloud provider staff.

With its information infrastructure and large population that use the Internet, Serbia is a very interesting geographical, but also a virtual space for criminals and criminal groups from the region of Western Balkans, as well as for criminals and criminal groups from all around the world. The new opportunities that cloud computing bears are therefore, very significant. The new way of thinking will produce a need for new regulatory regarding jurisdictions. Problems with electronic data and evidence location in cloud environment, soon enough will be prevalent when suppression of cybercrime comes in question. Migration of the data and evidence from another state or country will imply a good deal of potential legal risk (We can say that there already are legal risks caused by using new Cloud Computing services on the Internet). In resolving those issues, we can use ITU toolkit for cybercrime legislation, and the propositions displayed there could be of many uses[2]. The country shall have jurisdiction over any person, irrespective of his nationality or citizenship, who commits any offense established pursuant to the Law when the offense is committed (i) within the territory of this country; (ii) using equipment, software, or data located within this country, regardless of the location of the perpetrator, or (iii) directed against equipment, software, or data located in this country, regardless of the location of the perpetrator. Also in the Applicability to Acts By Nationals Outside of Country: The country shall have jurisdiction over offenses committed pursuant to the Law

[1] The Cloud Security Alliance divides private clouds into two types – internal, on-premises and external, which consists of dedicated or shared infrastructure. Retrieved from http://www.net-security.org/article.php?id=1509 last time visited 18.10.2010.

[2] Retrieved from www.itu.int/ITU-D/cyb/cybersecurity/legislation.html last time accessed 01.10.2010.

if the offense was committed by a citizen or resident of this country and (i) if the offense is punishable under the criminal law where it was committed; or (ii) if the offense is committed outside the territorial jurisdiction of any country. For the place where the offenses occurred ITU proposes that: An offense is committed at every place where the perpetrator acted (i) via his or her physical presence; (for example, the place where the perpetrator physically typed the command on a computer) (ii) via the intentional use of equipment, software, or data, (or example, the place where equipment or software intentionally used or attacked by the perpetrator is located, and thus would cover acts by foreign perpetrators located in another country but using attack servers or botnets located in another country) or (iii) at any location where the resulting action is an element of an offense pursuant to Sections 2 through 10 of this Law occurred or would have occurred according to the understanding of the perpetrator (locations where the perpetrator thought the attack or action would impact). Those stipulations could be of much significance in cloud computing issues.

A new idea and useful structure, acceleration of the Internet services and greater storage capacity offered by providers are great opportunities for development of Serbian information resources, but it also raise a big concern over one question: What are the future security problems that can appear from cloud computing in the Republic of Serbia?

Cloud computing

Cloud computing became a significant technology trend in 2009. Now there is a wide spread consensus amongst industry observers that it was ready for noticeable deployment in 2010. It is expected to reshape IT process and IT marketplaces in the next years. Cloud computing is a new way of delivering computing resources, not a new technology. Computing services ranging from data storage and processing to software, such as email handling, are now available instantly, commitment-free and on-demand. Since we are in a time of belt-tightening, this new economic model for computing has found fertile ground and is witnessing massive global investment. Cloud computing is Internet-based computing, whereby shared resources, software and information are provided to computers and other devices on-demand, like the electricity grid.

As example Mell & Grance define it as a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction (Mell & Grance, 2009, p. 1).

It is a paradigm shift following the shift from mainframe to client - server that preceded it in the early 1980s. Details are abstracted from the users who no longer have need of expertise in, or control over the technology infrastructure "in the cloud" that supports them. Cloud computing describes a new supplement, consumption and delivery model for IT services based on the Internet, and it typically involves the provision of dynamically scalable and often virtualized resources as a service over the Internet. It is a byproduct and consequence of the ease-of-access to remote computing sites provided by the Internet. As a metaphor for the Internet, "the cloud" is a familiar cliché, but when combined with "computing," the meaning gets larger and fuzzier. Some analysts and vendors define cloud computing narrowly as an updated version of utility computing: basically virtual servers available over the Internet. Others go very broad, arguing anything you consume outside the firewall is "in the cloud," including conventional outsourcing.

The term "cloud" is used as a metaphor for the Internet, based on the cloud drawing used in the past to represent the telephone network and later to depict the Internet in computer network diagrams as an abstraction of the underlying infrastructure it represents. Typical cloud computing providers deliver common business applications online which are accessed from another web service or software like a web browser, while the software and data are stored on servers. The Cloud system dynamically allocates computational resources in response to customers' resource reservation requests and in accordance with customers' predesigned quality of service. Risk comes with the opportunity; the problem of data security in cloud computing becomes bottleneck of cloud computing (Dai Yuefa et all, 2009, p.141).

Most cloud computing infrastructure consists of reliable services delivered through data centers and built on servers. Clouds often appear as single points of access for all consumers' computing needs. Commercial offerings are generally expected to meet quality of service (QoS) requirements of customers and typically offer SLAs (Service-Level Agreement). The major cloud service providers include HP, IBM, VMware, Amazon, Google and Microsoft.

Cloud computing is at an early stage, with a motley crew of providers large and small delivering a slew of cloud-based services, from full-blown applications to storage services to spam filtering. Yes, utility-style infrastructure providers are part of the mix, but so are SaaS (software as a service) providers[3].

[3] http://www.infoworld.com/d/cloud-computing/what-cloud-computing-really-means-031

Foundation elements of cloud computing comprise of, interalia, primary technologies such as virtualization, grid computing, service oriented architectures, distributed computing, broadband networks, browser as a platform, Free&Open source software and other technologies such as Autonomic systems, Web 2.0, Web application framework and Service level agreements. Therefore, it would not be an exaggeration to say that cloud computing is the next natural step of integration of current diverse technologies and applications.

Services provided by cloud computing can be broadly grouped into three major categories:

- **Software as a Service (SaaS)** comprises end-user applications delivered as a service, rather than a traditional, on-premises software. SaaS has the broadest market. This type of cloud computing delivers a single application through the browser to thousands of customers using a multitenant architecture. On the customer side, it means no upfront investment in servers or software licensing; on the provider side, with just one app to maintain, costs are low compared to conventional hosting. In all cases, the customer should try to either implement or request extensive logging to measure their data security controls.
- **Platform as a Service (PaaS)** provides an independent platform or middleware as a service on which developers can build and deploy customer application. Common solutions provided in this tier from APIs and tools to database and business process management system, to security integration, allowing developers to build applications and run them on the infrastructure that cloud vendors owns and maintains.
- **Infrastructure as a Service (IaaS)** primarly compasses the hardware and technology for computing power, storage, operating systems or other infrastructure, delivered as off-premises, on-demand services rather than dedicated as on site resources. Because customers can pay for exactly the amount of service they use, like for electricity or water, this service is also called utility computing.[4]

Generally there are four cloud deployment models:

- **Private (cloud enterprise owned or leased)** cloud and internal cloud are neologisms that some vendors have recently used to describe offerings that emulate cloud computing on private networks. These (typically virtualization automation) products claim to “deliver some

[4] GTSI Corp.:Cloud Computing Building a Framework for Successful Transition, p.3, САД, 2009.

benefits of cloud computing without the pitfalls", capitalizing on data security, corporate governance, and reliability concerns. They have been criticized on the basis that users "still have to buy, build, and manage them" and as such do not benefit from lower up-front capital costs and less hands-on management, essentially the economic model that makes cloud computing such an intriguing concept". One example for this is Office Live Spaces. Also, it is extremely important that customers have the implementation responsibility for Infrastructure as a Service (IaaS). With IaaS, it is realistic and recommended to implement AES encryption of your data, with separation of key management from the cloud provider. It is also recommended to implement a federated identity management strategy, so that an organization can leverage its own granular user directory with its cloud service to enable true, granular, role-based access[5].

- **Community cloud (shared infrastructure for specific community),** A community cloud may be established where several organizations have similar requirements and seek to share infrastructure so as to realize some of the benefits of cloud computing. With the costs spread over fewer users than a public cloud (but more than a single tenant) this option is more expensive but may offer a higher level of privacy, security and/or policy compliance. Example is the box.net application within the LinkedIn social network which has an option for the next deployment model.
- **Public cloud (sold to public / any user, large scale infrastructure),** Public cloud or external cloud describes cloud computing in the traditional mainstream sense, whereby resources are dynamically provisioned on a fine-grained, self-service basis over the Internet, via web applications / web services, from an off-site third-party provider who shares resources and bills on a fine-grained utility computing basis.
- **Hybrid cloud (composition of two or more models),** a hybrid cloud environment consisting of multiple internal and / or external providers "will be typical for most enterprises". By integrating multiple cloud services users may be able to ease the transition to public cloud services while avoiding issues such as PCI compliance.

Another perspective on deploying a web application in the cloud is using Hybrid Web Hosting, where the hosting infrastructure is a mix

[5] Compare with http://www.net-security.org/article.php?id=1489&p=1&2 last time visited 18.10.2010.

between Cloud Hosting for the web server, and Managed dedicated server for the database server. The main idea in Cloud Computing is that it covers all the range of users, from home users that use Cloud Computing to approve their works better and IT staffs and enterprise managers that use Cloud Computing for optimizing, planning and implementing their enterprises. So we can face it that Cloud Computing has the big roles in our life in the future (Boroujerd, M.& Nazem, S., p. 1113, 2009).

Republic of Serbia is in the process of information structure developing, and use of Internet services that allows new space for data storage and more working space are very well accepted. Main concern of safety agencies in the Republic of Serbia is a nature of a cloud computing regarding electronic data that can be possible evidence in criminal cases in this virtual territory, since often it is not in the jurisdiction of Serbian court. Cyber crime is very adjustable type of criminal threat. There are numerous ways that criminals can use such technical opportunity that represent cloud computing in all cloud deployment models. Some of them can only be predicted as a threat, and some of them are already shown their shape in this new environment.

Cyber crime threats to Cloud Computing

As the first kind of threats, we can describe the Abuse and Nefarious Use of Cloud Computing. IaaS providers offer their customers the illusion of unlimited compute, network, and storage capacity - often coupled with a 'frictionless' registration process where anyone with a valid credit card can register and immediately begin using cloud services. Some providers even offer free limited trial periods, as a method of commercial tactics, or as a method for luring the customers. By abusing the relative anonymity behind these registration and usage models, spammers, malicious code authors, and other criminals have been able to conduct their activities with relative impunity. PaaS providers have traditionally suffered most from this kind of attacks; however, recent evidence shows that hackers have begun to target IaaS vendors as well. Future areas of concern include password and key sniffing and cracking, DDOS attack, launching dynamic attack points, hosting malicious data, botnet command and control, building rainbow tables, and CAPTCHA solving farms.

Cloud Computing providers are actively being targeted, partially because their relatively weak registration systems facilitate anonymity, and providers' fraud detection capabilities are limited.

Some examples showed that IaaS offerings have hosted the Zeus botnet, InfoStealer Trojan horses, and downloads for Microsoft Office and Adobe PDF exploits. Additionally, botnets have used IaaS servers for

command and control functions. Spam continues to be a problem - as a defensive measure, entire blocks of IaaS network addresses have been publicly blacklist.

From the year 2008 until 2010 in the Republic of Serbia there were registered large DDOS attacks on Internet sites, malicious attacks and all types of identity thefts and misuse of identity. As it was mentioned above, old ways of conducting criminal offences are now enchased, and there are numerous opportunities for hiding evidence in presented cloud environment. In Serbia cybercriminals are increasingly focusing on Adobe PDF and Flash files, to infect victims with malware. In addition, they use rich content applications such as Flash files to distribute malicious code. Flash-based ads on the Web, because their binary file format, enable the cybercriminals to hide their malicious code and later exploit end-user browsers to install malware (Milovanovic, G.et. all, 2010, p. 113).

While most of the providers strive to ensure security as well integrated into their service models, it is critical for consumers of those services to understand the security implications associated with the usage, management, orchestration and monitoring of cloud services[6]. Reliance on a weak set of interfaces and APIs exposes organizations to a variety of security issues related to confidentiality, integrity, availability and accountability. Anonymous access and / or reusable tokens or passwords, clear-text authentication or transmission of content, inflexible access controls or improper authorizations, limited monitoring and logging capabilities, unknown service or API dependencies, are only some of this type of attacks. There are several proposals for this kind of attack like analyzing the security model of cloud provider interfaces, ensuring strong authentication and access controls are implemented in the concept of the encrypted transmission and understand the dependency chain associated with the API. The threat of a malicious insider is well-known to most organizations. This threat is amplified for consumers of cloud services by the convergence of IT services and customers under a single management domain, combined with a general

[6] Cloud computing providers expose a set of software interfaces or APIs that customers use to manage and interact with cloud services. Provisioning, management, orchestration, and monitoring are all performed using these interfaces. The security and availability of general cloud services is dependent upon the security of these basic APIs. From authentication and access control to encryption and activity monitoring, these interfaces must be designed to protect against both accidental and malicious attempts to circumvent policy. Furthermore, organizations and third parties often build upon these interfaces to offer value-added services to their customers. This introduces the complexity of the new layered API; it also increases risk, as organizations may be required to relinquish their credentials to third parties in order to enable their agency

lack of transparency into the provider process and procedure[7]. There are many ways to compromise data. Deletion or alteration of records without a backup of the original content is an obvious example. Unlinking a record from a larger context may render it unrecoverable, as can storage on unreliable media. Loss of an encoding key may result in effective destruction. Finally, unauthorized parties must be prevented from gaining access to sensitive data. The threat of data compromise increases in the cloud, due to the number of and interactions between risks and challenges which are either unique to cloud, or more dangerous because of the architectural or operational characteristics of the cloud environment.

Attacks have surfaced in recent years that target the shared technology inside Cloud Computing environments. Disk partitions, CPU caches, GPUs, and other shared elements were never designed for strong compartmentalization. As a result, attackers focus on how to impact the operations of other cloud customers, and how to gain unauthorized access to data[8].

Remediation for this type of cyber crime attacks can involve implementation of strong API access control, encryption and protection of integrity of data in transit, analyzes data protection at both design and run time, implementation of strong key generation, storage and management, and destruction practices, contractual demanding for providers to wipe persistent media before it is released into the pool, and contract specifying provider backup and retention strategies.

An account or service hijacking in cloud computing can be a fast developing problem. Attack methods such as phishing, fraud, and exploitation of software vulnerabilities still achieve results[9]. Credentials and passwords are often reused, which amplifies the impact of such attacks. Cloud solutions add a new threat to the landscape. If an attacker gains access to your credentials, they can eavesdrop on your activities and transactions, manipulate data, return falsified information, and redirect your clients to illegitimate sites. Your account or service instances may become a new base for the attacker. From here, they may leverage the power of your reputation to launch subsequent attacks.[10]

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[7] For example, a provider may not reveal how it grants employees access to physical and virtual assets, how it monitors these employees, or how it analyzes and reports on policy compliance

[8] Some of the examples for this type of crime are insufficient authentication, authorization, and audit (AAA) controls; inconsistent use of encryption and software keys; operational failures; persistence and remaining challenges: disposal challenges; risk of association; jurisdiction and political issues; data center reliability; and disaster recovery.

[9] It even happens in the social networking games like Second Life.

[10] Top Threats To Cloud Computing V1.0, Cloud Security Alliance, 2010, available on

Loss of core intellectual property could have competitive and financial implications. Worse still, depending upon the data that is lost or leaked, there might be compliance violations and legal ramifications. There are some solutions for this problem such as prohibition to sharing of account credentials between users and services, leveraging of strong two-factor authentication techniques where possible, employing proactive monitoring to detect unauthorized activity and better understanding of cloud provider security policies and SLAs.

One of the tenets of Cloud Computing is the reduction of hardware and software ownership and maintenance to allow companies to focus on their core business strengths. This has clear financial and operational benefits, which must be weighed carefully against the contradictory security concerns — complicated by the fact that cloud deployments are driven by anticipated benefits, by groups who may lose track of the security ramifications. Versions of software, code updates, security practices, vulnerability profiles, intrusion attempts, and security design, are all important factors for estimating your company's security posture. Information about who is sharing your infrastructure may be pertinent, in addition to network intrusion logs, redirection attempts and / or successes, and other logs. Security by obscurity may be a low effort, but it can result in unknown exposures. It may also impair the in-depth analysis required highly controlled or regulated operational areas.

This threat is especially dangerous when emerging in account and service hijacking, usually with stolen credentials, remains a top threat. With stolen credentials, attackers can often access critical areas of deployed cloud computing services, allowing them to compromise the confidentiality, integrity and availability of those services. Organizations should be aware of these techniques as well as common defense in depth protection strategies to contain the damage (and possible litigation) resulting from a breach. Some solutions are discoursing of applicable logs and data, partial / full disclosure of infrastructure details (*e.g.*, patch levels, firewalls, etc.), monitoring and alerting on the necessary information.

Contrary to the traditional computing paradigms, in a cloud computing environment, data and the application is controlled by the service provider. This leads to a natural concern about data safety and also its protection from internal as well as external threats. Despite of this, advantages such as on-demand infrastructure, pay as you go, reduced cost of maintenance, elastic scaling etc. are compelling reasons for enterprises to decide on cloud computing environments (Sangroya. A, p.1, 2010).

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www.cloudsecurityalliance.org/topthreats/csathreats.v1.0.pdf, 16.06.2010., at 09: 20 AM

It is important to realize that, even if data and applications are stored and accessed remotely, the responsibility of the security and integrity of data lies within the individual.

Types of attacks and attackers in a cloud computing environment

Let us now mention some of the most prevalent types of crime. Such are: Side channel attacks, Denial of service attacks, Social networking attacks, Mobile device attacks, Insider and organized crime threat.

- **Side channel attacks**

An emerging concern for cloud delivery models using virtualization platforms is the risk of side channel attacks causing data leakage across co-resident virtual machine instances. This risk is evolving, though currently it is considered to be in its infancy, as the virtual machine technologies mature. However, it is possible that attackers who fail to compromise endpoints or penetrate cloud infrastructure from outside the cloud perimeter, may consider this technique. This kind of attack consists of acting as a rogue customer within a shared cloud infrastructure to access other customers' data.

- **Denial of service attacks**

Availability is the primary concern to cloud customers and as such it is equally of concern to providers who must design solutions to mitigate this threat. Traditionally denial of service has been associated with network layer distributed attacks flooding infrastructure with excessive traffic in order to cause critical components to fail or to consume all available hardware resources. Within a multi-tenant cloud infrastructure there are more specific threats associated with denial of service, these include: *Shared resource consumption* – attacks that deprive other customers of system resources. Thus, thread execution time, memory, storage requests and network interfaces can cause a targeted denial of service; and *Virtual machine and hypervisor exploitation* – attacks that exploit vulnerabilities in the underlying hypervisor, or operating system hosting a virtual machine instance will allow attackers to cause targeted outages or instability.

Attacks using these methods are designed to circumvent traditionally well defended cloud architectures that have concentrated on securing against external network based denial of service attacks.

- **Social networking attacks**

With the increased popularity of business and personal social networking sites, the risk of advanced social engineering attacks is increased. Cloud computing systems are targeted due to their large customer data

stores. The complex set of relationships between cloud providers, customers, suppliers and vendors means that many employees of these organizations will be listed on social networking sites and they will be connected to each other. Attackers can setup identities to gain trust, and use online information to determine relationships and roles of staff to prepare their attacks. A combination of technical attacks and social engineering attacks can be deployed against a target user by taking advantage of the people they know and the online social networks they use.

- **Mobile device attacks**

The use of smart phones has increased, and cloud connectivity is now no longer limited to laptop or desktop computing devices. Attacks which are targeted for mobile devices are now emerging and they rely on features traditionally associated with laptops and desktops, including: - rich application programming interfaces (APIs) that support network communications and background services, - always on wireless Internet access, - large local data storage capabilities. As mobile devices now have these equivalent features Internet based spyware, worms or even physical attacks may be more likely to occur against mobile devices, as they are potentially a less risky target to an attacker who wishes to remain undetected. This is generally supported by the fact that most mobile devices do not have the equivalent security features enabled, or in some cases available. For example mature anti-malware, anti-virus or full disk encryption technologies are not widespread on smart phones.

- **Insider and organized crime threat**

Cloud providers will store a range of different data types, including credit card and other financial and personal data. All of this data may be aggregated from multiple customers and therefore be extremely valuable to criminals. There is a risk that insiders are deliberately used to gain access to customer data and probe systems in order to assist any external attackers that require additional information in order to execute complex Internet based attacks. Cloud customers should ensure that providers are aware of this threat and have rigorous identity validation and security vetting procedures built into their recruitment process.

Many of the security threats and challenges in cloud computing will be familiar to organizations managing in house infrastructure and those involved in traditional outsourcing models. Each of the cloud computing service delivery models' threats result from the attackers that can be divided into two groups:

- Internal Attacker. The internal attacker is with the following characteristics: - He / she is employed by the cloud service provider,

customer or other third party provider organization supporting the operation of a cloud service; - He / she may have existing authorized access to cloud services, customer data or supporting infrastructure and applications, depending on their organizational role; - He / she uses existing privileges to gain further access or support third parties in executing attacks against the confidentiality, integrity and availability of information within the cloud service.

- **External attacker.** The external attacker is with the following characteristics: - He / she is not employed by the cloud service provider, customer or other third party provider organization supporting the operation of a cloud service; - He / she has no authorized access to cloud services, customer data or supporting infrastructure and applications; - He / she exploits technical, operational, process and social engineering vulnerabilities to attack a cloud service provider, customer or third party supporting organization to gain further access to propagate attacks against the confidentiality, integrity and availability of information within the cloud service. [11]

Although internal and external attackers can be clearly differentiated, their capability to execute successful attacks is what differentiates them as a threat to customers and vendors alike.

For the purposes of this briefing, attackers have been categorized into four types. Each of these categories is based on ability to instigate a successful attack, rather than on the type of threat they present (i.e. criminal, espionage or terrorism):

- **Random** – the most common type of attacker uses simple tools and techniques. The attacker may randomly scan the Internet trying to find vulnerable computers. They will deploy well known tools or techniques that should be easily detected.

- **Weak** – semi-skilled attackers targeting specific servers / cloud providers by customizing existing publicly available tools for specific targets. Their methods are more advanced as they attempt to customize their attacks using available exploit tools.

- **Strong** – organized, well financed and skilled groups of attackers with an internal hierarchy specializing in targeting particular applications and users of the cloud. Generally this group will be an organized crime group specializing in large scale attacks.

- **Substantial** – motivated, strong attackers not easily detected by the organizations they attack, or even by the relevant law enforcement and investigative organizations specializing in eCrime or cyber security.

[11] Center for the Protection of National Infrastructure- CPNI: Information security briefing 01/2010 Cloud computing, p.42, UK, 2010.

Mitigating this threat requires greater intelligence on attacks and specialist resources in response to detection of an incident or threat.

Conclusion

Given the rapidly evolving legal landscape in this area, providing guidance to companies venturing into the cloud is a complex matter. Legislatures and regulatory bodies around the world are grappling with the privacy and data security implications of cloud computing, but they have yet to promulgate any actionable requirements or recommendations.

In addition, a host of non-privacy law questions (related to e-discovery obligations, for example), not to mention non-legal concerns such as the difficulties associated with migrating to a cloud provider's architecture and the possibility of service gaps caused by outages, must be explored prior to committing to the use of cloud technology. Companies seeking to implement cloud computing solutions should do so with caution and closely monitor global developments in this area.

Cloud computing has experienced rapid growth in recent years. While mainly the result of rapid technological innovation and increased high-speed broadband offerings, the recent financial crisis has accelerated deployment as companies seek to trim the large overhead costs associated with in-house IT. Cloud computing puts pressure on many different areas of policy, and action is necessary to create the optimal environment for innovation and growth. Broadband deployment, privacy, security, competition policy, and intellectual property reform are just a few areas that must be addressed to foster rapid innovation and adoption of cloud computing. Although policymakers must be vigilant to guard against abuses and bottlenecks in the innovation process, policy should focus on clearing the way for cloud computing instead of actively managing it. In fact, the very nature of cloud computing raises the stakes for policymakers; providers of cloud services will relocate to the countries and regions that create the optimal legal frameworks for it to thrive.

The Republic of Serbia is a fast developing country of the European continent that ratified Cybercrime convention of the Council of Europe, following the protocol in 2009. With its Developed Institutions Serbia, it is vigilantly active in cyber crime prevention. Bearing in mind the problems that emerged from cloud computing deployment and new, or stronger and larger types of attacks mentioned in a text above it is only a question of time when this problem will be our main occupation. Main problems will very soon be: territorial jurisdiction, providing international police assistance and mutual legal assistance in criminal cases involving cloud computing as a

means for conducting crime, object of a crime, and when unlawful using of Cloud Computing services is in question.

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POLICY FOR PREVENTION AND COMBAT OF ILLEGAL IMMIGRATION, A TOOL FOR ACHIEVING FREEDOM AND JUSTICE IN THE AREA OF EU SECURITY

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Abstract

For a long time, the immigration management in Europe has been the responsibility of national governments. The open borders and the freedom of movement and the labor mobility created conditions of a phenomenon of migration while perceived as a necessity, but also as a risk factor or threat.

Recent political events in North Africa have created major challenges for the EU migration policy and they show external border section considered by low risk, which may become subject of critical pressures in terms of migration. This lead to coordination efforts of the Member States to secure the external border control and the optimization tools for fight against illegal immigration.

EU external border control must be improved continuously as an answer to the new challenges and migration security, which is also a challenge and opportunity for EU institutions and Member States in strengthening the area of freedom, security and justice.

Keywords: illegal immigration, EU migration policy, security of EU

Evolution of the current risks of illegal migration in the area of freedom, security, and justice

Economic interdependence and the monetary union have changed the exercise of sovereignty by each EU Member State and open borders, freedom of movement and labor mobility have created a phenomenon of migration conditions perceived both as a necessity, but also as a factor of risk or threat. Thus, in addition to the positive connotation of a union without borders, free movement of goods, services and capital, there is also a negative connotation, such as providing union without frontiers for criminals and crimes. Recent events (spring Arabic) in the southern Mediterranean have brought hope for a better life for millions of people in our neighborhood and a better respect for human rights, pluralism, rule of law and social justice. As it often happens when there are democratic rebellions,

they can also generate short and medium term, disruption and insecurity. These events of historic proportions in the southern Mediterranean have confirmed that there is a sound policy and common EU migration and asylum. Achieving substantial progress in terms of legislation, operational cooperation and our relations with third countries is more needed than ever.

Since the beginning of 2011, there was a massive displacement of population in several countries in North Africa, particularly Libya. According to recent estimations, over 650,000 people left the territory of Libya to escape the violence in this country. These people were received in the neighboring countries, mainly in Tunisia and Egypt, and many of them have succeeded then, and were supported to return to their home countries. The reception and repatriation effort was achieved through a massive mobilization of resources by the host countries, EU, NGOs and the international community[1]. Funding for humanitarian and providing transportation, so far, the EU has contributed to the repatriation of approximately 50,000 citizens of third countries.

Some Member States such as Italy, Malta, Greece and Cyprus are exposed more directly to influx of illegal migrants and, to a lesser extent, people who need international protection. This is not just a national problem, but must be tackled at EU level, as it requires real solidarity between the Member States.

Instruments and strategy to combat illegal immigration in EU

Programs at the Hague and Stockholm.

The EU has tried to find the tools to shape a common policy on migration, but frequently met with the challenge which was brought by the concept of a sovereign nation-state. In fact, migration is one of the most sensitive issues of cooperation between the countries affecting directly the idea of national sovereignty.

Migration is currently on the list of priorities of the EU political agenda. Spring Arabic and events in the southern Mediterranean in 2011 have again brought out the need for a coherent and comprehensive EU migration[2].

A crucial moment that marks the evolution and progress of the EU was "Hague Programme", adopted in November 2004. This new vigor EU

1 The total EU contribution amounts to € 100 million, representing humanitarian aid, of which almost half - € 48.8 million - was provided by the Commission. In addition, the EU Civil Protection Mechanism was activated to facilitate the repatriation of EU nationals and third country nationals. - See Annual Report on Immigration and Asylum (2010)

[2] COM (2011) 743 Final: The Global Approach to Migration and Mobility

agenda on immigration and asylum policy sets up a common immigration and asylum.

In 2005, a Joint Action Plan of the Council and the Commission has defined the priorities of the Hague program, in relation to the focus of the efforts during the years 2005 - 2009. The plan was determined, as well as a strategy on the external dimension of the area of freedom, security and justice[3]. The Hague program addresses all aspects of policies on freedom, security and justice, including their external dimension, namely: fundamental rights and citizenship, asylum and immigration, border management, integration, fight against terrorism and organized crime, judicial cooperation and police, civil law.

Two *key legal instruments* to combat illegal immigration - namely the Return Directive 2008/115/EC and Directive 2009/52/EC on sanctions against employers: These provisions, which directly confer rights of migrants, can be, and are already raised in proceedings before national courts, and applied directly to the national level, whether or not to adopt national implementing legislation since the term application deadline has expired, which makes these directives directly applicable in the Member States.

Strengthened border control and cooperation with third countries, particularly through readmission agreements have already proved effective, and as it was demonstrated in several Member States, this have provided information on the deterrent effect of such controls and procedures.

In direction on preventing and combating trafficking and protecting victims, the EU coordinator for combating trafficking in persons appointed by the Commission, and a research presented in a website, dedicated to combating human trafficking[4]; released in 2010, the EU gave new skills and ways in the fight against this modern form of slavery. Report on the implementation of the recently adopted Directive 2004/81/EC[5] on residence permits issued to victims of trafficking are invited also to protect them more effectively, which should also help in dismantling the networks of traffickers.

These provisions made it possible and have lead to the Stockholm Programme (2010-2014), adopted by the European Council in December 2009; the programme marks the priorities for development of areas of European freedom, security and justice in the next five years. Regarding

[3] http://europa.eu/generalreport/ro/2007/rg57.htm - consulted on 2012.02.15;
[4] http://ec.europa.eu/anti-trafficking/index.action
[5] COM(2010) 493 - on the application of Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

migration, the Stockholm Programme brings a significant innovation, the establishment, as a priority of the Global Approach Migration or the external dimension of the European policy on immigration.

The importance of this issue for the EU is reflected by the fact that even the Lisbon Treaty, in the content of Article 79 of Chapter II, Title V, provides that the Union shall develop a common immigration policy, with the purpose to ensure, at all stages, the efficient management migration flows, fair treatment of third country citizens who are staying legally within the Member States and prevent illegal immigration and combating trafficking, and supported them. Preventing and combating illegal immigration is an absolute and necessary condition to meet the objectives of the Treaty in this area.

The Global Approach to Migration and Mobility

The development of the illegal immigration and its pressure on the EU makes this field to be a priority in the near future for the European Commission and the Member States. Prevention and reduction of illegal migration and human trafficking is the second pillar of operational priorities identified by the European Commission in direction of developing a global approach to migration and mobility[6]. In this respect, it was considered that the legitimacy of any framework of migration and mobility depends on efficient management of illegal migration. Safety and security of the migration are undermined by those who act outside the law framework. Cooperation inside of the EU is essential, as it is the objective of strengthening partnerships with third countries in order to ensure the efficient organization of mobility and migration.

Migration and mobility are part of a more general political, economic, social and security context. On a general security issues, illegal migration, which is based on corruption and inadequate regulation, will be analyzed in relation to organized crime, in violation of the rule of law and no obeying of justice.

Therefore, the Commission underscored the need of the EU to strengthen its foreign policy on migration, by establishing partnerships with third countries to address issues related to migration and mobility in a way that becomes mutually beneficial for the cooperation. For this purpose, reflecting the Stockholm Programme and the Action Plan Program in Stockholm,[7] European Council invited the Commission in its conclusions of

[6] COM(2011) 743 final - The Global Approach to Migration and Mobility

7 Stockholm Programme, Council document 17024/09, adopted by the European Council on December 12, 2009, http://ec.europa.eu/home-affairs/policies/intro/policies_intro_en.htm

June 2011, to present an assessment of the global approach to migration and set the way forward towards achieving a framework which will be more consistent, systematic and strategic for the EU relations with all the relevant third countries.

In this regard, the Commission issued a Communication on the Global Approach to migration and mobility that identifies four pillars on should be based Tackling Migration and mobility in the EU. For this second pillar of the new strategy on migration, the Commission identified the following priorities:

- **Transfer of skills, capabilities and resources to partners**, aimed at preventing and reducing trafficking, smuggling and illegal migration, in order to ensure return and readmission of migrants and strengthen integrated border management. In this respect, the strategy recommends the implementation of directives and sanctions; return should be guaranteed and combined with other relevant measures in close interaction with the partners outside the EU An important role here is given to FRONTEX and immigration liaison officers (ILO) who will expand exchanges with counterparts from several partner countries. There is a need for closer cooperation between the relevant EU agencies, which would allow better information exchange on migration and organized crime.
- **Cooperation on security documents**, opening up a travel visa facilitation of the priority partner countries who move frequently. Citizens of partner countries that have biometric travel documents and high security documents could benefit in easier access to the EU. Forthcoming Commission proposals on smart borders, including a system input / output and a program for registered travelers should prepare for these developments. The next steps is to link the agreements on readmission and visa facilitation agreements as part of EU external policy on migration which will offer third countries, prospects for mobility, yet it will maintain security and reduce risks of illegal migration. Readmission and return should be part of the broader context of the overall approach.
- **Take initiatives to provide better protection for trafficking victims and give them greater power of action.** EU policy on human trafficking is a holistic approach focusing on prevention, prosecution of offenders and protection of victims. An important part is compliance with the international standards in this area, in

action plan for implementation the Stockholm Programme, COM (2010) 171 final of 20 April 2010: http://ec.europa.eu/home-affairs/policies/intro/policies_intro_en.htm.

particular by ratifying and implementing the UN Convention on transnational organized crime and its protocols on trafficking and smuggling. The new integrated strategy on human trafficking (planned for 2012) will ensure closer coordination and greater coherence among the stakeholders.

- accurate **monitoring of the implementation by Member States of the EU directives** and sanctions of return, in close collaboration with the partners.
- **Strategic use of FRONTEX** and developing of new possibilities of better exchange of information between the officers of thematic EU immigration liaison (ILO) and counterparts from several partner countries.

The external dimension of EU policy on preventing and combating illegal immigration

EU foreign policy on migration is also based on legislation and legal instruments of the EU (so far, there are about nine EU agreements on visa facilitation and thirteen EU readmission agreements, plus seven directives on migration both legal and illegal); policy instruments (many political dialogues, often backed up with action plans); operational support and capacity building (included through EU agencies such as Frontex, EASO and ETF and technical support facilities, such as mieux and TAIEX) and a wide range of actions to support programs and projects. All of them are made available to various stakeholders, including civil society, migrant associations and international organizations.

The global approach to migration in relations with the third countries

The Global Approach should not be restricted geographically. Under the EU's overall foreign policy and the reality of migration trends to the EU and its Member States, the European Commission identified several priorities in external relations in the problem of illegal immigration.

The first priority should be the EU Neighbourhood, notably the Southern Mediterranean[8] and the Eastern Partnership (EaP)[9]. Another priority is the EU - Africa Strategic Partnership on Migration, Mobility and Employment[10] by enhancing specific dialogue processes on migration covering a wider geographical range, to the south of the EU. These two

[8] Morocco, Algeria, Tunisia, Libya and Egypt
[9] Ukraine, Belarus, Moldova, Georgia, Armenia and Azerbaijan
[10] Partnership between the EU and all 53 African States

processes need to be further consolidated as the key regional frameworks for this dialogue.

These regional processes are supplemented by existence of specific sub-regional processes that should be aligned as much as possible with the overarching frameworks. EU enlargement remains a separate path, where a committed process helps candidate and potential candidate countries to adapt their national policies and legislative frameworks to the EU *acquis*. Turkey and the Western Balkans countries are developing close partnerships and cooperation with the EU on migration and mobility. Since 2005 approximately 300 migration-related projects in non-EU countries have been funded under various thematic and geographical financial instruments of the European Commission, amounting to a value of € 800 million.

FRONTEX contribution to the management of external relations with the authorities of the third countries

The last two years were years that saw a steady consolidation and further operational implementation of the existing working arrangements, in particular in relation to the continued development of the Western Balkans and Eastern Borders Risk Analysis Networks as well as training and joint operational activities.

As a regional coordinator of migration and border management-related activities in the Western Balkans region, successful negotiations on the drawing up of a working arrangement were held with the Director of the Migration, Asylum, Refugees Regional Initiative (MARRI) Regional Centre in Skopje. Frontex was increasingly involved in the key EU migration / border management- related initiatives such as the Mobility Partnerships, Eastern Partnership, Building Migration Partnerships as well as JAIEX (an information and cooperation group to strengthen external relations between the Justice and Home Affairs Council area and external relations at all levels) and other EU meetings focused on migration cooperation with third countries, e.g. US, the Russian Federation and Western Balkans. Contact was also maintained and input delivered to EU regional programmes and missions in third countries (i.e. EUROMED, EUSBSR, EUBAM, BSRBCC, BSCF, etc.). As part of the general process of increasing cooperation with the relevant international cooperation departments of Member States, a similar Frontex input was also delivered to EU-funded Member States' initiatives such as International Law Enforcement Coordination Units (ILECUs) and the Integrated Border Management project in Serbia.

In the past year, the European Union faced critical situations on its borders, where it had to cope with high flows of illegal migrants. This was and remains a major test for the EU's ability to react quickly and efficiently,

while the Member States most directly affected by the migratory movements have sought assistance in a spirit of solidarity. These latest EU security challenges obviously stressed the need to consolidate and build in future, a common policy in the field of preventing and combating illegal immigration reflected in the ever closer cooperation among national institutions and between them and the EU institutions. To create an area of security, justice and freedom in the EU according to the EU Internal Security Strategy is not possible without preventing and combating illegal immigration through concerted joint efforts of all the Member States and contribution of the partners or neighbors.

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PREVENTIVE MEASURES TAKEN BY THE LAW ENFORCEMENT AGENCIES FOR REDUCING ABUSE OF THE VISA LIBERALIZATION- THE CASE OF FALSE ASYLUM SEEKERS FROM MACEDONIA

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Abstract

With the Decision for visa regime liberalization by the European Union for the citizens of the Republic of Macedonia, on 19.12.2009 Macedonian citizens started to apply the visa-free regime for trips to EU countries (except for Great Britain and Ireland) and three European countries - Norway, Switzerland and Iceland. However, after the introduction of the so-called visa liberalization, in Macedonia immediately appeared certain abuses of this regime and quite quickly was revealed the case of false asylum seekers from Macedonia in the European countries.

Preventive measures taken by the law enforcement agencies for reducing abuse of visa liberalization are the main subject of the paper, in which the authors present the case of fraudulent application for asylum by Macedonian citizens in the EU Member States. For this purpose, first, chronologically are presented the events which preceded, and the conditions which were fulfilled for obtaining visa facilitation; after that terminologically were determined and deferred asylum and visa-free regime and their meaning, and particular emphasis was put on the false asylum seekers. In the problem of abuse and false asylum especially were observed the causes, perpetrators, organizing, manner of execution and consequences. As a result of such an occurrence, the Republic of Macedonia has received more threats related to the eventual abolition of visa liberalization, so that is why the state authorities so urgently approached for taking certain preventive and repressive measures to reduce false asylum claims and abuses arising from such procedures.

Key words: *preventive measures, law enforcement agencies, visa liberalization, abuse, asylum, asylum seeker, Republic of Macedonia, European Union*

Introduction

During the period when Europe marks the 20th anniversary of the fall of the Berlin Wall, the Republic of Macedonia was rewarded for the efforts. There were numerous conditions that were met to obtain the goal which was desired. The European Union abolished the Schengen wall for Macedonian citizens. With the entry into force of the Decision of the Ministerial Council for Justice and Home Affairs for liberalization of the visa regime, Macedonian citizens can now travel without visas in Europe. Starting from 19.12.2009, the citizens of the Republic of Macedonia no longer need a visa to travel to 25 EU member states and three non-EU countries, but part of the Schengen zone. The significance of the visa liberalization[1] for Macedonia is overwhelming. With this, the Republic of Macedonia entered a new period of its history, a period of new opportunities, perspectives, achievements and a chance for greater achievements for the citizens. In the process of integration of Macedonia into the European Union, the visa liberalization is one of the key benefits which has particular practical significance for all our citizens and further Europeanization of the Macedonian society. Since the entry into force of visa liberalization to date, we can conclude that it has contributed for facilitation of the contacts among people, increase of business opportunities, exchange of ideas, and promoting cooperation in all spheres of social life of the Macedonian citizens and the citizens from the EU Schengen countries. This benefit influences on the younger generations in a positive direction, and they are the main carriers of the development of the Republic of Macedonia in the future toward the EU[2]. But do they properly use this benefit?

Each process in existence can realistically be endangered. Thus, visa liberalization soon after its establishment, faced with the risk of its cancellation and return of the old visa system. This was caused by the numerous false asylum seekers who appeared in our country, and who often organized through travel agencies, went to Western countries with the intent there to stay. As a result of all these developments, by the relevant EU

[1] Visa liberalization, downloaded from http://vlada.mk/proekti/vizna-liberalizacija [retrieved 05.01.2012]

[2] Liberalization of the Visa Regime of EU toward RM, downloaded from http://www.mfa.gov.mk/?q=node/147 [retrieved 05.01.2012]

institutions and officials, the Republic of Macedonia received numerous threats for reestablishment of the visa regime. What were the reasons for such events? Were the citizens well informed about the importance and the meaning of the visa liberalization? In which way did Macedonian authorities deal with the new situation? What measures were taken?

Chronology of obtaining the visa liberalization for Macedonia

The following timeline will present the events and activities that took place during the process of obtaining visa liberalization for Macedonia, together with all the conditions which had to be met.[3]

On 01.01.2008 entered into force the Agreement on Visa Facilitation and Readmission Agreement between Macedonia and the European Union. The dialogue on the visa liberalization between Macedonia and the European Commission was officially opened on 20.02.2008, when the main discussion was on the Roadmap for the technical requirements needed for liberalization of the visa regime of the EU for Macedonia.

On 28.11.2008, the European Commission published an Initial Assessment for the requirements of the Roadmap, which stated that Macedonia has made a significant progress in all areas, and is the most advanced of all countries covered by the process. With the publication of the initial report was completed the first phase of dialogue. In order to verify the achievements of the Republic of Macedonia in the relevant areas for visa liberalization, the European Commission carried out two assessment missions with participation of experts from the Member States. With the finalization of the Assessment Missions and the expert meetings, the second phase of the dialogue was completed.

On 11 June 2009, in Brussels, in the framework of the dialogue on visa liberalization was the final high-level meeting between the European Commission and the Republic of Macedonia, on which it was stated that Macedonia has met the roadmap and successfully completed the dialogue on visa liberalization.

The EU Council on 15 June 2009 gave political support to initiate the legal procedure for lifting of the visa regime for countries covered by the process.

[3] The chronology of the events is according to: Liberalization of the Visa Regime of EU toward RM, downloaded from http://www.mfa.gov.mk/?q=node/147 [retrieved 05.01.2012], http://www.macedonianembassy.org/index.php?option=com_content&view=article&id=113%3Avisa-facilitation-agreement&catid=69%3Adocuments&Itemid=83&lang=mk [retrieved 05.01.2012], and http://eu.missions.gov.mk/mkd/nadvoresna-politika/liberalizacija-na-vizniot-rezim-na-eu-kon-rm/ [retrieved 05.01.2012]

On 15 July 2009, the European Commission adopted a proposal for abolition of visas for citizens of Macedonia, Serbia and Montenegro on 01 January 2010.

During 2009, the Republic of Macedonia in order to successfully complete the dialogue on the visa liberalization with the European Commission, had already met most of the requirements.[4]

Within the legal procedure of 12 November 2009, the European Parliament adopted a resolution on the abolition of visas for citizens of Macedonia, Montenegro and Serbia, and overwhelmingly supported the visa liberalization. Pursuant to Resolution (the proposal of the Slovenian MEPs), suggested that the visa liberalization should come into force earlier than planned, i.e. on 19 December 2009.

On 30 November 2009, during the Swedish presidency of the EU, the Council of Ministers for Justice and Home Affairs adopted a Decision on liberalization of the visa regime for EU citizens of the Republic of Macedonia, through the amendment of Regulation 539/2001. On 19 December 2009, the visa-free travel throughout Europe became a reality for citizens of Macedonia. According to the decision, Macedonian citizens who own a biometric passport can travel without a visa for short stay in the Schengen zone. Stay should not exceed 90 days within 180 days from the date of the first entry. Besides the biometric passport for citizens of Macedonia there are other entry requirements that apply to all nations of third countries travelling to the Schengen zone.

What is a visa-free regime, what is asylum?

Visa-free regime implies free travelling of citizens of one country to other countries without being needed a visa. For citizens of the Republic of Macedonia, on 19 December 2009, the visa-free regime was enforced with the Schengen countries, but that does not mean that visas are completely

[4] The Republic of Macedonia is the first country in the region which introduced high-quality biometric passports, identity cards, driving licenses; The strategy for Integrated Border Management in 2003 with an Action Plan is fully implemented, the activities were strengthened in terms of advanced and specialized training of border police; operationalism of digital police radio system TETRA strengthened the cooperation with FRONTEX; visa policy and visa regime have largely been harmonized with the lists of EU, visa Information system was established, linked with more diplomatic and consular representations, and visas have been issued by the visa centre, facilities were strengthened in the area of asylum and migration through the establishment of the Reception Centre for asylum seekers, concrete results were achieved in combating illegal migration, human trafficking, organized crime and corruption, then confirmed report of the U.S. State Department and Transparency International, etc.

abolished (the need for visa for longer stay still applies). Citizens of the Republic of Macedonia without a visa for short stay can travel to:

- 25 member states: Austria, Belgium, Bulgaria, Germany, Greece[5], Denmark, Estonia, Italy, Cyprus, Lithuania, Leetonia, Luxembourg, Malta, Poland, Portugal, Romania, Slovenia, Slovakia, Hungary, Finland, France, Netherlands, Czech Republic, Sweden, Spain.

- 3 non-EU countries as part of the Schengen zone: Iceland, Norway and Switzerland.

For travelling into the United Kingdom and Ireland, which are Member States of the EU but not part of the Schengen zone, for Macedonian citizens visa is still required.

Besides the biometric passport[6] there are other conditions[7] that apply to all citizens of third countries travelling to the Schengen zone, which of course applies to the citizens of Macedonia, too. Citizens of the Republic of Macedonia can be denied entry into the Schengen zone unless they meet the entry requirements, which are entitled to receive a reasoned decision in written form issued by the authority, empowered under the national law to deny entry. A citizen of the Republic of Macedonia, who has been denied entry, has the right to appeal on this decision, but this does not delay its execution. For a stay in the Schengen zone longer than 90 days due to employment, study or for a longer private stay, citizens of Macedonia have to apply for a long term visa or a residence permit at the nearest embassy or consulate of the country of destination.[8]

Asylum is a term that describes the legal and political protection which is granted to those refugees who feel founded fear of persecution due to their belonging to a particular race, nation, because of their skin colour, religious beliefs, belonging to a political association or because of their different political opinion. Asylum seekers must prove the founded fear of

[5] As regards to Greece, the border crossings are a special procedure applies. Greek border officials do not put stamps on entry and exit in the passports of passengers with Macedonian passport, but on a separate sheet which is issued to travellers at the border crossings. Holders of this document are obliged to carry it, not only when travelling in Greece, but when travelling within the Schengen zone and also have the obligation to keep it for one year after its last use.

[6] The inhabitants of the Republic of Macedonia who have a passport that is biometric can travel in the Schengen zone, but when it should have provided a valid Schengen visa from the consular offices of the countries of the Schengen zone in Macedonia.

[7] They are linked to possession of sufficient funds for duration of stay and return to Macedonia, having evidence about the purpose and conditions of intended stay, then determining that the passengers did not exceed the maximum length of authorized stay, that passengers are not considered a threat to the public order, public health or internal security, and that they do not possess warnings to refuse their entry.

[8] Liberalization of the Visa Regime of EU toward RM, downloaded from http://www.mfa.gov.mk/?q=node/147 [retrieved 05.01.2012]

persecution. Asylum belongs to the fundamental human rights specified in the Universal Declaration of Human Rights in Art. 14, according to which this right is to be sought by and granted to the people who fled to another country for various types of persecution from their country of origin. This right cannot be required by persons who are charged by their countries of origin, for political offenses or for offenses which are contrary to the purposes and principles of the United Nations. People who have the right to asylum are refugees, their status is recognized by the international laws[9], and refers to every person who is outside their country and cannot return because of a founded fear that they will be subjected to violence or persecution. Recognition of such a legal status is achieved in countries that have signed special agreements with the United Nations or by UNHCR. The right to asylum is guaranteed by Art.18 of the Chapter for fundamental rights of the European Union. Otherwise, the terms asylum seekers and refugees are often confusing[10]: asylum seeker is someone who claims to be a refugee but whose claim has not been definitely decided. Those who, through the adequate procedures of the law systems for asylum are assessed not to be real refugees and do not require any form of international protection, may be sent back to their countries. The efficiency of the asylum system is crucial. If the asylum system is fast and fair, then people who know they are not refugees have little incentive to apply for asylum, and thus benefit the host and refugee system that is intended to help the ones who really need help.

False asylum seekers from Macedonia

According to the Agency for Refugees of the United Nations UNHCR[11], the number of asylum seekers originating from Macedonia, in 2010 increased by 599%, compared to 2009. The concrete number of Macedonian citizens, who, in 2010 sought asylum mostly in the European countries, is 6400 people. This figure is six times bigger than in 2009, when the number of Macedonians who sought asylum was only 910 citizens. On the list of the asylum seekers which was prepared by the UNHCR, Macedonians came to the first place. Second on this list were Serbians, with increasing number of asylum seekers for 54%. In 2010, 28900 people from Serbia requested asylum, while in 2009, only 18800. According to UNHCR,

[9] Art. 1, The United Nations Convention Relating to the Status of Refugees, Geneva, 1951

[10] Asylum seekers, downloaded from http://www.unhcr.org/pages/49c3646c137.html [retrieved 20.01.2012]

[11] According to the report of UNHCR for 2010, the number of asylum seekers increased to 600 %, 29. 03. 2011, downloaded from http://www.vest.com.mk/?ItemID=2BCEC6DD0EC6174992266867FE3F74BC [retrieved 05.01.2012]

this increase of the number of asylum seekers was due to the removal of the visa regime in December 2009. Macedonia in 2009 was on the 62nd place on the list of asylum seekers, while in 2010 climbed to the 14th place on this list. UNHCR report shows that south Europe remains the largest source of asylum seekers, since in 2010 there were 19% more applicants for asylum than in 2009.

During 2010, the Member States experienced two waves[12] of alarming increase of unfounded asylum claims from Serbia and, to a smaller extent, from Macedonia. Existing disparities in asylum procedures and the type of care offered to the asylum seekers had a great influence on the geographic distribution of requests for asylum. Most asylum applications were filed in only three Member States (Belgium, Sweden and Germany).

The first asylum wave began in December 2009, with the main objective being Belgium. It reached its peak in March 2010, when nearly 2,500 asylum applications were submitted, half of them in Sweden. Once the issue was addressed in the most affected Member States in cooperation with Serbia and Macedonia, requests for asylum in Sweden, Norway and Belgium began to decrease.

The second wave began in the second half of August 2010, with almost 58% of asylum claims lodged out in the last four months of 2010. The second wave showed to be two and a half times bigger than the first. Nine out of ten applications in the second wave were filed in Sweden, Germany or Belgium. It is important that, during the last four months of 2010, Germany has surpassed Sweden to become the top destination for asylum seekers for Serbians and Macedonians.

According to statistics of FRONTEX (European Agency for Border Security), in Sweden in 2010 were submitted 722 requests for asylum from Macedonian citizens, of which positively were resolved only two. Target countries were Sweden, Belgium, Germany and Switzerland. In Switzerland, however, as of July 2010 in the asylum procedures were 432 applications, and none of them was approved. In June 2011 were registered over one hundred requests for asylum from Macedonian citizens in the Schengen zone; in July 2011 about 80, and August 2011, only about a dozen requests. Only in September 2010 several hundred Macedonians, mostly of Roma minority, sought asylum in the developed EU countries. In October 2010, however, over 500 people travelled to Germany, to Sweden over 200, and a similar number to Belgium, with the purpose to stay there and seek asylum.

[12] European Agency for Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), Western Balkans Annual Risk Analysis 2011, Warsaw, 2011, pp. 23-24, downloaded from http://www.frontex.europa.eu/situation_at_the_external_border/art24.html [retrieved 20.01.2012]

Most of them were from Sutka, Kumanovo and Radovis, but there were asylum seekers also from Skopje, Prilep and Bitola.

Major role in the abuse of the visa liberalization and false asylum seekers played some travel agencies and carriers. The main street which goes through the famous Suto Orizari in Skopje, mainly inhabited by poor Rome families, was full of posters with offers for shopping tours to Belgium or Germany for only 130 €, but in one direction. Every Saturday at 2am, people went to these countries by buses and, by rule, 70 % of the passengers remained and asked for social welfare benefits[13]. These agencies offering transportation to the poor and easily manipulated Roma people made huge sums of profit, but this trend was ceased as soon as it was noticed by the authorities.

Results from the abuse of the visa liberalization

Republic of Macedonia[14] received numerous threats by the Western countries to help fight against the abuse of the visa liberalization and the fraudulent applications for asylum. The existence of abuse of the visa liberalization and dramatic increase in asylum applications of persons from the Western Balkans has been recognized by the EC[15]. Due to the increased number of false asylum seekers, mainly Roma, Western Europe was concerned and asked the countries of Western Balkans to implement stronger campaigns to raise awareness and information about the obligations and the rights arising from the visa liberalization. At the meeting of ministers at the Forum EU - Western Balkans in Ohrid, participants discussed this issue, searching for a common solution which would help in short or in long terms. Carefully were observed and discussed statistics of the false asylum seekers, in order to define recommendations of how to address these issues and the possibility that the European Parliament and the Council of Ministers could abolish the visa-free regime was emphasised in case if the growth of demand seekers in Europe of people from the region was not going to cease.

[13] Sharp measures for the false asylum seekers, 13.05.2011, downloaded from http://www.mxradio.com.mk/index.php?option=com_content&view=article&id=4984:o-----&catid=83:makedonija&Itemid=460 [retrieved 10.01.2012]

[14] "The return of asylum seekers, do not cost the state money but reputation as countries from which asylum seekers come, cover material costs, but the reputation of the Republic of Macedonia is more important than any material costs." Statement of the Macedonian Ministry of Internal Affairs, Gordana Jankulovska, Information on Visa Liberalization, 20.05.2011, downloaded from http://www.makdenes.org/content/article/24180930.html [retrieved 05.01.2012]

[15] Jovanoski, M., Visa Liberalization on "review" of EU, downloaded from http://www.dw-world.de/dw/article/0,,15434293,00.html [retrieved 10.01.2012]

But, the subsequent events and statements of the Euro officials showed some contradictions. EC urged Macedonia to deal with abuses of the visa liberalization. On the other hand the Commissioner for Human Rights at the Council of Europe, Thomas Hamarberg[16] noted that the pressures from the EU countries on the Balkans to violate the fundamental rights of the other citizens, the ones who did not intend to seek asylum but only lawfully use the right to travel in the time framework permitted, was left unconstructive to some extent. Although states have legitimate authority to regulate immigration, the right of every individual to go abroad is established as a fundamental right guaranteed by the Universal Declaration of Human Rights. European Convention on Human Rights (cursed no. 4, Article 2) guarantees: "Every person is free to leave any country including his own." That right is guaranteed in the constitutions of the Balkan states and the Republic of Macedonia (Macedonian Constitution, Art. 27 Para. 2).

Preventive measures against the abuses of the visa liberalization

The High Committee for monitoring of implementation of the visa liberalization situation of asylum seekers[17] in April 2011 defined some specific measures, which include the document "Plan of measures and actions to combat the trend of asylum seekers from April to September 2011". These measures are grouped into several categories: operational measures, information campaigns to raise public awareness, intensified cooperation with the concerned countries of the EU / Schengen zone and additional measures related to improvement of the socio-economic conditions of the Roma community[18]. The Government's first measures were preventive, where police inspectors from the Ministry of Interior of our country were to explain to the citizens what exactly the visa liberalization means, and what the consequences of its abuse could be; Other steps that the Government could take is to work to improve the living conditions in areas from where the most of the asylum seekers appeared. The limits were strict, the control was harsh, and a large number of citizens who could not prove

[16] Glamcevski, T., Hamarberg: The Threats of Reviewing of the Visa Liberalization are non-constructive, 23.11.2011, downloaded from http://www.dw-world.de/dw/article/0,,15549889,00.html [retrieved on 05.01.2012]

[17] The High Committee was formed in 2010 after the rush of immigrants immediately after the visa liberalization in December 2009. On its top was the Minister of Foreign Affairs as well as deputy Prime Ministers for integration and implementation of the Framework Agreement and the ministers of interior, justice, labour and social policy, and a Minister without portfolio.

[18] A meeting of the High Committee for Monitoring the Conduction of the Visa Liberalization and the situation with the asylum seekers, 22.08.2011, downloaded from http://www.mfa.gov.mk/?q=node/266 [retrieved 20.01.2012]

they go touring, were not allowed to leave the country.[19] The Monitoring Committee of the visa liberalization situation of asylum seekers found that the measures taken by state institutions to prevent abuses of the visa liberalization gave results and the number of asylum seekers from Macedonia in the EU countries was reduced. In 4 months, the number of asylum seekers from Macedonia was reduced by 70 times. 725's asylum in April 2011 in 5 European countries in August 2011 was reduced to only 10 requests, all in Sweden.

Table 1. **False asylum seekers returned to Macedonia in the period April-December 2011 and prohibition of leaving the country in the period May-December 2011 and their nationality**

	TOTAL	*Roma*	*Albanians*	*Macedonians*	*Serbs*	*Others*
False asylum seekers returned to Macedonia	1.107	515	423	149	-	20
Prohibition of leaving the country	2.573	2.084	335	143	4	-

According to the records of the Interior of the Republic of Macedonia[20] in the period from April to December 2011, a total of 1.107 passengers - asylum seekers returned to Macedonia. 515 of them were Roma, 423 Albanians, 149 Macedonians and 20 other nationalities. In 457 cases the reason for returning was the refusal of asylum in any European country. As a result of the efforts of the Macedonian authorities to reduce the number of false asylum seekers, 2.573 citizens were not allowed to leave the country in the period from May to December 2011. The distribution by ethnicity is as follows: 2.084 are Roma, 335 are Albanians, 143 Macedonians and 4 Serbs (Table 1).

[19] The measures for stopping the fraudulent asylum seekers gave results, numbers of Macedonian asylum seekers brought to minimum, 23.08.2011, бр. 14773, downloaded from http://www.vecer.com.mk/?ItemID=272EF7D416A3104FB18F151B332BF295 [retrieved 10.01.2012]

[20] The data are from the Ministry of Interior of the Republic of Macedonia

Table 2. **Places where false asylum seekers were caught when they wanted to leave the country in the period from May to December 2011**

places	*people*
border crossing Tabanovce	1.887
Dolno Blace	332
Skopje Airport	266
Jazince	4
Tabanovce	4
total	**2.573**

1.887 of returns occurred at the border crossing Tabanovce, 332 at Dolno Blace, 266 at Skopje Airport and 4 at Jazince and Tabanovce (Table 2).

Table 3. **Transport means which false asylum seekers used when they wanted to leave the country in the period from May to December 2011**

Transport means	*people*
passenger motor vehicle	831
regular bus line	775
bus	370
airplane	266
minibus	205
On foot	74
train	51
truck	1
total	**2.573**

When leaving the country, as to the transport means, false asylum seekers used passenger motor vehicles (in 831 cases), regular bus lines (in 775 cases), organized group buses (in 370 cases), airplane (in 266 cases), minibus (in 205 cases), on foot (74 cases), by train (in 51 cases) and truck (in 1 case) (Table 3).

Table 4. **Sex of the false asylum seekers who wanted to leave the country in the period from May to December 2011**

sex	*people*
Male	1.678
Female	895
total	**2.573**

1.678 citizens who were prohibited to exit the country were men, and 895 women (Table 4).

Table 5. **Age of the false asylum seekers who wanted to leave the country in the period from May to December 2011**

age	*people*
20 years	944
20-30	720
30-40	478
40-50	308
50-60	97
over 60 years	26
total	**2.573**

In terms of age, the most numerous persons were around 20 years old (944), followed by the categories of 20-30 years (720), from 30-40 years (478), from 40-50 years (308), by 50-60 years (97) and over 60 years (26) (Table 5).

Table 6. **Places of living of the false asylum seekers who wanted to leave the country in the period from May to December 2011**

place of living	*people*
Kumanovo	503
Suto Orizari	346
Bitola	232
Stip	154
Prilep	108
Kocani	104
Veles	101
other	1.025
total	**2.573**

By the town of their origin, the most numerous were people from Kumanovo (503), Suto Orizari (346), Bitola (232), Stip (154), Prilep (108), Kocani (104), Veles (101) and the rest came from other towns of the country (Table 6).

One of the preventive measures were taken is education, because it is very important future asylum seekers to be informed about what it means for visa liberalization, and that can get in Western Europe, before they decide to go there. Campaigns at the local level also contributed to reducing abuses. Macedonian authorities, along with guests - Officials from Belgium visited Tetovo, Kumanovo and Suto Orizari in areas where the largest number of asylum seekers, where discussed with the local population, but also with municipal authorities, in order to prevent the occurrence. Persons in the future wish to seek asylum should know that they cannot obtain economic asylum, as required, or to work there. While the local authorities are considering applications, asylum seekers are housed at the shelter centres, and after a final decision, people come back from that state that they originate.

Measures of MOI are in 2 directions - prevention and control, but sometimes penalties are the best lesson. Interior of the Republic made a promise that the competent authorities will use all mechanism, resources and means to punish those who abuse the visa liberalization. Macedonian

Ministry of Interior as part of actions to prevent abuse of visa liberalization, past, committed a series controls on travel agencies, airlines and border crossings. Since the controls in 87 agencies and 65 carriers A total of 13 sanctions were imposed, some of them money, and one of the agencies was also closed at 15 days.

However, in future there is need for a concrete demonstration of continued commitment to combating this unwanted phenomenon. Must proceed with more intensive campaign to raise awareness among the population, especially in affected regions of origin, and simultaneously, and greater activity of the representatives of the government to present measures to suppress the occurrence of the asylum seekers aimed at deterring people from abuse right of asylum. It takes the intensity of all activities associated with implementation of information campaigns and their proper presentation to the public. We must fully implement socio-economic measures to improve the living conditions of vulnerable groups particularly the Roma.

Criminal legal interventions

The Ministry of Justice drafted amendments to the Criminal Code of the Republic of Macedonia and forwarded to the Parliament of the Republic of Macedonia, which in September 2011 voted. They envisage a new criminal offense abuse of the visa regime with the Member States of the European Union and the Schengen agreement[21]. Amendments to the Criminal Code, and that fraud asylum becomes a crime, is the last most rigorous step before the suppression of Macedonian asylum seekers, in order to preserve the major fall out of asylum seekers to countries of the Schengen zone.

This criminal act is scheduled to be incriminated in the art. 418-d of the Criminal Code of the Republic of Macedonia, in a chapter titled Crimes against Humanity and International Law. It is sanctioned offender who recruits, encourages, organizes, harbours or transports persons in a Member State of the European Union and the Schengen agreement, for acquisition or realization of social, economic or other rights, contrary to the European Union law, the regulations state States of the European Union and the Schengen agreement and international law. For this form of crime and sentenced to imprisonment of at least four years. If the work is done from cupidity prescribes imprisonment of at least eight years. If the offender was obliged and able to know that the ride is made for the acquisition or exercise

[21] Art. 1, Law Amending the Criminal Code (Government Gazette of the Republic of Macedonia, No. 135 from 03.10.2011)

of the foregoing rights, contrary to European Union law, the regulations of the Member States of the European Union and the Schengen agreement and international law, then it provides a penalty imprisonment of one to five years. Also provided is the responsibility of legal persons (carriers, travel agencies, etc.) That recruits, encourages, organizes, harbours or transports persons in a Member State of the European Union and the Schengen agreement contrary to the law of the European Union and International Law which envisages a fine of up to 30 million denars. It provides for seizure of objects and vehicles that are used to carry the offense, which includes passport.

The new criminal legal interventions should create criminal and legal mechanisms to prevent abuse of the rights of visa-free regime with the Member States of the European Union and the Schengen agreement.

Conclusion

Visa liberalization is one of the biggest successes in the relations between the Western Balkans and the European Union. Liberalization allows citizens of the region and the Union to attend to meet and thus to strengthen economic, cultural and other cooperation. With this step the citizens of the Republic of Macedonia closer to the benefits of the European idea. This is a great success for the citizens and institutions of the Republic of Macedonia, because the success of the European idea in Macedonia. Possibilities which open before the state and citizens are enormous because of modern European states and capitals of European principles and values, there will be much to see, learn, will derive many new ideas, we can compare to compete more easily we can implement positive European features. Macedonia turns new leaf in its European chapter.

However, after the introduction of so-called visa liberalization in Macedonia immediately appeared certain abuses of this regime and quite quickly revealed the case of false asylum seekers from Macedonia in European countries. The consequences of the misuse of asylum and visa liberalization can be a huge detriment to all that Macedonia in recent years has filled in order to get that relief. Returning back to visas is returning step back into Euro-Atlantic integration. Macedonian authorities for this situation took a series of measures to prevent abuses of the visa liberalization and false asylum. Thus, developing an awareness of the visa regime does not mean an opportunity for asylum in the Schengen countries, education and penalties for Macedonian asylum seekers significantly reduced the number of applicants from the country. This is confirmed by the European statistics.

But what should be done in future in order not to lose visa-free regime? If Macedonia loses visa liberalization with further future abuses and

false asylum seekers in European countries, it would mean a setback of Euro-Atlantic integration and from the beginning of all successfully completed integration processes that have worked long and quite hard. In order not happen all that in the future should be implemented preventive measures taken by the High Committee, and constantly monitoring the situation closely if new waves of false asylum seekers occurs. The most important, thus, is a timely action in such cases, the principle that in case of false Macedonian asylum seekers were not paid enough attention by the authorities. Due to the untimely taking measures Macedonia almost could not lose what has long worked. The criminalization of a new criminal offense related to abuse of the visa liberalization only further contributes to the prevention of future abuses. In such conditions, if all necessary measures to prevent misuse are set up, it is necessary only their professional and full implementation. And time is it that will show whether such measures will bear fruit in the future and will prevent negative occurrences that break down the reputation of our country.

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CREATING POLITICS AND PREVENTION FROM ECO-RISKS AND DEALING WITH CONSEQUENCES FROM ECOLOGICAL ACCIDENTS AND CATASTROPHES

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Abstract

Security risks inside national and world frames present serious threats in relation with what the authorized law enforcement agencies take measures and activities in order to deal with crisis situations. Crisis situations can be from different kinds, and are referring to certain serious and sophisticating kinds of criminal, most often organized from organized criminal groups; terrorist acts; natural disasters etc. In Republic of Macedonia at the national legislative level, certain documents were legislated, which regulate this matter such as: Law on Crisis; National strategy for security and defense in Republic of Macedonia; Republic of Macedonia national platform for decreasing the risks of accidents and catastrophes, etc.

Inside frames of acting of the authority services and bodies it is necessary to take measures and activities in the part of protection of the environment, especially protection of the resources for pristine continuation of everyday life of the population in time of crisis. In the field of dealing with risks with the National platform, in cases of ecological risks and risks in the domain of agriculture, forestry and water management are predicted.

The author of this paperwork analyses the platform for acting in certain cases in the part of eco-risks, and gives own proposal measures for creating policies for successful dealing with these exceptional important safety risks in the Republic of Macedonia.

***Keywords**: crisis, eco-crisis; acting; security; environment, etc.*

Introduction

Ecological threats present a part of overall world treats that effect not only to personal, national, but also to international security. Certain local ecological problems become global problems, for example: illegal woodcutting, wasting of the ozone; global warming; constant organic polluters; desertification etc. Global warming, for example effects on the level rise of the oceans representing great threats for humanity and state

security. Woodcutting worsens the global warming and presents a factor for certain catastrophes like landslides.

Tenth biggest security threats initiated from the global warming are: more often and longer hot waves, often droughts, coast floods as a result of the higher sea level, reduction of the harvest because of the lower rainfalls, north and south spreading of tropical diseases, increased rate of diseases brought by water in flooded areas, ocean pollution because of the effect of the carbon dioxide on the fish market, often and bigger floods of rivers in rainy seasons caused by glacier melting/reduction of water supply in dry periods, increased occurrence of fires and strong storms.[1]

Besides above-mentioned threats, we can number also the following ecological threats: climate changes and global warming, impoverishing of the ozone layer, ecological refugees, food safety, demographic growth, the oil, natural gas and the water as a natural strategic resources and sources of conflicts, war factor as a destructor of the environment, woodcutting and technical-technological and natural catastrophes.[2]

As a result of these environmental endangered conditions and having security and other implications as on inside and outside plan, taking measures and activities for prevention and their restoration of certain threats and conditions is necessary. Namely, managing of ecological catastrophes and crisis events is needed, with the purpose of decreasing their effect on the environment.[3] For that purpose, Macedonian authorities and institutions are taking measures and activities for acting in these kinds of crisis situations, especially the Crisis Management Center. Of great importance is the National Platform of Republic of Macedonia for reducing the risks from accidents and catastrophes that presents national frame for acting of the responsible authorities for managing in crisis situations.

Dealing with crisis in Republic of Macedonia

[1] Hugh , "View on Global Security" Tabernakul, Skopje, page 77.

[2] T.Milevski ,"Ecological safety" Skopje,2006,page 39.

[3] More characteristic appearances of lower or higher intensity can happen on the territory of the Republic or in some certain parts, and they are connected with the following risks: Earthquakes and effects caused by them, as landsliding thrusts etc; Floods, caused by overflows of natural watercourses, destruction of dams and accumulations and apperance of heavy and torrent rains; Fires on open space endangering the forests, pastures and agricultural cultures, fires in an urban area and facilities; extreme weather conditions, as a consequence of the global climate changes, resulting in low temperatures and freeze, high temperatures and droughts in summer and appearances of thunderstorms, hail and torrent rains. "Crisis Managing System, Citizens' Manual"
http://www.preventionweb.net/files/13371_PriracnikUpravuvanjesokrizi1.pdf

For successful dealing of the authorities in crisis and crisis situations,[4] National Platform was made in Republic of Macedonia all with aim for reducing the risks from accidents and catastrophes, that presents basic law frame for Crisis Managing Center and other authorities' acting. Also in the National Platform other separate platforms for prevention of different risks are included and for each of them coordinating advice, national commissions, membership in the councils and other details in relation with the functioning of the separate platforms are predicted. Separate platforms in the frame of the National Platform are included:

1. Platform for prevention and dealing with epidemics;
2. Platform for medical treatment in the context of mass injuries during accidents and catastrophes;
3. Platform for mental hygiene and psychological treatment (in the context of suffered stress and trauma as a result of accidents and catastrophes);
4. Platform for water and food security;
5. Platform for prevention and dealing with eco-hazard and ABC contamination;
6. Platform for protection of natural rarities and values;
7. Platform for prevention and dealing with epizootics;
8. Platform for prevention and dealing with epiphytes;
9. Platform for prevention and dealing with forest fires;
10. Platform for coordination in cases of extremely high temperatures and drought;
11. Platform for coordination in cases of torrential rain falls, strong winds and hail;
12. Platform for dealing with flood and land sliding;
13. Platform for dealing with earthquakes;
14. Platform for coordination in extremely low temperatures, ice, torrential snowfalls and snowstorm;
15. Platform for prevention and dealing with risks in the domain of critical communal infrastructure;

[4] " Crisis is a state of threatened basic appearances, permanent or vital interests and goals of the country, in other words the constitutional system and the safety of Republic of Macedonia is threatened. Crisis situation is a condition caused by risks and dangers that can endangered the goods, the health of the people and animals and the security in the Republic, for which prevention and/or acting huge range of resources is needed " Article 3 from the Law on Dealing with Crisis (Official Gazette of R.M no. 29/05) http://www.cuk.gov.mk/images/stories/zakon%20za%20upravuvane%20so%20krizi.pdf

16. Platform for prevention and dealing with risks in the domain of jeopardizing the safety of public and housing facilities;
17. Platform for security of traffic infrastructure and dealing with the consequences from big traffic accidents and catastrophes;
18. Platform for prevention and dealing with the consequences from accidents in the domain of critical infrastructure – telecommunication and information networks;
19. Platform for prevention and dealing with the consequences from accidents in the domain of critical infrastructure – energetic;
20. Platform for coordination during mine accidents;
21. Platform for protection of the cultural material heritage.[5]

In regular structure of the coordinative councils, formed for separate platforms, the Minister of Environment and Physical Planning is a member and also manages the coordinative council for prevention from eco-risks and dealing with the consequences from ecological accidents and catastrophes. Also, the director of the Environmental Administration and the State Inspectorate for the Environment take part in the acting of these councils.

In cases of ecological accidents and catastrophes other managers take part directly in acting in these kinds of conditions.[6]

The coordinative structure manager of the separate platform for prevention from eco-risks and dealing with the consequences from ecological accidents and catastrophes, the Minister of Environment and Physical Planning can determine and form National commissions for separate questions like national commission for:

- Prevention and dealing with consequences from aero pollution;
- Prevention and dealing with consequences from water pollution;
- Prevention and dealing with consequences from soil pollution;

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5 http://www.cuk.gov.mk/index.php?option=com_content&view=article&id=1039%3Apoedinecni-platformi&catid=94%3A2009-05-19-09-02-16&Itemid=301&lang=mk

6 Those are: Ministers of Agriculture, Forestry and Water management, Ministers of Interior and Finance; Directors of the Directorate for environment at the MEPP, Directorate for forestry and hunting at the MAFWM, Forest police at the MAFWM, Bureau for education at the MES (Ministry of education and science), Bureau for educational development at the MES, Customs Directorate in Macedonia at the MF. From the directors of self-governing bodies of the state administration, public companies, institutions and services, the director of the Centar for dealing in crisis is taking part, and from the inspectoral supervision- directors and the managers of the Environmental State Inspectorate at the MEPP and State Inspectorate for forestry and hunting at the MAFWM.

- Prevention and dealing with consequences from biodiversity;
- Prevention and dealing with consequences from the global warming and climate changes;
- Prevention and dealing with consequences from incidents in the domain of the infrastructure: dumping ground and postponement of the garbage;
- Prevention and dealing with consequences from breakdowns in industrials facilities and refineries and
- Prevention and dealing with consequences from accidents in industrial warehouses for dangerous materials.

In connection with the cases of ecological accidents and catastrophes[7] it's necessary to act in:

- Preparation of a working plan and action plan for conduction of the working program of the separate platform for prevention from eco-risks and dealing with the consequences from ecological accidents and catastrophes;
- Preparation of strategy for dealing with the consequences from ecological accidents and catastrophes;
- Taking into consideration the permanent institutional policies in the field of dealing with the consequences from accidents and catastrophes, their upgrading and creating new policies (in the sense of strategy transformation in particular steps)
- Determination of the need for adaptation of constant legislative and adopting new law solutions for implementation of the previous mentioned policies;
- Preparation of methodologies for: evaluation of risks and dangers and their consequences, mapping risk and dangers, monitoring of risks and dangers;
- Determination of standard operational procedures (S.O.P) for regular acting in the frames of responsible bodies in the meaning of monitoring the situation, organizing and preparing for action in a case of a need; for acting of the institution under circumstances different

[7] This is coming from " the National platform and conclusions from the 77th Government session, the role and the tasks of the Coordinative Council of the Platform for prevention from eco-risks and dealing with the consequences from ecological accidents and catastrophes, coordinated with the Ministry of Environment and Physical Planning with cooperation with CMC as the most professional institution" www.cuk.gov.mk

than the normal ones; as well as for securing interoperation to all readers directly engaged in the dealing with the event.[8]

Prevention of eco risks

In order to prevent and deal with ecological risks, determining of a general strategy related to specific risk is needed. The general strategy also determines the functional strategies: strategy for prevention, strategy for reaction and strategy for reviving of the normal situation. In order one strategy to be realized, defining of the policies is needed, determining the way of carrying through the strategies from the specific domains, actually how they are going to be transformed in specific steps. In accordance with the policies the strategy of implementation is determined, as well as programs and projects for implementation of the policies. All this is conditioned by the legislative, actually bringing laws and subordinate regulations, with what the policies are transformed into laws and subordinate regulations.[9]

In accordance with the prevention the basic doctrinal attitude "prevention and early warning are the base for total obstruction or for obstruction of disastrous consequences from accidents caused by nature or by human. And it should also be emphasized the readiness of each of the subjects and the capability for their mutual coordinative and fast acting as they are presumption for decrease of the consequences and for fast normalization of life"[10].

Reviving into normal state is a characteristic for ecological catastrophes, because except the restoration of the catastrophe that can be caused by pollution, flood, earthquake, fire etc., the restitution is also important. Namely physical, but and legal entities, that can be a victim of ecological catastrophes have the right from the causer of that catastrophe to ask to restore the environment or to ask for a compensation.[11]

When the condition of the victims from ecological catastrophes is improving also the principle of a holding development can be enabled. Therefore, the tension between the economical development[12] and the

[8] http://cuk.gov.mk/index.php?option=com_content&view=article&id=915&lang=en

[9] National Platform for decreasing of risks from accidents and catastrophes (upgraded version, brought on 19.11.2009 from the managing committee in extended structure.

[10] Ibid.

[11] See more: Marina Malis Sazdovska , "Ecological Criminology" Solaris print 2009, page 120.

[12] Economical development is in a direct bond with the implementation of the environmental standards, firstly the goal of one business is to avoid expenses connected with any industrial accident, boycott of clients or ecological lawsuit…" Philip Kotler, John A. Kaslione " Chaos - managing and marketing in turbulent times" Capital media group, 2009, page 35.

satisfaction of the human needs will be decreased therefore respecting the ecological laws and needs.[13]

With the prevention of crisis and crisis situations, establishing of the prediction of the crisis is needed. Prediction is one of the characteristics of the crisis, and these crisis situations are always followed by the question if it could be predicted. According to Berry Turner during the studying of the crisis, bad managing and omissions in the period of the incubation of the crisis should be taken into consideration. He also points out that catastrophes and big incidents often can be predicted, and not only in an abstract sense.[14]

There is also a need of evaluation of the escalation and phases of development of the crisis, as a warning because crisis can also turn into a threat against the peace and the security. Evaluation is a basic condition in order to determine techniques and instruments for dealing with crisis.[15]

In order reducing the risks from accidents and catastrophes, evaluations and scenarios are being made. During the risks evaluation, appearances implying risk and danger, resistance and vulnerability of the community, the capacity of the authorities, financial implications and other factors are taken into consideration. For successful prevention and dealing with the risks it is necessary to engage experienced and professional people who have the potential of making an adequate risk evaluation for taking measures and activities in order to prevent and deal with risks.

Therefore managing with human recourses and making teams which in cases of crisis will be able to engage maximum professional and successful standard operational procedures for prevention and dealing with the crisis. Except the human recourses also technical, financial and other recourses are needed for completion of the conditions for successful action. Also, of great importance is the way of making decisions in crisis situations, as well as, the way of managing them.[16]

Based on the evaluations of risks and dangers, also preparation plans, prevention and operational plans will be made which will precise the measures and activities that will be used for prevention of crisis and dealing with them.

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[13] For sustainable development and ecological ethics see: Marina Malis Sazdovska "International Standards and practice for protection of the environment" Faculty of Security – Skopje, 2010, pp.21 and 103.

[14] Z Kekovic, Z Kesetovic "Crisis management and prevention, Hrestomatia " Faculty of Security, Belgrade, 2006 p. 53.

[15] Mitrevska M. "Crisis management ", Faculty of Philosophy – Skopje 2008, page 28.

[16] Malis Sazdovska M., Dujovski N., "Security management" Faculty of Security, Van Gog, 2009.

Creating policies for prevention and dealing with crisis

For successful dealing with ecological accidents and catastrophes, the authority organizations and institutions should take measures and activities, planned and in continuity, for efficient training of the personnel and equipped with technical instruments used in crisis situations. Though, governments should make appropriate plans and programs for acting in crisis situations, and to entrust the institutions and services authorized for crisis situations. That implies creating policies in order building conditions for their successful application.[17]

During the creation of the policies[18] different solution will be taken into consideration, but we have to make a decision which one will have the priority, and will that be the best solution. The decision for the best solution should be brought according to the evaluation of the possible solutions. That evaluation should be based on criteria which allow us, not only a choice of option that is the most appropriate for us but also gives us arguments that allow us to represent the choice we have chosen.[19]

The way of managing and making solutions in cases of crisis and crisis situation, as well as the levels of response should also be established. From great importance is the managing place – command post[20] and the way of its functioning. We have multi-agency approach in cases of team work and dealing with crisis situations.

Conclusion

Crisis situations are especially important situations in the sphere of safety and because of their successful prevention, adequate creating of policies is needed. Namely, defining strategies in the frames of policies that create possibilities for realization of the already made plans of acting.

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[17] Public policies can be defined as "what governments decide to or not to do" see more: How to gain effective public policies, Counselor's guide for Middle and East Europe, Oven Jang and Lisa Kwin http://soros.org.mk/dokumenti/EJP-mak.pdf (brought on 27.02.2012).

[18] „Although only a few may originate a policy, we are able to judge it" , Pericles 430 BC.

[19] "Manual for analysis of public policies" ALDI civil association for local development initiative January, 2007, page 11. http://www.aldi.ba/files/Prirucnik%20za%20analizu%20javnih%20politika%20.pdf [brought on 6.12.2011].

[20] See more: Malis Sazdovska M. "Managing in critical incidents "Horizons, year 5, no.5 December 2009, page 205.

Because the actions for prevention and dealing with crisis situations are taken over by different bodies and institutions, collaboration among them is necessary for successful field actions. Therefore, they need adequate personnel training, technical equipment, realization of training scenarios etc. Only in this way they can create appropriate protective system concerning the reaction and support of the authority bodies and institutions obliged to act in conditions of crisis.

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„КРЕИРАЊЕ ПОЛИТИКИ ЗА ПРЕВЕНЦИЈА ОД ЕКО-РИЗИЦИ И СПРАВУВАЊЕ СО ПОСЛЕДИЦИ ОД ЕКОЛОШКИ НЕСРЕЌИ И КАТАСТРОФИ"

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Безбедносните ризици во национални и во светски рамки претставуваат сериозни закани во врска со кои надлежните агенции за спроведување на законот преземаат мерки и активности со цел справување со кризните ситуации. Кризните ситуации можат да бидат од најразличен вид, а се однесуваат на одредени сериозни и софистицирани видови на криминал, најчесто организиран од страна на организирани криминални групи; терористички акти; елементарни и други непогоди и друго. Во Република Македонија на ниво на национално законодавство донесени се одредени документи со кои се регулира оваа материја како: Закон за кризи; Националната стратегија за безбедност и одбрана на Република Македонија; Национална платформа на Република Македонија за намалување на ризици од несреќи и катастрофи и други.

Во рамките на делувањето на надлежните служби и органи потребно е преземање на мерки и активности во делот на заштитата на животната средина, а особено заштита на ресурсите кои би значеле непречено одвивање на секојдневниот живот на населението во услови на кризи. Во областа на справување со ризици со Националната платформа се предвидуваат постапувања во случаи на еколошки ризици и ризици во домен на земјоделство, шумарство и водостопанство.

Авторот во трудот ја анализира платформата за постапување во одредени случаи во делот на еко-ризиците, како и дава свој предлог мерки за креирање политики со цел успешно справување со овие исклучително значајни безбедносни ризици во Република Македонија.

Клучни зборови: криза; еко-ризици; справување; безбедност; животна средина и др.

CRISIS MANAGEMENT IN MACEDONIA: CONDITIONS AND PROSPECTS

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Abstract

In recent years, crisis management is a priority topic of the security agendas of many Western democracies, democracies in transition, post-conflict societies and international and regional organizations and institutions. This time, unlike the priority for managing crises between the actors of the Cold War, it is caused by the new security environment filled with non-classical security threats. In these conditions, as a legitimate issue and a prerequisite for the successful realization of security, managing crises has become part of the agenda of post-conflict Macedonia as well. Experiences from the 2001 crisis, and afterwards, note the need for effective crisis management system. Therefore, the elaboration contained in this paper is moving in two lines: first of all, an analysis is made of the conditions in the crisis management system. The second line of analysis concerns the perspectives of the crisis management system in Macedonia. In conclusion, this analysis indicates that the crisis management system in Macedonia has a future provided to meet several conditions, which would lead to efficient and effective system for managing crises.

Keywords: *crisis, crisis management, system*

Introduction

Crises are present in every society. They can occur intentionally, unintentionally or due to different crisis situations. Namely, crisis is a reality that can happen anytime and anyplace. That is why in recent years, crisis management has become a priority topic of the security agendas of international organizations, governments and non-governmental organizations. Hence, several crucial issues are raised. First, whether this condition is caused by changes that have been brought by new security environment filled with non-classical threats and challenges to security. Second, why has crisis management, as an instrument of international security institutions and as an instrument of government, become a current issue. Third, whether this instrument, will help governments to strengthen security, primarily in transitional democracies and post-conflict societies. Fourth, whether the processes in Europe which are, in this period, complex

and accompanied by phenomena that brought new forms of uncertainty (such as crime, corruption, illegal trafficking, migration, etc.), are the source where one can obtain an answer to the question of why the search for a crisis management model is established as an urgent issue. Fifth, nowadays threats require very rapid and more coordinated response and strategy for managing crises that must exceed the capacity of exclusively military crisis management. Sixth, whether this situation requires greater engagement in early warning, in prevention and management, and in post-conflict peace-building in Macedonia. Seventh, why managing crises has become part of the agenda of post-conflict Macedonia, etc.

Post-conflict Dilemmas and Crisis Management in Macedonia

Today, eleven years after the outburst of the ethnic armed conflict and signing the Ohrid Framework Agreement, the Republic of Macedonia is in a phase of post-conflict peace-building. This is one of the reasons why the recovering from the consequences of the conflict depends on the success of this phase but also deterring the same to be repeated. From those reasons, the ending of the armed phase of a conflict should and must be seen as a beginning of a new phase in prevention of a new repeated wave of violence through active social peace-building. Post-conflict peace-building is facing a number of challenges and problems. Thus, the question appears, whether establishing a national crisis management system will help in timely and efficient addressing of risks and threats that exist in the process of post-conflict peace-building in Macedonia. As a reminder, Macedonia disintegrated from the federal unity in the least painful possible way, physically speaking, without any armed violence. However, it did not serve as a key and unique advantage for further democratic development. At expense of avoiding the possible conflict, the problems that the newly created state faced internally in that period, were postponed and put in second plan. From this today's perspective, one can conclude that marginalizing unsolved issues had created accumulation of conflict potential which was easily provoked in 2001. Since the beginning of the process of independence, Macedonia has been fighting the image of a successful case of prevention. This characteristic emerged from the relatively successful strategy of the international actors by implementation of preventive diplomacy and preventive deployment of peace forces on the north-western border of the country, in order to prevent the spillover of the conflict from Bosnia and Herzegovina towards Kosovo and Macedonia. The message that UNPREDEP was sending abroad was more of a symbolic political and psychological message of concern for the security of Macedonia, rather than a classical message of deterring the peace-support forces. (Georgieva, 2004:

62). The UNPREDEP mission became a paradigm of preventive peacekeeping and source of great pride of the international community. This gratis period enabled by the presence of the UN forces and continuous attention of the international community due to the possibility of spillover of the conflict from former Yugoslavia into a regional conflict, created a state of hibernation of the Macedonian society. (Georgieva, 2004: 63).

For ten years, the Republic of Macedonia represented a successful case of conflict prevention in the center of the turmoil region, characterized by ethnic cleansing, massacres, refugees, destruction and so on. However, at the end Macedonia as well fell under the pressure of accumulated and unresolved regional conflicts in former Yugoslavia, without redefining personal problems at all. (Vankovska 2002: 11-12)

External prevention by the domestic actors was perceived as a sufficient defence mechanism, which in combination with some confidence building measures among domestic political actors would guarantee peace. In addition, there was a lack of initiating an essential approach for building mechanism which would reduce the conflict process or institutionalize ways for solving the problems. Thus, informal meetings for confidence building between the political parties of Macedonians and Albanians primarily concerned the leading positions of the parties, but not the inter-ethnic confidence. They seemingly filled the institutional gaps and shortcomings for channeling the political process. Macedonian society, as most other post-communist societies, did not evade the process of structural embedding of potentials for conflict. Such thing would be too much to expect in a situation of a classical post-communist society where political dilemmas and discrepancy for the prospects of the future state were promoted by some leaders from the Macedonian political block and by Albanian political representatives, where economic potentials were limited, and the valves that connected them with the economic partners from former Yugoslav republics closed, due to the armed conflicts or the embargo from the UN; in this, multi-ethnicity turned into a process of seeking balance of forces among the biggest ethnic groups and the social inequality and poverty was deepening more and more. For example, “the transition shock”, experienced by the Macedonian economy, was extremely strong and resulted in high negative rates of the gross domestic product (GDP) motion. The GDP decreasing tendency was particularly emphasized in the first four years of the transition (1990-1993) and was kept until 1995. Since 1996 onwards the Macedonian economy has been accomplishing positive GDP growth rates, which, however, are basically relatively low and unstable. If 1989 (1989=100) is taken as the basis, the percentage level of the real GDP of Macedonia in 2002 equals 77. (EBRD, 2002: 58).

Macedonia, as it is the case with many other countries in transition,

after many years of transition, i.e. in 2002, had not yet achived the level of the gross domestic product from the period before the beginning of the transition. Hence, the concern of the Macedonians was completely justified. Namely, if the percentage of the unemployment rate and the high inflation rate are added to these data, it is evident that the progressing of Macedonian economy as a whole, up to 2001 was difficult. A confirmation to this are the following data: Macedonia is a country with an extraordinary high unemployment rate. It is more than clear that the economy with an unemployment rate higher than 30% is faced with enormous economic, social and governmental budgetary expenditures, with underlined socio-political tensions. From 1990 to 1994, Macedonian economy was faced to a three digit inflation rate. That period concides with high negative rates of GDP motion. Thanks to the successfully implemented disinflation policy in the period from 1993 to 1995, as of 1996 the Macedonian economy has been accomplishing a low, one digit inflation rates. The reasons for the bad performances of the Macedonian economy can be located in three groups:

- *The strong effect of the non-economic factors (embargos and Kosovo crisis);*
- *The big social expenditures that the country actually bore with the disinflation policy in the period from 1993 to 1995 when the inflation rate at an average annual level from over 1660% in 1993 was brought down to 2,5% in 1996;*
- *The quality of the conducted reforms. (Fiti, 2004: 72-73)*

Second, it is a paradox that in conditions of "relaxed interethnic relations" the state is exposed to risks and threats to its basic values (territorial integrity, sovereignty, and independence) and to its basic functions directed towards strengthening of its capacities. Moreover, the risks and threats that the country faced were not a linear process but the result of a number of inter-dependent and dynamic structural factors. Furthermore, basic structural characteristics should be taken into consideration, such as:

- *Historical background (constantly present idea or fiction of "Greater Albania");*
- *Presence of armed conflict (in the neighbourhood);*
- *Political stability and capacity for effective ruling (put into question);*
- *The level of militarization (large quantities of weapons found in the village of Radolishte);*
- *Heterogeneity of the population, demographic stress (Kosovo refugee crisis); index of human development, and so on.*

All these indicators influenced the assessment of the exposure to risk of the Republic of Macedonia, and later to an escalation of the conflict. Thus, one can justifiably conclude that the reasons for the conflict in 2001 were in many ways interconnected and emerged from the structural aspects of the conflict within Macedonian society; the enhancement of risks which continually emerged from regional security dynamics and, specifically, the resolution of the Kosovo crisis; and the presence of instigators who sought to escalate the conflict.

In this crisis, political and security dimensions at great extent induced escalation one toward other. It opened all vulnerable questions of the functioning of the political and security institutions in conditions when urgent and coordinated response is required. Actually, the crisis showed that government institutions failed in the attempts to recognize their powers let alone coordinate joint activities or realize unique strategy. The attempt to coordinate and legitimize political response of the crisis started with the insistence of the Parliament to pass resolution on condemning terrorism, but it ended as condemnation of extremism and violence. Further attempts to coordinate the political response were the meetings of the party leaders at the President of the state, a forum that was transformed into a process for consultations of the party leaders in the crisis period and then establishment of a government of national unity. None of the forms succeeded to create efficient and coordinated political process which would terminate the crisis. (Vankovska B. Democratic Control over Defence and Security between Defence and Security in Trapans J.A. And Fluri P.H. Eds: Defence and Security Sector Governance, Vol.1: 39 and Vankovska B. Post-conflict Reconstruction of the Security Sector in the Oasis of Peace, Conference paper DCAF, 2002)

The analysis has shown that coordinated response was lacking by the security forces, police and the army. The problem occurred in several different phases. On one hand it turned out as inefficient command with the armed forces, because the relation of the President, the Minister of Defence and the chief of the General Staff in the chain of command, was practically confusing. On the other hand the problem emerged as vague relationship between the key security institutions, the army and police and the division of responsibilities among them. These problems created an impression of bad simulation of the crisis in which the actors participated, but unfortunately, with concrete victims and consequences.

In those circumstances, the state reacted ‘ad hoc’ and in the clang of the crisis organized a Coordination body for crisis management, within which the Crisis Management Center was established.

The primary task of the Coordination body for dealing with crisis was to coordinate, direct and unite activities of the state institutions in dealing

with crises, including the Army and police forces and propose utilization of the unit for combating terrorism. Moreover, in the interest of efficient crisis management, the Government of the Republic of Macedonia formed a Crisis Management Working group, that is a Crisis Management Center.

The Ohrid Framework Agreement put a formal end to the crisis but not to the problem. Post-conflict period opened a new page from the list of problems. Apart from the traumas from the consequences from the armed violence, Macedonian society emerged from the crisis both psychologically and politically devastated. These problems required a mode to attain a possibility for fast and comprehensive action. Namely, in order to obtain possibility for fast and comprehensive act, i.e., for proposal of decisions and ensuring constant consultations, coordination, timely reaction, efficiency and appropriate utilization of available resources in case of emergencies, as well as ensuring timely, quality and real assessment of security hazards of the country, the Law suggests the following organization of the Crisis Management System:

Steering Committee – according to the Law, it is a Government body for coordination and governing the crisis management system. The Steering Committee comprises the Ministers of Interior, Health, Transport and Connections, Defense, Foreign Affairs and the head of the Assessment Group. Control mechanism is performed by the fact that in the work of the Steering Committee participate one representative from the Committee for Security and Defense of the Parliament of the Republic of Macedonia and one representative from the Cabinet of the President of the Republic of Macedonia.

Assessment Group - is a Government body that carries out permanent assessment of security risks and perils of the country and proposes measures and activities for their prevention, early warning and dealing with emergencies. The Assessment Group is comprised of the Directors of the Public Security Bureau, Directorate for Security and Counterintelligence, Intelligence Agency, directors and deputies of the Crisis Management Center and Directorate for Protection and Safeguard, deputy head of the General Staff of the Army as well as the Head of the Section for Security and Intelligence in the Ministry of Defense.

Directorate for Crisis Management – is an independent body of state governance. In performing duties related to crisis management, the Center performs the following things: ensuring continuity in inter section and international cooperation, consultations and coordination in crisis management, filing up and updating of unique assessment of security risks and perils in the country, proposition of measures and activities for emergencies resolution.

Important novelty in the Law on crisis management is the possibility

of the crisis management system to organize prevention at local level. Namely, the Law assumes that prevention is organized and accomplished, as well as early warning and dealing with crisis that poses risk for the goods, health and life of people, emerged from dangers which directly jeopardize the constitutional order and security of the Republic of Macedonia or a part of it. Furthermore, the crisis management system also encompasses collection of information, assessment, analysis of the situation, establishment of aims and tasks, development and execution of necessary acts for prevention, early warning and dealing with crises.

Thus, the municipalities, in the frames of their authorities have duty to assess risks and perils at local level, for efficient prevention and early warning from potential crisis situation.

For prevention at local level, the crisis management system performs the following duties:

- Monitors the situations and appearances that can lead to emerging crisis on the area of the municipality;
- Announces assessment of risks and perils for emergency rising on the area of the municipality
- Approves programme for revitalization of the municipalities;
- Executes decisions of the Government regarding the crisis management on the area of the municipality (which means established coordination, which needs proper prevention);
- In dealing with the crisis, the mayors ensure coordination of participants in the crisis management system at local level;
- According to the offered solution, the municipalities have obligation in their acts for organization and systematization to establish working places for preparation and performance of working tasks related to prevention and dealing with crisis situations.

Therefore, one can conclude that all important aspects of such an established organization and coordination of the crisis management system can give positive effect in accomplishing the security and defense in the Republic of Macedonia.

Perspectives of the Crisis Management System

Within the frames of this difficult and complex process of post-conflict peace-building, the concept of crisis management, the Republic of Macedonia gives a positive contribution. Namely, its inauguration helped in building security, which will at the same time protect the interests of the

citizens and create conditions for development and implementation of economic, social and other policies that ensure stabilization of Macedonia. Therefore, this system has perspectives in the future because through its organization it has enabled constant monitoring and assessment of threats, risks and their analysis; it organizes prevention at the local level, thus gaining efficiency of the system; it allows civilian control of the security system in crisis situations at the highest political level; it allows a clear coordination of activities of the three segments (Assessment Group, Steering Committee and Directorate for Crisis Management). This organizational structure for now allows determination of the principles and structural framework which is expected to influence the crisis and crisis situation.

Furthermore, this system, in future, will have to meet several more conditions, which I think will gain efficiency and effectiveness in dealing with future crises and crisis situations. For instance, one should work on formulating a strategy and determining resources for managing internal crises and achieving regional cooperation with the countries in the vicinity.

Conclusion

The aspect of crisis management for Macedonia poses a relatively new issue. From the analysis one can conclude that for Macedonia the key reason for this issue to gain significance and a challenge is of different motive. Namely, since its independence (1992) Macedonia has encountered numerous crises. Yet the issue of crisis management was current even before 2000 but only for the expert community. However, more serious articulation of the idea the crisis management system to become real necessity was the crisis in 2001, when the weaknesses in anticipation and prevention of crisis and in managing became visible and the state reacted ‘ad hoc’. Furthermore, in the clang of the crisis was organized a Coordination body for crisis management, within which the Crisis Management Center was established. This was an example from which Macedonia learned the lesson, i.e., an example for raising the crisis management problem at a higher level and on the basis of own needs and own national solution. Namely, a civilian crisis management was established, and this provided civil and democratic control on the activities; a system which is going to achieve efficiency so as to prevent, limit and resolve future crises.

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POLITICAL ECOLOGY OF ENERGY SECURITY IN XXI CENTURY

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Abstract

Societies are both the individual states and the international community, alliances and the relationships they are based on. From the important issue in the function of developing possibilities, economic, military and technological power of a country, the issue of energy supply politics is turning today into a complex calculation of necessities and limitations. Energy sources are limited and impossible to restore while the demand for them is constantly increasing because the functioning of modern economies cannot be imag-ined without them. Under the conditions of globalized industry and world economic flows, particularly commerce, constant and safe energy produc-tion is also the matter of intemational prestige. This paper analyzes the po-litical relationships and controversies which determine the creation of strate-gies of national and global energetic safety at the example of the United States of America, Venezuela and the Russian Federation.

Key words: political ecology, natural resources, energy, energetic safety, politics

Political ecology and the study of ecological and energy security

Considerations on energy and energy problems were narrowly scoped in the natural sciences as early as in long-ago seventies of the last century. More and more social sciences, especially sociology and political sciences are involved in researching of energy policies, stability and security. Energy is not anymore considered to be just a value of its own which provides the existence of the living world, as a value in use which expresses its price through the use and exploitation of natural resources, as something that is used to satisfy physical as well as other needs of people, as a means of

maintaining production, making profit and investment. Modern politics considers energy issues as a means of establishing and securing the stability of social systems, that is, the means which can provide 'social peace and stability', not taking into account that such 'social peace' destabilizes ecological system (ecosystem), thus step by step directly endangering the 'social peace' itself in the near future.

Between ecological, natural-scientific and classical political notion of energetic political ecology establishes a scientific bond between politics, environment and economy. It is a political discipline which makes the bond between the distribution of political power and ideological analysis of socio-ecological relationships.

The aim of political ecology is to give answers to the questions put by social sciences on relations in human society, as a bio-cultural and political complex and humanized nature, that is, a kind of study on mutual interrelations and dependence between political factors as well as on interrelations between political factors and their surroundings…which deals with political consequences of ecological changes. Political ecology represents in fact a 'shield' notion which includes a different view on politics and ecology i.e. environment.

There are three views present: understanding politics using the methods and terms of ecology (as lives of animals and plants can be understood only in the realms of their own species, so the states and societies can be viewed in terms of larger systems); as a study of political fight over the control of natural resources (that is, as a kind of political striving whose ultimate result is determined by a different approach to natural resources); a research of biotic differences and exploitation of natural resources.

Political ecology should study the way politics and political phenomena, political relationships, institutions and factors of political life influence the attitude of society towards the environment. This definition of political ecology, as a part of political sciences but also an 'upgrade' of social ecology implies that these groups of political relationships include economic as well as all other relationships present in a society. Defined this way, political ecology has four dimensions: it studies specific sector policies (ecological policy) as well as specific political processes which influence the attitude of society towards the environment and at the same time the influence of specific social groups, classes, layers and movements. It studies ideological views which those politics convey, as a specific ecological ideology which appears in its two forms: ecologism and environmentalism which are present as two forms of practice of ecological parties and movements; ecology as criticism of traditional, conservative politics which considers ecology as something subversive; ecological awareness as a

political awareness which questions itself on causes and consequences of the relationships between the society and nature.

In that context, social ecology, as well as political ecology includes in their scope of study the topic of security as a basic topic, from which particular topics, such as national security, international security, political security, military security, economic security, and social security arise. The main topic for both social and political ecology is without doubt ecological security. In order to define ecological security in the scope of political ecology it is necessary to define a general notion of security as a starting point. 'Security is' as Vera Arežina points out, 'a social phenomenon which reflects the awareness of people, their communities, organizations and institutions of dangers from various sources, contents, forms and intensity which can harm their existence, physical and mental integrity, their possessions, culture and environment. Such awareness results in taking up various precautions which are now systematic and organised. Such measures are called security measures and social organizations and agencies are considered to be the organs of security. It is possible to define the notion of ecological security using the notion of general security.[1] Ecological security is implied to be 'a very complex process of confronting endangerment from any sources, of any kind and any component of natural (environmental) integrity, including the human society and through this process certain level of protection against the danger to the existence, needs and interests is achieved.[2] In that sense, and taking into account further development of the human society under the conditions of deficiency in natural resources, it is possible to talk about energy security as well viewing it as a subtype of ecological security. Therefore it is necessary to study and define energy security from the viewpoint of political ecology because politics influences consideration of energy as a security issue more than any other factor.

Under energy security on global and national level it is very often implied the availability of fuel, in a sufficient amount and at a good price, regular delivery as well as physical security of gas and oil pipelines. Energetic security is defined as a state in which one nation, all its citizens and companies have access to sufficient amounts of energy at a reasonable price, without the risk of shortage in delivery in the near future. However, this definition of energy security is relatively narrow because it is based on viewing energy security as a subtype of national security. The notion of energy security is approximately equal to something which could be defined as energy independence or energy self-sufficiency. Nowadays, just a few

[1]Vera Arežina, 'The problem of ecology security measurement' Ph.D. dissertation, defended at the Faculty of Political Sciences in Belgrade, The Faculty of Political Sciences, Belgrade, May 2008.

[2] Ibid, pp. 205 - 206

nations in the world can afford such an ideal state. Concerning that the problems of depletion of natural resources and the problems of production, distribution and selling of energy and energy fuels are global problems of modern civilization, and that these processes take place in an intertwined and very often entangled network of globalized, neo-liberal economy, then it is possible to define global energy security as a process in which a stable, safe and continuous flow of energy raw materials (oil and natural gas before all) is provided to all nations at the same time providing the minimum interest for the producer in terms of steady price and continuous demand. In this sense it is possible to consider sustainable global energy security as a specific agreement between those who have the sources of oil and gas and those who are just consumers.

Energy and ecological disaster

Energy is one of a few axiomatic notions. When we talk about elementary particles or about the universe itself and when we study organisms, units or whole systems, energy figures as a structural factor of life. In the same way, when we talk about forms of natural and social organisations we can realise that energy, in its various aspects appears as a determining factor of survival and development, either in the forms of heat and food or as a mechanical or electrical energy.

Therefore, it is not surprising that the availability of energy resources, the way they are used and later on the opportunity which the age of (electronic) technology has created, have drawn the attention of many sociology, civilization development and socio-political systems theorists. Several decades ago, Alvin Toffler, one of the significant sociologists of the 20^{th} century, whose visions we live out today through the criterion of availability and types of energy resources, divided the development of human culture into three waves of civilization. According to Toffler 'the first wave societies' were based on the control of natural and biological sources of energy and were organised in accordance to those scarcely available resources while their integration was mainly achieved by force. After them 'the second wave societies' achieved relative welfare, exploiting energy from fossil sources which are not renewable (coal, crude oil, natural gas). The nature of these resources soon faced them with the limits of development. The principle of integration is economical motivation. 'The third wave societies' have been looking for renewable sources of energy (wind, sun, and bio-energy).

For these reasons, the policy in the field of energetics is one of the top strategic issues of modern societies – both in individual countries and international community, as well as in organisations and relations on which it

is based. From an important issue in the function of developing opportunities, industrial, economic, military and technological power of a country, the question of energy policy is becoming, nowadays, more and more a complex calculation of necessity and limits. Information on availability of energy resources and potentials, but more and more their applicability, type and way of exploitation make an influence on many other strategic preferences of different countries and their leaders. There is a strong connection between energetics and economic prosperity, political stability which depends on economic prosperity, military and not less important ecological security. The latter, at the same time, opens a new circle of causative and consequential relationships which are to be the priorities in making political decisions in all relevant domains, especially in the area of exploitation and use of energy resources.

The means and the degree of energy consumption in each country are limited by the state of economy in different sectors, including the sector of energetics itself and especially by the structure and intensity of production and service industry activities, by the habits and standard of citizens as well as by the availability of energy sources and regional economic and energy circumstances. One should have in mind that the energy situation, risks and future of a country are determined by many factors which can be just indirectly or partially influenced. Natural, geographical and climatic inheritance is a 'harder' constant for energy future of a country than its socio-economic legacy is.

Basic energy resources which are used today cannot be renewed. These are natural gas, coal, peat and oil. Renewable resources such as wood, plants, sun, water power and hot springs are also used but in a lesser degree. The use of each of these resources has its economic, ecological and health advantages and disadvantages, and takes with it certain risks and applicability which should be taken into account when choosing energy strategy because the choice of energy strategy is at the same time the choice of ecological strategy. A secure and sustainable energy plan is of crucial significance for sustainable development which, however, still does not exist. Until such plan has been made, the first step which should be taken is to encourage the use of renewable energy resources which will significantly decrease the emission of carbon-dioxide which is released by burning fossil fuel, and there will be no decline in GNP (Gross National Product). It is important to cut down on the emission of carbon-dioxide because its larger concentrations lead to a greenhouse effect. The consumption of energy is not decreasing. Industrialization, agriculture development and fast population growth in the third world countries will lead to a much bigger demand for energy. If the consumption of energy in the third world countries equalled the consumption in industrial countries by 2025, the overall energy

consumption in the world would be quintupled. Our planet's ecosystem would not be able to bear it especially if the increase was based on fossil fuel which cannot be renewed. Because of the global warming and acid rains even the doubling of the amount of energy used today is eliminated as an option. Therefore, in the future, economic development must rely on using less energy than it is used today. Secure, ecologically and economically payable energy plan which will support human development in the future is undoubtedly a political imperative.

Bio-fuel and nuclear energy – long-lasting solution or 'Pandora's box'

Excessive exploitation of energy is a basic problem in the context of energy security planning and in its economic and even in its political dimension. The world's economy is dominated by oil and car industry. Capitalism requires a permanent growth of production and consumption whereas the resources of energy are limited. Neoliberal capitalism with its belief that there is market, market and nothing but the market has only provoked thinking and doubting on whether there will be enough energy in the future. A rational option which was unpopular at a certain time before September 2008 would be to find out what amount of energy consumption is socially useful, but something like that could not have happened because social and economic life has been subdued to corporations' profit making, instead to general human welfare. However, in that case of political and economic suicide of neoliberal capitalism two alternatives to oil and gas have been offered: bio-fuel and nuclear energy**. 3)** These two kinds of energy cannot diminish the fact that the real political fight has been fought, is being fought and will be fought for oil and gas. At least until there is any of these two energy sources in nature.

Bio-fuel can be considered as a part of general concept of bio-energy, renewable sources of energy produced from biomass. The first generation of bio-fuel is based on the use of sugar cane, cereals (corn, barley, wheat, soybean etc.), rice and vegetable oil to get ethanol which can be thereafter used as a fuel. Its appearance was a signal for some people to think they could be at ease again and that it was the right solution which had been looked for since the moment it had become clear that fossil fuel could not last forever. Some countries have taken up bio-fuel as a solution. Brazil and the USA are the world leaders in industrial production of ethanol. Brazil, in the first place, is the biggest world's exporter of ethanol which is in this country produced from sugar cane. In 2006 the USA produced 18.4 billion litres of ethanol while Brazil produced 16.3 billion litres. Together, these two countries produced 70% of the world's ethanol market and 90% of ethanol

used as a fuel.[3] Although 1 litre of ethanol produces only 55% of the energy released by one litre of petrol it was considered as an excellent alternative and therefore its production was subsidised by the majority of developed countries, mostly by the USA. This country alone invested 9 billion dollars in 2007 as an aid to farmers, not taking into account tax reliefs and many other allowances. However the prices of bio-fuel were not much lower than the prices of petrol and diesel which are under taxation. The ultimate consequence of this 'fatherly' approach towards bio-fuel was the opportunity for the farmers to use more than a litre of fossil fuel in production of a litre of bio-fuel and still make a profit. Many scientific works have been written trying to explain that absurd situation and to work out how much energy is really used to get ethanol, in relation to the energy that such ethanol can release afterwards.[4]

The real, key problem concerning bio-fuels became evident when the most recent, global food price crisis broke out. As we have already said, in 2007 and 2008 there was a dramatic increase in food prices which resulted in global crisis creating political and economic instability in various regions of the world, in undeveloped but in developed countries as well. Some experts were absolutely convinced that if the farmers 'smelled' bigger profits in planting crops for bio-fuel production, bigger than it had ever been possible to make, it would lead to a permanent transformation of agricultural production. American farmers, burdened with tax duties, increased production of corn which is a profitable raw material for bio-fuel. That raised the prices of corn to the highest extent in the last ten years. In January 2007, more than ten thousand of Mexicans went out in the streets to protest against 300% rise in prices of tortillas, which was 15 pesos per kilo. If it is taken into account that a half of Mexican population live on 5 dollars or less a day it is clear that the costliness of these corn flour pancakes was not negligible – and this is the main dish in Mexican national diet. Even the president of Mexico, Felipe Calderon, had to intervene, although being a conservative who firmly believed in free market ideology.

The question that came forward then was, to what extent the increased use of first generation bio-fuels influenced this deep market imbalance. That afterwards led to a debate 'food vs. fuel' with the main topic

[3] Apart from bio-fuel and nuclear energy the available options are thermal energy, solar energy and many others which really present alternative and renewable sources of energy but which in practice in the overall production of energy in the world have more than a negligible role and amount and this one of the relevant reasons why they were not considered in this paper.

[4] Bill Paul, *Future Energy. How the New Oil Industry will Change People, Politics and Potrfolios*, John Wiley & Sons, Inc., Hoboken, New Jersey, 2007. pp. 55 - 81

being the amount of risk which this new tendency of increased exploitation of farming land and edible crops for production of bio-fuel carries. This tendency is easily presented by numbers. The increased use of bio-fuel (due to oil price rise in 2003) has led to the increased use of food grains in its production. Instead for food, 25% of the whole production in the USA in 2007 was used to produce bio-fuel. However, having in mind that even if all of American crops were used for bio-fuel it would only satisfy 16% of the fuel needed for cars. Many people think that the competition for new areas of farming land will lead to an enormous food price rise.

However, it is questionable to what extent the production of bio-fuel influenced this last food crisis and the rise of prices. The opinions are strongly opposed and through this dispute the conflict of strong interests and lobbies about this matter can be clearly seen. Namely, in January 2008 The World Bank issued the so called 'Policy research working paper' in which it was concluded that ... the larger production of bio-fuel in the USA and Europe is the main cause of steep increase in food prices...' as well as ...'that the impact of bio-fuel production on the price rise is 75% while the rest of 25-30% can be explained by the high prices of oil and the weakening of US dollar'. The report also claimed that Brazilian ethanol produced from sugar cane 'did not have a significant impact on food prices '. The same month OECD issued its economic report which was somewhat more moderate in evaluating the influence of bio-fuel on the crisis. The researchers from this organisation agreed with The World Bank claims that the influence of bio-fuel on the price rise was significant but they also thought it shouldn't be exaggerated. According to them, the financial support given by developed countries to national ethanol productions will affect the price rise of wheat for 5%, of corn for 9% and of vegetable oil for about 19% in the following ten years.[5]

On the other hand, OXFAM's report from June 2008 harshly criticised protectionist politics in connection to bio-fuels led by rich countries, claiming that from all bio-fuels Brazilian ethanol produced from sugar cane, although being far from perfect, is the most acceptable in the sense of preserving the environment and decreasing the emission of harmful gases. In the end OXFAM concludes that rich countries spend 15 billion dollars a year supporting their own bio-fuel production and at the same time they put a blockade on Brazilian ethanol which endangers global food production the least.

On the other side of the 'pitch' are the most developed countries of the world sharing the opinion that bio-fuel production can be a 'goose which

[5] George A. Olah, Alain Goeppert, G. K. Surya Prakash, *Beyond Oil and Gas: The Methanol Economy*, Wiley-VCH Verlag GmbH & Co. KGaA, Weinheim, 2006.

lays golden eggs' at the same time for a country itself and it can be a solution for the problem which threatens to become existential. Therefore we should not be surprised by German chancellor Angela Merkel's statement that the food price rise has been caused by bad agricultural policies and by the change in dietary habits in developing countries and not by bio-fuel production as some critics claim. The USA ex-president George Bush has also had something to say about this subject. According to him 85% of the world's food price is stipulated by weather conditions and increased demand for oil and its price and only 15% is stipulated by ethanol production. His following statement is much more interesting and it can show the interests of developed countries – producers of bio-fuel – much more precisely. 'A high petrol price will instigate even bigger investments in ethanol production as an alternative to petrol. The real truth is that our national interest is to help our farmers produce energy instead of buying it from the parts of the world which are either politically unstable or from those in which are those who don't like us.'

Controversy is still present. Last year the UN special envoy on the Right on Food called bio-fuels 'a crime against humanity' and pleaded for a five year ban on use of farming land for production of bio-fuel raw materials. Ban Ki Mun , the UN Secretary General rejected that suggestion cautiously saying that it is essential to be careful about that issue but he also added that neither alternative energy source should be rejected without consideration and this stands for bio-fuels too. Brazilian bio-ethanol programme which was started in the period of big oil crisis in the seventies has been the most important bio-fuel market in the world for decades. Brazilian bio-ethanol business is economically profitable in contrast to American ethanol which is made out of corn and survives in market owing to huge subventions. Nevertheless, besides economic profitability there are ecological problems – a hectare of sugar cane absorbs 13 tons of carbon-dioxide a year and a hectare of Brazilian rain forests absorbs 20 tons. The rain forests are most frequently destroyed in order to expand soybean plantations. The most affected are the Amazon rain forests and the Atlantic rain forests whose preservation is necessary in order to stop global ecological degradation and to save biodiversity. In the meantime, maybe the best way to solve this problem lies in the second and third generation of bio-fuels in whose research a lot of money has been invested recently. The second generation of bio-fuels is based on using recycled leftovers from food production process such as lemon peel, used vegetable oil, cellulose, fat, and forest material. Commercial investments in new generation of bio-fuel started in 2006 and 2007 and have gone much further from an experimental project. The problem arousing with this generation too, is a high price of ethanol transportation to distant locations. Ethanol is very corrosive and therefore it is impossible to

build pipelines and tank vehicles must be used instead. That, of course, increases the price because it is necessary to use fossil fuels again. The third generation, whose development is still at an experimental level, might even help one day to make the competition 'food vs. fuel' absurd because it is based on producing fuel from algae. However this is still not certain because new generations of bio-fuel require new technology as well as further investments in agriculture.

Nuclear energy has often been pointed out as the best alternative to the dependence on fossil fuels. However, financial and especially economic and safety aspect of use of this energy have led to a constant decrease in political support to this alternative. The use of nuclear energy seems at first cheap and efficient but it carries a risk of inconspicuous dimensions – it opens the possibility of falling into a new nuclear dilemma and there are not any safe mechanisms for dumping toxic, radioactive nuclear waste which is a real threat to life and health on the planet Earth. On the other hand, the whole world campaign on global warming reduction caused a real 'tsunami' of pro-nuclear mood with politicians who saw nuclear energy more as political, ideological and economic salvation hidden under the veil of pro-ecological concern about the future.[6] False ecology and environmentalism of political structures are very easily identified if you have in mind that the establishing and functioning of a national ecological security system through the intensification of a nuclear programme is most easily hidden from ordinary citizens through two deceiving facts: stable electric power production and, as second, its low price. What made nuclear power to be considered risky not long ago, today is ignored saying that the nuclear power technology has come a long way, that it is completely safe in contrast to the technology from the 80's of the last century. Therefore, the idea of the existence of strong and solid symbiosis between energy efficiency, energy security and care for the

[6]According to the most recent survey which has been carried out by TMS-Emnid agency on behalf of Greenpeace organisation, 59% of German citizens who have taken part in the survey object to prolongation of use of nuclear power-plants in Germany which Demochristians want to bring to pass if they win the elections. That picture is completed with massive demonstrations against nuclear power which were held in the first week of September 2009 in Berlin. Jana Vigrefe from the civilian initiative 'Farmers' association out of need' explains the motto of this event: '... the final switch off means that we want to wake up our fellow citizens to motivate them to say no to nuclear energy.' Young generation, in the first place, is pleading for an upturn in nuclear policy. Even 71% of German students are for definite abandonment of nuclear energy. The politicians who support the use of nuclear energy claim that the profit from nuclear power will be invested in the safety of German citizens. But Renate Kinast from The Green Party warns us: 'Today, already discarded nukes make a profit of one million dollars a day. These guys don't invest any money of that sum. Why should we believe them in the future?"

environment is before all the result of usual political manipulation, that is, the politicization of energy and ecological problems.

Viewed globally, the issue of energy security is gaining in its importance, regarding the fact that the world's energy resources are limited and the demand and consumption are getting higher with the increase of the world's population and with the development of new technologies. Since the 50's of the 20th century the question whether the world will stay without fossil fuels hasn't been asked anymore. The actual question is when it will happen. The oil crisis in 1973 put the question of energetic security forward on the agenda of the world's politics. What happened then wasn't the result of natural deficiency in oil or reaching the 'oil peak' but politically organised embargo followed by a classical example of consumers' panic.[7] But even that combination of 'consumers' panic' and political embargo led to recession, restricted oil supply, unemployment etc. The consequences were not of economic and political nature but of social as well.

The conflict in Iraq, gas crisis in the relations between Russia and Western Europe are just some of the events which make this issue a top priority one for foreign affairs departments of many countries. For the USA it is a question of geo-political nature, for China an equation in their economic growth rate, for Russia a foreign trade support while for Europeans it is a problem before all because of their dependence on imported natural gas.

The resources of energy raw materials are limited and cannot be renewed and the demand is always higher and higher because the functioning of modern economies is unimaginable without them. Trading with energy raw materials is the issue of public importance which requires engagement of state politics. In other words it is a political issue and the consequence of that is that the relationships are not determined by the logic of economy but by political reasons and foreign policy interests of buyers and consumers. These are the reasons for decreased predictability and for higher uncertainty and distrust with those present in the chain of energy dependence. Besides, the resources and their exploitation are not evenly distributed. The greatest consumers of natural gas are the countries of the European Union and their main supplier is the Russian Federation which controls a third of the world's natural gas reserves. The USA and 'Asian tigers' have the highest demand for oil and the main exporters of oil are the countries of the Near East. The imbalance in offer and demand for energy has led to a state of dependence in energy distribution in relation between the producers and consumers.

[7] Leonardo Maugeri, The Age of Oil. The Mythology, History, and Future of the World's Most Controversial Resource, Praeger Publishers, Westport, 2006. p. 261

Therefore, for a long time, energy trading has not only been an economic but also a political issue.

Oil and democracy are not compatible

The first oil-drilling rig or 'oil-well' was dug in Pennsylvania in 1859. When heavy black mud was found in 1870 it did not have any market value in Europe. It did not have its application because no one knew what it can be used for. The same year John E. Rockefeller established 'Standard Oil Co.' In the USA in order to cover the market of oil candles and 'medicaments'. In 1882, heavy black mud, called petroleum, already served as a substitute for whale oil which was used to light up homes in Britain as well as for candle production which was invented in Berlin by a German candle manufacturer Stohwasser.[8] A social value in use was recognized. At the same time when Rockefeller was selling medicaments made out of petroleum, merchant ships at The Caspian Sea were using heavy oil fuel which they called 'crude oil'. The same year when petroleum was used in Europe for candle production, British Navy captain Fisher, later Lord Admiral, tried in his public appeal to persuade the government of his country to introduce oil powered engines instead of coal powered ones if they want to retain their strategic advantage at sea. Three years later, a German engineer Gotlieb Daimler constructed the first oil powered car engine. The circle was closed. Oil finally got its civilian value in use.

When we talk about oil today, it is not just in the context of establishing and maintaining of industrial production but also in the context of maintaining social peace and stable national states as well as lasting regional associations. It is quite true that steady production of energy contributes not only to economic stability and energy independence of national states but contributes to maintaining social peace as well. There is not a country or a nation which would be willing to forsake energy production or benefits which energy can enable in favour of ecological balance. In terms of globalised industry and world's economy tendencies, especially trading, constant and steady production of energy is a matter of prestige. Economies which are in expansive development, like Chinese for example have increased needs for enlarged production of energy in order to maintain and enlarge their productivity.

In their study of perspectives in the next 30 years French Ministry of Defence has pointed out that the next period of development will lead to the increased consumption of oil but also to its replacement by other types of

[8] Engdahl, William F., *Stoljeće rata. Anglo-američka naftna politika i novi svjetski poredak*, 2. revisioned edition, AGM, Zagreb, 2004. p. 53

energy fuels like natural gas and nuclear energy. These changes which will be marked by the domination of nuclear energy are not to be expected before 2050.[9] These radical anti-ecological changes in the way of choosing energy for the future are the result, before all, of the weakening of social influence of ecological movements, in the first place anti-nuclear movements, but they are also the result of the tendencies to weaken the political influence of once eco-social and anti-nuclear and today eco-liberal green parties.

But if we reconsider these forms of alternative energy it is noticeable that they can be available only to economically developed countries. The application of bio-fuel is practically impossible in African countries where there is not enough farming land and limited production of bio-fuel in developed countries will be practically reserved for narrow national boundaries. The technology of bio-fuel production will be at the same time out of reach in undeveloped countries and those countries will be treated as a resource base of 'western' industrial civilization. Classical neo-colonialism which was replaced by technical and technological colonialism at the end of the last and at the beginning of this century has acquired a new character: energy neo-colonialism. We should have in mind that 'western' industrial civilization will depend more and more on natural resources and energy fuels from developing and undeveloped countries.[10] A recent initiative by Madeleine Albright to proclaim natural resources as planet's common natural wealth and that those should be governed by some hastily created international body shows the real logic and interest of energetic neo-colonialism. These are expressed in the following political matrix: 'As far as we do not have our own resources and energy because we have drenched them out sooner than we expected creating consumer and prodigal society, which is politically stable but asleep, and you undeveloped have the resources but you do not have the capacity to industrialise your society, it is moral (from the point of view of neo-liberal capitalism) to give us all your natural resources to govern them under the mask of general care for the future of our civilization.' As the issue of energy is one of the main factors which affect social and political security of a system, it becomes clear what Albright had in mind. Luckily, poverty does not imply political insanity of undeveloped and developing countries.

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[9] *Prospective a 30 Ans*, Republique Francaise, Ministere de la Defense, Août 2004

[10] 'One of the priority goals of the USA, which is legitimate because it is in accordance with their interests, is the control of energy which is a key to development. Double control: on one hand through enabling supply to America which saves its own reserves and on the other through preventing other competitors to access black gold and natural gas. All in all, controlling energy production is in question and it is a powerful instrument of coercion.' Pierre Marie Galoas, The Strategy in the Balkans, 'Smisao' no 1, Belgrade, 1997, p. 48

In the same way the issue of raw materials and energy is acquiring not only scientific and economic but political dimension as well. It has been present in creating 'petro-tyrannies', that is dictatorial and military regimes which have based their real power on two elements: strong bonds with the USA and of course, production of oil. Strong bonds that the USA maintained or still maintains today with some of the ex-petro tyrannical systems enable the USA an easy and a cheap access to natural gas and oil resources. American companies had the advantage in getting concessions for exploitation of oil and gas and for researching deposits. The USA, in return, gave these 'petro-tyrannies' attractive military and political support. On the other hand, reduced production and consumption of oil would open the door for new alternative energy sources, and that would mean that the USA would stop co-operating with some of the long-term 'petro-tyrannical' allies and as consequence, political elimination of American oil lobby the so-called 'petro-mafia'. The USA are, today, faced with the consequences of 'petro-tyrannical economic politics'. There aren't any 'petro-tyrannical regimes' in the world today. On one hand, the USA are in friendly relationships with some of ex-'petro-tyrannical' regimes and those close relationships are the result of military and economic collaboration while with others, their former so-called energy satellites, the USA have extremely complicated political relationships which are very often on a brink of a conflict. Besides, there are tyrannies whose political context, ideology and methods of ruling and governing had been established before their huge resources of oil and gas were found. These are not in South America anymore, but in The Near East. American policy of energy security is, as it was in the case of Latin-American 'petro-tyrannies' complex but at the same time successful in short-term periods. While the war against terrorism lasts whose secondary, if not even primary, goal is the war against Islamic fundamentalists – and in fact it is a 'war for oil' and for American energy independence[11] it happens at the same time that the USA regard politically or religiously moderate, but still deeply totalitarian regimes in the Near East as their friends. That may look like political hypocrisy of the USA foreign policy but in any case it would be a luxury for the USA to have bad economic or political relations with Saudi Arabia which is the third biggest supplier of oil market in the USA. That military, economic and political balancing of the USA choosing between democracy and oil shows American preference for oil and not for real democracy in the Near East. Another positive experience, gained in Latin America. While ethanol is steadily imported from Brazil, oil and gas are coming from Kuwait, Saudi Arabia and these days from Iraq. The fact that

[11] Robert Zubrin, *Energy Victory. Winning the War on Terror by Breaking Free of Oil*, Prometheus Books, Amherst, 2007. p. 5

the USA ignore for the sake of energy stability is that in these countries the basic element of Western civilization's foundations does not exist – human rights. But oil exists and that is perfectly enough to make their energy trading partner respectable and close political partner. On the other hand, the experience of creating 'petro-tyrannies' in South America and policy of friendship with Islam have helped the USA to try similar method in the Caspian region.

Increased military presence at the borders of the Caspian region during the 'war against terrorism' enabled the USA to take part in the competition for control over the resources in this region at the same time propounding the questions on the intentions of American foreign policy in this part of the world. President Bush's administration especially pointed out two cumulative goals of their foreign policy in central Asia: the first being the restriction of Chinese geo-political rise in the region and second, expending of their own influence in Russian 'backyard'. With that intention the USA explicitly supported political changes in Kirgizstan in 2004 and on the other hand they continued to act in favour of Baku-Tbilisi-Ceyhan oil pipeline construction. Henry A. Kissinger has said: 'Control oil and you control nations, control food and you control the people'. This has always proved successful in practice. However, American approach in the Caspian region provokes reactions from Russia, China and Iran as well as from other countries in the Caspian area. The answer to American influence expansion in the region acquires the form of stronger regional co-operation between Russia and China and other countries on political, economic and safety level. Moreover, strong engagement of American governmental and non-governmental subjects (transnational oil companies) in the field of energetics results in closer co-operation of some countries from the Caspian area with Russia and China but at the same time it enables a closer Russian and Chinese co-operation, which is a kind of energetic alliance that should not be ignored.

Two things are closely related with that and these should be considered. The first is the rebellion of Venezuelan president Hugo Chavez against 'petro-tyrannical' and exploitative status of American oil companies which exploited oil in Venezuela and the second, the concentration and accumulation of oil and gas capital which is strictly the state property as it is the case in Russia, with a goal to control the sources of oil and gas and their distribution. Chavez's political radicalism is a result of the fact that the American oil companies, firmly positioned in Venezuela at the time when that country was a 'petro-tyranny' were paying low taxes on the exploitation of natural resources which led to overall poverty , famine, increased death rate and illiteracy of the people of Venezuela. Chavez's left-winged 'petro-populism' is efficient and has a great political attention. In 2006 Petroleos de

Venezuela provided fuel at affordable prices for about 50,000 of financially insecure Americans. That confirmed Hugo Chavez's claims that his regime is not in war against American people but against American 'imperialistic' regime. Venezuelan oil is used to help regimes that are friendly to Chavez to stay in power as it is the case with left-winged regimes in Cuba, Nicaragua and Ecuador. This year's Chavez's European tour in September proved the assessments that Venezuelan oil will soon be found on European market. Namely, Venezuelan state oil company (Petroleos de Venezuela) has signed a contract with five Russian oil companies (Rosneft Oil Co., Lukoil OAO, Gazprom OAO, TNK-BP and Surgutneftegaz) on exploitation and research of oil wells. It is expected that the joint company will produce between 400 and 500 thousand barrels of oil a day. Besides, Venezuela gained a huge capital inflow needed for establishing of a sustainable education system and a system of health care by nationalisation of oil resources. The money from oil serves well to equip and improve the army in case of potential, either direct or orchestrated aggression by the USA. Another result of Chavez's meeting with Russian president Medvedev is that Venezuela is going to buy short range rocket systems from Russia in order to match American military presence in Columbia, on Aruba Island and in Netherlands Antilles. Today, Venezuela has over 300 billion tons of oil reserves which is an enormous amount compared to American reserves of 20 billion tons. [12]

Russian oil industry has gone the way from nationalisation to privatisation and vice versa. Through purchase of Sibneft a Russian billionaire Roman Abramovich's privately owned oil company and before through thee nationalisation of the oil company Jukos owned by another billionaire, Mihael Hodorowski, Russian oil sector became almost completely nationalised. The state became the owner of the whole of Russian oil potential that had before been owned by criminally suspicious tycoons. Now the state has the opportunity to control the export of oil and natural gas, considering these two energy raw materials as a strategic issue in international trading negotiations. The Energy Charter which was at one time signed by Russia and the EU comprised five important issues: the protection and improvement of the investments into energy sector, free trade with materials, products and equipment in accordance with the regulations of the

[12] Considered generally, nationalised oil companies had and they still have an important role in world's politics. After Iraqi occupation of Kuwait in 1991, Saudi Arabian company Aramco urgently increased its oil production capacities in order to prevent the crash of the market. In 1980 Aramco had played on the card of world's oil price cutback because that was the way to deprive Iran from financial funds which were necessary to arm its army. Oil companies are used as instruments of establishing and strengthening the relationships with other countries. Being so, Iran gives the advantage to the state owned companies from friendly countries – in the first place Chinese and Indian.

World Trade Organisation, free transportation through the pipelines and pipeline networks, preservation of energy, decrease of the negative influence on the environment and the increase of energy efficiency as well as an efficient solving of litigations between states and investors. Russian Federation signed that document at that time because it was in a difficult economic situation after unsuccessful reforms from the beginning of the 90's.When the Chart on Energy was signed in 1994, 'bleak' Tuesday happened on Russian interbank market. The rouble fell 27% in one day. That year the average price of oil was about 17$. Russia could neither chose nor lay down conditions practically till the end of that decade. In 2006 with an average price of oil of a little bit more than 66$, the economic growth rate in Russia was 6.9%, direct foreign investments during the first three quarters reached 2.5 per cent of GNP and 'gold reserves' reached the sum of 299 billion dollars. The specifications of the Chart did not suit strengthened Russia because according to them Russia had to enable foreign investors a free access to its resources of oil and gas and to the whole export pipeline network. Also, it was not acceptable anymore to let Europe use oil and gas pipelines which ran across Russian territory for direct purchase from other Caspian producers. That would mean that Russia was not able to materialise the advantages of its geographical position and re-export those energy raw materials.

Hardly would anyone accept that just for the sake of energy security is in the first place based on solidarity and protection of the consumers. The biggest advantage from such energy security would be taken by huge supranational corporations established on dated, mainly colonial oil-wealth which did not take care, at least in the past, about any solidarity. Because of that the then-president of the Russian Federation Vladimir Putin insisted on redefining the notion of energy security in the sense of greater security for the producers in terms of steady and reliable demand. Russia reasonably believed that some relevant parts of that document are harmful for its basic interests and that their realisation could directly endanger Russia's energy potential development as well as its economic and state sovereignty. As rare examples of successful and mutually profitable co-operation Putin cited a long-term contract between Gazprom and the French government valid until 2030, and the Italian government valid until 2035. Insisting on a new and more sensible approach, Putin described the existing system as 'an energetic egoism' which is of use to 'a small group of the most developed' while energy resources are only available to Anglo-American corporations and they are under their control. He suggested changing of the existing model of liberal, open oil market for a network of long-term agreements and mutual investments that would actively involve other oil producers and help to the developing of countries. His suggestion was received coldly and reservedly.

Therefore some world leaders, as well as some philosophers, often compare the rising energy superpower (Russia today) and the ex-nuclear superpower (the USSR). Such comparisons present an introduction to a new convolution of safety dilemma – who can deprive whom from the access to the resources which are necessary for survival and functioning – and this situation compels all those involved to search for new models of energy security. The reaction of the EU on restrictions in delivery of Russian gas at the beginning of 2009 testifies on the consequences of the politicisation of this problem. Russia was accused of using its energy dominance as a means of threatening other countries in order to fulfil its foreign policy ambitions. Although Russia explained these moves exclusively in terms of economic reasons, the countries affected by these measures assessed them as an instrument of achieving not only economic but political goals as well. The restrictions did not only affect Russian neighbouring countries but the countries of the EU as well and they felt most directly the consequences of the fact that the whole Union is dependent on Russian gas. If the supply of energy was considered to be just economic and technological and not political, ecological and safety problem it could be the beginning of a new energy dilemma and a new political challenge in the international relationships.

Instead of a conclusion – The world after oil

As far as the question on oil and energy is not whether natural resources of oil will be depleted, but when it will happen, the question on whether we can imagine the world after reaching the 'oil-peak' comes up. The worst possible scenario is a permanent global recession. The lack of oil will in that case, when economy and industry come to a standstill, have as the next consequence the instigation of military operations by the world powers which will, first through military threats, then by extortion and finally through direct military actions, start a violent search for oil. Many experts are worried that the industry, transport, agriculture and communication will simply come to a halt because of the lack of oil. As a result that could lead to a desperate fight for resources, city against city, region against region, country against country and nation against nation.

Average citizens of the world do not feel and do not express anxiety because they are calmed down by their political leaders' claims that technology will find the way out of the energy crisis, that there will be a transformation in technologies and that the future of the world will be as good as the past was. However, the challenge of energy survival is perhaps too big. Crossing from fossil fuels to ecologically acceptable and sustainable ones is literally at its beginning. Anyway, solar energy and wind energy, besides producing negligible small amount of power, produce only electric

power which is in fact needed for certain branches of industry and for households, but it is still not used for mass transport and vehicles. You can travel from Belgrade to Munich by an electrically powered train but you cannot do the same and by the same form of transport if you want to travel from Munich to New York. Secondly, besides satisfying certain needs in energy, oil has its secondary use as a source of petrochemicals which are basic components in many everyday products like asphalt, plastic, tyres, polyester, cosmetic, and pharmaceutical products. Technology whose role has been exaggerated with equal zest, at the same time directs us to use alternative sources of energy and to maximize the exploitation of current oil resources, which again, only accelerates the process of depletion.

Anyway, the future generations will have to theoretically redefine and practically apply in entirety our today's concept of the quality of life. Those changes should comprise not only the changes in search for new resources and change of existing technologies, but as well, the change of a traditional anti-ecological behaviour. These changes could possibly lead to the biggest change – the change in the belief that capitalism is a lasting and the only possible political system in which people can live.

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CONTEMPORARY MIGRATION MOVEMENTS AS A SAFETY THREAT TO THE BALKANS AND EUROPE

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Abstract

In the past two decades, the number of people who cross the national borders in search of a better life is increasing. Europe, as in the past and today, is a destination for many emigrants. Most of the refugees are motivated by \the need of better life and better opportunities, but there are millions who were forced to leave their homes in order to save their life. Increased current wave of refugees and asylum seekers from the Middle East and North Africa are more associated with conflict situations, bad living conditions in these countries, rather than with the lack of labour force in Europe. In EU countries, Germany has the largest number of refugees around a million of who more are from the former Yugoslavia, Turkey, Iran and Iraq. The number of migrant Muslims in the countries of Europe is large. They are an important factor influencing and shaping the internal and foreign policy of Europe, not only from demographical but also geographical aspect. From a historic point of view, Europe and Islam have never had mutual understanding. EU Attitudes connected to Islam are well balanced, controlled and estimated. This scientific paper will cover: demographic dynamics, or in which direction the population was moving in the past, about today and also for the future. Also it will specifically elaborate the European continent or what is the situation with Muslim immigration in the European continent with a special review and analysis of countries like: Germany, Great Britain, Spain, Holland, France and the Balkan region.

Keywords: *emigration, migration, threat, Europe, Balkan*.

Introduction

In the last two decades the number of people crossing national borders in search of a better life is increasing continuously. In the beginning

of the 21st century one in 35 people worldwide is an international emigrant. The number of emigrants has been growing ever since, going from 75 million in 1965 to 175 million in 2000. However, compared to the growth of the world population during that same period this number has not increased dramatically. This suggests that the expanded globalization has not affected the expansion of migration too much.[1]

Global migration affects all countries, whether it is a country of origin, a transit country or a destination country in question. The developed west-European countries absorb around 40% of the world migrants, whereas the rest is focused towards the developing countries and the former Soviet Union states. It has been estimated that there are now around 1.2 million refugees living in Pakistan, 1.3 million in Iran and 2 million refugees in Tanzania.

Europe is today, as much as it was in the past, a destination for many emigrants. Most of them are driven by the need of better life and opportunities, but there are millions who were forced to leave their homes in order to save their own lives. The current increased number of refugees and asylum seekers from the Near East and North Africa is related to worsening living conditions in these countries and not to the lack of labor force in Europe.

Antonio Guterres, the UN high commissioner for refugees in his report to the General Assembly, underlines that by the end of 2009, 10.4 million people worldwide have been stated as refugees.[2] This number does not include the 4.1 million Palestine refugees who benefit from the aid of UN agencies.[3] Germany is the country with the highest number of refugees in the European Union. This number revolves around one million, most of them coming from the former Yugoslavia's territories, Turkey, Iran and Iraq.

Migration has a positive and negative impact on the countries' economic development. Contemporary economic migration has a positive impact as long as it is created as a result of demand for labor force, but if increased migration i.e. labor force offer is added to the problem of unemployment, migration will have a negative impact. Countries which have developed appropriate measures and regulations for dealing with migration will be able to handle emigrants more easily and take maximum

[1] Zlatko Nikolovski (2010) „Migration contraindications or a reason for positive effects ", Skopje: Auto Print, Skopje

[2] Voluntary Refugee Returns Worst in Two Decades; World Faces Quasi-Permanent Refugee Situations in Areas of Never-Ending Conflict, Third Committee Told. 2 November 2010, http://www.un.org/News/Press/docs/2010/gashc3992.doc.htm (accessed 15.02.2012)

[3] Ibid.

advantage of their presence. On the other hand, their marginalization conducted through the creation of ghettos could seriously affect the country's safety and become a source of insecurity.

The number of Muslim emigrants in European countries, including the Balkans, is very high. They are an important factor which influences and shapes the internal and foreign politics of Europe, not only from demographic but also from geographic point of view. Throughout history, Europe and Islam have never had mutual understanding. The European Union's attitudes towards Islam are well balanced, controlled and calculated.

1. The Balkans and the Muslims

Islam in the Balkans has different characteristics from the one spread by migration throughout Europe. This conclusion has emanated from the fact that Muslims have lived in the Balkans for centuries. There are several facts that indicate the existence of a specific Islam in the Balkans. Balkan Muslims are different from the relatively recently settled Muslim immigrants in western Europe because of the fact that they have lived in this region for generations, that they have maintained contact with the neighboring Christian peoples, because some of them or their ancestors originate from those peoples, because they speak the same language, and even their customs are not very different from the customs of the Christian population. All these facts are in favor of the thesis that the Islam on the Balkans differs in many aspects from the Islam of the recently settled Muslim immigrants in Western Europe on one hand, and the Islam of the Arab countries or the one in Southeast Asia, on the other hand.

European demographic experts consider the Islam to be the fastest spreading religion in Europe. This comes as a consequence of both immigration and above average birth rate. The situation in the Balkans is not very different, where the population is approximately 53 million, including the countries with territory fully constituting a part of the Balkan Peninsula and countries which participate only partly (Turkey, Romania, Italy). The majority of the people in the Balkans are orthodox Christian. Alongside them there are 8 million Muslims living in the Balkans, i.e. around 15% of the population. The majority of the Muslims come from Albania, which would be 2.2 million or 70% of the population, then there is Bosnia and Herzegovina with around 2 million or 49% of the population, Kosovo with 1.8 million or 90% of the population, Macedonia with 630.000 or approximately 30% and Serbia and Montenegro have 405.000 or approximately 5% of the total population. According to certain predictions, by 2030 the Muslim population in 6 Balkan countries will have reached over 10%. These predictions concern Kosovo (93,5%), Albania (83,2%), Bosnia

and Herzegovina (42,7%), Macedonia (40,3%), Montenegro (21,5%) and Bulgaria (15,7%).[4]

> As well as the orthodox religious communities, the Muslim communities have many members who do not have any problems with the "European values" and who not only live by the western values but also embrace them by their own conviction. However, there are also groups which do not accept these values or categorically refuse them. Such "fundamentalist groups" also exist in the western countries. The Islam on the Balkans is very specific, at the moment there is no straight answer to the question if Islam is something apart or it is a variation which differs from the Islam in other European countries and non-European countries.[5] Simply to illustrate the situation we could mention that a considerable impulse to the radicalization and the globalization of the safety conditions on the Balkans and loss of control over them was given by the infiltration of some of the global terrorist networks, especially of the greatest and most dangerous global terrorist organization in the world – Al-Qaeda. Its presence in the Balkans has induced a very strong and intensive process of multiplication of the safety risks and threats in the region and Europe. The events of September 11, 2001 will support this observation in the most illustrative manner after the sobering discoveries that many of the roads which lead Al-Qaeda to the USA went through the Balkans. The most recent wave of attacks on European metropolises will surely confirm the same. During the foul conflict in the Balkans, the earliest leaders of Al-Qaeda, including Osama bin Laden, have visited "their window towards Europe" three times in the period between 1994 and 1996. Bearing in mind that in the beginning of the 1990's there were several hundred Mujahedins in the Balkans, in 1995, the number of Mujahedins, trained in Afghanistan, Chechnya, Saudi Arabia,

[4] Стефан Каменаров, (2011) *Мюсюлманският свят през 2030*. http://www.geopolitica.eu/ spisanie-geopolitika/1086 (посетен на 23.02.2012 година).

[5] Штефан Денерт, Алфред Диболт, (2006) *Вредностите и политиката на ЕУ и Југоистокот на Европа*,. http://fes.org.mk/pdf/WERTE-MK.pdf (посетено на 15.02.2012)

Egypt, Pakistan, as well as Italy, Germany and Turkey, has grown from several hundred to 6000.[6]

2. History of migration in the European Union in the previous century

During the 1950s most of the western European countries have faced a negative migration balance. Some countries, such as Greece, Ireland, Italy, Portugal and Spain have lost parts of its population to other European countries as a result of their nationals migrating from economic reasons. In order to meet the needs of labor force, in the 1960s west European countries import guest-workers to perform tasks which Europeans don't want to. Guest-workers came mostly from the Mediterranean countries to France, from Turkey to Germany, whereas from Pakistan, India and Bangladesh to the United Kingdom. The Muslim community in France goes back to the time of the great migration waves which took place from 1961 to 1973. Immediately after France retreated from Algeria, more than one million French Christian and Jewish citizens fled from Algeria to France. In the period between 1989 and 1998, four million people have applied for asylum in European countries. In the 40 year period between 1960 and 2000, the population in Western Europe has increased for 4.3% as a result of 16.7 million new immigrants.[7] Countries which as a result faced increased number of citizens are: Germany for 8.5 million, France for 3.9 million, the Netherlands for 1 million, the United Kingdom for 0.9 million and Switzerland for 0.8 million.[8]

When it comes to migration within countries of the European Union, its main feature is the low migration rate which varies from 0.1 to 0.2% of the population. The most specific barrier to migration remains to be differences in language and problems which married couples face when looking for a job.

Central and East European countries have not detected significant migration in this period due to the "iron curtain". Migration was more intensive in this period of political crises, whereas during the years when the

[6] Котовчевски Митко, (2008) Маѓепсниот круг на вооружените конфликти и тероризмот на Балканот, http://www.fzf.ukim.edu.mk/pdf/odb/kotovcevski/Kotovcevski,%20M.%20-%20Magjepsaniot%20krug%20na%20vooruzenite%20konflikti%20i%20terorizmot%20na%20Balkanot.pdf (посетен на 25.02.2012)

[7] The demographic challenge in Europe: http://www.europarl.europa.eu/inddem /docs/papers /The%20demographic%20challenge%20in%20Europe.pdf (accessed 15.02.2012)

[8] Ibid.

situation was stable only members of minority groups or ethnic-religious minorities were allowed to leave the country. With the fall of the iron curtain the situation changed and the traveling restrictions were lifted, and subsequent wars caused waves of refugees in west European countries.

3. Demographic dynamics

When speaking of the Muslim population, many of the European countries in this recent period have not even tried to determine the correct number of their Muslim citizens. This thesis emanates from the fact that during the censuses taken in the past the question of religious affiliation of the population has not been asked. However, some countries such as Belgium, Denmark, France, Greece, Hungary, Italy, Luxembourg and Spain have added the question of religious affiliation in their sheets during their last censuses. In many countries the Muslims are a marginalized, unrecognized and discriminated minority with no possibility to fulfill their rights. According to the data in the USA annual report on religious freedoms from 2003, it is presumed that there are more than 23 million Muslims in Europe, which is 5% of the population. If we add the number of 90 million Turks to the previous number, we would reach 15% of Muslim population in Europe. The data shows that the number of Muslims in Europe has grown for more than twice in the last three decades and the growth rate is getting higher. The oil crisis period in the 1970s has resulted with an economic downfall, which caused most of the European countries to shut their doors to emigrants including Muslims, who represented a large percentage of that population of emigrants. Nevertheless, the number of emigrants that year has grown in 500.000, since the guest-workers were allowed to reunite with their families, and there were additional 400.000 asylum seekers, a number which reaches Western Europe every year. According to the IOM (International Organization for Migration) the Muslims represent many of the emigrants coming from Morocco, Algeria, Turkey, and former Yugoslavia. The Muslims also represent most of the illegal emigrants in Western Europe, which vary from 120.000 to 500.000 people a year. In some countries in Europe the words emigrant and Muslim are considered synonyms.

The UN projections on the year 2000 which concern the maintenance of the balance of the European population have gone so far as to claim that Europe needs to allow access to 949.000 emigrants if the population of 1995 is to be preserved; 1.588.000 emigrants in order to preserve the labor force of 1995 or 13.480.000 emigrants in order to maintain the number of young population aged 15-64. If the accession of new member-countries in the EU

was expected to level the disparities the complete opposite has occurred – the differences only widened.

In today's circumstances more than 50% of the Muslims in Western Europe were born in west European countries. Even more importantly, the number of births of Muslims in Europe is three times bigger than the number of births of non-Muslims. As a result the Muslim community in Europe is much younger than the non-Muslim population. One third of the five million Muslims in France are aged under 20 (compared to the 21% of the total French population), one third of the four million German Muslims are aged under 18 (compared to the 18% of the total German population), one third of the 1.6 British Muslims are aged under 15 (compared to the 20% of the total British population) and one third of the 364.000 Belgian Muslims are aged under 15 (compared to the 18% of the total population of the country).

The Muslim population in Europe is expected to double by 2015, whereas the non-Muslim population is expected to decrease for about 3.5%. If the current demographic tendencies continue, the present 5% of the Muslim population will have grown to 20% of the European population by 2050. Certain analysts' position is that should the current tendency of population growth continue, one fourth of the French population will be Muslim by 2025. Muslims will have overrun non-Muslims not only in France but in the entire Western Europe by the middle of the century. The current conditions suggest that 15% of the young people in France aged between 16 and 25 are Muslims; in Belgium 25% of the population aged under 25 are Muslims. The most important factor in these estimates is the increased birth rate of the Muslim population in Europe which is paralleled by a lower birth rate of the non-Muslim population in Europe. According to UN assessments the population in Europe will decrease in 100 million, i.e. from 728 million in 2000 to approximately 600 million and even to lower 565 million by 2050.[9]

4. Muslim emigrants in the United Kingdom, Germany, Spain, the Netherlands and France

For many Muslim emigrants Western Europe is the synonym for wealth and unlimited economic possibilities. Still, the current economic crisis renders these observations questionable. Nevertheless, Western Europe has provided thousands of emigrants and their families with a little piece of

[9] Cristina Boswel, (2005), Migration in Europe, http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS4.pdf (accessed 22.02.2012)

paradise and salvation from poverty. Muslims who come from different countries and cultures such as Pakistan, India, Bangladesh, Nigeria, Kenya, Tanzania, Morocco, Algeria, Turkey, Iran, Libya, Syria, Egypt and other, have been accepted as guest-workers. They were expected to return to their home countries eventually. But they stayed, and their children represent the second and third generation of Muslims in Europe.

Today Europe faces the consequences of migration and the challenge of the Islamic migration is growing bigger. Within its borders, Europe needs to integrate 15 to 20 million Muslims who are younger, much more religious, have far lower education and higher unemployment rate than the rest of the Muslims in Europe. This is a challenge, because there is the possibility that this young Muslim population will be caught up by the "winds" of the radical Islamic fundamentalism which can be a serious security threat within Europe. Outside its borders, the European Union faces another challenge which concerns the developing of a constructive approach towards the Muslim peripheral territory which spreads from Morocco to the Caucasus. The downfall of the European demographics which is a result of the aging of the population is an additional problem. In order to maintain the welfare of the countries where there is a great number of aged population and social benefits, Europe will need more labor force. This force will probably be provided by the Muslims who right now are located on the periphery of the continent, contributing to the problems of integration and radicalism. And still, there is the unexplainable fact that Europe has unemployment problems. The political, cultural and economic dynamics, as well as the religious differences between the Christian values and Islam are getting more and more complex.

The analyst Omer Taspinar in his work for the Brookings Institution, seated in Washington, estimates that the rate of Muslims born in Europe is three time higher that the rate of non-Muslims. Thus, the Muslim population in Europe is growing at a rate of more than one million a year.[10]

The United Kingdom represents the main political force in the Islamic world even since the 19th century. The United Kingdom ruled Egypt, Iraq and India until the 1950s. These circumstances have enabled the creation of a unique administrative and bureaucratic pattern which connected Britain with these countries long after the end of the Second World War and has established an emigration link which brought in hundreds of thousands of Muslim emigrants from the former colonies. Terrorism and political violence are manifested in the form of great discontent inherited in the British Muslim community which is related to the issues such as civil

[10] Soeren Kern (2010) Will Islam Become the Religion of Europe?, http://www.stonegateinstitute.org/1536/islam-religion-of-europe (accessed 15.02.2012)

participation, political integration, limited economic possibilities, and radical tensions.

The Muslim community in Britain constitutes 22.8% of the total number of minorities.[11] According to the estimates in the beginning of the 21st century the number of Muslims in Britain varied from 1.6 million to 1.8 million inhabitants. According to these rough calculations the Muslims constitute about 3% of the British population which makes them the second largest religious group in the United Kingdom. The Muslim community consists of various ethnic groups such as people with Arab, Turkish, Pakistani, east European and African background. Although the Muslims in London constitute only 8% of the total population, there are certain areas in the city where the concentration is much higher and varies from 24% to 36%.[12]

Islam and the Muslims are rapidly becoming more visible in ***Germany.*** The first emigrants were mostly political refugees and guest-workers (gastarbeiters) who had taken advantage of the invidious situation that Germany has found itself after the end of the Second World War, of the liberalism and the prosperity which became part of West Germany during the 1960s and 1970s.[13] Most of the guest-workers came from Turkish cities and provinces, part of them came from the Arab countries, Yugoslavia, Iraq, Iran, Afghanistan and Pakistan. By 2006 the Muslims in Germany constitute 14% of the country's total population reaching the number of 3 million. The largest part of them is Sunnites, and the biggest majority is ethnic Turks, although there is a significant number of Kurdish population. Discriminatory German laws were an obstacle to those who wanted to be integrated in the German society, and they were amended since the Party of the Greens formed a coalition with the Social Democratic party of Germany (SPD) in the late 1990s. There are signs which indicate that the second and the third generation of Turks who have better civil rights are becoming relatively more integrated.

According to the German bureau of statistics the current population of 82 million which makes Germany the most populated country in the European Union is inclined towards 20% decrease, which means 65 million in the next 50 years. Meanwhile 34% of the population will be aged over 65

[11]Baxter Kylie**,** (2007) British Muslims and the call to global jihad, p.9 http://www.isbs. com/partnumber.asp?pnid=293928 (accessed 12.02.2012)

[12] Will Somerville, Maria Latorre, Dhananjayan Sriskandarajah, (2009), United Kingdom: A Reluctant Country of Immigration, http://www.migrationinformation.org/feature/display.cfm?ID=736 (accessed 22.02.2012)

[13] Germany: Immigration in Transition; By Veysel Oezcan ; Social Science Centre Berlin; http://www.migrationinformation.org/Profiles/display.cfm?ID=235 (accessed 18.02.2012)

and 14% will be 80 years old or more by 2060, compared to the current 20% and 5% in 2009. [14]

This double challenge of population decrease and its aging will have serious consequences to the financial stability in the German social security system. For example, according to the German federal bureau of statistics the number of pensioners who are to be supported by the working class may be doubled by 2060. If 100 working people aged between 20 and 65 separate from their income to support 34 pensioners in 2009, it is expected that in the future by 2060 100 working people are to support 63-67 pensioners.[15]

The insecure and intimidating implication from the demographic future of Germany will simultaneously affect the economy, having in mind that at the moment Germany is one of the biggest exporters. Other European countries which have dealt more appropriately with the high birth rate of emigrants and their continuous growth based on settling will have better odds of dealing with the economic challenges in the future. This shows that Germany will continue to depend more and more on the emigrants. The Turks will remain the biggest labor force in the country, especially considering that the natural population growth of the Turks in Germany is 2.4 children, almost twice as the one of the Germans - 1.38, which is far from sufficient to reach the rate of 2.1 children per couple. If this rate is continued, the ethnic Germans will be reduced by a half in the next six generations, whereas the number of Muslim emigrants in Germany will be increased four times. The biggest problem which the common German refuses to face with is to accept the post-modern vision of his country as Islamized Germany.

In ***Spain*** the Muslim population has grown ten times in the last twenty years. In 1990 there were only 100.000 Muslims but now that number has reached about one million.[16] By the beginning of the 1980s, Spain was an exporter of labor force, whereas there were very few Muslims among the working people there. Instead, Spain was a transit country for the emigrants from the Maghreb countries (emigrants from North Africa) on their way to France and other European countries with a large Muslim community. In the middle of the 1990s the Spanish traditional role changed and it became a host-country to the Muslim emigrants, especially those coming from Morocco.

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[14] *A LAND WITHOUT CHILDREN; WHY WON'T GERMANS HAVE MORE BABIES?*

http://www.spiegel.de/international/germany/0,1518,779741,00.html (accessed 20.02.2012)

[15] Soeren Kern, (2010) Will Islam Become the Religion of Europe?; http://www.stonegateinstitute.org/1536/islam-religion-of-europe (12.02.2012)

[16] Ibid.

Migration is just one of the reasons for the growing Muslim population. The number of Muslim births is twice higher than the one of the ethnic Spanish. Right now Spain has a natural population increase of 1.3 children which is much lower than the necessary 2.1 children per family.[17] If the current natural increase remains the same, the number of Spanish people will be reduced to half after two generations, while the Muslim population in Spain will be increased four times.[18]

According to the statistics bureau of the Netherlands, in 2007 about 5% of the total Dutch population is Muslims. The data and the estimates from 2008 confirm that there are 850.000 million Muslims in the Netherlands. Most of them live in the big cities such as Amsterdam, Rotterdam, Hague and Utrecht.

During the 1960s and the 1970s, the Netherlands, just as other European countries, needed more workers for the low-paid jobs that did not require high education. The Netherlands' economy, which was service oriented, needed workers who would do jobs that the common Dutch citizen did not want to do. For those reasons the Dutch made contracts to hire workers from countries such as Turkey and Morocco, and fewer who came from Tunisia and Algeria, allowing the people from these countries to settle there and later to bring their families. In the 1980s and especially the 1990s the Muslims used to arrive in the Netherlands as asylum seekers from countries such as Bosnia, Somalia, Iran, Pakistan, Afghanistan and Iraq.

The Netherlands are now struggling and insisting on reducing or at least stabilizing migration i.e. the arriving of emigrants, but they have trouble dealing with this problem.

France has historically had a very big influence in the Maghreb countries in many aspects such as linguistics, culture, economy and business. However, this influence has not worked only in one direction. Maghreb is only ten kilometers away from Europe at the strait of Gibraltar, which enables an easy crossing of tens of thousands of Algerians, Moroccans and Tunisians. In the south, there is poverty, political turbulence and exploding population growth. In the north there is Europe, prosperous but unwelcoming towards emigrants, especially Muslims from North Africa. Due to the great disparity in income throughout the Mediterranean, the scarce opportunities for employment in the Maghreb countries and the political instability which occurred after the Arab spring, the unwanted influx of people will continue. France remains the destination of choice or necessity, which means that emigrants have a significant social, economic and political influence. According to the data of the French institute of statistics it is estimated that

[17] Ibid.
[18] Ibid.

11.8 million emigrants were born in France and their direct ancestors represent 19% of the country's population. More than 5.5 million of them are of European origin and approximately 4 million are from Maghreb countries (20% Algerians, 15% Moroccans and Tunisians). The emigrants aged from 18 to 50 represent about 2.7 million or 10% of the population, and 5 million emigrants or about 8% represent other age groups. The Great Paris region, near Paris has the highest number of emigrants, about 40%. 42% of the emigrants living there have come from Africa (30% from Maghreb and 12% from Sub-Saharan Africa), 38% from Europe (mostly Portugal, Italy and Spain) 14% from Asia and 5% from America and Oceania. Outside European borders and North America the highest emigration rate is from Vietnam, Cambodia and Senegal.

5. Turkey – the biggest Muslim country in Europe

From the previously stated on migration in the European countries, we can conclude that large minority in many of the European countries is Turkish. On the other hand, Turkey has never given up on the application for EU membership, an application which in 2005 resulted with a decision to begin the negotiations for entry. However, the Turkish membership in the EU is obstructed by some EU members (lead by Germany and France). Such pessimism is supported by several facts. One of the most important is that the European Union is getting tired of accepting new member states and enlargement. The islamophobia which rules the Union has been increased. Since France and the Netherlands have rejected the proposal for a European constitution, it is much harder for Europeans to ignore the public opinion, especially when it concerns decisions which are crucial to the future of Europe. France went so far as to make amendments to the constitution which stipulate that the accession of future member states in the union should be decided by referendum. Other states may follow their example. This apparently is not good news for Turkey. With the Union facing problems such as unemployment, migration, Islamic terrorism and Muslim integration, Europeans are not ready to accept another 70 million Muslims in their society.

It is here that the reasons for the skepticism towards the accession of Turkey should be looked for, even though Turkey continues to develop its democracy and economy and lately it is one of the most serious political partners of the West in its region. While Europe is facing a great economic crisis Ankara should be grateful for the indecent proposal for privileged partnership, given by Germany and France, which she refused on time. During the last few years Turkey has marked a significant economic growth

and decrease of unemployment whereas the European vocabulary is slowly fading away since the moderate Islamic party is in power.

6. Conclusion

At this moment in most European countries 3-5% of the population is Muslim, which provokes a lot of debate. Many unwanted and skillfully covered up issues have been revealed, and the intolerance towards emigrants, Muslims and minorities has increased. Europe used to be an intolerant society, a situation which slowly began to change during the previous century, especially in the last thirty years.

Having in mind that people's search for better living conditions will continue and will expand, there is a need for efficient management of migration flows which requires a multidimensional approach on a national as well as on a regional and international level, with the objective to gain a positive effect of migration, which obviously cannot be stopped.

As the structure of Europe's population changes, so will the European attitude towards this issue. It is also interesting to mention that this will cause different interpretation of what is known as equal treatment because what is equal treatment to the Muslims will mean privilege to the Christians and vice-versa.

Europe still lacks confidence when it comes to decisions concerning the Muslim population. The questions raised about wearing the burqa as a symbol of Islam have already heralded the new, big challenge facing Europe and its democratic values.

Research has shown that the creators of the European political scene have forgotten to take into account the challenge which Europe is now facing, that emigrants are changing the ethnic and geopolitical map of Europe. The lack of willingness to raise the question related to the population movements in Europe will affect all aspects of the life of the citizens, from education and accommodation to foreign politics and pensions.

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СОВРЕМЕНИТЕ МИГРАЦИОНИ ДВИЖЕЊА КАКО БЕЗБЕДНОСНА ЗАКАНА ЗА БАЛКАНОТ И ЕВРОПА

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Резиме:

Во текот на изминатите две декади, бројката на луѓе кои ги преминуваат националните граници во потрага по подобар живот постојано се зголемува. Европа, како и во минатото така и денес, претставува дестинација за многу емигранти. Повеќето од бегалците се мотивирани од желбата за подобар живот и подобри можности, но има милиони кои биле принудени да ги напуштат своите домови од потребата да го спасат својот живот. Моменталниот зголемен бран на бегалци и баратели на азил од земјите на Блискиот Исток и северна Африка се поврзуваат повеќе со конфликтните состојби, со се полошите услови за живот во овие држави, а помалку со недостатокот на работна сила во Европа. Во земјите на ЕУ, Германија има најголем број на бегалци околу милион од кои повеќето се од просторите на поранешна Југославија, Турција, Иран и Ирак. Голема е бројката на емигранти муслимани во земјите на Европа. Тие се значаен фактор кој влијае и ја моделира внатрешната и надворешната политика на Европа, не само од демографски туку и од географски аспект. Историски гледано, Европа и Исламот никогаш немале заеднички јазик. Ставовите на ЕУ поврзани со исламот се добро избалансирани, контролирани и пресметани. Исто така, во меѓувреме се настојува да се воспостават нови структури и тела кои би биле надлежни за муслиманите од Европа и кои би влијаеле на нивно вклучување во европските текови. Во научниот труд ќе бидат опфатени, демографските динамики, односно во кој правец се движело населението во минатото, како е денес и кои се прогнозите за во иднина. Исто така, ќе биде конкретно елаборирана европскиот контитнент, односно каква е состојбата со емиграцијата со муслиманска вероисповед во европскиот контитент со посебен осврт и анализа на државите: Германија, В. Британија, Шпанија, Холандија и Франција

Клучни зборови*:* емиграција, миграција, закана, Европа, Балкан.

MUTUAL CONNECTION BETWEEN DISASTERS, DEVELOPMENT AND SECURITY OF THE COUNTY

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Abstract

For a long time, among the scientific circles there is a dilemma for mutual relationship between accidents and disasters within the economic, social and other development of society. Experiences and lessons learned from the past accidents lead us to conclusion that accidents, despite their destructiveness that manifests, have a positive impact on the economic development of society. The idea of developing large-scale disasters affect private companies and the state to allocate and invest large resources in scientific research work on finding ways to predict, prevent or minimize the consequences of accidents. In most cases natural disasters cannot be prevented, but people can reduce their effects. On one side, the accident can destroy the planned development initiatives and, on the other side, they can create opportunities for future development. Through the development schemes and plans, organizations can present both options how to enhance or reduce vulnerability to disaster. Most of the innovations that are created for the timely prediction of accidents find its practical application in the everyday life of people. Also, the occurrence of major disasters reduces the security of the country, especially for those countries which have limited resources. In this paper we will try to introduce a new concept of mutual connections between disasters, development and security of the society.

Key words: disaster, development, security, society

Introduction

When there is a large incident or accident, there are certain prescribed standards of conduct and procedures of decision making which the involved parties must respect in order to solve the chaotic situation which exists on the ground. There is not a universal organization or procedure or a single organizational blueprint that will satisfy every need in dealing with such situations. The key for effective response in dealing with disaster is to apply fundamental principles in the dealing with this problem. But, so far there is not a "universal solution" for dealing with grief in all situations. It is generally known that the major incidents, accidents can be out of different nature, and therefore unpractical to apply a single solution for all situations. In accordance with the international standards developed by the International Organization for Standardization, the accident in the wider public generally involves a great tragedy or accident (crash)[1].

In the context of urgent planning for disaster we can say that every case (happening with or without warning) causing death threat or injury, damage to property or the environment or disruption to the flow of society, because of the steps of the effort it could not be resolved in a day or two with the help of emergency services or local authorities as a part of their activities.

The accident implies to any danger that requires special arrangement of one or more rescue services for:

- Initial training, rescue and transportation of large number of casualties. [2]
- Direct or indirect involvement of people.
- Dealing with a large number of requests generated by the public and the media from the police.
- Combining the resources of the rescue services.
- Mobilization and organization of rescue services and other support organizations.

For example, care of local authorities for mitigating the consequences of the threat of death, serious injury or the appearance of large numbers of homeless. There is not a standard definition of an incident that would satisfy the rescue services, but large incident occurs when any phenomenon is a serious threat to health, it disrupts the normal functioning of society or causes or may cause as many casualties that would require special engaging health and other services.

[1] "A Risk Management Standard", London: The institute of risk management, 2002.
[2] "Dealing with Disasters", Cabinet Office Civil Contingencies Secretariat, Revised Third Edition, 2003.

In the definition of major incident, we can conclude that from the rescue services it was required deployment of additional special services and organizations whose participation is expected to increase the effectiveness of the response to this incident. However, any major incident can be classified as an accident disaster. As an example we can take a serious accident on the highway that includes a number of vehicles. It may be a major incident, if its rehabilitation requires increased involvement of police, fire services and other services (outpatient and inpatient).

An accident which happens often and causes no major consequences, such as a fire in a room without casualties - can have the same level of risk and accident as those which happen rarely but have major consequences when an accident such as fire in an apartment with injured and deceased persons is as in an aircraft accidents. While the causes of natural disasters can be sudden and unpredictable, certain types of industrial accidents, technical and technological accidents carry risks that may be the subject to regular planning. This includes chemical or nuclear hazards at fixed locations where the most types of incidents and their probable consequences are broadly predictable (examples of Bhopal and Fukushima). For those accidents, we must make detailed plans for the appropriate action which will be taken, in advance. The existences of these plans reduce the errors which result from wrong decisions made in crisis situations.

Accidents have many effects on society and the environment. This means that they require a combined and coordinated response, linking the expertise and resources of relief agencies and local authorities supported by other agencies and organizations. There is no independent organization which has available resources for autonomously cope with grief. The primary responsibility in dealing with accidents remains locally where we have available resources and expertise[3].

The conceptual link between accident and development

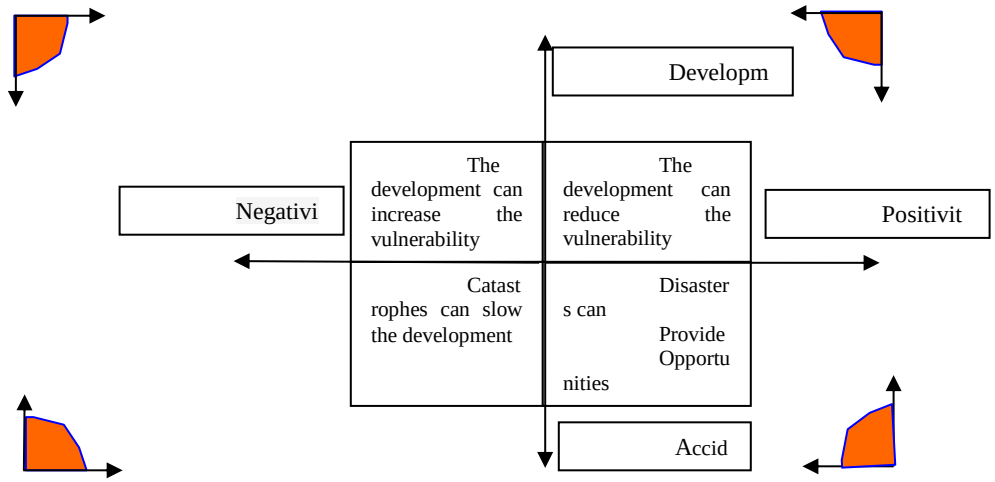
We will try briefly to represent the new concept of mutual links between disasters and development. Namely, for a long time the scientific community had ignored the mutual connection of causes and consequences between accidents and social and economic development on one hand, and security on the other side. In the best cases, development planners hoped that the incident would not happen but if it happened, it was operated with assistance from the various rescue agencies, organizations and donor countries.

[3] ibid

Development programs are not evaluated in the context of the possibility of accidents or the consequences that can cause accidents, but they can increase or reduce potential damage from a possible accident, and jeopardize the safety of the people on earth[4].

Accidents were seen only in the context of rapid response and not as a part of long-term development programs. When the accident would have occurred, the response was directed to rapid reaction and the urgent need of clearing the scene and removing consequences. The area where the accident occurred was seen as too turbulent a region to promote institutional changes aimed at promoting long-term development. Scientific thought is concerned with studying the relationship between disasters and development, and carved 4 main topics.

From the picture we can see positive and negative aspects of the relationship between disaster and development in verticals. The right half presented positive or optimistic expectations and the left side of the diagram presented negative aspects of the mutual relationship between the accident and the development[5].



Aspects of community development and vulnerability to disasters are presented in detail in the following schemes.

Schemes below show us the "orientation" through which we can analyze the "areas" of development and vulnerability to accidents. The four topics presented at the image are presented descriptive as follows[6]:

[4] Stephan Klingebiel, " New Interface between Security and Development – Changing Concepts and Approaches", Bonn: Dt. Inst. fur Entwicklungs politik, 2006.
[5] Stefanson. R.S, "Disasters and Development", 2nd Edition, UNDP, 1994.
[6] Ibid

1. Accident slows the development of initiatives and development programs in the year of accident.

Advance in infrastructure has been destroyed by flooding, such as transportation and electricity supply and sanitation system.

2. Rebuilding after the disaster provides significant opportunities to initiate development programs.

Self-assistance program to rebuild houses which are destroyed in the earthquakes teaches new skills, strengthens community pride and leadership and directs the money to other higher priority areas and targets for performing major construction works for the benefit of society.

3. Development programs can increase the sensitivity of the area by accident.

Increasing development of reserves leads to the destruction of food and contributes to the sacking of the country and increases the vulnerability of people for food.

4. Development programs can be designed to reduce the sensitivity of accidents and their negative consequences.

For example, when we are preparing project for building a house, the house must be designed to support high winds and to reduce destruction in case of strong winds.

The decisions that ignore the mutual relationship between accidents and development belittle people who have confidence in them. It is known that the development requires structural and institutional transformation of society in order to accelerate economic development, reduce the level of inequality and to break down wealth from one hand to increase the security of the country on the other side. Over time, the effects of disaster can seriously degrade the long-term potential of the sustainable development of the country and cause governments to modify their development programs and priorities. In most cases the modifications of these programs are favoured of the country's security to the detriment of the development of other projects of interest to social and economic development of society.

At the same time the accidents often give the opportunity to develop and they can enhance the atmosphere in favour of changes to create and establish rational development programs, but a poor management space. They can have several negative implications for development in the years to follow and may increase the vulnerability of the countries in future hazards.

Variation of the effects of accidents from one to another danger

The variation of hazards depends of their impact, geographic location and duration of effects. Taking into account the level of hazards that occur in

a particular country, they can include tropical storms, coastal flooding, earthquakes, and winds, fires in urban and mountainous environment, droughts, landslides, and civilian conflicts, technological and industrial accidents.

These accidents have a huge impact on the security of countries especially in the case of small countries such as Macedonia, or in countries with unstable political systems where institutions do not function according to democratic principles[7].

Each of these examples has a different potential danger of destruction, depending on the severity of the accident and his geographic relationship with the population and the level of economic development.

By analyzing the information on the type and size of social and economic losses caused by a more recent natural disaster (tsunami and nuclear accident in Fukushima, floods in Australia, Hurricane Irene in the USA), can give us several conclusions as follows:

- Natural disaster / accident caused by meteorological phenomena such as tropical storms and winds, basically occupy larger geographic area than geological disasters. This conclusion is based on the effects of Hurricane Irena and Catherine, which came to the USA occupying larger territory, causing great material damage and human losses. Hurricane Catherine is known for destroying New Orleans, and damages from Hurricane IRENA are still being determined. Compared to the earthquakes, they affected major urban centres and smaller settlements.
- If we compare the number of casualties occurring as a result of geological natural disasters like earthquakes and those caused by meteorological phenomena, we can see that geological disasters in the number of victims is much higher[8]. For example, the Guatemala earthquake of 1976 caused the deaths of 22,000 people as Hurricane Irene in the USA in 2011 caused only thirty casualties.
- The losses of capital stocks caused by earthquakes occupied social and physical infrastructure are higher than those incurred as a result of flooding.
- Adverse loss of capital reserves, production and other indirect losses are basically much larger in case of flooding and strong winds. When geological phenomena cause flooding or landslides the lost

[7] Samir Elhawary, Marta Foresti and Sara Pantuliano, "Development, Security and Transitions in Failure States", Overseas Development Institute, London, 2010.

[8] Robert A. Olson and Richard Steward Olson, "The Guatemala Earthquake of 4th February 1976: Social Science Observation and Research Suggestions", Amsterdam: Elsevier Scientific Publishing Company, 1977, pp. 69-81.

production and other indirect losses are much greater than in cases of geological disasters.

As common effects for all types of natural disasters we can mention the following:

- When in the affected country the significant number of casualties and limited qualified human resources can disappear (as in the case with the earthquake in Guatemala in 1976, when 19% of the population was affected by the effects of the earthquake[9]).
- Commonly, there is a significant accommodation of facilities and infrastructure associated with health and educational facilities.
- Temporary interruption with water supply, electricity, communications and transportation system.
- Joint effects of natural disasters are a temporary shortage of food and other materials related to agricultural and industrial production.
- The country's security is reduced and the risk of hostile is increased.

Impact of the effects of the economic situation, accidents and security in the country

The development is basically a process of investing the funds in the economy over the long period, which positive affect increases the security of the country in the world. There are many different types of economies where each entity is differently associated with different processes and patterns of investment, institutional change and structural reorganization.

Each type of economy shows varying degrees of sensitivity to short and long term depending on the size of the disaster and hazards affecting the security of the country.

As an example for analytical purposes, in this paper we took into account and defined four common types of economies that are characteristic of the countries which are most susceptible to the consequences of the occurrence of accidents of major proportions. In these economies, we have a large imbalance between economic and social development and security of the country in the event of accidents of major proportions.

The main goal is to focus on broad differential effects that cause accidents on these economies, and in their effect on safety. Using these four categories, we can begin to develop an overview of how to distinguish different types of economies according to their vulnerability to any kind of accident.

[9] Ibid

Newly industrialized economies, highly urbanized and high density of population in the urban areas are rather indifferent to the damage caused by natural disasters in agriculture. On the other hand these economies can be vulnerable to damage caused to infrastructure by earthquakes or tropical storms, which, for example, damages the power systems, transportation, communications and public utilities.

Rural / agricultural economies are typical for many less developed countries. These economies, which are often characteristic of countries with slow growth, are relatively immune to accidents with short and sudden impact.

However, they are vulnerable to accidents that have extensive impact on agriculture, such as droughts, damage caused by pests and civil conflicts. Small economies (especially Island) are mostly dependent on several types of crops or goods. They are usually prone to tropical storms (which destroy crops), droughts and volcanic eruptions.

Generally, the economies which are susceptible to "stress" and local conflict are vulnerable to droughts and major floods, but almost every accident has destabilizing effect on these economies. Accidents can also destabilize other processes that complement or underpin development activities, especially those activities related to structural bonding. Requests for emergency recovery and reconstruction after disaster can cause disruption to the process of adjustment to negative influences. For example, depending on the specifics of the accident, demands for public expenditures could increase significantly, while at the same time it can have a decline in investment and employment. The outcome of this situation will be further decline in future development.

Increasing of the capacity for analysis and mitigation of the benefits of development alternatives before and after the accident

Accidents can significantly impede the effective development and the location of resources. However, we can see the general picture of disruption of the mechanisms through the following indicators:

- Loss of resources;
- Termination of programs and diverting crucial resources for other short-term needs;
- Negative impact on investment climate; and
- Disruption of the functioning of the informal sector.

Accidents can also be a driving force for greater development program that has a positive impact on the security. Political influence in the country as a result of damage and disruption can be a real catalyst for

change. Accidents which inspire development initiatives, have different affect on the ways for development, but two general aspects should devote special attention:

First, accidents can highlight vulnerability in certain areas, for example when we have a larger loss of life or when the economic losses have an incalculable value as a result of a crash. These results highlight the general level of underdevelopment.

Second, for several weeks or months, the political environment may favour the much higher rates of economic development or social change than before, especially in the areas of training, structural improvement and restructuring of the economy.

International assistance given after the accident can partially compensate for economic losses, although the amounts of money will be smaller than the actual loss. The initial aid rarely exceeds 10% of the total damage, and is usually significantly less than that[10]. In the coming months and years we will have additional long-term development assistance which otherwise, in normal situation and conditions, would not be available. The economy may long benefit as a result of the accident and restructuring. For example, small economies that were previously dependent on the production unit cultures may have expansion in their economic base as a result of an international aid.

The extent of growth which can follow the accident can usually be limited by a donor investment policy for emergency loans from foreign financial institutions. According to Sarah Cliffe, Special Representative and Director for the 2011 World Development Report of the World Bank, "forward-looking programmes that strengthened national institutions and governance while providing security, justice and jobs were crucial to ensuring that fragile countries did not relapse into violence and instability"[11]. Assistance will take a considerable inflow of funds in small communities - resources that can be purchased at the local level, and the method of injection of these resources may discourage independence and entrepreneurship.

The volume and variety of external sources of relief in some accidents hamper this problem and emphasize the need that governments and international agencies continue to emphasize the development of disaster response. The development of the economy on the other hand provides increased financial outlays for security. Often, the development of military capabilities has a positive influence on the economic development, because

[10] "State of the Art Review on Environment, Security and Development Cooperation", OECD Development Committee, 2004.

[11] "Security Council Presidential Statement Stresses Need to Consider Economic, Social as well as Political Factors in Maintaining International Peace, Security", Security Council 6479th Meeting, 11 February 2011.

most of the funds are allocated for security back again in the economy. In major economies like USA, Russia, China, United Kingdom, etc., military industrial complex plays a major role in the development of society.

Natural accidents vulnerability of the Republic of Macedonia

Natural disasters do not recognize geographical, political and administrative boundaries. They can engulf the territory of several countries and even entire regions. Macedonia is geographically located in the central part of the Balkan Peninsula, and certain natural disasters, which are common to all countries of the region, such as earthquakes, floods, fires, are potential threats for our country as well. For example, the Danube passes through several states and at the same time it can cause floods in more countries by its flooding. All Balkan states are characterized by small economies, and to a greater or lesser extent feel the effects of natural disasters; this can directly affect the slowdown of development, and the security of countries.

Republic of Macedonia has established its own National platform to reduce the risks of accidents and disasters, such obligation arising from the accession of Macedonia to the Framework for Action Hyogo in January 2005. This National platform is also obligation set by two key conceptual and strategic documents, as the National Security and Defence Concept (2003) and the National Security Strategy of the Republic of Macedonia (2008), and the Law on Protection and Rescue adopted in 2004, and the Law on Crisis Management adopted in 2005.

Macedonia has a small economy and any major accident could have strong consequences on the development of society, welfare and prosperity of citizens and the security of the country. For example, in the last 90 years, the Republic of Macedonia had experienced several hundred earthquakes, of which many had destructive manifestations, some of them to express themselves with disastrous consequences. The catastrophic earthquake of 26.07.1963 in Skopje was a particularly rigorous example of extreme seismic hazard. Casualties (1,070 killed and 3,300 injured) and damage to material goods in terms of national income, surpasses all previous known catastrophic earthquakes in the world. The Republic of Macedonia faced with the destructive effects of earthquakes; in its legislation entered specific criteria for the design and construction in the seismically active regions in order to mitigate the consequences of possible occurrences. But after the 1963 earthquake in the Republic of Macedonia there has been rapid economic development. However, that does not mean that the state should experience a disaster and then to develop.

The Republic of Macedonia, in the past, registered a number of floods that have caused very serious consequences on the population and material goods. To reduce the effects of flooding, in its development plans, the Republic of Macedonia has provided construction of more dams. Hydro reservoirs in Macedonia have great significance, both in terms of production of electricity, water, tourism. In the recent years, the construction of several reservoirs in the country decreased flood waves in some areas and regions. These dams have depreciated a wave of flooding, while also protecting large areas from flooding and causing large drifts in the lower parts of the flat terrain. For example, with the construction of the dam Kozjak on the river of Treska, the water of the river Vardar on Skopje area and partly in the area of Veles have been controlled. In this segment we can clearly see the impact of the development of the country in terms of prevention of natural disasters. For example, demolition of a dam can have serious consequences not only for human life but also for the animal and plant life, and also on economic development and security of the country. On the other hand the development of the country is for respect with the construction of such a preventive hydro assist. Each country should develop and customize its own development plans aimed for preventing possible disasters that can be prevented.

Conclusion

Overall, we can conclude that there is no a universal model for dealing with problems that cause accidents of wide scale. The latest results from the researches and analyses of existing risks point to new opportunities - methodology and application for protection against natural and technological risks (disasters)[12]. To facilitate further investigation of the reasons that caused the accident and to provide evidence for further investigation, it is necessary that all decisions and actions which will be implemented on the ground, to be recorded. Each rescue service needs to provide its own shots. Experience has shown that video recordings are a useful resource in providing evidence from the spot of the accident.

Good storage and analysis of images provides further identified and lessons learned from dealing with the accident which can be applied in any similar situations in response to the future accidents.

Also, it is necessary to mention the following facts related to researches of the phenomenon of elementary catastrophes and their consequences on the mankind and the environment, and the impact which

[12] Vladimir P. Mihailov. "Ecological Dimension of the Risks from Natural and Technological Catastrophes", Institute of Seismological Engineering at the University "St. Cyril and Methodius", Skopje, 1992.

disasters have on the security of the country. It is obvious that the results are not sufficient to eliminate the risks on security of the country caused by accidents. All these further highlights are necessary, as well as to devote special efforts and attention to all aspects related to the design of development plans for economic development and development of the security of the country.

Mutual connection between the accident and the development of the country and its security is complex, because the development may increase vulnerability to the occurrence of accidents (especially technical and technological) which can jeopardize the security of the country. If the development plans are designed according to the risk of any accidents, then they can reduce vulnerability to adverse effects that can crash the country's security. Generally, we can conclude that the effects of the accident are different, depending on the type of accident and accordingly the vulnerability of disaster varies in relation to different societies and economies.

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DECLARING OF A STATE OF EMERGENCY ACCORDING TO THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA AS A SECURITY CHALLENGE AND RISK TO LIMIT THE BASIC HUMAN RIGHTS

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Abstract

A state of emergency characterizes an irregular, exceptional situation which occurs in a certain state, caused by unpredictable circumstances. Such circumstances may be: major natural disasters or epidemics, cases of direct danger of military attack against the state, when the country is attacked or war is declared, or temporarily disabling normal constitutional functioning which may suspend some normal functions of the executive, legislative and judicial powers. On the other hand, a state of emergency can also be used as a justification for suspending rights and freedoms, even if guaranteed by the Constitution.

In many countries, the state of emergency and its effects on human rights and freedoms and governmental procedures are regulated by the Constitution as a highest act or by-law that limits the powers that may be invoked. The Republic of Macedonia is one of the countries that regulates the state of emergency and has experienced possibility for its implementation due to the conflict in 2001.

During the conflict, the Prime Minister Ljupco Georgievski proposed to the President of the state Boris Trajkovski a declaration of martial law under the Constitution of the Republic of Macedonia. In this context the research paper aims to analyze this case and the state of emergency in general as a security challenge, but also a risk of limiting the fundamental rights stipulated by the Constitution.

Keywords: *State of Emergency, Constitutional law, Human rights*

Introduction

The concept of state of emergency dates from the ancient times and it can be found in the Roman law. Latin equivalent to the declaration of the state of emergency is known as Justitium, which was usually declared in case of invasions or following an emperor's death, during the troubled period of interregnum.

For example, justitium was proclaimed at the news of Hannibal's attacks and threatened the invasion of Rome. According to Giorgio Agamben, justitium progressively became a means after the Roman

Republic, when there was a danger threatening the polis, and the emperor claimed for himself the auctoritas necessary to the rule of law.

In the modern constitutional history, the idea of suspension of the Constitution (of the "rule of the Constitution") was introduced by the Constitution of 1814 in France, where Article 14 granted the sovereign the power to "make the regulations and ordinances necessary for execution of the laws and the security of the State".

However, fearing from the possibility that one fine morning the whole Constitution will be lost under the provision of Article 14, the state of siege was complemented with additional Article, which stated that a state of emergency could only be declared by a law. From that moment, the constitutional crisis in France during the 19th and 20th centuries has been marked by legislation on the state of siege. From this moment on, the dominant principle in the French tradition has been that the power to suspend the laws can belong only to the same power that produces them, i.e. the Parliament. In contrast to this, the German tradition entrusted this power to the head of the state.[1]

Martial and military law

In cases of major natural disasters, countries can use a different legal construct from that of the "state of emergency" such as Martial and military law. Martial law is considered as a temporary rule imposed by military authorities of a designated area in time of emergency when the civil authorities are deemed unable to function. When there are extensive riots and protests, or when the disobedience of the law becomes widespread, Martial and military law help in maintaining order and security for the purpose of providing essential services. In most cases, military forces are deployed to calm the crowds, to secure government buildings and key or sensitive locations, and to maintain order, where in full-scale martial law, the highest-ranking military officer would take over, or be installed, as the military governor or as head of the government, thus removing all power from the previous executive, legislative, and judicial branches of government. Martial law can also be used by governments to enforce their rule over the public. The legal effects of a declaration of martial law differ in various jurisdictions, but they generally involve a suspension of normal civil rights and the extension to the civilian population of quick (short terms of the process) military justice conducted by the military law. In theory, the martial

[1] Republic of Macedonia have combination of these two principles.

law is considered as a temporary situation whereby in the practice, law may in fact continue indefinitely.[2]

Martial law differs from military law, as a notion for justification by the common law of acts done by necessity for the defence of the Commonwealth when there is war within the monarchy.[3]

The regular civil courts do not review the decisions of tribunals set up by the military authorities, and very little authority exists on the question of remedies against abuse of powers by the military. The "acts done by necessity" are limited only by international laws and the conventions of civilized warfare.

Regulation of the state of emergency at an international level

Nowadays at an international level, the state of emergency is regulated by Article 4 of the International Covenant on Civil and Political Rights (ICCPR) adopted by the Organization of the United Nations, in 1966.[4] Article 4 of the ICCPR permits states to derogate from certain rights guaranteed by the ICCPR in time of public emergency which threatens the existence of the nation. When such situation is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international laws, and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.

However, no derogation may be made under this provision for the:

- right to life,
- prohibits of torture and slavery
- prohibits to the use of imprisonment as a punishment for breach of contract,
- prohibits for prosecutions under Ex post facto law and the imposition of retrospective criminal penalties, and requires the imposition of the lesser penalty where criminal sentences have changed between the offence and conviction,
- right to recognition everywhere as a person before the law and

[2] Encyclopædia Britannica 15th edition, Encyclopædia Britannica, Inc.. 2007.

[3] Sir Frederick Pollock, The Law quarterly review, Volume 18, Publisher Stevens and Sons, 1902.

[4] International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly of the United Nations resolution 2200A (XXI) of 16 December 1966, New York.

- freedom of religion.[5]

Any State Party to the present Covenant availing itself of the right of derogation, shall immediately inform the other States Parties to the present Covenant through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

The American Convention on Human Rights adopted in 1969 in San José, in Article 27 defines the state of emergency (suspension of guarantees from the Convention) as in time of war, public danger, or other emergency that threatens the independence or security of a State Party, which may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under the international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for protection of those rights. Any State Party availing itself of the right of suspension shall immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.[6]

In Europe the state of emergency is regulated by The Convention for Protection of Human Rights and Fundamental Freedoms dating form 1953.[7] The Convention, also known as the European Convention on Human Rights (ECHR), allows contracting states to derogate from certain rights guaranteed by the Convention in time of "war or other public emergency threatening the existence of the nation". However, for those derogations to be permissible they must meet three substantive conditions:

[5] Ibid, Articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18

[6] American Convention on Human Rights adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969.

[7] Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005) Council of Europe, 4 November 1950 Rome (enter in to force 1953).

- there must be a public emergency threatening the life of the nation;
- any measures taken in response must be "strictly required by the exigencies of the situation", and
- the measures taken in response to it must be in compliance (consistence) with the other obligations of the state under the international law.

In addition to these substantive requirements, the derogation must be procedurally comprehensive. There must be some formal announcement of the derogation and notice of the derogation, any measures adopted under it, and the ending of the derogation must be communicated to the Secretary General of the Council of Europe. This means that any Contracting Party of the Convention availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons for that. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

However, no derogation shall be made under this provision for:

- Right to life, except in respect of deaths resulting from lawful acts of war
- Prohibition of torture by which no one shall be subjected to torture or to inhumane or degrading treatment or punishment,
- Prohibition of slavery and forced labor by which no one shall be held in slavery or servitude.
- No punishment without law by which no one shall be held guilty of any criminal offence on the account of any act or omission which did not constitute a criminal offence under national or international laws at the time when it was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. This derogation shall also not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.[8]

As a mechanism for observing the compliance with the Convention, the European Court of Human Rights is permissive in accepting a state's derogations from the Convention, but applies a higher degree of examination in deciding whether measures taken by states under derogation are, in the words of Article 15, "strictly required by the exigencies of the situation". For example, in the case of the United Kingdom, the Court dismissed a claim

[8] Ibid, Article 2, 3, 4(1) and 7.

that a derogation lodged by the British government in response to the September 11 attacks was invalid, but went on to find that measures taken by the United Kingdom under that derogation were disproportionate.

Occurrence of the State of emergency in the Balkan countries

Example of an extraordinary situation is the case with Greece when it declared an emergency situation in the summer, when forest fires were extinguished, failed in several places in the country and the Greek authorities asked the European Union for assistance in fighting the fires.

Also, we have the case when in Bosnia and Herzegovina was declared emergency due to flooding where the towns remained without electricity, as the homes of residents were flooded and water was not potable.

Further, the case when in March 2, 1997 - the 1997 unrest in Albania also known as the Lottery Uprising or Anarchy in Albania was an uprising sparked by Ponzi scheme failures. Albania descended into anarchy and violence in which the government was toppled and some 2,000 people were killed. For that reason, on March 1, the Prime Minister Aleksandër Meksi resigned and on March 2, the President Sali Berisha declared a state of emergency.

The assassination of the Prime Minister of the Republic of Serbia, Zoran Djindjic on March 12th, 2003, served as a ground for proclaiming a state of emergency. Serbia's experience with the state of emergency has pointed out all of the shortcomings of the state of emergency institutional framework.9 The freedom of personality was the most endangered since Article 2 of the Order allowed police to detain persons in custody for up to 30 days. According to the police data, 11665 persons had been brought in throughout a 42 days-long state of emergency, out of which 2697 were detained. However, it was not the court that decided on possible arrests, but the appeal was to be submitted to the Minister of Internal Affairs which was contrary to both the Charter on Human Rights of the Serbia and Montenegro State Union and international standards. Relying on a report of the international organizations (UNOHCHR, OSCE and ODIHR), it was concluded that detained persons had been kept in police facilities which were inadequate, as they were intended for short-term detention, emphasizing that the state of detainees in isolation of the Belgrade Central Prison was unacceptable to the extent that it was contrary to the prohibition of torture, inhuman or degrading treatment as under Article 7 of the International

[9] Darko Simovic, Ph.D.; Dragutin Avamovic, M.A.; Sreten Jugovic; LL.D (2011), *Protection of Human Rights under a State of Emergency - the Case of Serbia*, Faculty of Security – Skopje, pp. 204 - 215.

Covenant on Civil and Political Rights and Article 3 of the UN Convention against Torture.[10]

Regulation and practical experience of the State of emergency in the Republic of Macedonia

In many countries, the state of emergency and its effects on human rights and freedoms and governmental procedure are regulated by the constitution and / or a law that limit the powers that may be invoked. Republic of Macedonia is one of the countries that regulate these specific situations by Constitution, which regulates separately the state of war and state of emergency.[11]

State of war exists when there is a direct danger of military attack on the Republic or the Republic is attacked, or war is declared.[12] Martial law declared by the Assembly by a majority of two thirds of votes of the members proposed by the President of the Republic, or at least 30 deputies. If the Parliament cannot meet, the decision to declare martial law made by the President of the Republic who submits to the Parliament for confirmation as soon as it is able to meet. During wartime, if the Parliament cannot convene, the President of the Republic may appoint and dismiss the government and appoint and dismiss officials whose election is within the jurisdiction of Parliament.

State of emergency exists in cases of major natural disasters or epidemics. A state of emergency in the Republic of Macedonia or part of its territory is determined by the Parliament upon proposal of the President of the Republic, or at least 30 deputies. The decision to establish the existence of emergency is adopted by a two thirds majority of the votes of the members and is valid up to 30 days. If the Parliament cannot meet, the decision on the existence of emergency is made by the President of the Republic who submits to the Parliament for confirmation as soon as it is able to meet.

In case of war or emergency, the Government, in accordance with the Constitution and the laws, issues decrees with legal force. The authorization of the Government to issue decrees with the force of law lasts until the end of the war or emergency, on which the Parliament decides. The mandate of the President of the Republic, judges of the Constitutional Court,

[10] T. Papic, V. Dimitrijevic (ed.), *Human Rights in Serbia and Montenegro 2003*, Belgrade, 2004, pp. 291 - 305.

[11] Svetomir Skaric, Comparative and Macedonian Constitutional Law, Matica Makedonska, Skopje 2004.

[12] Constitution of the Republic of Macedonia, Official Gazette No. 52 of 1991, Articles 124 - 128.

and members of the Republic Judicial Council is extended for the duration of the war or the emergency.

Best example of the engagement of the state of emergency in the Republic of Macedonia is the conflict which unofficially began at the end of January 2001 in the border village of Tanusevci. The armed conflict in the Republic of Macedonia in 2001 lasted from January to November that year. The conflict began when the Albanian paramilitary Liberation Army (NLA part), attacked the Macedonian security forces. The conflict continued for the greatest part of 2001 and ended with the signing of the Ohrid Framework Agreement in August the same year. The situation escalated in Tetovo on 14th March, when about 200 terrorists attacked the city (second by number of population in the country) from the mountain Shara, and that was the day when it fanned the illusions of the Macedonian state that Tanusevci (the start of the conflict) was just an isolated incident of a small group of extremists. That same night, the prime officials of the state had a meeting with the President of the State Mr. Boris Trajkovski. At that meeting there were differences in the attitudes toward resolving the crisis between the President Boris Trajkovski and the Prime Minister Ljupco Georgievski. Boris Trajkovski was to resolve the crisis by political means, on the other had Georgievski made a proposal to proclaim martial law (state of emergency) or a fierce military assault. The proposal was made with the words that: "Whoever wants to cause war in Macedonia or helps in that in any manner, should be aware that he / she will be charged through all authorizations given to the Macedonian police and the Macedonian Army." For implementation of this plan, General Pande Petrovski was appointed Deputy Chief of the Staff of the Macedonian Army and received the task to lead the defense of the country after the attacks of the paramilitary forces. He first contacted Vlado Popovski, a member of the National Security Council, and arranged a meeting between the retired general and the state officials in order to reactivate and go into action against the insurgents in Tetovo. When he met and talked to the Prime Minister, the General realized that military involvement was actually needed for resolving the crisis. The same day Petrovski talked to the President Boris Trajkovski and received authorization to establish task force officers from those 500 who were retired in 2000 (the previous year). The general had to take into account that the third Corps was disbanded; the second Bitola Corps was under dissolution; the professional armored battalion disbanded; and the border brigade was under formation. Single brigade was the first light infantry brigade in Stip. On 21st of March he formed a team to plan the operation in Tetovo and prepare for that operation for no more than five days. However, some unexpected events happened. In the evening of the 23rd of March the plan was completed and the General waited all the afternoon for the President to come and sign the

plan for the operation. He had some consultations with the Minister of the Army Ljuben Paunovski, since the President was not available. General Petrovski was told that the President was to sign the decision on Tetovo operation the following day at 12 o'clock. The next day the Army units already occupied the positions of the entire space for the planned operation. Petrovski on that day did not go to Tetovo, but had contacts with commanders who already started certain activities. The next day the Minister of Defense came to the General and told him that the President would not come because he resisted the proposal, influenced from some politicians in Geneva, and refused to sign. The Prime Minister Ljupco Georgievski and other parliamentarians tried to convince the President to sign and called the General in person to explain the plan in details, in time, order, space and manner. Later, the top officials except for the President gathered in the cabinet of the Minister of Defense. Later that day, after 11 pm in the cabinet of the Prime Minister, the President himself arrived and asked the General once again to review the plan that he explained for the fourth time. The President of the Parliament, Mr. Stojan Andov, who was also present, said the plan is good and had to be signed. And, everybody else of the present officials supported the plan. After a long silence and indecision on the part of the President, he told them to fetch the document, saying the words "God help us and save us" and signed the decision. The General called the commanders and told them that tomorrow they can already proceed the actions according to plan.

This can actually be seen as the first sparks of disagreement between the President of the state Trajkovski and the political party VMRO-DPMNE, which broke out several times in the time of the military conflict in the spring of 2001 when the party leader and the Prime Minister, Georgievski and Trajkovski were asked to declare martial law (state of emergency) in the state. Trajkovski at the first time expressed will in principle with the proposal, but later, in consultation with other domestic and foreign policy factors, he vigorously opposed this idea. Disagreements between Trajkovski and Georgievski about declaring or not-declaring martial law, was a fact that, many can agree, determined the duration of the conflict.

Conclusions

The experience shows that the constitutional provisions regarding the state of emergency are vulnerable and could be abused. On the other hand, the state of emergency may also be the only option for a state which finds itself in a crisis situation. These possibilities are a great burden for the Constitution makers, to establish mechanisms which are effective enough for overcoming critical situations with the least limitation and endangerment of

the basic human rights. Regarding the Constitution of the Republic of Macedonia and its practical implementation, we can conclude that a state of emergency is profoundly regulated. However, comparatively seen with the other constitutions and the international acts, one can freely say that there is still room for broader regulation. The current legal system does not recognize a special regime for the human rights during a state of emergency and derogation or non-derogation of human rights have not been prescribed by the existing Constitution. This open the possibility that during a state of emergency, certain rights such as right to life, freedom of religion, prohibits of torture, slavery, imprisonment as a punishment for breach of contract, prosecutions under ex post facto law, imposition of retrospective criminal penalties, etc. which are non-dirigible by every international, can be abused. For that purpose, deeper legal analysis and law changes in this field can be seen as a desirable course of development.

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ACTIVITIES OF THE RADICAL RIGHT-WINGED PARTIES IN DIRECTION OF THREATENING THE EUROPEAN SECURITY

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Abstract

Although, some authors were of the opinion that the time will lead to reduction of the number of the radical parties and their eventual disappearing from the political scene, the situation today shows that radical parties still exist as relevant political actors and in some European countries, they are even expanding.

Very often, these parties are not getting significant support from the electoral body, and consequently their political power can be rather limited. Having this as a starting point it can be noted that, their position and role on the political scene, very much depends from the principals and regulations in the concrete state electoral system. Consequently, the electoral systems have mechanisms in place, in order to facilitate the role and power of the radical parties in the state political scene. This is very important and needed in countries with multiethnic and multinational societies where radical parties can very quickly gain political influence and power, especially in times of potential conflicts and in societies that have number of raised issues and challenges of this kind of nature.

Having the world economical crisis, the rising number of international terrorism, the radical parties, with their political agendas against immigration and keeping the traditional social rights for the born citizens of the countries have taken over significant number of the votes from the middle class.

This article aims to show the position and role of the radical parties in Europe and if their functioning can treat the security of the country.

Keywords: *radical right parties, small parties, electoral system, security.*

Introduction-defining the terms

The results of the elections as well as the results from different scholars are showing that the support for Radical Right Parties (RRP) is increasing in the last 20 years. On one side, the scholars who are writing about RRP are focusing on their definition, and on the other side they are trying to discover the reasons that have contributed for the increased support of the RRP.

Despite the definition of the parties and the extremist structures (generally, radical right-winged parties qualify for this group), in this first part of the paper will be also discussed about the relationship between the electoral model and radical right parties. The second part will be directed to show the status of these parties in Europe. In the third part of the paper, the focus will be on the causes concerning the question why citizens vote for RRP. Besides the definition of security and what is the meaning of it, the last part will briefly present the events meaning security violation / threatening as a result of direct / indirect impact of RRP.

Political parties are a prerequisite for democracy in a country, although their presence is evident in authoritarian systems as well. Generally, political parties are institutions that mobilize people in order to participate in the executive management of the state. These are institutions that want to represent more than just a narrow interest in the society; these are groups of people with similar beliefs, attitudes and values. According to Edmund Burke, political parties represent a group of people united in their efforts with the only aim, and that is to advance the national interest on the basis of a certain principle and mutual consent.[1]

According to Simon Hug a significant factor that contributes to the formation and success of new parties is the emergence of new moments (issues, situations, circumstances) in the society. New parties actualize and exploit the latest social issues expecting to get support from the voters and achieve electoral success or to make strong pressure and influence on the existing parties (Hermel and Robertson, 1985). According to these authors, the new parties as main driving forces stand behind the expansion of the political agenda.[2] Analyzing the increased electoral support to RRP, the "new moment" can be recognized to increased number of immigrants.

Markes and Bean (1992: 311) note that electorate of the small parties is usually considered as a barometer indicating public dissatisfaction with the political system and/or the existing ruling establishment.[3] The rising dissatisfaction of the voters from the government immigration policies can influence the electoral results in favor of RRP.

The extremist structures today, are still in the era of people's parties, interpreted as "completely normal pathology" in the process of state changing. It is associated with the prognosis that their strength will weaken when that change will happen. Once the forecast hasn't realized, right wing

[1] Dalder Hans, *Parties: denied, rejected or redundant? Critique*, *Political Parties,* Akademski pecat, Skopje, 2009, p.n.60.

[2] Stoll Heather, *Dimensionality and the number of parties in legislative elections*, Party Politics published online 9 July 2010, p. 9.

[3] Donovan Todd, *Mobilization and Support of Minor Parties: Australian Senate Elections*, Party Politics, 2000, 6:473, p.474.

extremism would change. Parties declared as radical but not extremist gain in strength. Those parties were only partially against the system. Although, none of those parties was suspected to be a fascist party, their development has been followed with a concern.[4]

At the beginning the right-wing parties were usually defined as "single issue party", but some reserve towards them could be often noticed in multicultural societies.

Extreme right-wing parties were initially formed as pre-nationalist, conservative and military response to the Communist revolution in Russia and the economic difficulties at the end of the World War I. Many extremely right parties, led by charismatic leaders who used to promise to settle the chaos in some countries in the '80s and '90s of the last century, offered the voters a combination of strong support concerning the tax reduction and low interference in the economy, which collected a great deal of votes from the middle class. Amid the recession and world economic crisis, as well as the increase of international terrorism, recently these parties collected the most of the votes from this class (to be more specific, with their attitudes against immigration in order to eliminate the crime and to ensure that the traditional social rights of the local population will not be disturbed by giving unlimited access).[5]

Cas Mudde defines these parties as populist radical right, a combination of nativism, authoritarianism, and populism. Nativism entails a combination of nationalism and xenophobia. Authoritarianism refers to the belief in a strictly ordered society, in which infringements of authority are to be punished severely. Populism, finally, is an ideology that considers society to be ultimately separated into two homogeneous and antagonistic groups, 'the pure people' and 'the corrupt elite', and which argues that politics should be an expression of the *volonté générale* (general will) of the people.[6]

In essence, the populist radical right is monist, seeing the people as ethnically and morally homogeneous, and considers pluralism as undermining the (homogeneous) 'will of the people' and protecting 'special interests' (i.e. minority rights).

There are certain common characteristics that allow defining the extreme right as at least to a certain extent consistent whole. It is mainly the increased political emphasis (compared to the policies of other parties) on: national interests; protection of "traditional" population from negative

[4] Beyme von Klaus, *Transformacija politickih stranka, Od narodnih do profesionaliziranih birackih stranka*, Fakultet Politickih znanosti, Zagreb, 2002, p.n.71.

[5] Beyl Tim, *European politics comparative introduction*, Akademski pecat, Skopje, 2009, p.159.

[6] Mudde Cas, *Radical Right Parties in Europe: What, Who, Why*, 2011, http://works.bepress.cpm/cas_mudde/46

impacts of immigration (criminality, terrorism, cultural disintegration) from other cultural areas; opposition to the abuse of the benefits of their "own" social state; strict criminal and penal policy; opposition to the current supranational integration that is viewed by the extreme right as a left-wing or "pseudohumanistic" project.[7]

For each of the radical right parties the preservation of national identity is paramount. The radical right parties tend to see themselves as the only true "patriots" in the country. Unlike the other parties in the country, they are not ashamed of the country's history and long for a return to a more glorious part.[8]

According to Lijphart the party system doesn't depend on the number and size of political parties only, but also refers to the interaction which is crucial in the explanation of the position and the role of "minor" political parties. What will be the position of the smaller political parties in a certain political system largely depends on the electoral model used in the actual moment.

According to "Duverger's Law" single-member majoritarian districts tend to foster a two-party system while proportional representation fosters multipartism. In this vein, researchers have examined the relationship between the proportionality of electoral systems and support for RRP, hypothesizing that the more proportional the system, the greater the electoral support for RRP.

Studies also show that the electoral institutions influence the success of radical parties. Thus, when the districts are larger with larger number of seats in the parliament, the success of these parties is greater accordingly. The electoral threshold has also certain influence over the radical parties, so the higher threshold means lower support for these parties.

Taking in consideration, the extremist parties have difficulties in winning seats in the electoral systems such as in the United Kingdom system where the majority model is applied. Unlike this example, the position of these parties is different in Norway and Austria because the proportional model is practiced in these countries.

[7] Maresh Miroslav, *Transnational Networks of Extreme Right Parties in East and Central Europe: Stimuli and Limits of Cross-Border Cooperation, 2006, p.2* http://ispo.fss.muni.cz/uploads/2download/fukuoka/Mares.pdf

[8] Givens E Terri, The freedom party in comparison: Radical right parties in Western Europe, 2001, http://aei.pitt.edu/2088/1/002104.PDF

Radical Parties in Europe

Before we start to consider the reasons why the citizens vote in favor of RRPs, we will speak about the support that these parties receive i.e. the election results of these parties will be presented, but also will be discussed their participation in the government.

- The situation of these parties in Europe is the following:
- In Sweden, the extreme right-wing party "Swedish Democrats" entered the parliament. This party argues that Islam and Swedish mentality do not go together.
- In Denmark, the "Danish People's Party" is also against the immigration of foreigners and won support of 13.9% at the elections in 2007.
- In Italy, The right-wing party "Northern League" is in the Government for several years now, and the President of the state Silvio Berlusconi has persisted for some time because of support from this party.
- In Holland, "Christian Democrats" and "Liberals" recently formed a Government of Minority, but had to agree with the requirements of anti Islamic "Freedom Party" (the leader of this party is Geert Wilders who is currently under trial for inciting hatred against Muslims) that was third party at the last elections according to the number of won votes. The party stands for interdiction of the Koran, burqa and stopping of Muslim immigration;
- In Belgium, with the consent of the left-oriented parties, the law that forbids wearing of burqa and niqab is already into force.[9]

In order to have a more complete picture about the RRP position, a table will follow that besides the election results will also display their relationship with the government.

[9] The situation of the extreme right-winged parties in the national parliaments across Europe is the following: In Sweden - Swedish Democrats 5.7%, in Norway - The party of progress 22.9%, in Finland - True Finns 4.1%, in Latvia - Fatherland and Freedom 5 %, in Lithuania - Order and Justice 12.7%, in Belgium - Flemish interest Vlams Belan 7.8%, in Austria - Freedom Party 17.5% and the Alliance for Austrian Future 9.2%, in Slovakia - Slovak National Party 5.1%, in Slovenia - Slovenian National Party 5.4%; in Hungary-Jobbik 12.2%, in Bulgaria's Ataka -10.1%, in Greece - Popular Orthodox Rally (LAOS) 5.6%, in Denmark - Danish People's Party 13.9%, in Switzerland - Swiss People's Party 31%, in Italy - Northern League 8.3%, and the Netherlands - Freedom Party 15.5% (source: daily newspaper Nova Macedonia dated Oct. 2- 3 2010 pgs.15/16 section Source of the world press, entitled Ultra-right parties found their places in European governments, undertaken by DW).

Table 1: Successful populist radical right parties in Europe – electoral preference and parliamentary/government status.[10]

Elections	Before 21 century % (date)	21 century % (date)	Nearly % (date)	Parliamentary/ before	Government Status now
Austria (FPO) BZO	26,9 (1999) /	10,2 (2002) /	11 (2006) 4,1 (2006)	Coalition partner /	Opposition Opposition
Belgian (VP)	9,9 (1999)	11,6 (2003)	12 (2007)	Opposition	Opposition
Bulgaria (Ataka)	/	/	8,2 (2005)	Opposition	Opposition
Denmark (DF)	12 (2001)	13,3(2005)	13,8(2007)	Party for support	Party for support
France (FN)	14,9(1997)	11,3(2002)	4,3 (2007)	Without sits	Without sits
Italy (AN) (LN)	15,7(1996) 10,1(1996)	12(2001) 3,9(2001)	12,3(2006) 4,6(2006)	Coalition partner Coalition partner	Opposition Opposition
Holland (LPF) (PW)	17 (2002) /	5,7 (2003) /	/ 5,9 (2006)	Coalition partner	Opposition Opposition
Norway (FrP)	15,3(1997)	14,7(2001)	22,1(2005)	Party for support	Opposition
Poland (LPR)	7,9(2001)	8(2005)	1,3(2007)	Coalition partner	Without sits
Slovakia(SNS)	9,1(1998)	3,3(2002)	11,7(2006)	Coalition partner	Coalition partner
Switzerland SVP	22,5(1999)	26,6(2003)	29(2007)	Coalition partner	Coalition partner

Generally, from the presented 11 countries, the support for RRP increased in 6 of them during the previous election cycles. In the past, 7 RRPs were coalition partners of the governing parties, 2 of the parties were to support the government and 2 of them were in opposition. According to the latest election results 9 RRPs are in opposition, 2 of them are coalition partners, and only one party is to support the government.

[10] Beyl Tim, *European politics comparative introduction*, Akademski pecat, Skopje 2009, p.345.

Leader of the radical right in Germany and Austria have declared that their homelands are not countries of the immigration. In France Le Pen has argued for the deportation of foreigners who threaten to overwhelm the "French" population with their numbers. Each of these parties has spoken out against a multicultural society.

Many of these parties consider the unemployment as a result of numbers of immigrants in their state. That is the case with the French party "National Front" which believes that if the number of immigrants reduces the number of unemployed Frenchmen will reduce adequately. For example, Jean-Marie Le Pen used the slogan "Two million immigrants are the cause of two million French people out of work" during the 1984 European elections in France (Mitra, 1988). The Republicans in Germany have campaigned under a similar slogan: "Eliminate Unemployment: Stop Immigration." Other attempts to link the issue of immigration and unemployment can be seen in Haidar's "Austria First" petition drive and Le Pen's publicly stated desire to repatriate immigrants and give French citizens preference in the job market. These slogans seem to be explicit appeals to voters who fear that their material well-being is threatened by the influx of immigrants.[11]

Why citizens are voting for the RRP?

With an aim to elaborate the reasons for the existence and rising success of the RRP, in this part the conclusion from the researchers of relevant scholars will be briefly presented. Although in the last years many scholars have dedicated their attention on the RRP, no single theory has come to dominate the academic literature.

According to the research made by Golder the analysis provides strong evidence that the effect of unemployment on populist parties is conditional on the level of immigration. Unemployment only increases the voteshare of populist parties when there are large numbers of foreigners in the country. This inference was made possible by the inclusion of an interaction term between unemployment and immigration.

The most widely accepted explanation for the success of RRP suggests that they are a response to the growing "multi-culturalization" of West European societies. In this view, the rise of the extreme right is a response to the perceived threat to national identity caused by rising numbers of immigrants. In a more complex formulation, levels of immigration are

[11] Golder Matt, Explaining variation in the success of extreme right parties in Western Europe, Comparative political studies, vol.36 No.4, Sage Publication, 2003, p.438.

linked to levels of unemployment in such a way that high immigration favors the electoral success of RRP only when economic conditions are negative.[12]

Swank and Betz's found that the weakness of moderate right parties is linked to higher support for RRP. Givens considers that radical right party offers an option for those who might otherwise abstain from voting, it mines that in regions with high levels of abstention may also have high levels of support for the radical right. In fact, in her sub-national study of Austrian, French and German regions, Givens (2002: 156) found that higher rates of non-voting are associated with higher support for RRP. In sum, this body of research would lead us to expect that the electoral weakness of left and moderate right parties and higher levels of non-voting are all positively associated with the electoral strength of RRP.[13]

The generosity of the social welfare state affects support for RRP since regions where the social welfare state is most successful at reducing poverty tend to vote for RRPs in larger percentages than those less-generous regions.[14]

Some thresholds of immigration appear to be necessary for the genesis of radical right parties since anti-immigrant appeals have been central to parties in every single case except in countries that have not experienced significant immigration until recently, such as Spain, Portugal, and Finland where the average immigration rate from 1990-2002 was under 2%, radical right parties have not emerged.[15]

Another popular explanation of support for radical right parties is the protest vote model. Van der Brug et al. (2000) conceptualized protest voting as a rational, goal directed activity. The prime motive behind a protest vote is to show discontent with "the" political elite.[16]

From the previously stated can be concluded that the following factors can have influence over the raised support to the RRP: the increased of immigrants in correlation with the increased of unemployment; the weakness of moderate right parties; higher levels of non-voting; higher of generosity of the social welfare state; as well as the discontent with "political elite".

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[12] Jasuit David, Mahler Vincent, *Electoral Support for Extreme Right-Wing Parties: A Subnational Analysis of Western European Elections in the 1990s*, 2004, http://www.lisproject.org/publications/liswps/391.pdf

[13] Ibid, p.8.

[14] Ibid, p.21.

[15] Art David, The European Radical Right in Comparative-Historical Perspective, p.3, http://ase.tufts.edu/polsci/faculty/art/europeanRadicalRight.pdf

[16] Brug van der Wouter & Fennema Meinder, The support base of the radical right parties in the enlarged European Union, 2006, p.5, http://www.ees-homepage.net/papers/lisbon/fennema_vanderbrug.pdf

As a conclusion- why RRP can present a threat to the security in Europe?

The term security represents one wider concept. It can refer to freedom from threat (or danger) and the subjecting feeling of safety. Security also means: physical, emotional and psychological safety and a feeling of wellbeing.[17]

The RRP even if they are marginal they can however play a certain role in the integration of militant and terrorist structures to which they provide an umbrella through their organization.[18]

According to Jesuit and Mahler the growth of xenophobia in Europe should be viewed with concern because such attitudes find their expressions in populist political parties that are participating in governing coalitions with greater frequency. They think that if the European party systems continue to weaken, it seems quite possible that those populist parties and their xenophobic illiberal agendas will one day prevail, signaling the demise of liberal society.

Here should be certainly mentioned the case in Norway where Brejvik performed a massacre over 93 young people on the island Utoja. Although this action cannot be directly connected, however it should be mentioned that Brejvik was a member of the Norwegian extreme right-wing "Party of Progress" since 2006. He had a leading position among the young people in the party. "The party of progress", which is extremely nationalistic and hostile to foreigners, is the second largest party in the Norwegian Parliament since 2005, but does not participate in the government. It stands against immigration of foreigners, but it is not a party of neo-nacists.

After this event, followed reactions of other radical right-winged parties across all over Europe, thus Le Pen said "Norway is a cute little country, which hasn't taken into account the global threat brought by mass immigration, which seemed to be the main cause for the spirit of the mad-killer, but also for the terrorism, which is a worldwide phenomenon". The Italian party "League for the North" officially suspended from its party ranks Mario Borgezio due to the support of Brejvik's anti Islamic attitudes. On the Italian state Mario Borgezio said that he supports the Brejvik's opposing to

[17] Meguire, M., Morgan, R., Reiner, P., Oxford Handbook of Criminology, Jones, T., Governing Security: pluralization, privatization and polarization in crime control, NAMPRES, Skopje, 2010, p.844.

[18] Maresh Miroslav, *Transnational Networks of Extreme Right Parties in East and Central Europe: Stimuli and Limits of Cross-Border Cooperation, 2006, p.4* http://ispo.fss.muni.cz/uploads/2download/fukuoka/Mares.pdf

Islam and his call for the Christian Crusade because of the turning Europe towards Islam.

Radical right-wing parties in some states act in cooperation with NGOs. Such is the case in Hungary where the radical party Jobbik is associated with non-governmental organization National Guard. Their main activity is organizing marches, accompanied by patriotic songs being in its content mainly directed against Roma, Jews and Slavs.

Currently the Freedom Party from Holland has very controversial style of approaching to their voters. On their web-site 40.000 people have answered the question "Do you have problems with people from Central and Eastern Europe? Have you lost your job because of people from Poland, Bulgaria, Romania or some other people from Eastern Europe?" More than 300 people have complained that these questions are xenophobic. Furthermore representatives from more than 10 foreign embassies have demanded reaction from the government of Holland. In March the European Parliament will open a debate to analyze if the content web-site is violating the democratic principles of EU.

The massacre committed by Brejvik was not a direct RRP's action but it could be a very radical perception of messages in the mind of one man. Therefore, the actions of these parties should be watched carefully, especially because the messages they send point out the unemployment of "their people" as a result of a high percentage of immigrants.

From the previously presented examples on the activities of the RRP, it can be noted that the security understand as physical, emotional and psychological safety can be endangered.

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http://ase.tufts.edu/polsci/faculty/art/europeanRadicalRight.pdf

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ENVIRONMENTAL REFUGEES - MODERN SECURITY CHALLENGE

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Abstract

The late 20th and the beginning of the 21st century were marked by numerous migrations. Today people are moving more often than at any other time in the history, but contemporary changes in the environment such as climate changes caused by natural disasters (droughts, floods), desertification, deforestation, inefficient use of natural resources, and so on may result in forced migrations. It is estimated that in the forthcoming decades, global warming, increasing water shortages and the reduction of agricultural lands will be a decisive factor in the migration of the population. Migration flows will occur throughout the world and may present a real threat to global security. The unresolved legal status of international environmental refugees creates a number of additional security issues. Therefore the actualization of the environmental problems of migration in solving the international environmental legal status of migrants is necessary in order to respond adequately to contemporary security challenges in the form of environmental refugees.

Key words: environmental security, environmental refugees, safety, environment

"All beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in the spirit of brotherhood."

Universal Declaration of Human Rights, Article 1

Introduction

Modern disputes related to security commonly agree that it is necessary to extend the field of security researches which are, among other things, influenced by numerous environmental problems, such as: viability and regeneration of natural resources and minerals, global warming and greenhouse effect, exhaustion of atmosphere, pollution of the environment as a result of human influence in certain industries (chemical, petrochemical, military, etc.), soil erosion, deforestation, endangered species of fish, lack of drinking water. This connection between the environment and security suggests the necessity for the redefinition of the traditionally comprehended security concept.[1] Consequently, more and more theoretical security concepts (political and economic security, personal, national, international and global security) are nowadays concerned with environmental problems. The main points in all approaches regarding the environment – security relation are as follows:

- scarcity or lack of the environment as a cause for political instability and conflicts;
- degradation of the environment as a result of a war or war preparations;
- degradation of the environment as a threat to human health and welfare.[2] Norman Myers says that the intensity of changes has set the environment as a new phenomenon on the global arena[3] in terms of understanding the ecological dimension of security issues which have

[1] Compare: Bajagić, M.: *Security of the Environment: New Research Focus of Security Studies*: Opposing Contemporary Organized Crime, Book 1 (Compilation of works), Belgrade, *Academy of Criminalistic and Police Studies* 2011.

[2] For further information: Terriff, T., Croft, S., James, L., Morgan, P.M: *Security Study Today*. Cambridge: Polity Press, 1999; DeRouen, K. Jr., & Bellamy, P.: *International Security and the United States": An Encyclopedia*, Volume 1, London: Praeger Security International, 2008.

[3] Myers, N.: Environmental refugees: A growing phenomenon of the 21st century. In *Philosophical Transactions: Biological Sciences* 357 (1420), 2002, pp. 609–613.

an impact on global reality in an astoundingly new and negative way.[4] Bearing in mind these dimensions, numerous scientific disputes are concerned with the migrations as a security issue and a direct consequence of mutually related ecological problems.

The end of the 20th and the beginning of the 21st centuries witnessed migrations on the global level.[5] Modern living and working conditions are characterized by frequent movements occurring more often than at any other time in human history, which makes it difficult to estimate the approximately correct numbers related to new migrations. Global dimensions, numerousness and differentiation of refugees are main features of up to date migration flows.[6]

Generally speaking, migrations are all types of population movements which occur willingly or forcibly within a country (displaced persons) or out of the borders of their country. There are numerous factors in people's lives that may motivate them to migrate, such as: adventurism, family, economic or political reasons, etc. The basis of all migrations is how to react to negative circumstances – whether to reconcile to the existing negative situation or to try to overcome it by migrating. Typical migrants are persons who migrate (change their place of living) of their own will, while forced migrants are called refugees. Forced migrants or refugees are forced to leave their homes because of external events or processes which they have no control of. It is important to understand the relations between ecological factors and migrations (Table no. 1).

[4] Urban, J.L.A.: *Nation, Immigration, and Environmental Security*. New York: Palgrave Macmillan, 2008.

[5] The UNHCR states that there were approximately 13.2 million refugees worldwide in 1997. World Refugees Survey 1996., U.S. Committee for Refugees, Washington 1996, according to: Opitz, P.,J.: *The big movement*, Political Thought, Vol XXXVI (1999), br. 1, p. 43.

The number is low and refers only to those people who crossed the borders of their own countries. If the so called *internally displaced persons* (those who seek refuge inside their own countries) had been counted the number would have grown up to 40 to 50 million refugees. Opitz, P.,J., *op. cit***.,** p. 43.

[6] Castler, S., /Miller, M., J.: *The Age of Migration. International Population Movements in the Modern World*, New York 1993. According to: Opitz, P.,J., *The big movement*, Political Thought, Vol XXXVI, (1999.) br. 1, pp. 42 - 59 p. 55.

Table no.1. *The Classification of Environmental Refugees according to the Decision on Migrating*[7]

INVOLUNTARY	COMPELLED	VOLUNTARY
ENVIRONMENTAL REFUGEE	ENVIRONMENTAL EMIGRANT	MIGRANT

Migration is *action.* In order to understand it, one should know the *causes* on which that action is based. Therefore, to understand migrations means to research the elements of instability which are the cause of migrations. The driving force causing new forms of migration flows are the negative changes in the environment. It is estimated that "the environmental migrations could become one of the greatest global demografic challenges in the 21st century".[8] A considerable number of forced environmental migrants live in all modern states. Their number will increase in consequence of the global climate changes, natural disasters, inefficient use of natural resources, as well as the lack of good quality filters and plants for the liquid waste processing.[9] It is anticipated that the events in the forthcoming decades, such as, global warming, the increase in water supply shortages, the reduction of agricultural lands, will be key factors in forced migrations. Migration flows will exist worldwide and they will present a real threat to the global security.[10]

The analysis of migration flows related to the environment includes three basic questions: *who* are environmental refugees, *why* do they migrate and *how* to prevent migrations caused by environmental changes.

[7] Bates, D.C.: *Environmental Refugees? Classifying Human Migrations Caused by Environmental Change.* http://home.student.uu.se/h/heax7669/Samh%E4llets%20Geografi/Artiklar/Bates.pdf (15.02.2012).

[8] *The problem of environmental refugees*, Doc.11084, Parliamentary Assembly, Strasbourg, 23 October 2006

[9] Compare: Eddy, E.: *Environmental Security: Securing What for Whom?* Social Alternatives Vol. 23 No. 4, Fourth Quarter, 2004, pp. 23-28.

[10] For further information: Myers, N.: Environmental refugees: A growing phenomenon of the 21st century. In *Philosophical Transactions: Biological Sciences* 357 (1420), 2002, pp. 609–613.; Compare: Myers, N.: *Ultimate security: The environmental basis of political stability*, New York: W. W. Norton, 1993

Environmental refugees

When trying to define the concept of environmental refugees, one comes across a major problem – the non-existence of a generally accepted international definition of environmental refugees. It presents more than an ordinary theoretical problem, because the exact definition is the core of a new research in contemporary migration flows within wider migration studies. Various terms used for migrations related to the problems in the environment, such as, environmental refugees, environmental migrants, ecological migrants, climate migrants, are the consequence of the absence of international and scientific consensus on this issue.

The main reason for the non-existence of the exact definition of environmental refugees lies in the difficulty to link migrations with environmental changes, i.e. it is hard to differentiate environmental migrants from other forms of population movements. However, it is not the sole reason for the impediments in defining environmental migrations. Another large obstacle refers to the forced and willing migrations. Are forced migrations directly affected by environmental changes? Is there an aspect of willingness in migration flows caused by environmental changes? These are some of the most frequent questions regarding environmental migrations that should not be ignored.

"Ecological migrants are persons who are forced to leave their homes desperately and urgently due to the changes in the environment which endanger their lives in the same way as political refugees are forced to flee from violence."[11] There have been many attempts to define forced environmental migrations. Almost every author who deals with this issue[12] gives his / her own definition of migration flows caused by negative changes in the environment. The authors of this paper uses the definition of environmental migrations suggested by the International Organization for Migration[13] "Ecological migrants are individuals or groups of people who,

[11] Dimitrijević, D.: Trendovi ekološke bezbednosti u XXI veku, Univerzitet u Beogradu, Fakultet bezbednosti, Beograd, 2010. p. 51

[12] More about the environmental security concept in: Allenby B.R.: Environmental Security: Concept and Implementation. *International Political Science Review*, 2000, Vol. 21, No. 1, pp. 5-21.

[13] The International Organization for Migration (IOM) was founded in 1951 with the aim of helping and providing for a large number of refugees due to World War II. It had changed its name several times since its foundation until 1981 when it got this name. It is the first inter-state organization which dealt with the migration issues. The main objectives of this organization are: providing help both to migrants and states which are in need of such aid due to migration problems; broadening the knowledge about migrations; urging the social and economic development through migrations; concern for human dignity and

due to sudden, unexpected and progressive environmental changes affecting their lives and living conditions, are forced to temporarily or permanently leave their homes migrating within or out of the borders of their states or countries."[14]

Environmental refugees were the subject of a well-known Report of the UN World Commission on Environment and Development from 1987, or Brundtland Report, which both identified various problems caused by environmental stress, especially emhasizing unstabilizing factors of *environmental refugees.*[15]

The classification of environmental refugees

The classiffication of environmental refugees is necessary for better understanding of migration flows caused by environmental changes. The characteristics of the environmental disorders which are taken into account when classifying environmental refugees are as follows:

- origin (natural or technological)
- duration (acute or gradual)
- decision on migration (forced or willing)

This classification of refugees into various forms of migration helps identifying the similarities and differences in migration flows. The most common classification of environmental refugees is determined in relation to the causes of migrations[16]. Consequently, all environmental refugees may be classified to those who migrate because of:

- environmental disasters
- land expropriation
- environmental changes due to war destruction
- gradual negative environmental changes

welfare of migrants. The headquarters of the International Organization for Migration is in Geneva.

[14] http://www.iom.int/jahia/Jahia/definitional-issues (11.02.2012).

[15] Matthew, R. A. (et al) (eds): *Global Environmental Change and Human Security*. London: The MIT Press, 2010, p. 198

[16] El-Hinnawi suggests three categories of environmental refugees: temporarily displaced persons due to environmental stress, such as an earthquake or cyclone; permanently dislodged persons due to the construction of dams and formation of lakes; permanently dislodged persons because their original place of residence cannot satisfy fundamental living needs. El-Hinnawi, E.: *Environmental Refugees,* United Nations Environment Program (UNEP), Nairobi, 1985, p. 4

Therefore, if we want to understand the phenomenon of environmental migrations, we must first research all growing factors of instability in the environment.

Environmental Refugees Due to Natural Disasters

Disasters are acute natural disorders causing unplanned migrations of temporary refugees from geographically restricted areas, which are subjected to natural disasters. These environmental disorders may be classified as: natural or anthropogenic.

Natural disasters originate from nature, e.g. floods, hurricanes, tornadoes, volcano eruptions, earthquakes, or any other climate or geological acute disorders leading to such living and working conditions which are inappropriate for either permanent or temporary way of life.

Technological disasters are acute environmental disorders caused by anthropogenic activities (e.g. nuclear disaster in Chernobyl in 1986, chemical disaster in Bhopal in 1984, etc.).

Environmental disasters may be of both natural and anthropogenic origin, e.g. floods and non-cleaning of canals. The main feature of environmental migrations due to natural disasters is *force* to migrate suggesting the suddenness and abruptness of the activity. It also implies that there is not sufficient time, i.e. there is no time to decide whether to or when to migrate.

Environmental Refugees Due to Land Expropriation

Land expropriation[17] is a planned and permanent population displacement from particular area. Namely, the expropriated area is planned to be used in a way that is inconsistent with the permanent living conditions. Such situations generally result from anthropogenic activities due to economic development. Typical forms of population migrations, because of land expropriation, are caused by the constructions of power plants, traffic roads or expansion of existing mines, etc.

Population is forced to migrate due to a state's planned activities in particular area. Therefore, such migrations are considered to be ultimate and permanent. Planned migrations are preceded by negotiations and agreements based on legal provisions[18]. Nevertheless, this does not minimize the element of force in the migration process. Although this form of migration is

[17] Expropriation (lat. *expropriatio)* means forced dispossession of private property for public benefit. Vujaklija, M.: A Lexicon of Foreign Words and Expressions, Prosveta, Belgrade, 1996/97, p. 261.

[18] *Law on Expropriation*, Government Gazette RS No. 53/95, Government Gazette SRJ No.16/2001, Governemnt Gazette RS No.20/2009.

regarded as "planned" and "agreed on" from the standpoint of those who have made the decision (state's or inter-state's bodies), it is always considered to be forced for those who have to migrate.

Environmental Refugee Due to War Destruction

Historical facts suggest that war destruction always leaves serious consequences on population, property, cultural heritage and the environment in general. "The Vietnam War is frequently used in the literature as an archetype example of the environmental abuse for the purpose of war. Compared to the previous, even world wars, this one brought a new approach to war activities, wherein violence, beside the usual socio-military goals, is deliberately aimed at the environment and its ecosystems. War means and technology in this war were primarily used against the environment thus directly preventing enemies' activities and exhausting native population. Hence, it is believed that the destruction of the environment was the strategy of this war."[19] The development of new war means, as well as the style of warfare in modern war conflicts, have extremely destructive impact on the environment, leaving behind extensive negative effects.[20] The environment is manipulated at war by using explosives which leave serious consequences even when the war is over. Despite the visual completeness, the environment is permanently dangerous and of extremely unsuitable living conditions.[21] Therefore, there is a new type of environmental refugees and migrants - people who leave their homes because of the environmental destruction caused by war activities which contaminate and degrade the environment.

Environmental Refugees Due to the Deterioration of Living Conditions in the Environment

This category of environmental refugees includes migrations caused by deterioration of the living conditions in the environment, either by anthropogenic or climate changes.[22] This type of migrations is not planned, but "when people cannot satisfy all their existential needs of a civilized

[19] Stanić,S., Kutleša, A.: *The War and the Surrounding*, Polemos - a magazine for interdisciplinary researches on war and peace, Vol. XI, No. 21, 2008, p. 17.

[20] Belligerents in war have to protect the environment from extensive, lasting and serious damages. This protection includes a ban on the use of the means and methods of warfare which can destruct the environment thus protecting the health and survival of the population. *Additional protocol of the Geneva Convention from 12th August 1949, on protection of the victims of the international armed conflicts, Protokol I* , Government Gazette SFRJ, International Agreements, No.16/78, Art. 55, 1.

[21] See also: Græger, N.: Environmental Security, In *Journal of Peace Research*, 1996, Vol. 33, No. 1, pp. 109-116

[22] See: Urban, J. L. A .: *Nation, Immigration and Environmental Security....*, *op. cit*., pp. 64, 68, 84, etc.

society in the existing natural conditions, they tend to behave in two characteristic ways:

- they try to change the existing conditions and more or less successfully make them suitable enough for living, and
- some of them, i.e. the most skilful and active ones, search for conditions which will answer their needs."[23]

Climate changes in contemporary conditions are one of the key factors influencing forced migrations. Undoubtedly, they affect the balance of biosphere and have negative effects on the environment, causing population migrations. Additionally, if the social relations are disturbed, the situation may end in conflict (Table 2). "The United Nations Secretary-General Ban Ki-moon states that climate changes in eastern Chad are a key factor of bloodshed in the neighbouring Darfur region in western Sudan. When Lake Chad drastically diminished because of severe droughts, a lot of people from Chad moved to Sudan. Despite the fact that the genocide was caused by political decisions of the Sudan government and that the international community did not react in an adequate way, it is evident that the situation resulted from the interconnection between climate crisis and demography."[24]

[23] Arežina,V.: *Ecological Migration,* Political Review No. 4/2006 (XVIII), Vol.12, pp. 965-966

[24] Al Gor: Our choice – ways of solving climate crisis, Geopoetika, Belgrade, 2010 p. 240; Matthew, R. A. (et al) (eds), *op. cit.*

Table no. 2. Possible Consequences of Climate Changes[25]

	EUROPE	ASIA	USA
2010-2020	**2012**: Severe drought and cold force Scandinavian population to move southward, rejecting the European Union **2015**: Conflict among European Union countries over food and water supply causes clashes and strained diplomatic relations **2018**: Russia becomes an EU member state providing energy resources **2020** : Migrations from northern countries, such as the Netherlands and Germany to Spain and Italy	**2010** : Border clashes and conflicts in Bangladesh, India and China, as well as mass migrations to Burma **2012**: Regional instability forces Japan to develop military plans **2015**: Strategic agreement between Japan and Russia on Siberia and Sakhalin energy resources **2018**: China intervenes in Kazakhstan in order to protect the pipe line which is regularly attacked by rebels and bandits	2010: Disagreement with Canada and Mexico on water supply causes a rising tension 2012: A tide of refugees from the Caribbean Islands arrive at the south-east of the USA and Mexico 2015: European migrations to the United States of America (mostly of well-off population) 2016: Clashes with European countries mainly over the fishing rights 2018: Concerned about North America, the USA form an alliance with Canada and Mexico 2020: The Department of Defense open borders for the refugees from the Caribbean and Europe

[25] Pentagon secret report on climate: a scenario of sudden climate change and its implications on security of the Planet (translated by Milan Miletic), Government Gazette, Beograd, 2008, pp. 49-51; further information on climate changes and the causes of possible violent conflicts: Hartmann, B.: 2009. From climate refugees to climate conflict: Who's taking the heat for global warming? In: Salih, M.: Climate change and sustainable development: New challenges for poverty reduction, Cheltenham, UK: Edward Elgar Publishers, 2009

020-2030	**2020**: Increasing skirmishes over water and population movement **2022**: Skirmishes over the access to the Rhine River between France and Germany **2025**: The European Union is near collapse **2027**: Increasing migrations to the Mediterranean countries, such as Algeria, Morocco., Egypt and Israel **2030**: Approximately 10% of European population migrate to other countries	**2020**: Permanent conflicts in the southeast of Asia: Burma. Laos, Vietnam, India, China **2025**: Internal political situation in China is getting worse causing civil war and border skirmishes **2030**: Increasing tensions over Russian energy resources between Japan and China	**2020**: Oil price is getting higher because of the dangers related to oil supply due to conflicts in the Persian Gulf and the Caspian Sea **2025:** The Chinese and American navies in the Gulf engage in a direct conflict caused by internal conflicts in Saudi Arabia

Environmental refugees, due to the deterioration of the living conditions in the environment, are the most controversial category of refugees because negative environmental changes have a great influence on the decision to migrate only after the filtration through local economic context, although the migrants are not aware of this causal consequence relation. A lot of them declare that the reason for their migration is loss of earnings in agriculture and inability to earn from agricultural production. A frequent reason for the production decline is desertification which makes land inappropriate for cultivation. The effects of these gradual negative environmental changes are most frequently reflected on local economy. "One of the most important characteristics of environmental migrations due to gradual negative environmental changes is that all migrants from poor and developing countries greatly depend on agriculture."[26] As the poor directly depend on the local ecosystems, they are the most susceptible to the degradation processes in the environment which ultimately forces them to migrate. This indirect causal process explains difficulties in defining migration causes and problems in discrimination between environmental and economic migration flows.

Migration flows due to the deterioration of living conditions in the environment are specific, because they enable refugees to decide when,

[26] *The problem of environmental refugees*, Doc.11084, Parliamentary Assembly, Strasbourg, 23 October 2006

where and how to migrate. Frequently, these migrations occur on irregular basis, e.g. some members of a family migrate first, while the others follow later. Moreover, this category of migrants coming from local ecosystems, such as desertification, deforestation, etc. are not often recognized as being refugees, i.e. environmental refugees. However, this very category of migrants indicates the complexity of migration flows caused by environmental changes.

Conclusion

In order to deal with migration problems caused by environmental changes, it is necessary to tackle the difficulties in two ways. Actions undertaken in acute situations should be directed toward charity work, while permanent activity requires social and political engagement. No matter how crucial the defining of the environmental refugees' status on international level is, it is not enough to solve their problems.

Significant achievements may be expected only from concrete and agreed measures that will be undertaken in order to alter the conditions (negative changes in the environment) causing the emergence of environmental refugees. If the plan does not succeed, migration flows will increase worldwide. These growing population movements, accompanied by usual problems, may destabilize even stable regions. Undoubtedly, modern migration processes caused by environmental changes require a serious scientific approach using specific case study analyses.

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16. http://www.iom.int/jahia/Jahia/definitional-issues

THE ROLE OF THE ARMED FORCES IN PEACETIME SECURITY THREATS

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Abstract

Until the beginning of the Conflict in the Republic of Macedonia in 2001, there was a very clear distinction between war and peace regarding the tasks of the Army of the Republic of Macedonia. The main task of ARM was to protect the borders of the country from security threats that are coming from abroad and to guard the sovereignty of the Republic against the outside intruders.

All peacetime threats against the state, individuals or property were regarded as criminal acts, and therefore a matter for the police.

Simply expressed, the armed forces did not have peace time tasks or regulations defined by the Law, except for supporting other authorities in case of natural disasters.

The main goal of this paper is to show that sometimes there are situations within the national borders that could not be solved by the police forces and some of the army units have to be seriously employed in such situations.

In this short elaboration we will try to define the situations when the action of the army units is needed to support police forces dealing with some security threats within the national borders of the country.

Also, we will discuss the whole process of activation of the army units in that kind of security threats for our country. For example, when we have situation of armed attack by terrorists and its organization that could disturb the country and its institutions.

The conclusion will be in a manner to show the positive changes through the legislative of Republic of Macedonia in direction of giving a possibility to the armed forces to be involved during some interior security threats, but the accent have to be on the effective and well trained police forces because they have the obligation given by the Law for dealing with that kind of security threats.

Key words: army units, security, defense, threat

Introduction

Today, the crisis is characterized by new challenges and risks and it requires an adjustment of the role of the security community. Regardless of the numerous crises that Macedonia had been facing with since the independence, this issue was in the second plan until 2001 when the

weakness in anticipating and preventing of the possible crisis, and later in managing the acute crisis, became visible.[1] The Conflict in the Republic of Macedonia opened many questions. Besides all these problems, one of them was about the legalization of the use of military units within the country in support to the security forces during the peacetime security threats and the question of need for building a system for crisis management in the Republic of Macedonia.

After that period, The Government of the Republic of Macedonia realized that we need a more effective mechanism for defense and security in the newly created state of affairs. By that time, the Republic of Macedonia has had an imperative to perceive the nature of asymmetric threats and solve the consequences of insufficient coordination of the state institutions and security sector. Experiences show that the contemporary risks and threats which act among department authorizations surpass the resources and capabilities of certain institutions. All of this required a corresponding reorganization of the security and armed forces, which assumed defining of their new roles and missions by which the armed forces could be holders of many counter-crisis operations as a new purpose. Possible areas of engagement of the armed forces in managing crises practically define their new mission, which is based on powerful and profound intelligence and tangible efficient command over small, highly professional, well-equipped and mobile Special Forces for such purpose. In that manner, after the Conflict, the creator of national strategy policy started with generic reforms within the security and defense sector which meant that first of all, they have to create a new kind of legislative that can give a framework of all changes that need to take place for dealing with this new kind of security threats.

On the other side, all this shows that there was a persistent need of effective, controlled response, organized crisis management, measures and communications that could be included, separately or collectively, in crisis control and shaping the future directions and satisfying the political factors and crisis managers.[2]

All of this gave directions for creating a Crisis Management System as an integral part of the National Security System of the Republic of Macedonia.

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[1] Lidija Georgieva, Post-conflict Dilemmas in Macedonia:Crisis Management, Crisis Management in the Republic of Macedonia,MOD,2005, pp. 75

[2] Marina Mitrevska, Crisis Management System in the Republic of Macedonia: Real Necessity for more Secure Tomorrow, Crisis Management in the Republic of Macedonia, MOD, 2005, pp. 35

The crisis management system in the Republic of Macedonia assumes organization, arrangement and measures, in order to put crises under control and provide conditions for shaping the future direction of the crisis[3].

Changes within Macedonian legislative that are connected to the Armed Forces and their role during peacetime security threats

In the 2003 for the first time in its history, The Republic of Macedonia ratified the National Security and Defense Concept of the Republic of Macedonia. By adopting the Concept, foundations have been laid for efficient organization and acting of the state and citizens in conditions of threats and risks regarding their safety.

The passing of the National Security and Defense Concept has imposed serious tasks for the state institutions for reassessment and transformation of the classical state security institutions.[4] The National Defense Concept is the basic platform for creation of other political documents that were missing during the past period. The National Security and Defense Concept was of great significance for completion and definition of the security policy most essential elements of the Republic of Macedonia. This document is of great importance because for the first time the security issues have been treated within an integral concept. It should enable the institutions of the Republic of Macedonia to build a security and defense system adapted to the global changes, needs and resources of the country. The Concept is the basic guideline for the Republic of Macedonia for its security and defense needs within the new strategy and security environment. The National Security and Defense Concept imposed serious tasks for the state institutions for reassessment and transformation of the classical state security institutions - the Ministry of the Interior and the Ministry of Defense.

The National Security and Defense Concept is represented through for topics:

- Interests of the Republic of Macedonia;
- Security surrounding of the Republic of Macedonia;
- National Security Policy;
- Defense.[5]

Within the Second topic (Security surrounding of the Republic of Macedonia), were defined the new kind of security threats as the forms and

[3] Ibid, pg 33
[4] White Paper on Defense, MoD,2005,pp. 21
[5] The National Security and Defense Concept, MoD,2003, pp. 16

activities linked to international terrorism, organized crime, illegal migration, urban terrorism, illegal trafficking in drugs, weapon, people, strategic and twofold use materials, as well as consequences of the use of means for massive destruction. Also here are the natural and other disasters, technical-technological catastrophes, etc. Some of these threats are by their definition asymmetric and could be with a very high possibility to disturb the vital institutions of the state. This opened the question of legalization of the use of special army units within the national borders.

Following the National Concept, the Government decided to conduct a full Strategic Defense Review (SDR) in order to provide a political Framework and more detailed guidance for carrying out further defense reforms. The creators of the Strategic Defense Review in some articles gave answers of some dilemmas about the role of the armed forces during the peacetime security threats.

Within the second phase of the Strategic Defense Review exactly were defined some situations when the army units had role through specific peacetime security events. Some of them are the following:

- support to the Police Forces in dealing with threats, risks and perils to the security of the Republic of Macedonia, which overcome their capabilities and resources:
- support to the police forces with intelligence information;
- support to the police forces with means and capacities that overcome their resources and capabilities;
- support to the police in securing the border;
- support to the police forces in combating terrorism;
- support to the police forces in executing actions for securing significant objects to defense;
- support to the police forces in dealing with asymmetric threat;.
- surveillance, search and rescue;
- trained forces for assistance in securing the border;
- trained forces and forces for combating terrorism.[6]

The third topic of the National Security and Defense Concept (National Security Policy) assumes that in certain situations of threat to security of the Republic of Macedonia, will be built a crisis management system as a relevant answer for managing the crisis situations within the Republic.

Thus, in 2005, the Parliament of the Republic adopted the Crisis Management Law, which give possibilities for building a System for Crisis

[6] The Second Phase of the Strategic Defense Review,

Management in the Republic of Macedonia as an integral part of the National Security System of RM. Creating a crisis management system means building a security system capable at the same time to protect and coordinate crisis.

The mechanism of activation of the Armed Forces in peacetime security threats

Following the changes through the Macedonian legislative which we have elaborated before, the armed units from the Armed Forces of RM have been given a possibility for being active participants in the process of managing crisis, humanitarian and emergency disasters and catastrophes.

Further more the Army Forces of RM are included in all segments, starting from assessment, planning, organization and realization of the assigned measures and activities.

In the organizational part of the crisis management, the representatives from the ARM are members of the Assessment Group, the Permanent Headquarters of Crisis Management Center and the Permanent Headquarters of the Regional Crisis Management Centers.

The Assessment Group makes the assessment collectively, the Vice-Head of the General Staff on his own, through the authorized departments in the GS of ARM, the commands and the units in the field, assesses the collected conclusions from the assessments of the subordinates and presents them in front of the Assessment Group. The Vice-Head of GS of ARM as a part of the Assessment Group can give suggestion for an establishment in humane and emergency situation.

The General Staff of ARM in general, have the obligation to prevent occurrence and provide early warning of possible crisis regarding the security of the Republic of Macedonia, in the range of their authorizations and the nature of the everyday duties and activities.

The decision for participation of the army units in crisis resolution and humanitarian emergencies is a sovereign right of the President of the Republic of Macedonia, who regulates its participation by issuing an order. The President of the Republic of Macedonia decides on the Army participation as well as the duration of the engagement, and the type and the number of forces that can be used. Thus, the right of the Supreme Commander has been preserved for engaging the Army, by previously determined operational and other procedures for work and coordination on the part of the Ministers of Defense and the Interior.[7] This eliminates the possibility for misusing the Army by the Police.

[7] The Crisis Management Low, 2005, Art.31-34

The coordination in decision making, directions, measures, activities in the operations in which army forces participate, is executed by the Police, while the commanding of the army forces that participate in operations, is a duty of the formation commanders.

The role of ARM as participant in the crisis management is to provide early warning from potential threats and mutually supporting capabilities of the army units, police forces and civil government.

After that, they should determine the capacities and forces they will employ and how it will participate in the anticipated risks and dangers to the internal security in support to the Police and civil government. And in the end, they should make decisions on lower level for subordinate commands and staffs for further actions about the whole process of activation of the army units.

As we can see, the whole process of activation of the army units is very complicated, and although we have forces and capacities to realize the tasks on security problems within national borders, we still have to specify the subtasks, obligations and authorizations of the army units when participating in crisis management.

The much easier way is to activate high professionals, and well trained and competent police forces for dealing with that kind of security threats.

Conclusion

The changes within Macedonian legislative gave the possibility to use the Armed Forces in some definite situations as support of the police units.But, we must notice that the whole mechanism of activation of the Armed Forces as support of the police forces is still very complicated and delicate. First, we must pay enough attention that the political institutions overtake political measures. And if the situation is delicate we must be very careful with our decisions of use of the Armed Forces within the national borders dealing with security threats. The usage of the army units must be controlled and coordinate.

On the other side, the question is, how much time we will loose waiting for decisions from the many levels of the institutions. From the National Security Council through the Government, to the President, through the NCK, to the Ministry of Interior, Ministry of Defense, Head Quarter etc. until the concrete army unit which should be activated as a support of police forces?

If the situation occurs where there is no time to get government approval to counter an imminent threat, the Armed Forces should be given an opportunity (mandate) to act from the beginning on their own.

This is also a very delicate question and opens some dilemmas, for example the question that army units that are mainly trained for warfare will be in close contact with the civil population, or that they will undertake operation in the built up areas.

When it comes to fighting crime, the police may request assistance from the armed forces as to the special equipment, transportation etc. But in this case, the use of force is the prerogative of the police. It is the task of the police to prevent and fight crime.

We can maintain that the personnel of the Armed Forces can also be engaged to guard civilian objects that are very important within the national borders of the state, but it is important to comprehend that in such cases, they should have the authorizations of the police. Regarding military objects, these provisions already exist.

It is very important to notice that in cases of NBC threats, we have specialists within the armed forces that are educated and trained for dealing with NBC threats that should quickly be put under the command of the police commissioner.

And also, if such specific situations request that some specially trained personnel from the Army Forces should be employed under the police subordinated, then they should support police dealing with the unconventional security threats.

Although the Armed Forces have a role to deal with some asymmetric threats, as the terrorism is, the main principle is that they may do that but the responsibility rests with the police. It is the task of the police forces to prevent and fight crime.

The last recommendation will be that if we have to be effective with dealing with some interior security threats, we must pay enough attention in training and education of the police forces, because they are the most competent for that kind of security threat within the national borders, and activation of these units is not as complicate and delicate as the use of army units.

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REFORMS IN THE SECURITY SECTOR IN THE FUNCTION OF ORGANIZING EFFECTIVE AND EFFICIENT PROTECTION AND RESCUE SYSTEM IN THE REPUBLIC OF MACEDONIA

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Abstract

At the beginning of the new millennium as general reasons for reforms in the security sector are considered the changes in the security paradigm and the new list of challenges, threats and risks. The reforms in the security sector are particularly significant in the countries of Central and Southeastern Europe, because they are in direction of improvement of the security and economic development of countries in the region, and their aspirations for membership in the Euro-Atlantic structures.

Natural disasters and other accidents are the main threats, risks and hazards to the security of the state. Natural disasters and other accidents are a common phenomenon in the Republic of Macedonia and are one of the main risks and threats to the security of the state.

In one part of this system, the reforms in the security sector in the Republic of Macedonia resulted in organizing a system for protection and rescue. The organization of effective and efficient system for protection and rescue will contribute to better protection and rescue of people and goods in times of crisis and emergency.

The subject of this paper is to analyze and assess the effectiveness and efficiency of the system for protection and rescue, as part of the reforms in the security sector in the Republic of Macedonia.

Key words: Security, Protection and Rescue, system, organization, forces, reform

Introduction

Republic of Macedonia (RM), as a small country, is quite aware of the irrationality and insufficient efficiency of its security system in achieving

its final interests if the act is being prepared in isolation and that is why it is oriented towards participation in collective security systems and defense. In this regard, as confirming the commitment to achieving a lasting interest in her participation in collective security systems and defense, is the commitment of Macedonia for membership in NATO.[1]

As important instruments through the implementing of the Membership Action Plan, are the Annual National Program for membership in NATO Individual Partnership Program, the Strategic Defense Review, and others documents.

Within the improvement of security and defense, of major importance is the creation of a system for protection and rescue. The basis for organizing a system for protection and rescue is a concept for national security and defense, and it is organized under the Law for the Protection and Rescue.[2]

As the protection and rescue services are part of the security, and the participating institutions within the System for protection and rescue are part of the security sector, this paper will define the safety and security sector separately. Then, the organizational set-up and the tasks and functions of the protection and rescue system in the Republic of Macedonia will be defined too.

Safety and security sector in the Republic of Macedonia

Security as a term has been used to explain that values in the society are safe as a result of the functioning of a fully integrated system through the appropriate institutions and services by taking various measures and activities.[3]

Security is a state of stability in the state and in the nature which is directed towards preventative preparation for defence and protection from various sources of threat so as not to cause misbalance in the society and in the nature which will jeopardise the physical, societal and psychical integrity of the people.[4]

National or state security refers to an independent state which cares about the defence and protection of their physical integrity and integrity of

[1] Decision for Macedonia to enter NATO, 23.12.1993

[2] National concept for safety and defense, Official gazette of Macedonia, no. 40/2003, by the acts 51, 54, 65 where these reforms are predicted, and further are being developed into separate acts and sub law acts.

[3] Spasevski J., Aslimovski P., Defendology, Pedagogical faculty, UKLO, Bitola, 2002, p 28.

[4] Grizold, A., From Conception of militarization and militarism, to the conception of demilitarization, Demilitarization of Slovenia and National Security, Compilation, Od koncepocije militarizaija I militarizma do koncepcije demilitarizacije, Demilitarizacija Slovenije I nacionalna varnost, Zbornik, Ljubljana, 1991, p. 15.

the territory. It is usually related to two meanings. First as a condition of security for the entire territory and then with a meaning of protection which represents set of activities by which the state system provides security for the society as whole.[5]

The security sector includes those governmental institutions that have authority to use or order use of force, coercion or to deprive from freedom; such institutions are those that have authority to protect the state and its citizens as well as those civilian structures responsible for monitoring and controlling as well as managing the security forces.[6]

In Republic of Macedonia, the institutions authorised to protect the citizens from natural disasters and other emergencies, are those which within the security sector in the Republic of Macedonia make the system of protection and rescue.

The system of protection and rescue in the Republic of Macedonia

According to the Law for protection and rescue, the functioning of the system for protection and rescue is being implemented through:

- monitoring, detecting, following and examining the possible dangers from natural disasters and other misfortunes;
- cautioning and obstruction of the creation of possible dangers;
- notification and enabling for protection, rescue and help;
- organizing forces for protection and rescue and establishing and keeping afloat the other forms of readiness for protection, rescue and helping;
- self-protection, self-helping and mutual help;
- mobilization and activation of the forces and the means for protection and rescue;
- establishing and acting according to the protection measures;
- rescue and help;
- disposal of the consequences from the natural disasters and other disasters in order for establishing basic living conditions;
- supervision and acting according to the protection and rescue plan;
- helping the areas that suffered damages from greater degree from natural disasters and other disasters;
- helping other states that suffered greater damages as a result of natural disasters and other misfortunes;

[5] Kuzev, S., Strategy of defence, Jugoreklam, Skopje, 2001, p. 135.
[6] Working Table III, Security and Defence Issues. The SSR Regional Coference, Bucharest , 25-26 October 2001. (www.stabilitypact.org/)

- receiving help from other states.[7]

Subjects that have duties and obligations in the system for rescue and protection

According to the Law for protection and rescue in managing of the defence and rescue, the following institutions participate:

- The Parliament of the Republic of Macedonia,
- The Government of the Republic of Macedonia,
- the state's authorities,
- the units of the local government,
- trading companies,
- public companies,
- services and offices,
- civil associations,
- humanitarian organizations,
- non-government organization,
- civilians,
- the forces for rescue and protection.[8]

The Parliament of the Republic of Macedonia, in 2010, declares the National strategy for rescue and protection and decides on the amount of means needed for the purpose of rescue and protection.

The Government of the Republic of Macedonia evaluates the degree of endangerment of the population and of the territory from natural disasters and other types of disasters, action plan for protection and rescue, determines the formation of protection and rescue forces; securing material goods; sending humanitarian help and forces in other states and accepting humanitarian help and forces from other states; amount of means for repairing the damages caused in the natural disasters; training and practical activities of the human resources from the local government departments, firms and services, civil association, humanitarian organizations and non-government organizations and the population in the country and abroad. The Government evaluates the gravity of the endangerment of the population and the territory from natural disasters, and other disasters.

[7] Law for rescue and protection, Official Gazette of Republic of Macedonia, no. 36/2004, Act 5.
[8] The same as before, Act 4.

State government departments conduct measurements for removing the consequences from the natural disasters and other disasters in the area that are in the sphere of action of their authority.

Units of the local authority - ULA evaluate the level of endangerment of the population and the territory in the jurisdiction of ULA from natural disasters and other misfortunes; action plan for rescue and protection; form protection and rescue forces, plan, organization and conduction of acts for rescue and protection of the population and the material goods on its territory. If needed, they take part in the actions for rescue and protection of the territory from the neighboring community. ULA have evaluated the level of endangerment of the population and territory in the jurisdiction of ULA from natural disasters and other misfortunes and have devised an action plan for rescue and protection.

Trading companies, public companies, services and institutions organize rescue and protection for their employees and their assets through prevention measurements and operational measurements in the jurisdiction of their act. Also, they are obliged to give material-technical means to the forces for rescue and protection, in acting according to the actions for rescue and protection.

Civil associations, humanitarian organizations and non-government organizations can take part in the acts for rescue and protection of the population and material goods under the control of the local or central government according to some beforehand established criteria.

Civilians have their obligations and rights: to take part in the rescue and protection, to oblige their material obligation and to be trained and prepared for self-protection.

Responsible subjects and their organizations

As directly involved and responsible subjects in the system of protection and rescue in the Republic of Macedonia are the Front Office for rescue on a national level and ULA on a local level.

Directorate for protection and rescue is an individual department of the state government, formed for obliging the acts for rescue and protection from natural disasters and other misfortunes.[9] The Front office is the utmost responsible for effective and efficient functioning of the system of rescue and protection in the Republic of Macedonia.

The Front Office was formed at the beginning of 2005. As a part of the Office, there are many services united in the area of rescue and protection

[9] Law on rescue and protection, Official Gazette of Republic of Macedonia, No. 36/04, IX act 17.

in the State, which are the Department for civilian protection in the Ministry of Defense and the Department for protection from fires in the Ministry of Interior.

In fulfilling the obligations functioning in the system for rescue and protection, the Office has the following terms:

- Defines the Plan of the system for protection and rescue from natural disasters and other misfortunes;
- Evaluates the level of endangerment from natural disasters and other misfortunes;
- Organizes and prepares the system of protection and rescue;
- Suggests measures for development of the system for rescue and protection;
- Enables functioning of the system for disabling and detecting of the formation and removal of the consequences from natural disasters and other misfortunes;
- Secures, hires and enables efficient use of the state forces for rescue and protection;
- Takes care for the whole implementation of the measures for rescue and protection;
- Takes care for securing and realization of the strategic and half long term goals;
- Takes part in implementation of the mobilization of the state forces for rescue and protection;
- Sees the needs for development and equips the state forces for rescue and protection;
- Controls and evaluates the readiness of the forces for rescue and protection;
- Organizes exercises for the needs of rescue and protection;
- Devises plans and programs for training of the forces for rescue and protection;
- Plans and conducts intercultural collaboration in the area of rescue and development;
- Plans, organizes and secures exercises and inclusion in the collective systems for rescue and protection outside the territory of the Republic of Macedonia;
- Makes specific instructions from the area of rescue and development;
- Acts upon other things determined by law.[10]

If an analysis is conducted in function of the system of rescue and protection and the duties of the Front Office, it can be stated that in the

[10] Ibid, IX act 18.

jurisdiction of the Front Office there are some of the functions of the system for rescue and protection that have not been included. Surveillance, detecting and studying of the possible dangers from natural disasters and other misfortunes which are rather important functions in the system for rescue and protection are not stated as duties of the Front Office and operationalizied in its systematization. I personally think that it is unthinkable for the Front Office as a service in charge of the protection and rescue not to be able to act upon this very important function of the system for rescue and protection.

For conducting the stated terms, the Front Office is being organized on the territory of the Republic of Macedonia in sections and departments. This is as follows:

- Section for joint affairs,
- Section for analytics and research,
- Section for planning, organizing and conducting the actions for rescue and protection, and
- Section for operations and logistics. Each section is consisted of different number of departments.

In the **Section for joint affairs** the following departments take part:

- Department for legal affairs;
- Financial department;
- Department for technical and material-technical equipment, and
- Department Head Office.

In the **Section for analytics and research** the following departments function:

- Department for analytics and research, and
- Department for working with data and informational data

The **Section for planning, organizing and conducting the acts for rescue and protection** is comprised of:

- Department for humanitarian acts for rescue and protection;
- Department for urban-technical means for rescue and protection, and
- Training department.

The **Section for operating and logistics** is comprised of:

- Department for organizational and mobilization acts;
- Department for planning, organizing and acting upon the operations and logistical security, and
- Departments for rescue formed in the municipalities on the territory of the Republic of Macedonia.

What is the organizational set-up at a regional level? In the Section for operating and logistics in the municipalities on the territory on the Republic of Macedonia there are 35 departments for rescue and protection on the territory of the Republic of Macedonia functioning.

They are formed in the towns of: Skopje, Bitola, Veles, Kumanovo, Ohrid, Strumica, Tetovo, Shtip, Berovo, Valandovo, Vinica, Gevgelija, Gostivar, Debar, Delcevo, Demir Kapija, Kavadarci, Kichevo, Kochani, Kratovo, Kriva Palanka, Krushevo, Makedonski Brod, Negotino, Prilep, Probishtip, Radovish, Resen, Sveti Nikole, Struga, Centar, Kisela Voda, Karposh, Gazi Baba and Chair.[11]

From the analysis of the obligations of the Front Office and its organizational settlement and systematization it can be seen that there is no section meant for international cooperation in the area of rescue and protection, and also, the separate working places are not being systematized in the ongoing sections and departments. For a successful fulfillment of its obligations in the area of rescue and protection on an international agenda, it is necessary to form a special organizational unit (department or section) for international cooperation. Also, the organizational unit for publishing works is absent where all the magazines from the field of rescue and protection can be published. In that sense it is necessary for the systematization of the Front Office to be remodeled in departments of this kind. The mentioned departments will not contribute to enlargement of the systematization but the same will be compensated with transformation under the local government of the before mentioned organizational units - local departments for rescue and protection.[12]

If we analyze the territorial settlement of the departments and the territory they cover, it can be concluded that the seven departments (Valandovo, Vinica, Demir Kapija, Kratovo, Krushevo, Probishtip and Resen) cover a territory just for one municipality, which means that they are responsible for protection and rescue of the population and the material goods as for their own municipality. In function of the further decentralization of the rescue and protection it is necessary for them to transform further and become part of the local jurisdiction. In order to achieve greater efficiency it is necessary to precisely define the operation of the obligations between the regional and local departments in the regulative acts.[13]

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[11] Law regulation rules for organization and work of the Front Office for rescue and protection, Skopje, 2008, Act. 3.

[12] More in Solunchevski, M., Management of human resources in the system for rescue and protection, Mikena, Bitola, 2008, pp. 163-171

[13] Ibid, p. 167

Forces for rescue and protection are formed as teams for quick response, and teams and headquarters for rescue and protection of the population and material goods from natural and other disasters. In the Republic of Macedonia there are state and spatial forces for rescue and protection.

The state forces for rescue and protection are organized into: head quarters, units, and teams for quick response. *The head quarters* are formed as Main head quarter and regional head quarters for rescue and protection.

The units are formed in specialized units that function as departments in special areas: first aid; taking care of the endangered and suffering population; radiological, chemical and biological decontamination; rescue from ruins; rescue from high objects; rescue and protection from floods; rescue and protection from fires; rescue from unexploded mines; rescue and protection of animals and products of animal origin; rescue and protection of plants and vegetation products; logistics and assanation of the territory.

The teams for quick response are formed in the following specialties: first aid teams; rescue and protection from fires; rescue and protection from floods; rescue and protection from water; rescue and protection from chemical accidents; rescue from unexploded lethal and explosives; rescue from mining accidents; rescue from high objects; mountain rescue; rescue from ruins; rescue from greater traffic accidents and taking care of the suffering population.[14]

From the analyses of the state's specialized units it could be concluded that units for protection and rescue from terrains difficult for access, and heavy snowfalls have not been planned. The experiences have shown that such units are needed for certain regions in the Republic of Macedonia.

The state forces are created by the Front Office of the Republic of Macedonia on the territory of the Republic according to regions. On the territory of Macedonia, there is one Headquarter and 35 regional headquarters for rescue and protection. In every local department there are specialized units formed.[15]

If we analyze the personal attitude of the state forces for rescue and protection in the regional departments for rescue and protection on the territory on the Republic of Macedonia, according to the act for Formation of the forces, unification can be seen. In every organizational unit for rescue and protection on the territory on the Republic of Macedonia there is headquarter with a personal staff that has 28 members. The number of units

[14] Decision for establish personality and material structure the forces for rescue and protection, Official Gazette of the Republic of Macedonia, No. 124/2006

[15] Decision for forming the forces for rescue and protection, Official Gazette of the Republic of Macedonia, No. 51/2006

is the same for 8 former regional departments and amounts to 267 members organized in 12 units and 2 departments. About the remaining 27 organizational units, there are 12 departments formed of a total number of 127 members. If we add to this the number of members of the regional headquarters for rescue and protection, it can be seen that among the regional departments there are 295 members, while in the regional departments the personal staff is 155. This constatation points to the fact that the basic three criteria in the formation of the forces for rescue and protection on the territory of the Republic are not being obliged: number of population, area of the territory and evaluation of the endangerment from natural disasters, epidemics and other misfortunes. If these criteria were fully obliged, in the departments for rescue and protection will be formed forces with different number and type. I believe that it will be far more efficient based on the scientific analysis to start a reorganization of the personal staff of the state forces for rescue and protection in the departments for rescue and protection on the territory of the Republic, certainly, based on previously made and agreed upon evaluations of the level of endangerment of the population and material goods from natural disasters, epidemics, epizootic, epitaphists, and other misfortunes in the Republic of Macedonia.[16]

The units of local government are associations of civilian forma in a certain area, stated by law, and through its means and through the administration and organized public services in order to fulfill the duties determined by law. [17]

ULA, units which are from public interest and local importance, in their jurisdiction they conduct their activities through the following organs: the council and the mayor, and for conducting the work assigned to the organs there is a municipal administration formed. The municipal administration is organized in sections and departments.

As part of the system for rescue and regulations, the units of the local self-government conduct the preparations and the acting for rescue and protection of the population and the material goods from natural disasters and other misfortunes and consequences caused by them on their own territory.

In that sense, ULA in conducting the rescue and protection act upon the following:

- Determines the duties of the public companies and services from local character that they are performing in the area of:

[16] Solunchevski M., doctoral dissertation, Security and development of the human resources for effective and efficient functioning of the system for rescue and development of the Republic of Macedonia, UKIM, ISPPI , Skopje

[17] Law for local self-government, Official Gazette of the Republic of Macedonia, no. 5/2002, Act 2

- putting down fires and rescuing people and assets from traffic, technical-technological and other accidents;
- cleaning of the local roads and streets and other infrastructural objects in case of unfordability caused by rains, snow, ice, land sliding, rock fall, and other;
- giving first aid in case of increased number of sick people and disabling for the diseases to spread;
- protection of the animals and plants in case of diseases, imposters and other natural disasters.

- Forces for rescue and protection.
- Determines a plan for rescue and protection.
- Takes other actions.[18]

For enforcing the duties in the area of rescue and protection, the ULA, as a part of their systematization, employ citizens in regular work positions. The work places can be a part of a certain department for rescue and protection or a part in the department with other primary obligations, but also does duties in the area of rescue and protection. The employees can have duties just from the area of rescue and protection or other duties from the area of rescue and protection.

From the insights in the systematizations in ULA and their analysis, it can be said that greater number of ULA do not have work places for rescue and protection determined in their administration, and in none of the systematization of the units there is a department for rescue and protection determined. According to that, the systematized work places in the ULA do not correspond to the duties that they have in the area of rescue and protection. It is necessary to systematize work places for rescue and protection in the ULA. The number and the type of the work places should come as a result of the thorough analysis according to the adequate criteria: number of population, territory and endangerment of ULA from natural disasters and other misfortunes.

In the ULA, the work places are systematized in the territorial fire brigade units TFBU. The number of the systematized places depends on the number of population in the ULA. The number of fire fighters in the TFBU is determined by the Law on firefighting.[19]

In the Republic of Macedonia there are 30 TFBU. The remaining municipalities do not have TFBU formed, and use the services of the nearest territorial fire brigade.

[18] Law for rescue and protection, Official Gazette of the Republic of Macedonia, no. 36/2004, article IV (act 34-36), duties of ULA.
[19] Firefighting law, Official Gazette of the Republic of Macedonia, no. 67/2004, Act 6

The Law for fire protection and fire fighting does not consider the level of threat from fire and the size of the territory. I think that the TFBU will be better systematized in ULA if these two additional criteria are also considered.

The spatial forces are formed in headquarters and units for rescue and protection. The headquarters are organized in local and sub local headquarters for rescue and protection, while the units - in universal and specialized units for rescue and protection.[20] According to the analysis of the content of the documentation, the ULA local headquarters for rescue and protection are formed, but there are few specialized units for rescue and protection.[21]

Conclusion

The system for rescue and protection in the Republic of Macedonia is formed as an independent system in 2005 and one from the transformational processes in the functioning for accessing NATO, but first and foremost for better protection of the population and the material goods from numerous risks, threats and dangers. The responsible subjects in the system are: on a national level the Front Office fore rescue and protection and on a local level ULA.

If we analyze the functions of the system for rescue and protection and the jurisdiction of the Front Office for rescue and protection and ULA it can be said that:

In the jurisdiction of the Front Office, there are some functions left out form the system for rescue and protection, and the same should operational in the duties of the Front Office.

Some of the duties of the Front Office are not put into adequate organizational units. It is necessary for them to be operationalized into adequate organizational units as a part of the Front Office.

Certain departments that are part of the Front Office on the territory on the Republic of Macedonia cover only one part from the territory. The same is in the function of further decentralization of the rescue and protection, in which they have to be transformed and fall under the local government.

The personnel formation of the state forces for rescue and protection is not adequate to the territory of the Republic of Macedonia. It is necessary

[20] Decision for formation of forces for rescue and protection, Official Gazette of the Republic of Macedonia, No. 51/2006

[21] Solunchevski M., doctoral dissertation, Security and development of the human resources for effective and efficient functioning of the system for rescue and development of the Republic of Macedonia, UKIM, ISPPI , Skopje, 2008, pp. 279.

to reorganize this formation of the forces for rescue and protection on the territory of the Republic, and establish some new types of specialized units.

The majority of ULA do not have systematized work places for rescue and protection in their administration and in none of the systematizations there is a specialized unit for rescue and protection. It is necessary to systemize work places for rescue and protection in the administration of ULA. The criteria for organizational set up of the TFBU as a part of the ULA prioritize the number of population in the municipality, and as minor are mentioned the territory and the degree of endangerment from natural disasters and other misfortunes in the municipality, i.e., the evaluation of the endangerment from fires. When forming the systematization of the TFBU in ULA all three criteria should be of equal importance.

The considered types of spatial specialized forces correspond to the level of risk for the municipalities related to natural disasters and other emergencies. From the research work carried out for the protection and rescue forces, it could be concluded the following: in the ULA there are local headquarters formed for rescue and protection, but there are only a few specialized units formed. There should be more immediate formation of the regulated spatial forces for rescue and protection in ULA.

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CONCEPT DISTINCTION OF TERMS ASSOCIATED WITH ISLAMIC FUNDAMENTALISM IN THE CONTEXT OF SECURITY RISKS AND THREATS

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Abstract

Islamic fundamentalism, as a phenomenon which implies security risks and dangers to the world peace, is occurrence that attracts the interest of the scientific and professional public for decades. Starting from the various political-ideological views that are linked to the causes for the occurrence of the Islamic fundamentalism, as well as different forms of its manifestation, there are numerous definitions for this security phenomenon in the literature and also for other terms that are associated with it (political Islam / Islamism, Jihad, Islamic terrorism, etc.).

In this respect, opposite of the pro-Western views on the threat of Islamic radicalism and terrorism, in scientific circles, primarily in the Muslim world, brings together concepts of revivalism or Islamic awakening or revival of Islamic society. On the other hand, the notion of separation of terms associated with Islamic fundamentalism presents basis for understanding the religious dimension of this phenomenon and respect for religion as a fundamental human right, apart from its abuse by the ideological and politically motivated individuals and with groups called extreme or terrorist.

Thus, the opposed approaches to the interpretation and treatment of these phenomena leads to further deepening of the gap between Western countries and the countries in the Islamic part of the world, and thus the possibility of the emergence of new conflicts and terrorist activities with a religious background.

Therefore, this paper will help in more appropriate perception of the emergence of Islamic fundamentalism and other phenomena arising from it, and detect possible security risks and dangers of inadequate treatment of them and aimed at finding adequate social response to new security challenges.

Keywords: *Islamic fundamentalism, political Islam / Islamism, jihad, Islamic terrorism, risk, security*

1. Introduction

The increased number of terrorist acts in the world in the last few decades significantly draws attention of the scientific and professional public. In many different religious extremisms, Islamic extremism or extreme action which in its bases has Islamic fundamentalism, represents the subject of numerous analyzes, and conflicting views, especially about its etiological and phenomenological characteristics. Numerous discussions about the essence of Islamic fundamentalism have in the focus of their attention the use of the prefix "Islamic" in the security context, which often is interpreted as deliberate and malicious. Therefore, it is important to emphasize that *Islam* "as a religion, as a system of religious laws, customs and traditions that Muslim believers follow, also as a system of answers about the meaning and significance of human life on earth" [1], has a **non-violent** character.

Islam is the newest, world universal religion (early VII-th century) which covers all spiritual and material aspects of life and a system of beliefs and worship, and also a civilization that developed under the umbrella of Islam. However, Islam is much more than just a religious system, it also covers the concepts of a religious community, state, politics, law and offers a set of rules and principles governing public and social life. Islam is a basic criteria for group identity and loyalty of Muslims, and in times of crisis, it is the only acceptable basis for political authority. In political life, Islam offers a comprehensive formulation of ideas, social norms and laws, and also new ideas and aspirations.

In this sense, we should emphasize the necessity of making a clear distinction between Islam as a religion and its abuse by state and non-state actors to achieve certain ideological and political purposes. Therefore, Islam should in basis of term be separated from *Islamic fundamentalism* – as a wish to return to the basic texts of Islam and *Islamism*, understood as a concept that describes the political use of Islam. The various religious movements, organizations and groups worldwide who are often classified as extreme or terrorist, use as their basis of action the hidden or corrupt interpretation of certain religious norms.

2. The term "Islamic fundamentalism" in general

[1] Ташевска-Ременски Ф., *Некои идејно-политички прашања на исламскиот фундаментализам и исламскиот тероризам*, Современа македонска одбрана, бр.13, јуни 2006, „Коста Абраш“ – Охрид, стр.172;

Viewing Islam in the modern context, one can conclude that it is often associated with Islamic fundamentalist's movements in the world. Despite numerous controversies about the essence or theoretical determination of the term *"Islamic fundamentalism"*, that in its most elementary form expresses a conservative religious movement that requires a return to fundamental Islamic values and principles.

Today the public creates the impression that fundamentalism is a phenomenon that originated from Islam as combative or violent form of religiosity, often associated with terrorism. In addition, it is important to emphasize that it is a global phenomenon which occurs in each of the major faiths in response to modernity, also from the three monotheistic religions, fundamentalism in Islam appeared last (late 1960s and 1970s). On the other hand, the term "fundamentalism" was first mentioned among American Protestants (early XX-th century), whose commitment to liberal theology and criticism of Scripture, does not actually correspond to the ideological basis of "Islamic fundamentalism". However, in its literal meaning, the term "Islamic fundamentalism" is translated in Arabic, Persian and Turkish and it is often used from the scientific and the world, but primarily western political public.

According to John L. Esposito, the term "Islamic fundamentalism" means those claims or actions that are directed towards compliance or a return to true religious sources and foundations, in a sense literally and consistently accept and practice the basic Islamic texts (Qur'an and Sunna). Simultaneously, as a terms often equated with Islamic fundamentalism, Esposito points out, *political activism, extremism, fanaticism* and *anti-Americanism.* However, starting from the fact that in the modern world Islamic fundamentalism is seen as a monolithic threat, primarily because of it is overwhelmed with ignorance, prejudice and stereotypes, Esposito suggests as more appropriate terms, *Islamic revival / Islamist Awakening* and *Islamic activism* that have root in the Islamic faith, culture and tradition. He also emphasize that these actions of Muslims, their meaning and function is acquired as a form of rebellion towards artificial global inferiority of the Islamic part of the world in terms of western Christian world.

Hasan Sušić, however, sees fundamentalism as interpreting the basics / foundations of Islam through their own understandings to attempt to legitimize their social and political programs, and position in society. According to him, suitable soil for the development of Islamic fundamentalism represents social and socio-economic and political crisis over the marginalization of certain social or cultural layers. Depending on

which layer, that is the social and political elite (mullahs, sheiks, military junta, etc.) dominating, fundamentalism differs from country to country.[2]

Explaining Islamic fundamentalism as an aspiration to return to the roots / foundation of the Islamic religion, also the eventual elimination of all existing non-Islamic and modernist elements / content, or to request the true essence of God's declaration, Miroljub Jevtić[3] stresses the need for its distinction from the term *"Islamic integration"*. According to him, it is a term containing higher doses of politics and militancy.

In light of the above elaborations and stances of certain Islamic scholar circles, the term "Islamic fundamentalism" has a political background. According to them, that is a term used by Western politicians for negative labeling of certain Islamic communities and circles expressing a negative attitude towards the efforts of the Muslim world for the freedom from political, cultural, economic torture and military tutoring by the West. [4]

In this regard, Baitullah Demiri[5] indicates that the fundamentalist and extremist movements among the Muslims are not the cause but the consequence of colonization and neo-colonization policy of the West, particularly the U.S. and England. In fact, in Islam learning the Qur'an and Sunna is not a problem, since Muslims never doubted their authenticity, but their explanation, commenting, that depends on many circumstances, including socio-political, which according to Demiri, are forcing Muslims to understand the Islamic virtues and values as fundamentalist and extremist do. The author concludes that "Islam is abused by believers" who are called fundamentalists, "and the West and Western media that qualify them as Islamic fundamentalists, but in fact both parties (the Islamic fundamentalists and the West and Western media) behind the use of the term "Islamic fundamentalism" mask their specific objectives, which are mainly of material nature (natural resources), and the political power or the use of religion as an instrument to achieve political goals."

However, the general conclusion is that the emergence of Islamic fundamentalist movements in the world is closely linked to processes *of "re-Islamizing"* or *awakening / revival* as opposition to the "borrowed" laws that do not take into account social needs, historical past and national or religious consciousness among Muslims. The first signs of *re-Islamizing* appeared in the early 1930's, when, in an attempt to reject all rational and liberal Western

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[2] Sušić H. *„Islam i fundamentalizmi“*, in: *„Islamski Fundamentalizam. Sta je to ?“*, str. 82-84;

[3] Jevtić M., *„Đihad. Savremeni đihad kako rat“*, Nova knjiga, Beograd, str.229-239;

[4] www.ibn-sina.net Znakovi vremena 4 Evropski nesporazumi sa svijetom Islama, NI "Ibn Sina" 09 ноември 2006, accessed on 21.07.2011;

[5] More elaborated: Б.Демири, *„Ислам и политика“*, Логос-А, Скопје, 2009;

influences, there were first established Muslim brotherhoods. In present form, fundamentalism had its manifestation during and after the Iranian Revolution (1979) and later in other countries of the Muslim world (Sudan, Afghanistan, Pakistan and others), as a movement that is typical for Muslims and Shiite and Sunni provenience. In the last two decades, fundamentalism has its expression in political beliefs and uncompromising demands of some radical movements and groups in the world.

However, we can say that Islamic fundamentalism is not a homogeneous movement. Bernard Luis[6] suggests that there are many types of Islamic fundamentalism in different countries, even in the same country. According to him, some of them are state-sponsored and may be radical and conservative, subversive and preventive. They are supported, used or promoted from Muslim governments for their own purposes, including protection of revolutionary waves. On the other hand, some movements are real popular movements that come from within and have an authentic popular base. Miroljub Jevtić, indicates the existence of fundamentalism in state institutions; fundamentalism of alimi (specialists in the purpose of Islamic learning) and ulema (religious officials) and fundamentalism as a movement of believers. In this regard he noted that suitable ground for the emergence of such movements in the world are crises of Muslim societies and states, which often have their genesis in collision, or failure to uncover a mode of coexistence between Islamic and Western / Christian values and principles / global social systems.

3. Terms associated with the notion "Islamic fundamentalism" and their distinction

When looking at "Islamic fundamentalism" in a broader context, it is necessary to make it distinguishable from other terms that are preceded by "Islamic" or based on certain religious norms, but that might imply certain security risks and dangers. Hence, below will be elaborated notions of Islamism / political Islam, the concept of jihad and Islamic terrorism.

a) Fundamentalism turns to ***Islamism*** when used as an ideology, in order of society and the state of a country to impose rigorous model of the original Islam, Sharia (Islamic law).[7] Today, Islamism is increasingly equated with the terms ***political Islam / political Islamism.***

[6] Luis B., *„Kriza islama“*, Čarobna knjiga, Beograd, 2004, str.42-43;

[7] Шалијан Ж., Блин А., *„Историја на тероризмот – од антиката до Ал Каеда“*, Табернакул, Скопје, 2009., стр.297-298;

According to Bashkim Iseni and Gzavje Bugarel[8], Islamism presents the will to reaffirm dimensions and political dexterity of Islam in the modern world, which is not in difference to the acceptance of a modernism, including the political and cultural dimensions. These authors distinguish between *modern Islamism,* which accepts the electoral strategies and respects democratic principles, and *radical Islamism,* which uses revolutionary and violent means to come to power and rule in a dictatorial manner.

On the other hand, Philip moments uses the term *political Islam* to define the movement seeking through legal means, to use Islam to reform the institutional systems and socio cultural ways of a given geopolitical set. In this sense, the term *radical Islamism* author has used these same gestures when you want to completely transform this geopolitical set, the term *active (fighting) Islamism* when these movements will accede to violence to achieve its goal, and the term *terrorist (jihadist) terrorism* when active Islamism uses the techniques of terrorism[9] .

b) *Jihad* or according to some authors called the "holy war" is one of most controversial terms in the scientific and wider public. It is a religious obligation contained in the primary Islamic texts, the primary meaning "striving" or "effort". In certain (classical) texts, the term is used with related meaning "struggle" or "battle". Usually quoted phrase from the Qur'an "fight the way of God" and is interpreted as meaning a *moral aspiration* and also in a sense as an *armed struggle.* According to another interpretation, jihad means "investment effort", meaning to live a valuable life, the society to become more morally aware and fairer, Islam spread through preaching, by learning or by war, also the ability of the state to defend itself. Most early authorities, citing parts of the Koran, speak of jihad in a military sense, and most part of Muslim history, jihad is usually interpreted to mean the armed struggle in defense or towards increasing Muslim power.[10]

According to the Qur'an, jihad is a duty which can be fulfilled in *four* ways: with heart, tongue, hand or arms / sword. In that sense, there are two types of jihad: *"great jihad"* is personal, internal, spiritual jihad that every Muslim believer must keep their vices, ignorance and evil, while under language and hand warfare means verbal defense and rightist actions, and *"small jihad",* which is ran against all those who entered the world of violence and evil, who deny the faith and truth, that lie, cruelty and

[8] Исени Б. и Бугарел Г., *„Исламот и политиката на Западен Балкан“*, Department federal des affairs etrang rs DFAE, re-issuing Macedonian center for international cooperation (МЦМС), 2009, стр.13;

[9] Шалијан Ж., Блин А., *„Историја на тероризмот – од антиката до Ал Каеда“*, Табернакул, Скопје, 2009, стр.298;

[10] Luis B., *„Kriza islama“*, Čarobna knjiga, Beograd, 2004, str.49;

intolerance, that tend to oppose the people and deprive of freedom. The duty of fighting with sword means war against the enemies of Islam.[11]

Although often jihad is equated with "holy war", according to some authors, in Islam the term "holiness" and the term "war" are questionable. In this context and the thinking of Islamic scholars and Husein Đozo and Hasan Sušić, according to whom, in Islam there is no holiness, it is a term not known to the Islamic religion that is a foreign attribute. So, according to Đozo, jihad in the narrow sense is defined as "armed struggle, the defense of country, freedom and other values, by using force if the enemy can not be reject in any the other way or means" [12] According Sušić, "Jihad is not a holy war, Islam does not recognize or know the term of holy war. This attribute is given to Islam, by analogy with the understanding of the Christian holy war"[13]. In addition to the above is the assertion that the term in the Macedonian language that means war / battle, the Arab language uses the word "harb", while the term "jihad" is used as in the above context. All this goes to the claims of both scientists and the wider Muslim community that opposed the original meaning of jihad, it is a term that is politically manipulated and used as an instrument by certain circles.

Throughout history, also today, jihad can be a function of a particular state or social policy formation / movement, both in positive and in negative term. So, there are examples where jihad is used as a struggle to collect taxes, fight against illiteracy, fight for industrialization, fight the new with the old, etc.., but also to mobilize Muslims to achieve certain goals or justify certain actions. Although the basic Islamic texts strictly prohibit murder and terrorism, it is considered that the military and moral use of the term jihad in recent history is revived again, and it is often used as part of the agenda by the extreme and terrorist organizations.

c) *"Islamic terrorism"* as a separate category of terrorism (represented primarily in the western areas, and dismissed by Muslims), is a religiously inspired terrorism. While it is important to emphasize that Islam as a system of belief and tradition do not support terror[14], even more se Islam strongly prohibits any physical, mental or moral terror in general, and particularly towards members of other religions. Islamic teaching does not

[11] Зиројевиќ М., *Различити облици ислама и тероризам*, Ревија за безбедност, бр.12/09, Центар за безбедносне студије - Београд, стр.46;

[12] Đozo H., Đihad, во Glasnik vrhovnog islamskog starjesinstva u SFRJ бр.7-8 (1973)

[13] Sušić H., *Dimenzije dzihada*, u Pregled бр.4/1984, Sarajevo, стр. 411.

[14] terror (lat. "terror") means "sowing fear among the ruling elite and the people to realize specific goals," Димитријевиќ В., *„Тероризам“*, Радничка штампа, Београд, 1982;

present to its followers religious imperative to carry out violence, but other undetermined factors encourage individuals and groups to resort to violence in the name of religion. In fact, it is wrong / distorted interpretation of Islam under which terrorist activity is aimed at achieving certain ideological goals and interests. Confirmation of this are numerous movements, organizations and groups worldwide, including the key role given to "Wahhabi" ideological base or their Taliban modification, and most famous example of political manipulation of the core of Islamic religious ideas are the 9/11 attacks carried out in New York and Washington.

Regardless of the numerous definitions of terrorism that are conditioned by historical and social context, and also the political, economic and cultural circumstances and discourse of seeing this phenomenon, between the overall scientific and professional community there is a consensus about the main features of terrorism: the existence *politically motivated intent* (achieving certain political goals through violence), *organization* (organized forms of action on ideological, political or religious grounds), and the need to achieve so-called *"secondary effects"* (creating a sense of fear and uncertainty among the public). Also, all agree that terrorism is a low-risk method that gives fast results, whose targets of attack have become more diverse, and whose weapons have become more sophisticated and more lethal.

Although today, many terrorist organizations with Islamic matrix, as its primary goal cite the fight against globalization, which is mainly identified with U.S. foreign policy as its main carrier. Terrorism actually contains a string of features of globalization, including: synchronized actions in the territories of more states[15], using the latest technological advances and achieving global targets. In this context, we could clearly indicate the links of terrorists with organized crime networks, which also act globally and take advantage of globalization, creating so-called "global underground economy."

4. Islam as a global socio-political factor

When it comes to global security and possible conflicts of a religious basis is necessary Islam be considered through the prism of significant socio-political factor in the modern world. Regarding the role of Islam on the world political scene and estimates in this regard, Samuel P.Huntington[16] elaborates his thesis for the necessary clash of civilizations, indicating that

[15] for example, it is usually for terrorists to be citizens of a state, which in coordination with citizens of another state made preparations to a third country for committing terrorist attack on the territory of the fourth state;

[16] broadly in: Huntington PS, "Clash of Civilizations and the Remaking of World Order", New York: Simon & Schuster, 1997;

future divisions and conflicts are not of an ideological and economic nature, but from cultural / civilization. He identifies seven / eight modern civilizations[17] , and he sees the civilization conflicts between Western and non-Western civilizations (which, in international relations move from an object to a status of a subject), and between non-Western civilizations themselves. According to the postulates of this thesis, the basic conflict is between the West and the rest of the world (The West and the Rest), especially Islamic-Confucian world, where conflicts between civilizations will take place on two levels (micro and macro): along the disputed lines between civilizations (about control over territory and control of on towards the other) and between countries of different civilizations (for its economic and military power, control of international institutions, to control other countries). The most prominent conflict field, Huntington locates it in the deepening crisis in relations between Western Christian civilization and fundamentalist currents in the Islamic civilization.

In the same context, recent decades increasingly prevalent are the opinions of individual authors, under which regional and global conflicts will be moved from ethnic and national, towards religious and civilization field. In that sense, Ernest Gellner considered complex antagonism between Western civilization and Islamic fundamentalism is a real danger of a new global conflict. Noam Chomsky, in turn, leads to conflict between the same actors, but the reasons are not located in idealizing and religious fundamentalism, instead in the economic imperialism of the West and ever more present social distance between North and South or West and East. According to Suleyman Demirel, throughout the modern world there is a resurgence of the phenomenon of religiosity which he considers anachronistic against the processes of World modernization. In the context of the contradictions between Islam and Christianity as a reason for a new polarization of the world, John L.Esposito indicated that some influential politicians in the West do not realize the complexity of the Islamic world, believing that U.S. policy makers are short-sighted in observing the ‚monolithic Islamic world, exclusively through the categories of terrorism and extremism. According to Esposito, exactly this incompetence and lack of will of the West to see the diversity of Islamic movements and their programs are leading towards the deepening crisis and relations with Islam in general.[18]

Hence, it could be said that, irrespective of the reasons that may be of ideological, political, cultural, economic or other nature, the world even in

[17] Western, Confucian, Japanese, Hindu, Islamic, Slavic-Orthodox, Latin American and probably African;

[18] G.Bašić, *Religija i savremeni konflikti*, Democracy i religija, ERC / ISCOMET, Beograd / Maribor, 2003, str.231;

the future will be subjected to tension, confrontation, antagonisms and conflicts on religious grounds. Conflicting views on limited and inadequate understanding of Islam, despite indications of security threats from the Islamic world, they significantly (could) produce religious intolerance and interfaith mistrust and xenophobia, Islam-phobia, anti-Islamism and other negative social phenomena. The bottom line, it could be the reason for new extreme and/or terrorist activities of the religious fanatic individuals and groups, regardless of their religious affiliation.

Considering the role of Islam in the global political and security arena, it is important to emphasize that the Balkans is a long term area of interest of the international Islamic state and non-state factor. In this sense, the region is continuously exposed to processes of dissemination of Islamic-fundamentalist ideas as part of the agenda of various Islamist groups. Though mostly the native Muslim population is largely resistant to the new ideological doctrines, and EuroAtlantic perspectives are its main goal, the various forms of Islamic activity in the predominantly Muslim areas result in the creation of bases from their supporters.

Many experts do not perceive the Balkans as a key region for protection or financing of terrorism, but starting from the presence of isolated Islamic groups and a range of factors (political instability, weak political institutions and law enforcement authorities as well as poverty and economic weakness) it is assumed that the region could play a secondary role in terrorist plans, as a transit area or for their protection and regrouping. However, recent years some Islamic-fundamentalist attitudes resulted in attempts at penetration of some Islamists in the official Islamic communities of the state by violent incidents in certain mosques (Macedonia, Bosnia and Herzegovina and Sandzak, Serbia) with the preparatory activities for terrorist action (Sandzak, Serbia) or has already undertaken terrorist act (Bosnia and Herzegovina), indicating a potentially vulnerable area to terrorist threats.

On the other site, application of new religious teachings and practices among the majority of the population accepts them as a concept of life, it does not imply security risks and dangers for the countries. However, the closure in their own society sets creates preconditions for a fear of the unknown, the segregation of society and a priori negative attitude of non-Muslims towards these social layers. Hence the danger of the feeling of pronounced animosity that in a given socio-political context (could) lead to the manifestation of Islamic phobia, anti Islamism and other socially - adverse impact towards members of an entire religion.

5. Closing Remarks

Religious commitment is a basic human right, guaranteed by numerous international acts of the highest level. However, reflecting the security dimension of certain terms which have their basis from Islam, making a clear distinction between Islam as a system of religious norms, radical elements in religious practice and very extreme and terrorist activities is a matter of essential importance for all social entities.

If Islamic fundamentalism is understood or remains on a level increased religiosity, and primarily in the private sphere, it is not a danger to national and collective security. But if it grows into Islamism, as an attempt to impose fundamentalist Islamic views on regulation of a society that is being enforced by force or by use of political means and methods by ideologically motivated individuals and groups, that implies risks and threats towards security and constitutional order of the state.

On the other hand, distorted perception of certain terms, as is the case with jihad, and its interpretation solely in the military / combat sense out of religious regulations prescribed by the Qur'an, should certainly be the focus of attention of security authorities. It applies to all forms of terrorist actions that could be inspired by socio-political events and happening and in accordance to the specific discourse of viewing and motivation.

Hence, we believe that notional separation of the above terms and attempts to understand their essence, present the basis for overcoming some prejudices towards Islam and Muslims, and thus to minimize the negative social repercussions of a sociological nature. Furthermore, it is one of the possible ways for the timely prevention of extreme and terrorist activities as one of the biggest security risks and threats for modern life. In this context, the Euro-Atlantic aspirations of Balkan countries implicitly impose the need for timely prevention and eradication of all forms of extreme and terrorist activity, but also to strengthen dialogue, promote tolerance and multiculturalism as a model for the functioning of multi religious societies.

ПОИМОВНО РАЗГРАНИЧУВАЊЕ НА ТЕРМИНИ ПОВРЗАНИ СО ИСЛАМСКИОТ ФУНДАМЕНТАЛИЗАМ ВО КОНТЕКСТ НА БЕЗБЕДНОСНИТЕ РИЗИЦИ И ОПАСНОСТИ

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Апстракт

Исламскиот фундаментализам е појава која повеќе децении го привлекува вниманието на научната и стручна јавност, како феномен кој имплицира безбедносни ризици и опасности по светскиот мир. Поаѓајќи од различните идеолошко-политички ставови поврзани со

причините за појава на исламски фундаментализам, како и облиците на негова манифестација, во литературата постојат бројни дефиниции како за овој безбедносен феномен, така и за останатите поими кои се доведуваат во врска со него (политички ислам/ исламизам, џихад, исламски тероризам и сл.).

Во таа насока, наспроти прозападните ставови за заканите од исламски радикализам и тероризам, во научните кругови пред сè од муслиманскиот свет, се среќаваат концепти за ревивализам, односно исламско будење или заживување на исламското општество. Од друга страна пак, поимовното разграничување на термините поврзани со исламскиот фундаментализам претствува основа за согледување на религиозната димензија на овој феномен и почитувањето на религијата како основно човеково право, наспроти нејзината злоупотреба од страна на идеолошко-политички мотивираните поединци и групи со префикс екстремни или терористички.

Според тоа, спротивставените пристапи во толкувањето и третирањето на овие појави водат кон натамошно продлабочување на јазот помеѓу западните и земјите од исламскиот свет, а со тоа и кон можност за појава на нови конфликти и терористички активности со религиозна позадина.

Оттука, овој труд ќе придонесе за посоодветно перципирање на исламскиот фундаментализам и останатите појави кои произлегуваат од него, како и детектирање на можните безбедносните ризици и опасности од несоодветниот третман кон нив, а во насока на изнаоѓање поадекватен општествен одговор на новите безбедносни предизвици.

Клучни зборови: исламски фундаментализам, политички ислам/исламизам, џихад, исламски тероризам, ризик, безбедност

PARTICIPATION OF ARM IN THE MANAGEMENT OF RISKS AND CRISES IN THE CONTEMPORARY SECURITY CHALLENGES

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Abstract

Nowadays threats are becoming more numerous, more substantial and more complex especially after the 11th September 2001. Holders of asymmetric threats know no territory, no space, no nation on the globe, especially in the South-East Europe (SEE), where it can be said that the situation is safe and peace is guaranteed and fully applicable. Within the mass application of the fourth generation of war, the Balkans is one of the desired spots of the holders of unconventional challenges that come from non-state actors which necessarily redefine security priorities.

Macedonia follows the efforts of the international community for fight against the asymmetric challenges, management of crises and threats and generous participation in peacekeeping operations in the crisis areas of the world. For this purpose, the Army of the Republic of Macedonia (ARM) as a segment of the state security system, using the experience gained from a decade-long participation in the international operations against asymmetric threats, updates their capabilities in the desire for successful early warning, preventive action and application of measures and activities to counter the threats, risks, disasters, accidents and thus contribute to building peace and security in the region and on international level.

The paper gives an overview of the important aspects of participation of ARM in dealing with crises, the current threats which the Republic of Macedonia is facing with, lessons learned from the past participation of the ARM in dealing with threats, and the estimated future security challenges.

Keywords: asymmetric threats, management, measures and activities, security, Army of the Republic of Macedonia

Introduction

Macedonia belongs to the Euro-Atlantic region and its security is indivisible from the security of the North Atlantic Treaty Organization

(NATO), which is regional and global security. NATO and the United States (US) as significant international actors play a leading role in dealing with terrorism on a global level and have responsibility for establishing and maintaining the world order and peace. The inclusion of smaller countries such as the Republic of Macedonia in creating global security gives an obligation for implementation of joint training and exercises according to the NATO standards.

Participating in the fight against terrorism on a global level, the Republic of Macedonia clearly indicates the commitment of its Euro-Atlantic goals and implements the commitments of the international community to achieve complete peace on the Balkans and the SEE. Macedonia also expressed its commitment and strategic policy to prove how faithful partner it is, in efforts to establish global peace by signing the conventions associated with terrorism and the fight against it, as well as measures and activities for its complete elimination.

To fulfill Macedonian commitment ARM as a part of the security system of the Republic of Macedonia established a system of staff training in skills which the staff acquires in a coordinated, planned and organized projection of the educational content driven by programs of NATO and the Partnership for Peace. In the training system are incorporated lessons learned in previous participations of ARM contingents in the international operations for risk and crises management and establishment of global peace.

Possible threats to the security of the Republic of Macedonia future challenges

Nowadays, the modern world is characterized by rapid, complex and dynamic changes and confronts with new asymmetric threats and risks which are growing, such as terrorism, transnational organized crime, war of the fourth generation, proliferation of weapons of mass destruction, religious radicalism and extremism, illegal migration, unstable and dysfunctional states and computer (cyber) attacks. Challenges, like energy dependence and climate changes may also have a negative impact on the national and the international security.

Security situation in the SEE as a part of the global world is characterized by dynamic, adaptive development of the states in the new conditions of cooperation or the challenge to find ourselves in the new order of the international community and its institutions; in this, we sometimes face with debris, and undesirable military, non-military and other risks and hazards.

Macedonia as a part of the SEE does not face with direct conventional threats to the national security, but that cannot be guaranteed

for the future. Possible types of threats and risks to Macedonian national security in the future can be:

- Terrorism, which threatens peace, security, the interests of the country and the world, and represents a real threat to the personnel deployed in the international missions;
- Transnational organized crime in all forms, corruption and abuse of strategic materials and dual-purpose;
- Proliferation and use of weapons of mass destruction which threaten globally, with major consequences and harmful effects;
- Regional conflicts and crises;
- Manifestations of radical nationalism and extremism;
- Ethnic and religious intolerance;
- Possession of large quantities of illicit small arms and light weapons and ammunition;
- Illegal activities of foreign intelligence services;
- Computer crime and threats to information systems and technologies;
- Natural disasters and technological (industrial) accidents of a larger scale;
- Epidemics;
- Degradation and destruction of the environment and ecological potential;
- Internal economic - social problems, economic crime, poverty, unemployment[1].

Taking into account the dimensions of the contemporary threats and risks, and the global access, cooperation with UN, NATO, EU and OSCE is an indispensable tool for successful national security in the Republic of Macedonia; also NATO and the EU by policy of "open doors" to NATO and EU enlargement to Western Balkans contributions are key factors for the maintenance and strengthening of regional security, stability and prosperity.

Proponents of the military aimed at countering these threats argue that conflicts with terrorists, insurgents, and other non-state actors are likely to feature prominently in the global security challenges in the coming decades, and the military should be optimized to succeed on this new battlefield.[2]

A military built to defeat unconventional foes would look

[1] Republic of Macedonia. President of Republic of Macedonia. (2010). Official Journal of Republic of Macedonia numb.30/2010, Strategy for defense of Republic of Macedonia, p. 4

[2] Lawrence J. Korb, Peter M. Juul, Conley, L. Major Myles B. Duggan, E. (2008). Building a Military for the 21st Century New Realities, New Priorities, Centre for American progress, pp. 24 - 25

dramatically different from the one shaped by the Gulf War. It would draw on the Army's recent Counterinsurgency and Stability Operations manuals, which acknowledge that conflicts like those in Iraq and Afghanistan demand expanded counterinsurgency and peace enforcement capabilities.[3]

Such a military would focus more on manpower and advanced technology than on large- scale weapons procurement. It would employ the strategies implemented in Iraq, such as putting troops on the ground to build trust within the local citizens and using unmanned aerial vehicles widely, to track and target insurgents. An unconventional military is less structured for launching a full-force assault on a linear battlefield and more suited to targeting elusive opponents and breaking down networks of non-state actors.

ARM participation in missions led by NATO, OON, EU and other international organizations

Republic of Macedonia began its participation in the North Atlantic Treaty Organization (NATO) - led operations in August 2002, with the sending of two officers in the International Security Assistance Force (ISAF) as part of the Turkish contingent. After this first participation in March 2003, the Army of the Republic of Macedonia (ARM) increased its contribution in the ISAF mission by sending one section as part of the German contingent. Based on all legal authorizations, the Parliament of the Republic of Macedonia adopted decisions for sending its units to the Iraqi Freedom Mission in the period between June 2003 and December 2008. The Mission started by sending 2 officers in the US Central Command in Tampa, in March 2003 and in June 2003, a special task platoon that executed the tasks as part of the 4th infantry division of the Multi-National Force Iraq was sent. In 2008, our participation in the Iraqi Freedom Mission was increased by an additional platoon.

As a result of the successful carrying out of the missions and the high marks received for participation in ISAF, from August 2004 until the end of 2006, the ARM participated with one mechanized infantry platoon. Next extension of participation was in August 2005 when medical personnel was sent in ISAF as part of the Combined Medical Team in the A3 format[4], which successfully carried out tasks at the Kabul airport, initially in the composition of the Greek Field Hospital, and later in the composition of the Czech Field Hospital.

Based on the assessments of the Alliance in the part of the declared

[3] Lawrence J. Korb, Peter M. Juul, Conley, L. Major Myles B. Duggan, E. (2008). Building a Military for the 21st Century New Realities, New Priorities, Centre for American progress, pp. 24 - 25

[4] A3 members are Macedonia, Albania, Croatia

units from the ARM, which achieved the level of the strict standards in the field of training and operational procedures, and in line with the Operational Capabilities Concept (OCC), the ARM in June 2006 sent another one mechanized infantry company, in the composition of the British contingent in ISAF. From January 2008 it sent three staff officers in the ISAF Command in Kabul.

As a support to the efforts for self-sustainability of the Afghanistan National Army (ANA), beginning from March 2008, the Republic of Macedonia also sent one officer and one Non-commissioned officer (NCO) as part of the Combined Multinational Operational Mentor and Liaison Team (OMLT), and from December 2008, in cooperation with the Kingdom of Norway, Macedonia send one Surgical team which was performing Role 2[5] medical support in the organizational structure of the surgical unit of the Norwegian Provincial Reconstruction Team (PRT).

The participation of the Republic of Macedonia in the European Union (EU) led crisis management military operation Althea in Bosnia and Herzegovina began in July 2006 by declaring a helicopter detachment, and in November 2006, enhanced its contribution by declaring a medical team. In addition, the contribution of the Republic of Macedonia to Althea was reinforced by declaring an additional person military lawyer – assistant legal advisor and Non Commissioned Officers (NCO) for preventive medicine in the Headquarter of the European Forces (HQ EUFOR).

Republic of Macedonia, since May 2007, started its contribution to the United Nations (UN)-led peace mission, named "United Nations Interim Force in Lebanon" (UNIFIL), with one ARM representative as a Staff Officer in the Joint Operation Center in Lebanon.[6] The Army of the Republic of Macedonia by its participation in missions has given its specific contribution in building strong credible democratic institutions and highly trained security forces in Iraq and Afghanistan, forces which guarantee the future of their country as well as the stability and security in their

[5] Role 2 support is normally provided at a larger unit level, usually of Brigade or larger size, though it may be provided farther forward, depending upon the operational requirements. In general, it will be prepared to provide evacuation from Role/Echelon 1 facilities, triage and resuscitation, treatment and holding of patients until they can be returned to duty or evacuated, and emergency dental treatment. Though normally this level will not include surgical capabilities, certain operations may require their augmentation with the capabilities to perform emergency surgery and essential post-operative management. In this case, they will be often referred to as Role 2+. In the maritime forces, Echelon 2 is equivalent to the land forces' Role 2+, as a surgical team is integral to this echelon. Maritime echelon 2 support is normally found on major war vessels and some larger logistics or support vessels, and at some Forward Logistics Sites (FLS).

[6] Ministry of Defense (2012). Missions. Take on 16.02.2012 from http://www.morm.gov.mk/portal/

environment and beyond.

ARM lessons learned from participation in missions

At the beginning we want to make comparison between Lessons learn (LL)[7] system in NATO and LL system in ARM.

Regardless of whether you are learning from explicit or tacit knowledge, in any learning organization, you need to follow the same three basic stages of learning.[8]

1. Identification: Collect learning from experiences.
2. Action: Take action to change existing ways of doing things based on the learning.
3. Institutionalization: Communicate the change so that relevant parts of the organization can benefit from the learning.

Figure 1: The NATO LL process

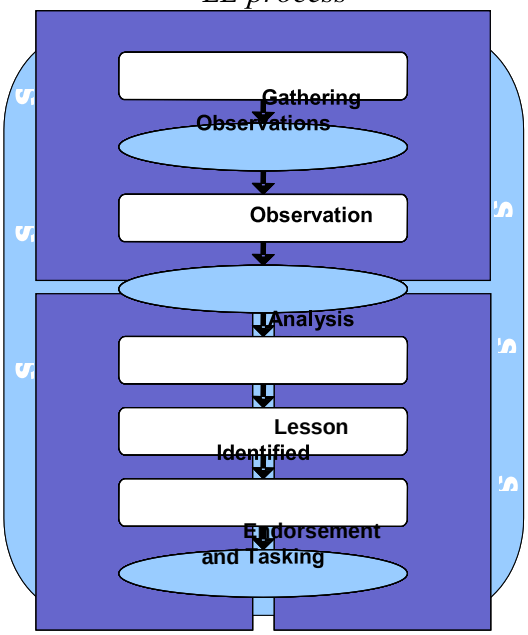
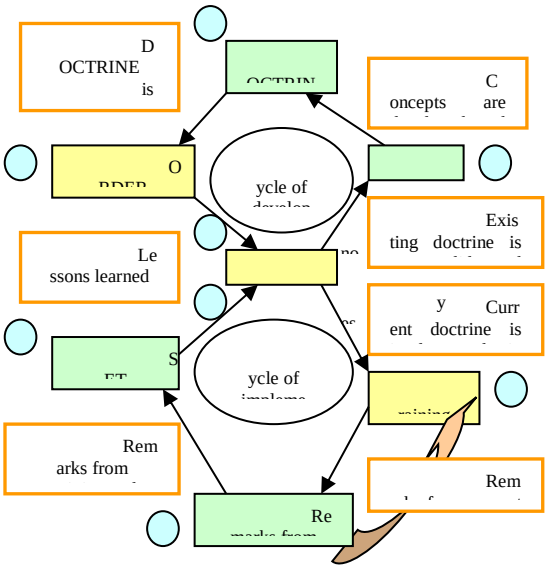


Figure. 2. Cycle of



[7] Lesson learns is broadly used to describe people, things and activities related to the act of learning from experience to achieve improvements. The idea of LL in an organization is that through a formal approach to learning, individuals and the organization can reduce the risk of repeating mistakes and improve the chance that successes are repeated. In the military context, this means reduced operational risk, lower cost and improved operational effectiveness.

[8] These three stages are generic and apply to any learning organization: NATO, military, civilian
(Government or private enterprise). They are not yet explicitly embedded in NATO doctrine. 'Institutionalization', in NATO would be Lesson sharing and, as applicable, incorporation into NATO doctrine and procedures.

From the figures above we can see that NATO LL system is specifically and separately defined and it is applicable to all NATO bodies, agencies and staffs, and acts as a guide to Allies and other international organizations and in the same time it establishes the basic principles of an Alliance-wide approach to LL in order to ensure transparency and a common understanding of its intent. ARM LL system is a part of a military doctrine cycle where in the sixth step of military doctrines sorted, current and approved remarks from training and operations are given to further responsibility of the organizational unit holder of a process of lessons learned and to the guard of the doctrine. They are used in correction procedures in the process of training and operations.

And in the seventh step by the analysis of the obtained remarks for the practical applicability of the doctrine - documents, with the purpose to fill doctrinal gaps in the process of lesson are created guidelines for executives. If there are significant deviations, in the operational applications of the doctrine can be developed Temporary Guidelines which will be in use until the development of a new doctrine - document. Simultaneously, through a process of lessons learned is prepared a proposal or initiative to update the existing or to adapt a new doctrine which is governing the area.9

The operational challenges that Macedonian participants in Iraq, Afghanistan and other missions were faced to, have convinced senior leaders of the need to change the way in which they fight. Development of new lessons-learned systems has to be a crucial element of this transformation. This system has to be designed to capture lessons from the front line and transmit this information upwards to be disseminated throughout the chain of command. Thus, they need to recognize that bottom-up learning which is crucial in creating an adaptive and flexible army is also capable of meeting the challenges of the conflict, and have made effective use of the top-down innovation.

ARM respected LL procedures and tools that currently exist from participation in Peace Support Operations (PSO)10, led by UN, NATO and EU has gotten following LL:

When our officers have been worked in a joint and coalition environment, there were plenty of misunderstandings and difficulties. Due to

[9] Ministry of Defense/GS of the ARM. (2008). Doctrine for planning in the Army of the Republic of Macedonia, Skopje p. 39 - 40.

[10] PSOs are multi-functional operations, conducted impartially, normally in support of an internationally recognized organization such as the UN or Organization for Security and Co-operation in Europe (OSCE), involving military forces and diplomatic and humanitarian agencies. NTO military agency for standardization (MAS) (2001) AJP-3.4.1 - Peace Support Operations p. 36

keep our contingent's Military decision making process (MDMP) skills fresh is of crucial importance. Just as the training on MDMP in pre deployment built the foundation, MDMP in deployment ensured that members of our contingents were trained and ready. Our careful planning also ensured that our commanding officers understood the environment into which they will eventually be deployed. The abbreviated MDMP skills that are exercised and trained enabled our troops to perform successfully their missions.

In stability operations and support operations, language is crucial in successfully dealing with the local host nationals and in establishing a safe and secure environment. Our troops spend time under the constant eye of the local Afghans. Afghans are very cooperative, very polite but spoke very limited English. Our contract linguist provided great support in hasty interrogation. This enabled our troops to significantly increase our language capability since we had Arabic linguists. Once they understood that our troops were there to help, they began to cooperate and our troops gained their trust.

Within the mission, in cooperation with Role-111 at the Headquarters of ISAF, with members from ARM contingent medical training was carried out on "Drawing from the place of injury, providing first medical aid and MEDEVAC."

With this training, the cooperation of our members with the medical team lifted to even higher level in the execution of the joint mission HQ ISAF in Afghanistan. Gained confidence in members of the Army of the Republic of Macedonia is enhanced by continued provision of emergency medical transports by Macedonian forces for quick reaction.[12]

Taking into account that lessons learned, ARM has established language learning centers in the headquarters of our brigades and battalions, and dramatically improved language capabilities of the personnel.

Virtually, all fighting in PSO have taken place in or near cities, where visibility is low, and the greatest dangers are ambush, snipers, and booby traps. If we are analyzing engagement of our contingents over the past, about 70% of their engagements have been in urban territories, so our troops should be better prepared for that kind of operations. The city environment also neutralizes much of our high tech advantage. GPS does not work indoors, and often fails outdoors in narrow alleys.

[11] Role/Echelon 1 medical support is that which is integral or allocated to a small unit, and will include the capabilities for providing first aid, immediate lifesaving measures, and triage. Additionally, it will contribute to the health and well-being of the unit through provision of guidance in the prevention of disease, non-battle injuries, and operational stress. Normally, routine sick call and the management of minor sick and injured personnel for immediate return to duty are a function of this level of care.

[12] Jovanovski, V. (March 2011). Macedonian "Desert fox". Stit 27 p. 30 - 31

To improve preparedness of the ARM troops, in the training area Krivolak we have built capacity for: urban environment training, mountain urban environment training, rural environment training, shooting house and other capacities for training and in the future we are planning to build Tactical Driving terrain and a High Angle Shooting Range.

Although the military is reluctant to take on the responsibility for fighting crime, and is also not particularly good at it, sometimes, when domestic security forces in Iraq where either absent or are themselves sources of insecurity, our contingents have been in situation to fight serious battles. This was particularly the case during the early stages of the post-war intervention, when the weakness of local police forces was mostly apparent and when security conditions where inimical to the application of civilian policing strategies.

In realization of the operation „Iraqi Freedom", the Commander of the 5th engineer battalion that was given proper area of responsibility for strategic interest and issued fragmental orders with which in Hamamiya (part of its zone of responsibility), attacks have worked exclusively with the presence of Sheikh Hamamiya. The purpose of this was restoring confidence in this part of the population, which had the greatest number of victims during the war, and making a strict distinction between criminals and those members who took hostile action against coalition forces and other neutral civilians.[13]

To succeed in that operation, our contingents besides the good training in fighting in urban area, needed to know the culture of the country because misunderstanding goes well beyond not shaking with your left hand, or not showing the bottoms of your feet. For example when our troops where in situation to chase a terrorist in a building, they first must knock before entering. Our soldiers did not know that. It sounds ludicrous, but if they do not knock, and as a result they see a woman uncovered (maybe just her face) they could capture terrorist, but that would create several new ones. A husband or brother or both may feel obliged to take revenge for the insult, to restore the family honor, regardless of their political beliefs.

Another example of knowledge that Macedonian Contingent that operated in the zone of responsibility of the brigade under command in the completed mission "Iraqi Freedom" had to learn, were the orders during the attacks, not to search female members unless such attached elements were part of the coalition forces. It was a decision which sought operational goals to match the political in the sense of respect of the cultural and traditional

[13]Hadzijanev M. (2012). Detective tactics in pos conflict operations, European University, Macedonia p. 49.

customs of the Iraqi population.[14]

A challenge that ARM is facing is the logistic support of the deployed forces. At the moment, the logistic support is done by the countries which the Republic of Macedonia has signed Memorandums of understanding and Technical agreements with.

Conclusion

Macedonia, as part of Europe must always be prepared to fulfill national and international commitments - defense and protection of the country and in the same time contribution to international operations and protection of the broader national interests. This means that the ARM needs to be capable of carrying out a wide range of military operations, from combat operations to large-scale operations for peace building and humanitarian operations, and further, develop skills for effective command and control, force protection, sustainability, deployment, mobility, firepower and logistical support forces.

However although we are learning from our mistakes we are far from mastering the new kind of crises protection in which we do missions in the midst of innocents that demand extremely low collateral damage. Our strength is good but, just as in the biological evolution, it is often more important to be adaptable than to be strong which means that we need to learn a lot more.

Improvements can be done only by collecting a wide variety of opinions from those at the front line and from the trainings, and in that way, the lessons-learned systems can be truly effective. However, creating lessons-learned cultures is not a simple task in the hierarchical organizations. Soldiers have to feel comfortable submitting lessons that may eventually reflect badly on themselves or their unit or their chain of command and not fear negative repercussions for their careers where the lessons identified reflect institutional problems rather than personal failings. Indeed, soldiers have to believe that the army is taking the lessons-learned system seriously or they will be less likely to engage positively and honestly within the process.

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THE ROLE OF POLICE IN RISK AND CRISES MANAGEMENT

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Abstract

There were and there will always be different types of security risks threatening the wellbeing, the health and the lives of people and animals but also risks that put in danger the State security and may result in crisis situations. The security risks in the modern world are becoming reality and people are more aware of them as well as of the need for efficient managing of the risks.

The entire society, in particular the bodies within the crisis management systems, need to be engaged in order to efficiently deal with the different risks that might result in crises situations. The Police, as an important factor in crisis management, are dedicated to encounter the most suitable methods that will contribute for successful management of risks (prevention of crisis) or successful management of similar situations.

The role of the police in risks and crises management is of crucial importance for the crisis management system in both prevention and undertaking concrete actions in dealing with risks that might result in crises which will cause additional efforts, resources, and manpower on the part of the whole society.

Key words: the role of the police, crisis prevention, crisis management, dealing with risks

Introduction

Risks represent danger both for the human values and the safety of the society and that is why dealing with the risks is a challenge for the bodies within the crisis management system, and particularly for the Police, whose main task is providing safety and security.

Managing risks means prevention from crisis. Successful risk management requires creating tools and defining the most appropriate methods for prevention, as well as identifying quick and efficient ways to solve such situations. Therefore, it is necessary to develop continuous State capacities in terms of competent management of possible risks and crisis.

One of the mechanisms for providing efficient response to the risks is preparation of ***Standard Operational Procedures***[1] for communication, coordination and cooperation among the bodies within the crisis management system, which should provide effective activities to be undertaken in case of natural disasters and disasters caused by man, as well as to deal with the consequences of terrorist attacks in crisis situation.

Furthermore, the ***National Platform on Disaster Risk Reduction*** [2] is a national mechanism for reducing risks of disasters, which is based on the principles of involvement, professionalism, expertise, institutional establishment, and efficiency[3].

In the past period, quite often, the natural catastrophes and technical-technological failures threatened the security and the survival of the whole inhabited areas, even some regions of certain neighboring countries. Therefore the need for closer international cooperation, particularly among the countries in the region, is seen as a necessity for enabling fast reaction in case of catastrophes or emergences.

Worldwide, the process of globalization of the risks that can also lead to crisis is becoming more evident. This is particularly visible in the area of security and ecological risks, such as: use of weapons for mass distraction, terrorist attacks, destroying natural resources, etc. Consequently, the risk and crisis management cannot be considered a problem of solely one country; therefore, numerous regional and global initiatives have been created:

- ***Regional Programme on Disaster Risk Reduction in South East Europe, implemented in partnership with UNDP and the World Meteorological Organization, financed by the European Commission*** organized and held: International Ministerial Conference on *"Harmonising Regional Activities in the field of prevention of natural hazards and disasters"* Belgrade, November 2011

[1]In the frames of the Partner's Goals for 2010 package, the Partner Goal "G-0029" was accepted. It refers to the "Management in emergency situations and dealing with the effects of terrorist attacks" and it contains guidance on the Standard Operational Procedures. By Government's decision, the Crisis Management Center was appointed to be in charge of the implementation of this partner goal. The Standard Operational Procedures were prepared by a working group consisted of representatives of all bodies within the Crisis Management system.

[2]The Government of Republic of Macedonia adopted the National Platform for disaster risk reduction in 2009, based on the Hyogo Framework for Actions 2005-2015 guidelines to which Republic of Macedonia approached in January 2005, in accordance with the recommendations of the UN International Strategy for Disaster Risk Reduction, made by the United Nations *(UN ISDR).*

[3] *"National Platform for Disaster Risk Reduction of Republic of Macedonia"* (third revised edition), Crisis Management Center, Skopje, August 2011, p. 2

- Programme of activities **„CMEP SEE“** (Civil-Military Emergency Preparedness for South Eastern Europe), which covered the:
  - Meeting "Evaluation of the preparedness and respond in emergency situations", Skopje, December, 2010
  - Regional Balkan headquarters' exercise „Earthquake in the countries in the region" Belgrade, September 2011
  - Annual plenary session of the Council for civilian-military planning in irregular situations in SEE*"*, Skopje, December 2011
- The planning process **"SEESIM-12"** in the frames of "SEDM" (SEE regional cooperation process), which covers several exercises on a regional level.
- On international level, worth mentioning is the ***"International Strategy for Disaster Risk Reduction"*** developed by the UN ISDR and the general instructions from Hyogo Framework for Action adopted at the Disaster Risk Reduction Conference organized by UN according to which Republic of Macedonia adopted the National Platform for disaster risk reduction.

As it is the case worldwide, including the region, in the Republic of Macedonia there are also risks that can result in crisis. Namely, lately there were frequent and longer heat waves with high temperatures, which resulted in serious consequences on people's health. The high temperatures caused drying of the flora and forest fires. During the winter, in specific regions there were snow slides. During the spring as result of the elevation of the water level in the rivers, there were floods and landslides.

The ***"National concept for safety and defense"*** foresees the following possible risks and threats over the safety in the Republic of Macedonia:[4]

- Possible manifestations of extreme nationalism, racial and religious intolerance;
- Forms and activities related to international terrorism, organized crime, illegal migration, drug trafficking, weapon trafficking, trafficking in human beings, strategies and materials for multiple use, as well as the consequences of use of means of mass distraction;
- Possession of large amounts of illegal weapons;
- Problems related to the transition such as: corruption, urban terrorism, crime (blackmail, racketeering, murders and violation of citizens' property), economic crime, tax evasion, lack of

[4] *„National conception for security and defense*", Official Gazette of R. Macedonia, # 40, 2003, p. 16.

professionalism of the democratic institutions of the system, problems within the judiciary, social problems and unemployment;

- The activities of the foreign special services towards worsening of the security situation, and the deceleration of the democratic and integrative processes, especially towards NATO and EU;
- The conflict of interests in relations to the use of strategic resources as well as the obstacles created for their import in Republic of Macedonia;
- Natural disasters, technical-technological catastrophes, infectious diseases of people and animals, caused by internal or external factors;
- Computer crime, piracy and abuse of the ICT, especially those related with citizens' personal data, business, industrial and secrets of importance to the State itself;
- Degradation and destruction of the environment;

Furthermore, the ***Strategic Defence Review (SDR)*** defines the middle and long term risks and dangers, as well as the level of their intensity. The review emphasizes the trends and the expected probability for the defined risks to occur. Thus, SDR foresees the political estimation of the risks influence over the peace and stability on short, middle and long term[5].

According to Georgieva L., the follow-up of the development trends and the risk occurrence symptoms can be basis for early warning and risk management, i.e. precondition for creation of threat policies and preventive actions[6].

The table below (based on the Strategic Defence Review) shows the threats, risks and dangers based on the time frame and the intensity, upon which trough analyses and evaluation, future possible events can be predicted and appropriate measures for action can be undertaken.

[5]Georgieva, L. *„Risks management*", Faculty of Philosophy, Skopje, 2006, p. 182.
[6]Ibid, p. 182

THREATS, RISKS and DANGERS	LEVEL of INTENSITY		
	At the moment	Middle Term	Long Term
Possible manifestations of extreme nationalism, racial and religious intolerance			
Forms and activities related to international terrorism, organized crime, illegal migration, drug trafficking, weapon trafficking, trafficking in human beings, strategic and materials for multiple use, as well as the consequences of use of means of mass distraction;	HIGH	MIDDLE	LOW
Possession of large amounts of illegal weapons	HIGH	MIDDLE	LOW
Problems related to the transition such as: corruption, urban terrorism, crime (blackmail, racketeering, murders and violation of citizens' property), economic crime, tax evasion, lack of professionalism of the democratic institutions of the system, problems within the judiciary, social problems and unemployment;	HIGH	MIDDLE	LOW
The activities of the foreign special services towards worsening of the security situation, and the deceleration of the democratic and integrative processes, especially towards NATO and EU;	MIDDLE	MIDDLE	LOW
The conflict of interests in relations to the usage of strategic resources as well as the obstacles created for their import in Republic of Macedonia;	MIDDLE	MIDDLE	LOW
Natural disasters, technical-technological catastrophes, infectious diseases of people and animals, caused by internal or external factors;	LOW	LOW	LOW
Computer crime, piracy and misuse of the ICT, especially those related with citizens' personal data, business, industrial and secrets of importance to the State itself;	LOW	MIDDLE	HIGH
Degradation and destruction of the environment	MIDDLE	MIDDLE	MIDDLE

Police as one of the constituent of the crisis management system is actively involved in dealing with risks and crisis. The police implement this goal through:

- Prevention, early warning and first response to risks and crisis
- Realization of operational and other procedures in crisis.

The role of the Police in prevention, early warning and immediate response to risks and crisis

Based on provisions from the Law on Police[7], according to which one of the main tasks of the Police is to protect the life, the personal safety and the property of the citizens as well as to provide help and protection of the citizens if needed, the police is acting preventively, providing early warning and first response to risks and crisis. Police should develop efficient strategy for prevention, first response, fight and solving security risks, natural disasters and technical-technological catastrophes.

From the aspect of prevention of risks and threats as well as the early warning as a main precondition for undertaking prevention measures, one should take into account that every specific risk or threat can be analyzed, and evaluated, and a model for early warning can be created in accordance with its specific characteristics[8].

Police tasks in this respect refer to: localizing and assisting in fire extinguishing and rescue of people and their property in case of floods, landslides and other local disasters; redirection and introduction of alternative traffic flow on local and highway roads, streets and other infrastructure during traffic accidents of trucks transporting hazardous, inflammable and explosive materials, assisting in case of aggravated road conditions due to rockslides, landslides, and snow drifts, and in case of aggravation of the security situation in certain regions caused by criminal - terrorist groups; evacuation, rescue and increased security of vital facilities to the country, facilities where confidential materials and documents of high importance, stocks and documents of importance for the security of the country are kept, diplomatic – consular offices and residences in the country, international agencies and organizations with diplomatic status; providing transport and security in case of epidemic outbreaks, quarantine or other diseases of the people and animals, and intervention when the environment, the property and the material values are being destroyed.

For the purpose of realization of this tasks, the Police undertakes different operational-tactic measures and activities such as: blocking of roads and highways; regulation, redirection and introduction of alternative traffic flow; blocking of certain area, physical security, introducing check points, control of vehicles, persons and passengers, deploying patrols and guard

[7] *"Law on Police",* Official Gazette of Republic of Macedonia, No. 114, 2006, Article 5.
[8] "*Risks Management*", Georgieva, L., Faculty of Philosophy, Skopje, 2006, p. 142

services; providing information to the specific services within the competent bodies as well as the public, organizing transport, security and escort for confidential and hazardous materials, confiscation of items for which there are grounds for suspicion for being used in crime or are profit of crime, as well as securing items taken from persons that suffered loss; exchange of information and ransacking and searching of an area and rescue.

Police officers and authorized officials from different organizational units are being engaged in the operational tactical measures undertaken in the frames of the realization of these tasks: Police Station for Road Traffic Safety, Police Station for General Competences, Police Station and Regional Centre for Border Police, Rescue Teams of the Special Task Unit, K9 Unit, Organizational Units for Logistics and the medical personnel within those units.

Based on the practical experience in applying preventive police work, with an emphasis to the Community Policing concept, the Citizen Advisory Groups (CAGs) and the Local Prevention Councils (LPCs) as its main tools, the police are being able to timely detect the risks and threats that can cause crisis and undertake appropriate preventive measures. Good example of that are the events in the ethnically mixed schools in Struga and Kicevo where in certain periods there was increased violence with ethnical background among the students.

The role of Police in risk and crisis management

The goal of the risk and crisis management is to enable preventing, decreasing, neutralizing, and eliminating security risks and crisis. ***Risk management*** *can be defined as the most suitable strategy for responding to, fighting and solving negative (security) risks in the contemporary world encompassing methods, procedures actions and measures that in practice will eliminate, decrease, redeploy or control the risks and which enables life with specific acceptable level of negative (security) risks that in certain period of time cannot be eliminated or avoided*[9]. ***Crisis*** *on the other hand can be defined as an occurrence that jeopardizes the basic values, eternal and vital interests, and goals of the country i.e. it jeopardizes the Constitutional order, and the security of the country*[10].

Depending on the risk and the crisis situation, the Police conduct the following tasks:

[9] *"Risk Management",* Gerasimovski, S., Faculty of Security, Skopje, 2011, p. 2

[10] *"Law on Crisis Management",* Official Gazette of Republic of Macedonia, No. 29, 2005, Art. 3

- Activities against international and urban terrorism, serious forms of organized crime including, kidnapping, blackmail, assassinations, murders, and attack of people and their property;
- Activities related to natural and other disasters, technical-technological catastrophes, epidemic outbreaks and other diseases of people and animals;
- Security of the state borders;
- Establishing public peace and order in cases of disturbances of a bigger extend indicating to merge into riots;
- Emergency and strengthened security of the facilities of importance for the security of the country, facilities of importance for the defence, residences and dwellings of VIP persons, diplomatic-consular offices of international organization, political summits and high level conferences.

In order to realize the above mentioned tasks the police undertake different operational-tactical and special measures (operations), such as: to detect, pursuit and to destroy criminal-terrorist groups; to establish check points for detecting persons, items and to restore the control in certain areas; to organize patrols, to set up ambushes, blockades, raids and conduct searches in facilities, search of persons and vehicles; blockades of specific areas, field patrolling and ransacking, detection of items and equipment, possible refuge and dwelling locations; interception and destroying of the logistics designed for support of criminal – terrorist groups; strengthened security of possible targets of attack; facilities of special importance for the country, international and diplomatic offices, residences and VIP dwellings, strengthened control of the state border and increased security of the crisis region; restoring of the disturbed public peace and order in the crisis areas; introducing special traffic flow on the roads in the region, convoy and escort of the necessary aid and mechanization to the crisis location; search, detection, rescue and assistance of persons who suffered loss during crisis; evacuation, exchange of information and follow-up of the situation and providing security risk evaluation.

Police officers and authorized officials from different organizational units[11] within MOI are being engaged in the operational tactical measures undertaken in the frames of realization of these tasks.

[11]MOI Operational Units: Helicopter Unit, K9 Unit, Police Station for General Competences, Police Station for Road Traffic Safety, Police Station for external physical protection of premises and police Station for protection of diplomatic – consular offices; Police Station for security of the state border, Employees from the Department for protection of persons and internal protection of premises, Employees from the Sector for detection, demining and dismantling explosive devices; Organizational Units for logistics and Medical staff within the units.

Establishing Crisis Operational Centre is a precondition for successful Crisis and Risk Management. Crisis Operational Centre is the key component for efficient crisis management. The crisis operational centre has several functions:

- serves as a command centre,
- functions as an operational centre, and
- it is informational centre[12].

According to the by-laws, in crisis situations, ***operational headquarter*** is being established within the Ministry. It has to plan, organize, coordinate, manage, command and control the engaged units, police officials and appointed officers in the process of dealing with the crisis situation on the territory of the whole country.

Conclusion

Only by developing efficient prevention and risk management strategy and by preventing crisis, the Police should strive towards finding the most suitable mechanisms and procedures to enable quick and effective management of sources of the risks.

The role of Police in risks management is in accordance with the national platform and the newly prepared Standard operational procedures for communication, coordination and cooperation among the entities within the crisis management system and it differs depending on the type of the risks. However, the Police activities should be tailored to manage the process of dealing with the risk and crisis that encompasses: monitoring of the situation, collection, analysis and use of data, efficient evaluation, planning, preparation of operational plans, quality feedback, prevention, conflict resolution and team work. According to Mitevska M., planning provides efficient coordination, prevention and early warning, clear instructions for reaction, continuous evaluation, and continuous activity during and after the end of the crisis.

The intensive communication and the exchange of information among the bodies of the crisis management system, i.e. effective coordination, are strongly influencing Police efficiency in the crisis situations. The efficiency of the Police will be as high as its organizational set-up, and competency, preparedness, and equipment of its employees, and the appropriate normative-legislative instruments necessary for successful management, efficient performance of the tasks with optimal usage of the available resources.

A big step forward in prevention and crisis management in the Ministry of Internal Affairs is the establishing of the Unit for planning

[12] *"Crisis management"*, Kesetovic, Z. Faculty of Security, Belgrade, 2008, p. 111

reserve staff, prevention and crisis management. The job positions in this unit are systematized according to Art. 9 from the Law on Crisis Management[13], which states: *„The Ministry and the rest of the bodies of the central government, the municipal bodies and the City of Skopje, the public institutions and services, as well as the trade associations of special importance for the work in crisis situation, in their acts of organization and systematization are obliged to foresee job positions for preparation and execution of tasks related to Crisis prevention and management".* It is expected that this Unit will improve the capacities and the preparedness of the Ministry of Internal Affairs and of the Police in prevention and management of crisis that are the reality of the every-day life.

Finally, the role of the Police as one of the main factors in the crisis management system is to be actively involved in providing conditions for protection of the material and non-material goods of the citizens, based on cooperative relations and mutually coordinated activities of the Police and the other bodies of the crisis management system.

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[13] *"Law on Crisis Management", Official Gazette of Republic of Macedonia, No.* 29, 2005, Art. 9

CRIMINOLOGY, POLICE, CRIMINALISTICS AND OTHER AFFILIATED SCIENCES- THEORETICAL, EPISTEMOLOGICAL AND METHODOLOGICAL ISSUES OF THE SCIENCE AND THE SYSTEM OF SCIENCES

CHALLENGES TO THE CRIMINAL JUSTICE REFORMS THROUGH THE PERSPECTIVES OF EURO-ATLANTIC AND EUROPEAN INTEGRATION PROCESSES

ILLEGAL TRAFFICKING – FORM OF TRAFFICKING IN CHILDREN

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1. Concept and forms of illegal adoption

Trafficking in human beings for adoption drew particular attention in 2010 when earthquake hit Haiti and killed more than 300,000 people. Many children who lost their parents are given for adoption or sold for various types of exploitation (mostly out of the country). [1]

What does illegal adoption of children mean? It's one kind of exploitation of victims of human trafficking, specifically children *that establish adoptive*[2] kinship between adults and children in the process and procedures that violate legal regulations.[3] We are thinking that violation of relevant international documents (particularly where they are not implemented, but they have been ratificated) should be added to these regulations and this definition. We note that in this type of crime, children are always victims, for the simple reason that only they can be a subject of adoption.

Trafficking in children for adoption is connected with so called **"Baby-mafia"** that can be defined in a narrow and broad sense. According to the definition in the narrow sense, "baby mafia" means a range of criminal

[1] http://www.ehow.com/about_7238393_illegal-adoption-children.html#ixzz1oLkgP7lB

[2] Adoption is a word of Latin origin (adoptio), and means: taking under one, adoption, Вујаклија, М. (1972) Лексикон страних речи и израза, „Просвета", Београд.

[3] Мијалковић, С. (2009) *Супростављање трговини људима и крijумчарење мигранатa*, „Службени гласник", Београд, p. 134

activities oriented on illegal adoption of children. In broad terms, "baby-mafia" means various abuses of children (not only adoption) for criminal purposes, in order to gain illegal profit.[4] Both definitions are considered as important in terms of scope of this paper!

In this context we can differ sub-stages within various activities geared towards the ultimate goal-the illegal adoption of children. They are: *recruiting a child, giving a child to a client, "legalization" of illegal adoptive kinship and exploiting of the occurred quasi legal adoptive kinship*"[5] So that last sub-stage, specifically **exploiting the child after adoption** is not mandatory.

The question that arises is what is meant by exploitation, in this case whether that goal is reached with the act of illegal adoption, i.e with its enabling. Due to the severity of the offense, i.e the illegal way of its realization, as well as the vulnerability of victims, and they are strictly children, our opinion is that in this case the conditions for existence of the crime act - trafficking in minors are fulfilled. **In cases of illegal adoption, the adopted child is in the role of victim because the primary purpose of adoption is not the interest of the child but the interests of the adoptive parents or the "traders" in this procedure. Notwithstanding the fact that the child gets parents that are obliged to support and to take care of him**. But, because of the way the child is brought into such a position, taking in account the ultimate goal of trafficking in human beings, we can conclude that after all, this is exploitation. This and the fact that under the conventions that are related with adoption (the Convention on Children Rights, the Convention for the Protection of Children and Cooperation in international adoption) and adoption regulations (Family Law), it should be done in the best interest of the child.

Depending on whether the exploitation ends with the act of adoption, there are two models of exploiting in the illegal adoption of children:

- **A model of "improper" exploiting** of illegal adoption of children, in cases where adoption is done in an illegal way and there are no other additional forms of exploitation in the lifetime of the child living with the new parents;
- **model of "real" exploiting** of illegally adopted child in cases when ... /the exploitation continues-MZ / and the child is further exploited in other types and forms of exploitation. Often it is sexual or labor exploitation, forced to perform certain crimes or

[4] Мијалковиќ, С., Милошевска, Т. (2009) *Трендови на незаконска трговија со деца, бебиња и човечки органи- нов предизвик на системот за национална безбедност*, Современа македонска одбрана, Година X, број 18, Министерство за одбрана, стр. 73.

[5] Мијалковиќ, С. (2005), *Трговина људима,* БеоСинг, Београд, стр. 222.

for resale to third parties. In such cases, the adoption is only "cover" for further exploitation of children.[6]

Illegal adoption, may be due to:

- Negligence or failure in undertaking certain activities which are provided with official adoption regulations

- Deliberate action or illegal adoption of children as a result of human trafficking on the "black" market[7]

or

- Various types of fraud[8]

The most common method of recruitment of children for adoption is through intermediaries or agencies that conduct illegal activities on the black market for finding children of parents who are poor or from mothers who because of the condition that are in, are leaving their children for various reasons (denial of the family, economic and social reasons, pregnancy resulting from rape, etc..) and they find couples willing to pay and adopt a child. Often recruitment is done in countries where severe poverty dominates, where there aren't regulations for international adoption or from countries where regulations are not in accordance with the Hague Convention. More tragically, is the notion that some countries recognized the adoption as a way of bringing money into their communities, using this opportunity, disregarding the negative effects for biological families, especially for the child.

Illegal adoption is made easier by the legal system of the particular country (liberal regime of adoption), breach of law, and corruption of officials and other.

2. Countries of origin and destination of illegal adoption

According to UNICEF reports, **over 6000 children in Southeast Europe**, each year end in EU countries through channels beginning in Moldova and Romania, Turkey, Bulgaria through Serbia, Macedonia and Albania to Greece and Italy. **Children under five are sold to couples**

[6] Мијалковић, С. (2009), оп. цит., стр. 134.

[7] "Black" market involves payment of adequate compensation for the child to be adopted, to intermediaries or directly to the mother or the child's parents or by paying a certain amount of "bridging" rather deceiving certain formalities / rules in the procedure for adoption. Adoption can be conducted by some agences for adopting that operate on the black market. Often they operate in countries with high poverty and where large parts of the population is illiterate. Adopters mislead the child, and the child's parents are promised that the child will be returned, but that does not happen.

[8] These for example are cases where adoptions are made, using deception, which hide medical information about the child who is under guardianship or is placed in an institution for children without parental care.

without children but and for organ transplantation. Children under 12 are used for child pornography and for human organs. Female children over 12 years often are forced into prostitution. Macedonia is a transit country for this smuggling channels, but there is data of increased number of abducted children in the recent years. (Vecher, November 8, 2011).

When it comes to European countries, often pointed as countries of origin for begging and prostitution, are Albania, Moldova and Romania. They are resold in Italy and Greece and also in Russia, former Soviet Republics, Poland, Czech Republic and in the European Union.[9]

After the fall of Ceausescu in 1980 the world began to enclose pictures and movies of facilities for accommodation of children in which they were living in appalling conditions. Americans, Canadians and north Europeans leaned in Romania in order to seek children for adoption. During 1980, 1300 children were adopted in the U.S. Meanwhile the world discovered reports of corruption in Romanian competent authorities for adoption, for selling children by parents and independent agents who exploited the natural and future parents. Precisely the Romanian "baby market" has accelerated efforts of the international community for bringing separate international instruments for regulation of international adoption. [10]

In Bulgaria last year, 29 women were forced to sell their babies because they were victims of human trafficking, said the prosecutor Yevgeny Dikov ("Focus", 21. 02. 2012)

In Vietnam were brought to court 16 doctors, nurses and social workers who were suspected of selling of 266 children to foreigners. The suspected persons took money from an adoption agency, and in return they made falsification of documents allowing foreigners to adopt children.

The suspected persons were stealing infants from single and poor mothers and forged documents in which they quoted that the parents left the children in the hospital with which the requirement for adoption had been satisfied. For this fraud any of the accused persons earned $ 500. Children are sold in the period from 2005 to 2008. ("Vecher", 8 November 2011)

Chinese police in the east of the country broke up a circle of trafficking in children and arrested members of a criminal group who repurchased babies from poor families and then they sold them for eight thousand euros. Last year, Chinese authorities in Shandong Province detained 15 members of a gang who have been paying to women from other parts of China to give birth of children, which they sold to other people-

[9] Мијалковиќ, С., Милошевска, Т. (2009), оп. цит., стр. 75.

[10] Vučković-Šahović, N. (2000) *Prava deteta i međunarodno pravo,* Jugoslovenski centar za prava deteta, Beograd, str. 178.

married couples who were unable to have children or couples who wanted sons. Male children were more expensive than female children.

Otherwise, according to Chinese law, Chinese can adopt children from any source, and this led to a real flourishing business. Many scientists believe that this problem led to the law that allows birth of just one child, and most families want that one to be a male. ("Vecher", 6. 11. 2011).

In Ukraine in the period from 1996 to 2004 were adopted 26,000 children in the state and 13,000 abroad! Nevertheless each of these cases was reviewed by the court and prosecutor ex officio, still there were many illegal adoptions. In the period from 2003 to 2007 the number of abandoned children dramatically increased, from 5900 to 9300, as a consequence of the policy that led the state in terms of stimulation of birth (for each child 1300 Euros), which was particularly abused by people who were alcohol addicted or drug users. [11]

The situation in Moldava is dramatic with examples of advertising of sales of babies from unmarried mothers. Namely, there were published ads in the newspapers for unmarried mothers to sell their babies for about 3000 euros. In 2007, however, 12000 children were abandoned and placed in institutions under conditions of repression of their mental development. Each child had great difficulties to integrate into society. The easy selling of babies in Moldova is due to the fact that there is no legal punishment of perpetrators of any kind of trade and children are taken across borders very easily, especially if it is stated that the position of the police is very tolerant. [12]

The situation in Russia, also deserves attention. First of all, because the figure of 50,000 Russian children adopted by U.S. citizens, in the period of 1990. Alarmed situation regarding adoptions, can be indirect acknowledged through the recent reaction of the Russian Ministry of Foreign Affairs asking the American Government to prohibit adopting children from Russia, accusing for unethical, even criminal behavior of some of the adoption parents, who are otherwise U.S. citizens. [13]

The Parliamentary Assembly of the Council of Europe in 2008 also dealt with the problem of illegal adoption as a growing problem and for that reason a held session was held (on which a special resolution was adopted: Doc. 11691, Recommendation 1828/2008). In the discussion, before adopting of Resolution, particularly is emphasized the situation in Eastern Europe, pointing out how common are the cases where the mother after giving birth is informed that her child is died, and further the child is sold for

[11] Parliamentary Assembly: Disappearance of newborn babies for illegal adoption in Europe, Doc. 11461, 7 December 2007, pp. 5, 6, http: assembly.coe.int

[12] Ibid, стр.7-8.

[13] *BETA-AP - 11.02.2012 16:52*

adoption. Furthermore the states are recommended to use measures to overcome this situation, especially the adoption of relevant UN and Council of Europe conventions in this area (trafficking and sexual exploitation), strengthening mutual cooperation, signing bilateral agreements and setting strong rules for special agencies that mediate in adoption of children. Significantly is to note that the resolution was supported by all parties in the Parliamentary Assembly.

3. International documents for adoption

Convention on children rights (CRC)[14], as a fundamental international document for the Rights of the Children, Article 35 is about the *child's right for protection from abduction and trafficking*. The Contracting States will take all appropriate national, bilateral and multilateral measures to prevent abduction / kidnapping, sale or trafficking with children for any purpose or in any form (which means also for illegal adoption).

Convention on children rights in fact does not recognize the right of adoption as an autonomous right of the child (it seems that this institute is more directed towards the interests of parents or adoptive parents). This right is actually **right for alternative care**. It is interesting that till the time when was adopted the Convention on Children rights, the official international documents on human rights weren't about adoption. Later, when international adoptions were related with the sale of children, illegal transfer of children across the border and kidnapping of children, the need appeared, this kind of adoption to be accurately legally regulated.

In the Convention, only one of the five points of the Article 21 talks about national adoption and the remaining four are related to international adoption.

Toward Convention of children rights were adopted and appropriate optional protocols. In the context of the subject of this paper for us is important the **Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography**. The international community prohibits and recommends sanctioning of any inappropriate indication, by the mediator, giving consent for adopting a child / victim of human trafficking/with violation of applicable international instruments for adoption (Art. 3, t. 1, ii/ the Protocol). It is interesting that Protocol binds adoption with sales of children which means any act or transaction whereby a child is transferred by a person or group of persons for compensation or for other reasons (Art. 2).

[14] Човекови права- темелни документи, Скопје, октомври 1998 година

European convention on the adoption of children (from 24. IV. 1967)[15] Member States of the Council of Europe have signed this Convention to provide common principles and practices in relation to the adoption of the child in order to ensure their welfare. The Convention regulates only legal adoption of children, under condition the child to be under 18 years, to not be or not been married and according to the law not to be considered as an adult (exp. till 21 yr.). It is important the adoption to be authorized by judicial or administrative authority.

The procedure for adoption is approved only if there is consent of the mother and the father, if it was born in marriage, if the child doesn't have parents, the consent is required by a person or body entitled to carry out their parental right. And it is not allowed to omit the consent nor the competent authority to exert influence to refuse giving consent. The exception to this rule is if the father or mother is deprived of parental rights. The consent of the mother must be given within a period not less than six weeks after the birth in order to enable the mother to recover after childbirth.

Adoptive parents may only be persons who are married or by one person.

According to the Convention, child may be adopted if the adopter has reached the minimum age for adoption, not less than 21 nor more than 35 years.

The competent institution for adoption, do this in the best interest of the child, with insurance for a stable and harmonious home.

The competent institution shall not approve adoptions until do not examine the situation of the adopter, the child and his family, in terms of material-economic situation and the motives for adoption or giving consent. These activities should be made by person or body established by law, in which is obligatory for social workers to be included.

With adoption, the adopter gains rights and obligations same as a father or mother who have a child born in legal marriage and vice versa, the adopted child gains legal obligations as a child born in a marriage.

The countries are required to prohibit any "indecent" financial benefit derived from giving the child up for adoption.

The adoption should not be granted until the child is not cared by adoptive parents in a certain period, for enabling assessment of their relationship after approval of adoption.

Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, adopted 1993, in force since 1995

[15] Европската Конвенција за посвојување на деца е објавена во „Службен весник на Република Македонија- Меѓународни договори“, бр. 12/2002

within the Hague Conference on Private International Law has been ratified by our country [16]

This Convention is a **first universal international instrument of this kind**. The intention of this document was, except confirming the connection with Art. 21 of the Convention of children rights, to provide adequate resources for child protection. International adoption should be conducted with full respect of children rights, including, above all, the best interest of the child. **System should be established for avoiding abuse of children in adoption.**

However, it should be noted that every international adoption is not related to crime. ... To become illegal adoption, it is necessary these provisions of international law to be strictly respected through national law and practice. State authorities often react slowly and the procedures for international adoption are ineffective. Private agencies, although motivated by the acquisition of financial benefit, have an ability quickly to find possible parents and children. Often the state hasn't regulated the issue with national legislation, and is not familiar with international rules and can not see what happened with the children. Agencies work perfectly in such conditions and they always find good contacts inside the country through which they meet the requirements of other countries. With the adoption of Convention on children rights and with its universal ratification, very small number of countries can justified themselves with not knowing the international law in this area and the absence of any domestic law. [17]

In the Convention preamble are outlined the basic reasons and purposes for its adoption. The countries that signed the Convention, considering the fact that international adoption can provide families for children who cannot find adequate families in the country of origin, they are convinced of the necessity of taking measures for guaranty of the best interest of the child and taking into account its basic rights and to prevent abduction, sale or trafficking in children.

This on an appropriate way is operationalized in Art. 1 of the Convention, which stipulates the purpose of the Convention to establish security measures for ensuring the implementation of international adoption in the best interest of the child and with respect of his fundamental rights recognized under international law.

Convention detailed the terms of adoption and the competent institutions of the country of origin and country of reception (Art. 4 and 5). It

[16] The Convention is ratificated with adopting the Law on ratification of Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Official Gazette of Republic of Macedonia num. 103/2008).

[17] Vučković-Šahović, N. (2000) *Prava deteta i međunarodno pravo*, Jugoslovenski centar za prava deteta, Beograd, str. 179-180.

should be emphasized that the granting of such consent by the child, (taking into account the age and degree of maturity of the child), also should be taken into account the consent **not to be received with payment and compensation of any kind**. (Article 4, paragraph. D /, t. 4) Also, under certain conditions can be required a consent of other persons, bodies and institutions, but the consent of the mother, if necessary, it can be given **only after the birth of the child** (Article 4, paragraph. r /, t. 4).

Each country must designate a central institution to carry out the responsibilities established by this Convention, which itself or through other state agencies or authorities will take all measures to avoid improper or other gain. (Art. 8)

Chapter 4 elaborates the procedure and requirements for international, but in this occasion we will not dwell on that because we will overcome the frames of the paper.

4. Adoption in Family Law and Criminal Code

Family Law[18] among other things contains provisions for adoption. Specifically, in a separate chapter of this Law is regulated the matter relating to adoptions. Consideration of these provisions in this section of the paper will be in function of determining the implementation of the above mentioned international instruments in Macedonian legislation, but also in function of its consistent respect as a precondition for preventing of its possible abuses. In this context, we will talk about solutions in criminal law, specifically the crime act trafficking with minors (article 418-d CC) as the ultima ratio of his protection, which shall first be accomplished through consistent respect of decisions in the area of family law as a central area when it comes to the legal application of this institute.

According Family Law, parentage can come by birth or adoption. The law stipulated that only a minor may be adopted, and adoption can be granted only if is in consistent with the **best interest of the minor**. Adoptive parent, as a rule, can only be a citizen of the Republic of Macedonia. The Law established **exception to this rule** under which as adoptive parent can occur and a person who is a foreigner and in cases when the child cannot be adopted in Republic of Macedonia. With this solution are consistently respected the provisions of the above mentioned Convention.

Adoptive parent may be a person who is legally competent, has personal attributes for successful performance of parental rights and is not

[18] „ Official Gazette of Republic of Macedonia“ num. 18/92, 9/96, 38/04,. 33/06, 84/08, 67/10, 156/10.

older than 45, which should be at least 18 years older than the adoptee. Exceptions are identified according which adoptive parent can be a person who is older than 45, but age difference between adoptive parent and adoptee cannot be greater than 45 years. It is a provision which means deviation from the norms provided in above mentioned international documents. But we think that this is not in *contrary to the interests of the child.*

The choose of adoption parent is carried out according *health, psychosocial status, material conditions, housing conditions, waiting time, level of education, marital status and citizenship*.

The Social Work Center officiates some things related to adoption, with the methods of professional, advisory and interdisciplinary teamwork, while for establishment of adoption is decided by the Adoption Committee which is a part of Ministry of Labour and Social Policy.

In the procedure for adoption is necessary to be secured the consent of both parents of the adoptee or his guardian, and from the adoptee if he/she is older than twelve. Identified are and the cases in which consent is not required.

Procedure for establishing adoption is conducted in front of the Commission, but Centre for social work assess the suitability of adoptive parents and the motives for adoption, through continuous monitoring of potential adopters, at least four months and based on the opinion of the expert team, prepares a proposal for entry in registry of potential adopters. The Center for social work monitors minors without parental care and proposes to enroll them in the registry of possible adoptees.

The law provides another filter prior to the procedure for adoption. Before establishing adoption, the child is placed in the adoptive family (which cannot be shorter than two months nor more than three months), and for foreign citizens half of the period of placement of the child have to be spent in Republic of Macedonia. Center for Social Work continuously monitors the settlement of the child.

The terms of giving consent for adoption are determined- for parents after reaching six weeks of age of the child and adoption can be established as soon as the child turns to be six weeks old.

If we want generally to assess these legal decisions related to adoption, we can give a positive rating. However, as a result of events that culminated in November last year, when analyzing the situation in the practical application of legal decisions by the competent authorities, we can conclude that they are abused, and for that reason the appropriate Ministry approached to improve law decisions.

According to Art. 418-a paragraph 1 of the Criminal Code[19] which incriminates the crime act - human trafficking, "instruments" used in performing the crime are provided: force, serious threat or other forms of coercion, misleading, abduction, fraud, abuse of their position or status of pregnancy, infirmity or physical or mental incapacity of the other or by giving or receiving money or other benefits so they can get the consent of the person having control over another person.

Actions of execution contained in the essence of the crime are: recruitment, transporting, transferring, buying and selling and harboring or reception of victims of human trafficking.

The definition of the crime-human trafficking is specified with: state of pregnancy, physical or mental incapacity of the other, forced marriages, forced fertilization, illegal adoption and his similar treatment, illegal transplantation of parts of the human body. It is interesting that some of these forms of exploitation (including the illegal adoption) are not listed in the Palermo Protocol on trafficking, which means that our code extends this list.[20]

It is important to emphasize that when it comes to minors as victims of human trafficking, in case of illegal adoption or similar relationship, then none of the above "instruments" for committing this crime is required to fulfill the elements in the essence of the crime act. If they exist according to Art. 418d.paragraph.2, then that is a qualification form of crime, which unlike the basic form of the crime (which is punishable by at least eight years), prescribes a minimum penalty of at least ten years in prison. It also explicitly stated that the consent of the minor with the actions envisaged in paragraph 1 (recruitment, transportation, transfer, purchase, sale, shelter or adoption) is not legally relevant (in accordance with paragraph 5).

5. Perceived shortcomings in practice and ways to overcome them

In November last year an affair exploded revealed through a series of articles in the media that in Macedonia there is a mafia involved in "business" of adoption children. So the "Morning Journal" (11.10. 2011) reported on the cover page that: "The state is powerless to deal with the

[19] Criminal Code („ Official Gazette of Republic of Macedonia“ num. 39/76, 80/99, 4/2002, 42/2003, 19/2004, 73/2006, 7/2008, 139/2008, 114/2009).

[20] However, generally we can conclude that the provisions of the Criminal Code that criminalize human trafficking and particularly trafficking with minors are in accordance with the UN Convention against Transnational Organized Crime and Protocol for preventing, combating and punishing human trafficking, especially Women and child („Official Gazette of Republic of Macedonia“ - international agreements num.70/2004)

Mafia for adoption of children," while on the next page, below the same article stated, quoting the relevant minister: instead given up for adoption, children ended in foster families.

The newspaper "Vecher" a few days before, also on the cover page informed about "scandalous revelations in the case of adoption children" supporting it with the pompous title: "Babies in Macedonia are sold from 5,000 to 60,000 euros," while the cost of the baby depended on his health. Indeed at the end of the subtitle is citied the source of such knowledge, Association for children without parents "Building the future", specifically it president Ilija Jovanovic, who noted that "this crime worked for years"(Vecher, 5 и 6 November, 2011).

Perhaps most reserved in the information was the newspaper "Nova Makedonia" (10.11. 2011) who this phenomena reduced to the problem of the terms for adoption, stating in the title that "no child is adopted on time"

After the discovery of irregularities regarding adoptions in November last year, an analysis of legal decisions is made and are noted certain ambiguities in Family Law, and for that reason is approached to its amendment.[21]

Thus it is established that a term is not provided within the Centre for social work in which they are obligated to submit a proposal for entry in the registry of potential adopters, term for submitting proposals for registration in the registry of possible adopters, and precise term for determining the status of minor, who delay proceedings for adoption, and some adoptive parents with faster enrollment in the register are placed in a privileged position over other adoptive parents.

In current practice is determined that for certain children the psychophysical condition of the child is not fully determined, the possible adopters don't get enough information, so the children remain not adopted because those children are identified as a children at risk.

To overcome this situation, a medical commission is established to prepare findings and opinion about the health status of children and the future parents will be informed about the health status of children on immediate way. The Commission will impact on reducing the possibility of unsuccessful adoptions and increase the number of adoptions of children with risks or health disorders condition. Commission for adoption will make the selection of adoptive parents electronically regardless of place of residence of the adoptive parent and adoptee.

[21] Information for the implementation of choice of most suitable adopter electronically and identified shortcomings with suggestions for overcoming them, the Ministry of Labour and Social Policy, Skopje, January 2012

Instead of conclusion

Trafficking with children for illegal adoption is considered as one of the worst forms of violation of children rights. When trafficking with children for adoption, among others, the fundamental rights of the child, such as the right of life and right to remain in their own country and with his parents are violated.

International documents, whether are in function of preventing of the misuse of adoption or its uniformly regulation, which leads to debate and in scientific and professional circles[22], contributed to establish a standard system of regulation, which takes into account the welfare or best interest of the child.

Victim in cases of illegal adoption before all is the child itself, but and his natural parents, i.e. family, and, ultimately some of the adoptive parents (because of uncertainty whether the child is regularly adopted or sold).

In Republic of Macedonia, despite some "rumors" in the public, we have no reliable indicators of the existence of child trafficking through illegal adoption. That does not mean that this phenomenon should not be more consistently studied and investigated by science, and even more from people who are professionally involved in the process of adoption but in protection of children from their abuse. Hence the purpose of this paper was to actualize this phenomenon and to be appropriately treated.

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НЕЗАКОНСКОТО ПОСВОЈУВАЊЕ- ОБЛИК НА ТРГОВИЈА СО ДЕЦА

На почетокот на ноември минатата година македонската јавност беше запознаена со еден вид на криминален бизнис, поточно со трговијата со бебиња, појава која не само што ја вознемири, туку кај неа предизвика вчудоневиденост и револт. Подобро упатените по повод на аферата констатираа дека, за жал, оваа појава не само што не е нова туку трае со децении. Следеа остри реакции и ветувања на ресорните министерства, дадени веднаш по откривањето на аферата, за енергична акција, утврдувањето на вистината и соодветното санкционирање на одговорните и инволвираните во настаните, кои имаа епилог во преземањето на соодветните мерки спрема одговорните лица инволвирани во процесот на посвојување и изработување на предлог на законски текст за измени и дополнувања на Законот за семејство со цел за надминување на воочените празнини и недореченост на Законот.

Иако незаконското посвојување на деца може, но не мора да има врска со трговијата со луѓе, предмет на нашиот интерес во овој труд е тој облик на трговијата со луѓе, бидејќи е многу малку проучуван во домашната научна и стручна литература.23 Притоа накратко ќе зборуваме за некои искуства на други земји. Во трудот ќе бидат опфатени и прашањата за релевантните меѓународни документи, како и за националната легислатива од оваа област. Исто така ќе се осврнеме на сознанијата за оваа појава што се однесуваат на Република Македонија.

Клучни зборови: *посвојување, незаконско посвојување, трговија со деца, меѓународни документи*

[23] Despite persistent request of the literature for illegal adoption and its relationship with trafficking with human beings, we were surprised that there is a little written on this topic despite the importance of this form of trafficking and the fact that it is one of the worst forms of violation of rights of the child.

CRIMINAL LAW PERSPECTIVE OF SLOVENIAN MILITARY MISSIONS ABROAD

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Abstract

Slovenian involvement in EU or NATO military missions abroad has caused many interesting challenges for Slovenian criminal law. Therefore the question of criminal jurisdiction arises, or more detailed, the question, which state has jurisdiction over the alleged criminal act. There is also a question, which definition of a criminal act should be applied (a usual criminal act or war crime). From the viewpoint of procedural criminal law it is especially important, who can perform the authorities of the regular police, investigative judge and prosecutor, since they are not (always) present on the field of military missions. Also, time limitations of some powers (for example police detention) are also questionable. These are only few of the interesting criminal law problems, which have arisen in Slovenia in last couple of years. This paper will present them and try to find adequate answers.

Keywords*: military mission, criminal jurisdiction, definition of criminal act, police detention, police interrogation*.

Introduction

The Republic of Slovenia has been sending its military contingents abroad to international missions and operations since 1997. Among these military operations have also been Kosovo, Bosnia and Herzegovina, Republic of Serbia and Macedonia. Slovenia has also a military contingent in Afghanistan. First Slovenian military contingent was sent there to provide security in 2004.[1] Especially the latter military operation, due to the remoteness of the designated country and the nature of military operation, has made Slovenian criminal lawyers and practitioners think about many criminal law questions regarding military operations. Namely, while most of Slovenian soldiers are still mentoring Afghan forces, there is however an increased chance of direct combat contact with the Afghan rebel forces.

[1] More information can be found at http://www.slovenskavojska.si/en/international-cooperation/ (2.2.2012).

Consequently the possibility of committing criminal acts has increased and the relevance of criminal law has intensified.[2]

This article discusses some of the criminal law issues regarding Slovenian military operations abroad. Especially these questions are relevant: which country has criminal jurisdiction over the criminal act, committed by a Slovenian soldier on a military mission abroad, is the soldier responsible for an ordinary criminal act or for a war crime, which Slovenian authority has jurisdiction over criminal procedure, can Slovenia delegate some authorities from criminal procedure to another country, etc.

The Question of Criminal Jurisdiction

First Slovenian Criminal Code and the Criminal Procedure Act *("Kazenski zakonik Republike Slovenije"* – CC and *"Zakon o kazenskem postopku"*)[3] were adopted in Slovenian parliament in September 1994[4] and entered into force according to their own provisions on entry into force on 1st of January 1995. Since then CC was amended several times. On 1st November 2008 however a completely new Criminal Code-1 (CC-1)[5] entered into force. Criminal Procedure Act was also amended several times mainly in the form of legislative changes and amendments as reactions to several decisions of the Constitutional Court of Slovenia regarding different provisions of the act. The latest amendment (ZKP-K)[6] brought strong changes, especially with introducing plea-bargaining. As many other European countries, Slovenia does not have special military criminal law. Criminal law that applies to other individuals, applies also to Slovenian military personnel.

Rules of CC-1 (as did already the previous CC) regulate a very wide range of Slovenian criminal jurisdiction. The CC-1 namely regulates five principles of territorial jurisdiction of Slovenian criminal law:

- territorial principle (Slovenian criminal law is applied, when criminal act is committed at the territory of Slovenia);

[2] Glej http://www.mors.si/fileadmin/mors/pdf/sporocila/2010/Fotoreportaza_Afganistan.pdf (18.1.2011).
[3] Official Gazette, 63/1994, 72/1998, 6/1999, 66/2000, 111/2001, 56/2003, 43/2004, 101/2005, 14/2007, 68/2008, 77/2009, 91/2011.
[4] Official Gazette, 63/1994, 23/1999, 40/2004.
[5] Official Gazette, 55/2008, 96/2008, 91/2009. The same applies to the Criminal Code from 1994.
[6] Official Gazette, 91/2009.

- protection principle (a certain criminal act[7] is committed outside the territory of Slovenia);
- active personality principle (criminal act is committed by Slovenian citizen outside the territory of Slovenia);
- passive personality principle (criminal act is committed against Slovenia or its citizen outside the territory of Slovenia) and,
- universality principle (criminal act is committed outside the territory of Slovenia against a foreign country or its citizen and the perpetrator is apprehended at Slovenian territory).

Consequently, if a Slovenian soldier commits a criminal act on a military mission abroad against a foreign country or its citizen (for example against a citizen of a country, where the mission is, or a member of a foreign military mission), Slovenia would have jurisdiction over this case according to the active personality principle.[8] Also, the same principle should apply, if Slovenian soldier commits there a criminal act against Slovenian citizen or Slovenia itself. Slovenia would also have criminal jurisdiction over a case, when Slovenia or its national is a victim of a criminal act on a military mission, committed by a foreign citizen.[9] Even more, Slovenia would have criminal legislation also in a case, when on a military mission a foreign citizen commits a criminal act against a foreign country or its citizen, if he was apprehended in Slovenia (universal jurisdiction).[10] However, these general rules from CC-1 cannot apply without restrictions on military missions.

For example, in the case of Slovenian military mission in Afghanistan, the Afghan Interim Administration and ISAF[11] signed in 2001 Military technical agreement, which includes also relevant provisions on the statute of international security assistance forces (annex A).[12] According to this agreement the ISAF and its supporting personnel, including associated

[7] According to article 11 these criminal acts are: criminal act under article 243 (counterfeiting money) or any other criminal offence, which according to the international agreement has to be prosecuted in all signatory states, irrespective of the location where it was committed, and criminal acts under article 108 (terrorism) and articles 348-360 (criminal acts against the sovereignty of the Republic of Slovenia and its democratic constitutional order).

[8] Article 12 of CC-1.

[9] According to article 13/I of CC-1.

[10] Article 13/II of CC-1.

[11] *International Security Assistance Force* is present in Afghanistan on the basis of the Security Council resolution 1386 from 2001. More about that in Vuk, Vertovšek, Dolenc, Perko, Žokalj: Pravni vidiki sodelovanja Republike Slovenije v Afganistanu, Bilten Slovenske vojske, September 2010, pp. 51-70.

[12] http://webarchive.nationalarchives.gov.uk/+/http://www.operations.mod.uk/isafmta.pdf (18.1.2012).

liaison personnel, will under all circumstances and at all times be subject to the exclusive jurisdiction of their respective national elements in respect of any criminal or disciplinary offences which may be committed by them on the territory of Afghanistan. The Interim Administration will assist the ISAF contributing nations in the exercise of their respective jurisdictions. So, the country of the perpetrator's citizenships has exclusive jurisdiction[13] according to the active personality principle. Even though Afghanistan could have jurisdiction over these criminal cases according to its criminal legislation on the basis of, for example, territorial principle,[14] Afghanistan renounced its jurisdiction in every case of a criminal act, committed by ISAF or its supporting personnel. For Slovenia and our soldiers this means that if a Slovenian soldier as a member of ISAF commits a criminal act against an Afghan citizen, only Slovenia can investigate and prosecute him.[15]

The real question however is, whether such agreement applies only to the relationship between ISAF and Afghanistan or also to the relationship between different countries, members of ISAF. The military technical agreement has been namely made between ISAF and Afghanistan and not between countries of ISAF themselves. The agreement therefore regulates the relationship between ISAF and Afghanistan. Consequently, in my opinion merely this agreement does not preclude the use of Slovenian criminal law legislation in a case, when, for example a foreign member of ISAF forces commits a criminal act against a Slovenian soldier.

Relevant is also that Slovenia is a member of NATO alliance. NATO namely enforced its own status of forces agreement between different member states, but this agreement is also not helpful, since it regulates only the situation, when forces of one member states are sent to the territory of another member states.[16] According to this agreement the sending country usually has an exclusive jurisdiction over criminal acts, committed by members of armed forces of the sending state at the territory of hosting state while performing military duties.[17] However, such is not the case in Afghanistan and NATO status of forces agreement cannot be applied regarding the relationship between different ISAF countries. If there is no

[13] Article 3 of Annex A to the agreement.

[14] Article 14 of the Afghan Criminal Code. http://aceproject.org/ero-en/regions/asia/AF/Penal%20Code%20Eng.pdf/view (18.1.2012).

[15] According to the Criminal Procedure Act if the place in which a criminal act was committed is not known or is outside the territory of the Republic of Slovenia, the competent court shall be the court in whose territory the accused permanently or temporarily resides (article 29/1).

[16] http://www.nato.int/cps/en/natolive/official_texts_17265.htm?selectedLocale=en (18.1.2012).

[17] Article 7 of NATO agreement.

special bilateral or multilateral agreement or special NATO agreement,[18] usual provisions on criminal jurisdiction from Slovenian CC-1 should apply in my opinion.

If national legislations cause, that more than one country has jurisdiction over the criminal case, countries usually have bilateral agreements on extradition, which should solve the situation.[19] Such is also the case for Slovenia. However, if Slovenia has not signed yet such an agreement with relevant countries, then relevant provisions from chapter 31 of Criminal Procedure Act should apply.[20]

The same rule should in my opinion apply to relationship between Slovenia and countries, which are not members of NATO and especially to cases, when Slovenia or Slovenian soldier are victims of criminal acts, committed by citizens of a country, where the military mission takes place.

Is the Soldier Criminally Responsible for a War Crime or an "Ordinary" Criminal Act?

Criminal act, committed by a Slovenian soldier on a military mission abroad, could be either a war crime from the chapter of criminal acts against humanity (chapter 14 of CC-1) or some other, "ordinary" criminal act from other chapters of CC-1. The choice of right definition of a criminal act depends also on that, whether an act, which is relevant for criminal law and represents definition of a criminal act, took place in the context of and was associated with an (international or internal) armed conflict. Namely, war crime can only be committed in the context and in association with an armed conflict.[21] If the same act is committed without the context and association with an armed conflict, the perpetrator could be criminally responsible just for an ordinary criminal act. For example: murder of a civilian could be a war crime, if committed in the context and in association with an armed

[18] Especially relevant are agreement between USA and other countries (most frequent after the Rome Statute was enacted).

[19] See for example the list of bilateral agreements, signed and ratified by Slovenia, on the internet page of Ministry of Justice http://www.mp.gov.si/si/mednarodne_pogodbe/bilateralni_sporazumi/ (18.1.2012).

[20] According to article 29/III if neither the place of commission of a criminal act nor the permanent or temporary residence of the accused are known, or are both situated outside the Republic of Slovenia, the competent court shall be the court in whose territory the accused was caught or reported himself.

[21] See for example the judgement of International Tribunal for Former Yugoslavia *Tadić,* IT-94-1, Decision on the defence motion for interlocutory appeal on jurisdiction, 2nd October 1995, and relevant provisions from Elements of crimes of the Rome Statute. Namely, definitions of war crimes follow almost exactly follow relevant provisions from the Rome Statute.

conflict (article 102 of CC-1 on war crimes).[22] However if there is no such connection, it can be only an ordinary criminal act of murder according to article 115 or 116 of CC-1.

The existence of armed conflict is an element of the definition of criminal act, which has to be proved by the prosecutor and established by the court, which decides on the criminal responsibility of a Slovenian soldier. If there is no such element of the definition of criminal act in the concrete case, there is still a possibility of criminal responsibility for an ordinary criminal act. Such change in the indictment in regard with the definition of a criminal act can be made by the prosecutor during the trial; until the closure of the public trial. Such change can also be made by court itself in the verdict. However, opposite change from indictment for an ordinary criminal act into conviction for a war crime is not allowed, since it represents a change from a lesser to a worse qualification, which is prohibited by Slovenian Criminal Procedure Act.[23] Consequently role of the prosecutor and his decision, which qualification he would choose in the early stages of criminal procedure, is very important. One of the preconditions for such decisions is also answer to the question, whether there was an armed conflict or not.

Command Responsibility of Military Leaders According to Article 104 of CC-1

The nature of work of Slovenian contingent on a military mission abroad, namely cooperation and joint work with military missions from other countries opens another interesting criminal law question. For example, in Afghanistan, Slovenia operates jointly with American military forces. In the case of contingent 14 there was a Slovenian commander of the contingent, which commanded also American soldiers. This cooperation and joint work can, again, bring many interesting law situations and questions. For example, an American subordinate could commit an act against an Afghan citizen, which is criminal act according to American law, but not according to Slovenian law. The superior in this case is a Slovenian commander. If the Slovenian superior committed the act himself, he would not be responsible for a criminal act, since it is not criminal act according to Slovenian law. The question however is, whether he could be responsible on the basis of command responsibility (article 104 of CC-1) for an act, committed by the American subordinate. Criminal responsibility according command responsibility is limited to international crimes of genocide, crimes against

[22] For example article 102/I-1 of CC-1.

[23] For example change from murder (up to 15 years of imprisonment) into war crime (at least 15 years of imprisonment). See also article 354 of Criminal Procedure Code.

humanity, war crime and aggression.[24] In my opinion the Slovenian commander cannot be responsible on the basis of command responsibility for an act, committed by an American soldier, which is criminal only according to American, but not also according to Slovenian law. The act itself is namely not criminal according to our law and it cannot be subsumed under any definition of a criminal act and as such also not under definitions of genocide, war crime, crimes against humanity and aggression. The Slovenian commander could only be responsible according to command responsibility, if the subordinate commits an act, which represents one of the international crimes according to Slovenian criminal legislation.

This is not relevant only for command responsibility, but also for other participation in criminal act (for example instigation, co-perpetration and aiding and abetting). Regulation of participation is more general than command responsibility, since it applies to all criminal acts, not only to international crimes. The basic rule of participation is that any participation in a lawful act is inevitably lawful. In order for the participation in an act to be relevant from criminal law point of view the act, in which the participant participates, has to be unlawful (accessory principle).[25] If a Slovenian and American soldier commit together the act as co-perpetrators, which is lawful according to Slovenian legislation, also the American soldier cannot be criminally responsible for this act according to Slovenian legislation, even though this act is potentially criminal according to American legislation. The same applies to the case, when a Slovenian soldier aids and abets to the perpetration of an act, committed by the American soldier, if this act is a criminal act under American, but not also under Slovenian law. According to the accessory principle the Slovenian soldier is not criminally responsible, as is also not the American, according to Slovenian legislation.[26]

Which Slovenian Authority has Jurisdiction over Pre-Trial Procedure?

Slovenian military missions abroad have brought also many procedural questions. Already amendment to Criminal Procedure Act from 2008 (ZKP-I)[27] answered to the question, who has the authority to perform police powers in the pre-trial procedure according to the Criminal Procedure Act in case of grounds for suspicion that the criminal act was committed by a person on a mission abroad. According to this amendment this should be

[24] See article 104/I of CC-1.
[25] The act has to be at least unlawful (but the guilt of the perpetrator can be excluded) and at least attempted (and not necessarily accomplished).
[26] Criminal responsibility according to American criminal legislation is of course a question of American criminal system.
[27] Official Gazette, 68/2008.

authority competent by law within the ministry responsible for defence.[28] The Defence Act[29] was already amended in 2004.[30] According to this amendment the military police has the power to investigate criminal acts committed by a person on a mission abroad, for which a penalty of 3 years of imprisonment or less is prescribed.[31] On the other hand, the intelligence and security service of Ministry for Defence performs police powers in the pre-trial procedure when investigating graver criminal acts. The legislation is clear and undisputed. However, there have been some problems in praxis. For example, the intelligence and security service is usually not a part of the military contingent, even though it has the authority to investigate the majority of criminal acts (all international crimes for example). Therefore, in case of grounds for suspicion that the criminal act was committed by a person on a mission abroad, a member of intelligence and security service is usually subsequently sent to the place of the military mission.

There is also a question of state prosecutor. Namely, according to the Slovenian Criminal Procedure Act the state prosecutor is the recipient of the *notitia criminis* or of the report that a criminal act has been presumably committed.[32] Also, the state prosecutor is the authority, responsible for the prosecution of criminal acts and he has the authority to direct pre-trial procedure itself and also the police (or in our case; military police and intelligence and security service with the powers of police).[33] He should direct also the pre-trial procedure in the case of grounds for suspicion that the criminal act was committed by a person on a mission abroad. However, he is also not a member of the contingent. The same goes for the investigative judge, who should perform investigative acts according to the Criminal Procedure Act in judicial investigation. Members of intelligence and security service, state prosecutor and the investigative judge are all usually not members of the contingent and therefore not present at the place of the military mission and at the place of potential criminal act. If this military mission is stationed near Slovenia, for example in Europe, the necessary authorities can be sent to the military mission without much delay, when grounds for suspicion that the criminal act was committed appear. However, when the military mission is stationed somewhere far away, as in Afghanistan, this cannot be accomplished without delay. And even so, in every case the question of reliability and credibility of evidence is

[28] Article 158/1.
[29] Official Gazette, 82/1994, 44/1997, 87/1997, 47/2002, 67/2002, 40/2004.
[30] Official Gazette, 40/2004.
[31] Article 65.
[32] Article 146/I of Criminal Procedure Act.
[33] See for example articles 45 and 160a of Criminal Procedure Act.

questioned. A ten hour flight to Afghanistan could namely cause a significant loss of relevant evidence.

This should be resolved. One possibility is the amendment to the Defence Act, according to which the military police, which is usually present and a part of military mission, would have the powers of the police in the pre-trial procedure regarding any criminal acts, presumably committed by the members of military missions. The other possibility is more practical; a member of Intelligence and Security Service should be present according to his powers. As for state prosecutor and investigating judge it is probably not economical to have them present always as a part of military mission, so maybe electro communication possibilities should be explored.

Another possibility is also the assistance of other countries and their authorities. However, such solution is not without problems. According to my opinion Slovenia cannot just transfer its investigative powers to another country or its authorities (for example its state prosecutor, judge or police) without any legal basis for this. If there are no special agreements between Slovenia and another country, regulation of international cooperation in criminal matters should be used. If another country is not a member of European Union (EU), then bilateral or multilateral agreements and rules on cooperation in criminal matters from Criminal Procedure Act[34] should be taken into consideration. If the other country, which could perform certain powers for the benefit of the criminal procedure in Slovenia, is a member of EU, then, again, bilateral or multilateral agreements with that country and rules of Act on cooperation in criminal matters with EU member states[35] should be taken into consideration. The rules regarding criminal cooperation with EU member states are more efficient and expedient than the rules regarding criminal cooperation with other countries; however this cooperation is still not as efficient and quick as it needs to be. In both cases we are dealing with international cooperation in criminal matters or with legal help. Cooperation according to these rules is however in a case, where Slovenia has jurisdiction over a criminal case, committed on a military mission abroad, but has no relevant authority on the ground, inappropriate and inefficient. If Slovenia were to pursue this idea of transfer of certain powers in investigation of criminal acts, when relevant Slovenian authorities are not present, to other countries, which do have their relevant authorities on the ground, it would be very practical to make bilateral agreements with countries, with which Slovenia usually cooperates on military missions. This would simplify criminal procedure. However, basic human rights of the defendant, as regulated in the European convention on human rights and

[34] See for example chapter 30 of Criminal Procedure Act.
[35] Official Gazette, 102/2007.

Slovenian Constitution[36] should be observed. If a power is executed by a different country's authority, it means that it is executed according to that country's regulation on criminal procedure; however, the defendant's basic human rights should still be respected. Otherwise the demands for exclusion of evidence could be very frequent and also endorsed in the following trials.

Other Procedural Issues

There are also a couple of other procedural questions regarding investigation of the criminal acts, committed on a military mission. For example, members of military police or intelligence and security office are obligated by the regulation of their powers according to the Criminal Procedure Act. Certain powers are also specially regulated by the Defence Act. Its article 66 enumerates certain powers, which are regulated also in the Criminal Procedure Act, but does not add any additional value, since there are no new powers for military police, relevant for criminal procedure. This article only repeats Criminal Procedure Act's powers. However there are some problems in executing these powers in praxis. For example, members of military police and intelligence and security office also execute police confinement, when there the legal conditions for it according to Criminal Procedure Act are met. The limitation of the police confinement is 48 hours and after this time the suspect has to be brought in front of the investigative judge or set free. In case of a military mission it is sometimes impossible to bring the suspect in front of the investigative judge and at the same time to perform necessary acts in pre-trial procedure in 48 hours, when the investigative judge is not present on the mission, but is for example at least 500 km away. Consequently an amendment to the relevant provision of Criminal Procedure Act (amendment ZKP-K) was made. According to this change the suspect, who is on a military mission abroad and cannot be brought in front of the investigative judge in 48 hours due to the remoteness of the mission and other objective reasons, should be brought without further delay and the suspect and state prosecutor should be informed well substantiated and in written about the reasons of delay.

Another problem lies with the police interrogation of the suspect. This is a quite recent power of the (military) police. The police (or the authority, which has the police's powers) can only interrogate the suspect, if his defence counsel is present. This also causes a problem on a military mission, since the defence counsel is not present on the grounds (contrary for example to United States of America, which has a JAG member present) and it could take some time for him to arrive on the grounds.

[36] Official Gazette, 33/1991, 42/1997, 66/2000, 24/2003, 69/2004, 69/2004, 69/2004, 68/2006.

Conclusion

I have named and analysed only a couple of legal and practical problems that the authorities and suspects face in a case of grounds for suspicion of a criminal act on a military mission. Some of the legal problems have been cleared and the legislation amended, but some remain open. Some of the problems have legal nature; the others are practical and are caused mostly by the fact that due to economic and other reasons some Slovenian authorities are not members of the Slovenian military mission. Slovenia still takes the *ad hoc* approach towards amending the relevant legislation, since the legislation is only amended after facing a certain problem in practice. A complete and thorough analysis and revision of relevant legislation is not planned yet. For now this approach has worked, since there has been no alleged criminal act on a military mission yet, but unfortunately the existing criminal legislation will be tested in the case of the first suspect of a criminal act on a military mission. In my opinion, some questions could and should be solved in advance on not *ad hoc* to the detriment of the first suspects.

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EDUCATION (SPECIALIZATION) OF POLICE OFFICERS INVOLVED IN JUVENILE PROCEEDINGS

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Abstract

The special status of juveniles when compared to adults has been precisely defined in the provisions of the new Law on protection and processing children and juveniles in the criminal procedure in the Republic of Srpska. That special status of this category of perpetrators also requires special rules that would refer to professional improvement and specialization, that is, education, of all official parties that participate in a procedure against juveniles. Foundation for the Article 197 of the Law on protection and processing children and juveniles in the criminal procedure in the Republic of Srpska is Council of Europe Recommendation (87) 20, item 9, Chapter III, which points out that all parties involved in different phases of the procedure (police, lawyers, prosecutors, judges, social workers) should be provided with special training course related to the legislation that refers to juveniles and juvenile delinquency. Precisely, the authors in this paper discuss the role and importance of education (specialization) of police officers (uniformed and non-uniformed) involved in juvenile proceedings which have police powers to take measures and actions for prevention and combating criminal acts committed by juveniles.

Keywords: *juveniles, education (specialization), police officers*.

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Introduction

In order to keep up with the international standards in the field of the juvenile-related legislation, one has passed the Law on Protection and Processing Children and Juveniles in the Criminal Proceeding[1], as lex specialis, for the first time in Republic of Srpska. Looking up to international standards regarding treatment towards juveniles and children, and contemporary legislation systems, this Law is comprised of the parts which deal with the issue of juvenile offences in a systematic manner. This Law also defines the role of specific state authorities in a juvenile proceeding, at first, the role of criminal justice system (juvenile courts and prosecutor's offices), after that, the role of guardianship bodies, and at the end (or maybe it is better to say before everything else) – the role of police authorities[2].

When talking about criminal proceeding[3] against juveniles, we must point out to related provisions in the Articles 72 and 123 of the Law, and in the Chapter XXVI of the Republic of Srpska Criminal Procedure Code[4]. This proceeding is quite specific in its nature, since it takes care of the age of juvenile offenders, as well as of the need to enable the adequate upbringing and development of the juvenile offenders.

The basic characteristics of the criminal proceeding against juveniles, and at the same time, the features[5] that set it apart from the regular criminal proceeding that is carried out against adult offender, are prescribed in the provisions of the Articles 72 to 85 of the Law. Those are:

1. the principle of urgency of criminal proceeding and the principle of careful treatment,

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[1] The Law on Protection and Processing Children and Juveniles in the Criminal Proceeding ("Official Gazette of the Republic of Srpska", 13/10), hereinafter: the Law.

[2] Mitrovic, LJ.; Grbic-Pavlovic, N.: *Uloga policije u postupku prema maloljetnicima*, Collection of papers "Suzbijanje kriminala u okviru međunarodne policijske saradnje", Crime-Police Academy and Hans Seidel Foundation, Belgrade, 2011.

[3] According to many authors, due to its nature, the term criminal proceeding is being avoided more and more. Instead of that, we just use juvenile proceeding which is justified due to its special nature. Skulic, M.: *Osnovni principi postupka prema maloljetnicima*, Zbornik radova sa Tematskog nucnog skupa "Maloljetnicka delikvencija kao oblik drustevneo neprihvatljivog ponasanja", Banja Luka, 2008.

[4] Republic of Srpska Criminal Procedure Code ("Republic of Srpska Official Gazette", no 50/2003; 111/2004; 115/2004; 29/2007; 68/2007; 119/2008; 55/2009; 80/2009; 92/2009, and 100/2009 – revised version).

[5] All these features, directly or indirectly, can be found in international law documents referred to children and juveniles in criminal proceedings. See more: Grbic, N.: *Medjunarodnopravni standardi koji se odnose na maloljetne izvrsioce krivicnih dijela*, legal theory and practice magazine Pravna rijec, Udruzenje pravnika RS, Banja Luka, 2009

2. the rules referred to summoning the juvenile offender and delivery of the order,
3. the rules referred to the exclusion of the liberation of duty to testify,
4. the rules referred to merger and separation of the criminal proceeding,
5. the rules referred to the role, significance and the activities of the guardianship authorities in the juvenile criminal proceeding,
6. the rules referred to application of the provisions against children,
7. the principle of obligatory defence of a juvenile,
8. the rules of enforcement of a unique juvenile criminal proceeding,[6]
9. the principle of prohibition of publication of criminal proceeding course, that is exclusion of the public,
10. the principle of specialisation of all official subjects involved in a juvenile proceeding.

Police Authority in a Juvenile Criminal Proceeding

The contemporary legal systems, especially the European and Anglo-Saxon ones, gradually shape a new strategy to fight juvenile delinquency whose foundations are: prevention, protection, care and assistance to a juvenile, classification of their acts more as a socially-inadaptable behaviour, then as a criminal act, and guaranty on juvenile rights[7]. In their everyday work in a local community, and during their patrol activities, police officers can see many forms of unacceptable behaviour of juveniles. Work with juvenile requires a lot of tact. Police officers deal with protection of humans and human values, but in contact with juveniles of unacceptable behaviour, they can be successful under the condition that they understand the specific nature of the youth and adolescence, and that they know how to approach it.[8]

The role of police, that is, of police officers in a proceeding against juveniles is extremely comprehensive, complex and significant. The reason is very simple: the first contact, the first communication with juveniles confronted with the law, is done by the police.[9] The police officer is the first one who directly deals with unacceptable juvenile behaviour. It is usually his treatment towards juvenile that will define whether the juvenile will continue

[6] On the principle of increased procedural discretion see more: Skulić, M., *op.cit.*
[7] Kambovski, Vlado: *Theoretical basis of the new law model of juvenile justice*, year 13, no.3, 2006.
[8] Grbić, N.; Pavlović, G.: *Rad policije sa mladima neprihvatljivog ponašanja – model za efikasniji rad,* Collection of papers „Maloljetnička delinkvencija kao oblik društveno neprihvatljivog ponašanja“, Police College, Banja Luka, 2008.
[9] Mitrović, LJ.; Grbić-Pavlović, N., *op.cit.*

with unacceptable behaviour or not.[10] On the other hand, specially educated police officers are the first, and usually the most important, link of the organized and professional fight against juvenile delinquency, and criminal-law protection of children and juveniles damaged by criminal offences.[11] More precisely speaking, juvenile specialized police officers should be authorized to deal with all criminal offences done by juveniles, or with all criminal offences related to protection of children and juveniles, as well as with all offences done by criminals, domestic violence, school violence, run-away from home or educational-correctional institutions.[12]

Police takes special role in strategy, policy, and etiological and preventive approach to juvenile delinquency. Through different methods, techniques and procedures, it identifies different forms of distorted behaviour of children and juveniles – juvenile delinquency, it also establishes cooperation with other authorities, and it permanently monitors and studies all forms of distorted behaviour of children and juveniles, from educational neglect to certain crime forms. Specific role of police in prevention and suppression of unacceptable juvenile behaviour stems from the fundament social role of the police and that is safety and security of the country. This role is exercised in successful detection of criminal offences and their perpetrators. But the police role, in terms of unacceptable juvenile behaviour, is not reflected only in detection of offences and offenders. It is more complex and consists of different levels of prevention of unacceptable juvenile behaviour. In fact, the police can contribute to prevention[13] of unacceptable juvenile behaviour at all levels.[14]

The police responsibility is especially big in the first phase, at first appearance of unacceptable juvenile behaviour, since police officer, as a professional and an expert, can enable that a juvenile give up that kind of behaviour for good. Responsible professional and qualified police officers should make a quality cooperation with parents, schools, social welfare centres, health institutions, judicial authorities, sport organizations, NGOs, etc. That is how it is implied that it is necessary to build the relationship of trust between police officers and juvenile offenders in the early phase of juvenile's education and development, in order to provide timely prevention

[10] Grbić, N.; Pavlović, G., *op.cit.*
[11] Mitrović, LJ.; Grbić-Pavlović, N., *op.cit.*
[12] *www.mup.hr*
[13] We distinguish primary, secondary and tertiary prevention. Prevention has become a generic term used to indicate the total societal attitudes toward juvenile delinquency. The essence of this relationship lies in the effort to treat the phenomenon as early as possible in the initial stage, but when even when it is manifested with efforts to prevent its further development.
[14] Grbić, N.; Pavlović, G., *op.cit.*

of forming negative attitudes that can diminish the efficiency of informal social control mechanisms for prevention of crime and other socially-negative phenomenon that occur in a local community.[15]

When talking about measures, educational recommendations and criminal sanctions that are taken against juvenile offenders, we should say that besides informal warnings by police authorities towards juveniles offenders, the Law prescribes a special warning measure called Police Warning[16] – a term appearing in this region for the first time. It is more formal warning, that is, a special warning pronounced by police[17] towards juvenile offenders which prescribes fee or imprisonment up to three year (so called bargain crime).

Regarding the aforementioned, it is necessary that within their general and professional education, police officers also gain basic knowledge from this area in order to use it from the very beginning of their field and practical work. To sum up, only police officers disposing with general and special knowledge in terms of child rights and juvenile delinquency are the ones who can deal with the juveniles.

Specialization of Police Officers

One of the most important principles of criminal proceeding against juveniles, set out in the provision of the Article 197 of this Law, and at the same time, one of the most important novelties of the new Law, is the principle of specialization of all official participants of the juvenile proceeding[18]. In fact, this provision prescribes a special, obligatory education of those who deal with juveniles in their everyday job. The mentioned specialization also implies law-maker's prescribed conditions that must be

[15] Vuković, S.: *Uloga policije u prevenciji delinkventnog ponašanja dece i maloletnika*, magazine Nauka Bezbednost Policija, no. 1/05, Belgrade, 2005, p.97

[16] See more: Mitrović, LJ.: Krivične sankcije prema maloljetnicima u Zakonu o zaštiti i postupanju s djecom i maloljetnicima u krivičnom postupku Republike Srpske, "Revija za kriminologiju i krivično pravo", Belgrade, no. 2/2009; Grbić-Pavlović, N.: Alternativne mjere za maloljetnike u novom maloljetničkom krivičnom zakonodavstvu Republike Srpske, Izbor sudske prakse - naučni, stručni i informativni časopis, Glosarijum, no. 10, October 2011.

[17] Pru, Ž.: *Kanadski Zakon o krivičnom gonjenju maloletnika*, Collection of Papers "Krivičnopravna pitanja maloletničke delinkvencije", Belgrade, 2008.

[18] Similar to the solution of the Republic of Serbia, where the provision for the acquisition of special knowledge and professional development is found even in the transitional and final provisions of the Law on Juvenile Offenders and Criminal Protection of Minors, in the Republic of Srpska, in the Law on protection and processing children and juveniles in the criminal proceeding, the provision of education occupies very indiscernible and almost insignificant place. Also: Peric, O.: *Komentar Zakona o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica*, Official Gazette, Belgrade, 2005.

met by all participants of the juvenile proceeding and that are set out in the provisions of the Articles 12,17, and 18 of the Law. They refer to having affinity towards work with children and juveniles and also having special knowledge on children rights and juvenile delinquency, as well as all other skills and knowledge that make the participant of juvenile proceeding competent to work on cases of juvenile delinquency.

Specialization of police officers and other participants of juvenile perpetrators and offenders is a subject of interest of many international documents.[19] In that context United Nations Standard Minimum Rules for the Administration of Juvenile Justice *(so called "The Beijing Rules")*[20] in the Rule 22.1 set out that *"Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases"*. The commentary of the Rule 22 states that authorities competent for disposition may be persons with very different backgrounds, and that for all these authorities a minimum training in law, sociology, psychology, criminology and behavioral sciences would be required. This is considered as important as the organizational specialization and independence of the competent authority.[21] Namely, professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfill their functions.

Beijing rule 12.1 specially prescribes the need to have professional development and development of police officers, that is, specialization within the police. The mentioned rule states that "In order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained". In addition, Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point

[19]See more: Mitrović, Lj.; Grbić-Pavlović, N.: *Međunarodnopravni standardi i posebna načela postupka prema maloljetnicima*, "Kopaonička škola prirodnog prava PRAVDA I PRAVO", Zbornik radova - XXIII susret PRAVO I PROSTOR – Harmonizacija i pravo na razliku, Pravni život, Tom I, Udruženje pravnika RS, Kopaonik, 13-17. December 2010.

[20] *United Nations Standard Minimum Rules for the Administration of Juvenile Justice - The Beijing Rules*, adopted by the UN General Assembly Resolution 40/33 on 29 November 1985.

[21] Child Rights and Juvenile Justice - Selected International Instruments, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), translation from English: Child Rights Centre - Belgrade, editing and proofreading: UNICEF.

of contact with the juvenile justice system, it is most important that they act in an informed and appropriate manner. While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of implementing specific principles contained in the Beijing rules, but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders[22].

Furthermore, United Nations Standard Minimum Rules for Non-custodial Measures *(so called the "Tokyo Rules")*[23] in Rule 16.1 point out *"staff's responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society"*. According to this Rule *"staff undergoes training before entering duty, but even after entering duty in order to maintain and improve their knowledge and professional capacity".* According to the United Nations Rules for Protection of Juveniles Deprived of their Liberty (*so called The Havana Rules*)[24] *"personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counselors, social workers, psychiatrists and psychologists"*, while United Nations Guidelines for the Prevention of Juvenile Delinquency (*so called The Riyadh Guidelines")*[25] in Rule VI 58 prescribe that *"law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system"*.

In terms of law-prescribed solutions of the Republic of Srpska juvenile criminal law, it is important to point out the provision of the Article 197 of this Law that mentions education, that is, the acquisition of special knowledge, and continuous professional development and specialization of juvenile judges and prosecutors,[26] police officers, social workers, mediators, lawyers, staff of correctional institutions and bureaus.

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[22] *Ibidem.*

[23] *United Nations Standard Minimum rules for Non-Custodial Measures – The Tokyo Rules*, adopted by the UN General Assembly Resolution 45/110 on 14 December 1990.

[24] *United Nations Rules for the Protection of Juveniles Deprived of their Liberty - The Havana Rules*, adopted by the UN General Assembly Resolution 45/113 on 14 December 1990.

[25] *United Nations Guidelines for the Prevention of Juvenile Delinquency - The Riyadh Guidelines*, adopted by the UN General Assembly Resolution 45/112 on 14 December 1990.

[26] Judges and prosecutors for juveniles above all, and given the role they play in juvenile proceeding, must have an affinity for working with children and special knowledge in the field of child rights and juvenile delinquency, and other knowledge and skills that make them competent to work in cases of juvenile delinquency. When talking about specific

Article 197, paragraph 2 of this Law prescribes that Republic of Srpska Ministry of Justice, Ministry of Labour, War Veterans and Disabled Person's Protection, Ministry of Health and Social Welfare, Ministry of Internal Affairs, alongside with Association of Mediators Bosnia and Herzegovina and Chamber of Advocates of Republic of Srpska are the institutions that take care of professional development and specialization of those who work on juvenile delinquency and criminal justice protection of children and juveniles (each subject takes care about its category of proceeding participants, e.g. Chamber of Advocates of Republic of Srpska is in charge of specialization of advocates who, at first place, defend juveniles). Therefore, the Law sets out that cases related to delinquency of children, juveniles, and junior adults, as well as those related to crime against children and juveniles, are dealt by specialized juvenile police officers. These specialized police officers for juveniles must be qualified and educated to work with the youngest population both in cases when children and juveniles are the perpetrators and the sufferers.

As it was mentioned before, in order for the police to deal with the juveniles confronted with the law, they have to gain, during their general and specialized training and education, fundamental knowledge and skills from this area, since it is the only way to meet very comprehensive and complex requirements of the police work. Namely, without invested efforts and work, police can not have any success in prevention of anti-social and delinquent behavior of children and juveniles.[27]

Education Program

In October 2010, complying with the provision of the Article 197 of the Law, Minister of Justice passed an Education Program on Acquisition of Special Knowledge and Continuous Professional Education and Specialization of Persons Working with Juvenile Delinquency and Criminal Protection of Children and Juveniles[28], that is, of "other" participants of

knowledge that judges and prosecutors for juveniles must have, their definition can be found in the already mentioned provision of Article 18 of the Law, which states that a judge must have a strong preference for education, the needs and interests of young people, as well as specific knowledge in the field of child rights and juvenile delinquency. The acquisition of specific knowledge and continuous professional development and training of judges and prosecutors in the field of child rights, juvenile delinquency and their criminal protection, is under the competence of Center for education of judges and prosecutors of the Republic of Srpska, which is under the supervision of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

[27] Grbić, N.; Pavlović, G., *op.cit*

[28] Education Program on Acquisition of Special Knowledge and Continuous Professional Education and Specialization of Persons Working with Juvenile Delinquency and Criminal

juvenile proceeding. According to the provision of the Article 1 of this Program, there are thematic cycles that refer to specialization of those working with juvenile delinquency and criminal protection of children and juveniles - police officers, social workers, mediators, advocates and staff of correctional institutions and bureaus – in terms of their specialization regarding the treatment towards children and juveniles whether as perpetrators or as sufferers of criminal offences.

Education program anticipates that specialization is conducted through their thematic cycles. The first thematic cycle comprises:

1. etiology and phenomenology of juvenile delinquency;
2. juvenile material criminal law (a system of legal regulations which define criminal status and position of juvenile offenders, as well as a system of criminal sanctions towards juveniles and alternative measures);
3. juvenile criminal procedure law (a system of legal regulations which define a notion, organization, and competency of juvenile criminal justice authorities, initiation and course of juvenile criminal proceeding, course and architectonic of first instance juvenile proceeding, as well as legal remedies against juvenile offenders);
4. juvenile executive criminal law (a system of legal and sub-legal regulations which define organization, competence and role of state authorities from the field of juvenile delinquency, as well as the procedure of execution of juvenile criminal sanctions and other alternative measures that are applied against juvenile offenders).

The second thematic cycle refers to study and application of sub-legal acts in the area of juvenile delinquency:

1. Rulebook on educational measures and special responsibilities against juvenile offenders[29] from Article 35, paragraph 9 of the Law
2. Rulebook on educational recommendations against juvenile offenders[30] from Article 124, paragraph 2 of this Law
3. Rulebook on disciplinary liability of juveniles subject to institutional educational measures and juvenile imprisonment[31] from Article 153, paragraph 1 of the Law
4. Education Program on Acquisition of Special Knowledge and Continuous Professional Education and Specialization of Persons

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Protection of Children and Juveniles was passed by the RS Minister of Justice in October 2010 and published in RS Official Gazette no 101/2010. Hereinafter: Education Program

[29] ("Republic of Srpska Official Gazette", no. 101/2010).

[30] ("Republic of Srpska Official Gazette", no. 101/2010).

[31] ("Republic of Srpska Official Gazette", no. 101/2010).

Working with Juvenile Delinquency and Criminal Protection of Children and Juveniles from Article 197, paragraph 1 of this Law[32]

5. Rulebook on the measure "police warning"[33] from Article 124, paragraph 1 of this Law.

This cycle will also pay attention to practical examples of the application of the Law on practice and protection of children and victims and their re-socialization.

Third cycle refers to study of international standards and their application in order to reach more efficient protection of juveniles. Furthermore, the third cycle will also address the issues related to the juveniles' psychology.

Article 4 of the Education Program prescribes that specialization attendants are awarded certificates upon completion of each and every cycle. All specialization attendants are obliged to go through all three cycles of specialization which represents a condition for acquisition of final certificate.

Specialization attendants are certified[34] by organizations and institutions which have an authorization obtained from the Republic of Srpska Ministry of Justice. These institutions and organizations that carry out education are not appointed by the law-makers, so that they can be scientific institutions, professional associations and non-governmental organizations. By organizing professional counseling, seminars, tests and other forms of additional education of the professionals dealing with juvenile delinquency and their criminal law protection, are able to perform education. This Education Program provides a unique content of education, professional development and specialization, staying out of that which institution or organization will do it. On the other hand, defining the program content of the education, the Ministry of Justice prevents diversity, that is, it defines requirements that each education organizer has to meet in terms of obligatory topics that each education will elaborate. At the same time, the Republic of Srpska Ministry of Interior is obliged to keep special records containing the names of certified specialization attendants.

Finally, this Law also prescribes that it is obligatory to specialize juvenile judges and prosecutors, police officers, social workers, mediators, advocates and staff of correctional institutions and bureaus, not later than ten months from the date of the entry of this Law into force.[35] So far, the first

[32] ("Republic of Srpska Official Gazette", no. 101/2010).

[33] ("Republic of Srpska Official Gazette", no. 117/2010).

[34] See more: Jovašević, D.: *Zakon o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica*, Official Gazette of Serbia and Montenegro, Belgrade, 2005.

[35] The decision of the Minister of Justice of the Republic of Srpska 08.030/111-44/10 on 21 July 2010 – it was appointed a working group to conduct training of persons engaged in the

cycle of education has been realized for all categories of professional staff in the whole Republic of Srpska.

Instead of Conclusion

It is illusory to expect that law-prescribed education of police officers, that is, their specialization, no matter how long and comprehensive it was, will ensure their necessary, complete and continuous "education" for work with juveniles and children. Therefore, we find it necessary that when selecting police officers for juveniles, as well as other participants of the juvenile criminal proceeding (judges, prosecutors, social workers, advocated, etc.), special attention is paid to the fact that those are the ones with comprehensive general, as well as special, knowledge, especially with law knowledge, as well as with the one from etiology and phenomenology of juvenile delinquency. Nevertheless, they should have special knowledge from the area of juvenile delinquency, but also should possess affinity towards work with juveniles. They should be of high moral principles, and should undergo continuous specialization in the area of juvenile delinquency, not only through law-prescribed education cycles, but also through participation at seminars, projects, tests and other forms of additional education and training.

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activities of juvenile delinquency and criminal child protection, and to educate authorized officials, social workers, mediators, lawyers and workers in prisons and reformatory institutions in terms of their specialization for the treatment of juvenile offenders, and for their treatment of children and juveniles when these people appear as damaged parties in criminal proceedings.

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HARMONIZATION OF THE NEW CRIMINAL CODE OF THE REPUBLIC OF CROATIA WITH EUROPEAN UNION ACTS AND AN OVERVIEW OF ITS MOST IMPORTANT CHANGES

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Abstract

In accordance with the changes that will follow along with upcoming accession of the Republic of Croatia in the European Union, it was necessary to make a relevant change in the Croatian criminal legislation and harmonize it with the relevant acts of the European Union (conventions, directives, framework decisions and protocols). Changes made in the provisions of the Criminal Code of the Republic of Croatia were a necessity because of the fact that former Criminal Code of the Republic of Croatia had to be modernized and harmonized with the acquis communautaire. In the year 2009 the working Group had started a work on a new Criminal Code of the Republic of Croatia. In the meanwhile work on the new Criminal Code of the Republic of Croatia ended and it was published in the Official Gazette on 7th November 2011. Application of its provisions will start on 1st January 2013. Considering the above, in this paper it will be presented with which relevant European Union acts a new Criminal Code of the Republic of Croatia is harmonized and briefly what are its most significant changes. It is anticipated that the Republic of Croatia should become the 28th member of the European Union on the 1st July 2013, but by then the new Criminal Code of the Republic of Croatia will already be in the practical application.

Keywords: *harmonization, acquis communautaire, criminal code, changes, new provisions*

Introduction about a New Criminal Code and Its Technical Characteristics

Creation of a New Criminal Code

The new Criminal Code of the Republic of Croatia was adopted in October 2011.[1] Changes in the Croatian criminal legislation were a necessity. Current Criminal Code from 1997 (hereinafter CC 97) had to be modernized

[1] Criminal Code of the Republic of Croatia, Official Gazette No.125/11.

and harmonized with international standards and EU legislation (acquis communautaire), considering the imminent entry of the Croatian in its membership. Creation of a new Criminal Code (hereinafter CC 11) started in 2009. Used models were Swiss, German and Austrian Criminal Codes.

It is anticipated that the Republic of Croatian should become the 28th member of the European Union on the 1st July 2013. By then the new Criminal Code will be put in official practice.

Due to the actuality, this paper will present with which relevant acts of the European Union's is a new CC 11 in line and what is exactly the content of that harmonization in selected provisions. Firstly, let stress briefly changes related to the structure of CC 11.

Technical Characteristics of a New Criminal Code

Technical characteristics of new CC 11 indicate that there has been an increase in the scope of law provisions in a relation to the former Criminal Code from 1997.[2] The new CC 11 consists of XXXV Chapters. CC 97 was consisted of XXVII Chapters. General part of the CC 11 (substantive provisions) includes eight Chapters (CC 97 contained nine Chapters) and the special part of CC 11 (descriptions of crimes) consists of twenty six Chapters (CC 97 contained seventeen Chapters). In CC 11 there are many changes in a general and also in a special part, but that was expected because CC 11 represents a new legal solution.

In terms of changes in a special part of the CC 11, it should be noted that entirely new Chapters of specific criminal acts were created, that existing Chapters were supplemented with some new crimes and that many provisions were redefined. In preparing the CC 11 was considered the possibility of overlap in descriptions of crimes and misdemeanours (stemming from the experience taught from case Maresti against the Republic of Croatia.)[3] According to the arrangement of Chapters in CC 11, it should be noted that some new separate Chapters of specific crimes (underlined) are formed. Chapters of special part of the CC 11 are as follows:

- Chapter IX - Crimes Against Humanity and Human Dignity
- Chapter X - Crimes Against Life and Body
- Chapter XI - Crimes Against Human Rights and Fundamental Freedoms

[2] Criminal Code of the Republic of Croatia, Official Gazette No.110/97, 27/98, 50/00, 129/00, 51/01, 111/0., 190/03, 105/04, 84/05, 71/06, 152/08, 57/11.

[3] Case Maresti against the Republic of Croatia, Judgment of 25th June 2009, (Application No. 55 759/07), B - the merits of the parties' submissions. http://sljeme.usud.hr/usud/prakES.nsf/Praksa/87FBF5009E7EBC4EC1257370002A3E9B?Open Document - 25th January 2010.

- Chapter XII - Crimes Against the Working Relationships and Social Security
- Chapter XIII - Crimes Against Personal Liberty
- Chapter XIV - Crimes Against Privacy
- Chapter XV - Crimes Against Honour and Reputation
- Chapter XVI - Crimes Against Sexual Freedom
- Chapter XVII - Crimes of Sexual Abuse and Child Exploitation
- Chapter XVIII - Crimes Against Marriage, Family and Children
- Chapter XIX - Crimes Against Public Health
- Chapter XX - Crimes Against the Environment
- Chapter XXI - Crimes Against Public Safety (in the CC 97 this Chapter was connected with the Chapter XXII)
- Chapter XXII - Crimes Against Traffic Safety
- Chapter XXIII - Crimes Against Property
- Chapter XXVI - Crimes Against Economy
- Chapter XXV - Crimes Against Computer Systems, Programs and Data
- Chapter XXVI - Crimes of Counterfeiting
- Chapter XXVII - Crimes Against Intellectual Property
- Chapter XXVIII - Crimes Against Official Duty
- Chapter XXIX - Crimes Against Justice
- Chapter XXX - Crimes Against Public Order
- Chapter XXXI - Crimes Against Electoral Law
- Chapter XXXII – Crimes Against the Republic of Croatia
- Chapter XXXIII - Crimes Against the Foreign State or International Organization
- Chapter XXXVI - Crimes Against the Croatian Armed Forces.

Another part of this paper will be devoted to compliance of the CC 11 with the European Union Acts and with the review of some important changes in selected provisions of CC 11.

About the Harmonization of the CC 11 with the European Union Acts along with an Overview of some Selected Important Changes

Harmonizating European Union Acts

In February 2009 Croatian Government has given a guidelines[4] for making the new Criminal Code, which states that the special attention should be added to the harmonization of the new Criminal Code with the international documents, especially United Nations documents, the EU

[4] www.pravosudje.hr/lgs.axd?t=16&id=667 - *10th January 2012.*

acquis, the Council of Europe Conventions, Legal standards of the European Court of Human Rights[5] and other international documents (GRECO, MONEYVAL, OLAF, the Reports of the European Committee for Prevention of Torture and Inhuman Treatment or Punishment (CPT).

During new Criminal Code creation several Councils of Europe Convention were considered. These are as follows:

- Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse (entered into force on 1st October 2010)
- Council of Europe Convention on Counterfeiting of Medical Products and Similar Crimes that Pose a Threat to Public Health (MEDICRIME Convention, adopted on 8th December 2010)
- Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (adopted on 12th April 2011)
- Convention Implementing the Schengen Agreement (adopted on 14th June 1985)
- European Convention on Compensation of Victims of Violent Crimes (Official Gazette - International Treaties, No.7/2008)
- Council of Europe Convention on the Prevention of Terrorism Act (Official Gazette - International Treaties No.10/2007)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and Financing of Terrorism Act (Official Gazette - International Treaties, No.5/2008)
- Council of Europe Convention on Action Against Trafficking in Persons (Official Gazette - International Treaties, No.7/2007)
- Convention on Cyber crime (Official Gazette - International Agreements No.9/2002)
- European Convention for the Protection of Human Rights and Fundamental Freedoms (Official Gazette - International Treaties No.6/99)
- Convention on Human Rights and Biomedicine (Official Gazette - International Agreements 13/03), and the Protocol to the Convention (Official Gazette - International Treaties No.13/2003)

[5] With regard to the legal standards of the European Court of Human Rights the new CC 11 in accordance with the Judgements in cases of the European Court of Human Rights – Case Tomasic against the Republic of Croatia (Judgment of 15th January 2009) and Case Maresti against the Republic of Croatia (Judgment of 23rd July 2009) and M.C. against Bulgaria (Judgment of 04th December 2003).
www.pravosudje.hr/lgs.axd?t=16&id=667 - *p.5, of 10th January 2012.*

- Council of Europe Convention on the Protection of the Environment Through Criminal Law (adopted on 04th November 1998)
- Convention on the Protection of the European Communities' Financial Interests (adopted on 26th July 1995).
- Furthermore, CC 11 provisions are harmonized with twenty acts of the European Union[6], and those are as follows:
- Directive 2008/99/EZ of the European Parliament and of the Council of 28th November 2002 on the protection of the environment through criminal law
- Directive 2009/52/EZ of the European Parliament and of the Council of 18th June 2009 of providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals
- Directive 2010/45/EU of the European Parliament and of the Council of 7th July 2010 on standards of quality and safety of human organs intended for transplantation
- Directive 2005/35/EZ of the European Parliament and of the Council of 7th September 2005 on pollution from ships and the introduction of criminalities for violations
- Directive 2009/123/EZ of the European Parliament and of the Council of 21st October 200 amending Directive 2005/35/EZ pollution from ships and the introduction of criminalities for violations
- Directive 2006/12/EC of the European Parliament and of the Council of 5th April 2006 on waste
- Seveso II Directive 96/82/EC, 2003/105/EC on the prevention of major industrial accidents and mitigate the consequences if they occur,
- Directive 2002/90/EC of the European Parliament and of the Council of 28 November 2002, defining the facilitation of unauthorised entry, transit and residence
- Directive 2003/6/EC of the European Parliament and of the Council of 28th January 2003 on insider dealing and market manipulation,
- Council Framework Decision 2008/913/PUP of 28th November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law
- Council Framework Decision on confiscation of items, assets and property acquired through criminal acts of 24th February 2005
- Council Framework Decision of the European Union 2002/629/PUP of 19th July 2002 on combating trafficking in human beings,

[6] CC 11 Article 386.

- Council Framework Decision 2001/500/JHA of 26th June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime
- Council Framework Decision 2002/946/PUP of 28th November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence
- Council Framework Decision 2002/475/PUP of 13th June 2002 on the fight against terrorism
- Council Framework Decision 2005/212/PUP of 24th February 2005 on confiscation of items, assets and property acquired through criminal acts
- Convention of 26th July 1995 which is made on the basis of Article K.3 of the Treaty on European Union, the Convention on the protection of the European Communities (OJ C 316, 27.11.1995, p. 49)
- Protocol of 27th September 1996, which is adopted on the basis of Article K.3 of the Treaty on European Union, the Convention on the protection of the European Communities (OJ C 313, 23.10.1996, p.2)
- Second protocol of 19th June 1997 which is adopted on the basis of Article K.3 of the Treaty on European Union and by the Convention on the Protection of the European Communities' Financial Interests (OJ C 221, 19.7.1997, p.12)
- Convention Implementing the Schengen Agreement.

Further, after reviewing the relevant acts let's focus on some selected and important changes in CC 11 that derived as a result from harmonization.

Overview of Some Major Changes Resulting from Adjustments

Due to the extensiveness of substance related to the changes in the CC 11 connected with the provisions of European Acts, this paper will be dedicated to an overview of some selected areas of changes related to the definition of certain terms used in criminal law, and also actual terrorist crimes, money laundering, slavery and trafficking in human beings.

In terms of expression, Article 87 paragraph 7 consists a definition of a child which is consistent with Article 1 United Nations Convention on the Rights of the Child and Article 3 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse. Mentioned Conventions define a child as a person younger than 18. So, the concept of a minor in CC 11 has been deleted.

Furthermore, the definition of a computer system in the Article 87 paragraph 17 has been supplemented in accordance with Article 1 (a) Framework Decision 2005/222/JHA of 24th February 2005, so the computer

system is considered to be: "any device or group of interconnected or related devices, of which one or more of them, on the basis of automatic processing of data and computer data, are stored in it, handled, loaded or transferred to purposes of its operation, use, protection and maintenance."

Further, in the Article 87 paragraph 20 definition of hate crimes is in line with the requirements of the Council of Europe Framework Decision 2008/913/PUP of 28th November 2008 on combating certain forms and expressions of racism and xenophobia by criminal means. It is necessary to indicate how in a separate part of the CC 11, in certain crimes, this circumstance prescribes as a qualifying circumstance when the crime was committed out of hatred (e.g. crime murder, female genital mutilation, etc.), while in other cases that circumstance is taken as an aggravating circumstance.

The term victim is defined in Article 87 paragraph 23 and it is in line with an Article 1.1. Council of Europe Recommendation Rec (2006) 8. The same has been extended with the part that refers to violation of essential human rights and fundamental freedoms. Thus, the victim is defined as: "... a natural person to whom with wrongful act is caused physical or mental pain, emotional suffering, economic loss or substantial violation of human rights and fundamental freedoms." Further, with regard to terrorism and terrorist crimes it should be noted that the CC 11, along with the current terrorist acts from the CC 97 (Terrorism, Recruitment and Training for Terrorism, Public Incitement to Terrorism), predicts two new crimes of terrorism (Terrorism and Terrorist Financing Association). Unlike CC 97, CC 11 prescribes the Recruitment and Training for Terrorism as two separate crimes. In CC 11 Article 97 Terrorism[7] in paragraph 1 prescribes the fundamental crime of

[7] Terrorism, Article 97, CC 11.
Whoever, with the aim of seriously intimidating a population or compelling a State or international organization to do or not do, or seriously destabilizing or destroying the fundamental constitutional, political, economic or social structures of government or international organization, commits one of the following acts, which can seriously harm the country or international organization:
1st Attacks on the person's life that can cause death,
2nd Attacks on the body of another,
3rd Kidnapping or hostage taking,
4th Destruction of government or public buildings, transportation systems, including infrastructure and information systems, fixed platforms on the continental shelf, a public place or private property that could endanger human lives or cause significant economic damage,
5th Kidnapping of aircraft, ships or other means of public transportation or transportation of goods,
6th Manufacture, possession, acquisition, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons, as well as research and development of nuclear, biological or chemical weapons,

terrorism in accordance with Article 1 Framework Decision 2002/475/JHA of 13th June 2002 about the fight against terrorism and the Framework Decision of 28th November 2008 amending the Framework Decision of 13th June 2002 about the fight against terrorism. Smaller language changes are made in order to harmonize CC 11 provisions with the text of these two framework decisions. For an act of terrorism in Paragraph 1[8] illegal acts must be such that they can seriously damage a country or international organization and a goal with which these acts must be committed is defined in accordance with the Framework Decision on combating terrorism[9]. Then, Article 99 Public Incitement to Terrorism is consistent with the earlier article in the CC 97, composed in accordance with Article 5 Council of Europe Convention on the Prevention of Terrorism. For the existence of this crime it is not necessary to commit a terrorist crime on which commission is publicly encouraged. In terms of Recruitment for Terrorism, Article 100 it is in a line with previous legal solution from the CC 97. This article was based on Article 6 Council of Europe Convention on the Prevention of Terrorism. For the existence of this crime a recruited person does not have to commit a single terrorist crime. Also, Training for Terrorism from Article 101 is consistent with the earlier descriptive legislative solution from CC 97 and it is based on the model of Article 7 Council of Europe Convention on the Prevention of Terrorism. For the existence of that crime a trained person

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7th Discharge of hazardous substances or causing fires, explosions or floods, thus endangering human lives,

8th Disruption or suspension of water supply, electricity or any other fundamental natural resource, which endangers human life or

9th Possesses or uses radioactive material or makes, possesses or uses a device to activate, spraying or broadcasting of radioactive material or ionizing radiation, uses or damages a nuclear facility so that there is a release or threat of release of radioactive material, or use of force or threat requires radioactive material, device to activate, spraying or broadcasting of radioactive materials or nuclear facility, shall be punished by imprisonment of three to fifteen years.

(2) Whoever threatens the crime referred to in paragraph 1 this Article, shall be punished by imprisonment from six months to five years.

(3) If the crime referred to in paragraph 1 of this article caused great destruction or death of one or more persons, the perpetrator shall be punished by imprisonment for five years.

(4) If the perpetrator during the commission of crime referred to in paragraph 1 this Article, intentionally kills one or more persons, shall be punished by imprisonment for ten years or by imprisonment.

[8] For example: an attack on a person's life that can cause death, manufacture, possession, acquisition, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons, as well as research and development of nuclear, biological or chemical weapons etc.

[9] Also, it should be noted that according to the Article 2 of UN Convention on the Suppression of acts of nuclear terrors from 2005, in paragraph 1 is added additional point 9 which criminalize nuclear terrorism.

does not have to commit any terrorist crime. Further, Joining for Terrorism[10] under Article 102 CC 11 is the new crime complied with Article 2 Framework Decision 2002/475/JHA of 13th June 2002 on combating terrorism and Article 5 Paragraph 3 Framework Decision of 28th November 2008 amending Framework Decision of 13th June 2002 on combating terrorism. From the paragraph 2 arises that membership in a terrorist association is punishable as well as any action that contributes to terrorist organizations, regardless the question of the punishable or actionable activity. In the case of punishable acts, the perpetrator will be responsible for the concurrence of this crime along with the crime committed by contributing to terrorist organizations (e.g. document forgery, theft etc). In this way the crime is in a line with Article 3 paragraph (d), (e) and (f) mentioned Framework Decision.

Furthermore, the Money Laundering as a crime in Article 263 CC 11[11] was changed to further align with the Council of Europe Convention on

[10] This crime is a replacement for the association for the purpose of committing crimes against values protected by international law in Article 187 CC 97 Joining for Terrorism, Article 102 CC 11 (1) Whoever organizes or leads to criminal association aimed at committing the crime referred to in Article 97 to Article 101, Article 137, Article 216 Paragraph 1 through 3, Article 219, Section 223, Article 224, Article 352 to the 355th Article this Act or any other crime which is the goal to cause death or serious bodily injury to civilians or other persons not actively involved in armed conflict, if the purpose of this work is to intimidate a population or compel a government or international organization to do or not do, shall be punished by imprisonment of three to fifteen years.
(2) Whoever becomes a member of a criminal association under paragraph 1 this Article, or take action which he knows that contributes to achieving the goal of terrorist organizations, shall be punished by imprisonment of one to eight years.
(3) The perpetrator of crime referred to in paragraph 1 and 2 this Article that timely detection of terrorist organizations to prevent the commission of crimes referred to in paragraph 1 this Article, or a member of the terrorist organizations which it is detected before it in his composition for him or commit a crime specified in paragraph 1 this Article may be remitted.

[11] Money laundering, Article 265 CC 11.
(1) Who proceeds of crime invest, take, turn, transferred or exchanged for the purpose of concealing its illicit origin, shall be punished by imprisonment from six months to five years.
(2) The punishment referred to in paragraph 1 this Article, shall be punished who conceals the true nature, origin, location, disposition, transfer, rights and ownership of the proceeds realized by the second crime.
(3) The punishment referred to in paragraph 1 this Article, shall be inflicted pecuniary gain realized by the second crime, obtains, possesses or uses.
(4) Whoever commits the crime referred to in paragraph 1 or 2 this Article, in a financial or other business or the perpetrator is engaged in money laundering or the proceeds referred to in paragraphs 1, 2 or 3 this Article of great value, shall be punished by imprisonment of one to eight years.

Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and Financing of Terrorism (further Convention on Laundering) and the Council Framework Decision 2001/500/JHA of the European Union of 26th June 2001 on Money Laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and proceeds of crime. So, Article 263 Paragraph 1 corresponds to Article 9 Paragraph 1 point of the Convention on Laundering, and paragraph 2 corresponds to Article 9 Paragraph 1 point b of the Convention on Laundering, and final paragraph 3 Article 9 Paragraph 1 c. Convention on Money Laundering. The terms "money, goods, rights or property" are summarized in the term "financial gain". Generally, one can say that the article is now widely installed. All property that is directly or indirectly resulting from that crime is a subject of money laundering as a crime. Convention on Laundering gives Member States the possibility to limit the circle of crimes to which the money laundering is related. The Republic of Croatia has not used this possibility and therefore the crime of money laundering in our CC 11 is very wide installed.

Regard to trafficking in human beings and slavery it should be noted that both terms were in CC 97 covered by a single Article 175, while in the 11 CC these terms are divided in separated crimes. Article 105 Slavery establishes slave relationship and transportation of slaves under the Convention on slavery and its Supplementary Convention.[12]

Furthermore, Article 106 CC 11 regulates Trafficking in Human Beings[13]. This provision is based on Protocol to Prevent, Suppress and

(5) Whoever engages in an action referred to in paragraphs 1, 2 or 4 this Article, acting with negligence in relation to the circumstances that it is proceeds of crime, shall be punished by imprisonment not exceeding three years.
(6) If the proceeds from the first paragraph to 5 this Article was a crime committed in a foreign country shall be punished if it is a crime under the law and the state in which it was committed.
(7) The perpetrator referred to in paragraph 1 to 5 this Article who voluntarily contributes to the discovery that it was criminal proceeds the court may remit the punishment.

[12] Slavery Convention of 1926 and the Protocol to the Convention on slavery in 1953 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956.

[13] Trafficking in Persons, Article 106.
(1) Whoever, by force or threats, deceit, fraud, kidnapping, abuse of authority or a difficult position or relationship addiction, giving or receiving financial compensation or other benefits to achieve consent of a person having control over another person, or otherwise procures, transports , translate, harbors or receives a person or exchanges or transfers control of a person to take advantage of its work through forced labor or servitude, slavery or the establishment of similar status, or for its exploitation for prostitution or other forms of sexual exploitation, including pornography or illegal assembly or forced marriage, or for taking parts of her body, or for its use in armed conflict or purpose of committing unlawful acts, shall be punished by imprisonment of one to ten years.

Punish Trafficking in Persons, especially Women and Children to the United Nations Convention against Transnational Organized Crime, Council of Europe Convention on the Suppression trafficking and the European Union Framework Decision 2002/629/JHA on the trafficking of 19th July 2002. Paragraph 1 of this Article complies with the definition of trafficking arising from the Council of Europe Convention against Trafficking in Human Beings. Regarding to this article it should be important to emphasize that in paragraph 1 is added a term of a deception, as one way of execution of this crime, because unlike fraud, a deception does not necessarily have a material goal.[14]

Council of Europe Convention and the European Union Framework Decision on Trafficking in Human Beings 2002/629/JHA of 19th July 2002 are giving to national legislation the possibility to expand the forms of exploitation in a way of trafficking by an introduction of the term of "forced marriage". This was a concrete proposal of the Croatian Ombudsman for Children, considering the fact that so called agreed "minor marriages" are present in society and traditionally tolerated but they are actually represent a form of trafficking.[15] Also, in a line with the comparative resolutions[16] in the CC 11 as a mode of trafficking use of persons (children) in armed conflicts is added. Further, paragraph 3 as a new form of aggravation from CC 11 introduce trafficking of children using force, which is in accordance with

(2) The punishment referred to in paragraph 1 this Article shall be punished who recruits, transports, translates, harbors or receives a child, or exchanges or transfers control of the child to use his work on forced labor or servitude, slavery or the establishment of similar status, or for its exploitation for prostitution or other forms sexual exploitation, including pornography, or for making illegal or forced marriage, or for illegal adoption or for the purpose of taking parts of his body, or for their use in armed conflict.
(3) If the crime referred to in paragraph 1 this Article is committed against a child or a crime referred to in paragraph 1 or 2 of this Article committed by an official in performing his or her office, or is committed against a larger number of persons, or is deliberately endangered the life of one or more persons, shall be punished by imprisonment of three to fifteen years.
(4) The punishment referred to in paragraph 1 this Article shall be inflicted on knowing that the person is a victim of trafficking in persons using its services that are the result of one of its forms of exploitation referred to in paragraph 1 and 2 of this Article.
(5) Whoever, with the aim of facilitating the commission of acts referred to in paragraphs 1, 2 and 3 this Article shall maintain, removes, conceals, damages or destroys a travel document or identity document of another person, shall be punished by imprisonment not exceeding three years.
(6) An attempted crime referred to in paragraph 5 this Article shall be punished.
(7) Consent to the use of the person to whose detriment the trafficking was committed without prejudice to the existence of a crime.

[14] www.vlada.hr/hr/content/download/112514/1608957/.../32-07. pdf -p.16,5 10th January 2012.
[15] Ibid.
[16] German, Czech, Montenegrin Criminal Code.

Article 24 Council of Europe Convention on Action against Trafficking in Human Beings and Article 3 Paragraph 2 Framework Decision on Trafficking in Human Beings. The novelty is the paragraph 5 of that article, which pulls the basis of compliance with Article 20 of the Council of Europe Convention on Action against Trafficking in Human Beings, which criminalize forgery and forge documents purchase. However, this paragraph does not proscribe this expressly because forgery and forge documents purchase from CC 11 is a separate crime which occurs in concurrence with the crime of trafficking. Also, a novelty is a paragraph 7 which is modelled after Article 26 Council of Europe Convention on Action against Trafficking in Human Beings.

This harmonization review of selected areas represents only a small view of changes and adjustments of the new CC 11 with the acts of the European Union. The changes are numerous and it would be impossible to embrace them in full extent in this limited scope of this paper.

Conclusion

Rightfully it can be said that the provisions of the new CC 11 are in line with the relevant international documents, especially European acts and that CC has been modernized and improved. From the presented number of relevant European Acts we can see the extent of the harmonization only in a part. Also, this paper deals with substantive changes in a certain selected areas connected with that process of provisions harmonization. Practical application of the new CC starts on 1st January 2013. It remains for us to see what the practical application will show.

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CRIMINOLOGICAL CHARACTERISTICS OF PERPETRATORS OF MURDER AND ATTEMPTED MURDER TOWARD POLICE OFFICERS

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Abstract

This study is dealing with the perpetrator as an important factor within the framework of criminal offences of murder and attempted murder of police officers. We have described the general characteristics of perpetrators and analysed their possible influence on the perpetration of those criminal offences. Aside from obtaining the criminological profile of the perpetrator, an important goal is the use of those characteristics for prevention of these very serious criminal offences.

Keywords: *perpetrator of murder, murder, attempted murder, police officer*

Introduction

After an assault on a police officer, people usually wonder what kind of people do such things. If they attack the ones who protect us, what are they capable of doing to the people who have not been trained or equipped to defend themselves. Even more questions arise when a police officer gets killed. People look for reasons, make hypotheses and draw conclusions. This research gives answers to some of those questions.

Similar reasons have guided numerous scientists who have dealt with criminological features of perpetrators of violent criminal offences toward police officers, whether resulting in death or just in injuries. In their study dealing with 1550 cases of attacks on police officers in the territory of Baltimore County Police Department in the period from 1 January 1984 to December 1986 not resulting with death, Kaminski and Sorensen found that the majority of attacks on police officers were committed by younger unarmed attackers. They also concluded that certain situations, like arrests or

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prevention of attackers' escape represent the increased risk of injury of police officers.[1]

In one of his studies Kaminski emphasizes bad economic conditions in countries whose characteristics are low incomes, high degree of poverty and high unemployment rate as circumstances which among others increase the motivation for perpetration of criminal offences.[2]

Furthermore, Kaminski, Marvell and Thomas have found in their criminological research that the variables referring to the economic growth decrease of inflation, growth of prison population and state of war influence the motivation of perpetrators as well as the possibility of perpetration of criminal offences, which indirectly influences the decrease of the number of murders of police officers. They have also found the similarity between the age structure of perpetrators of murder of police officers and those of "other" murders.[3]

In their study dealing with 226 cases of murders of police officers in Great Britain (Bedfordshire, Greater Manchester and South Yorkshire) Brown and associates have come to the conclusion that one fourth of all the injuries that police officers had suffered, had been received during the arrest of the perpetrators, at which occasions police officers had tried to control the perpetrators, as well as after the primary overpowering of the perpetrators. They have also reached the conclusion that the perpetrators had mostly used firearms as the means of perpetration in direct attacks on police officers, as well as in the cases when the police officers had caught the perpetrators in the perpetration of criminal offences. [4]

Ellis and associates have elaborated a study in order to identify the danger of domestic violence for police officers, as well as the factors which increase the risk of injuries for police officers who perform such interventions. The study has shown that domestic violence is much less dangerous than, for instance, robberies and arrests/transportation of the people serving their time.[5]

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[1] Kaminski, R. & Sorensen, D.: A Multivariate Analysis of Individual, Situational and Environmental

Factors Associated with Police Assault Injuries, American Journal of Police, vol.14, no.3/4, 1995.

[2] Kaminski, R.: Assessing the County – Level Structural Covariates of Police Homicides, Homicide Studies, Sage publications, vol.12, 2008.

[3] Kaminski, R. & Marvell, T.: A Comparison of Changes in Police and General Homicides: 1930-1998, Criminology, vol.40, num.1, 2002.

[4] Brown, B. and others: Assaults on the Police Officers: An examination of the circumstances in which such incidents occur, Police Research Series, Paper 10, Home Office Police Department, London, 1994.

[5] Ellis, D., Choi, A., Blaus, C.: Injuries to police officers attending domestic disturbance: An empirical study, Canadian Journal of Criminology, 1993.

Analysing general characteristics of murders and attempted murders of police officers Pavliček, Ljubin Golub and Kondor–Langer have found that the most common means of perpetration (40.9% of cases) have been personal vehicles driven by the perpetrators, followed by the high percentage of 62.5% for committed murders and 35% for attempted murders of police officers by means of firearms.[6] The analysis of motives[7] leading to the perpetration of murder or attempted murder of police officers has shown that avoiding the criminal offense and/or misdemeanour responsibility by the perpetrator dominates to a significant extent (88.1% of the cases).[8]

Methodology

During the research, the total of 88 police records (known or unknown perpetrators) of criminal offences of murder or attempted murder collected from the whole territory of the Republic of Croatia have been analysed. Out of that number, in 8 cases they committed murders, and in 80 cases attempted murders. The police records for the period of twelve years (from 1 January 1998 to 31 December 2009) have been analysed.

For that purpose, a special questionnaire had been created and divided into several parts out of which one important part had referred to the perpetrator of criminal offence of murder and attempted murder of police officers viewing the perpetrators through the prism of criminological characteristics.

Results and Discussion

General characteristics of perpetrators of criminal offences of murder and attempted murder of police officers

[6] Within the framework of the research performed in the prisons of Gauteng province, South Africa, Minaar has interviewed 28 perpetrators of assaults and murders of police officers and found that in the total percentage of 88% cases the interviewed prisoners – perpetrators of assaults and murders of police officers had used firearms, out of which in 81% of the cases a pistol. Minnaar, A.: Profiling „Cop killers“ in South Africa, Crime research in South Africa, Department of Criminology, vol.1, num.1, 2000.

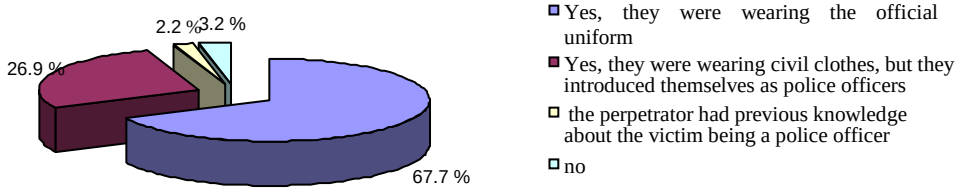
[7] Minaar also finds that the total 42% of interviewed prisoners – perpetrators of attacks and murders of police officers had committed the criminal offenses in order to avoid the arrest, while 12% of them had been caught in the act of perpetration of criminal offense by the police officers. Minnaar, A, op. cit. (note 7)

[8] Pavliček, J., Ljubin Golub, T., Kondor-Langer, M.: Criminological and criminalistic characteristics of murders and attempted murders of police officers, CACLP, vol.18, num.2/2011.

An important characteristic of murders and attempted murders of police officers in the Republic of Croatia is that their perpetrators mostly commit them independently. They are committed by two perpetrators in only 10.7% of cases, while for 1.1% of cases it is not known by how many perpetrators they have been committed because the perpetrators have not been discovered nor is there any reliable information about the number of perpetrators. It is the matter of criminal offences with a considerably low or nonexistent dark figure, as well as of criminal offences with a relatively low number of unknown perpetrators. In the analysed sample we find 5.4% of criminal offences with unknown perpetrators.

The characteristic of the assaulted person, i.e. the awareness of the perpetrator that they are attacking a police officer is very important for the perpetration of these criminal offences. There is no doubt about it in case of assault on a police officer in uniform, which is the most common case. As we can see from Chart 1, the most common targets of attacks have been on police officers wearing uniforms, which is logical taking into consideration their share within police structure. In the remaining 26.9% of cases, the perpetrators also knew they were attacking police officers because the officers had introduced themselves in the appropriate way at the occasion of undertaking the official action. The perpetrators were not completely sure that they were dealing with police officers in only 2.2% of the cases.

Chart – 1
Perpetrator's awareness that the victim is a police officer

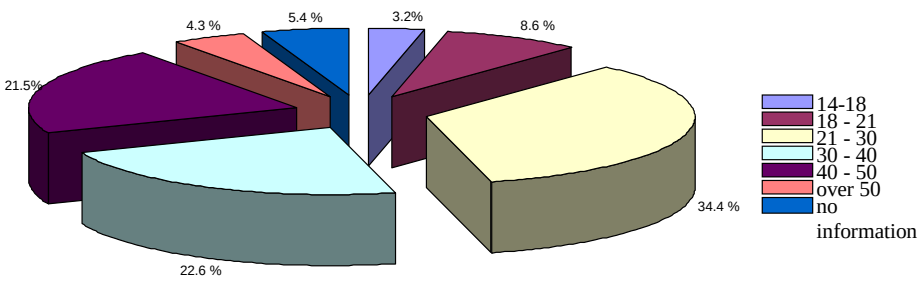


Age and gender of perpetrators

When we consider the age structure of perpetrators of the criminal offences of murder and attempted murder of police officers, we can see that the perpetrators are mostly adults. However, within that group we should not forget that 8.6% of perpetrators were younger adults who have committed the criminal offences at the age between eighteen and twenty-one. Children and minors participate in perpetration with 3.2%. If we want to see whether

there is a critical age of perpetrators when it comes to the most serious attacks on police officers, we can only point out information that 6.5% of perpetrators were 23 years old at the moment of perpetration, and 5.4% of them were between 20 and 29 years of age.[9] Kaminski has also found in his research that the police officers are under a bigger risk of being killed in the countries with a relatively bigger number of citizens between 25 and 34 years of age.[10]

Chart – 2
Perpetrator's age at the time of perpetration of criminal offence



As far as gender is concerned, based on the results obtained, it can be concluded that this is a "male" offence, which is confirmed by Minnaar's research in which all the interviewed prisoners – perpetrators were male.[11] The relative share of female perpetrators in criminal offences of murder and attempted murder of police officers was only 2.2%.

Mental disturbances and influence of drugs

The police records of murders and attempted murders of police officers mostly do not contain any information on whether or not the perpetrators had been treated for mental illnesses. We find such information at only 16 out of 93 analysed perpetrators. Out of 16 mentioned perpetrators,

[9] Moxey and McKenzie, 1993 and Noaks and Christopher, 1990 state in their research that the attackers are mostly between 17 and 25 years of age, and on the average in their early or mid-twenties. Brown, B. and others: Assaults on the Police Officers: An examination of the circumstances in which such incidents occur, Police Research Series, Paper 10, Home Office Police Department, London, 1994.
[10] Kaminski, R.: Assessing the County – Level Structural Covariates of Police Homicides, Homicide Studies, vol.12, Sage publications, 2008, p.370.
[11] Minnaar, A, op. cit. (note 7)

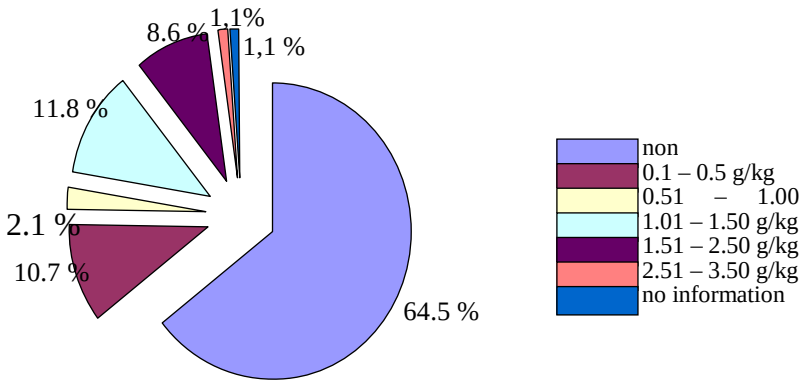
it has been found that 10 of them had not suffered from mental disturbances, while 6 of them had been treated for mental disturbances. Out of 6 perpetrators who had been treated for mental disturbances, four had been treated for mental illnesses, out of whom two had schizophrenia, while one of them suffered from the post-traumatic stress disorder.

At the moment of perpetration of criminal offences, most of the perpetrators (64.5%) were not under the influence of alcohol. Among the ones who were, in case of 11.8% of them, the measured concentration of alcohol in blood was between 1.01 and 1.50 g/kg followed by 10.7% of perpetrators with measured concentration of between 0.1 and 0.5 g/kg.

The highest concentration of alcohol in blood has been measured in case of one perpetrator and amounted 3.00 g/kg. The lowest concentration also has been measured in case of one perpetrator and amounted 0.13 g/kg. Alcohol dependence has been found in 3 perpetrators, while 6 of them have been found to consume alcohol from time to time.

The abovementioned results still point to alcohol as considerably present criminogenic factor which can contribute to the perpetration of analysed criminal offences.

Chart – 3
Concentration of alcohol in the blood of perpetrators



At the time of perpetration of criminal offences of murder or attempted murder 90.3% of perpetrators were not under the influence of narcotics. Out of 9 perpetrators who were under the influence of narcotics at the time of perpetration of criminal offence, the presence of hashish or marihuana was found in cases of three of them, in cases of two of them heroin, and in cases of the remaining perpetrators cocaine, heptanone tablets and amphetamines. Regarding the drug addictions, the records have showed reliable information on addiction for 60.2% of perpetrators. Out of the

abovementioned number, 3.2% of perpetrators were found to be addicts, while in 19.4% of the cases it has been found that they occasionally take some kind of drugs.

The fact that over one third of perpetrators of murders and attempted murders were under the influence of alcohol, and what is more, mostly under significant concentrations of alcohol in blood, give us the right to point to the necessity of careful behaviour of police officers towards people under the influence of narcotics and intoxicants, especially alcohol.[12] In this matter, it primarily means following safety protocols in police work, but also having protective equipment.

Socioeconomic status of perpetrators

If we analyse the level of educational structure, high school education dominates in 53.8% of cases. We also find a high portion (24.7%) of perpetrators who have graduated only from primary school. The share of 6.5% belongs to the perpetrators who have university degree or other high education, but also to those who have not graduated from primary school. In that sense, we can say that the perpetrators of the analysed criminal offences still have lower to medium level of education.

At the time of perpetration of a criminal offence, 53 perpetrators or 57% of them were not married, as opposed to 30 perpetrators who were married [13] and 7 perpetrators living in common-law marriages.[14]

At the moment of perpetration of criminal offence the least number of perpetrators lived with someone who was not a member of their family (2.1%), followed by those who lived alone (10.8%), while the relative share of perpetrators who lived with their own family or with their immediate or extended family was by far the biggest (69.9%).

Out of 93 perpetrators 53.76% of them did not have any children at the time of perpetration, as opposed to 37.6% of them who were parents at the time of perpetration of the criminal offence. Thirteen perpetrators had one child each, twelve of them, or 12.9% had two children each, while one perpetrator had six children.

[12] Conradie has conducted a research during which police officers who had experienced assaults in South African provinces of Western Cape, Eastern Cape, KwaZulu-Natal and Gauteng in the period from 1996 to 1999 voluntarily filled in questionnaires. During that research, he found that 69% of questioned police officers believed that their attackers had been under the influence of alcohol or narcotics. Conradie, H.: The Modus Operandi of Police Killers in Four Provinces of South Africa, Crime research in South Africa, Department of Criminology, vol.2, num.1, 2001.

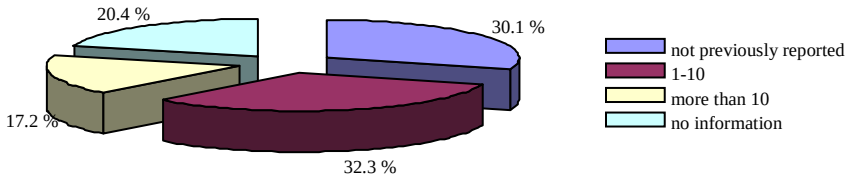
[13] As opposed to that, Minnaar in his research finds that 42% of interviewed prisoners – perpetrators were married, Minnaar, A, op. cit. (note 7)

[14] Pavliček, J., Ljubin Golub, T., Kondor-Langer, M., op.cit. (note 9), p.750.

Recidivism and structure of previously committed criminal acts

Information about recidivism are very significant for the prevention of criminal offences. We find that criminal charges had been filed against 49.5% of perpetrators for some other criminal offence before the perpetration of murder or attempted murder of a police officer. Among them are 17.2% perpetrators who had been reported for 10 or more criminal offences.

Chart – 4
Perpetrators' previous criminal offences



If we analyse the type of criminal offences committed by the perpetrators before the murders or attempted murders of police officers, we find that it was the matter of criminal offences of violence in 3.2% of the cases, non-violent criminal offences in 31.2% of the cases, and criminal offences and violence and non-violent criminal offences in 15.1% of the cases.

When it comes to non-violent criminal offences, we find that 29 perpetrators have been reported for the total of 72 criminal offences without the elements of violence.

The highest number of non-violent criminal offences for which the perpetrators had previously been reported are criminal offences against property (62.5%) with the prevalence of thefts and burglaries, followed by criminal offences against values protected by international law (8.3%) whereby the criminal offence of drug abuse is the most represented one. They are followed by reports for criminal offences against general safety of people and property and traffic safety (6.9%), whereby the most represented criminal offence is the one of endanger life and property by a generally dangerous action or means.

Out of the total of 93 perpetrators, 14 of them had previously been reported for criminal offences with elements of violence and other non-

violent criminal offences. The abovementioned 14 perpetrators have committed altogether 86 criminal offences among which the relatively highest portion consists of criminal offences against property (53.5%) committed in concurrence with some non-violent criminal offence. Among the criminal offences with elements of violence occurring in concurrence with non-violent criminal offences, the relatively biggest number of them has been criminal offences against life and body (9.3%).

If we consider special recidivism, we find that only 8.6% of perpetrators had previously been reported for criminal offences towards police officers, and only 1.1% had previously been reported for both criminal offences and misdemeanours towards police officers.

Concluding Remarks

Although in the Republic of Croatia murders of police officers can be classified as rare offences[15] the case with attempted murders is somewhat different, and their frequency is somewhere between 2% and 12.8% compared to other attempted murders. Such share of criminal offences gives us certain bases upon which we can observe certain characteristics of perpetrators.

It is clear that there is actually no unique perpetrator type[16] so, we can also agree with that fact when it comes to such criminal offences towards police officers. We can still say that the perpetrators of the analysed criminal offences are younger male persons, lower to middle educational status and relatively low socio-economic status, who have committed the criminal offences under considerable influence of intoxicants (higher presence of alcohol, lower of narcotics) and it was usually not their first criminal offence.

From the conducted research it can also be seen that the biggest number of perpetrators committed the criminal offence of murder or attempted murder of police officers consciously, aware that they were killing a police officer on duty, committing in that way aggravated murder, for which is foreseen penalty up to 40 years of imprisonment.

The fact that over one third of perpetrators of murder and attempted murder were alcoholised, and mostly under significant concentrations of alcohol in blood gives us the right to emphasise the importance of special

[15] Out of 12 analysed years, no murder has been committed in 6 years, there were two murders per year in two years, and in other years one murder per year. The annual MUP report on the situation and developments in delinquency for the period 1998-2009.

[16] Singer, M. and others: Criminology, Third amended edition, Globus publisher, Faculty of Education and Rehabilitation, Zagreb, 2002, p.443

caution by police officers when dealing with people under the influence of intoxicants, and especially alcohol.[17]

Since no research of this kind has been conducted in the Republic of Croatia so far, a need is arising for this field to be given more attention in order to study more closely the etiological and phenomenological side of these criminal offences as well as the perpetrators themselves, which could influence the decrease in their number, but also the mitigation of consequences of such criminal offences. As to the prevention of these criminal offences, the adequate equipping of police officers occupies the most important place, but what is equally important is the training that could help them recognize potential danger and train them for the adequate reaction in case of attack.

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[17] Brown also finds that 42% of perpetrators were under the influence of alcohol at the time of perpetration, while 6% of them were under the influence of narcotics, which was also one of the factors contributing to the perpetration of attack on police officers. Brown, B. and others, op.cit. (note 5), p.14.

9. Singer, M. and others: Criminology, Third amended edition, Globus publisher, Faculty of Education and Rehabilitation, Zagreb, 2002

STRUCTURE AND ACTION MODELS OF ORGANIZED CRIMINAL GROUPS THAT ARE INVOLVED IN HUMAN TRAFFICKING

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Abstract

One of the characteristics of modern crime is its variability. Taking this into account, we can say that the organized criminal groups easily adapt to new socio-economic and political conditions. Thus, modus operandi of organised crime groups is going through some changes, which are primarily related to time, place, means of enforcement, the number of group members, internal structure and so on. The authors analyze the organized criminal groups engaged in human trafficking, the levels of their organization, division of tasks, their ethnic composition, considering the fact that in the court documents the existence of criminal organizations, the equal presence of both men and women during the implementation of this criminal activity, trafficking victims, and modalities of work of some organized groups is confirmed.

***Keywords**: Trafficking in human beings, criminal organization, victim, organized crime*

Introduction

Organised criminal groups operate in the illegal market including places or areas for exchanging commodities and services, production, sale and consumption that are prohibited or strictly regulated in most countries and by international law. The market of narcotic drugs, weapons, people, capital, having its source in criminal activities, are typical categories of illegal markets. In terms of their illegal origin, markets are mostly artificial creation. They were grown in parallel with the operation of the modern world's rich countries and wars. Criminal groups often base their work on violence and intimidation of its competitors, resulting in a simple setting of local monopolies. It often happens the illegal market to be built on personal relationships - groups that are made on the basis of ethnic, political or religious solidarity (Arlacchi, 2001: 6).

Organised criminal groups are involved in various criminal activities, including human trafficking with its special significance. It is highly profitable and low-risk criminal activity that often leaves permanent psychological and physical effects on the

victim. In many cases the injuries inflicted on the victims are so serious that the complete recovery is under question.

Most Wanted "goods" that have a transnational character are drugs, women, children, guns, etc. Women and children are often trafficked for commercial sexual exploitation, in which case organized groups inevitably expose those victims to "debt bondage" which in fact involves the repayment of "debt" on prostitution, with the value, according to estimates, that ranges from 5,000 to 15,000 pounds (Kelly, Regan, 2000: 23).

Challenges of human trafficking are dealt in numerous international documents, legislation, international governmental and nongovernmental institutions, which also discuss the current problems related to defining this phenomenon.

The UN Convention against Transnational Crime, the Additional Protocol, provides a comprehensive definition of trafficking. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, suggests that trafficking in persons means the recruitment, transportation, transfer, harboring or receipt of persons threatened, or use of force or other forms of coercion, fraud, deception, abuse of authority or of a position, or the giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, with the aim of exploitation.

Exploitation shall include, as a minimum, the exploitation of prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or removal of organs.

Human trafficking under the Republic of Serbia legislation, is incriminated in a similar manner, as required under the Protocol. *The Criminal Code of the RS*, under Article 388, *The crime of human trafficking* commits the one who - by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or receiving money or other benefits - abuse, recruits, transports, transfers, delivers, sells, buys, mediates in the sale, hides or keeps another person, with the purpose of exploiting his labor, forced labor, execution of criminal acts, prostitution or other forms of sexual exploitation, begging, use in pornography purposes, establishing slavery or similar status, taking away an organ or body part, or for use in armed conflict.

A severe form is recognised if the act was committed against a minor, where the perpetrator is punished if no force, threat or any other noted means were used, as well. The second, more severe form of criminal act is recognised if committment of criminal act caused serious bodily injury to a person or a minor, while the most severe form of criminal act is recognised if the offense committed against a person or a minor resulted in death of one or more persons. A special form is recognied if one engages in criminal acts against persons or minors, or if the offense is committed by groups, or if the act was committed by an organized group. Special form of criminal act is also recognised if someone knew or had reason to know that the person is a victim of trafficking, and has used her position or enabled abuse to another person. Accepting exploitation or slavery or similar status under paragraph 1 shall not affect the acknowledgment of this act (The Criminal Code of the RS, 2005).

Under the Legislation of the Republic of Serbia, *the Law Amending the Code of Criminal Procedure* and in accordance with amendments to the *Law on Organization and Competence in combating organized crime*, the notion of an organized crime group means a group of three or more persons organized for a certain period and acting in concert with the aim of carrying out one or more crimes of which carries a sentence of four years or more, to acquire directly or indirectly, financial or other material benefit. Under other organized group means a group which is not formed for the immediate commission of criminal acts, nor has such a developed organizational structure, roles and continuity of membership, but is in service of organized crime. Definition of organized crime groups and other organized groups in this way is based on certain amenities terms in Article 2 of the *United Nations Convention against Transnational Organized Crime.*

Structure of criminal groups involved in trafficking

Contemporary trends in globalization, technological development, liberalization and acceleration of information, goods, services, people and money flow, influenced the changes in the criminal organization on global scale. Traditional forms of criminal organization (Mafia type) structures have been replaced long ago with those allowing operation of organized crime groups in the modern environment and global framework. Evolutionary processes in the structure of organized crime groups are the result of the need to adapt their activities to the modern environment, in global terms. Criminal structures are usually based on organizational models that allow professionalism and efficiency in action.

The main differences in the nowdays criminal organization in relation to its traditional forms are expressed through: dynamism, adaptability and flexibility of criminal structures; ability to act on global scale, at various criminal markets, the use of modern technologies and expertise in criminal activities, and the use of legal business structures for achieving criminal aims (Bošković, 2011: 69).

Organised crime groups are not uniform types of criminals at a frist glance. On the contrary, when considering the organizational structure, methods of connectivity, size, criminal activity, identity, cooperation with other organized groups, use of violence, group management, following characteristics are expressed: the complexity and diversity of types of their organization (Manojlović, 2006: 24). Organized criminal group is perhaps the best example, as with the change of the situation (historically, time and development) certain types are disappearing, but others appearing (Cressey,1972: 105).

In one study of the United Nations Centre for International Crime Prevention (CICP), five different types of organized criminal groups have been identified.[1] The

[1] *Assesing Transnational Organized Crime: Results of A Pilot Survey of 40 Selected Transnational Organized criminal groups in 16 Coutries* (2002), Vienna: Centre for International Crime Prevention, United Nations Office at Vienna.

criterion for this grouping was the structure of criminal groups, based on which have been identified:

- standard hierarchy - which includes a hierarchical group with strong internal disciplinary system;
- regional hierarchy - includes hierarchically structured groups, with strong internal controls and discpiline lines, but relatively autonomous regional components;
- group hierarchy - it is a series of criminal groups establishing a system of coordination which can vary from weak to strong, in all their different activities;
- core hierarchy - is tightly organized, but non-structured group, in some cases surrounded by a network of individuals involved in criminal activity;
- criminal network - means a loose and flexible group of individuals, often made up of individuals with special skills, which is gathered around a number of criminal projects.

Criminal distribution networks[2] are networks of criminal groups which recruit and transport the victims from one country to another. They are in fact "wholesalers" or "distributors" which sell victims "to retailers" (UNDP, 2001: 46). Although these three levels exist simultaneously, cases of person trafficking from South Eastern Europe in recent years suggest that it functions through a professional and well-organized criminal networks. Organized criminal groups engaged in trafficking in women from Southeast Europe, originated from different regions, so we can talk about Albanian, Balkan, Eastern and Western European criminal syndicates. The trade involves criminal groups from Turkey, Bulgaria, Ukraine and Russia also. When it comes to trafficking in women from Southeast Europe, the most dominant are Albanian organized crime groups, which control more than 60% of trafficking in the Balkans, using the same route as in drug smuggling.

They also control street prostitution in several cities in Western Europe.

Three basic elements determine the simple situation of trafficking in Southeast Europe:

1) Within the countries of origin there is a constant supply of victims of human trafficking, which are available to exploatation;

2) Within the countries of destination, the constant growth of the "sex" market, with constant demand for victims;

3) Organised crime groups are taking control "of supply and demand" of trafficking victims, so they could make high illegal profits (UNDP, 2001: 46).

Sometimes it is very difficult to identify and find evidence to indicate the relationship of human trafficking with organized crime groups, not only because they are transnational in nature, but because they often hide behind legal activities.

[2] For example, such is a well-known Ukrainian organized criminal group "Komisaruk", uncovered in America in 2001. It apparently worked through two legal travel agencies in Kiev: "Sweet Tours" and "Art Life International". These agencies had the task to lure young women and girls in Mexico, and then they were promised jobs of nannies and fashion models in America. In the time of Arrival in Mexico, the girls would be transported to America and sold to other criminal groups.

According to Schloenhardt, individuals and organized criminal groups involved in trafficking can also restrict their activities to one or more of the following roles: as investors, financiers and those who oversee the whole operation, persons who recruit, i.e. looking for potential victims and ensure their financial commitment. These people may be members of the community in which the victims are found, transporters, those who are helping people leaving their country of origin by sea, land or air, those who corrupt public officials, who may assist in obtaining travel documents or by receiving bribes allow illegal entry or exit; persons who provide information on issues such as border control, immigration procedures and transit; guides, those who are responsible for the transfer of persons from one point of transit to the other, support staff and specialists, who are mostly local people which provide accommodation or other assistance on some points of transit, "money launderers" which are „legalizing" criminal revenues, disguising their origin through a series of transactions, or investing money in legitimate jobs (Schloenhardt, 1999: 18-20).

Human trafficking is a particularly lucrative and profitable criminal activity, as one modern slave can be exploited in many ways, often combined. In that way the direct and indirect material benefit is realized.

Based on previous experiences it can be said that human trafficking in Southeastern Europe remains under the control of male offenders aged between 20 and 50, although one should bear in mind the growing importance of women in the stages of recruitment and exploitation, as well as more widespread use of older teens as lower operatives who carry out the function of homewatch and security. However, implementation of force and threats in the exploitation phase, and disciplining the victims are almost exclusively performed by men. It is interesting to note the contrast between the global situation, in which a significant number of females was investigated and identified as a high-ranking organizers of trafficking, while in Southeastern Europe identified senior traders are exclusively males.

Female traffickers play a key role in the phase of recruitment. In the study conducted in Southeastern Europe in 2001 and 2002, there were 826 interviews with victims of trafficking. On that occasion, 338 victims of total number reported that they were first approached and recruited by women, and the other 361 victims told that it was a male person.

This example illustrates that men[3] dominate the high levels of human trafficking in Southeastern Europe, while females have a significant role low ranging operatives (ICMPD, 2003: 47).

Despite the diversity of forms of trafficking and the specific roles of perpetrators, it could be said that people characterized by a rational approach to crime

[3] One of the biggest traffickers in the Balkans was Dilaver Bojku known as Leku. He was arrested by the Macedonian police on suspicion of having sold hundreds of women from Eastern Europe to Western Europe and the Middle East. Most of these women were first sexually exploited in his bars, nightclubs and restaurants in Western Macedonia, and later were sold in other regions. Women who were sexually exploited in his bars were sold from 1500 to 5000 Euros. Otherwise, Leku is known to the police earlier for other types of crimes. 17 criminal charges in 22 criminal acts related to prostitution were filed against him.

and the actions taken, (estimating risk, costs and benefits), who do not hesitate to intentionally destroy the life of another man for their own benefit prevail among human traffickers. They are characterized by deceit, cunning, false self-representation and manipulation of others skills (of their feelings and expectations), selfishness, persistence, and insensitivity to pain and suffering of others, focus on instant self-indulgence, flexibility in establishment the control, domination and exploitation, lack of emphatic understanding of the victim (with great anticipation of her behavior), aggressiveness, arrogance, cruelty, brutality, and willingness to use threats, blackmail, revenge, violence, bribery and corruption (Radulović, 2006: 310-313-323).

There are some indications that organized criminal groups attempted to infiltrate the programs of assistance and support of international and nongovernmental organizations to locate victims who are fleeing from them or who were willing to testify against them. This factor significantly increases the level of risk for victims and persons involved in the prevention of trafficking (Holmes, 2006: 70). One of the major challenges for law enforcement is the fact that organized crime groups often change their criminal focus (commodity-hopping). Viewed from the police perspective, law enforcement is faced with an organized criminal groups that change the objects of their business, change activities and does not recognize national boundaries. Many problems are related specifically to cross-border police cooperation within countries in the region, particularly in terms of the separate types of investigations. Flexible and changing nature of criminal groups complicate the operation of finding the criminals. Very often, the criminal associations that are involved in trafficking also participate in other criminal activities. According to UNODC, most of the criminal groups are involved in a primary activity, and other criminal activities are intended to enable the main activities.

Economic power and wealth, with the willingness of such criminals to resort to severe violence and to impose their will or holding of acquired positions of power coming from corrupting some state officials, along with the traditional problems such as the "law of silence", closed structure organization, association with some governmental officials, victims fear of reprisals, etc., are basic and, unfortunately, almost unsolvable problems for the actors of legal system who fight against this form of criminality (Škulić, 2004: 17).

Organised crime groups can work successfully only in those cases where there is some coordination between those who recruit, transport and perform exploitation. These three interconnected networks are separated only by their "product" (result), which are exploited individuals in the cases of trafficking (Albanese, 2004: 104). The existence of groups for recruitment, transport and exploitation is documented in court records and specific studies in different parts of the world. The study conducted in Albania, for example, indicates that it was primarily a transit country between Romania, Ukraine, Moldova, Serbia and Italy and Western Europe. Interviewing 371 girls (174 found in Italy, 115 in Albania) led to certain findings in relation to the used input and output smuggling route. The victims were recruited in the following ways: 35% voluntary, 35% of false promises, the promise of work 25% and 5% were sold or kidnapped. Of these, 95% of the victims crossed the border without proper documents,

and two third experienced sexual or physical abuse, with some victims of forced drugabuse (Lesko, Entela, 2003: 15).

According to United Nations[4], all members of organized criminal groups involved in human trafficking, can be classified as recruiters or carriers (transporters), victim supervisors (controllers), those transfering and/or holding persons in exploitation, those involved in crime related to those who benefit, either directly or indirectly from trafficking, some of its forms or related offenses.

Modus operandi of organized crime groups involved in human trafficking

The link between trafficking and organized crime does not give a complete picture of this phenomenon by itself, because it involves individuals who are not members of organized crime groups. It is known that the family, relatives and friends assist in trafficking in Thailand (Obokata, 2006: 54). Although it seems mostly a conscequence of economic reasons, it is considered that the sale of the offspring is determined part of their culture. Also, persons from criminogenic environment are not only ones dealing with trafficking. Some organizations such as private corporations (e.g. construction, textile, garment manufacturing), employment agencies, agencies of marital mediation and the like, have become part of the chain in the trafficking process, in one way or another (Ruggiero, 1997: 236-238). Recently it was discovered that members of national armed forces or peacekeeping forces were also involved in trafficking. This criminal activity which involves individuals or organizations can be as sophisticated as in the case linked with organized criminal groups. It can be concluded that organized crime groups are an integral part of the illegal market, but certainly not exclusively, i.e. there are other participants that are very important.

In practice we meet several models of organized crime groups:

Russian or “business model“ - trafficking is referred to as goods trading. This model is based exclusively on sex trafficking. Does not reflect the integrated business, but instead focuses on short-term profits. Work is based on the recruitment of women and their sales to agents who shipped them to markets where they will "serve" clients. They are often sold to partners nearby, i.e. to local crime group. This model does not maximize profits, but the money is spent for various purposes.

2) Chinese or “investment model“ - human trafficking involves investing in "goods" that would generate a profit. This model is most applicable for the smuggling of men, but it is common for the trafficking of women also, representing about 10% of the total trafficking. Chinese and Thai criminal groups, organize their "business" so it’s integrated from beginning to the end. These organized criminal groups control the

[4] Instruction 2, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, United Nations High Commisissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, New York, 2002.

trade in human beings at all stages - from recruitment to exploitation. This trade is like the other Chinese models of business, like that it is integrated across continents.

3) The Balkan[5] or "violent model" - characterized by severe forms of violence at all stages of human trafficking. This model is almost exclusively engaged in trafficking in women. Includes a large number of women who are sold to Balkan retailers by organized crime groups from the former Soviet Union and Eastern Europe. Balkan crime groups[6] link the integrated business and are agents of criminal groups from Eastern Europe. Profit from this trade is used to finance other illegal activities and for investments in real estate transactions.

4) Nigerian or "slave model" - Nigerian organized criminal groups dealing with human beings are multi-crime groups, where trafficking in women is only part of their criminal activities. Their members manipulate the voodoo tradition, and are capable of turning victims into submission through psychological and physical pressure. Using modern transport links in Nigeria, traffickers are effective because they "combine sophisticated forms of modern technology with tribal customs". Exploiting the vulnerability of uneducated women, this kind of trafficking is more like a traditional slavery that has been modernized due to the globalization process.

5) Mexican or "supermarket model" - means the distribution of large amounts of "goods" (a mixture of smuggling and trafficking). This model applies to migrant smuggling and trafficking. Trade is based on the profit maximization, large numbers of people transfering, with low prices for each person. Statistical data show that 1.8 million people were arrested in 2000, who tried to cross the border between Mexico and USA. The model is characterized by coupling of organized crime groups with police officers conducting border control operations. In this sense, there is a high rate of corruption of police officers. The money earned from trafficking in persons and smuggling of migrants is invested in legal activities in the country (ICMPD, 2003: 27).

Conclusion

Changes in the market economy, social-economic development of countries, and global crisis certainly had an impact on events of global crime. First of all it is reflected in the variable structure of organized crime groups, which exists at several

[5] There are plenty of recorded cases which manifest themselves by threat of force, rape and even murder. Balcanic groups are especially characteristic for the use of violence, which transferred their own methods to Western Europe, using it during the control of prostitution. Last few years, there is a growing trend, which consists in the forced dependency of women from hard drugs, with the formation of specific bonds between the victim and the trafficker. This method is especially popular among the traffickers involved in the smuggling of narcotics. For example in Finland, the prostitutes are very mobile and are regularly used for drug smuggling as couriers or dealers (Lehti, Aromaa, 2004: 11).

[6] On the basis of final court decisions against criminal groups of Mladen Dalmacija and "Novi Sad criminal group" it was evident that human trafficking as a form of organized crime exists in the Republic of Serbia. Based upon available information, this organized criminal groups used coercion i.e. force and a serious threat to the victims of human trafficking, in large degree, which confirms the existence of the Balkan model.

levels, ranging from spontaneous to very complex international organized network. Human trafficking is just one in a series of criminal activities performed by organized crime groups. However, not every criminal act of human trafficking represents an organized crime, rather it may be a criminal act of individuals, although this is a rare case. Several models and modes of action of organized criminal groups involved in trafficking have been identified in the literature.

These working models of organized criminal groups suggest a high degree of diversity, that is reflected in the organizational structure, the way of associationg with other criminal organizations, the use of violence, the mode of group managament, size and number.

The study of different types of structural variations and models of organizing criminal activity is one of the necessary conditions for defining an effective strategy in countering organized crime related to human trafficking. In fact, criminal organizations having a hierarchical structure could be probably easier to identify by the police and judicial authorities. Order breaks down when some key individuals or small groups are removed from its top. In contrast, when it comes to criminal networks, police and judicial authorities can identify the activities of key individuals.

However, after their arrest, or the beginning of prosecution,, the network is reforming by itself and gathers some new individuals, planning some new criminal activities in achieving objectives. On the other hand, we have the continuing evolution model of organized crime activity conditioned by illegal market needs, and law enforcement activities. Knowledge of these and other characteristics of certain types of criminal activity and patterns of organization provides a real choice of methods to counter their destructive actions.

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CRIMINAL INTELLIGENCE AGENCY: A NATIONAL SECURITY EXIGENCY OF THE REPUBLIC OF SERBIA OR A REQUIREMENT OF EURO-ATLANTIC INTEGRATIONS? *

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Abstract

The traditional division of police functions in real-socialist states into public (the police) and secret (intelligence and security agencies) police, with the former responsible for fighting general and corporate crime while the latter dealt with political offences, has been made redundant in the climate of Euro-Atlantic integrations: on the one hand, there has been a noticeable escalation in new types of crime (high-technology and environmental crime, in particular); on the other hand, it is evident that public security agencies have been on the decline in combating general and corporate offences. Therefore, in the context of Euro-Atlantic integrations, there have been tendencies to create criminal intelligence agencies which are able to respond adequately to contemporary manifestations of severe crime. These tendencies are three-fold: firstly, certain public security organizational units are bestowed with powers traditionally exclusive to intelligence and security agencies; secondly, intelligence and security agencies are assigned new duties and responsibilities related to fighting the most severe forms of general, corporate, and high-technology crime; finally, completely new public security agencies are created which are bestowed with powers of intelligence agencies. The Republic of Serbia has been following such tendencies, the critical analysis of which will be presented in the paper.

Keywords: *criminal intelligence agency, fighting, organized crime, war crimes, money laundering, corruption, high-technology crime*

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Introduction

Criminal intelligence service is the up-to-date response by which a state addresses the current or conceivable security issues characterized by a rise in crime, whether it is organized, high-technology, corporate, or showing similar aspects of criminal activities exceedingly perilous to the society, such as war crimes. Therefore, such security service is rightly considered also as an *agency fighting serious crime*, or even an *anti-crime security agency* (Mijalkovski, 2009: 154). This is a new state administration agency essentially stemming from the traditional public security service and applying certain methods of the intelligence service, i.e., an intelligence agency with new competencies previously covered by the traditional public security sector. With this respect, it is necessary here to define intelligence activity, intelligence service, and intelligence security system.

In its wider sense, *intelligence activity* is the broadest term to encompass the overall activities of intelligence institutions covering information gathering, subversion, or security issues. In its narrower sense, the purpose of intelligence activity is to collect specific confidential information important for the preservation or protection of the system in power, or for the realization of other strategic interests of the state or another corresponding entity. At the same time, intelligence activity is not exclusive to intelligence agencies but is undertaken by other subjects such as certain non-state security actors, diplomatic bodies, etc. (Milošević, 2001: 6–8). On the other hand, *subversive activity* encompasses actions aimed at destabilizing the adversary state and changing its structure, i.e. its socio-political and constitutional system, or its system in power (the government). Finally, *security activity* includes actions and measures with the aim to prevent and suppress: intelligence and subversive activities of foreign intelligence agencies; perilous actions undertaken by political extremists in the country and in emigration; domestic and international terrorism; threats to the highest state officials; and, the gravest economic, financial, and organized property crime (Mijalković, 2009a: 260–271).

Intelligence service is a specialized government organization which, by specific methods and means, collects intelligence information, implements security measures, and undertakes subversive and other activities with the purpose to safeguard national security both internally and externally, to facilitate the realization of the strategic interests of the state, as well as to protect the interests of the service itself. In a narrower sense, it is an information agency which collects intelligence information. In a wider sense, it also implies the *security service*, i.e., a specialized state agency whose task is to execute such security measures. More precisely, *security service is a specialized government agency dedicated to discovering, preventing and suppressing the activities which pose a threat to the existing political and social system either from domestic political adversaries who act from the positions contrary to the constitution, or from the gravest domestic or transnational crimes, or from intelligence and subversive activities of foreign states, that is, their special institutions, agencies, or collaborators*. (Mijalković, Milošević, 2011: 319).

These are *specialized internal intelligence services*. In practice, the term *security service* is traditionally used in a much broader sense, also encompassing certain specialist services of public safety. Analogous to the given types of activities, security services may include: 1) *counterintelligence, particularly counterespionage service*; 2) *service for the protection of the constitutional system*; 3) *anti-terrorist intelligence service*; 4) *service for protection of persons and property*; and 5) *criminal intelligence service*.

The security intelligence system of a country integrates, organizationally and functionally, all intelligence institutions that collect intelligence directly (a.k.a. the *intelligence community*) and carry out other activities in order to facilitate the informative, protective and coordinating functions within the national security system. This is a unique system of intelligence activities conducted by particular organizations, agencies and services at all levels, with the sole purpose of safeguarding the fundamental and generic social values (Milošević, 2001: 6).

Generally, *the criminal intelligence service* is a specialized entity of the national security system that combines traditional criminalistic and intelligence methods in order to systematically collect, process and analyze intelligence information relevant to the identification of criminal groups and individuals whose activities pose great social danger, to evaluate trends in serious crime, to design operational and investigative measures and activities for detecting, intercepting and providing evidence of criminal activity, and to implement them to the greatest extent (Mijalković, 2009b: 523–524). Such services are empowered to fight serious crime (organized crime, war crimes, crimes in economic and financial management, high-technology crime, corruption, etc.).

Finally, several of these services (as well as other security entities implementing certain criminal intelligence activities) which are linked into a national "intelligence network", constitute the *criminal intelligence system*. Within it, there is a developed data exchange protocol, which enables database access to all network members. At the same time, it facilitates the coordination of joint activities of more services in solving specific security issues.

This paper focused only on the criminal intelligence agencies in the Republic of Serbia, as specialized actors of the national security system that perform tasks, i.e., utilize measures, actions and means to safeguard vital national interests and values threatened particularly by severe forms of economic, financial, high-technology, or property crime as well as crimes against humanity, resources and values protected by international law.

A Functional Analysis of Criminal Intelligence Agencies

It is undisputed that gathering intelligence information is the starting base for crime prevention and suppression. In this regard, the nature and the content of intelligence information are determined by particular needs of the data users. Thus the *aim* of collecting intelligence indications and data in fact is to obtain intelligence

information on the etiological, phenomenological, victimological and consequential dimensions of serious crimes, based on which the measures for their prevention and repression will be designed, planned and implemented. Thus, the traditional intelligence work provides the basis for present crime repression, which is partly carried out by traditional methods of intelligence services (Multiple authors, 2004: 2-3).

The analysis of the situation and the evaluation of trends in severe crimes require complementation of several *methods* of collecting intelligence information, especially:

- the *method of direct observation* by security service members;
- *gathering information from informants* (citizens, acquaintances, friend and family ties, who by the place of residence, employment or circulation obtain information on serious crimes);
- *gathering information from identified victims* of serious crimes;
- the *criminal informant method*, which entails recruiting members of a criminal group or other persons from the criminal environment to provide long-term covert supply of confidential information important for preventing, detecting and evidencing crimes and their perpetrators. There are two categories of *criminal informants*: *confidantes* (*guarantors*), by rule law-abiding persons, who provide information from the criminal environment to the police in return for financial gain over an extended period of time; and *vigilantes*, who belong to the criminal milieu, commit crimes and at the same time inform the police about the activities of their criminal associates (Simonović, 2004: 24–27);
- the *method of undercover infiltration of security agents into the criminal environment*, which involves employing the *agent provocateur*, who, with the aim of arresting perpetrators, makes contact with them posing as a criminal with an apparent purpose of a joint criminal activity, or the *undercover police scout* who infiltrates a criminal group so as to detect and provide evidence of a criminal activity and the perpetrators' responsibility (Simonović, 2004: 24–27). However, the cited author refers to the agent provocateur and the undercover police scout as informants. Besides, *undercover policing* is divided into the *light cover* and the *deep cover*. In the former case, an operation lasts up to six months with the embedded police officer not remaining permanently in the criminal surroundings, while in the latter case the operation lasts longer and the presence of the police officer is permanent. The police officer embedded in the criminal environment acts as an *undercover police investigator* or an *undercover agent*, or even as an agent provocateur, whose activities are usually valid in terms of criminal procedural law (Milošević, 2001: 125);
- the *method of interrogation* of perpetrators who are directly or indirectly involved in the organization and execution of serious crimes, as well as persons from the criminal environment who have knowledge thereof;

- the *technical observation method* of using electronic devices and equipment for static and mobile audio, visual, or audio-visual surveillance and recording;
- the *method of* (police, intelligence, judicial) *cooperation with foreign security agencies*; and,
- the *method of media content analysis* (which can provide reliable guidance, especially if the content is the result of investigative journalism) and others (Mijalković & Bošković, 2009: 201–213).

Since the year 2000, Serbia has passed several Codes of Criminal Procedures which have been changed and amended on a number of occasions. Each of them made provisions for the use of special investigative methods, which can be conditionally understood in narrower or broader terms. The *narrow sense* includes the following investigative, criminalistic, tactical and technical measures and actions: 1) monitoring and recording of telephone and other conversations or communications conducted over remotely operated technical devices; 2) monitoring and recording of direct verbal communication by installing covert listening devices in premises or on persons; 3) optical surveillance of persons and premises; 4) electronic positioning of persons and buildings; 5) controlled (monitored) delivery of items subject to a criminal offence; 6) engaging informants, usually persons from a criminal environment; 7) engaging undercover police investigators or undercover agents; 8) conducting simulated (pseudo) operations or services; and 9) data mining (automated computer-assisted searching, collating and analyzing of data). In addition, the *broader context* also includes certain specific methods of evidence or criminal procedural law, namely: 1) access to and control of business and personal accounts and financial transactions of a particular person; 2) the institutions of the collaborating witness (state witness) and the protected witness.

With regard to the basis of special investigative methods in international jurisprudence, there should be mentioned two of the United Nations conventions. First, the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* of 1988 was the first international document which made provision for a special investigative method. Specifically, Article 11 defines the technique of controlled delivery (at the international level), and the mechanisms of its execution. Second, the *United Nations Convention against Transnational Organized Crime* of 2000 also emphasized the necessity to use special investigative techniques in combating organized crime. Namely, Article 20 (*Special investigative techniques*) states that each state party shall take the necessary measures to allow for the appropriate use of controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities. Indeed, in present circumstances, no country in the world can be said to have legislation without provision for some special investigative methods (Marinković & Mijalković, 2010: 392–393).

The use of special investigative methods facilitates obtaining not only valuable intelligence information, but also evidence of criminal offences. Therefore, criminal intelligence activity is nowadays a strictly legally formalized procedure with

importance in collecting evidence. Intelligence acquired using the above methods can have *strategic* importance (on the general characteristics of phenomena at the national level, including transnational crime) as well as *operational* significance (specific information on concrete instances of serious crimes).

For intelligence information to be converted into meaningful and accurate intelligence, they pass through the *intelligence cycle* in which they are classified, evaluated, analyzed, interpreted, integrated, and ultimately delivered to end users in the form of final intelligence documents (information, reports, statistical reviews of trends, bulletins, etc.). Besides, intelligence information is stored in certain operational criminalistic records, general or specialized databases.

A higher level of criminal intelligence analytics contains *analytical and statistical research*, i.e. *further processing of intelligence information through certain processes of empirical scientific research.* It is conducted by specialized units for analytical and scientific research, which implies the employment of teams comprising individuals with specific professional profiles, level of education, work experience, and intellectual abilities. In addition, their work applies diverse scientific methods, mainly from the research methodology of social sciences and technological achievements of automatic data processing–information technology.[1]

The results of such analytical and statistical research are usually presented in the form of *analytical studies* with a number of spreadsheets, graphics, diagrams, maps, etc. They are characterized by high levels of scientific and technical knowledge, which distinguishes them from the primary finalized intelligence documents. However, their weakness lies in the fact that they are founded on the detected occurrences of security threats while the so-called *dark figure* of crime is neglected.

Analytical studies are a basis for creating the policy of combating certain types of serious crimes. In this sense, the intermediary role between the results of analytical studies and creating security and crime policies is certainly in security evaluation and criminalistic forecasting.

Security evaluation is an analytic-synthetic procedure of anticipating the future condition and trends in serious crime and its forestalling and suppression, on the one hand; on the other, estimates are also made of the effectiveness of criminal intelligence agencies in preventing and combating criminal activities. At the *strategic level* (macro organizational level), senior management of the security system is provided with the parameters for making decisions on solving security issues which may have been caused by severe crimes. The intermediate level (meso organizational level) is involved in transferring the decisions from the strategic to the operational (executive) levels, and reversely, in a pragmatic-teleological (useful targeted) sense, it conveys reports, suggestions, initiatives and other documents to the strategic level, thus facilitating the stability of the system in its both vertical and horizontal planes. At the same time, such activity helps the management at the *operational level* (micro

[1] See details in Bošković, G. & Mijalković, S.: The use of criminal intelligence analytics in combating organized crime (in Serbian), *Primjena savremenih metoda i sredstava u suzbijanju kriminaliteta*, The International Association of Criminalists, Brčko, 2008, pp.102–114.

organizational level) to apply necessary specific measures to prevent and fight serious crimes.

A Phenomenological Analysis of Criminal Intelligence Services in the Republic of Serbia

At the turn of the third millennium, there were several criminal intelligence agencies formed in the Republic of Serbia, following the above models of modern criminal intelligence organization and action. These are the Service for Combating Organized Crime, the Service for Suppression of High Technology Crime, the War Crimes Investigation Service, the Administration for the Prevention of Money Laundering, and the Anti-Corruption Agency.

The *Service for Combating Organized Crime* (SBPOK) is a public security agency working within the Criminal Police Directorate of the Ministry of Internal Affairs of the Republic of Serbia. In addition, the *Criminal Force Directorate* monitors and assesses the status and level of criminal activities in the entire territory of the Republic of Serbia, coordinates the work of regional police departments (PPU) in fighting crime, provides necessary technical assistance, and, if necessary, participates directly in solving the most serious and complex crime offences (Subošić, 2010: 75). This service was established under the Law on Organization and Jurisdiction of Government Authorities in Suppressing Organized Crime, Corruption, and Other Severe Criminal Offences (*Official Gazette of the RS*, No. 72/2009), supplemented by the Law on Amendments to the Law on Organization and Jurisdiction of Government Authorities in Suppressing Organized Crime (*Official Gazette of the RS*, Nos. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004, 45/2005, and 61/2005). The Service is authorized to apply the measures traditionally inherent to intelligence services. The founding legislation is supplemented and elaborated by the Criminal Procedure Code (*Official Gazette of the FRY*, No. 70/2001, with subsequent amendments and additions), the Law on Public Prosecution (*Official Gazette of the RS*, No. 116/2008), the Law on Organization of Courts (*Official Gazette of the RS*, No. 116/2008), the Law on Police (*Official Gazette of the RS*, No. 101/2005), the Law on Security Information Agency (*Official Gazette of the RS*, No. 42/2002), the Law on Foundations for the Regulation of Security Services of the Republic of Serbia (*Official Gazette of the RS*, No. 116/2007), the Law on Military Security Agency and Military Intelligence Agency (*Official Gazette of the RS*, No. 88/2009), the Customs Law (*Official Gazette of the RS*, No. 73/2003, with subsequent amendments and additions), the Criminal Code of the Republic of Serbia (*Official Gazette of the RS*, No. 85/2005), the Law on Juvenile Offenders and Criminal and Legal Protection of Minors (*Official Gazette of the RS*, No. 85/2005), the Law on Protection Program for Participants in Criminal Proceedings (*Official Gazette of the RS*, No. 85/2005), the Law on Organization and Competencies of State Authorities in Combating High Technology Crime (*Official Gazette of the RS*, No. 61/2005), the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of the RS*, No. 97/2008), the Law on the Execution of the Prison Sentence for Criminal Offences of Organized Crime (*Official Gazette of the RS*, No. 72/2009), and other

legislations. The Service is responsible for the suppression of *organized crime offenses* (crimes committed by an organized criminal group or its members).

In order to obtain relevant evidence, the Service directly cooperates and acts upon the instructions of the Organized Crime Prosecution Office. Namely, at the request of the Service or the Prosecutor for Organized Crime, all government bodies and organizations are required to: enable use of any technical means at their disposal without delay; ensure timely response of their members or employees, including superiors of the bodies or organizations, to give information and undergo questioning as suspect or witness; and, deliver to the Service any written document or other evidence in their possession without delay, or otherwise provide information which can assist in investigating organized crime offences. The Service cooperates with other organizational units of the Ministry of the Interior, the Security Information Agency, the Military Security Agency and other services in the country responsible for detecting, monitoring, documenting, preventing, suppressing or intercepting activities of organized crime or other severe crime offences.

The Criminal Procedure Code stipulates measures for detecting and providing evidence for organized crime offences, corruption, and other exceptionally severe criminal offences, which can be undertaken by the Service for Combating Organized Crime, such as: surveillance and recording of telephone or other conversations and communications; providing simulated business services and conducting simulated legal transactions; controlled delivery; automated computer search of personal and other data; using the undercover investigator or the state witness. The last two measures can be applied exclusively in combating organized crime.

Besides the *operational units* that use classic intelligence and criminalistic repression methods, within the Service there are structures specialized in: *intelligence analytics*; *covert surveillance* (direct, optical, video, communication, static or mobile); *international cooperation*; *combating particular forms of organized crime* (e.g. human trafficking and migrant smuggling, organized auto theft, corporate crime, illicit drug trafficking, etc.) and the like. The Service works closely with: the *Financial Investigation Unit of the Ministry of the Interior or the Republic of Serbia*; the *Protection Unit of the Ministry of the Interior of the Republic of Serbia* responsible for the Protection Program for Participants in Criminal Proceedings (the Protection Unit provides the protected person with the necessary financial, psychological, social, or legal assistance; in addition, all state agencies (such as the ministry responsible for justice), organizations and services are obligated to assist the Protection Unit and at its request carry out activities from their scope of operation required to implement the Protection Program (Subošić, 2010: 77)); the *Special Prosecution and Court for Organized Crime*; the *Directorate for Management of Seized and Confiscated Assets* as the proceeds from crime; the *Special Detention Unit* and the *Special Department for the serving of the prison sentence for organized crime* (with *Special Prison Hospitals*), etc.

Similar tasks and powers are implemented and enforced by the two intelligence agencies when engaged in activities of suppressing organized crime (the *Security Information Agency–BIA* and *Military Security Agency–VBA*). As extending

the jurisdiction of traditional intelligence services in view of combating crime is not new to political practice, it is possible for a particular intelligence service to specialize exclusively in combating organized crime or any of its forms (e.g. the U.S. *Drug Enforcement Administration–DEA*, the British *National Drugs Intelligence Unit–NDIU*, etc.).

The *Service for Suppressing High Technology Crime–SBPVTK* is a specialized service of the Ministry of Internal Affairs of the Republic of Serbia. Established under the *Law on Organization and Competencies of State Authorities in Combating High Technology Crime* (Official Gazette of the RS, No. 61/2005, with subsequent amendments and additions), the Service cooperates closely with the Special Prosecutor for High Technology Crime. Within its purview, the Service combats criminal offences whose object or instrument are computers, computer networks, computer data, and products thereof, in material or electronic form (computer programs or copyrighted material).

The *War Crimes Investigation Service* was established within the Ministry of Internal Affairs under the *Law on Organization and Jurisdiction of Government Authorities in Prosecuting Perpetrators of War Crimes* (*Official Gazette of the RS*, No. 67/2003, with subsequent amendments and additions). It is responsible for detecting, solving, and evidencing of criminal offences *against humanity and other assets protected by international law*, grave breaches of international humanitarian law, as well as all incriminating assistance to the perpetrator after a crime from the above list of criminal offences has been committed. This Service is empowered with the same authority as the Service for Combating Organized Crime. Its members detect the above mentioned criminal offences and act on requests of the Prosecutor for War Crimes. If necessary, they testify before war crime courts.

Besides the special service, prosecution and court, the Serbian national system for investigation of war crimes also includes a *Special Detention Unit* for the suspected perpetrators of war crimes and a *Special Prison Unit* in which the convicted war criminals serve their prison sentences. The War Crimes Investigation Service is obligated to cooperate with the *International Criminal Court (Tribunal) for the former Yugoslavia–ICTY*, as is regulated by the *Law on Cooperation with the International Criminal Court* (*Official Gazette of the RS*, No. 72/2009).

The *Administration for the Prevention of Money Laundering* is a specialized financial intelligence service in charge of combating financial crime and money laundering. It is a departmental intelligence service operating within the ministry responsible for finances, independent from the national security and intelligence system. It was formed under the special *Law on Prevention of Money Laundering*, by the consistent and effective implementation of which it is responsible for safeguarding the integrity of the financial system of Serbia (*Official Gazette of the RS*, No. 107/2005, and the official website of the Administration: www.mfin.gov.rs/pages/issue.php?id=6444 and www.apml.org.rs).

Among other tasks, the members of the Administration are empowered to: collect, process, analyze and keep record of intelligence data and information on legal and illegal financial transactions of physical and legal entities which they have received from

taxpayers and government authorities; autonomously conduct or participate in detecting, revealing, documenting and providing evidence of illegal activities in financial operations and financial transactions, particularly those related to organized crime and terrorism financing; cooperate with other government bodies, foreign agencies, international organizations, etc. This Service is a member of the *MONEYVAL*, established by a Committee of the Council of Europe to provide expertise on countering money laundering, as well as of the *Egmont Group*, an international gathering of financial intelligence units.

Finally, the *Anti-Corruption Agency* (*AZBPK*) is the youngest among the security services in the Republic of Serbia. It was created under the *Law on the Anti-Corruption Agency* (*Official Gazette of the RS*, No. 97/2008). It is an autonomous and independent state body which operates within the ministry responsible for finances and is accountable to the National Assembly.

The Agency is authorized to: supervise the implementation of national legislative and strategic documents related to countering corruption; deal with issues concerning conflict of interest; institute proceedings and pronounce measures in case of violations of the legislation (e.g. the measures of caution to an official or public announcement of the recommendation for his or her discharge); collect, analyze and keep a register of property and income of public officials; act on complaints of legal and physical entities; conduct research, monitor and analyze statistical and other data on the state of corruption, etc. Apart from these *informative authorizations* (to gather and process information), the Agency has no executive (police) powers. Therefore, it must rely on police authorities and other security services in its work.

Conclusion

Taking into account the current security requirements as well as the achievements of international best practices in the development of national security systems, at the turn of the third millennium, the Republic of Serbia has security actors specialized in suppressing particular severe crimes. These are certain criminal intelligence services, organized as public security bodies, which operate using methods of traditional intelligence services.

Serbia has established five agencies having criminal intelligence characteristics. These are the Service for Combating Organized Crime, the War Crimes Investigation Service, the Service for Suppression of High Technology Crime, the Administration for the Prevention of Money Laundering (Financial Intelligence Unit), and the Anti-Corruption Agency. The first two of these use both traditional and modern methods appertained to intelligence and security services. The third applies traditional police powers, while the last two services mainly collect intelligence and information. Apart from these, if a need arises, other criminal intelligence agencies will probably be created (e.g. an anti-terrorist intelligence service).

Although these are "young services", they have already yielded significant results. Room for improvement in their work within the Serbian national security system can certainly be found in conceptualization of the criminal intelligence system.

This could be done by connecting all services in an "intelligence network", along with forming a new managerial and coordinating body, within which joint records and databases would be created. A new aspect of cooperation would facilitate faster exchange of intelligence and provision of necessary mutual assistance without sophisticated administrative formalities.

A model for such a type of organization could be the security intelligence system of the Republic of Serbia, that is, the National Security Council as the governing body, and the Security Services Coordination Bureau as the coordinating body. This idea would certainly need to be supported by a special law on the national criminal intelligence system.

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FINANCIAL INVESTIGATIONS AS A SECURITY STRATEGY IN COMBATING MISUSE OF DIGITAL MONEY (CREDIT CARDS)

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Summary

Promoting the importance of financial investigations, as a part of activity in order to confiscate property earned by criminal activity, will help in perfecting mechanisms and means aimed on confiscating unlawfully obtained property in the process of criminal procedure. Pointing out that the property obtained by a criminal activity has been the efficient way in combating complex criminal activities and organized crime as far as forgery and misuse of credit cards are in question where the prime motive is obtaining property.

Finance and banking important changes, as well as transitional society changes have been demanding the changes in criminal procedure response. New forms of high-tech criminality are seeking for an adequate answer in order to suppress socially dangerous behavior. The financial investigations are one of the most important parts of the strategy designed to combat forgery and misuse of credit cards. Therefore, it is very relevant to define both risks and determine the prevailing risks in totally integrated electronic purchase.

The practical aspect of financial investigation, in this area, relies greatly on national legislation.

***Keywords**: financial investigations, credit cards, confiscating the property*.

Introduction

If the quality answer is required for the important questions, then good starting foundations must be placed while the presumed notions should be precisely defined.

The purpose of punishment is enforcing moral forms and social reproach for committed crime and, in that way, to influence potential perpetrators not to commit crime. Traditionally accepted way of punishment has not been always efficient as numerous cases have confirmed. The experiences have pointed out that present

capacities haven't been fully used as well as positive legal solutions where the absence of financial investigations are crucial as a part of criminal procedure and such a situation has been present till the Act of confiscation property has been applied.

The international and global aspect of organized high-tech crime has been a threat for national financial systems in the whole world. Taking previously mentioned into consideration, the international community has aimed its attention towards efficient financial investigation as well as the problem of confiscating income obtained by committing crime. Motivated by these facts, majority of states have implemented mechanisms and measures able to conduct financial investigations in their legislative systems.

Information technology, although still at the very beginning of new information epoch, has already brought drastic changes in all aspects of financial and bank existence. The changes are not only positive and desirable but there are some the society would like to cut down if it is possible. First of all, these which are convenient for asocial and criminal behavior and relating on misuse of informational systems concerning misuse of credit cards. The abstract forms of social goods are strong enough challenge for various groups or individuals, who are inclined towards crime, to redirect their activities, taking into consideration that they won't be easily reached by using classic methods any more.

The participants of high-tech crime, especially those for forgery and misuse credit cards, have represented social segment of people who have been following the development of new technology in the most persistent way, i.e. adapting their activity in accordance with new technological achievements.[1]

The financial investigation has been the starting point for gathering evidence about property and profit when there is reasonable doubt that their origin is a criminal activity, i.e. forgery and misuse of credit cards. To conduct such a financial investigation, a multidisciplinary approach of law, financial and technology knowledge is necessary.

International Legislative Form for Conducting Financial Investigation and Confiscating Property Based on Criminal Activity

A high-tech crime is undoubtedly the most complex form of property motivated crime act, i.e. phenomenon of conducting unlawful activities which represent a specific conglomerate of certain incriminations, the misuse of credit cards is among the most significant; therefore, it is almost impossible to establish the total crime benefit which is obtained by certain activities. In order to combat such a form of crime, it is absolutely necessary to encourage finding out adequate measures which are designed to suppress crime activities. Taking into consideration that the motive is of human nature, the basic legislative form for conducting punishment for suppressing

[1] Aleksandar Čudan "Platne kartice u savremenom elektronskom okruženju", Beograd 2010, Konferencija o bezbednosti informacija BISEC, Zbornik radova, str.58.

property motivated crime should be able to eliminate and confiscate any profit obtained by criminal activity.[2]

Various criminal law strategies and acts can be an obstacle in efficient and successful combat against international organized crime. Applying international standards in home legislation depends on law model, legislative form, tradition and many other specifics for the certain state; therefore, home legislation in Europe is very different from country to country. Each legal system should predict a possibility of automatic confiscation in the case where an income is obtained by committing criminal activities like forgery and misuse of credit cards in large or when organized crime is in question. While confiscating property during criminal procedure is mostly of consequence nature when continental law is in question (it is a law sanction only in few countries like France), this measure is mostly preventive in common law systems.

Analyzing all international conventions which have been passed up till now, two tendencies have been pointed out: the first is to make punishment harder, while the other is directed towards specific sanction i.e. confiscation of property obtained by criminal activity.[3] EU has very precise standards when such a problem is in question and that is why The Strategy for Prevention and Control of Organized Crime has been established at the beginning of the new century. The financial investigations have been one of the most important strategy parts in order to combat property motivated crime, especially organized crime, because during the process of investigation it is possible to identify "traces" of unlawfully obtained money, to follow and locate it (Albert, 1998: 169).

The financial investigation has been conducting at the same time with the criminal procedure and while the goal of criminal procedure is to discover a criminal act, the perpetrator and gather relevant evidence, the goal of financial research is to confiscate unlawfully obtained income. The necessary elements for successful financial investigation are:

- Financial investigation has to be a standard procedure;
- Investigators need specialized training;
- Intensive cooperation is a must among the investigators.

The most significant convention dealing with financial investigations is The Convention of laundry, search, and confiscation of income obtained by criminal activity. It is said that the parties in questions will provide, on request, help in establishing and finding out means, income and property which can be confiscated. International legal help will be provided according to bilateral contracts concerning legal help.[4]

[2] Marinković Darko "Suzbijanje organizovanog kriminala", Novi Sad, Prometej 2010, str.213, ISBN 978-86-515-0471-9.

[3] For the first time confiscation was determined in Vienna in 1988; By Palermo Convention from 2000, the concept of confiscation income obtained by crime was determined.

[4] Robert Golobinek "Finansijske istrage i oduzimanje imovine stečene krivičnim delima", Savet Evrope, Strazbur 2007., str.95, ISBN 978-86-84437-31-2.

Legal Founding for Applying Financial Investigations in Legislation of Republic of Serbia

The actual legal frame which is created by criminal law standards and establishing new mechanisms like confiscating unlawfully obtained income, and financial investigation as a part of previously mentioned, are always in the focus. From the international point of view, the level of accomplishing determined democratic principles within a legal system has been greatly evaluated by solutions of criminal law procedure. In spite of certain failures, there is a legal base in all countries for confiscating property obtained by criminal activities as forgery and misuse of credit cards but the greatest challenge is to realize it.

The National Assembly of Republic of Serbia passed the Law of Confiscation Property obtained by criminal act on 23 October 2008; in that way, completely new act has been established as a radical new measure in criminal law in comparison with previous solutions concerning the confiscation of unlawfully obtained property from the perpetrator.[5] One of the main reasons for passing the act is that partnership between EU and Serbia, adopting by EU in order to become the member of EU, has predicted the improvement of legislative system and enforcing the capacity for confiscation the property obtained by criminal activities including criminal income obtained by misuse of electronic payment.

According the Act, paragraphs in Article 2 are applied only for the following criminal activities:

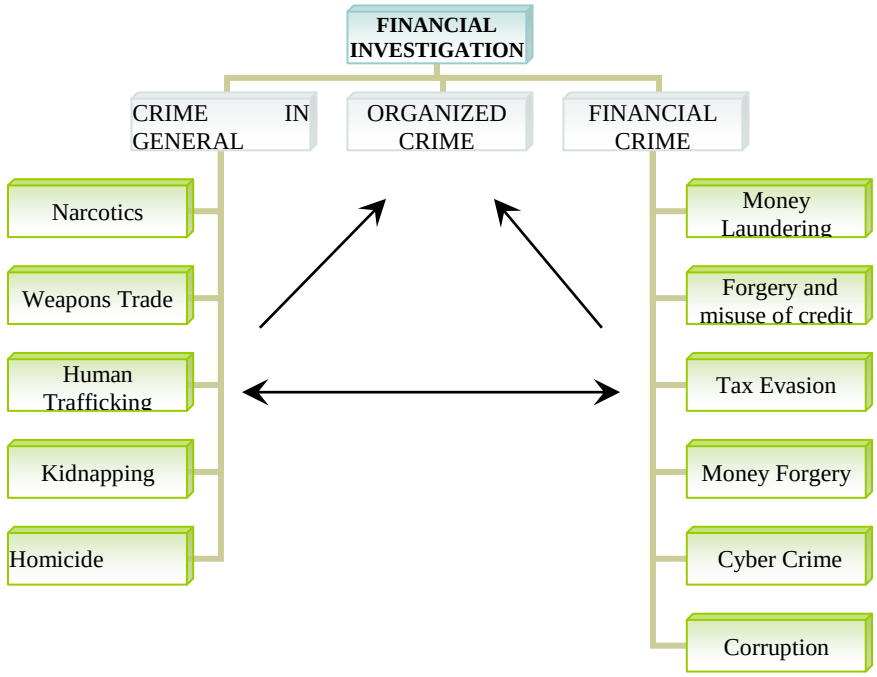
1. Organized crime;
2. Showing pornographic materials and abusing children for it (Art. 185, para.2 and 3, Penal Code Republic of Serbia);
3. Against economy:
    - Money forgery, Article 223, para.3 PC RS;
    - Value papers forgery, Article 224, para.2 PC RS;
    - **Credit cards misuse and forgery, Article 225, para.3 PC RS**;
    - Protecting signs forgery, Article 226, para.2 PC RS;
    - Tax evasion, Article 229, para.2 PC RS;
    - Smuggling, Article 230, para.2 PC RS;
    - Money laundering, Art. 321, para.2 PC RS.
4. Illegal production, keeping and distribution of narcotics (Art. 246, para.1 and 2 PC RS);
5. Against public law and order (Art. 348 para.3 and Art. 350, para.2 and 3 PC RS);

[5] The act was published in Official Gazette of RS, no.97/2008, came into effect on 04.11.2008, applied from 01.03.2009.

6. Against official duty (Art. 359, para.3, Art. 363, para.3, Art.364, pl.3, Art.366, para.5, Art. 367, pl.1 till 3,5 and 6 and Art.368, pl.1 till 3 and 5 PC RS);
7. Against humanity and other goods protected by international law (Art. 372, para.1, Art. 377, Art. 378, para.3, Art. 379, para.3, Art. 388 till 390 and Art. 393 PC RS).

A special procedure of confiscation the property obtained by criminal act has begun with the financial investigation. That's why, financial investigations are one of the most important parts of strategy in order to suppress property motivated criminal act. Also, the significance of financial investigation is that during the checking up process of property obtained in a sudden and suspicious way, it is possible many other criminal activities as misuse of electronic payment to be found out. Those who are inspired by money destruction are constantly on alert and their final goals are always certain social values especially money, i.e. its digit form.[6] Sums of such obtained criminal profits are enormous.

ILLUSTRATION 1 - Chart representing the structure of criminal acts as targets of financial investigations



[6] American expert Martin James claimed in 1983 that the robbery of the century was not the robbery of the postal train on the route Glasgow-London when the score was 3 million pounds, but it would be robbery conducted by computer.

Specialized police unit is provided and is in charge of financial investigation by the public prosecutor' order. The special organizational unit of Ministry of Interior is in question; its task is to detect the property obtained by criminal activity and the main task and goal of financial investigation are to find out and confirm that the property is obtained by criminal act.

In the third paragraph of the Act, a procedure is provided, i.e. the way of conducting the financial investigation. During the process, the evidence of property, legitimate incomes and life costs of the defended, witness collaborator or the defunct, the evidence of property legally inherited, i.e. the evidence of property and compensation transferred to the third party, have been gathering. The duties of all officials and other investigators are to act in a short period of time while all data connected with the financial investigation are confidential and are classified. Besides officials on duty, these data cannot be revealed by other persons who are familiar with them, while the official on duty has to inform the other party that these data are classified. The financial investigation has been initiated and supervised by the order of public prosecutor. The financial investigation unit has been gathering the evidence of property by order of public prosecutor or by official duty.

Besides the paragraphs of the Act of Confiscation the Property obtained by criminal activities and to initiate the financial investigation, the paragraphs of the Article 234 of the Act of Criminal Procedure have been of utmost importance.[7]

The National Debit Card Market and the Strategy for Preventing their Misuse

The financial services sector, in Western and Eastern Europe likewise, is going through significant changes, not just because of the consolidation of the banks and the globalization, but because of technology as well, and different pressures of the regulatory bodies often initiate these changes. The data also shows that consumption growth has been noted worldwide, and that Europe has the largest part in the overall commercial consumption. The consumption index was developed so that the penetration of paying instruments could be measured and as a way of helping financial institutions to develop solutions adequate to the growing needs for paying in the fields of economy and state administration. Modern technologies have brought significant changes into the payment operations processes, which is why today trade and banking are mostly done by the use of computers and telecommunication networks. In the structure of the means of payment, plastic, electronic, mobile and virtual money are becoming the dominant kinds. The changes in the ways of doing business have caused the appearance of new forms of criminal activities, and the modification of the old ones. The Republic of Serbia is consistent in tracking these trends of criminal activity.

The analysis of the risk of cashless payments by debit cards should be observed as a way of ensuring an objectively based approach to the evaluation and

[7] Službeni list SRJ br.70/2001 i 68/2002 i Službeni glasnik RS, br.58/2004, 85/2005, 115/2005, 85/2005.

management of the possible risks. As a tool for the risk assessment and decision making, the analysis of risks not only enables the identification of the potential losses which are unacceptable for the given system, but it can also be used for choosing efficient and worthwhile precaution measures, which can then be used for lessening or neutralizing the identified risk, for conducting financial investigations as a way of promoting a completely new strategy for confronting these negative phenomena. The strategy mentioned certainly has a calming effect. Considering the fact that there are a large number of methods for risk analysis, one of the key steps is the choice of an adequate technique and a level of analytical delicacy, which are acceptable for the given situation. Most of the methods of risk analysis initially ask for identification, assessment of the object of protection and potential losses.[8]

We are witnessing everyday destruction of any nature, lately caused by innovative technological solutions which have become a global economical problem. The presence of this problem is evident, in the highly developed countries of the United States of America and the European Union, and in the economies of the Eastern European countries, but also in the countries now going through the transition and struggling to convert to the market economy system. A specific problem occurs with the invasion and the spread of modern technologies which are so fast and omnipresent that they never give enough time to the banking systems to adapt, or the regulations which are used by the agencies for high technology crime to be adjusted.

One of the first in our country, the Postal Savings Bank set up the *home-banking* system in 1996, by introducing the *Telebank* system for phone banking services with an interactive voice and fax response. This system served about 36.000 clients. As the first Yugoslovenian *Internet Payment Provider (IPP)* and a service provider at the same time, it enabled electronic online authorization of debit cards and it was operative for payments done by:

- VISA electron card issued by the Belgrade Bank
- BKB Card issued by the Karić Bank.

The first bank to participate in the E-banking system of authorization and the Internet transactions was the Karić Bank. Since the beginning of September 1999, all the owners of a BKB card were able to shop and pay for services online by using their electronic PIN (password, secret code, code number...) which they were given by the Bank. Since the beginning of November 1999, this privilege was also available to the holders of Visa Electron card issued by the Belgrade Bank. Visa international gave a license to the Belgrade Bank and till the end of that year first 1800 electronic cards were issued. The debit card market of the Republic of Serbia suffered in the beginning of the 1990s from a great decrease of the number of debit cards issued and the acceptance network reduction because of all the known reasons such as the breakdown of the former Yugoslavia, the shutdown of transactions with foreign countries, the hyperinflation, imposition of economic sanctions, etc. When the card market developed again, in Serbia, it was characterized by a rapid and significant growth in

[8] Brancik, K. C. (2008), *Insider Computer Fraud.* New York: Tayor & Francis Group, an informal business.

the number of the cards issued. In the first months of the year of 2003, there were less than 400.000 debit cards issued in Serbia, according to the National Payment Cards Centre of the National Bank of Serbia, and according to the Ministry of Finance of the Republic of Serbia, there are 6.150.000 cards in use today.

CHART 1. Number of issued credit cards in Serbia

Year	Number of issued credit cards in Serbia
2001	2
2002	400.000
2003	500.000
2004	2.100.000
2005	3.800.000
2006	5.240.000
2007	5.725.465
2008	5.728.789
2009	6.014.390
2010	6.150.000

Source: National bank of Serbia, Department for monetary system and policy based on banks' reports.

Statistically speaking, the scope and the occurrences of the payment cards misuse are too complicated when compared with the time when the application of different means of payment began in our country. In 2004, the overall material damage done by misuse of payment cards in Serbia was estimated to 198.659$, 84% of which were cases of misuse done in stores, and 16% were other kinds of misuse. A special characteristic in Serbia refers to the fact that payment cards are in 34% of the cases misused while paying in grocery stores. Today these indicators are inconsiderable.

CHART 2.Number of ATM machines and POS terminals on the territory of Republic of Serbia

Year	Number of ATM machines	Scope of transactions in billions	Number of POS terminals	Scope of transactions in milliards
1	2	3	4	5
2004	450		16.266	
2005	837		31.816	
2006	1348	109,0	48.194	65,0
2007	2074	165,5	55.340	91,3
2008	2494	224,5	57.919	117
2009	2723	263,8	59.058	124,8
2010	2857	312,6	57.459	141,6

Source: Ministry of Finance of the Republic of Serbia

The national and international financial institutions, the justice systems, the police, in one word, all the authorities which are in direct contact, or are a target of this highly sophisticated crime form, aided by the powerful information technology and the expansion of telecommunications, are mostly concerned with the computer crime, financial frauds and the misuse of payment cards, which are in large percent linked to organized crime.

CHART 3.Criminal acts concerning economy crime and misuse of credit cards in total number of criminal acts on the territory of Republic of Serbia

Year	Total number of criminal acts	Total number of criminal acts concerning economy crime	Total number of criminal acts concerning misuse of credit cards
2006	99060	10470	180
2007	104118	10587	520
2008	106015	10477	920
2009	102369	10560	409
2010	101090	10445	703

Source: Ministry of Interior Republic of Serbia

In the current conditions, these forms of criminal activities are becoming more and more methodical. The criminal groups which have committed high-tech crime have become a sort of information-technological support for the organized crime groups. In accordance with the international standards and guidelines, by bearing in mind experiences of other countries and our own specifics, the Legal system of the Republic of Serbia needs to revise and innovates its Criminal law by the norms adjusted to the new forms of socially harmful behaviour caused by information technology in the field of card fraud. By adopting the Law of expropriation of the assets gained by felony and defining the term of financial investigation, as well as the mechanisms for its conduction, the legislator in the Republic of Serbia will accomplish its proclaimed goal.

The Ministry of Internal Affairs is facing a very complex problem which is evolving with the appearance of the new technologies and the criminals guilty of payment cards misuse are given a practically endless choice of variants of conducting the deviant actions. In analyzing the job done so far and the results achieved, it is necessary to look back to the work problems, the problem of unsolved cases and the problem of unreported cases which are not statistically measurable or registered.

Conclusion

It is common knowledge, even for the perpetrators, that property can be confiscated and, therefore, it is going to be more difficult to detect unlawfully

obtained property and manage an efficient investigation because such property will be hidden in all possible ways. In that way, the Financial Investigation Unit altogether with other legal participants in the financial investigation procedure has to apply static, dynamic as well as technical investigation.

Integrated financial investigation is necessary element of strategy focused on income obtained by criminal activities such as forgery and misuse of credit cards. There is no other way to get appropriate experience but by conducting efficient financial investigations. In the beginning, some attempts have shown that there are numerous problems, shortcomings and questions without the answers, but the development of practice and knowledge will lead towards a new stage of financial investigation as a strategy to protect "plastic" money.

The basic elements, both in theory and practice, for suppressing misuse of informational systems and money destructions are: funds, trained teams and technology. These elements as a component of well designed strategy and an adequate criminology projection, organization and self-control can make every innovative work successful.

It is possible, up to a certain point, to make prognosis and to project further development of unlawful activities concerning money based on: present state in various forms of misuse of money and its flow as well as the results which have been achieved by conducting research and finally, taking into consideration the experiences of other countries where more complex and better organized crime forms have been noted. Previously mentioned is not only related on already existing form but the existence of new threatening forms as well.

Resolving this problem is the first step in order to affirm financial investigation and its constant implementation in everyday practice for all participants; that's why, the activities and the strategy have to be adapted in accordance with new legal acts and practical problems.

References which can be used to analyze this subject are neither numerous nor available for broader public and it's quite justified by actual and high level of social danger. It is going without saying that it is not possible to design and write such a paper, dealing with the problems of financial investigation in suppressing misuse of credit cards, without help of experts and people familiar with this problem.

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MANAGEMENT OF INTELLIGENCE-SECURITY SERVICES TO PROTECT CRITICAL INFRASTRUCTURE AND LEADING AUTHORITIES FROM THE ACTIONS OF TERRORIST ORGANIZATIONS

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Abstract

Terrorist organizations in planning their activities pay great attention in finding ways to efficiently carry out attacks on critical infrastructure and leading authorities of the country which is their opponent. In these activities, the most serious adversary to the terrorist organizations are intelligence-security services, whose primary task is through successful prevention to prevent terrorist attacks completely, or at least to reduce as many potential victims and / or material damage.

From the specificity of the activities that intelligence-security services undertake regarding the protection of critical infrastructure and leading authorities of the country from terrorist attacks, stems the specificity of the actions that the authorities who run intelligence-security services undertake in management of their services in protection of critical infrastructure and leading government authorities.

Successful management of intelligence-security services is a necessary prerequisite for successful defiance of terrorist organizations in their efforts through their activities to threaten critical infrastructure and leading authority in the country which is their opponent.

Keywords: *intelligence and security services, management, critical infrastructure, the state authorities, terrorist organizations*

When we talk about management of intelligence-security services in the fight against terrorism (in this case physical protection of crucial infrastructure and leaders of the country)[1] considered that terrorist organizations are constantly changing the ways of their actions (to achieve success), we can conclude logically that, heads of intelligence-security services, in the process of decision making, that is part of the management of intelligence-security services, had to adjust themselves and their decisions constantly to the changes of terrorist's way of acting.

The intelligence in the fight against terrorism isn't limited only to gathering information. The intelligence is process that last constantly and never stops and it is set of investigating, analyzing and decision-making activities, and of course the risk, that is everyday and integral part of intelligence, that makes the intelligence one of the most risky professions.

[1] Thereinafter we will use the term "physical security"

The protection of crucial infrastructure and leaders of the country, despite the fact that physical protection is function of other state's institutions (Services for personal and object security, Military Police, Private security Agencies etc.), rely and depend upon the information, and with that also upon the assessment of the intelligence-security services. Whether and how much the heads of intelligence-security services will be successful on this field, depends from their ability to adjust, not only to the changes of terrorist's way of acting, but also to the development of the technological aspects that find its own place in the execution of the terrorist act and also in the anti-terrorist measures during the protection of crucial infrastructure and leaders of the country, is process of investigation, analysis, decision-making, taking risks etc.

The work of the heads of intelligence-security services in the area of physical security (the protection of people and objects) can be divided in 4 (four) phases:

- work until the reception of the order;
- work after the reception of the order;
- work during the execution of the order;
- work after the execution of the order.

Work until the reception of the order

In this phase, the work of Intelligence-Security Service's manager is to direct preparation of the Service, at any time and in terms of any phase of intelligence process. In this phase the manager should have clear view, what every unit of the Service should work at the field of the assumption that threat of terrorist attack exist. These tasks are related with the support of the others segments of the defense-security system (Services for personal and object security, Military Police, Private security Agencies etc.), and also touch all the phases of the intelligence process: planning, gathering, analysis of information and their distribution to the authorities and/or institutions.

In this phase the following activities are executed:

- **monitoring of the security situation and predicting its further development, phenomena and events** (means constant gathering and analyses of data for persons, objects, phenomena and events and their use in evaluating and predicting for the development of the security situation),
- **Maintaining constant readiness of the Intelligence-Security Service** (competent individuals in the Service constantly to monitor security situation, adequate staff filing of Service units, providing constant mobility of field officers, conducting expert training, organizing cooperation with

other intelligence and security services or other specialized Army or Police Units etc.),

- Study and learn from former experiences of the Service staff, with accent to own experience and other Service experience.
- Strengthening the discipline, morale and psychological readiness of Service members (monitoring work and behavior of Service members, taking on-time measures for prevention of indiscipline and disorder of interpersonal relations, analyzing the morale, strengthening awareness of staff for their abilities/competence etc.) and
- Taking measures for providing logistic (it takes: monitoring staff's health condition, maintaining vehicles, personal armament, and other technical means that are used by the Service staff).

All these measures are taken to achieve readiness for action and reaction in any time and situation, of Intelligence-Security Service's personal.

Considering the complexity of intelligence and security work, in some cases it is necessary these measures to be taken/executed in very short time.

When it comes to personal or/and object security it is necessary to update the security planes, and if changes are to be made, the positions of the security staff are dislocated, etc.

All this isn't possible without access to quality intelligence-security information that is the base not only just for relevant security assessment, but also for taking on-time and efficient measures for protection of crucial infrastructure and country's leadership.

Work of the manager after the reception of the order

The executive order should have appropriate risk assessment, whether and to what extend risk exist for certain people and objects to be subject of terrorist attack, and this executive order can be given in few forms and ways:

- According the form and shape: written or oral, with more or less details, with attachments or without;
- According the way: directly or indirectly through some person authorized from the superior;
- According the place: on command position of the superior officer/person, on personal command position.

When it comes to the matters connected with security of persons or objects and it is connected with the work of intelligence-security services, the orders could be given from the chief of General staff of the Army, Ministry of Defense, Prime

Minister or the President of the state, depending to whom the intelligence-security service is subordinated to.

Official documents are often distributed, in which the reasons for the risk assessment for certain people and/or objects from terrorist attacks are explained, and the intelligence-security service is asked for relevant data, so the organizational units for physical protection can plan and execute quality protection. For example political meeting, assembly of the Government or Parliament, visit of foreign delegation and also report for the rote of some protected person, official institutions to execute measures for security whether it is up to person or some object, or it is a combination of both.

After reception of the assessment for security situation, organizational units responsible for protection/security of those persons and objects receive order for taking measures. The preparation of the plans and execution of the tasks is done by (or at least should be) the members of the units responsible for protection/security of persons and objects (represented by their managers/chiefs or persons authorized from them), in tight cooperation with intelligence-security service that prepared the assessment for them.

Security assessment that determines the degree of threat from terrorist attack against people and objects, if it is prepared on time and with high quality and it is submitted to the units responsible for security/protection of persons and objects, among other things, enables the following: making right decisions on time, development of a plan to perform the task (or tasks) as well as timely and efficient preparation of the unit to perform the task/tasks. According to all previously stated, it is clear that the order with which we require production of security assessment for terrorist threat to certain objects and persons should be unambiguous, clear and precise.

The work of the manager after receiving the order for making the security assessment is desirable to include following activities:

- **To study and understand the task, within which is necessary to study and comprehend the idea of his superior officers, or accurately to specify for which objects and people need to develop a security assessment, for which period and which area. If it is necessary, to seek help or additional information from other intelligence and security services not only from their own country but also from abroad.** It is necessary the manager of Security and Intelligence Service to see and understand the requirements, so can be able to pass them to his subordinates, because at this stage it must be clarified all that is unclear or not enough precise, because that is the only way to meet all prerequisites for the development of quality security assessment.

- **To take urgent measures. Those are the measures and activities which need to be taken immediately in order to accomplish the task.** This is especially important for situations within a short time, such as visits of some high authorities (regardless whether domestic or foreign) when is

immediately recommended to take some initial measures, on which the planning and execution of further activities is attached. Recently very specific are the examples when the intelligence-security services are required to make a security assessment for the situation in Afghanistan, Iraq or any other crisis region in the world, in accordance with preparations for a visit of some authority in that area (President of state, Prime minister, Minister or other high authority).

- **To calculate the required time. Manager should determine in advance the time for execution of each task (collecting and processing information, making conclusions and proposals and their submission to the outsource (whether it is in a vertical or horizontal line, or whether well-crafted assessment need to be submitted to some authority or superiors, subordinate organizational units or allied intelligence and security services, whether domestic or abroad)**. There is a rule according to which the Manager should split the available time: 1/3 of total time for his work, 2/3 of total time to his subordinates. If it is possible, it is necessary from the moment of receiving the task till its accomplishment (in this case development of security assessment) to have adequate time for the personnel to be able to prepare and organize its work for execution of given assignment.

- Security assessment or evaluation of threat for objects or persons, once it is made, should be forwarded to the client or the authority, which based on it, certain decisions (for taking security measures for some person, or some activity) are necessary to be made.
- **Decision-making** is the part of the execution of the task which occurs after information for threat or no threat for some person or object is properly processed. It is the stage when the intelligence and security service needs to give a clear picture whether is or not a threat from execution of some terrorist attack against some person or object. Based on security assessment well-crafted this way, the units responsible for security/protection of a particular object or person make a decision about the strength, composition, possible reinforcements in personnel and equipment that need to be used for this purpose.

- **Organization of collaboration and cooperation. While making a security assessment for the level of threat from terrorist attack against some particular object or person, if it is necessary, it can be made in coordination with related intelligence and security services in the country, and in certain situations with some foreign intelligence security services.**

Manager's assignments during the execution of the task

The essence of the work of the manager during the execution of the task consists of monitoring of the execution, recognizing the deviations from planned, timely adoption of further decisions, making orders and their implementation, as well as taking other measures in accordance to the situation on the ground.

The manager during execution of the task needs to require from its subordinates to direct their work in order to accomplish following activities:

- Constant and permanent collection of data about the security situation for the persons or objects they protect, constant analysis of received information, monitoring and control. This should be a permanent task for intelligence-security services, in order the security assessment that will be requested from the competent authority to be always on time, quality, accurate and fully developed, which will increase the security of the objects and persons,
- Response to any deviation from the plan and coordinate the work of subordinates,
- Quick establishment of a system of management, if such thing happens,
- On time submission of security assessments to the authorities/institutions.

Manager's assignments after performing the task

Once the security threat assessment is made by the designated members of the intelligence and security service, it is desirable the manager of intelligence and security service to consider it, preferably together with the developers, in order to remove possible vague elements and exclude the possibility that the client of the security assessment to misunderstand some information or not be able to adequately use the assessment while determining or implementing the protection measures for certain person or object.

While making a final decision for submission of security assessments to the authorities or institutions from which it is required, the manager of intelligence and security service needs to make that assessment based on the experiences gained in the process of decision making in some previous situations and estimates made in those situations, which is an important prerequisite in order to avoid repetition of some (possibly) made mistakes in the past. This way of making assessment allows the exploitation of positive and complete elimination of negative experiences, also creating a solid basis for even bigger quality in future work in this field.

It is important to note that the results of the analysis (on which the security assessment is based) should always be used with criticism, because the conditions and circumstances to solve problems (to remove the threat from terrorist attack) are constantly changing, which confirms the great dynamics of these phenomena.

According to all previously mentioned, we can conclude that the development of security assessments for threats to persons or facilities from terrorist attack, increases the importance of intelligence-security services role, in the fight against terrorism.

Hence, we confirm the importance of the role of intelligence-security services managers in decision making processes of political and military authorities, because enables them to recognize the real picture for the existence (or absence) of the threat from attack of (some) terrorist groups against country's vital interests, which is a necessary precondition for them to perform their functions according the Constitution and laws.

Opportunities for international cooperation

The critical infrastructure in the country isn't any more just a national problem or a national question. Because of the importance of the objects that are included in critical infrastructure, their protection for normal state functioning is becoming not just national priority but also international.

National energetic systems (primarily electricity and gas) in European countries are connected so they more or less cover the entire Earth by communications and for the protection of critical infrastructure globally or in the country produce intensive international cooperation.[2]

In past few years, several international and multilateral conferences are held, which purpose was to force future development in that field. Primarily it referred to Ministerial Conference for IT "Innovations and responsibilities" which took place in Berlin in 2007 during the German presidency with European Union. The similar Conference was held in spring 2011.[3]

European Union attaches great attention for further strengthening of the international cooperation in the field of critical infrastructure protection and Cyber-terrorism considered as the biggest threat.

What is the role of intelligence-security services for strengthening the international cooperation in the field of critical infrastructure protection, especially when they have terrorist organizations as an opponent? Also very important is how to improve the management of intelligence-security services when their task is to protect critical infrastructure?

For sincere and open international cooperation in this field for proper functioning, taking in advance that intelligence-security services are conservative and sometimes unreliable/dubious institutions, building trust is necessary and it is the most important condition for establishment of such cooperation. It is especially important to establish international bilateral and later multilateral cooperation in the region where recently military actions were taken. For "ice breaking" in mutual communication between intelligence-security services, the experience has shown two necessary conditions:

- The representatives of intelligence-security services have will to establish multilateral cooperation, usually under the cover of some authority that they trust (for example EU, The Organization of the United Nations, NATO, USA

[2] www.kritis.bund.de/SubSites/Kritis/EN/activities/international/international_node.
[3] Ibidem.

etc.) and usually this authority gives directions and recommendations where to establish and build further cooperation (fight against terrorism, fight against organized crime, etc.);

- It persists in the initial stage of establishing cooperation, meeting of leading authorities (directors) of these services to be organized. The reason is simple: when the leading authorities know each other personally and they generate trust between them, it is much easier for lower level representatives to communicate with each other.

In the West Balkan region, in which the former Yugoslavia countries dominate, the possibilities for successful communication and cooperation between the directors of intelligence-security services are several times stronger for three reasons:

- despite the events in 1990s, West Balkan countries have more things that unite rather than divide them;
- second and third cohesive factor are united in the fact that USA (as the only super power) and EU (as leading political-economy authority in Europe) are interested to see the West Balkan region in peace, cooperation, international and inter-religious tolerance for, not like everlasting regional crises hotspot of global significance. [4]

Today, the main threat to the interests of the countries (which include the protection of their critical infrastructure) is acting of terrorist organizations. Considered that these two international initiatives (WEBADIC and RCC) are giving efforts to facilitate international cooperation in fight against terrorism of military intelligence services from West Balkan, it can be concluded that they will also significantly facilitate the management of intelligence-security services in cases of having task to protect critical infrastructure of the country from the actions of terrorist organizations.

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[4] Typical examples for this initiatives are WEBADIC (the initiative that unite the states from former Yugoslavia, Greece, Albania, NATO with USA as leading country) and the initiative under mentoring of Regional Cooperative Council of European Union (RCC) that unite the previous countries (without USA, but with Romania, Moldova, Bulgaria and Turkey). In order to avoid duplication of the capacities of these two initiatives their unification is possible.

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THE COMPLEX CRIMINAL COMBINATIONS FOR INVESTIGATING ORGANIZED ECONOMIC-FINANCIAL CRIME

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Abstract

Investigation of organized economic - financial crime is a complex work that is determined by taking planned and coordinated legal measures, actions and methods of enforcement authorities. The organization of the perpetrators is aimed at taking advantage of their functions, positions, knowledge and power to pursue criminal actions in order to realize high yields and taking criminal actions of suppressing criminal activity. In order to fully research this type of crime in the criminal procedure law, in addition to existing measures, actions and methods, new ones are as well predicted to enable the building of new strategies for research. Complex strategies are based on application of complex combinations by the law enforcement organs, which have to be well planned and coordinated. All that is in function of a full clarification of the criminal case by providing evidence of crimes committed, suspected criminal offenders and their criminal role and providing evidence for the type and amount of criminal proceeds, as an important prerequisite for the successful conduct of criminal proceedings, punishment for the offenders and confiscation of their criminal proceeds. Scientific research on combining the criminal legislation, actions and methods is in the interest of finding new and modern criminal combinations that will benefit the operational practice in the conduct of operational actions for detection, clarification, proof and prevention of organized economic - financial crime.

Keywords*: criminal combinations, organized economic - financial crime, criminal case, criminal role, confiscation*.

Introduction

Organized economic - financial crime is a complex phenomenon where criminal offenders are organized in strong criminal groups and organizations aimed at criminal activity of each member in the criminal groups, taking advantage of their functions, the power in society, knowledge, and jobs in purpose of performing the criminal role and accomplishing the criminal purpose or purposes which result in high crime proceeds. Criminal activities are in fact performing a series of crimes of each of the perpetrators, and the crime is associated with abuse of official position and authority, falsification of official and business documentation, and other crimes, and the criminals in the criminal groups most often succeed to involve officials from prosecuting authorities in order to enable criminal activity not to be detected and the perpetrators to enjoy the “fruits” of their criminal activity. In the structure of crimes in the economic - financial crime are criminal behaviors that allow the perpetrators of the crime thus derive money from the state budget and criminal behaviors by offenders, who avoid legal obligations, or otherwise the state is a direct victim of this crime and the citizens are indirect victims, while offenders are enriched. The rate of the economic - financial crime and any damages induced by those criminal behaviors are

serious reasons for the smooth functioning of the country, and in extreme situations they can cause social rebellions in the country (strikes, protests). Even, the country could lead itself in the state not to accomplish the obligations to foreign financial institutions whose receivables are not paid timely. These are serious consequences to which the country through its law enforcement organs and judicial authorities should build strategy in the fight against organized economic - financial crime. Republic of Macedonia over the past years has made large legal reforms redefining the economic - financial crimes in the Criminal Code, and has also made big steps in the procedural reforms which aim defining the legal proceedings and enforcement of legal measures and actions in the competence of the prosecution. This will facilitate the detection, revealing and opportunity for providing compelling evidence for the committed crimes and their perpetrators, evidence for the gained illegal profit, and measures and actions for freezing and confiscation of criminal proceeds and offenders' property. The Legislator provides system of operational - tactical measures and actions or police authorizations, investigative and special investigative measures. Planned operational combinations of these measures and actions and their legal application with respect to law enforcement principles and rules are a prerequisite for successful planning and implementation of the operational activities for discovery, clarification and proving complex and organized crime cases, identification of the offenders and their properties, their criminal role and promptly freezing the criminal proceeds and property in order to successfully conduct the criminal procedure in manner of sanctioning of offenders and the imposition and application of the measure of confiscation.

Terms of Organized Economic-Financial Crime

Economic - financial crime according its forms and shapes, manner and means of execution, properties and connection of its perpetrators, is characterized by elements of planning and organization. "Sticking point" of any approach - forensics, criminal justice, international law etc.., to organized crime, is its defining or attainment a minimum agreement on the basic elements that make its structure. Open question is whether this term has its own structure or transcendental concept that refers to other concepts (organized terrorist activity, organized money laundering, etc.) in respect of which it has the character of a simple attribute or value, normative notion."[1] Today, organized crime is at the center of attention of all international organizations and their fundamental documents have significant influence at the shapes and forms of transnational organized crime and in finding ways, methods, resources and international cooperation in arranging for its prevention. The definition of organized crime should contain elements of criminal behavior in practice, because only thus we can study this problem as a phenomenon and seek appropriate forensics - criminal - tactical methods and means for its detection and its prevention. The importance of defining this concept has great significance for its recognition and

[1] Kambovski V., *Organized crime*, Skopje, 2005,p.21

determining the differences between ordinary criminal activities that may be all well and professionally organized that seeks to achieve management and control of the overall economic structure. Economic - financial crime in decades has had a heavy problem in western European countries and the world in terms of its definition. The broadest under the economic - financial criminality means criminal behavior in the economic sphere - financial relations or in connection with that relationship with the one applied by large economic damages - financial system, on the other hand, allows offenders who abuse its power, influence, status position in society and the state apparatus obtaining enormous material and other values.

In the professional literature there is no single definition of the economic - financial crime, we use the terms corporate criminality, criminality of white collars, crime of corruption, crime-turn zones and so on. Recommendation of the Council of Europe's economic crime in 1981 No. R.(81)12,[2] in order of more easy detection provides a list of 16 specific and nonspecific crimes that may be conducts coming under notion of economic crime, such as: 1) cartel criminal acts; 2) fraud and abuse of the economic situation by multinational companies; 3) buy with fraud or abuse of state subsidies or grants from international organizations; 4) Computer crime (theft of data, violation of secrecy, manipulation of computer data); 5) establishing false (fictitious) companies; 6) falsification the annual balance sheet of firms and criminal acts related to accounting operations; 7) fraud relating to the economic situation and corporate capital of companies; 8) violation of company standards relating to the security and health of employees; 9) fraud at the expense of creditors (bankruptcy, not respecting the bank or industrial rights); 10) of consumer fraud (especially falsification or false declarations of goods, offenses against public health, abuse or lack of knowledge of consumers); 11) disloyal competition (including bribery of employees of rival companies); 12) fiscal offenses and avoid paying social taxes by businesses; 13) customs offenses (avoiding the payment of Customs duties, violation of the prescribed quotas); 14) offenses relating to regulations on money and foreign exchange; 15) the stock exchange and bank offenses (manipulation of stock exchanges and misuse of the inexperience of the public) and 16) the ecological offenses.

Listed criminal behaviors cover almost the all criminal behavior of financial economic sphere, and offenders of this crime are mostly in society, respectable and respected citizens, and damages that are applied are larger. Characteristic for these crimes is that it is under the auspices or directives of the government, which includes the group of criminal behavior that are difficult to detect and even harder to elucidate and prove by competent authorities, because in most cases there is a connection with these structures, as serious organized crime networks. There is almost no area of human life where economic and financial crime is not present in the name of acquiring enormous riches. This kind of crime is happening in the field of abuse of trust, which is the guiding principle at work in this area, and its offenses by its unity endanger the general and individual interest. As a definition that corresponds to the organized

[2] Recommendation No. R (1981) on economic crime – Council of Europe: Committee of Ministers in June 1981.

economic - financial crime is the definition of Abaddinski under which: "Organized crime can be defined as non ideological activity involving many people in close social integration, organized on a hierarchical basis, in order to gain profit and power for running illegal or lawful activities as relatively low risk providing a high profit."[3]

Organized crime as a phenomenon is known and studied by many world scholars in the field of legal, criminological and criminal theory. They all have their own view and their own definitions of what organized crime is. Universal definition exists, there is individual clarification so famous theorists M. A. Eliot and H. H. Schneider believe that "organized crime in its content, besides the organization, planning, division of tasks, discipline and responsibility within the criminal organization whose goal is realization of earnings and profits, includes some relationships with the state and its individual authorities, the kind of cooperation of the authorities who ought to apply the law to those who do not respect, that is kind of offsetting the police and judiciary and corrupt government which organized crime tries to be undetected and enter the legal business world."[4]

According to the global plan of action in the fight against organized crime (Global Action Plan Against Organized Transnational Crime) a common definition of organized crime was accepted which was constituted of the following parts: [5] criminal association where three or more persons operate, such an association characterized by a hierarchical structure for easy supervision of the heads over membership, with the purpose of profit and market control applied force, intimidation and corruption tend to improve the modus operandi and penetrate into the legal economic flows, the versatility of criminal types in all areas of economic and financial system within the country and internationally and in association with other criminal organizations, often beyond national borders.

In modern society, organized crime penetrates all spheres of life and social structure: the field of economy particularly in the most profitable industries in which earnings and the acquisition of profit is highest. It also penetrates the political affairs in order to avoid state control, to avoid paying taxes, to protect them from persecution. M. Elliot says that "the success of organized crime is based on the supposed collaboration with the political state apparatus which contributes them to appear in front of court. Organized crime is deliberate social disorder in which the group has the power and instead of applying the laws, it cooperates in breaking the law. Organized crime is a "business" or way of obtaining money by participating in activities that by law are expressly prohibited."[6]

According to "Labovic organized financial crime, especially by institutional type, is a crime that is made by top state - politicians, owners or general managers of

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[3] Arnaudovski Ljupco, *The repression in function of preventing organized crime*, Project of the program Tempus and Cards, Skopje, 2002, p.83

[4] Boskovic M. *Organized crime*, Police Academy, Belgrade, 1998, p.4.

[5] Naples Political Declaration and Global Action Plan against Organized Crime, on Crime Prevention and Justice Newsletter, no. 26/27, 1995, p.58.

[6] Read more- M. Elliot, *Crime in Modern society*, Sarajevo, 1962, pg.113-116 and Arnaudovski Lj. *The question-does organized crime exist in our country?* Security no.3, Skopje, 1994, pp. 424-425.

banks, productive and commercial enterprises. Accountants, financial auditors, financial officers and tax inspectors are present in organized financial crime. But here they are just instruments aimed at achieving the goals of organized institutional financial crime, which is led by members of the business and funding by the oligarchy, political and intellectual elite."[7] The organizational structure of organized criminal groups to carry out the economic - financial crimes usually involve representatives of state structures (police, prosecution, justice, customs, inspection, etc..) To smoothly carry out criminal acts and the acquisition of high crime yields, is often at the expense of the State.

In criminal structures are involved, "people – offenders", who use their, positions and power, in order to provide smooth performance of the crimes, but are passive in discovery, clarification and proof of criminal acts as their legal officio. That involvement of offenders from state institutions allow the commission of economic - financial crimes, but their passive attitude in performing the service provides, disclosing, or failure to act when there are suspicions of criminal offenses committed for their clarification, proof and capture of the perpetrators, it worked "against itself". Their professional work is diversified in function of crime and realization of proceeds of crime, personal enrichment and so on. Criminal proceeds mostly through the use of their positions in the banking sector to buck, certainly, in foreign banks, coded accounts, or accounts of other persons who are close. This connection to the state structure with the private sector is a function of execution and concealment of criminal activities, but mostly in, providing, criminal treasures safe and out of reach of the law.

Many authors define organized crime as **"crime with enforcement of offenses by the criminal associations for profit and (or) power, using violence or using a special position in society, reducing the risk by engaging in legal economic, political and other activities designed to advance a system of protection from prosecution."**[8]

The use of special position in society suggests that these works are non-violent in terms of physical strength, but the psychological violence can sometimes be stronger then physical violence. They are reducing the risk through feeding and linking criminal activity with the legal sphere of business, finance, banking, politics, the functions of state structures and other social spheres and that is the most efficient way to eliminate the risk of detection and prosecution, because the general confusion of permitted and banned lead to glare and blocking detected power of criminal legislation and criminal justice. While the formal system of protection consists in aiding or granting the criminal activity by state authorities or blocking the bodies of the penal prosecution and criminal justice and putting them through corruption in the protection or tolerance of criminal activity because of the expected economic or political benefit, the informal system is a form of self-organization of the criminal

[7] Labovic M.and Nikolovski M., Organized crime and corruption, Skopje, 2011, p.

[8] Kambovski V. *The state of law and the organized crime*, Science project – The constitution of Republic of Macedonia as a modern state of law, Faculty of Law, Skopje, 1996, p.12.

underworld against the system of penal justice. The elements of organization of this crime are observed in the preparation, execution and linking offenders with other people who have control - the control function of their operations or persons on behalf of the government responsible for discovery, clarification and evidence of criminal prosecution and certainly and judicial authorities as crucial in the prosecution and adjudication of offenders.

"This form of professional criminality is spread largely or more than it is shown according to official statistics. Its perpetrators often come under attack of criminal responsibility. Why not order the prosecution's vast economic and political influence, experts cheating the law, resorting to bribery and similar funds, lack of feeling for positive values and so on. The damage inflicted by this type of crime is much greater than the damage inflicted by all other types of crime together, because it destroys the social morality, causing distrust and creating disorganization. Because its perpetrators are economically and politically powerful, in many ways they are immune from police and prosecution"[9]

Organized economic - financial crime is characterized by good organization of the perpetrators through the organization of criminal groups or organizations whose purpose is to avoid compliance with the provisions of the legislation, abuse of power and exploitation of power in society and the state apparatus and of course their knowledge, professional experience and the power of persuasion for involvement in criminal groups and individuals with their criminal actions will allow full operationalisation of the criminal idea by running a series of criminal behaviors that have characteristics of several economic - financial crimes and achieving the criminal objective that is gaining illegal profit. The organization of perpetrators of persons of position, have a certain power, persons who have responsible positions in the legal entities and involvement of other persons of interest in material most often unthinkingly accepted to perform or fail to derive the criminal concept of the organizer or, the brain of the criminal operation, but ignorance, inexperience is not a mitigating circumstance in the economic - financial crime, and that especially applies to offenders from among the officials responsible, or persons performing matters of public interest.

Criminal groups are organized on a hierarchical principle, but the organization can be linear or, chain organization. The organization is a gradual.

[9] Reckless W., The crime problem, New York, 1950, pp.206 – 225 and Dimitrov D., Economic crime, Skopje, 1988, p.9.

Picture no. 1 and 2 Hierarchical structure of organized criminal group.
Picture no. 2 linear link between organized crime group.

CRIMINAL - OPERATIONAL COMBINATIONS

The development of criminal science is accompanied by changes that occur in criminal activities that have the characteristics of professional crime directed to economic - legal relations of this crime, paying close attention especially in studies of American and Western European scholars who, besides the causes of criminal behavior, are revealing knowledge of the degree of organization, association, manner of criminal behavior, time, place and means of criminal assault. Investigation of economic - financial crime is a complex process in which law enforcement organs should adhere to the legal provisions of the Criminal Procedure and the provisions of special laws for each individual directly responsible authorities where precise rules are provided, measures and actions under their jurisdiction, all in order to detect the existence of a criminal offense prosecuted ex officio and catching the perpetrator and all relevant evidence of the offense and offender. The rules of substantive criminal law only defines indicative attitude of the State on what should be done in cases when we have manifestation of socially dangerous behavior. The principal position would be that the perpetrators of crimes should be impose appropriate sanctions, and not resolved issues concerning the conditions and procedures for detecting and providing evidence of the offense and the perpetrator provided by law and which is prescribed appropriate sanction. That is not prescribed procedure of proving the truth of any crime that was committed, and the evidences pointing to the perpetrator or perpetrators of the act or acts. The starting point of criminal proceedings is the emergence of probability that there is a criminal offense.[10] The existence of probability is a basis for taking concrete measures and actions depending on what level of probability and which organs are competent. According to our criminal procedure law, law enforcement organs are responsible for detection of criminal offenses which are prosecuted ex officio acting in pre-trial procedure which meets under the previous term or police procedure. Preliminary investigation (police) procedure aimed for detecting, resolving, clarifying and preventing economic -

[10] Kalajdziev G.., Criminal procedure law, Skopje, p.291

financial crime is extremely important, primarily for the obtaining of relevant information, outgoing information on perpetrators of criminal activities, but the consequences of their criminal behaviors commonly manifest a sudden acquisition of some people in high positions in the socio - economic life in the country. Material consequences in terms of wealth, movable and immovable property in our state that are not possible to obtain for such a short time, are usually the starting clue in detecting and resolving this crime.

Investigation procedure is conducted in order of the Public Prosecutor to provide material to assess whether there are grounds for suspicion as initial findings, moving into a reasonable doubt as higher degree of suspicion based on collected evidence pointing to the conclusion that a person committed a crime, for which he can be taken to Court for investigation.[11] Preliminary proceedings through its numerous tactical ways, methods and resources are tasked to gather information and evidence on the grounds of suspicion of committing criminal offenses and that some people are potential perpetrators, and of course the main role of preliminary proceedings is the extent of the grounds doubt over the system operational - tactical measures, investigative and special investigative measures to bring the criminal case under the grounds of suspicion to initiate an investigation against the offenders of specific criminal activity - criminal offenses.

"Preliminary procedure has particular importance and influence on the final effect of treatment in general. Namely, this is the phase that takes place before the commencement of criminal proceedings and as such has a task, based on the methods of forensics, to provide answers to all questions related to specific criminal offense in order to create basis for bringing criminal proceedings."[12]

Criminal procedural law gives the legal framework: the police authorizations, operational - tactical measures and actions, investigative measures and actions and the special investigative measures. It also stipulates that national authorities have police powers to investigate standardization, enumerated crimes and offenses that result in acquiring unlawful property gained or inflicting damage to legally prescribed amount. Namely, the police and public prosecutors and financial police are responsible for researching and providing evidence for the following economic - financial crime offenses: money laundering and other proceeds from crime, trafficking, smuggling, tax evasion and other crimes by illegal profit of considerable value. Customs Administration of the Republic of Macedonia has police powers for the following economic - financial offenses: manufacture and sale of harmful medicaments, manufacturing and placing harmful food and other products, money laundering and other proceeds from crime, smuggling, customs fraud, concealment of goods subject of smuggling and customs fraud, tax evasion, all crimes from the Criminal Code, crimes from the Excise Law and other crimes related to import, export and transit of goods across the border.

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[11] Kalajdziev G., p.291

[12] Tupanchevski N., Organized crime – finding and presenting evidences, Edition Organized crime, Tempus, Skopje, 2002, p.54.

Revealing the economic - financial crime means patient and complex search for truth and its determination in the preliminary and criminal proceedings. Collecting and determining the facts and circumstances relevant for detection and clarification of certain criminal event, indicating the possible existence of economic crime, and finding, capturing and detaining the criminal sanction against the perpetrator of such offense, is a thoughtful activity of logical thinking within the system of criminal - tactical (or operational) activity and the criminal proceedings or under criminal proceeding as a single process. Deciphering, all information relating to a criminal event that are leading to criminal attack in the area of economic - financial crime, demand a good knowledge of all segments of the functioning of the legal and economic system, knowledge of specific ways and methods of execution of the crimes of this group of violation of certain legal regulations or processes in the economic - financial performance and observance of law. Criminal specialist should be oriented and trained.

Identifying the elements of any of these crimes most often lead to clarification and evidence of complex criminal situation that involve more offenders and more offenses. Detecting and resolving the criminal event, indicating the possible existence of economic or financial crime, starts from a tip about possible doubt for a criminal event that happened in the past. The criminal resources and methods for a reconstruction of structural content of the criminal event. The degree of suspicion may or may not be the deciding factor, most often the initial information determinates: the shape, content and phases of detecting in the preliminary proceedings (criminal or operational activities), and in general, the criminal proceedings.[13]

The first lowest degree of suspicion (general question) is the occasion for bringing crime control as a form of criminal activity that consists of system operational - tactical measures and actions that are taken for the prevention of crime as a mass phenomenon, the following are operational cover of all criminal checkpoints, objects and hotspots, and perform supervision for people who are just general (not precise) suspects for criminal activity, paying attention at not available clues about the extent and type of a criminal offense. Of paramount importance are general doubts about the factors that determine the occurrence and the existence of groups on how to carry out economic crime and their basic emergent forms in time and place in certain working environments and beyond. These general facts or indicators of the factors, conditions, circumstances and influences that determine forms of economic crime by branches of the economy and general clues collected from achieving wide operational insight and direct or indirect supervision of: buildings, recognition, material consequences of crime (night clubs, hotels, motels, restaurants); areas of criminal conversion, where the truth is expected to dispose of goods of dubious origin (market for second hand products, customs or commission stores enterprises for purchase of secondary raw materials, etc..), points, and multiple professional known delinquent, etc., represent the primary constituent elements of prognosing the crimes. The general

[13] Angeleski M., Metrhods and tactics used for researching economic crime, Skopje, p.101.

doubt would definitely be only the first step in the uptake and establishment of truth about the criminal event.[14]

Criminal research is a process or system to be applied in resolving criminal cases through the application of measures and actions and a continual and connected process of action and coordination between operational and investigative authorities in order to fully clarify criminal cases by providing the relevant evidence secured through legal procedures and procedures for " case studies" the method of investigation of criminal case in full clarification and proof of all committed crimes, who are the perpetrators and their connection and responsibility for specific crimes committed criminal behavior and their role in the criminal case.

The term criminal research (crime analysis) refers to the general concept and discipline that is practiced in the police community. We use the term (criminal analysis) to describe an entire discipline that applies to offenders, victims and places. Criminal research develops in specific disciplines or different types of criminal research targeted at specific investigations of particular group of crimes that have the same or similar crime characteristics.

Criminal investigation is operation, research crime problem has a complex nature and its clarification is a complex procedure which contains numerous legal measures, actions and criminal methods,[15] but also includes several state authorities which have statutory responsibility for investigating certain economic - financial crimes. It is possible to well organize the research, and the purpose of research is a discovery, clarification and proof of criminal behavior and involved offenders through legal procedure in which human rights and freedoms will be respected.

The process of criminal research is associated with obtaining initial operational information. Further in the process of criminal research, quite important are the tactics of the criminal research that Boba[16] defines as, **tactical criminal research is the study of recent criminal incidents and potential criminal activities by examining the characteristics of how, when and where the activity took place to help develop scheme, to investigate, identify suspects and shut case.**

Criminal research has several types from which it can explore the economic - financial leasing criminality: tactical criminal research and operational research application and analysis of criminal data and information relating to offenders, manner and place of criminal activity and information indicative of criminal relationship of the perpetrators and specifically the crimes committed, and all this with interest and proving criminal objectives of the perpetrators, or acquired through illegal proceeds, useful identification of criminal proceeds and assets acquired, which is already an interest in the financial investigation. Criminal research's principle is clarification of the crime situation by providing evidence of the crimes committed and the evidence suggesting that the perpetrators, their functions and properties participated in the criminal conversion, as well as evidence of the type, amount and generating the

[14] Angeleski M., quote, p.103.
[15] Boba Rachel, Criminal investigation, Nampres, 2010, p.62
[16] Ibid p.63

criminal acquired. The legislator creates framework for operational tactical measures and actions or popularly called police powers, investigation actions and special investigative measures, but which ones will be taken initially depend on the initial findings. The process of research is actually a combination of measures and actions in order to provide a solid and irrefutable proof. Operating combinations can be simple - only a few operational - tactical measures, but usually business documentation and collection of reports from suspects, witnesses or experts operating workers enables them to discover the full facts and elements of criminal action. Operating combinations in clarification of the complex and organized crime cases are complex or mixed character or combination of operational - tactical measures, investigations and special investigative measures. Such combinations usually consist of inspection, examination and inspection of documentation at work and premises in the presence of an official or responsible person, collecting reports from suspects, witnesses, supporters, accomplices then searching houses, expert documentation etc, and applying the measure interception police concealed scout or other necessary measures and actions depending on the crime situation and the need for clarification of certain facts.

Law enforcement operational combinations are contained in the plan for research that is dynamic and evolve depending on the process of providing relevant data, facts and evidence. Measures and actions are applied in a manner that correspond to the criminal situation, and the application of these measures and actions are appropriate methods of research such as methods of collecting the necessary documentation, performing comparison or comparison of disputed and undisputed facts and data in documents, content analysis of documents, comparison with relevant legislation. The method of analysis and comparison is the basic method because it is a crime that lies on facts and data in a proper business documentation. Experts are the key actors, they usually have full highlights and the actual situation, and depending on the need to initiate several types of expertise of legal compliance and validity of certain legal regulations.

Conclusion

Investigating the organized economic - financial crime is a complex process which demands well planning and running a single operation action, combining all operational and tactical measures and actions investigative and special investigative measures. Which measures will be applied to, when, where and how they will be applied depends on the documentation which is available on the first place. Then the information from the documents leads the investigation until its complete and profound clarification and providing evidences. We make simple and complex combinations, in a tactical way which corresponding the criminal situation and the proving process itself. Analysis the documents is a method which is performing very often during processing the act of insight in business documentation, and the following method is comparing the documents, whether they are legal or their origin is preparation, comparing the documents whether they respect the legal procedures or

no. Providing the evidences should be in legally provided procedure, for which the operative workers should make operative documents, that contain every measure, the time, the place, the presence of certain people ,whether the human rights were being respected. The investigative process and its expert and professional leading is a condition for initiating criminal proceedings against the perpetrators of organized economic-financial crime, but that process should provide evidence for the existence of a criminal act such as criminal association, then clarification and proving the criminal traits and roles of all perpetrators involved, providing evidence for each perpetrator, finding out who is directly affected by the crime, the type and amount of damage or gained illegal profit and in the end freezing and confiscation of criminal crops and property.

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СЛОЖЕНИТЕ КРИМИНАЛИСТИЧКИ КОМБИНАЦИИ ВО ФУНКЦИЈА НА ИСТРАЖУВАЊЕ НА ОРГАНИЗИРАНИОТ ЕКОНОМСКО – ФИНАНСИСКИ КРИМИНАЛИТЕТ

Д-р Светлана Николовска

Апстракт

Истражувањето на организираниот економско – финансиски криминалитет е сложена работа која е условена од преземање на планирани и координирани законски мерки, дејствија и методи на надлежните органи на прогон. Организираноста на сторителите е во насока на искористување на нивните функции, позиции, знаења и моќ за преземање на криминални дејствија со цел остварување на високи криминални приноси и преземање на дејствија за прикривање на криминалната активност. Во функција на целосно истражување на овој вид на криминалитет во казненото процесно право, покрај постоечките мерки, дејствија и методи се предвидуваат и нови кои овозможуваат градење на нови стратегии за истражување. Сложените стратегии се темелат на примена на сложените криминалистички комбинации на органите на прогон кои треба да бидат добро испланирани и координирани. А, сето тоа е во функција на целосно расветлување на криминалниот случај со обезбедување на докази за сторените кривични дела, осомничените сторители и нивната криминална улога и обезбедување на докази за видот и висината на криминалните приноси, како битен предуслов за успешно водење на кривичната постапка за казнување на сторителите и конфискација на нивните криминални приноси. Научното истражување на криминалистичкото комбинирање на законските мерки, дејствија и методи е во интерес на изнаоѓање на нови и современи криминалистички комбинации кои ќе бидат од корист на оперативната практика во водење на оперативните акции за откривање, расветлување, докажување и спречувањето на организираниот економско – финансиски криминалитет.

Клучни зборови: криминалистички комбинации, организиран економско – финансиски криминалитет, криминален случај, криминална улога, конфискација.

CRITICAL REVIEW WITH NEW CONCEPTUAL APPROACH TO CERTAIN DECISIONS OF THE LAW ON CRIMINAL PROCEDURE

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Abstract

The new Law on Criminal Procedure[1] contains new solutions that are fully transforming the previous concept of criminal procedure in Macedonia. The transitional and final provisions of this law states that its application will take effect two years from its adoption. These days the adoption of the new law for changes and amendments is expected to take place, by which the application of the LCP will be postponed for another two years. All this caused tremendous and different reactions in the professional and scientific public. Behind all these different opinions, there are different conceptual approaches. Sometimes, advocating different foreign solutions is possible even without conception. For some of the solutions in the new LCP there will be general conceptual remarks and draft solutions set out in the paper, in order to overcome the stressed conceptual weaknesses. Namely, the general conceptual novelty according the new Law on Criminal Procedure is that the investigation goes into the hands of the Public Prosecutor. On one hand, this tendency is present in practice in certain legal systems. However, on the other hand, one has to seriously question the optimality of this concept in a society with a strongly emphasized politicization in the judiciary, with a State Public Prosecutor coming from the executive power, and a general socio-cultural environment typical of a fragile and transitional society such as the Republic of Macedonia. The paper will also open many questions about the position of Judiciary Police and the relations with the Public Prosecution, the classical police and other responsible institutions, as well as the opportunities for optimal functioning of the investigation centers etc.

Considering these performances, in the paper, not only the theoretically critical and realistically descriptive function of the science, but also its normatively prescriptive and practically applicative function will be emphasized. Therefore, this paper has the significance of a firsthand scientific paper, even though it analyzes and elaborates legal regulations and contains no empirical research (surveys and interviews, which are not needed in this and similar cases, since one cannot require

[1] Law on Criminal Procedure, Official Gazette of Republic of Macedonia, No.150/2010, from 18.10.2010

empirical confirmation of the new scientific theories, ideas and concepts in public opinion; instead, the scientific theories are confirmed or rejected by indirect empirical facts and evidence.) Unlike scientific papers in which legal provisions are explained and commented for the sake of better implementation of a particular act, in this paper, the emphasis will be put on opening new dimensions for substantive issues, as well as new conflicting conceptual approaches, by proposing "de lege ferenda" solutions, designed not only for a more efficient, but what is more important, a more effective criminal procedure.

Introduction

The new Law on Criminal Procedure contains solutions that are fully reforming the existing concept of criminal procedure in Macedonia. For some of the new LCP solutions, I have general conceptual remarks. Namely, the conceptual novelty that the investigative procedure will pass into the hands of the Public Prosecutor is a double-edged sword. From one side, certain legal systems apply the tendency for the investigation to be a responsibility of the Public Prosecutor. Adherents of this orientation find their justification in empirical facts above all, which to a certain extent are confirmed in our practice, meaning that the investigating judge is reportedly conducting the investigation statically and bureaucratically, i.e. from the office, and that he acts more like a witness rather than as an active agent in the investigation implementation. On the other hand, proponents of the concept for investigation under the public prosecutor jurisdiction are primarily citing the arguments that the Public Prosecutor with his already broad authorization coming from the existing legal provisions and a greater managerial role given in the previous investigative procedure, can realistically lead the Prosecutor to impose himself as a more effective coordinator for faster and more successful investigation. My opinion is that we should not blindly attach to certain foreign judgments mechanically; regardless of the fact that such models provide successful results elsewhere. Qualitative factor analysis is needed first in order to examine the extent to which specific determining factors will have its influence if this concept is applied here in the present specific historical period. In that sense, we should not forget that among us, literally speaking, until yesterday (if not today), the public prosecution was set in our judicial system in the broader sense as a bureaucratic institution waiting for almost 95% of cases to be served to them by the police. The prosecution only dealt with the refined part of the job - legal qualification of the acts.

Although the period of this law's application will follow two years since its entry into force, the prosecution with the same human potential will turn into an active implementing tool and a dynamic managing factor in the complete previous procedure, which means also the segment of pre-trial procedure (detection and reporting) and the segment of investigative procedure. This is clearly confirmed in the LCP article 284, where the Public Prosecutor himself, besides the Police and judiciary police (new body) over whom he has the right and duty of constant control, can

directly compile the necessary information essential for deciding on criminal charges.[2] No less important, although neither the most important from a series of questions that are posed: How will the PPO in its investigation take care of collecting valid evidence fairly to press charges, which is his primary obligation, on the one hand, and on the other, according to Art. 291 point 4 of the new LCP, the Public Prosecutor is obliged to collect evidence both in favour of and against the suspect's interest. Seemingly, the insuperable contradiction in such regulations has a profound logic in the actions of the public prosecution, but as an optimal independent state institution independent from the executive branch and in a completely different socio-political and cultural environment from ours. This is even more apparent if one considers that the Public Prosecution as a state institution "par excellence" has not yet been emancipated from the Government. Why am I claiming this? Because an independent professional body should elect the State Public Prosecutor and not according to the positive constitutional solution in Macedonia as it is now, following the government proposal, appointed and dismissed by the Parliament of the Republic of Macedonia, with previously made opinion of the Council of Prosecutors, which by the way, is legally non-binding for the Government. This independent and professional body could be, for example, the Council of Public Prosecutors, which according to its establishment in the Republic of Macedonia has a minimum of independence from the executive branch. It is known that in many countries, the public prosecution is part of the executive branch and consequently, the governments have certain responsibilities in terms of appointments and dismissals of senior officials in the public prosecution. In some countries, like USA, public prosecutors are elected in direct elections in local communities.

However, taking into account the specific factors determining the transitional and underdeveloped countries, such as the level of political culture, legal consciousness, lack of democratic tradition, the specific mentality and so on, emancipation of the public prosecutor as an extremely important state institution of the Government is needed, to ensure efficient and effective functioning of the legal order. Namely, the presence of numerous public suspicions and allegations of selective application of the law by this institution is known in the public, especially when dealing with cases of high-level corruption and organized crime in which, besides the allegations against former officials (currently in the opposition), current senior government officials may be involved too. Having in mind the fact that the PPO is functioning under the principle of hierarchy and subordination, the State Public Prosecutor of Macedonia enjoys discretional right to order a case to be reappointed to another prosecutor within the frames of the same or other basic or higher PPO, or to reject the case (rejection of criminal charge), assessing by personal opinion that there are no valid proofs for criminal responsibility. Besides, the SPP as

[2] Law on Criminal Procedure, Official Gazette of Republic of Macedonia, No. 150/2010, from 18.10.2010

ex officio member of the Council of Public Prosecutors has great influence when selecting and dismissing the public prosecutors and their deputies on all levels.

In order to raise the efficiency and effectiveness in the struggle against organized crime, as well as to eliminate all suspicions of biased acts, the most optimal decision is the SPP to be elected and dismissed by the Council of Public Prosecutors, as a professional and independent body, emancipated by the Government. The Council of Public Prosecutors in fact elects all other PP; therefore, there is no other serious reason why the SPP should not be as well. This draft-decision requires constitutional changes to take place; however, I consider it to be of great importance, having in mind the fact that even previously, and even more with the new LCP, the PP has the leading and coordinative role in managing the complete prior procedure (pre-investigative and investigative procedure), and also has a significant role during the complete subsequent criminal procedure.

New Conceptual Overview on Some Decisions in the LCP

Here, the need for qualitative analyses of specific determining factors in our specific ambient comes to the fore, as the specific determining factors are objective limits from which the realization or the failure of any idea or concept is literally depending, in a concrete social reality and in a concrete historical period. The creators of the new LCP did not take into consideration my abovementioned facts at all. Therefore, I consider that the most serious crack lays in this LCP version that realistically can result in increased statistical efficiency of PP and the Police, but at the same time jeopardizes human rights and freedoms, which indicates weak PP job efficiency. Such ineffectiveness in one part will reflect with increased part of negative outcomes from the effective convicting court verdicts, and in greater extent with an increased number of appealed verdicts to the European Court for Human Rights. The arguments that the judge for the prior procedure will be the corrective of PP in investigation implementation do not hold up because:

1) The PP is fully responsible for managing the preliminary investigation and implementation of investigation procedure.

2) The competence of the judge for preliminary proceedings refers to determining the detention, arrest of persons in cases specified by law, search, measures for temporary deprivation or custody of property and assets, guarantee, eventual questioning of certain sensitive categories of witnesses (following the suggestion issued by PP), implementation of evidence hearing in certain cases (also by the proposal of PPO), a decision to re-open the investigation (also by the proposal of PPO) and shared responsibility with PPO for the order to apply special investigative measures.

3) It is understood that the current investigative judge besides all other powers and authorities in the investigation, has these authorities as well, so we are all witnesses that there are almost no cases noted when the PP proposals were rejected by the investigative judges (with due respect for the rare exceptions). If so, from where does the unrealistic optimism come that the judge for preliminary procedures will

change this situation, especially when the judge for preliminary procedures will have much less authority in the investigation and therefore far less insight into the legal and factual situation in specific subjects of the investigation.

Certainly, the new concept advocates a completely different logic of reasoning by which the MoI and other competent state authorities, i.e. Judicial Police in the investigation procedure, will be subordinated under the Public Prosecution. That is an immanent characteristic of this concept and nothing is illegitimate here. However, in the clash of concepts, the rational confrontation of arguments for and against has been expressed, as long as we are led by the same ideal aim, and that would be the optimal balance between protection of human rights and freedoms and efficiency in discovering, proving and adjudication of criminal acts. As long as the ideological goals differ, the arguments are worthless. Starting from the opposite, I am trying to make polemics and I say right here that these conceptual differences in the rational confrontation may show the differences that based on valid arguments can cover a good portion of it with more optimal solutions, if it is impossible to overcome them fully.

In that sense, I will indicate the following specific points in the LCP, where I pinpoint the general conceptual weaknesses:

1) In the new LCP, concerning the phase for detection and reporting, the MoI is designed with very confusing and very restrictive powers and responsibilities as opposed to the still existing provisions that somewhat should be understood according to such a concept. Nonetheless, under the new Law on Criminal Procedure, the Police have divided jurisdiction on a very vague way with the newly proposed body - the Judicial Police. It is evident if we analyze and compare Art. 46 to Art. 52, where, among other things, duties, composition and functional availability with the Judicial Police are written and mentioned, and the Article 276 concerning the police authorities that the Police are obliged to carry out. Point 4 of the same article explains that the PP can carry out these actions by himself, which indicates parallelism in the work of the Police and Judicial Police, i.e. the investigation centers under the authority of the PP. The parallelism is not always a bad thing, as long as there is an explicit concept.[3] According to me, it is not only about explicit concept, but there is no concept at all. The argumentation for this claim is found in the nebulous and uncompleted notion for the judicial police that I will come back to in the next paragraph.

2) When a new organ is about to be established, in this case the Judicial Police, we do the same systematic mistake repeatedly. We interject the new organ in a systematic law as the LCP, so afterwards, due to lack of a basic system-conceptual view that should anticipate changes and annexes in some other laws (out of which one is also systematic), we will find ourselves in a situation that has been repeated innumerable times: this organ will not function for a long time. Still, many other

[3] For the concept of parallelism or security community against the concept of a single centralized institution, see more in: M. Labovic & M. Nikolovski, Organized crime and corruption, Faculty of Security, Skopje, 2010

questions remain open for which answers there are several various conceptual decisions, but with various implications on the current provisions. Thus, for example, what will the position of the Judicial Police be in the hierarchy of the judicial system of Macedonia? Will it be an independent organ or an organ within the PPO, the MoJ, or will there be some other solution? Insofar, from the implicit LCP provisions, no other explicit solutions to these dilemmas are visible. Who will be the one to appoint and dismiss the Chief of Judicial Police, and in what way and after whose proposals, are exclusively important issues for the functioning of this new organ that has the crucial role in the preliminary investigative procedure, and what is even more important, this organ is the unique authorized organ for implementation of Special Investigation Measures, under the control of PP (article 258).

3) The new provisions of LCP imply implicit solutions for all the above raised questions. Thus, the Judicial Police are neither a nondependent authority, nor a body within a compound. They have no position in the system, because they are a name without a specific substrate since the members of the Judicial Police are all authorized officials of the Ministry of Interior Affairs, the Financial Police and the Customs Administration. The same applies for the members of investigative centers of the Public Prosecution Office (seconded by members of the above mentioned bodies on part time) and officers appointed to serve the PP if necessary (again, detached members of the above mentioned authorities), for efficient implementation of the criminal proceedings. These civil servants are exclusively available for the PP and are working under his control and supervision, so they are obliged to respect his orders and to work in accordance with his instructions and directions, and they are responsible to the PP for their work. During the time they are assigned to work with the Public Prosecutor, they cannot be assigned to another job in the state bodies from where they originally come from, or be dismissed from the current case without the express consent of the PP, so it means a step forward. However, in order to see how big this step is and whether the step could become even more serious, we should pose the essential question: Will these authorized officials - detached for a limited time to the PPO while still remaining as permanent employees at their employers, where their job can be under disciplinary procedure on proposal issued by the respective PP - be more loyal to their temporary or permanent employers in these specific cases (in which the authorities are most interested)? The answer is known not only for the ones that are professionally and scientifically working on this issue, having in mind the mentality of our people, the lack of democratic tradition, legal consciousness, political culture, and so on.

According to the author of this paper, and with an aim to achieve not only more efficient, but what is even more important – more efficient criminal procedure, especially related to the structure of perpetrators of most sophisticated criminal acts from the sphere of high-level corruption and institutional organized crime, positioned on various levels of the institutional hierarchy of the system, it could have been much more optimal if:

1) The Judiciary Police was not only a name without a concrete substrate, but was positioned within the frames of PPO, and its members were not only detached servants from other institutions, but permanently employed at the PPO.

2) The effects of these "serious reforms"[4] of the criminal-legal justice system would be complete (though not ideal, since not anything taken from the ground nature may be ideal), if my essential remark about the new conceptual approach towards the full emancipation of the Public Prosecution Office from the executive branch[5] was accepted. That could have been achieved with the constitutional amendments in 2005, when I proposed the State Public Prosecutor as well as all other public prosecutors and their deputies, to be elected and replaced by the Council of Public Prosecutors, and not by the Parliament of the Republic of Macedonia and the Government, following primarily the proposal of the Council of Public Prosecutors, which is not legally binding for the Government.

Conclusion

No academic euphemisms can hide or capture the essence of things as the direct pointing and shooting at the core of the problem can do. Hence, for the sake of truth, it must be noted that the main critics for delaying the implementation of the new LCP are precisely the creators of it. In a dilettante way, they interjected the whole concept for the new LCP into the system, and now, they wonder why the law cannot be implemented, stating in the media that apparently it was about "dilettantism or big fraud that creates subversion of the entire system", once from the PPO side, secondly, from the side of the MoI.[6] Even three years ago, I publicly stated that such a concept in general is wrong and due to it, realistically, great problems can be expected linked to its implementation in practice. For the sake of the truth, few of my concrete suggestions were accepted and the text of the draft-law for criminal procedure[7] was drastically changed. However, the general conceptual weaknesses remained. Besides the pointed general conceptual remark for the incomplete emancipation of PPO by the executive power, and the causes that can negatively reflect on a weak and fragile society as ours, inter alia, I pointed out the current long term practice of PPO that not only from physical, infrastructural, technical and personnel reasons, the PPO is not mentally ready to carry by itself the implementation of someone else's body in its organism (something that the creators of LCP did not take into consideration). I do not

[4] Statement of Gordan Kalajdziev, daily news paper "Vest", 23.02.2012

[5] Miodrag Labovic, Yearbook of the Faculty of Security Skopje, addition to reforms in the judicial and political system, offered solutions "de lege ferenda" based on the discussion for draft amendments of the Constitution from 2005, 2005/2006

[6] Statement of Gordan Kalajdziev for "Utrinski Vesnik" from 15.11.2011

[7] Interview with Miodrag Labovic for "Dnevnik" from 09.04.2009

[8] Conclusion from Government session from 28 January 2012

[9] Statement of Gordan Kalajdziev for "Utrinski Vesnik" from 15.11.2011

want to talk about the reluctance of the entire system, since it is about completely new relations between the PPP, the Police, judiciary and other responsible institutions. When it comes to the delay of the implementation of the new LCP for another two years,[8] I can state the following: no one is so naïve, but also no one is so smart to take the investigation centers of PPO only as "a building with a roof"[9]. Simply, it is about vacant position for new people, irrespectively and undeniably that as police and other institution servants they will offer personal assistance.

The newly employed people will have to find a place to work; someone should provide them offices, phones, computers and vehicles. It is not about a welcome luxury, and according to the critics, it came up that things can go without it. Those minimal work conditions obviously are not quite clear to the instant cabinet theorists, since none of them possesses a day of practical experience. Extra reason is that by appointing people to work as authorized personnel in PPO, the number of personnel in the Police and other respective institutions can go down, and that can realistically cause disturbance of their regular function flow. In total, those are the tectonic changes in the criminal-legal system for which implementation, longer preparations are needed most of all. However, is not the critics fault for the delay of LCP implementation since they can only do copy paste, and then, as main creators of criminal reform in the country, they only criticize. The one to blame are those that for many years are engaging the transcribers to copy someone else's laws, without a drop of a scientific sense for qualitative factoring analyses of specific determination factors. The transcribers in the best case of eclecticism are able to make a mechanical connection between foreign law decisions only. In addition to such claim is the statement of one the creators of the legal reform in the country, by which an inadequate comparison between our PPO is done with the prosecution office in Rome, Italy, without taking into consideration the number of police inspectors appointed to serve to each prosecutor in Roma and without taking into consideration their long tradition and the established practice.[10]

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Abbreviations
PP – Public Prosecutor
PPO – Public Prosecution Office
LCP – Law on criminal proceedings
MoI - Ministry of Interior
MoJ – Ministry of Justice

KEY DIMENSIONS OF ACTIVE CRIMINAL CAREERS – A PILOT STUDY OF THE ZAGREB PRISON INMATES

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The Criminal Career Concept

Crime data show that most offenders commit a single criminal act and, upon arrest, discontinue their antisocial activity. Others commit a few less serious crimes. A small group of criminal offenders, however, account for a majority of all criminal offences. These persistent offenders are referred to as career criminals or chronic offenders**.** Criminologists believe that chronic offenders tend to be at-risk youth who are exposed to a variety of personal and social problems and who begin their law breaking at a very early age—a phenomenon referred to as early onset.[1] Traditional theories of criminal behaviour have failed to distinguish between chronic and occasional offenders. They concentrate more on explaining why people begin to commit crime and pay scant attention to why people stop offending. The discovery of the chronic offender 30 years ago forced criminologists to consider such issues as persistence and desistance in their explanations of crime; more recent theories account not only for the onset of criminality but also for its termination. The chronic offender has become a central focus of crime control policy. The apprehension and punishment seem to have little effect on the offending behaviour of chronic offenders, and most of them repeat their criminal acts after their release from houses of correction. Because chronic offenders rarely learn from their mistakes, sentencing policies designed to incapacitate chronic offenders for long periods without hope of probation or parole have been established. Incapacitation rather than rehabilitation is the goal. In the current atmosphere of "get tough" on crime, the criminal career paradigm has attracted considerable attention. The call for more prisons, longer sentences, mandatory minimum sentences, and habitual offender laws rests largely upon the belief that the criminal activity can be reduced through incapacitation of offenders, especially high-rate offenders. If judges can correctly identify those individuals variably referred to as habitual offenders and career criminals, then some identifiable

[1] Blumstein, A., Cohen, J., *F*arrington, D.P. (1988). Criminal Career *R*esearch: Its Value For Criminology, Criminology, vol.26, 1, 1-35.

number of crimes can be prevented. The issue then becomes one of cost (of building and incarcerating offenders) weighed against the benefits. The objectives of criminal career research are threefold: (1) to accurately identify the high-rate offender; (2) to identify factors associated with onset, maintenance, and termination; and (3) to determine the average number of offences committed by each offender during some period of time.

Dimensions of a Criminal Career

A criminal career is defined as the longitudinal sequence of crimes committed by an individual offender.[2] The major contribution of the criminal career researchers was to break up the aggregate crime rate in several dimensions each to be studied separately. The first of these dimensions is **participation**, which relates to whether one becomes an offender or not. Visher and Roth's[3] overview of several longitudinal studies employing police and court records indicates a life-time prevalence estimate of 40 to 50 percent. Stattin et al.'s[4] longitudinal study of Swedish males and females revealed that by age of 30, 38 percent of Swedish males and 9 percent of Swedish females were registered for a criminal offence. In the Cambridge study, Farrington[5] found that 96 percent of the males reported committing at least 1 of 10 specified offences (including burglary, theft, assault, vandalism, and drug abuse) up to age of 32.

There is a strong relationship between age and participation. In particular, the probability of initiating a criminal career at a given age is the highest from the age of 13 to 18, on the lower end for self-report estimates and on the higher end for arrest and conviction records, with few gender differences in the shape (as opposed to the magnitude) of the age-crime curve.[6] The second important dimension is that of **frequency,** which refers to the number of crimes committed by participating offenders over a given period of time (usually

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Blumstein, A., Cohen, J., Roth, J.A. and Visher C. A. (1986), Criminal Careers and ''Career Criminals'' 2 vols. Panel on Research on Criminal Careers, Committee on Research on Law Enforcement and the Administration of Justice, Commission on Behavioral and Social Sciences and Education, National Research Council. Washington, D.C.: National Academy Press, p.12.

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referred to by the Greek letter lambda, or λ). Spelman[7] summarized current knowledge on offending frequencies. Firstly, there are different values for the average offence frequencies across studies because researchers use different definitions and operationalizations of the offence rate. Secondly, most of the variation in offence rates can be attributed to differences in the populations sampled, especially to where in the criminal justice system they are sampled (e.g., one would expect to be higher in a prison population than in a sample of arrestees). The other criminal career dimensions include **duration**, the time between first (initiation) and last offence (termination); and **seriousness or crime-type mix,** which refers to the nature of crimes committed while active. Several studies have reported higher recidivism rates among offenders with records of early criminal activity as juveniles. [8] Although many researchers argue that individuals who begin offending early will desist later and thus have longer careers, there has been much less research on the duration of criminal careers, primarily because of the difficulty involved in determining the true end of some individual's offending. Using official records, some researches provide evidence in favour of a small degree of specialization, but most find that versatility is the norm throughout offending careers, especially at young ages. Specialization appears to be greater for adult rather than juvenile offenders. On the other hand, self-report data from the Rand studies suggest that, although there is some evidence of specialization in property crime, the incarcerated offenders tend to report much more versatility than specialization.

The driving force behind the criminal career paradigm, were questions regarding policy and especially - though not exclusively - questions concerning the potential benefits of (selective) incapacitation. **For estimating the effect of an increase in sentence length, for example, it is relevant to know whether individual offending frequency is stable or declines over time and what the expected residual career length is of the offender eligible for incapacitation.** As such, the criminal career paradigm not only provided a range of conceptual tools to describe criminal development (initiation, termination, and dynamic changes between these points) over time but also directly linked scientific research to policy outcomes. In line with its focus on official sanctions, the criminal career research is mostly based on arrest or conviction data.

Research Goal

The criminal career is most commonly used in Croatia as a description of someone's criminal past (i.e. the type and the number of committed crimes). Therefore, the goal of this paper is to present some features of the criminal career concept in Croatia, as well as its significance for development and improvement of the criminological, judicial and penological practice and crime prevention policies. The

Spelman, W. (1994), Criminal Incapacitation, New York: Plenum.
Blumstein, A. et al. (1986). Ibid.

goal of this pilot study conducted at the framework sample of inmate population in Croatia is to take insight into some specific dimensions of the individual criminal career of inmates in order to re-assess the research instrument and gain the relevant indicators for designing a full-scale research project.

Methodology

The examinee sample

The examinee sample is made of the randomized sample of 160 adult inmates sentenced above 6 months (round 7% of the total annual influx of inmates), 10 of them being female inmates who were sent to serve their prison sentence entering the Prison System through the Department of Diagnostics of the Croatian Prison Administration in January and February 2012. In the above stated Department, they are submitted to observation, assessment, classification and final transfer to a prison. The average age of a male is 38, and 40 for women. The socio-demographical data show that they frequently originate from urban areas, have secondary school education, live alone and they were arrested and taken to prison or came from remand.

The Measuring Instrument and the Procedure

The questionnaire used in data collection consisted of 18 items including seven socio-demographic variables and 11 variables describing criminal career dimensions retroactively to the actual prison sentence: participation and offending frequency stated in the previous convictions (fine, probation, juvenile sanctions and imprisonment), gravity of offence(s), recidivism, specialization, escalation and criminal career duration up to the actual prison sentence. The sources for data collecting are the official inmate records containing the data resulting from interdisciplinary expert processing. Descriptive analysis is used for calculating the observed features of criminal career and the description of its dimensions.

Research Results

Offending Participation

Since the sample of inmates consists of active offence perpetrators and that the retrospective data on final court sentences are taken into account, it must be pointed out that the reductionist approach was prominent in relation to real committed felonies, due to criminal proceeding filtering (police - prosecution - court). The official data in the prison system do not contain the individual number of arrests by the police during inmates' criminal career, neither the approximate number of real committed offences that could be obtained by the self-report data in exploring the dark figure of crime. Based on data on previous sentences and the actual sentence, the inmates are classified into the primary offenders, the recidivists and multi-recidivists. The share of the primary delinquents is 42.7%, 20% for recidivists and 37.3% for

multi-recidivists or chronic offenders. In comparison to the (multi)recidivism indicators from previous years for the total prison population (round 40%), the tendency of the increased share of the recidivists (57.3%) was observed at the 2012 sample. Almost half of the inmates (48.7%) are aged 24-35, which points out to the so-called maximal criminality of this age group. The examinees aged 36-45 have a 26.3% share, the ones aged 46-55 account for 14.1% of them, and with later age, the intensity of criminal activity i.e. court sentences is significantly decreased (7-0.7%). Due to a significant correlation between the age and participation in criminal acts, the obtained data indicate that the relatively greater proportion of inmates (38%) had their first conviction before their adult age (18). 26% of inmates had their first conviction aged 19-30. Thus, more than a half of the prisoners entered criminal activity in their adolescence, taking into account the requirement of the time elapsing in the following sequence: crime activity – detection of criminal behaviour – final court sentence.

Previous Sentence Frequency

This is actually the underlying dimension for researching criminal career. The approach is based upon the retrospective analysis of individual previous sentence frequency. It has been mentioned that the share of the recidivists is 20%, while the multi-recidivists amount to 37.3%. The recidivists on average have 1,3 criminal sanctions which are predominantly conditional sentences (imprisonment is present for 1/3 of examinees), while the multi-recidivists even have 5.8 previous criminal sanctions per inmate – on average, 3 imprisonments and 3 conditional sentences in their criminal career, which indicates that they are notorious chronic offenders.

The Seriousness of Committed Crime, Specialization, Escalation

In relation to the primary or dominant crime the inmates had been convicted for and for which they are serving the current sentence, 25% of examinees were convicted for drug abuse, and the same proportion of them was convicted for different types of crime (versatility). In the second group, there is a visible distinction to those who commit non-violent crime (property and economic felonies) and violent criminal offences. The third group of the inmates (20%) was convicted for the burglary and robbery in equal portions. The greater share belongs to the mixed-type crime recidivists (57%) as opposed to the specialized recidivists. More than a half of the inmates (55%) started with committing and getting convicted for minor criminal offences with tendency to increasingly serious crime. However, there is an interesting fact that round 40% of the inmates have been continually convicted for the same crime throughout their criminal careers, with the relatively high degree of social danger (drug abuse, robbery, extortion and other violence-related crime).

Duration of the Criminal Career

Since the sample of the examinees is related to the individuals who are currently serving their prison sentence, it is impossible to foresee the desistance, the

end of their criminal career, nor their repetition of crimes. It is evident from the collected data that the average criminal career up to the actual imprisonment lasts for 8.5 years with recidivists and multi-recidivists. Taking into account that almost a half of the examinees are aged 24-35, there is a sound assumption that most of them were involved into the criminal activity in early adolescence and convicted up to their adult age, which matches the data from the analysis of participation in crime.

Conclusion

Taking into account the methodological limitation of this pilot study, the descriptive data indicate that the onset of the criminal activity in the selected sample of inmates most often occurred in early adolescence, while the maximum intensity of criminal activity came up round the third decade of their life. At the same time, as the chronic offenders they escalated toward perpetrating more serious crime in the course of their criminal career. In addition to this, the significant number of inmates (40%) had been continually convicted for serious offences in their criminal career. Therefore, it may be justifiable to make a conclusion on the high specific gravity of the criminal recidivism. The general recidivists are divided into the group that is prone to violent crime activities and those who are permanently convicted for property and economic felonies. The specialized recidivists are perpetrating mostly drug related crime.

Croatia has an identical problem as most other states, i.e. overcrowded prisons. The probation system was legally and organizationally established just recently. Furthermore, the strategy of crime control and crime combating policies is predominantly resting upon the incapacitation effects. Consequently, it is necessary to consider the model of crime control that would keep the delinquents in penal institutions just for the requisite time. Incapacitation policies are more likely to be effective if they are applied during active careers and not after criminal careers have ceased or when careers are in a downswing, when offenders tend to commit crimes at rates ‘‘indistinguishable from zero’’[9]. Incapacitative effects will depend on the effectiveness of the criminal justice system in prospectively identifying high-rate offenders and incarcerating them during the peak crime periods of their careers.

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ASP.NET WEB SITES SECURITY FEATURES: ONE SUBJECTIVE POINT OF VIEW (ANALYSIS)

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Abstract

In present times, approximately a quarter of all web-sites are created on the ASP.NET technology basis. Therefore, the ASP.NET web-sites data security question has a vogue. The main treats are: spoofing, tampering, repudiation, information disclosure, a denial of service attack, an elevation of privilege attack, etc. Three main security solutions are: authorization, authentication, and cryptography. In addition, the steganography is used for the data's secure transmission. The main goal of this paper is to show one subjective point of view to ASP.NET web-sites security system organization (store and retrieve part of data) with preliminary analysis of the existing steganography methodology. An example on the ASCII art, steganography, and ASP.NET web-site basis is also shown.

Keywords: security, steganography, ASP.NET, Huffman coding, ASCII art.

Introduction

In present, approximately a quarter of all web-sites are created on the ASP.NET technology basis [1]. Therefore, the ASP.NET web-sites data security question has a vogue (e.g. [1-6]). The main treats are [6]: spoofing (to impersonate a user or process in an unauthorized way), tampering (changing or deleting a resource without authorization), repudiation (it involves carrying out a transaction in such a way that there is no proof after the fact of the principals involved in the transaction), information disclosure (stealing or revealing information that is supposed to be private), a denial of service attack (to deliberately cause an application to be less available than it should be), an elevation of privilege attack (to use malicious means to get more permissions than normally assigned). Three main classical security solutions are authorization, authentication, and cryptography [6-9]. In a fact, none of the above methods can defend information in general. In addition, the steganography is used for the data secure transmission (e.g., [10-14]). It is well known that steganography allows writing the hidden messages in such a way that no one, apart from the sender and intended recipient, suspects the existence of the message. In such manner, the information security system is improved. Hence, the main goal of this paper is to show one subjective point of view to ASP.NET web-sites security system organization with preliminary analysis of the existing steganography methodology. Also, an example on the ASCII art, steganography, and ASP.NET web-site basis is shown.

The presentation of the active server pages in the end-user web-browser

One feature of the ASP.NET technology is the separation of presentation and content [3]. i.e., the end-user web-browsers receive the XHTML code only (the web-page presentation) from the web-server; the ASP.NET web-site content (methods, databases, security options, etc.), which is hidden from the end-user. In this context, the steganography technique is suitable because all data processing takes place in the web-server (in the ASP.NET case, web-server is Microsoft Internet Information Server), and, therefore, ASP.NET web-sites security system is improved (store and retrieve data). The example of the considered below web-site "http://aspspider.info/MonaLisaASCII/" is shown in the Figure 1 – it is clear that the web-site content (Visual Studio 2010's C# behind code on the left) is hidden from the end-user (Internet Explorer's source XHTML code on the right).

Existing steganographic methods analysis

Steganography techniques can be classified into different ways [10-14], e.g. – physical (for example, invisible ink), digital (for example, concealing messages within the lowest bits of noisy images or sound files), network (for example, communication protocols' control elements and their basic intrinsic functionality are used), printed (for example, the letter size, spacing, typeface, or other characteristics of a cover-text can be manipulated to carry the hidden message), audio (for, example, the text or audio secret message are embedded within a cover audio message), text (for example, HTML files can be used to send information since adding spaces, tabs, special characters, extra lines, which are invisible for web-browsers; i.e., web-browsers ignore this hidden text), etc.

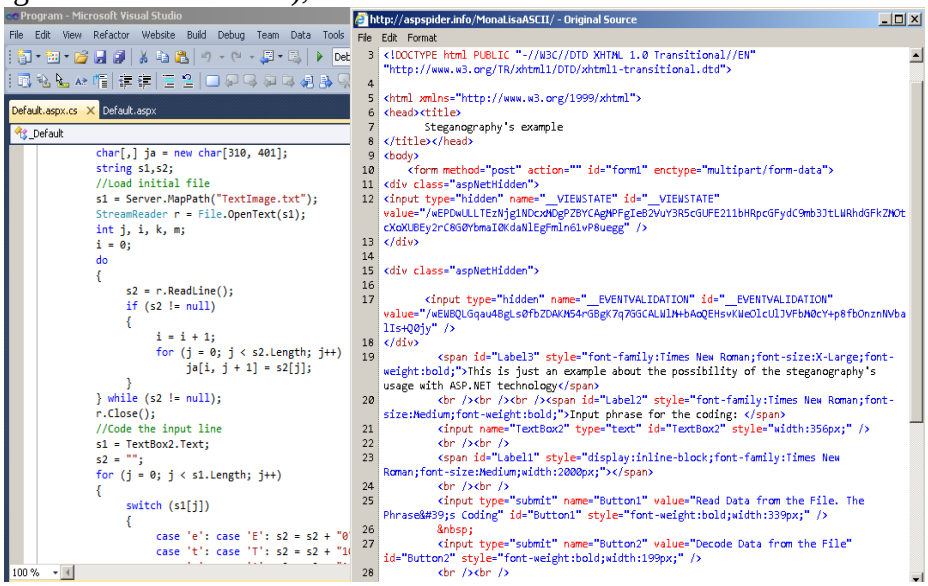

Figure 1: The example of the separation of presentation and content (Visual Studio 2010's C# behind code on the left

and Internet Explorer's source XHTML code on the right)

Text steganography is considered the most difficult kind of steganography due to the lack of redundancy in text as compared to image or audio [14]. But, it requires less memory and provides for simpler communication. One method that could be used for text steganography is data representation with Huffman tree. Huffman coding assigns smaller length code-words to more frequently occurring source symbols.

The choice of embedding algorithm in the most cases is driven by the results of the steganographic channel robustness analysis [10-14]. It is clear that when the steganographic robustness is increased a bandwidth of the whole embedding system is decreased. In general, the task of a scheme selection for achieving the optimal values of the steganographic system is not trivial. In some cases, it is necessary to take into account structure of the steganographic container. It is clear that it decreases the risk of the hidden information's detection. Moreover, in the author's point of view, the effective steganographic algorithm has to include the preliminary analysis of the container.

Thus, the choice of the steganographic method depends on the many factors such as the detection probability, the steganographic container's structure, the steganographic channel robustness, etc. Further, we apply the analysis of the above results within the text steganographic container's example.

Example of text steganographic container

As it was mentioned above, text steganography is the most difficult case. In present, the ASCII art is in vogue [17-19]. It is proposed to use the ASCII equivalent of the world known painting Mona Lisa (Leonardo da Vinci) [20] (see Figure 2). This painting was converted to ASCII code with special software [18] (400 characters width). The preliminary analysis showed that the rectangular sector with coordinates [290,150] (left top) and [308,250] (right bottom) is the most suitable steganographic container because of the random positions of two letters – 'N' and 'M' (see Figure 3). It allows hiding of information in binary view (letter 'N' represents the bit '1', letter 'M' – '0'). In addition, it is necessary to admit that the amount of letters 'N' is much more than letters 'M'. In this case, the next scheme is proposed for the letters' binary coding (see Table 1). The letters occurrences' frequencies are presented in [21]. In a fact, binary codes were created with the Huffman tree's algorithm and the prefix coding feature; also, the steganographic container's structure was taken into account (see Figure 4 which represent coded text – both screenshots are identical; hidden phrase is "Steganography plus ASP.NET is very interesting").

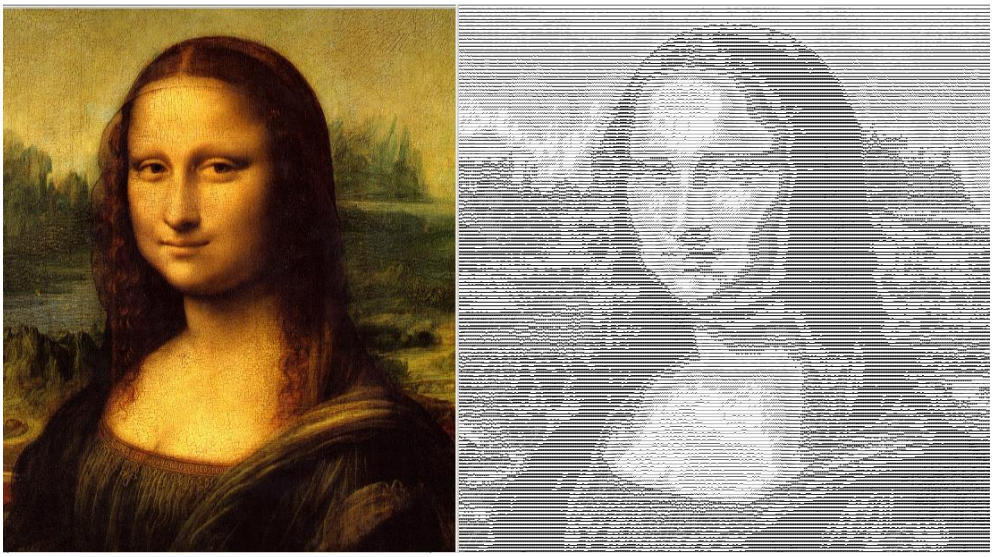

Figure 2: World known painting Mona Lisa (Leonardo da Vinci) and ASCII-art equivalent

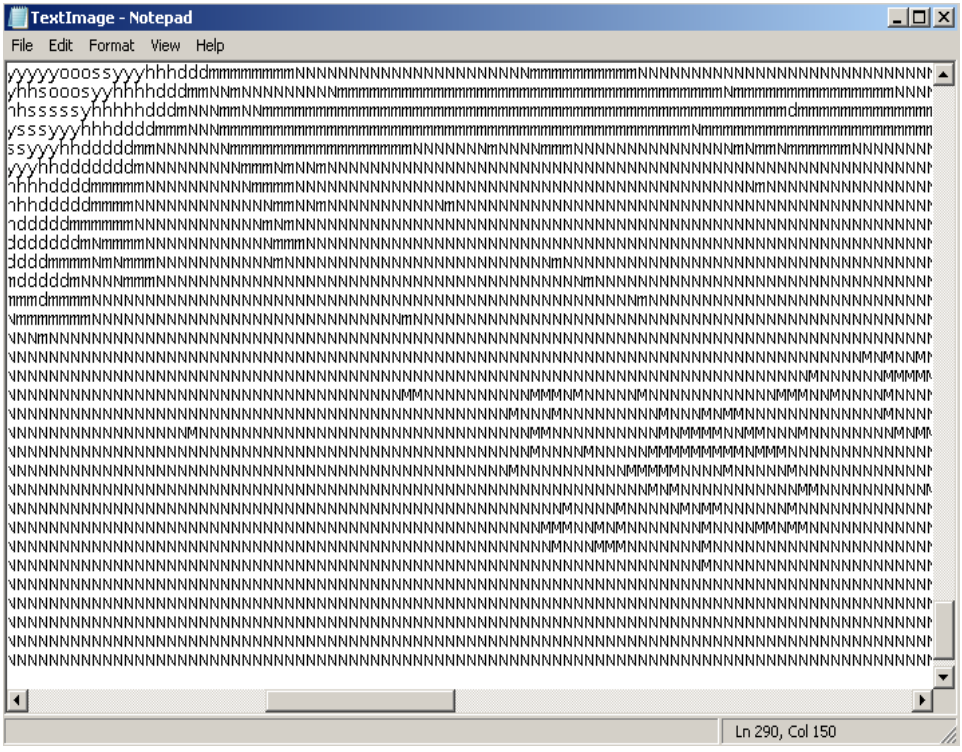

Figure 3: Text steganographic container without hidden information

Special software was realized within Visual Studio 2010 environment (see Figure 5) with C# code behind technique [3].

Web-site was hosted in a free ASP.NET web-hosting "http://aspspider.com/" (the appropriate URL (Uniform Resource Locator) is http://aspspider.info/MonaLisaASCII/). In addition, second level domain name was received from free domain name service (DNS) "http://www.dot.tk/" (the appropriate URL is http://monalisaascii.tk/). The DNS usage allows change of the web-hosting without the URL's replacement in a future. The web-page's screenshot is shown in the Figure 6 after an embedding of the phrase "Steganography plus ASP.NET is very interesting" (an initial file is "TextImage.txt"; the file with embedded text – "TextImageNew.txt"). The web-page screenshot is shown in the Figure 7 after the decoding of the text file.

Table 1: Scheme for the letters' binary coding

N	Letter	Frequency	Binary code
1	E, e	12.86	0
2	T, t	9.72	10
3	A, a	7.96	110
4	I, i	7.77	1110
5	N, n	7.51	11110
6	R, r	6.83	111110
7	O, o	6.62	1111110
8	S, s	6.62	11111110
9	H, h	5.39	111111110
10	D, d	4.01	1111111110
11	L, l	3.51	11111111110
12	C, c	2.84	111111111110
13	F, f	2.62	1111111111110
14	U, u	2.48	11111111111110
15	M, m	2.43	111111111111110
16	G, g	1.99	1111111111111110
17	P, p	1.81	11111111111111110
18	W, w	1.80	111111111111111110
19	B, b	1.60	1111111111111111110
20	Y, y	1.52	11111111111111111110
21	V, v	1.15	111111111111111111110
22	K, k	0.41	1111111111111111111110
23	Q, q	0.17	11111111111111111111110
24	X, x	0.17	111111111111111111111110
25	J, j	0.16	1111111111111111111111110
26	Z, z	0.05	11111111111111111111111110
27	blank	0	111111111111111111111111110

28	End of the hidden text	0	11111111111111111111111111

In addition, users have ability to download files “TextImage.txt” and “TextImageNew.txt” (hyperlinks “View the initial file” and “View the coded file” accordingly). Also, users can decode their own files (for this purpose, it is necessary to upload file “TextImageNew.txt” beforehand – see Figure 8).

Conclusion

In this paper, the security features of the ASP.NET web-sites were discussed. It was shown that main treats are: spoofing, tampering, repudiation, information disclosure, a denial of service attack, an elevation of privilege attack. Three main security solutions are: authorization, authentication, and cryptography. But, none of the above methods can defend information in general. In this manner, the one steganography approach was proposed for the hidden text information sending and retrieving within the ASCII pictures. This approach is based on the preliminary analysis of the steganographic container. In an example, the ASCII equivalent of the world known painting Mona Lisa (Leonardo da Vinci) was used as steganographic container, letters’ coding was realized with the Huffman tree. The main perspective of the proposed approach is the adaptive algorithm development in which one takes into account the symbols’ allocation within initial text.

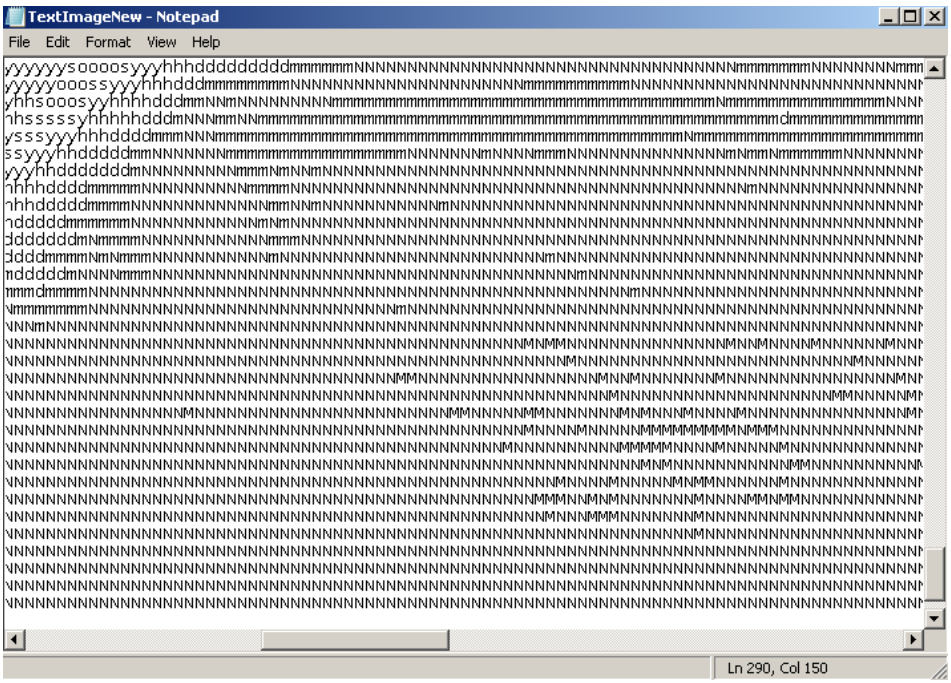

Figure 4: Text steganographic container with hidden information

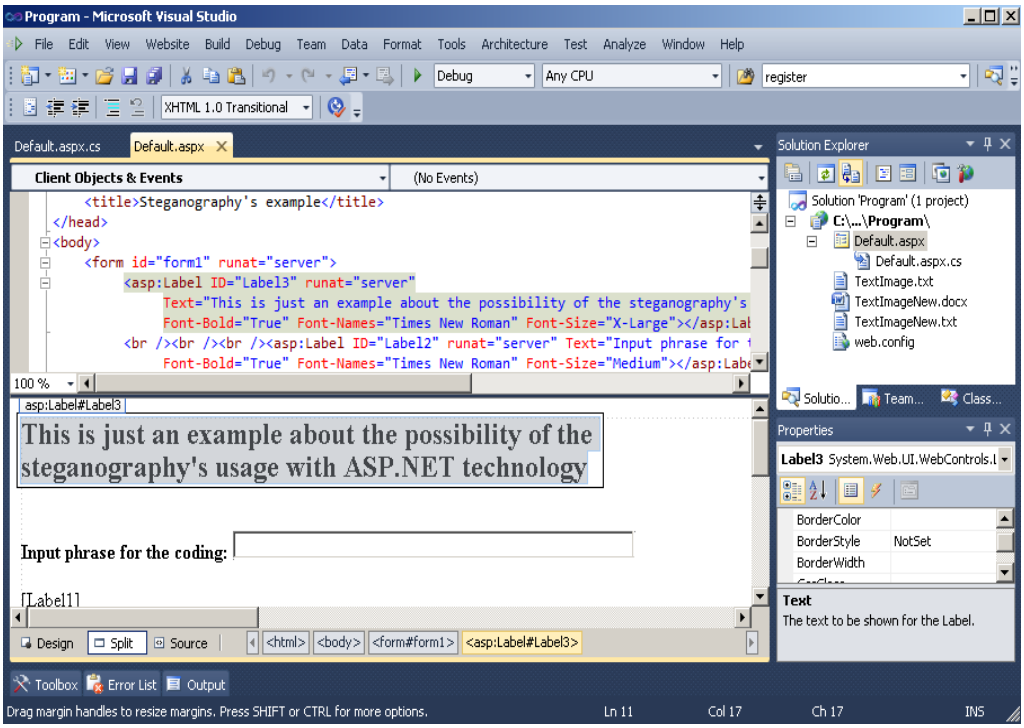

Figure 5: Screenshot of the initial code (Visual Studio 2010's split regime)

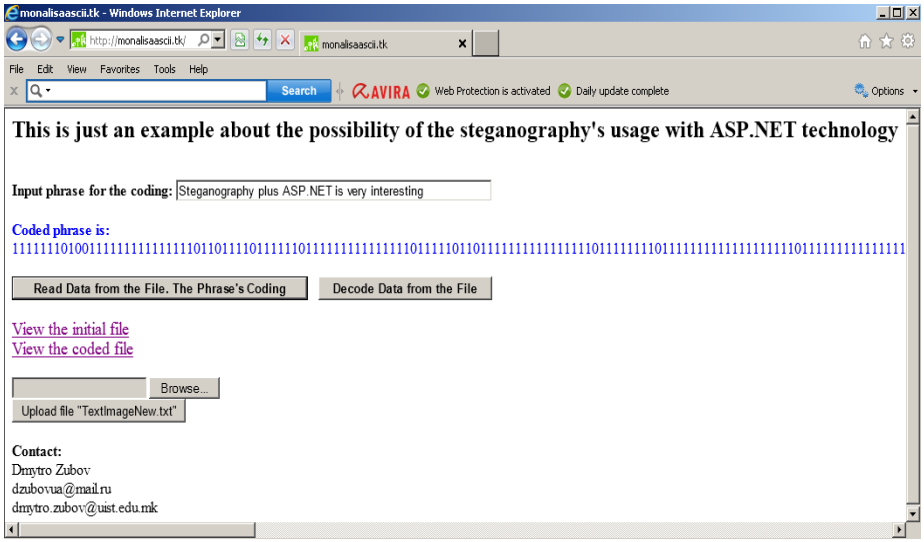

Figure 6: The web-page's screenshot after an embedding of the phrase "Steganography plus ASP.NET is very interesting" into the file "TextImage.txt"

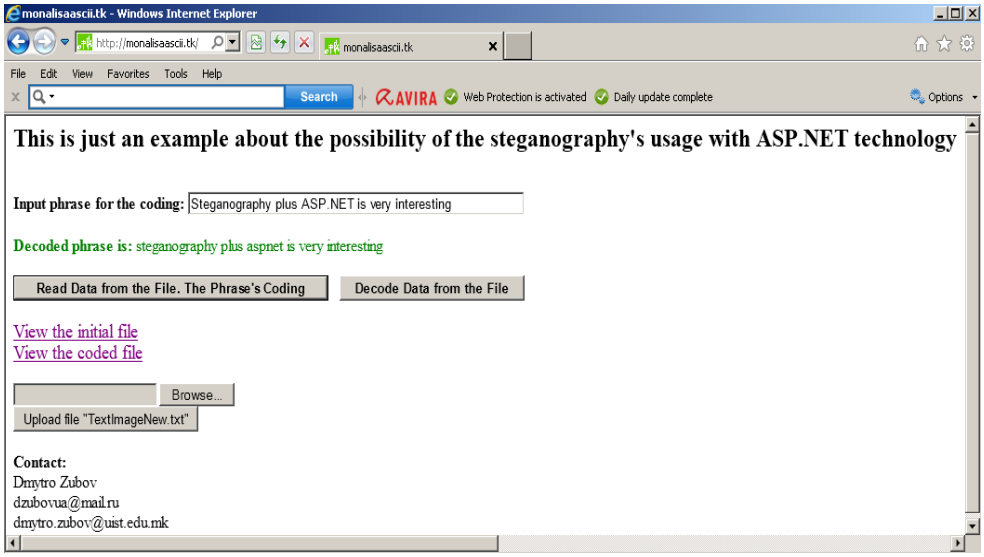

Figure 7: The web-page's screenshot after decoding of the text file "TextImageNew.txt"

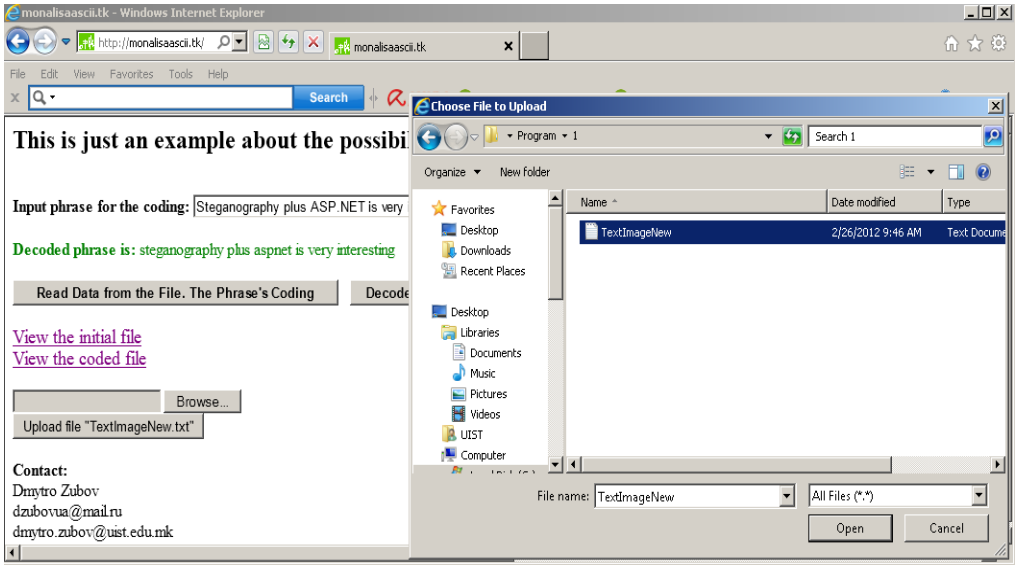

Figure 8: The web-page's screenshot (uploading the file "TextImageNew.txt")

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CONFISCATION OF ILLEGALLY ACQUIRED PROPERTY IN A FUNCTION OF MORE EFFICIENTLY CRIME PREVENTION

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Abstract

In the overall circumstances of the crime prevention and efforts that through the use of standard measures of effective confronting crime, particularly its worst forms, forms of organized crime, competent authorities shall take measures and actions in accordance with corresponding laws and regulations.

However, as modern crime more and more takes on forms of organized, transnational crime, where perpetrators are very perfidiously, refined and organized situated in all phases of criminal activity, from the preparation, execution of the crime, and especially the removal of traces of the crime, in the process of detection, and especially proving those forms of crime. The overall repression activity does not give particularly good results, which are expected in the circumstances of vulnerability, individual and social values and goods. So, in reality the fight against organized crime has been reduced to the constant advocacy of the beginning, and an imaginary and the final, future showdown with the serious forms of crime, which does not come into play.

The world has taken a very rigorous and effective measures in the application of additional repressive methods and measures by the so-called measures of confiscation of property derived from criminal activity, because it is concluded that classical criminal penalties are not fruitful and extremely efficient. In the region of former Yugoslavia, this approach is at an early stage.

Police, prosecutors and courts have regulated jurisdiction in this area with the objective to discover and prosecute cases, and to absolutely implement the well known principle that "no one has the right to retain or dispose another's property". This paper will analyze the existing situation and measures of the authorities in Bosnia and Herzegovina and the countries of the region, comparing the effectiveness of current measures of such measures in Europe and beyond, having long experience in the application of criminal law institute to combat the worst forms of crime.

Keywords: *property, the illegal acquisition of property, seizure, confiscation of property, evidence, crime prevention, jurisdiction, police, prosecution, court.*

Introduction

Organized crime[1] (Boskovic M, 2006) and other serious forms of crime are negative social phenomenon which is one of the main motives of financial, respectively, property gain. Performance of serious crimes and dealing with organized criminal activity has resulted in the acquisition of high-gain, which is then used as a means of financing further criminal activity. In terms of free movement of markets

[1] Bošković M, Organizovani kriminalitet i korupcija, Visoka škola unutrašnjih poslova Banja Luka, 2005.

and capital, the great possibilities of international trade, the weakness and lack of state control, assets acquired by criminal activity in many ways are inserted into the legal financial flows, to conceal its origin and become a legitimate source of funding. In such a way, those that deal with criminal activity get the ability to gain the power to influence all areas of social life and become one of the greatest threats to society and community.

At the end of the last century, the international community has realized that new methods are needed to counteract organized crime, corruption, drug trafficking and other serious forms of crime. A number of international documents referring to the establishment of new and efficient instruments for fighting organized crime, of which "attack" on crime property is becoming increasingly important. Taking into account one of the fundamental principles contained in the provisions of criminal law "that no one can keep the property gain acquired by the criminal offense",[2] from which it follows that the confiscation of property acquired by crime is necessary. Pursuant to the provisions of the criminal substantive and procedural criminal law (Criminal Code and Criminal Procedure Code), the obligation of the prosecution and the court is to officially determine the amount of property gain acquired from a criminal act for which the proceedings are conducted and apropos the court imposes a measure of confiscation, not engaging in the evaluation of its usefulness.

Existing solutions in these regulations allow the confiscation of property gain acquired from a concrete criminal offense for which proceedings are conducted and in such manner is taking away from criminals only a limited part of the property, i.e., financial gain. Significant assets that come from dealing with criminal activity over a longer period remain out of the investigation process and trial, which still serve as a base and source of funding for criminal activity.

The attack on criminal[3] property inevitably becomes the most effective instrument for combating organized and other forms of serious crimes. Many countries in Europe and the world have established effective mechanisms for the confiscation of such property or, property owned by the criminals, for which they can not determine the legal origin of their acquisition. Depriving property from criminals, acquired by dealing with crime through a period of time, i.e. for which is assumed to be of criminal origin are accomplished goals: prevention - confiscation of criminal property to prevent the performing of future crime, because in this way, criminal organizations and individuals are fully financially ruined and prevented to participate in lawful markets with proceeds of crime; prevent flows of illegal income into legal channels, neutralizing criminal organizations and activities, and supporting the rule of law in the sense that no one can keep the benefit of a criminal offense.

[2] Criminal Code of Republic of Srpska, Article 94.

[3] The overall expansion of the numerous forms of organized crime is necessary to use a far more offensive tools and methods in fighting the same, especially in the restitution of property that is acquired from the commission of these crimes.

Competent authorities for prosecution and subtraction of property

By adopting the Law on confiscation of property acquired by crime, Republic of Srpska [4] is the first in Bosnia and Herzegovina which made a significant shift in the field of confiscation of property derived from crime. In addition to confiscation of property acquired from a criminal offense, confiscation of items which resulted from a criminal offense, confiscation of property has been introduced, under special conditions and special procedures for which there is no prove of lawful origin.

Existing solutions contained in domestic legislation (Republic of Srpska, the Federation of Bosnia and Herzegovina, Brcko District and Bosnia and Herzegovina) prescribe confiscation of property gain that was from a criminal offense as a specific criminal measure. With the criminal-political aspect, prescribing and application of this measure is extremely important mean of combating crime, especially against organized crime in whose base is the acquisition of the material gain. For the importance of this specific criminal action in the contemporary politics of crime reduction is the fact that it occupied an important place in a number of international legal conventions.

In accordance with the decisions contained in the criminal law and criminal procedure law in Bosnia and Herzegovina, basis for the confiscation of property is a final court decision by which is determined that the material gain is achieved from crime. From the offender shall be confiscated money, valuable objects and every other material gain acquired by the offense, and if confiscation is not possible, the offender shall be obligated to pay the amount that matches the acquired material gain. The purpose of this institute is to deprive from offender that he acquired from criminal offense, so his offense would not be worth it.

Therefore, the property which is being confiscated from the suspect, accused or convicted in accordance with the legal decision must be directly related to the criminal offense for which he is judged. Also, from the offender shall be confiscated the objects that, inter alia, originate from the commission of crime through the security measure of confiscation of objects. By this system of confiscation of property, the legislator by a thorough manner prescribed an obligation of confiscation and prescribed procedures, in order to deprive the perpetrator of any property or proceeds that he acquired by criminal offenses for which he is judged.

Taking into account the fact that there are persons who are professionally involved in crime and the characteristics of professionalism and specialization in the commission of criminal offenses, can be concluded that the above procedure for confiscation of gain does not include the (substantial) part of the property, the

[4] In the Republic of Srpska there is a process of several procedures for subtraction of property for which is suspected to have been acquired through the commission of crimes. The property is located in the status of temporarily confiscated property, which has - kept a separate state agency established for that purpose. At the same time in another part of B&H, there are no activities in this field, which indicates the unequal fight against crime in the integral region of a country.

property gain that convicted face possess, and which resulted from a permanent, organized and professional performance of the crimes that were never prosecuted for various reasons. As a result, the perpetrators of these crimes continue to manage and dispose of the assets of criminal origin, whether in personal interests, or to finance future criminal activity. Weaknesses and deficiencies of tax procedure and tax policy further, facilitate to criminals of owning these assets, and complicate the state and the realization of the principle that no one can keep the property or material gain that has illegally gained.

In comparative law there are two basic systems for confiscation of illegally acquired property: judicial[5] and administrative[6]. Within the court system property of criminal origin may be confiscated in criminal or civil proceedings, and civil proceedings within certain modalities (civil proceedings with conviction and one that takes no convictions). In the administrative procedure confiscation is performed by tax authorities.

Financial investigation

By the Law on confiscation of property acquired through crime, Republic of Srpska is the first in Bosnia and Herzegovina, following the procedure that is prescribed in the Republic of Serbia, who established a system for confiscation of property that came from criminal activities (illegally acquired property), with its specific procedures and the authorities responsible for the detection, seizure and management of seized property. The field of application of this law is determined by the catalog of criminal offenses under the Criminal Code of Republic of Srpska. There is a prescribed procedure for financial investigations,[7] temporary and permanent confiscation of property acquired through criminal offenses and procedure of management and disposal of confiscated property, and process of international cooperation.

Financial investigation[8] is the first and crucial phase of the operative "locating" of illegally acquired property, and undertaking investigative measures and actions to obtain the evidence on such property. Namely to start a financial investigation, level

[5] In the judicial system illegally acquired property can be seized through a classical criminal procedure, or through litigation. United States has an effective system of property confiscation by criminal proceedings, where for the confiscation "prevalence of evidence" is required, while Canada has developed a litigation practice.

[6] Administrative confiscation of property acquired through crime operates efficiently in the U.S., France. In the United States, it shall be without court involvement. Such authorization has the Tax Administration, the FBI, Department of Drugs and Department of Immigration and Customs. In France, administrative confiscation may be made only after the criminal conviction of persons, which is the basis for confiscation of unlawful possession of property.

[7] Characteristics of financial investigations are similar in some parts with classical investigation, but in many parts are different (especially in connection with the institute of "presumption of innocence", ways of obtaining evidence and others).

[8] Ilić D, Oduzimanje imovine stečene krivičnim djelom, Zbornik radova, Internacionalna asocijacija kriminalista, Sarajevo, 2010, p. 2-19.

of "reasonable suspicions" on substantial[9] ownership is needed, which result from the offense. In relation to the financial investigation in classical investigation is also required that there is "reasonable suspicion" but for a criminal offense, which is essentially a lighter form of creating doubt because financial investigation also refers to the illegal, i.e. criminal possession, and that is significant disproportionate volume, content.

Financial investigation is crucial to the process of collecting evidence of unlawful income and the cost of living of the suspected person. In order to obtain such evidence, the police unit responsible for the investigation is authorized to take all necessary measures and actions to obtain evidence, including the measures of the search and temporarily confiscation of objects. Banks and other financial institutions are obliged to deliver data on suspicious transactions and the account ballance of the suspects, by the request of the public prosecutor. The solutions contained in this Act, which relate to determining the meaning of the term, a temporary measure, the burden of proof[10] and evidentiary standards, procedure of the temporary and permanent confiscation, management and disposal of confiscated property, and other, make this procedure specific and separate from the procedure prescribed by the Code of Criminal Procedure. Also, conditions of this procedure determine the legal nature of the confiscation in respect of which there are different professional opinions and attitudes, where one will highlight the extent of criminal sanctions, and other one - specific preventive measures.

With the criminal-political aspect, prescribing and using of this measure is extremely important mean of combating crime, especially against organized crime whose base is the acquisition of material gain. About the importance of this specific criminal legal measure in the contemporary politics of crime[11] reduction is the fact that it has taken an important place in a number of international legal conventions. In accordance with the decisions contained in the criminal and criminal procedural laws in Bosnia and Herzegovina, basis for the confiscation of material gain is a final court decision which determines that material gain is acquired by the criminal offense. From the offender shall be confiscated money, valuable objects and every other material gain acquired by the offense, and if a confiscation is not possible, the offender shall be obligated to pay the amount corresponding to the acquired material gain.

The purpose of this institute is to deprive the offender of that he acquired from a criminal offense, so his offense would not be worth it. The property which is being confiscated from the suspect, accused or convicted in accordance with the legal

[9] Significant possession presents disproportionate possession of property in relation to the real scope of possible possession that is in the initial stage of investigation, quite vague and problematic (who determines it, and how to be defined, etc.).

[10] A recent example in Republic of Srpska, suggests that people after the temporarily confiscation of property, accepted a plea agreement, and the "settlement" of the confiscation of much smaller part of the "doubtful" property (temporarily confiscated 3.5 million- property value).

[11] All the studies show a remarkable public reaction to the application of these measures, with suggesting more offensive work of the authorities against persons, where there is "obviousness" in a disproportion of possessed property and legal income.

decision must be directly related to the criminal offense for which he is judged. Also, from the offender shall be confiscated the objects that, inter alia, originate from the commission of crime through the security measure of confiscation of objects. By this system of confiscation of property, the legislator by a thorough manner prescribed an obligation of confiscation and prescribed procedures, in order to deprive the perpetrator of any property or proceeds that he acquired by criminal offenses for which he is judged.

Taking into account the fact that there are persons who are professionally involved in crime and the characteristics of professionalism and specialization in the commission of criminal offenses, it can be concluded that the above procedure for confiscation of gain does not include the (substantial) part of the property, the property gain that the convicted possess, and which resulted from a permanent, organized and professional performance of the crimes that were never prosecuted for various reasons. As a result, the perpetrators of these crimes continue to manage and dispose of the assets of criminal origin, whether in personal interests, or to finance future criminal activity.

Weaknesses and deficiencies of tax procedure[12] and tax policy further, facilitate to criminals of owning these assets, and complicate the state and the realization of the principle that no one can keep the property or material gain that has been illegally gained.

Experience in neighboring countries and the world

In December 2010, Croatia adopted the Law on confiscation of property acquired by crime, which according to the marks of many, presents a highly effective model for fight against serious forms of organized crime. The novelty in the legislation is that the request may be made before, during and after criminal proceedings. The procedure of confiscation of property may continue even after the suspension of criminal proceedings, or even death of the defendant will not be a nuisance if it is determined that the property is available to his successors or third parties. Especially important is that the law obliges banks to provide data on the financial condition of the accused, and until the final judgment it prohibits payment of the blocked money. In Serbia, over the past two and a half years of implementation of the Law on confiscation of property acquired by criminal offenses, property worth 350 million euros[13] has been confiscated. However, the fact that most of the property is

[12] In the framework of the overall efforts to combat crime, it is important that every competent authority carries out activities in accordance with the law, in order to prevent any manipulation of the criminal structures.

[13] The case of confiscation of property acquired through criminal offense of famous entertainment artists Svetlana - Ceca Raznatovic has caused many controversies about un/success of the state authorities in prosecuting organized crime.

only temporarily confiscated, that can not prejudge the final outcome, but there is also permanent confiscation.[14]

The Criminal Code of the Republic of Serbia contains a provision that no one can keep the material gain acquired by the criminal offense.[15] The same law in Article 69 brings provision for the seizure of items that were intended to commit a criminal act or resulting from the crime, when those items are in the property of the offender. The problem that arises in practice when applying this provision is that the perpetrators transfer items subject to seizure to the entities of which confiscation is not possible by the current legislation. This problem could be solved by an explicit provision that would predict such a confiscation, and introduction into the legal system of corporate liability for criminal acts.[16] Confiscation is possible and where the assets are owned by third parties if it is transferred to them without charge. If the confiscation is not possible the court will order payment of the amount corresponding to the material gain. Germ for relocation burden of proof in our legislation exists in Article 85 BCL which provides that the material gain will be confiscated from close relatives of the offender if they not prove that they have paid full value for it.

Temporary confiscation and temporarily restricting disposal of property (freezing), on the other hand it is necessary to secure property that may be subject to confiscation. There is justified fear that the offenders will hide this property, transfer to third parties or otherwise make unavailable to the state authorities. The Code of Criminal Procedure of the Republic of Serbia determines that the court will determine temporarily security measures by official duty, when it is about confiscation of property gain.[17] However, in case that property isn't temporarily confiscated in the investigation process, it can easily happen that during the trial there is no property on which to implement these security measures. Temporary confiscation of material gain at criminal offenses of organized crime can also be defined outside the conditions provided for ordinary criminal offenses[18], but the practice remains to verify the effectiveness of this provision. In the criminal legislation of the Republic of Serbia there are no provisions that allow use of legal presumptions about the illegal origin of the property and the relocation of the burden of proof from prosecutor to defendant.

[14] Criminals would rather go to jail for several years, than their property to be confiscated, by that they lose "economic power" which is still dominant force in the entire criminal milieu.

[15] Article 84 Basic Criminal Law («Official Gazette of RS» number 39/2003).

[16] Liability of legal persons for criminal offenses is another controversial issue that will need to find an adequate solution in the legislation of the Republic of Serbia, especially because our state ratified conventions that contain the obligation to put these responsibilities include (United Nations Convention on the Suppression of the Financing of Terrorism, "Official Gazette of the FRY - International Treaties ", no. 7/2002, the UN Convention against transnational organized crime ("Official Gazette"- International Treaties, no.6/2001) and took over this duty.

[17] Article 516 Code of Criminal Procedure R. Serbia ("Official Gazette FRY", no. 70/2001 68/2002, "Official Gazette of RS", no. 58/2004).

[18] Article 504 Code of Criminal Procedure R.Serbia, ("Official Gazette of RS", no. 58/04).

The answer to the question of whether the use of legal preconditions[19] in order to relocate the burden of proof on the accused, is in conflict with human rights could be asked in the practice of the European Court for Human Rights in Strasbourg. The relevant provisions of the European Convention on Human Rights in this regard are: entitled to a fair trial, presumption of innocence and protection of property.[20]

Legal solutions in some countries of Europe and the U.S.

According to the Drugs Trafficking Act from 1994, the court must issue an order for confiscation of property of the accused for one or more crimes of drug trafficking and for whom the court finds that it has received payment at any time or other consideration in connection with drug trafficking. The court estimated the amount corresponding to the means obtained in this way. The court is obliged to use the legal presumption that all property in the possession of the defendant, at the time of conviction or a period of six years before the date when the criminal proceedings is initiated, acquired as payment or compensation in connection with drug trafficking and that all expenditures of the accused, were paid from the proceeds of drug trafficking. The defendant can reject legal presumption (rebuttable presumption) in relation to any part of the property or expenditure if there was a serious risk of injustice, if it were implemented. Required standard of proof by this Act is the standard that is applied in civil legal proceedings on the principle of balance of probability.

Article 111 and the following articles of the Portuguese Criminal Code, introduced the division, relocation of the burden of proof for a limited number of crimes such as drug trafficking, terrorism, corruption, money laundering and organized crime. For a person found guilty of any of these offenses, applies legal assumption that the difference between its actual and legally acquired property for a period of five years before the indictment is acquired by criminal activity, unless the accused is unable to rebut this presumption. Some other countries adopted similar solutions in the field of confiscation of property acquired from crime. Belgium introduced mitigation of the burden of proof regarding the origin of funds for criminal offenses such as corruption, drug trafficking, trafficking, fraud hormones, organized crime and complex fiscal fraud. Netherlands, Austria and Scandinavian countries have similar legislative solutions.

Does the confiscation of property acquired from crime go beyond the frame of criminal law?

[19] In the process of proving possession of illegally acquired property, the principle of "presumption of innocence" that is valid in the RS legislation and in the environment, is significantly threatened by so called displacing the burden of proof on the accused, which is contrary to human rights.

[20] European Convention on Human Rights and Fundamental Freedoms ... and Article 1 Additional Protocol to the Convention ("Official Gazette SCG" - International Treaties, no. 9/2003).

With the offense of money laundering and other crimes where big unlawful material gains can be acquired, necessary element for the efficient combat system against such crime is adequate legislation in the field of seizure, freezing and confiscation of property acquired by criminal offenses. The legal controversy that attracts attention in regard with this question is the relocation of the burden of proof from prosecutor to defendant in confiscation of property.[21] Some authors suggest that the term "relocation of the burden of proof" should be avoided because it gives the space to opponents of reform (often working in the interest of the corrupt) to fight against well-defined and clearly honest reforms. It is paradoxically that the movement for human rights, which are very loud in their condemnation of corruption and crime in general, as one of the factors of human rights[22] can be the first who would attack the government when they try to improve the situation in this way. A better formulation would be “accused owed credibly explanation."[23]

Regarding the confiscation of funds of crime, some countries in their own legal systems have introduced the possibility of seizure of such property in civil - legal proceedings. The level of evidence that must be presented in such a procedure is much lower than that in the criminal, i.e. illegal origin of property is proved by the principle of balance of probability. Several countries have introduced into the legal system this type of confiscation of property acquired from a crime, and it has gone furthest in the United States.[24] Despite constant criticism about the violation of human rights and challenging in front the Constitutional Court, system of civil-legal confiscation in the U.S. persists for decades and, according to government employees, it brings very good results in practice.

In 1982, in Italy law has been enacted that allowed courts in civil-legal procedure to take away means of persons who belonged to "mafia conspiracy", as well as relatives and associates who were suspected to keep these means. Later, these provisions were challenged in front the European Court Human rights in the case "Raimondo v. Italy," who concluded that they are acceptable as proportionate preventive measures. The UK is by Proceeds from Crime Act from 2002, introduced the possibility of civil - legal confiscation in cases where the authorities confirm that there will be no prosecution. A comprehensive system for civil - legal confiscation in Australia was introduced in 2003. The system is based on the idea that pronouncement of punishment should not be the sole driver of events that allows the action of return of funds from unjustified enrichment by illegal behavior. Similar and legal systems have been introduced in Canada, South Africa, Republic of Ireland and other

[21] Introducing the "reverse burden of proof" at confiscation of material gain, will improve the efficiency of proving an unlawful possession of property acquired by criminal acts.

[22] The Constitutional Court of the Republic of Serbia has evaluated the temporary procedure as constitutional, and the final confiscation of property acquired from criminal activity.

[23] Džeremi P, Antikorupcijski priručnik, Transparentnost-Srbija, Beograd, 2004.

[24] The names of individual case from a practice of U.S. courts are controversial enough to attract attention: United States v. $ 405,089.23 U.S. currency; United States v. 92 Buena Vista Avenue; United States v. One Mercedes 560 SEL.

countries, where they have passed challenge in front of the constitutional courts and endured criticism regarding human rights violations.

Conclusion

In the Republic of Srpska - Bosnia and Herzegovina, this strategic area of strengthening more effective opposition to organized crime is still in the phase of theoretical discussions, strategic plans, without the need and fast concretization. A similar situation exists in other transition countries of former Yugoslavia. In Republic of Serbia,[25] that is the first of the neighboring countries who established a system of confiscation of property acquired from criminal activities, there is a significant debate about this procedure and practice of the courts in specific procedures, which still achieves certain results.

Adoption of the Law on Confiscation of illegal property, the Republic of Srpska made an initial, but important step in further processing and use of offensive and already tested method in the world. Authorities received a "powerful weapon" in the fight against organized crime. The process of confiscation of illegally acquired property is different from the traditional criminal procedure, but is kept in parallel with criminal proceedings, which gives it a certain strength and ultimate outcome in the positive resolution of this case.

Such activities, of the Republic of Srpska - Bosnia and Herzegovina, continues to make steps towards internationalization measures in the fight against organized crime, which certainly puts in the line of the countries that have decided to "confront" to the worst forms of crime, which acquires a "huge" material gain, and it is possible only by this way to restore in the possession of legal - the previous owner, or the state budget. The ultimate realization of the principle "No one is allowed to retain material gain acquired through criminal offense" in the best way would be achieved through the timely return of all property, or at least its partly abstraction, because every other measure has no effective and fruitful effect, which confirms the need for further strengthening of all capacity of this "new" institute in the criminal law.

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[25] According to data from the Ministry of Justice of Serbia, based on the application of the Law on confiscation of property acquired from crime so far has seized assets worth about 300 million euros. Temporarily or permanently have confiscated 57 flats, 23 houses, 11 shops, 10 garages, 16 companies, 4 hotels, 5 restaurants, a buffet, 2/3 of union resort, a bus station, two apartments, 49 hectares of land.

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INTEGRITY PLAN AS AN ASPECT OF SYSTEMIC CORRUPTION PREVENTION

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Abstract

It is well-known that corruption has an evident influence on social stability and development, and that it leads to harmful consequences in all aspects of social life. That is why it is necessary to have a comprehensive social reaction to this negative phenomenon, a reaction which should take a special place in transitional societies. This reaction should be derived from the crime-related and political commitments of the society and state, including all the state's structures and institutions both from public and private sector. In terms of social reaction to the corruption, the key role belongs to the social integrity system. Development of this system is especially emphasized in the public institutions, as well as in some social sub-systems. Therefore, the need for this kind of corruption prevention stems from the fact that only systemic approach can suppress corruption, strengthen institutions and demonstrate the commitment of the institutions to be devoid of corruptive activities. Besides, this approach, that sees corruption prevention through the social integrity system, opens new possibilities for proactive behavior. Instead of dealing with specific institutions, or specific rules and procedures (such as criminal law), which are followed by specific reform programs, the social integrity system implies interrelations, interdependence and combined activities in one comprehensive way. The key factor of the social integrity system is an integrity plan, as one of the most modern preventive methods for legal and ethical work quality of both government and other institutions, which declines and prevents any possibility of formation or development of corruption in an institution. It represents an identification method of the activities sensitive to fraud and corruption in an institution. It strengthens the mechanism of systemic prevention and encourages awareness on sensitive activities, creating possibility to reach greater integrity of the institution. This is how efficiency, quality, respect of and trust into institutions, especially public ones, are being improved and increased. Keeping up with those trends, the Republic of Srpska Ministry of Interior decided to develop and implement the integrity system. Regarding that, we have had a series of activities in the last three years such as scientific and research project, an international scientific and research conference, methodological guidelines, and currently we are implementing the RS MoI Integrity Plan. The mentioned experiences will be presented in the paper that follows.

Keywords: *integrity plan, corruption, prevention, corruption risk, corruption points, corruption influence, anti-corruption measures.*

Introduction

Corruption is a very negative social phenomenon, which has immense political, legal, economic, social, cultural, moral and other consequences. This means that corruption implies multiple negative effects on society as a whole, its structure, institutions and progressive views, and in all its segments. Corruption is a global phenomenon that causes poverty, disrupts the development and sets the investment away. It also destabilizes the judicial and political system, which should work for the common good, which consequently leads to low public confidence in public institutions. Empirical studies show that corruption increases poverty in the country and deepens social differences in society by slowing economic growth, while it adjusts public expenditure and investment policy to the interests of less numerous society layer of the rich and powerful, and narrows the circle of public services' beneficiaries such as education, health protection, security, legal safety and the others (Kaufmann, Kraay, Zoido-Lobation 1999).

Corruption is one of the concepts that are difficult to have their content determined exactly, since its meaning changes according to epochal, social and political context. In modern and democratic societies, the core dysfunctionality of corruption is becoming increasingly evident. It is not just morally harmful, but it is one of the causes of poor functioning of the state. Corruption is, therefore, the behavior which represents a deviation of the normal performance of public duty for personal (or another: the family, private clique, interest group) interest, it is a violation of norms in order to achieve personal interests. In some countries corruption is a serious public and political problem (*la fraude erigee en systeme*). This is especially, but not exclusively, true for developing countries and countries in transition. Many point to the existence of a sort of tradition and culture of corruption. In some countries, bribery is a tradition for centuries. Smaller or larger amounts of money for bribe are considered as a normal behavior. However, no matter how much corruption actually exists as part of the tradition, in its pathological form it grows and expands in a new situation, in a modern market and a state of public services, which is in no way akin to what the tradition refers to. That is why that the tradition of bribery is used more and more as an excuse and an alibi for those who use it.[1] Corruption is therefore

[1] There is no society that considers abuse of power morally or legally acceptable or that considers it appropriate that political position or public service are used to get publicly enriched through commercial contracts at the expense of public interest. The moral categorization of such behavior was never disputed, but the thing that is questionable is the secondary effectiveness of legal system, as well as detection, prosecution and punishment. If we call it a tradition that is how we hide a major part of the cause, but this quite an acceptable and nice justification. In recent years emphases has been put exactly on the opposite: a great offer and efforts of global trading companies to obtain even corrupt jobs or sell the products, thus destroying the fragile moral norms and bypassing the legal ones, and actually placing the corruption as an element of the system. Such behavior leads to a general bribery, further weakening the state legal system and opening a new circulus vitiosus (Maricic, Ivetić, 2010).

a two-way relationship – it does not exist without one of two parties. It is, in a sense, a contractual relationship with well-recognized interests of either side. In order to understand more clearly the nature of that contract, it is also necessary to understand what it is that encourages bribes and those who are affected by corruption of others (Maricic, Ivetic, 2010).

Defining corruption is complicated by the lack of uniform definitions of corruption and common understanding of corruption, since its meaning changes in different periods, social and political context. Therefore, there are some differences in the definition of corruption, which emphasize the complexity of the phenomenon of corruption. Etymologically, the term corruption comes from the Latin word *corruptio*, meaning wickedness, mischief, depravity, immorality, bribery, rot, decay, forgery (record, measure, weight, etc.) (Vujaklija, 2007). Generally speaking, corruption is the misuse of entrusted public authority for private gain (Senturia, 1993). When it comes to criminal legislation in Bosnia and Herzegovina, the matter of corruption offenses is dealt by double jurisdiction, that of Bosnia and Herzegovina and of Entity / Brcko District. The criterion of division is based on the type and nature of the offender (if the offense is committed by an official or responsible person in institutions of entities or Brcko District, the competent authorities are relevant entities' or Brcko District's authorities, if however, offense is committed by an official or responsible person in institutions of Bosnia and Herzegovina, the actual responsibility is in the hands of the judicial authorities of Bosnia and Herzegovina), that is, *mutatis mutandis*, if the actual criminal act is directed against a lawful and regular performance of official duties in institutions of Bosnia and Herzegovina, entity or BD. Taking into account the criteria laid down in the criminal legislation of Bosnia and Herzegovina, the offenses in this area are prescribed by the criminal laws of Bosnia and Herzegovina , entities and Brcko District, as it follows: Bosnia and Herzegovina Criminal Code[2] - Chapter XIX (Criminal offenses of corruption and criminal offenses against official and other responsible duties - a total of 13 offenses), Chapter XX (Offences against justice - a total of 12 offenses), Federation of Criminal Code - Chapter XXIX Bosnia and Herzegovina Criminal Code - Chapter XXIX (Offences against justice - a total of 20 offenses), Chapter XXXI (Criminal offenses of bribery and crimes against official and other responsible duties - 12 offenses), RS Criminal Code[3] - Chapter XXVII (Criminal offenses against official duty - a total of 18 offenses), Chapter XXVIII (Offences against justice - a total of 16 offenses). Criminal law defines criminal liability of legal persons for criminal offenses that the offender has perpetrated in the name, for the account, or for the benefit of a legal entity, independently of the liability of natural persons in the legal entity (Chapter 14 of CC Bosnia and Herzegovina). The injured person may also make compensation of the damage caused by a legal entity. Liability

[2] The Criminal Code of Bosnia and Herzegovina (Bosnia and Herzegovina Official Gazette no.32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 08/10).

[3] Republic of Srpska Criminal Code (Official Gazette of the Republic of Srpska, no.37/06, 70/06 73/10).

of legal persons does not exclude criminal liability of the offender or the liability of the person in a legal entity.[4]

System of Social Integrity

It is generally accepted that the modern system of government means responsibility. Without it, no system can function in a manner that would promote the public interest rather than private interests of those who have control. In essence, the goal of developing countries and countries in transition is to move away from a system that is essentially based on the hierarchy, or vertical accountability. This approach argues that we should move towards a system of "horizontal accountability" where power is distributed, where nobody has a monopoly and where everyone is individually responsible. The system of "horizontal accountability" closes the vicious circle where each element is at the same time a guardian, and the guarded, the controller and controlled. This is why it is necessary to move away from a system of vertical accountability and turn to a horizontal rotation of responsibility where there is a system of control authorities and efforts to control the abuse of power of other government branches or authorities. These include: courts, independent electoral commissions, chief auditors, central banks, professional associations, parliaments (and their budget control committees) and a free and independent media. The ultimate goal of establishing a system of social integrity is to make corruption so "high risk" endeavor which provides "small profit". As such, this system aims to prevent corruption to occur at all, instead of relying on punishment after the corruption occurred (Pope, 2004). The approach which implies a system of social integrity in combating corruption opens new opportunities for proactive action. So, instead of dealing with individual institutions, or individual policies and procedures (such as criminal law), and subsequently directing towards individual reform programs, the system of social integrity involves monitoring of interrelationships, interdependencies and combined effectiveness in a comprehensive manner (Sikman, Tanjga , 2010). Therefore, fighting corruption must take place within the criminal policy, i.e. crime prevention policy, which implies an organized, planned and comprehensive action of competent authorities and other public entities in the prevention and detection of corruption offenses (Boskovic, 2004).

Nowadays it is considered that corruption is too complex phenomenon that could be successfully treated only by applying repressive measures and deploying limited resources, capabilities and range of action available to the police and courts. Thus, current trends in the field of combating corruption turn to prevention. Corruption is used by individuals, but in certain settings, in the context of the overall macro and micro social relations in a given society in the given circumstances. Thus, the basic strategy of fighting corruption, at the very beginning, should be focused on

[4] For these offenses see more: Comments on criminal / penal laws in Bosnia and Herzegovina, Council of Europe, European Commission, Sarajevo, 2005. pp. 706-742, 1062-1113, 1237-1261, 1760-1769, 1769-1776, 2012-2028, 2036-2042.

fixing the system, on the conditions and causes that lead to corruption, on reduction of opportunities for corruption, and on placing obstacle for its practicing. On the second level anti-corruption strategy should be focused on building the legal, organizational and technical capacities that will enhance the detection possibilities, and will increase the likelihood of punishment. Given that corruption is a crime of calculations, it is necessary to establish strategies that will be based on that how to hinder the execution of corrupt acts, how to increase the possibility (control) of detection, and how to increase the certainty of conviction. In addition, damage made by detection and procession of the corrupt should be far greater than the benefits of the execution of corrupt practices. Thus the "wicked" (dysfunctional) system and corrupt individual should be the focus of anti-corruption strategy. The essence of improving the integrity system lies in the attempt to improve the organization, in order to give chance to many not to become corrupt because of bad system or lack of control and influence of those who are leaders of corruption in a given microsystem. Firstly, the construction of integrity system gives a chance to those who are not corrupt to protect from the unscrupulous. Secondly, due to risk of corruption detection and setting of the internal system some of those who are otherwise prone to corruption will not be allowed to enter it. And thirdly, only those who deserve them will be subjected to the repressive measures (special investigative techniques, and others). Construction of an integrity system, makes a state more fair, creates conditions that repressive methods, special investigative techniques, and traditional law enforcement methods are applied just right there and just in relation to those persons who "deserve" it (Simonovic, 2010).

We may conclude that the focus of systemic crime prevention lies in introduction of integrity system, as a complete, indivisible and impeccable social system. Such a system means the way of conduct of institutions and persons which act fairly, independently, impartially, transparently and in similar manner.[5]

Integrity Plan as an Aspect of Systemic Corruption Prevention

Integrity plan is one of the most modern preventive methods for establishing legal and ethical governmental and other institutions (Sikman, Tanjga, 2010). This is a program of preventive mechanism of an organization. It represents a method of identifying activities sensitive on fraud and corruption in an organization. This is how efficiency, quality, respect and trust in institutions are increased, especially in public

[5] Nolan Committee on Standards in Public Life (UK, 1995) pointed out the seven principles that are applicable to all aspects of public life, of which three are directly related to integrity as follows: selflessness - holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends; integrity - holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; honesty - holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. *'Seven Principles of Public Life' – The Nolan Commission.* http://www.euclidnetwork.eu/resources.php/en/761/resource-the-nolan-principles.

institutions. The integrity plan strengthens mechanism of prevention and promotes awareness on sensitive activities, creating the possibility of greater integrity of an institution. We can classify it as a measure of legal and real nature, which eliminates and prevents the possibility of emergence and development of corruption in the institution. Integrity plans are essential for the reputation of an institution that can lose it integrity through the presence of nepotism, clientelism, conflict of interest and similar. Integrity plans raise the awareness on the weak points and vulnerabilities to the corruption, and their aim is to prevent and point out to corruption. The plan also examines the resilience of the system to errors that can lead to corruption, and it also tests laws, regulations and the possibility of their abuse. It is important not to assess the integrity of an individual (this is done with integrity tests), but to assess the system as a whole, and after adoption of integrity plan, when measures familiar to everyone in an institution are passed, it is important to assess the violations of those measures are punishing situations which are contrary to the regulations adopted by integrity plans (Dobovsek, 2009).

As such, the integrity plan has resources in many international documents. United Nation Convention against Corruption[6] is considered the most important international instrument for the prevention of corruption. The "Merida Convention" expresses concern about the dangers brought up by the corruption and about its links to organized crime. It is noted that corruption is "a transnational phenomenon," which requires "a multidisciplinary approach to its prevention." The Convention provides for the application of comprehensive preventive anti-corruption measures in public and private sector, contains instructions for incrimination of criminal offences of bribery, and points to the need for international cooperation. A special article of the Convention (Article 8) is devoted to the introduction *of codes of conduct for public officials*, which should contribute to *integrity enhancement*, honesty and accountability of public officials, and should impose standards of conduct. Codes of conduct should prescribe disciplinary or other measures against public officials who violate codes or standards aimed at improving anti-corruption measures.[7] Council of Europe has adopted a series of anti-corruption conventions, resolutions and recommendations: Criminal Law Convention on Corruption[8], Civil Law Convention on Corruption[9], Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption - adopted by the Committee of Ministers on 6 November 1997, the

[6] Signed on 9-11.12.2003 in Merida, India, and came into force on 14.12.2005, Bosnia and Herzegovina ratified the Convention on 26.10.2006. A complete list of signatories and ratifications available at: http://www.unodc.org/unodc/en/treaties/CAC/signatories.html.

[7] In addition to this "basic international law" in the fight against corruption, the UN adopted the Resolution 51/59 (Action against Corruption), with an annex containing the International Code of Conduct for Public Servants; Resolution 51/191, or the United Nations Declaration against Corruption and Bribery in financial transactions and the United Nations Convention against Transnational organized crime with three related protocols.

[8] Signed on 27.1.1999 in Strasbourg., The Convention was ratified by BiH in 2002 (Official Gazette of Bosnia and Herzegovina - International Treaties no. 36/02, Official Gazette of FRY, International Agreements, no. 2/02 and 18/05).

[9] Bosnia and Herzegovina ratified the Convention on 30. 1. 2007.

Convention on Laundering, Trade, Seizure and Confiscation of the Proceeds from Crime (ETS 141, September 1990), Recommendation no R (2000) XX of the Committee of Ministers which contains a code of conduct for public servants. Significant are resolutions which form and regulate the work of the Group of States against Corruption (GRECO)[10], whose member is BiH which has accepted the obligation to comply with GRECO guidelines.[11] Organization for Economic Cooperation and Development (OECD) has adopted the Convention on the Prevention of Bribery of Foreign Public Officials designed to address conflicts of interests and to fight bribery in international business transactions. International Chamber of Commerce has established GRECO Code of Conduct of International Chamber of Commerce (dated 21.11.1997) which contains standards of international business in order to prevent extortion and bribery of high-ranking government officials and politicians, all with the aim to act preventively on possible disturbances in the international economic flows. Within Financial Action Task Force on Money Laundering (abbreviated FATF), which was established by the group of seven most developed countries (G7), forty recommendations[12] for combating money laundering in national legislation, and subsequently nine recommendations to combat terrorist financing were adopted. In order to prevent money laundering, there is the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)[13] which acts under the auspices of the Council of Europe. An important project to support the countries of Southeast Europe in their efforts to improve and implement their own anti-corruption plans and strategies is the regional project PACO-Impact, which is implemented by the Council of Europe, Directorate General for Legal Affairs and the Department of Crime Problems, and financed by the Swedish International Development and Cooperation Agency (SIDA). This project includes Albania, Bosnia and Herzegovina, Macedonia, Croatia, Serbia and Montenegro (Skakavac, 2009).

[10] For more about GRECO see Dr. Jovan Ciric's work published in 2010 Collection of Papers of the Criminal Police Academy, titled the Council of Europe and the fight against corruption. (Ciric, 2010).

[11] The BiH compliance report (the second round of assessment) was adopted by GRECO at its 41 plenary session in Strasbourg, 16-19. 2. 2009. Bosnia and Herzegovina was given 16 recommendations by this report, concluding that BiH has implemented or dealt in satisfactory manner with the quarter of recommendations, and stated that the nine recommendations were partially implemented, and 3 recommendations were not implemented. Evaluation GRECO report for Serbia and Bosnia are available at: http://www.coe.int/greco.

[12] The recommendations are fully available at http://www.oecd.org/fatf/40Recs_en.htm.

[13] MONEYVAL has 28 permanent state members (including Serbia and Bosnia-Herzegovina) and two temporary members. As a special body that evaluates measures for combating money laundering in Member States, MONEYVAL takes care on the improvement the law regulations. MONEYVAL's permanent bodies are Bureau and the Secretariat which assist to the MONEYVAL Committee. The connection between the FATF and MONEYVAL is reflected primarily in the fact that MONEYVAL assess whether its members adhere to the standards contained in the recommendations of the FATF, in connection with the fight against money laundering and terrorist financing.

Integrity plan may consist of several elements, where it is custom to include two phases: the first one, where it is evaluated the stage of institution resistance, and the second one, where new measures for enhancement of institution resistance are introduced. These phases can be observed through the following six key activities (Sikman, Tanjga, 2010):

1. Evaluation of the level of corruption risk (function/individual, part of the institution, the institution) according to the articles of certain systemic laws - for each section of the observed systemic law (bylaw) it is provided an assessment of corruption risk. Corruption risk is defined as the possibility for corruption to occur (corruption possibility that is given by relevant legal (sublegal) solution). On that occasion it is evaluated the level of corruption risk (the possibility for corruption) of the legal decisions regardless of who it could be used by (part of the institution, individual). The level of corruption risk can be measured by different scales, where the grade can be very high, high, medium, low and no risk (or otherwise).

2. Determining the potential corruption points (function/individual, part of the institution, institutions) in relation to the articles of certain systemic laws – a part of public authority (a part of a public institution or organization) or certain function may be perceived as a potential corruption point. On this occasion it is not estimated the level of impact, but presence or absence of corruption points. In determining potential corruption points, it is necessary to have the analysis that would include the holder of elective function, advisor to the minister, a head of public institution, a head of the ministry, a member of the public institution managing board, a liable civil servant, a responsible employee of public institutions or simply state that there is no potential corrupt point (if it really exists).

3. Evaluation of the potential corruption influence of certain functions / personalities - the influence of functions / figures to realization of a particular statutory section is defined as the level of capability (potential) to affect acquisition of personal gain at the expense of society. This evaluation exempts functions / figures that are directly responsible for the implementation of a given legal decision. The evaluation of the potential corruption influence would include the analysis of the same subjects which are evaluated for potential corruption points.

4. Evaluation of the effectiveness of previous anti-corruption measures - a prerequisite for evaluating the effectiveness of anticorruption measures is their existence. Anti-corruption measures can be divided into implicit and explicit.

By implicit ones we imply all those measures (actions, activities, opportunities) which are usually available at the appropriate level of social organization and system of government. Those are common legal framework, preventive and repressive system of government, moral frameworks. In short, it is everything that should exist in an organized society, and that should impact the reducing of corruption. The explicit anti-corruption measures include the general-public or individual (institutional) anti-corruption system:

Anti-corruption system includes:
- Anti-corruption documents
- Anti-corruption procedures
- Anti-corruption resources (staff, funds)
- Available anti-corruption measures and actions

In this case, it is evaluated the effectiveness of explicit institutional anti-corruption measures, that is, so far organized social (institutional) effort to prevent corruption.

5. Proposed ways / methods to reduce (eliminate) the level of corruption risk (function / individual, part of the institution referred to articles of certain laws) - a way / method to reduce the level of corruption risk is defined as the level (measure) of the social effort that has to be put in place to reduce (or remove) the existing corruptive risk. So, here the emphasis is not placed on the ability to reduce (eliminate) but on what it needs to be done to reduce the corruption risk. Proposed ways / methods to reduce (eliminate) the level of corruption risk may be through:

   - Change of the law
   - Use of other (anti-corruption) law
   - Adoption (amendments) of laws
   - External control
   - Internal Control
   - Code of Ethics

6. Proposed preventive measures using the strategic pillars of anti-corruption fight (function / individual, part of the institution referred to articles of certain laws) - four pillars are taken as the foundation for preventive anti-corruption measures: education and public awareness, elimination of opportunities, transparency and reporting, control and repressive measures. Preventive measures to be adopted must be such that they can be used on daily basis and they should not be complicated and difficult to perform. Proposed preventive measures of strategic pillars of anti-corruption fight should include the following activities:

- Control and repressive measures (general prevention),
- Elimination of possibilities (making corruption high risk activity with a small profit),
- Transparency and reporting,
- Education and public awareness,
- Code of Ethics.

In order to implement the aforementioned activities it is necessary to determine the appropriate methodology. This method of determining corruption score has been practically applied in a research project entitled "The methodology of building an integrity system in the Republic of Srpska institutions in the prevention of corruption". During the project, using precisely defined methodology called "Determination of corruption score" it was carried out a pilot analysis of five systemic laws, namely: Law on Higher Education, Law on Health Care, the Budget System Law, the Law on Local Self-Governance and the Law on Internal Affairs. The results were used to determine corruption score of the mentioned laws. Full results are available in the Report on research project.[14]

Integrity Plan of Ministry of Interior of the Republic of Srpska

The problem of corruption as a serious general social problem has been recognized in the Ministry of Internal Affairs of the Republic of Srpska since its appearance. However, it took some time to develop the awareness and create the conditions so that this issue could be institutionally defined. In April 2007, Police Directorate approved the project: "Prevention of corruption in the Ministry of Internal Affairs of the Republic of Srpska". The Project implementation plan was also set up, and it defined the activities that were to be implemented by 12 key organizational units of the MoI RS (in the headquarters and outside it). The Project implementation plan was followed by the table overview of the activities of basic organizational units and by the proposal of the project implementation report. Each of the 19 organizational units (basic and internal) made its own sub-project for prevention of corruption. This approach to institutional organization in the field of prevention of corruption, with comprehensive media promotion of high quality, and the affirmation of individual project activities, liberated the enormous institutional power in the MoI RS, and created a very positive effect in the public. After that there was a series of activities, both on the level of RS MoI and of each organizational unit, which resulted in establishment of a continuous system of monitoring and implementation of the project. To crown this project, and according to the RS Government Conclusion, on 12.11.2008, it was adopted an Action plan for implementation of Anti-Corruption Strategy in the Republic of Srpska in the field of internal affairs. Further work on the project can be traced through official annual reports of the MoI RS.

[14] Research project "The methodology of building an integrity system in the Republic of Srpska institutions in the prevention of corruption". The research report (2010), Banja Luka: Police College.

The Integrity Plan is a document that represents the result of self-control of an institution as a whole and each of its organizational units in order to maintain and improve the integrity, transparency and professional ethics. The Integrity Plan consists of measures and activities of legal, organizational, managerial (command) and practical nature that are used to prevent, reduce and eliminate risks for appearance and development of ethical and professionally-unacceptable practice, corrupt behavior and other irregularities. The Integrity Plan is passed by the Ministry of Internal Affairs of the Republic of Srpska as a whole. The Integrity Plan of the MoI RS consists of an integral integrity plan and of the integrity plans of individual and basic organizational units of the Ministry of Interior.

Integrity Plan includes:

- Corruption score, quantified assessment of the institutions' exposure to risks for appearance and development of ethical and professionally-unacceptable practice, corrupt behavior and other irregularities,

- Data on persons responsible for the development, adoption and implementation of the Integrity Plan, - Description of the functions, work process, procedures and decision-making process, identification of activities, especially those representing the exposure to corruption and other irregularities, - Assessment of tasks, activities or other functions that manager cannot simultaneously perform while exercising public functions, as well as the method of control,

- Preventive measures to timely detect, prevent and reduce the risk of corruption and other irregularities, - Other parts of the plan defined in the guidelines.

For the purposes of development of Integrity Plan (for combating corruption) of the Republic of Srpska Ministry of Interior, the corruption score has been established.[15]

This RS MoI corruption score has been determined as a whole based on the methodology that was developed, tested and verified in the previous phase of this project. Corruption score, in our case, does not show the state of corruption, but, in its first part, shows the corruption potential (of the relevant law and its associated social subsystems), and in the second part, displays the amount of social (institutional) power that needs to be invested to reduce the corruption potential (to bring it to an acceptable level). The corruption score is shown as a linear function of six variables of corruption:

$$CS = C_1*X_1 + C_2*X_2 + C_3*X_3 + C_4*X_4 + C_5*X_5 + C_6*X_6$$

where K_i is a weighting coefficient, and X_i is a corruption variable as it follows:

- X_1 - Evaluation of the level of corruption risk;

- X_2 - Determining (evaluation) the potential corruption points;

- X_3 - Evaluation of the potential corruption influence; - X_4 - Evaluation of the effectiveness of previous anti-corruption measures;

- X_5 - Proposed ways / methods to reduce (eliminate) the level of corruption risk;

[15] Ibid.

- X_6 - Proposed preventive measures.

Before calculating corruption score, it is necessary to perform relativization of certain corruption variables. Relativization (normalization) is performed so that the value obtained of any corruption variables is divided by their maximum amount, that is:

$$Xr_i = \frac{X_i}{X_{i\max}}$$

The obtained values of relative corruption variables are multiplied with corresponding weighing coefficients.

The total corruption score represents a sum of values of relative corruption variables corresponding weighing coefficients, that is:

$$KS_i = K_i * X_i$$

$$CS = C_1*X_{r1} + C_2*X_{r2} + C_3*X_{r3} + C_4*X_{r4} + C_5*X_{r5} + C_6*X_{r6}$$

In this way, the corruptive score is expressed with two decimal places in the range from 0.00 for the smallest to 10.00 for the biggest corruption score.

Corruption state with the lowest corruption risk, with a minimum of corruption points, with the lowest evaluation of potential corruption influence of certain functions / personalities, with the lowest evaluation of previous anti-corruption measures, with the simplest suggestion for removal of corruption risk, with the simplest proposal for preventive measures will have the lowest possible score. In order to have ideal corruption state (theoretically speaking), the value of each corruption variables should equal 0, and then the value of corruption score would be almost 0, 00.

Corruption state with the highest corruption risk, with a maximum of corruption points, with the highest evaluation of potential corruption influence of certain functions / personalities, with the highest evaluation of previous anti-corruption measures, with the most complex suggestion for removal of corruption risk, and the most complex proposal for preventive measures will have the highest possible score. In case of worst corruption state (theoretically speaking), the value of each variable is equal to 10, and the value of corruption score is almost equal to 10.00. In this way, certain corruption score represents the initial state for the Ministry of Internal Affairs of the Republic of Srpska as a whole, which is the entry value for the process of drafting and approving Republic of Srpska MoI Integrity Plan.

The corruption score was determined in the first phase of drafting and implementation of Republic of Srpska MoI Integrity Plan as the initial state and orientation that would help teams responsible for developing integrity plans in the organizational units to determine corruption score of each organizational unit. Maximum values of corruption variables depend on the number of sections that are taken into consideration in the evaluation process. In this case (a combination of three laws: the Law on Internal Affairs of the Republic of Srpska, Law on Police Officials of the Republic of Srpska, and the Law on Civil Servants of the Republic of Srpska) it was taken 100 sections (legal entity), and consequently the maximum values of

individual parts of corruption score were: CS_1 = 500,00; CS_2 = 2.800,00; CS_3 = 2.800,00; CS_4 = 400,00; CS_5 = 2.000,00; CS_6 = 2.000,00.

Determining corruption score is followed by the development and adoption of RS MoI Integrity Plan (organizational units), by development of plan for measures for improving the integrity, by the implementation of RS MoI Integrity Plan (organizational units), as well as by integrity assessment and evaluation of activities of the previous cycle. The aforementioned phases are in the stage of adoption.

Conclusion

Given the enormous effect of corruption on social stability and development it is necessary for public institutions to improve their comprehensive anti-corruption practices, first of all, with their internal forces. This will restore public confidence in their work and respect for the Constitution and laws, which is the ultimate goal of any institution that wants to be legal and that wants, through application of international and European standards, to make better and safer life for its citizens. In addition, through a process of democratization our citizens have been given the possibility to report corruption offenses and their perpetrators to prosecutors and law enforcement agencies at the same time protecting their identity. This is not only a police method of data collection, but it also represents the active involvement of all segments of civil society, that is, ongoing transparency in fight against corruption, which has already given some results. Aforementioned would clearly point out that corruption, as a negative social phenomenon, will not be tolerated. To this end, the full commitment has been given to the prevention of corruption in public government institutions at all levels. Set out system of social integrity would primarily lead to decrease of existing levels of corruption and would achieve a certain level of anti-corruption culture in the institutions of public authority.

As it can be seen, the Republic of Srpska Ministry of Interior has been working on development of integrity concept in the past five years. A special contribution was given by the realization of the already mentioned research project. In this sense, a unique methodology of assessment of corruption risk was designed and implemented, as the first stage of introduction of integrity plan into the Republic of Srpska Ministry of Interior. Given that this phase was successfully completed, it is going to be followed by development and adoption of the RS MoI Integrity Plan, as well as by its implementation. This is how systematic prevention of corruption through integrity is being introduced, as a modern method of preventive activities.

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PROTECTED WITNESS: CRMINAL-PROCEDURAL AND VICTIMOLOGICAL ASPECTS*

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Abstract

The institute of protected witness exists in the legislation of the Republic of Serbia for six years. This category of particular vulnerable witnesses was introduced for the first time by the Criminal Procedure Code adopted in 2006. Although the application of this Code has been postponed several times, and subsequently the Code was abandoned, its regulations concerning protected witness were included into the Criminal Procedure Code of 2001 (CPC/2001) which had been in effect in that time. The amendments of the CPC/2001 have brought certain improvements concerning the institute of protected witness. In September 2011 the new Serbian Criminal Procedure Code (CPC/2011) was adopted. The general application of the new Code will start on January 15 2013, while its application in the procedures related to organized crime and war crime cases has already started on January 15 2012. The CPC/2011 keeps the institute of protected witness while also brings some novelties. In this paper, we will present both the former and current Serbian legislative solutions regarding the institute of protected witness and point to some dilemmas concerning its regulation. One of the key predicaments relates to the protection of the protected witness's identity - more precisely, to the issue of disclosure of protected witness's identity to the defendant and defence attorney before the start of the main trial. The advocates of protected witness's identity disclosure emphasize the importance of informing the defence about witness's identity, in terms of realization of the principle of equality of parties and the defendant's right to fair trial. From the other side, disclosure of protected witness's identity endangers the very those worth aimed to be protected by ordering the securing of witness anonymity, and poses the substantial risk of multiform victimization of the witness. Proposed answers to this important issue are formulated with particular consideration of relevant comparative legislative solutions, as well as the court practice.

Keywords: *criminal procedure; protected witness; special measures of witness protection; victimization; Serbia*

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Introduction

Although the Article 2 of the Criminal Procedure Code of the Republic of Serbia from September 2011[1] (hereinafter CPC/2011) gives a long list of terms which meaning is defined (including the terms such as: suspect, defendant, accused, convicted, prosecutor, public prosecutor, private prosecutor, victim) the legislator did not list the term witness. That was done in the Article 91 as follows: "a witness is a person for whom it is probable that he will provide information about a criminal offence, perpetrator, or other facts being determined in the proceedings". It was emphasized that any person can have the ability to be a witness if that person can express his knowledge or observation regarding the testimony subject (Article 92 paragraph 1).

Numerous provisions from both Criminal Procedure Codes that are currently applied in the Republic of Serbia[2] tell about the importance given to the witness testimony, but also about the fear regarding the willingness of some witness to testify i.e. to give a complete and truthful statement. Thus, for example CPC/2011 tells that whoever is capable and summoned to testify is obliged to respond and give testimony unless it is specified otherwise by this Code (Article 92, paragraph 3). Before the questioning starts the witness shall be reminded to speak the truth and must not omit anything, as well as that the perjury represents a criminal offence (Article 95, paragraph 1). Furthermore, if the witness who was summoned properly does not appear and fails to justify his absence or without authorization leaves the place where he was supposed to be questioned, the authority conducting the proceedings may order that he be brought in by force and the court may fine him up to 100.000 dinars. The witness who, after being warned about the consequences, refuses to testify without any legal justification may be fined up to 150.000 dinars by the court (and if after that he

[1] Official Gazette of RS, no.72/11 and 101/11.

[3] Criminal Procedure Code (Official Bulleting of SRY, no.70/01 and 68/02 and Official Gazette of RS, no.58/04, 85/05, 115/05, 49/07 and 20/09, 72/09, 76/10 – hereinafter CPC/2001) and Criminal Procedure Code from 2011. In the article 608 CPC/2011envisages that this Code shall be in force on the eighth day from the day it was published in the Official Gazette of the Republic of Serbia, and shall be in use from 15th January 2013, except in procedures for criminal acts of organized or war crime conducted in front of special department of competent court in which case its implementation shall begin from 15th January 2012. With the amendments of CPC/2011 (Official Gazette, no.101/2011) envisage that the investigation of criminal acts for which with the special law is determined to be under the competence of special public prosecution, and which are in procedure on the day when this Code is in force, shall be completed in accordance with the provisions of CPC/2001 and provisions of the Law on organization and competence of state institutions in combating organized crime, corruption and other especially serious criminal acts ("Official Gazette of RS", no.42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09 and 72/11) and Law on organization and competence of state institutions in war crime procedures ("Official Gazette of RS", no.67/03, 135/04, 61/05, 101/07 and 104/09), that were applicable till the day when this Code was in force.

still continues to refuse to testify may be punished again with the same sanction – Article 101, paragraphs 1 and 2).

In addition it is important to bear in mind that significant, and sometimes crucial and decisive role that a witness could have in the procedure of providing evidence and sentencing of criminal matter, often makes his personal situation very complex and delicate and significantly exposes him to victimization. In relation to this is the obligation of the court to recognize situations and circumstances that are indicating to the witness's vulnerability, his fear, and even the risks to which he could be exposed when testifying and then to undertake all legal measures to protect him. Generally it can be said that there is an obligation for the court and other state institutions to enable the witness to give undisturbed and safe testimony at all times and especially when his physical or psychological integrity or some other goods are endangered.

With a short presentation of measures for witness protection envisaged with relevant international documents, in this paper we will point out the most important aspects of criminal proceedings and victimological solutions that are, in relation to the protected witness, present in the criminal proceedings law of the Republic of Serbia.

International Legal Framework for Witness Protection

Numerous international documents set legal standards for witness protection as well as for the other persons involved in some criminal procedure. Some of the important documents[4] on European plan are certain recommendations from the Committee of Ministers, Council of Europe: Recommendation (97) 13 on intimidation of witness and rights of the defence; Recommendation (85) 4 on family violence; (85) 11 on the position of the victim in the framework of criminal law and procedure; Recommendation (87) 21 on assistance to victims and prevention of victimization; Recommendation (91) 11 on sexual exploitation, pornography, prostitution of, and trafficking children and young adults; and Recommendation (2005) 9 on protection of witnesses and collaborators of justice. Other important documents are European Convention for the protection of human rights and fundamental freedoms from 1950 and practice of European Court for human rights, Rome Statute for International Criminal Court from 1988, and UN Convention against transnational organized crime from 2000.

Council of Europe Recommendation (97) 13 extensively defines witness vulnerability as "each direct, indirect or potential threat that could influence witness duty to give testimony without any influence". It is specifically emphasized that in certain areas of crime, such as organized crime and other serious criminal offences, as well as domestic violence, there are increasing risks for witnesses to be jeopardized, so in accordance with the use of safety measures for potentially endangered witnesses in mentioned crime areas are recommended.

When defining witness protection measures at the level of national criminal procedure legislation we have to bear in mind the fact that among the minimum rights of everyone charged for a criminal offence, the Article 6 of European Convention for

the protection of human rights and fundamental freedoms envisages his right to examine witness against him or to achieve for them to be examined. On the other hand, as interpreted by the European Court for human rights, the nature and extent of witness protection depends on individual circumstances and that the Court has accepted the following protection types as permitted: trial without audience and/or media; reading witness statement without his presence; testimony of a disguised witness; non-identification of witness in court or disclosure of selected identity details; witness voice deformation on trial; testimony from another room, via video link and disclosure of witness identity in final stages of the process.

Rome Statute for International Criminal Court[3] envisage that Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses, with the regard to their age, gender, health condition and nature of committed criminal offence. Among other, the Panels of the Court may, with the aim to protect victims, witnesses or an accused, conduct certain parts of the proceedings that include presence of mentioned involved parties inside a special room (in camera) or allow the presentation via electronic or other special means (Article 68).

Article 24 of the UN Convention against transnational organized crime envisages that each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, if necessary, for their relatives and other persons close to them. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right of law compliance: (a) establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons; (b) providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

Witness Protection Measures in Criminal Proceedings Law of the Republic of Serbia

Within the criminal proceedings law of the Republic of Serbia protection of witnesses and victims was, until six years ago, limited only the provision of the Article 190 from the CPC/2001. The CPC/2011 contains practically the same provision. In accordance with it the authority that is conducting proceedings is required to protect victim or witness from an insult, threat or any other attack. Public

[4] In our country this document is in force since the Law on Ratification of the Rome Statute of International Criminal Court, Official Bulletin SRY, International Agreements no.5/2001.

prosecutor or the court has the right to caution a participant in proceedings or other person who, before the authority conducting proceedings insults an injured party or a witness, threatens him or endangers his safety, and the court may also fine him up to 150,000 dinars. Upon receiving notification from the police or the court or upon learning about the existence of violence or a serious threat directed at a victim or a witness, the public prosecutor will undertake criminal prosecution or notify the competent public prosecutor about that. A public prosecutor or the court may request that the police undertake measures to protect a victim or a witness in accordance with the law (Article 102, CPC/2011).

Broadly speaking, witness protection is also made through the possibility of temporary exclusion of the defendant from the court during the trial if a witness refuses to testify in his presence or if the circumstances show that in his presence the witness will not speak the truth (Article 324, CPC/2001). CPC/2011 does not envisage this possibility. Through the prism of witness protection it is possible to look upon the provisions of the Article 292, CPC/2001, i.e. Article 363/2011on the exclusion of public from some parts or from all trial; provisions of Article 136, paragraphs 2 and 11 CPC/2001 that enable to prohibit the defendant to leave his apartment of place of living without a permission, as well as to prohibit him to approach certain persons i.e. electronic surveillance in order to control if the restrictions enforced to the defendant are applied and respected in order to protect a victim or a witness. Prohibition of approaching, meeting or communicating with certain persons (including the witnesses) is envisaged in CPC/2011 as one of the measures to secure the presence of the defendant and for undisturbed conduct of criminal proceedings (Article 188 and Articles 197 and 198).

Provisions from the Criminal Procedure Code from 2006 (hereinafter CPC/2006 – Official Gazette RS, no.46/06, 49/07 and 122/08) have significantly contributed the witness protection. Date of application of CPC/2006, which went in force eight days after the day when it was published, was postponed several times, and with the amendments from 2009 made in the CPC/2001 (Official Gazette RS, no.72/09) the application of CPC/2006 was abandoned. Till that moment, and from 1 January, 2007 just certain provisions from the CPC/2006 were applied, among which were the ones that regulate legal and procedural status of especially vulnerable victims and witnesses (Article 110) i.e. protected witnesses (Article 117 – 122).

Article 110 CPC/2006 envisages that the victims and witnesses whom the authority in charge of the proceedings determines as very sensitive, in view of their age, experience, lifestyle, gender, state of their health, nature or consequences of the criminal offense, i.e. other circumstances of the case, and that the hearing within the premises of the authority in charge of the proceedings might have harmful effects on their state of mind and physical state shall be examined in their apartment or other place where they are, in authorized institution – organization that is professionally trained for the examination of especially vulnerable persons. When the authority conducting proceedings finds it necessary it will appoint a proxy to especially sensitive victim or witness during the proceedings. Especially sensitive victim or witness may be questioned only through the authority in charge of the proceedings,

which will address this victim or witness with special care, trying to avoid any harmful effects of the criminal proceedings on his person and physical and mental state. Examination of especially sensitive victim or witness may be done with the assistance of a psychologist, social worker or some other expert and the authority in charge of the proceedings may decide to use picture and sound transmission devices in the examination of this person (such examination is being performed without the presence of parties and other participants in the proceedings in the room where the victim or witness is situated, so that the parties, defence lawyer and persons who have the right to ask questions shall do so through the authority in charge of the proceedings, psychologist, pedagogue, social worker or some other expert). When examining an especially sensitive victim or witness the court may exclude public (in such case the identity data of that person are considered as official secret). The identification of the defendant by especially sensitive victim or witness shall be done in all phases of criminal proceedings in such a way that would completely prevent the defendant from seeing and hearing the victim or witness. Those especially sensitive victims or witnesses must not be confronted to the defendants, and may be confronted to other witness only on their own request. With the amendments of CPC/2001 from 2009, the provisions of the Article 110 CPC/2006 were put out of force, and peculiarities of handling especially sensitive witness in criminal proceedings were introduced again with the Articles 103 and 104 CPC/2011.

Provisions of CPC/2006, amendments of CPC/2001 from 2009 and the text of CPC/2011 show how much significance is given to the institute of protected witness but also to the dilemmas connected to it. On this occasion we will point out the provisions that are illustrating basic characteristics of the protected witness institute in all three Codes, as well as the most important differences, before all, in relation to conditions for getting the status, protection measures and evidentiary importance of the protected witness statement.

In accordance with the provisions from the Article 117, paragraph 1 and 2 CPC/2006 the court may decide to grant this person the status of a protected witness and order a special method of examination of this witness (so his identity won't be disclosed during the proceedings) in the case criminal proceedings for the criminal offence punishable by imprisonment of ten years or any stricter penalty. This is valid for the cases where there are circumstances that due to his testimony and answers to some questions would put him or persons close to him in situations that are jeopardizing his life, health, physical integrity, freedom or considerable assets. Exceptionally the court was able pass this decision in the case of criminal proceedings for a criminal offense punishable by imprisonment of four years or any stricter penalty (if the special circumstances indicate that the witness or persons close to him may be exposed to the mentioned danger, and the witness protection is could not be done in any other way or it is considerably more difficult.[4]

The special way of examination of a protected witness included one or several special protective measures: exclude of public from trial; alteration, removal from the

[4] Provisions from the Article 117 to Article 121 are applicable for the suspect, defendant and victim who is, in the same time, the witness in the criminal proceedings (Article 122 CPC/2006).

record or ban on the disclosure of any data referring to the witness's identity; withholding of any data referring to the witness's identity; examination of the witness under an alias; concealment of the face of the witness; testifying from a separate room through voice-distortion devices; examination of the witness in a room outside the courtroom, in another place in the country or abroad, communicate to the courtroom by means of the picture and sound transmission devices, with the possibility of using voice and image distortion devices (Article 117 CPC/2006).

In this moment, as mentioned before, the provisions from the CPC/2001 are applicable in the Republic of Serbia, and also the provisions from the CPC/2011 in the proceedings related to the criminal offences of organized or war crime that are being processed by the special departments of the competent court. Having in mind that the Article 109a paragraph 1 CPC/2001 emphasises that the court could pass a decision providing a witness with protection measures "especially in cases of criminal offences of organized crime, corruption and other extremely serious criminal offences", it can be concluded that in accordance with the CPC/2001 in this moment it is possible to grant a status of witness collaborator in the proceedings for all criminal offences conducted ex officio, and especially when it comes to criminal offences of corruption and other extremely serious criminal offences.[5] In the proceedings conducted for the criminal offences of organized and war crime the status of protected witness can be granted in accordance with the provisions from CPC/2011.[6]

Unlike CPC/2006, CPC/2001 does not request "existence of circumstances that obviously indicate that if a certain witness would testify and give answers to certain questions" ..., but "there are circumstances that indicate that if publicly testifying the witness or persons close to him" would endanger their life, body, health, freedom or property of substantial size. Thereby, facts and evidence must be of such kind to indicate the existence of serious and real danger for mentioned goods (Article 109b paragraph 2 CPC/2001). In accordance with the provisions from the Article 109a paragraph 2 CPC/2001 special measures for witness protection are limited to the

[5] With the provisions of Article 504a CPC/2001, inter alia, it is envisaged that the criminal offence of corruption includes following criminal offences: abuse of office (Article 359 Criminal Code – CC), unlawful mediation (Article 366 CC), accepting bribes (Article 367 CC) and bribery (Article 368 CC). Other extremely serious criminal offences, even if not the result of acts of some organized crime group, include the following criminal offences: murder (Article 113 CC), aggravated murder (Article 114 CC), abduction (Article 134 paragraphs 1 to 4 CC), robbery (Article 206 paragraph 2 CC), extortion (Article 214 paragraphs 3 and 4 CC), counterfeiting money (Article 223 paragraphs 1 to 3 CC), money laundering (Article 231 paragraphs 1 to 4 CC), unlawful production, keeping and circulation of narcotics (Article 246 paragraphs 1 and 3 CC), criminal offences against constitutional order and security of the Republic of Serbia (Articles 305 to 321 CC), illegal production, carrying, possession and circulation of firearms and explosives (Article 348 paragraph 3 CC), illegal crossing of state border and human trafficking (Article 350 paragraphs 2 and 3 CC), human trafficking (Article 388 paragraphs 1 to 6, 8 and 9 CC), trafficking in children for adoption (Article 389 paragraphs 1 and 2 CC), international terrorism (Article 391 CC), taking hostages (Article 392 CC) and financing terrorism (Article 393 CC).

[6] In accordance with the provisions from the Article 608 CPC/2011, from 15th January, 2013, only provisions from this Code will be applied in all proceedings conducted for committed criminal offences.

examination of a witness under the conditions and with the methods to ensure that his identity and measures of physical protection of the witness during proceedings are not disclosed.

Article 105 CPC/2011 envisages that the court, with the decision on grating the status of protected witness, can approve one or more special protection measures if there are circumstances which indicate that by giving testimony or answering certain questions a witness would expose himself or persons close to him to a danger to life, health, freedom or property of substantial size. These measures of special protection include questioning the protected witness under conditions and in a manner ensuring that his identity is not revealed to the general public, and exceptionally also to the defendant and his defence counsel.

CPC/2006 envisaged that the court may pass the decision granting the status of protected witness as follows: a) on the request from the person who shall be examined as a witness or was in previous phases of the proceeding examined as a witness, b) ex officio, c) on the request of a party, and with the consent of person to whom that status should be granted. The request must be in a written form and justified, and delivered in a sealed envelope bearing the marking: "witness protection – official secret – strictly confidential" (in special situations, from the beginning of the trial the witness may submit a verbal request, in which case a decision to exclude the public is passed and special records shall be made). The court was able to pass the decision to grant a protected witness status after an assessment of probable importance of witness testimony for the proceedings and seriousness of the threat from the Article 117 of this Code. With that objective the Court shall schedule a separate hearing attended by the witness to whom the request refers and the parties.[7] In its decision on granting the protected witness the court status shall specify one or several special protection measures from the Article 117 of this Code, as well as the way for protecting the information on the identity of the witness in the documents. The court especially warns present persons on the duty to protect the identity of a witness as a secret, as well as about the consequences if that obligation is breached (Article 118, paragraphs 2 and 3 CPC/2006).

Data on the identity of a protected witness and persons close to him as well as of some other facts that may directly or indirectly lead to the disclosure of their identities shall be placed in a special envelope bearing the marking "witness protection – official secret – confidential," sealed by the official seal of the court and given to the investigative judge for safekeeping. The sealed envelope may be opened only by the second instance court when deciding on an appeal against the decision of the first instance court that ended the criminal proceeding. The date and hour of the opening and names of the members of the trial panel of the second instance court who are familiar with its content shall be written on the envelope. After that, the envelope

[7] Having in mind the provisions from the Article 118 CPC/2006, in extraordinary cases the passing of the decision that grants the status of a protected witness is possible even without a hearing on which the defendant and his lawyer will be summoned.

shall be resealed and returned to the investigative judge of the first instance court. Delivery to a protected witness shall be made in such a way as to ensure that his identity remains a secret. The legislator emphasizes on more time that the data on the protected witness and persons close to him represent an official secret which must be kept by all persons who learn it in any way and in any capacity (Article 120 CPC/2006).

In accordance with the provisions of CPC/2001 the decision on special witness protection measures may be passed by the court (during the investigation by the investigative judge, and after the indictment the trial panel has the legal force, if in session, i.e. the panel from the Article 24, paragraph 6 of this Code if the trial panel is not in session) ex officio or on the request of parties or witness himself. When deciding upon the special witness protection measures the trial panel exclude the public (not the defendant and his lawyer). Decision on special protection measures contains the following: code that will substitute the witness name, order to erase him from the list of names and other data with which the identity could be determined, methods in which the examination shall be made and measures that needed to be undertaken in order to prevent the disclosure of identity, place of residence and address of the witness or persons close to him. Against the decision from the paragraph 3 of this Article, parties and witness may submit and appeal (Article 109b and Article 109v CPC/2001). Data on the identity of witness and persons close to him as well as other circumstances that could result with the disclosure of their identities shall be sealed in a special envelope and given for safekeeping to the witness protection unit by the investigative judge, i.e. the panel from the Article 109v of this Code. That sealed envelope may be opened only by the second instance court when deciding on an appeal against the judgment. The date and hour of the opening and names of the members of the panel who are familiar with its contents shall be written on the envelope, after which the envelope shall be sealed again and returned to the witness protection unit (Article 109g CPC/2001).

Acting in accordance with the provisions of the CPC/2011 the court may grant the protected witness status ex officio or on the request of public prosecutor or the witness himself.[8] The request shall be submitted in a sealed envelope bearing the marking "witness protection – strictly confidential" during the investigation to the judge for the preliminary proceedings and after the confirmation of indictment to the panel's chairman. If, during the examination, witness would withhold data from the Article 95 paragraph 3 of this Code, or answers to certain questions or the entire testimony, with the explanation that there are circumstances from the Article 105 paragraph 1 of this Code, the court shall summon the witness to act upon the paragraphs 2 and 3 of this Article within the deadline of 3 days. If the withhold of data, answers or testimony would be considered as obviously unjustified or if the

[8] With the objective to create conditions for timely initiation and undertaking of adequate measures for witness protection, in the Article 111 the legislator emphasizes that the police and public prosecutor, while gathering information from the citizens, are obliged to inform them about the special protection measures from the Article 106 of this Code.

witness would not act in accordance with the provisions of paragraphs 2 and 3 of this Article within the given deadline, the court shall apply the provisions of the Article 101, paragraph 2 of this Code (107 CPC/2011).

During the investigation the judge for preliminary proceedings decides on granting protected witness status by issuing a decision and after the indictment is confirmed that is done by the panel. When passing a decision on the trial the public is excluded (not the defendant and his lawyer). The decision granting the protected witness status contains a pseudonym of the protected witness, the duration of the measure and the manner in which it will be implemented: alteration or erasure from the record of data on the identity of the witness, concealment of the witness's appearance, examination from a separate room with distortion of the witness's voice, examination using technical devices for transferring and altering sound and picture. The parties and the witness may appeal against the decision referred to in paragraph 1 of this Article (Article 108 CPC/2011).

The measure of special protection whereby data about the identity of a protected witness is withheld from the defendant and his lawyer may be exceptionally ordered by the court if after the examination of the witnesses and the public prosecutor it determines that the life, health or freedom of the witness or persons close to him are in danger to such an extent that it justifies restricting the right to defence and that the witness is credible.[9] The identity of the protected witness withheld in accordance with paragraph 2 of this Article will be revealed by the court to the defendant and his lawyer no later than 15 days before the commencement of the trial. When deciding on the measures of special protection from the paragraphs 1 and 2 of this Article, the court will endeavour to order a harsher measure only if the purpose cannot be achieved by the application of a more lenient measure (Article 106 CPC/2011). Regulations on handling the data on the identities of the protected witness and persons close to him and on other circumstances that may lead to the disclosure of their identities will be sealed within a separate envelope bearing a marking "protected witness – strictly confidential", sealed and submitted for safekeeping to the judge for preliminary proceedings, are envisaged in the CPC/2011 and do not differ from the decisions that already existed in national criminal proceedings legislation (Article 110 CPC/2011).

In accordance with the provisions from the CPC RS/2006, before the examination begins, the protected witness shall be informed that the data referring to his identity shall not be disclosed to anyone, except to the court and the parties, i.e. the authority in charge of the proceedings, and he shall be informed about the special protection measures which shall be applied during his examination. The authority in charge of the proceedings shall warn all present persons of their obligation to keep as a secret all information they directly or indirectly learn about the protected witness and persons close to him and of the fact that the reveal of this secret constitutes a criminal offense. This warning shall be recorded together with the names and surnames of all

[9] Within the context of other orders it is clear that this measure is purposefully approved only during an investigation phase.

present persons. The authority in charge of the proceedings shall forbid any question the answer to which might directly or indirectly disclose the identity of the protected witness. The protected witness shall sign the record using his pseudonym. Exceptionally, in especially justified cases, if the authority in charge of the proceedings assesses that the life, health or freedom of the witness have been seriously threatened and that the witness is convincing, the defendant and his lawyer may be denied temporarily and at the latest until the scheduling of the trial all or some information about the identity of the protected witness. The defendant and his lawyer must be given the opportunity in the proceedings to contest the justifiability of the measure referred to in Article 117, paragraph 3 of the present Code (Article 119 CPC RS/2006). Also, in criminal proceedings instituted as a result of the testimony of a protected witness, the secrecy of information on the protected witness shall be ensured (Article 121 CPC RS/2006).

CPC/2001 envisages that when the decision on witness protection measures is legitimated the court shall, with the special order that represents an official secret, inform the parties and witness about the date, time and venue of the witness examination. Before the examination begins the witness shall be informed that he will be questioned under special protection measures, about protection measures and that his identity shall not be disclosed to anybody but to the judges who are deciding on the case, and one month before the trial begins to the parties and defence lawyer. CPC/2001 and CPC/2011 have and kept the decisions from the CPC/2006 related to the warning of present persons, prohibition of questions which answer could indirectly or directly disclose the identity of protected witness, as well as the manner in which the record should be signed. In accordance with the provisions from the CPC/2001 examination of the protected witness may be performed in one or several following methods: exclusion of public from the main trial, concealing the look of the witness and testifying form the special room with the distortion of voice and face of the witness via technical devices for the transmission of sound and picture. Among the most important amendments in criminal proceedings legislation from 2009, and in relation to the decisions from the CPC/2006, is the one form the Article 109d CPC/2001 that envisages that the sentence cannot be based only on the statement given by the protected witness.

Regulations about the information on the examination of protected witness defined in CPC/2001 were taken over by the CPC/2011. Before the beginning of examination protected witness shall be informed that his identity shall not be disclosed to anybody except to the court, parties and the defence lawyer or just to the court and public prosecutor, in accordance with the provisions from the Article 106 paragraphs 2 and 3 of this Code, and then he shall be informed about the methods that will be used for his examination (Article 109 CPC/2011).

Provisions from the Articles 105 till 111 of this Code apply accordingly to the protection of an undercover investigator, expert witness, professional consultant and professional (Article 112 CPC/2011).

Provisions from the programme for the protection of persons involved in proceedings are contained within the Law on programme for the protection of persons

involved in criminal proceedings.[10] With this Law conditions and procedure for the provision of protection and help to the persons involved in criminal proceedings and persons close to them are regulated, since if testifying or giving information, they would risk their life, health, physical integrity, freedom or property, and without their testimony or information it would be considerably more difficult or even impossible to prove something, but only in criminal proceedings for criminal offences such as: criminal offences against constitutional order and security; against humanity and other goods protected with international law; organized crime (Articles 1 and 5).[11]

Some of the Solutions from the Comparative Legislation on Protected Witness

Among the solutions in comparative legislation those that are especially interesting, and which have almost identical form, are present in the Law on protection of witnesses under threat and endangered witnesses of Bosnia and Herzegovina (Official Gazette of BiH, no. 3/03, 21/03, 61/04, 55/05), in Law on protection of witnesses under threat and endangered witnesses of the Federation of Bosnia and Herzegovina (Official Journal of FBiH no. 36/03), i.e. in the Law on witness protection within the criminal proceedings of the Serbian Republic (Official Gazette of SR no. 48/03). For example the Law on protection of witnesses under threat and endangered witness of Bosnia and Herzegovina envisages that in extraordinary circumstances (when there is a justified doubt that personal safety of witness or his family will be endangered if some or all personal data of that witness are disclosed and when that danger will continue to exist even after the witness testimony) the court may ex officio or on proposal by parties or defence lawyer decide for the personal data of witness to remain confidential for the time period envisaged as necessary, and not more than 30 years after the decision becomes legitimate (Article 13 paragraph 2). The provisions on the ways in which the examination of protected witness shall be done are in the function of preventing the victimization of the witness. Examination of the protected witness is done by the court that shall, among other, teach him that his identity shall not be disclosed to anyone, but to members of the court and clerk (recorder). Then, the court shall question him in details about the circumstances listed by the petitioner, as well as about all other circumstances that the panel considers necessary (Article 19). Record from the examination of the protected witness shall be read on the main trial (Articles 20 and 21). The Article 22 envisages that the court shall perform an additional examination of the protected witness, as long as necessary to determine complete and proper facts, ex officio or on proposal from the prosecutor or defendant or his lawyer (with the aim to clarify previously given statement or in relation to the data that were not included in previously given statement, and which are of importance for the case). The mentioned law envisages

[10] Official Gazette of RS, no.85/2005.

[11] More about the nonprocedural witness protection in: Ilić, P.G., Majić, M., *Nonprocedural protection of persons involved in criminal proceedings, Legal life,* no. 9, Belgrade, 2006, pages 939-954.

that the court cannot base its sentence only or mostly on evidence received through the examination of the protected witness (Article 23).

The provisions that allow establishing of such protection mode that includes the examination of protected witness by the public prosecutor in preliminary proceedings without the presence of the defendant and his lawyer, i.e. the victim and his representative can also be found in the Article 227 paragraph 2 from the Law on criminal procedure of the Republic of Macedonia (Official Gazette RM, no. 150/2010).[12] Decision on special methods for the examination of protected witness is passed by the court on the proposal of public prosecutor. With the respect of rights of the defendant and his lawyer to have enough possibilities to question the protected witness on the main trial, and to challenge his statement, not even the provisions from this law do not envisage the obligation to inform them about the identity of the protected witness. In the same time this law recognizes limitations in the form of prohibition to base the sentence only on the testimony of protected witness (Article 231 paragraphs 1 and 2). On the other hand, with this regulation it is envisaged that, if the protected witness does not want a special examination method, the testimony he gave under those circumstances will be used during the new examination, and that later on it will be separated from the document (Article 226 paragraph 4).

Also, the solution present in the Criminal Procedure Code of the Republic of Montenegro – Official Gazette of RCG, no.57/09 and 29/10 allows the possibility of absolute protection of identity of a protected witness. This is confirmed with the provisions that define special methods for participation and examination of a protected witness in criminal proceedings. Thus, for example, the investigative judge shall, before the passing of a decision, evaluate if the witness testimony is of such importance to grant him with the protected witness status. In order to determine these facts the judge may schedule the hearing on which he shall summon only the state prosecutor and the witness (Article 122). Special manner in which the witness shall be involved and examined in criminal proceedings is as follows: examination of witness under pseudonym, examination via technical devices (protection wall, voice distortion devices, devices for the transition of sound and picture) etc. (Article 12). This Code also states that the sentence cannot be based only on the witness testimony that was obtained in the manner envisaged for the examination of a protected witness (Article 123 paragraph 2). The Republic of Montenegro also passed the Law on witness protection (Official Gazette of RCG, no. 65/04).

Distinguishing the term endangered and the term protected witness, the legislator in the Republic of Croatia shall make the initiative to introduce a special manner of involvement in the proceedings and to examine a protected witness submitted by the state prosecutor to the investigative judge. Proposal, with previous information of the witness, shall be submitted by the state prosecutor to the judge in a sealed envelope bearing the marking "endangered witness – secret", and submits it in

[12] The Republic of Macedonia also passed the Law on Witness Protection (Official Gazette of RM, no. 38/2005).

person or via the investigator. If the defendant proposes the examination of the protected witness, the state prosecutor may submit the appropriate proposal to the investigative judge, and if he does not agree with the proposal he shall request a decision from the investigative judge. Investigative judge decides on proposal submitted by the state prosecutor issuing a decision within the 12 hours since the proposal was received. The state prosecutor may appeal to the investigative judge decision within the deadline of 12 hours. The panel decides on the appeal within the 24 hours deadline. Investigative judge shall seal the data on protected witness who shall be examined and involved in the proceedings in a special manner in a separate envelope and give for safekeeping to the state prosecutor. In cases of summoning, arrival of the protected witness to the trial, stay and departure from the trial, the investigative judge and state prosecutor may order the police to undertake measure of witness protection (Articles 294 and 295 from the Criminal Procedure Code of the Republic of Croatia, Public Journal no.121/11). It is emphasized that the judgment and evaluation on evidence irregularity cannot be based only on the protected witness testimony (Article 298). However, it is also emphasized that if during proceedings the protected witness states that he does not want to be examined and involved in a special manner determined earlier, the investigative judge shall take the witness statement into the record, and then sends the statement and the decision on revoke to the state prosecutor. Authority in charge for the proceedings shall examine that witness in accordance with the general regulations on examination of witnesses, but the previous statements received from the witness will be kept in the file with the possibility to use them as evidence (Article 299). The Republic of Croatia also passed the special Law on witness protection (Public Journal no.163/03 and 18/11).

From the above it can be concluded that, unlike the position taken by the legislation of the Republic of Serbia, the legislations of other countries from our region allow the possibility to establish such witness protection which implies that neither defendant not defence lawyers have the right to learn about his identity. In the Republic of Serbia such position was adopted despite the fact that that possibility was given alternatively in the CPC/2001 along with the one that was finally adopted. As counteract to this limited defence, within the text there was a provision that the conviction cannot be based only on the protected witness testimony. Today such prohibition in relation to limitation of evidentiary importance of protected witness testimony does not exist.[13]

[13] More about the dilemmas that existed because of this provision in: Banović, B., Ilić, A.: Witness protection measures in the new Code and criminal proceedings, *New solutions in criminal proceedings legislation – theoretical and practical aspects,* Serbian association for criminal justice theory and practice, Intermex, Belgrade, 2011, pages 121-136; Žarković, M., Kesić, T., Simeunović-Patić, B.: Assessments of witness protection measures and equality of parties in criminal proceedings, *Combating modern organized crime and terrorism, Book I,* Academy for criminalistics and police studies, Belgrade, 2011, pages 157-172.

Final Considerations

Solutions in regards to the protected witness institute are present within the criminal proceedings legislation of the Republic of Serbia from 2006, were more or less amended on two occasions in 2009 and in 2011. This refers, before all, to the conditions that needs to be fulfilled in order to initiate the protection measures (criminal offences for which the proceedings are ongoing, subjects authorized to submit requests) but also in relation to circumstances which existence represent the reason for which the use of special protection measures is decided (in general and individual circumstances), i.e. in relation to the definition of sorts and modalities of concrete protection measures and, along with that, in relation to the evidentiary significance of the protected witness testimony. Initial solutions and their additional amendments introduce number of particularities into criminal proceedings in which the protected witness is involved. In addition, adopted regulations have important influence on the level of witness victimization.

Viewed through the victimization prism, we also have to bear in mind the fact that a large number of persons who have the knowledge about criminal offences and perpetrators (including the victims of criminal offences) do not report those crimes from various reasons (often because of a conscious avoid of discomfort and inconvenience that are connected with the appearance in front of the court).[14] That is why the expectations of the witnesses to be protected from all sorts of discomfort and threats, that could happen or that happened already because of their determination to testify in criminal proceedings, are understandable. Among these witnesses are those who are expecting to be protected from public disclosure of data that could enable their identification, and also from other discomfort and threats that can occur after the data on their identity, place of residence or other personal issues are disclosed.

As mentioned before, it can be concluded from the practice of European Court for human rights that the nature and level of witness protection are in dependence with individual circumstances, and that the court accepts different sorts of protection. Solutions that are in relation to the witness protection accepted in the Republic of Serbia are within the boundaries of those recommended in international legal documents and have lots of similarities with the solutions present in the surrounding countries. In spite of that some questions are still open. Viewed through the prism of efficient witness protection and decreasing of level of secondary victimization special importance have those provisions that define decision making procedure on how to conceal the identity of protected witness, as well as those that determine the persons to whom and time period in which the protected witness identity data shall not be disclosed.

[14] More about the reasons for which the victims decided not to report crime in: Ignjatović, D., Simeunović-Patić, B.: Victimology, Belgrade, 2011, page 48.

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CONFISCATION OF PROPERTY ACQUIRED BY CRIMINAL WORKS FROM AREA OF ORGANIZED CRIME

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Abstract

One of the basic characteristics of the activity of organized criminal groups is gaining financial benefit by the commission of serious crimes. Dealing with revenues originate from this type of crime is an effective way to combat organized and serious crime.

When talking about detection criminal acts of organized crime, it is necessary to mention the concept of integrated financial investigations. Financial investigations are conducted in parallel with a criminal investigation in order to identify material benefit acquired through the actual crime, identify the assets of suspects, their closest relatives and the others of which the confiscation is possible, as it would enable the ultimate confiscation through implementation of interim measures (security, seizure).

One of the priorities of national legislation is modern implementation of mechanisms 'freeze' and 'blockade". Combat system against illicit enrichment is considered one of the basic mechanisms that guarantee the security of citizens.

***Keywords**: organized crime, corruption, organized crime groups, freezing, blockade, confiscation*

Introduction

One of the main motivations for organized crime is financial gain. Organized criminal groups invest ill-gotten profits in further illegal activities or conduct money laundering for its legalization and infiltration in order to gain economic influence in society. Confiscation of revenues acquired from crime is increasingly recognized as an effective way to combat organized crime. Freezing and seizing proceeds of crime is an effective approach in the fight against serious and organized crime where the motive is to gain some benefit. Republic of Macedonia is among the first Balkan countries which

implemented measures to confiscate the revenues gained from crime and establish the legal basis for confiscation of income where the main challenge is its practical implementation. Management Agency for confiscated property established pursuant to the Law of management of confiscated property, in the area of confiscation, takes a wide range of measures to preserve property values through a ban on its sale, by placing it in proper storage space, selling or managing frozen assets. The measure depends on the nature of property (money, stocks, goods, vehicles, movable property, company, estate, etc.)

Organized crime and confiscation of property

In order to talk about the confiscation of property acquired by executing the crimes in the area of organized crime, it is necessary to make the determination of terms organized crime and confiscation. There are many definitions for organized crime in the literature. They are not the same even in the adjacent, transitional countries, which are very similar in culture, mentality and tradition. If the reasons are not the same, then it makes sense that the types and the emergent forms of organized crime will not be the same between countries as well.

According to Professor Miodrag Labovic organized crime as a generic term includes:

Organized criminal activity of a group composed of three or more persons, which operates a long period of release of serious crimes, with varying degrees of organizational structure, with or without direct involvement of national political structures in the criminal organization by interfering of the legal and illegal business through the investment of criminal proceeds in legitimate businesses or other legal transactions, the impact on the judiciary, police, state administration, which in certain situations are under full control of organized crime to the full control or influence over certain media and NGOs organizations, where the methods of violence are used only if the immoral methods of pressure and corruption do not give the expected outcome. The purpose of organized crime is gaining financial or other benefit or property acquisition and maintenance of policy and social power.

The purpose of activity of organized criminal groups is the pursuit of serious crimes to gain high profits. Funds from performing this type of criminality is invested in legal systems, i.e. is performed by turning them into legal. The criminal investigation has determined criminal offense and perpetrator and collecting evidence for criminal proceedings. Successful criminal investigation is not enough for a successful struggle in dealing with organized crime, but it is necessary to implement financial investigation

which will result with the confiscation of income obtained by the crime. The term confiscation is defined in Article 97 of the Criminal Code of the Republic of Macedonia.

Decision of the court for confiscation aims that no one can be enriched with criminal activities. Any property effect that represents unlawful profit for the perpetrator should be treated as proceeds of crime, regardless of whether it consists of the increase of his property or prevention for its reduction. Also any reward that the offender received from third persons to commit the crime should be treated as proceeds.

Besides the aforementioned types of direct and indirect confiscation, our legislation provides extended confiscation. The amendments to the Criminal Code of the Republic of Macedonia from 2009, introduced a new article 98 where the provision of so-called "Extended confiscation" is incorporated. According to it, the offender will be subtracted the proceeds realized not only with the specific criminal act that is condemned, but for those that they have acquired such an act a certain period before judgment. In order to perform an extended confiscation it is necessary to fulfill several assumptions:

First, it is reserved only for cases of conviction for offenses of a certain kind of difficulty: a crime committed within a criminal association, with a sentence of at least 4 years, crimes related to terrorism chl.313 0.394-a 394-b 394-c and 419, which prescribes imprisonment of over five years or more and crime associated with money laundering, with a sentence of at least four years.

Second, time period before judgment, which extends the extended confiscation, is determined by the court and it cannot be longer than five years before committing the crime.

Third, the court must be reasonable confident that the property of the offender is beyond his legitimate income and that derives from such work. Also, this property will be confiscated from the third party that is generated by the crime, the family of the offender it is transferred to when it is obvious that they did not provide compensation corresponding to its value, and from the third persons, if it is not proved that the object or property given as compensation suits their value.

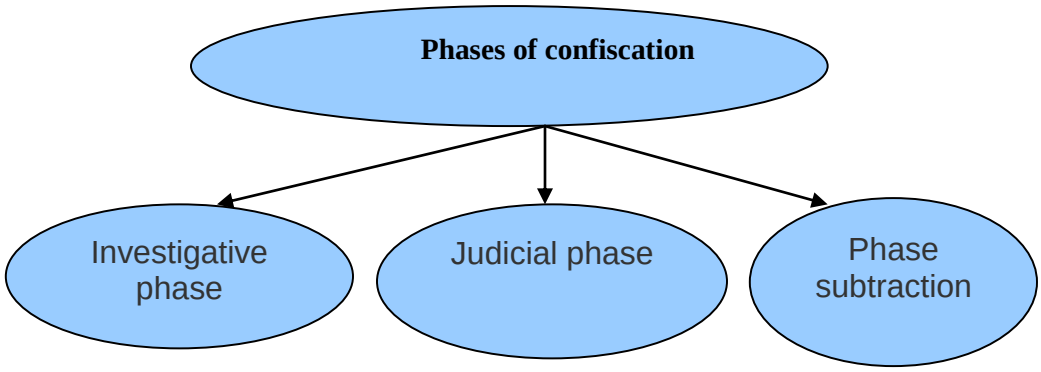
Financial Investigations in Survey of Crime in the Area of Organized Crime

The purpose of activity of organized criminal groups is gaining high profits. When talking about detection of criminal acts of organized crime, it should be noted that criminal investigation determines the offense and the perpetrator/s, as well as provide evidence for criminal proceedings, while the

goal of financial investigations (which runs in parallel to the criminal investigation) is to confiscate proceeds of crime. Before introducing the measures of confiscation, there are many examples where organized criminal groups are convicted primarily in the illicit drug trade. Drugs are revoked, the vehicle which is transported as well, people involved are convicted and imprisoned to serve a prison sentence, but the rest of the criminal organization or family members continue to enjoy the huge property that they have acquired in the previous incriminations. From that point of view, the introduction of the measure confiscation of property acquired with the incriminated activities is of great importance.

The "Strategy of the European Union to prevent and control crime organization at the beginning of the new millennium" concludes that the gist of most of organized crime is gaining a financial benefit. Starting from here, and effective prevention and suppression of organized crime must be based on finding and freezing, temporary and permanent revocation of the property gained through committing crimes. There is a need of parallel criminal investigation to take action to check the setting of property offenders, and the detection of financial transactions to determine and locate illegally obtained assets. "The financial investigation is a procedure that is conducted in parallel with criminal investigations and its aim is to disclose income from crime, to identify property owners who may be confiscated and temporarily provide (seize) the property of the defendant in order to allow future final Confiscation" Implementation of financial investigations is based on checks in the records: Central Registry, the Public Revenue, market inspection, customs, courts, banks, insurance companies and others. In what way does the data come, did the perpetrator dispose any property before committing the crime and which assets did he obtain after the crime.

Table no.1
Phases of confiscation



The system of confiscation and procedures can be divided into three phases:

1. Investigative phase which identifies and locates the proceeds of crime and gathers evidence for their owners (information on their property). 2. Judicial phase in which the defendant is convicted (or acquitted) and the confiscation order is final 3. Subtraction when the property is actually confiscated and seized by the state in accordance to the laws.

Direct and indirect revenues from crime can be confiscated as well as legal property with the same proper value when earnings cannot be confiscated. For successful implementation of confiscation procedure it is necessary to take timely measures to identify, monitor and quickly freeze or seize property that is subject to confiscation in order not to allow its disposal, exchange, etc. The insight into the banking documentation is needed to be able to realize it. After the insight into the banking documentation, banks must not inform the customer that the police conducted inspection, the ongoing financial investigation and so on. If organized criminal groups involved have their own people in financial institutions there is a great possibility of fraud on the activities of institutions and greater caution in OKG when performing incrimination. The investigation of possession is done systematically analyzing data to identify such individual holdings. When discussing the application of confiscation measure, it should actually be discusses about the mutual and joint activity of both, criminal and financial investigations. Different jurisdictions may represent a serious obstacle in carrying out effective and successful fight against international organized crime. It is necessary to adopt a number of legislative measures that will enable you to locate, freeze, seize and confiscate proceeds of crime and to allow international prosecution and judicial cooperation in criminal prosecution. The next section will try to give an analysis of different approaches in applying the measure of confiscation in some European countries like the United States.

International Experience

Implementation of international standards into national legislation depends on the legal model, traditions and other specific circumstances of the state. Thus, the national legislation in Europe is different. There are differences in the fundamental nature of confiscation in respect of criminal law, civil or administrative law. Confiscation regimes can be part of the procedure for making a judgment for the defendant. In this case the verdict is usually necessary. In a number of countries income can be confiscated in civil proceedings of foreclosure, independently or in parallel with criminal proceedings. Differences also can recognize topics such as transfer of the

obligation of proof regarding the nature of specific capital in the request for a direct link between the criminal factor and seizure of property or the principle of calculation of profits. Differences arise in the legal character of confiscation, standards of proof and scope of confiscation. According to the continental legal system, the legal character of confiscation in criminal proceedings is generally regarded as incidental consequence or measure, and only a few countries have interpreted confiscation like a fine (France). In the system of common law (Italy), confiscation has mainly preventive function. In many European countries the standards of evidence are reduced. The relationship between the prosecuted crime and property (which can determine whether it is illegal), may be loose (Germany, Austria, Netherlands). The prosecutor is not obligated with the criminal standard to prove the link between the crime and all properties - properties that are supposed to be illegal. In such case, in addition to revenues from the prosecuted act, any property can be confiscated even when they are acquired by another criminal offense which is a subject for a review (extended confiscation). Only several European countries (Ireland, Great Britain, Italy and Switzerland) implement a completely transferred responsibility for proving.

England

Systems of confiscation of property of criminal origin under the common law focus on the prosecutor, who dismisses the court about the size of the material benefit that the person has acquired through criminal activity. In cases when dealing with crimes related to illicit drug trafficking, investigation may extend beyond the actual crime over all crimes related to drugs. In this case, the investigation seeks to impose on the convicted person a legal obligation to pay the State an amount which is determined as the value of material benefit. During 2002 England adopted the Law for funds of criminal origin, which introduced the possibility of civil legal seizure in the event objects that are found not to be prosecuted. For this purpose The Agency for assets return is formed, and it works only after a court ruling.

Belgium

During 2002, Belgium passed a law giving the opportunity to expand the seizure. A possibility of seizure of value was adopted: if a person has acquired assets with committing a crime that is under investigation, and those funds cannot be found, public prosecutor and investigating judge may assess the amount of those assets and seize any part of the inherited property of the suspect to the appropriate amount. The relationship between the seized

part of the inherited property and the crime should be established. What characterizes Belgium is the establishment of a central office for seizure and confiscation established by the Public Prosecutor with jurisdiction in the territory of Belgium.

United States

U.S. laws allow administrative seizure by federal agencies. The concept of legal civil seizure was constitutional challenged by the Supreme Court of the United States, but it remains valid. During 2000, the American system of civil legal seizure is modeled, which would provide greater protection for innocent owners. Thus, the "standard of the great disproportion" was introduced in order to determine whether the usage of particular legal civic seizure is in contrary to the constitution.

Application of Measure Confiscation in Macedonia

International conventions which are signed by our country as an aspirant for joining the European Union are of particular importance for promoting such confiscation as a measure, and thus adjusting our legislation to the West European one. This measure is provided separately in the Criminal Convention against Corruption in 1998 and the Civil Convention on Corruption in 1999 of the Council of Europe which is provided as an obligation of States Parties to take measures necessary to enable confiscation or seizure of the instruments and proceeds of offenses. Confiscation of property is also envisaged in the UN Convention on Transnational Organized Crime - Convention Palermo Italy in 2000 and the latest Convention on laundering, search, freezing and confiscation of proceeds of the Council of Europe in 2005. Confiscation of property is reaffirmed with the novella of the Criminal Code of the Republic of Macedonia in 2004. Confiscation of property and proceeds as part of the Criminal Code is assigned as a separate criminal legal action, which consists of subtracting the direct and indirect proceeds of crime. Confiscation of property and proceeds and confiscation of items in the Macedonian criminal legislation is a legally separate measure of the system of sanctions. The imposing of this measure leads to forced confiscation of the indirect and direct proceeds of crime. Confiscation of property is done to the perpetrator of the crime and they can confiscate money, valuable items, property or proceeds of a crime.

Proceeds can also be confiscated from persons whom the assets have been transferred to, if they knew, could know or were required to know that the property was acquired with a crime. Our criminal legislation provides liability for legal persons, so that confiscation of property by a legal person is

possible. Proceeds are confiscated from a legal person when they occur as a perpetrator of a crime or they have obtained proceeds to a criminal offense which was committed by another person. In cases where the property or proceeds cannot be confiscated from a legal person due to cessation of its existence, than, before the execution of confiscation, the founder or founders of the legal person or company partners jointly commit to pay a sum of money corresponding to the proceeds. It is a solution founded on the principle which notices that those who draw the benefit from criminal conduct in the operation of the legal person shall severally return the illegally acquired proceeds of criminal conduct that have the characteristics of crimes. Property values and proceeds to be confiscated are mostly determined by analysis. When dealing with criminal behavior which provided enormous wealth, cooperation between several state agencies and institutions is required in order to identify financial transactions, contracts for the transfer of property by fictitious purchasing agreements, that is, to prove the amount of illegal proceeds. A law for extended confiscation as part of reforms to the Criminal Code was introduced in our legislation, which enabled judges to confiscate property. The purpose of extended confiscation extended is to facilitate the fight against organized crime. However, according to the academic Vlado Kambovski, the procedure would be fair if the accused person is given the opportunity to show that the property is actually obtained from legal sources. Expanded confiscation took effect on March 22, 2010. It provides freezing the assets of the person accused of participation in organized crime which were acquired in the last five years.

By adopting the Law of confiscation and management of confiscated property, proceeds and items seized in criminal and criminal procedure, there have been several judgments of the seized property since 2008:

Case Study No. 1

A person is sentenced to imprisonment for a period of 1 year for money laundering. In accordance with the decision of the court, the accused has been pronounced confiscation (proceeds acquired contrary to the interests of the Republic) of assets worth 9 million euros. Since the defendant failed to make the payment, in order to implement the decision of the court, the confiscation of real estate and securities was executed.

The defendant was deprived of the following: - Villa with a total area of 236 m2; - House with a total area of 270 m2, which was confiscated by mala fide, the third party who acquired in 2003 from the defendant without adequate compensation, although it was known and was bound to know that the house was acquired as proceeds of crime; - Business premises with total

area of 106 m2. Moreover, securities in banks and joint stock companies that were purchased with money obtained by crime were also confiscated. For example: 3,120 shares in (...) - the amount of 7.4 of the total capital; 13,544 shares (...) - amounting to 43.64% of the capital, 8,662 shares (...) - amounting to 6.4% of the capital, 12,778 shares (...) - the amount of 33% of the capital and 921 in action (...) - amounting to 2.73% of the capital, 23,970 shares (...) - amounting to 4.04% of the capital and 564 shares in (...) - amounting to 32.86% of the capital, securities of the company (...)whose owner and director was the defendant himself, 132,948 shares (...) - amounting to 36.15% of equity.

Case Study No. 2

The final decision of the district court was that the person, the owner of the company, was accused of misconduct and, in accordance with the decision of the court, the defendant was supposed to return about 58 million. The defendant was obligated to make compensation for unlawfully acquired proceeds within 15 days of the decision, but he failed to do so. Confiscation of property listed below was performed in order to implement the decision of the court: - Family house in KO (...) with a total area of 511 m2: - Villa in KO (...) in his possession, a third person, with a total area of 234 m2.

Case Study No. 3

The final decision of the district court was that two people were convicted (the first person was sentenced to imprisonment of 7 years, while the second person was sentenced to imprisonment of 4 years and 10 months) for "public function abuse" and "falsification of official authority." The court ruled that the defendants should pay compensation for damages amounting to 103,575,167.00 denars. The following property was confiscated: - Flat in (...) with a total area of 119 m2; - Commercial space with an area of 202 m2; - Building area of 540 m2; - Flat in (...) with a total area of 74 m2.

Case Study No. 4

The final decision of the district court was that two people were sentenced to imprisonment of 5 years of "child trafficking". The following property was confiscated: -Restaurant with a total area of 65 m2;

-Coffee bar with a total area of 120 m2. **Case Study No. 5**

The final decision of the district court was that the defendant was sentenced to imprisonment of 6 years for "abuse of public office." The court ruled that the defendant should pay the amount of 97,612,997.00 denars.

Since the defendant failed to pay the required amount, confiscation of the following property was executed: shares in two companies, totaling about 200,000 euros.

Case Study No. 6

The final decision of the district court was that 21 people were all convicted of "abuse of official duty, fraud and money laundering." Various amounts of money as well as the following property were confiscated: real property (...) with a total area of 1,035 m2; real estate (...) with a total area of 708 m2, real estate and a building in (...) with a total area of 179 m2. According to the verdict, the defendants are deprived of many different cadastral parcels and real estate - land with a total area of 178,218 m2 in favour of the Republic of Macedonia. The total property and securities confiscated in this case has been worth around 20 million euros.

What can be concluded from the presented examples? For a relatively short period of time, state institutions managed to confiscate houses, apartments, business facilities, securities in accordance to the value of the judgment of confiscation. The aim of confiscation measures is to reduce the power of a person or his ability to continue with certain behavior by deprivation of his physical or financial power, to prevent the possibility of unjustified enrichment of the perpetrators of criminal acts, by eliminating the advantages or benefits acquired with their illegal activities. Another aim of confiscation measures is to separate the criminals from crime by reducing opportunities for gaining profit, and to protect the community by stopping the circulation of prohibited items. In order to implement this measure, however, our country lacks legislation, institutions and practice regarding identifying general property acquired by criminal act. This general property may not only include criminal procedural norms, but complementary norms in the field of banking, finance, trade in real estate and other areas as well. The confiscation measure is unjustifiably neglected in courts since the courts avoid dealing with the procedure for determining proceeds obtained by crime. This is a result of poor preparation for the charges in this section and lack of effective instruments for identification and search for criminal proceeds before starting or during criminal proceedings.

All cases highlight the importance of cooperation between financial investigators and prosecutors, which is crucial for an early and extremely accurately identification of resources from the very beginning of the proceedings. Further education of staff in the Management Agency for seized property is required for successful management of confiscated property, assets, securities and shares. On the other hand, this is very important for a successful execution of confiscation, since it leads to the

promotion of more precise judgments by judges, and therefore, to an easier subsequent execution of the warrant.

Conclusion

In recent years, the trend of reaffirmation of confiscation of property has begun in the European legislation. The subject of this measure is the property of the offender together with the special confiscation consisting of the seizure of objects that are used, have been or are subject to criminal attack. It is a new tendency of criminal prosecution in terms of looking for the act and the perpetrator, as well as criminal income acquired by illegal activities as the most effective tool in the fight against organized or economic crime that has the characteristics of organized crime. Persistent and constant detection, freezing and confiscation of all criminal income as well as all items that occurred with executed criminal actions or objects that are used for criminal attack should strengthen the warning toward offenders who have official powers or perform responsible functions within private enterprises and their owners who often support that crime. Many European countries have already introduced forms of switching the burden of proving the origin of the assets of defendants. Institutions are required to prove in some way that the property has been acquired through criminal activity, or that the defendant is unable to acquire property on the basis of legal income. The application of international standards into domestic legislation depends on the legal model and tradition and other circumstances specific to the state. There are substantial differences in the nature of the legislation in terms of both, criminal or civil law. As previously mentioned, we can conclude that judicial practice faces certain problems in determining the amount of illegal proceeds. Although the problem of comprehensive confiscation is treated in the novel K3 and CC from 2004, amendments to the Criminal Procedure, the Law Amending and addition to the Criminal Code of 2009 as well as a relatively short time period of its implementation, we can judge it as completely unsatisfactory. It can be concluded that there is a lack of legislation and practice in terms of identifying property that is realized in a criminal way. Thus, not only criminal legal norms should be taken into consideration, but also the accompanying conditions in the banking, finance, trade and real estate etc. Although the Management Agency for seized property has been established since February, 2009, the results of its activities are still not obvious enough in practice. In our legislation it is necessary to access the adoption of such law regulation which will allow withdrawal of the entire property suspected to be illegally acquired, no matter whether the criminal proceedings will determine if it is in direct connection with a criminal offense for which a person is convicted. Thus,

increasing the efficiency in the combat against the organized crime, modernization of our legislation and its approximation to the modern European trends is an important and necessary condition for the RM to enter the EU as a full member of the European Community.

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MONEY LAUNDERING ON FINANCIAL MARKETS

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Abstract

According to global statistic there are 1.5 trillion dollars laundered annually. This remarkable figure and the fact that money laundering directly affect the integrity and functioning of financial systems, financial stability, general economic and social of the entire development show why the concerns about this phenomenon are growing on global level. The purpose of this paper is to show the role of financial markets in the occurrence of money laundering. According to the analysis of the typology of the FATF on money laundering in the financial markets, 7 criteria of the structure of the typology are given. Typology of financial markets may be considered according to: financial products, methods of payment, professional intermediaries, clients, and types of accounts, setting values and neglectful financial officers.

This paper, except analysis of the use of certain forms of money laundering in the financial markets, will provide guidelines to improve existing measures to prevent money laundering in the financial markets. Also new measure instruments will be proposed, which will be summarized in the paper from the comparative analysis, and will be able to accommodate and implement in the region. Basic normative for undertaking any serious social engagements for the reduction and combat with this phenomenon remain for a unified system which will provide collecting and update the available data-bank on money laundering at national level.

Lack of knowledge of functioning of financial markets is one of the main problems for detecting the phenomena money laundering and one of future directions is to organize knowledge training for appropriate authorities (financial investigators) to understand the roots of functioning of financial markets, financial institutions, financial processes, changes and events.

Keywords: Financial markets, money laundering, the structure of typology, financial stability, social development, finance officers, etc.

Role of the Financial Markets

Financial markets as complex financial institutions represent peculiar bodies which channel the blood stream (finance) in the economy. To understand the movement and fluctuations in financial markets is necessary to see the changes not only in the economy, but, even more, in all segments of social life. Within the global finance, money laundering is one of the activities that is hardest to be recognized and understood.

Financial markets are transmission mechanism or place where exchange occurs or redistribution of excess funds to those who need or have lack of funds. Movement of funds from those who need to those who have surplus of funds occurs in two ways:

1. Credit-deposit mechanism through the banking sector, and
2. Issue of securities by those who need funds.

According to the U.S. Congress[1] financial market has several basic functions such as:

1. Method of collecting funds by corporations and governments
2. Providing a good allocation of capital to companies and various projects
3. Increase of savings by the population
4. Opportunity for investors for potential profit in the markets
5. To generate increased rate of returns and employment

Development of the financial markets opened the opportunity to develop types of financial instruments. The financial market is a specific market because it deals with specific goods (money, capital short and long term securities, currencies and foreign currency), in a specific manner and under specific conditions. The most famous proprietary instruments are stocks and bonds with the longest term. Beside them other types of instruments such as derivatives have developed, and they contribute to increase profits and the risk. Financial market serves also to finance investments, including: direct, indirect and internal funding. Financial market consists of three segments (each with specific functions):

1. Money market:
   - short-term securities and
   - short-term bank loans
2. Capital market
   - short-term securities (stocks and bonds) and

[1] Frank Fabozzi and others, Capital markets, Institutions and Instruments, Prenoce and Hall, 1996, p.16.

- long-term crediting of investments (loan capital)

Foreign currency exchange

- short-term demands in foreign currency

The modern form of financial market exists since the late XIX century, when central banks in the market countries established and organized first, national and later, international financial markets. Earliest beginnings of organized market transactions have existed for more than 2,000 years in the Roman Empire. Following the fall of the Roman Empire financial market didn't exist for almost tens of centuries. Even at the late XIII and early XIV century, with the development of Italian cities Venice, Genoa and Florence financial markets began to be established and operate again. At the end of XV and early XVI century national financial markets were established in London and Paris. At the end of the XVI century, the financial market established in Amsterdam gets characteristics of an international financial market. Today, the most significant financial markets are in London, New York, Frankfurt, Tokyo and other towns.

Money Laundering on Financial Markets

Financial markets globally are characterized by diversity and ease of trading (via electronic trading for example), and the ability to do transactions in markets with strong investor protection. These characteristics make the financial market attractive for a common investor who has an interest and looks for a good profit of its funds. Also the size or the volume of transactions which could be made in many markets at the same time make this market to be a potential mechanism for money laundering coming from criminal sources. Speaking in general, this type of market allows criminals on the one hand concealing the illegal funds, and on the other hand once they enter them in the market, to also generate income from them.

Use of the financial markets has several advantages for money launderers because the electronic way of trading reduces the risk to be detected or at least, provides dislocation of the alternative market platforms:

• The risk comes from the easy access to the market;
• Customers are anonymous;
• Connection is provided to all markets in the world;
• Participation in the financial markets is cheap;
• Transactions are made on the basis of the consolidated accounts "day trading", so that they often represent a "black box" for the financial investigators;

• The small number of proven cases of money laundering points to the fact that the secondary market is particularly suitable soil for trading;

• High concentration of money in one place, greater frequency of transactions, fast flow, a large number of instruments and positions available to the participants and a global presence.

Money laundering in the financial markets must be considered from two aspects, namely:

1. Money laundering on the financial market (participants are there only to convert their illegal money into legal and they become legitimate investors) and,

2. Manipulation of the financial market (participants are in this market for manipulation which can, but needn't be necessarily money laundering). According to the FATF typology of money laundering in the financial markets, the structure of typology is divided into seven criteria including:[2]

1. Financial markets;
2. Financial products;
3. Methods of payment;
4. Professional intermediaries;
5. Customers and accounts;
6. Price transparency;
7. Unscrupulous employees.

1. Financial markets

Trading or transmission of transactions can be conducted in the traditional way through *the traditional market* and/or over-the-counter (OTC) market. The first market is well organized with less room for criminals with a history list of transactions and so on, while the second is more speculative and leaves more room for money laundering. The lack of transparency is considered as the main reason that allows money laundering. In some cases, transfer may take place even the individual does not own account in the financial institution, for example, through breach in the data security of the financial institution, or through transfer of an instrument similar to the holder of the funds. Payment for transferable securities may also be made in cash and there is no trace of the transfer made for such an order. In another case fraud can be made through transfer of securities with special orders that are not numbered in the general statements, and thus at the end of the year, banks do not include them in their bank balance sheets.

[2] Money laundering in security sector, FATF, 2009, p.14.

2. Money laundering through financial instruments

Diversity of the financial instruments provides an opportunity for money laundering through them and the opportunity is really huge. According to FATF basic division of financial instruments is as follows: 1) transferable securities (stocks, bonds, certificates of deposit and promissory notes), (2) shares in investment funds (open, closed and mixed funds), and (3) derivatives (options, futures, forward, swaps, commodity derivatives and foreign exchange derivatives). The attractiveness of financial instruments is great for the speed and because there is no risk in the dematerialization of securities. Furthermore they are easily transmitted and through them the illegal money can easily pass through the first two phases: investing and piling up. Possible indicators for this type of money laundering are:

1. Depositing of large amounts of securities, followed by a quick sale on the open market;
2. Request for payment in cash of securities without depositing, frequent depositing of securities of a bearer to an account through financial intermediaries (especially if the amounts are below the legal threshold in terms of control of money laundering);
3. Depositing of securities on an account of other parties through financial intermediaries (on an account on behalf of another person or depositor different from the name of security, if there are any and registered);
4. Payment of proceeds from the sale of securities on behalf of third parties;
5. Unclear or incoherent reasoning and method of acquiring the securities;
6. Securities of a person who is the actual representative of the safety mechanisms.

3. Methods of payment

The risks are practically identical, as in other spheres of trade in goods and services. Methods of payment can be divided into:

1. Payments in cash;
2. Payments or transfers of value of unexplained origin of money.

Just the specifics of trading in financial markets contribute to the speed and simplicity in favor of money laundering. Upon accumulation the funds quickly and easily are used for buying and selling securities and money are transferred to other accounts.

4. Financial Intermediaries

Financial intermediaries are licensed, legitimate participants in the financial markets. These include brokers, dealers, financial advisors, banks, investment funds, and insurance companies and so on. They consciously or unconsciously may participate in the chain of money laundering. Also, some of them offer anonymity for customers or do not disclose information and they do not implement the obligatory activities associated with "know your customer". Many of the intermediaries do not receive cash payments for transactions and most investors have to open accounts with their intermediaries. New internet opportunities for opening an account represent a way, through direct access to investors, to enable transactions in financial markets, which complicates the monitoring or identification of suspicious transactions. This only underlines once again that financial intermediaries are key partners in cases of detecting money laundering.

5. Customers and accounts

Typical representatives of this group of participants in the financial markets are trusts, humanitarian and nongovernmental organizations, fictitious funds, shell companies and hedge funds. This typology of money laundering is most often recognized in the stages of accumulation and integration. Some financial markets require information about the clients and accounts, but in some of them, users who benefit from the accounts are unknown and with masked identities. Clients use these financial markets because under normal conditions their access or participation in the financial system would be restricted or prohibited.

Some of suspicious transactions relating to our clients and their accounts under the FATF are:

• At the time of opening an account, the person refuses to provide information to do CDR / KYS procedure (for example, employment, previous financial relations, etc.), especially in terms of end owners;

• A person opening an account does not want to provide complete information on the nature and objective of the client's business, on the previous financial relations, on the activity of the account, about managers of the company or business location; and

• Trust or the end owner of the account is located in an area with high risk.

6. Transparency of prices

Always when trading in the financial markets there must be transparency in prices. Also "short sale" can be one of the abuses in the financial markets, and related to the transparency of prices. Prices in the financial markets can be used for money laundering, especially in the financial markets which are not regulated or the markets where there are no traditional pricing mechanisms. According to FATF, there are two possible states indicated for money laundering through prices as follows:

- Transactions in illiquid securities, for which it is difficult to determine the market value;
- Transactions in which the established price significantly deviates from the previously established trend of prices.

These clues are intertwined also with certain categories of frauds as market manipulation and therefore create confusion and misunderstanding among researchers in the financial markets, and those institutions dealing with the prevention of money laundering.

7. Unscrupulous employees

Basically people are main factor for making fraud and money laundering in the financial markets. Unscrupulous individuals are essential for detecting money laundering in the financial market. According to FATF, indications of money laundering by employees in financial markets are as follows:

1). Excessive enthusiasm in making transactions for individual clients;

2). Desire to work unsupervised and avoid communication with colleagues;

3). Focus on achieving fulfillment of the regulatory or business standards;

4). Excessive pressure on fulfillment of the objectives;

5). Standard of living and way of life are with higher costs than the annual income;

6). Avoidance to take annual leave;

7). Known “mended life” situation, etc.

According to APG member countries, common indicators to detect suspicious transactions in the financial markets can be grouped as follows:

• Change of ownership share in order to transfer wealth across borders;

• Purchase of long-term investment in a short term period;

• Opening several accounts;

• Use of brokerage accounts as long-term depositary of accounts for funds;

• Realization of transactions involving third parties or nominated persons;

• Engaging in market manipulation, for example, "pump and dump" schemes, and

• Engaging in "boiler room" operations.

Measures and Guidelines to Combat Money Laundering on Financial Markets

One of the goals of this paper is to raise awareness of the opportunity offered by the financial market for money laundering. One of the future directions to fight against this phenomenon on the financial markets is raising awareness among the financial intermediaries (banks, investment funds and pension insurance funds, leasing companies) of money laundering and globally through the exchange of experiences through case study analysis. Basic scale of norms for taking any serious social engagements for the reduction and eradication of this phenomenon is creating a system that will provide uniform collectivizing and updating of the available data-bank on money laundering at the national level.

As one of the important measures in the context of data collection, is the proper implementation of financial analysis, which requires acceptance of data, information, comparison, identification of inconsistencies, reconstruction of the event and identification of money launderers, as well as preparation of a report and verification of suspiciousness of an analyzed transaction.

Ignorance of the functioning of financial markets is one of the major shortages to timely detect the phenomenon of money laundering and one of future directions is to organize and provide training for the competent authorities, stakeholders and financial investigators for basic and comprehensive knowledge about functioning of the financial markets, financial institutions, financial processes, changes and occurrences.

Conclusion

The appearance of money laundering through financial markets really is a global threat. Complexity of the financial markets facilitates the process of money laundering for the benefit of criminals. In a word, money laundering has already been adopted in the financial markets, both as a primary activity and a secondary activity of criminals through the market manipulations. According to the typology of the FATF, money laundering is

articulated through the financial markets, financial products, methods of payment, professional intermediaries, customers and the types of profiles, prices, unscrupulous employees, etc., and implies strong distortions on efficient functioning of the financial markets, economic system, security system, macroeconomic policies and, in general, on the social existence. Financial markets are complex structures with complex infrastructure and a large number of financial instruments and participants which is cohesive with the nature of money laundering: a way of distractions of the attention of the financial investigators in favor of the money launderers. Basic shortage in case of monitoring and reducing the phenomenon of money laundering is ignorance of the way of functioning and the nature of financial markets in order to underline and detect the opportunities of money laundering. Of utmost importance is to turn the focus of attention to small countries with poorly developed financial markets (such as the Republic of Macedonia and the region), where there is poor flow of information for the participants in the market or imprecise detection of clients and such markets, and because of poor development, there is space for putting any customers, just because of the existence of any movement on it.

Proving the money laundering in financial markets is extremely difficult because most of the conclusions are drawn based on the statements of the participants (appropriate information) or the conclusions drawn based on the amount of information (manipulation). Finally, money laundering in the financial markets is very important to be studied in order to influence the reduction of this phenomenon, as it generates negative effects on the economy by creating a short-term unstableness and long-term distrust among economic agents toward the market.

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DETECTION OF MICROTRACES OF EXPLOSIVES ON CRIME SCENES

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Abstract

In real cases, after the detonation of explosive devices that were placed in/on a motor vehicle (car-bombs) to commit the offense of murder or serious threats, while performing the inspection also sampling of micro traces of explosives and explosive devices parts used at the scene of these offenses shall be performed. Because micro traces are invisible, fixing and their exclusion is done by taking a swab (using a solution of n-Pentane and n-Hexane, Diethyl ether and Acetone) from characteristic places/damaged parts of the subject vehicle and the surrounding objects, near and far from the scene, as a rule of forensic science, as well as collecting of scattered and broken parts of the subject car and surrounding objects, on which micro traces of explosive substances are expected. Laboratory analysis of materials exempted from the crime scene, processing the prescribed procedure, shall establish the type of explosives used. Based on this information and based on caused damage and bearing in mind the literature/tabular data, and empirical facts, the amount of explosives used can be approximately determined. Results of the analysis are very important for further operational work of the police, for solving the crime and finding the perpetrators and their further processing.

Keywords: *explosive devices, car-bombs, micro traces of explosives, detection.*

Introduction

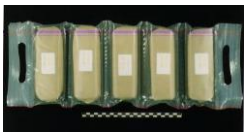
In the period from 1999 - 2009, on the territory of the Police Directorate of Novi Sad, crimes of murder, attempted murder and serious threat and damage of the property of others, were committed with explosive devices planted underneath vehicles. All such acts are characterized by very similar "modus operandi": an explosive device placed on the left front of the vehicle. They mainly used plastic explosives (pentrite, C4, hexogen) and in rare cases and earlier – trinitrotoluene (TNT) [1-3]. Once the investigation was completed and physical evidence was collected at the scene, next step is to determine the type and quantity of explosives used [4, 5]. These data are used to find the perpetrators of these acts and their further processing.

Some Forms of Explosive Devices

Perpetrators often use different explosive charges, both military and commercial. If they are not available, they use black powder or a variety of pyrotechnic mixture. Any good manufacturer is aware that the shelf life of domestic explosives is short (several months), so they usually don't have them in stock. The developer is also trying to use the materials for making explosives, whose sale is simple and their purchases are not recorded anywhere in particular and do not raise any suspicion. In Figure 1, some forms of military explosives are given.

formation of 200 g of pressed TNT

Pressed TNT in PVC, 200 g



Plastic explosive-Pentrite PEP - 500

Formation of explosive powder

Formation of explosive powder

Initial improvised explosive- Triacetone Triperoxide

Mixture of gunpowder, phosphorus and other combustible materials, for an improvised explosive device

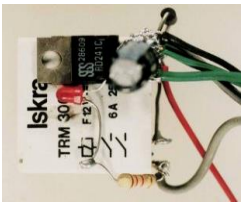
Fig.1. some commonly used explosives

Figures 2 and 3 show some forms of timed explosive devices:

Kurdish product - gray wolves

Croatian emigration - Deglin

Fig. 2: Electronic timed explosive devices



Refurbished GSM phone

Fig. 3: Wireless system is activating explosive devices

Real Case of Application of Explosive Devices

One of the cases, where as a means of committing an offense of murder with a use of explosive device, occurred ten years ago in Serbia (Vojvodina, Novi Sad).

During the summer, near the center of the town, there was an awful explosion, caused by an explosive device planted under the passenger motor vehicles. Passenger vehicle "Audi A6" was completely destroyed, and several surrounding windows and glass on the nearest parked vehicle (Fig. 4 - 7).

Fig. 4: Vehicle after activating EN

Fig. 5: Closer look of the damaged left side

Fig.6: The appearance of the front of the vehicle

Fig.7: View from another angle

During the investigation, the sampled material for forensic purposes was taken: swabs of n-pentane and acetone, from the chassis in general and the immediate vicinity of where it is assumed that the explosive device was

placed, collection of traces in the form of scattered parts of the vehicle and parts of the crater under the vehicle [6].

Physical and Chemical Analysis of Microtraces

For the purposes of physical-chemical analysis, and preparation of samples n-pentanoic and acetone extraction, two methods were used:

The method of Infrared Spectrometry Fourier-Transformation (FT-IR) that has been done on the instrument type "Thermo Electron Corporation," "Nexus 670" ATR technique and comparison with official data library, and an internal database of explosive substances, as well as the method of gas chromatography with mass spectrometry (GC/ MS), which was conducted on the instrument type "Agilent" [7].

After conducted laboratory analyzes of samples and comparing them to the obtained spectra, it was concluded that the functional groups of samples corresponded to cyclotrimethylenetrinitramine substance, known as RDX or Heksogen (military explosives), which was confirmed by laboratory analysis of the obtained GC chromatograms and concluded that the retention time of the sample after appropriate extraction, correspond to the retention time of the standard cyclotrimethylenetrinitramine substance, known as RDX or Heksogen.

Conclusion

Detection of micro traces after effects of explosive devices, in order to determine the types of explosives applied, not only further a proper criminal-tactical action, but also have a significant impact on the very court proceedings.

Identifying the type of explosive that was used in applied explosive device, is often enough to trace the area of distribution/supply, and on that basis to identify the potential perpetrator of the offense of murder.

It is therefore necessary that the crime scene is carefully and thoroughly examined and every detail of which is assumed to have been in contact with micro traces of explosives, that these micro traces can be properly fixed and exempt from the scene of the crime scene without being contaminated forward in the laboratory which will be determined by analytic type of the applied explosive.

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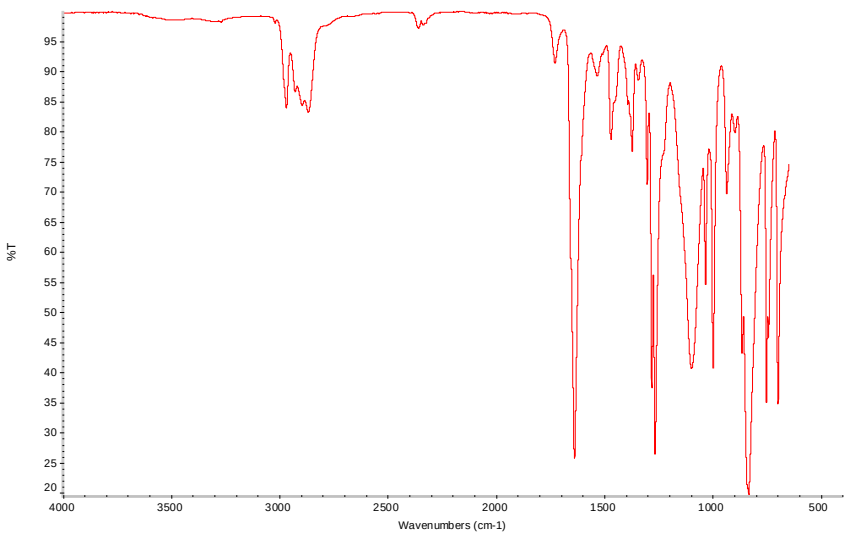
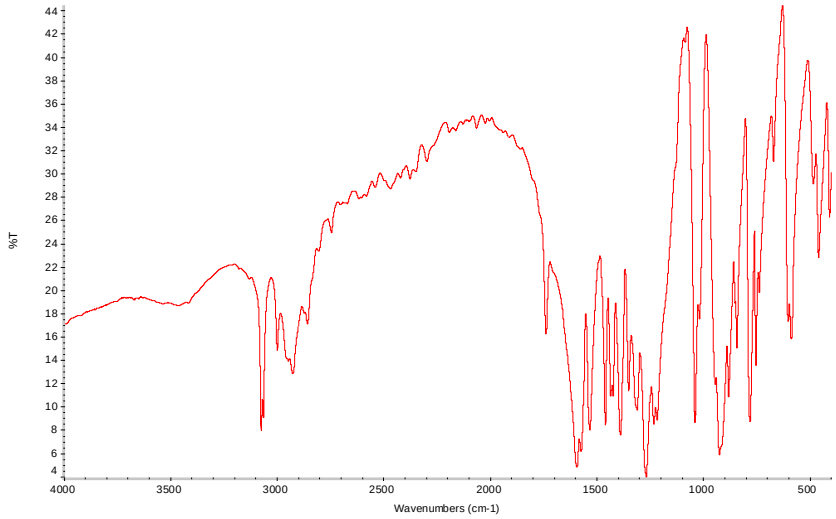
Attachment: FT-IR spectra of samples PEP and RDX.



Attachment 1: Pentrite (PEP, C4)



Attachment 2: Hexogen (RDX)

CRIME PREVENTION IN THE REPUBLIC OF MACEDONIA: SITUATIONS AND PERSPECTIVES

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Abstract

Inevitable part of every criminal policy is the prevention of crime. In fact, it is desired objective of every criminal justice system and precondition for the wellbeing and the security of the citizens, regardless it is achieved with the traditional measures of the criminal justice system or with wider preventive measures undertaken by other agencies outside criminal system (family, school, social services, business companies, etc). Development of each preventive policy, in great extent, depends on the political situation of the country, allocated funds, and willingness of the government to provide institutional and material support for design and implementation of crime preventive strategies.

Considering that, the international community and developed European countries, has established good international standards and practices for design, implementation and evaluation of crime prevention programs and strategies. And, while the science, practice and the policy of number of countries give valuable examples of the means and tools which they have used for crime prevention, the Republic of Macedonia is at the very beginning of "the way of prevention" that necessarily need to walk. In that context, this article will present brief analysis (I say brief because for detailed analysis comprehensive study is needed) of the situation within social and situational crime prevention in the Republic of Macedonia. The paper will be introduction to perspectives on crime prevention and assessment of the potential to establish stable bases within our criminal policy.

Keywords: *social prevention, situational prevention, policy, crime*

Introductory remarks

Issue of prevention of crime is a huge field of research, writing, analyzing. At the same time, prevention is a process of constant change and amendment. As the shape of crime is changing, the form of prevention is changing too that enhance the aspects of research. But, in the science and practice, still remains the question **whether prevention works**? This question awakens my interest in theoretical debate. In this context, the scientific purpose of the paper is to show the current state of preventive

politics in the Republic of Macedonia and to open up certain issues and topics for further research in this area.

Term **crime prevention** is also a matter for discussion which should follow. However, without entering into the definitions of various authors and organizations (Van Dijk, Ekblom, Farrell, UN, and Council of Europe), in explaining the basic concept we will answer the following questions: **what we want to prevent, how, and who are responsible for prevention of crime.**

In answering the first question we will agree that it is better to specify what can be quantitatively and qualitatively measured, which is the number of criminal offenses, the value of damage, the number of crime victims, fear among citizens and risk factors for crime.

In answering the second question we will use the approaches outlined in the **UN Guidelines for the prevention of crime** since 2002, according to which the prevention of crime includes a wide range of approaches that are related to (a) Promote the well-being of people and encourage pro-social behavior through social, economic, health and educational measures, with a particular emphasis on children and youth, and focus on the risk and protective factors associated with crime and victimization **(prevention through social development or social crime prevention**); (b) Change the conditions in neighborhoods that influence offending, victimization and the insecurity that results from crime by building on the initiatives, expertise and commitment of community members (**community based crime prevention**); (c) Prevent the occurrence of crimes by reducing opportunities, increasing risks of being apprehended and minimizing benefits, including through environmental design, and by providing assistance and information to potential and actual victims **(situational crime prevention**); (d) Prevent recidivism by assisting in the social reintegration of offenders and other preventive mechanisms (**reintegration programmes**).

In regards with the question who are holders/actors of crime preventive actions, without doubt we conclude that the emergence and essence of crime prevention is connected with the activities undertaken by the citizens, schools, business sector, NGOs in partnership with the local authorities and criminal justice system. In this part, government should play a leadership role in developing effective and humane crime prevention strategies and in creating and maintaining institutional frameworks for their implementation.

Does prevention in the Republic of Macedonia "give" results?

Answer to this question is determined by several factors. Considering the positive results of many studies, in science prevail the claim that

prevention works. More dominant thesis is that to claim that we have prevention without evidence is wrong and liable to suspicion.[1] Now, the evidence and results of surveys build policies and make laws. Whether and what action causes the preventive effect can be seen only through the study of these effects. In this respect, science undertakes activities to establish so-called culture of research and evaluation.

In a situation where, in the Republic of Macedonia, there is no empirical research on the effects of certain preventive measures and programs in order to check the dilemma of whether prevention "works", the paper will make a brief analysis of the legal and institutional framework of preventive policy (I say short because for detailed analysis separate and detailed study is required) to see if the fundamentals are in place to take certain preventive activities. Their existence on the other hand, shows the willingness of the politicians to build robust preventive policy.

Starting from the basic goal of prevention to reduce crime and to establish security of citizens, the first indicator of successful prevention policy is the rate of crime. In this respect, data on the movement of crime in Macedonia for the period from 2001 to 2010 showed a steady increasing trend. The level of crime is drastically increased for 10 years, especially in crime committed by adults. According to the **Annual Report of the State Statistical Office of Republic of Macedonia in 2010**, the number of adults reported in 2010 increased by 165, 52% compared to 2001.[2] The trend of increase applies to all crimes, and a significant increase is recorded for crimes against marriage, family and youth (96% increase), for crimes against freedoms and rights of man and citizen (245% increase), for crimes against property (107,6% increase), for crimes against official duty (108% increase) and for crimes against public order (63% increase).

Juvenile crime on the other hand, shows a slight downward trend (16,2% decrease), but an increase in crimes against life and body (48,6%), for crimes against public order (133%), for crimes against sexual freedom and sexual morality (118%). A small downward trend for the period of ten years is recorded for crimes against property (29,6% decrease).

Mentioned indicators, not going into the reasons for such increase, speak of several conclusions:

• ineffectiveness of the criminal justice system to reduce the number of crimes, including the system of enforcement of sanctions by the special and general prevention,

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Erich, M., Meyer, A. & Linssen, R. (2005) The Beccaria-Project: Quality Management in Crime Prevention in Marks Erich, Meyer Anja & Linssen Ruth (eds.), *Quality in Crime Prevention*, Hanover, Landespräventionsrat Niedersachsen.

30.004 crimes reported in 2010 and 18.018 in 2001.

• increased opportunities to perform criminal acts, ranging from the thesis that "opportunities makes the thieves", and

• invoking the theory of rational choice, the absence of a capable guardian, social control (formal and informal) as the third prerequisite for execution of criminal acts.

On the other hand, **Statistical reviews of the social protection of children, youth and adults of the State Statistical Office of Macedonia** in terms of number of users of certain services of social welfare show increased social risks for a period of 5 years. They essentially are the primary determinants and risk actors that in correlation with other objective and subjective factors influence the increase in crime and other delinquent behaviors.

Specifically, data regarding the execution of disciplinary measures against juveniles (regardless whether they are offenders or neglected juveniles) show that for a period of 5 years the number of undertaken measures has increased from 1,491 in 2006 to 1914 in 2010 (+28,3%). Also, the number of registered juveniles who manifest antisocial behavior is increased from 277 to 365 juveniles (+31,7%) and of minors under 14 years who are offenders (from 524 to 627, that is 19,6% increase). In terms of family situation, there is an increased number of registered juveniles who live in affected family conditions (10,013 in 2006 and 10,424 in 2010) and an increased number of juveniles who live in families with disturbed family relations for 25,2%.

The above data show growing number of juveniles who are in a situation of risk.

Centers for social work, also show trend of increasing drug and alcohol use among adult users of social protection. Namely, in 2006, the centers encompassed 700 registered users, while in 2010, 1014 users, that is 44, 8% increase. An additional indicator of the negative social factors that influence crime is the rate of unemployment, especially among the young population. The official statistics shows that the unemployment rate of youth aged 15 to 29 years in 2010 is 73.5%.

If the foregoing findings show **increased social risk factors**, then how the situation is in the Republic of Macedonia in the field of primary and secondary social prevention? In order to determine whether the communities provide preventive measures and social support, especially for the poor and vulnerable groups in certain municipalities in Macedonia, certain research is conducted by the **Association for Emancipation, Solidarity and Equality of Women in the RM-ESE,** in cooperation with the Ministry of Labour and Social Policy. The data are disappointing. In the surveyed municipalities[3]

Municipalities: Caska, Radovis, Saraj, Prilep, Stip and Kicevo.

there is insufficient cooperation with all relevant actors at local level in terms of achieving social prevention under the Social Protection. Centers for social work have no conditions for performing preventive work because of unsecured working conditions, extensive paperwork, lack of skilled staff and off-road vehicle.[4] Also, there is an absence of appropriate multi-agency approach to achieve social prevention. Regarding that, recommendations are that there is a need of creating conditions for social prevention in all spheres of social life. It is necessary to implement social prevention by introducing special units within the social services. Representatives of the centers especially emphasize the need for implementing social prevention in schools.

Prevention through Social Development in Macedonia

Prevention through social development can be achieved through social, economic, health and educational measures with special emphasis on children and young people and focuses on risk and protective factors associated with crime and victimization. The analysis of the social development of the Republic of Macedonia in terms of prevention through social development requires a multidisciplinary approach and research. In this paper, I will make a review of the strategic priorities of the Government which should have a leading role and be a carrier and initiator of primary prevention, as well as of basic strategic documents of the ministries responsible for development of social policy. The thesis that the **best criminal policy is good social policy** is true. It is a great field of prevention through social development.

Social prevention according to the **Law on social protection** (Article 24) means the entirety of measures and activities to prevent the occurrence of social risks, to make early detection and early treatment of citizens exposed to social risk in order to overcome or mitigate the adverse consequences of exposure to social risk. To achieve social prevention, social services should undertake measures, particularly educational measures and counseling, to develop forms of voluntary work with personally engaging and to apply other methods that meet the needs of users of social protection.

Current situation in this field shows that the government puts priorities of the prevention in several areas (domestic violence, trafficking, sexual abuse, street children, and juvenile delinquency).

For protection and prevention of domestic violence, **National Coordinating Body for protection from domestic violence** is established,

Analysis of the situation in social protection and social inclusion at local level, Association for Emancipation, Solidarity and Equality of Women Republic - ESE EVS. Institute for Human Rights "Ludwig Boltzmann" - BIM-FV, Skopje, 2010, p. 17.

and adopted a National Strategy for Protection from Domestic Violence (2008-2011). In the area of **human trafficking and illegal migration** a National Commission is established and adopted a National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia (2009-2012) and Program for the reintegration of child victims of trafficking. In terms of **sexual abuse**, Ministry of social affairs has adopted Action Plan for preventing and dealing with sexual abuse of children and pedophilia (2009-2012) and prepared a Register of pedophiles. Step forward is the establishment of the **National Council on the prevention of juvenile delinquency** in accordance with the Law on Juvenile Justice, which adopted a National Strategy for the prevention of juvenile delinquency (2010 to 2020). In accordance with the Law, in many municipalities in Macedonia are also established municipal councils for the prevention of juvenile delinquency.

However, on the other hand, conclusions that preventive work is unjustifiably neglected are true, which has far-reaching consequences. The reason for this situation represents a continued lack of funds for prevention activities, and lack of bylaws which will commit the Centers for Social work to implement preventive programs. The facts show that in 2004, with the abolition of mandatory premarital counseling visit, the counseling work in the field of marriage and family has been neglected. Poor development of preventive social work is caused due to the lack of clear protocols for cooperation among relevant institutions at the local level. Local governments, in large part do not have the capacity to map the underlying social problems in their communities and to take effective preventive measures and activities.[5] Therefore, the **National Programme for Social Protection (2011-2021)** in the area of social prevention has provided a range of activities and reforms to strengthen the social prevention. Some of them relate to the introduction of profile **patrol social worker**, (street social worker), organizing groups of self-help among users of social care (parents of children at risk, careers of the elderly, single parents, people with social problems etc..), opening counseling centers, establishment **of local councils for social prevention** in municipalities that include representatives from all relevant local actors (social services, municipalities, schools, health institutions, police departments, NGOs), introduction of another expert, **educator for prevention and reconciliation** in institutions for social protection. One of the reforms is the process of decentralization in policy which means that municipalities should provide conditions for realization of

Programme for Social Protection Development 2011-2021, Ministry of Labour and Social Policy.

social protection, to make programs for the citizens, and to make general laws in the field of social protection.

Also, the **Strategic Plan of the Ministry of Labour and Social Affairs for the period 2012-2014**, puts emphasis on the need to develop social prevention as an organized, continuous and coordinated action at local level. In this regard, the next period is foreseen analysis of the local needs for social services for vulnerable groups and building capacity of municipalities in the area of social prevention and social protection. It derives from the Law on Juvenile Justice and the Program of the Ministry of Labour and Social Policy. According to the article 117 of the Law on juvenile justice, councils of the municipalities form **local councils for prevention of juvenile delinquency.** Moreover, Programme of the Ministry predict establishment of **local councils for social prevention**. Their composition is similar and should include representatives from NGOs, police, education, health, parents.

If those legal regulations are consistently implemented, including adoption of appropriate prevention programs and action plans, the municipality can successfully perform its function of preventing crime in their area. However, whether municipalities have the material, personnel, organizational capacity and expertise to plan and implement preventive programs? The Law on Local self-government does not treat the question of crime situation at the local level and its prevention. The organizational structure of the municipality also does not provide possibilities for establishing a separate department or sector on issues related to prevention of crime. Projected ad hoc councils for prevention, if do not have clear organizational structure and material and technical conditions, are doomed to failure in their work.

Hence, considering the aforementioned weaknesses detected in the analysis of the situation in social protection and social inclusion at local level, on the one hand, and goals within the social protection, on the other hand, municipalities with respect to their preventive role, should comply its functions with the new trends of decentralization, especially in providing appropriate material, financial and human resource. Community is affected party, or secondary victim of crime for violating the security and peace of citizens, and therefore should have interest to solve their own problems and to eliminate negative phenomena which produce and affect the occurrence of crime. On the other hand, the community should provide conditions for successful resettlement and reintegration of perpetrators and victims as part of tertiary prevention. Thus, the community has a crucial role in preventing crime.

Situational prevention in Macedonia

Characteristic of situational prevention is targeting crime and the basic question is how to increase the risk the offender to be caught, to reduce opportunities for performing the crime and minimize the benefits with measures of environmental design[6]. Situational prevention, according to two-dimensional typology of Van Dijk and Jan de Waard can be **primary, secondary and tertiary**. Prevention programs within **primary situational prevention**, aimed at hindering the performance of crime, and increasing the feeling of security among citizens (e.g., measures of environmental design, use of security cameras, alarms, lighting, access control (lock, card identification)). **Situational secondary prevention** is aimed at reducing specific problems in areas that are considered a higher risk of crime happening (high crime areas, e.g. schools, shopping centers). Measures can be aimed at limiting access to entry, private security, surveillance programs (neighborhood watch). On the other hand, measures of **tertiary prevention** is aimed at so-called hot areas of crime (hot-spot places) where the crime rate is high (e.g., casinos, brothels, gambling, places where there is drug dealing, weapons).[7] These places can be identified by a detailed analysis of computerized data systems of police (crime mapping). Hence, measures are taken mostly by the police.

What are the development of the situational prevention in the Republic of Macedonia and the role of community in this area? Any person, company, public or private organization, (private or professional) should take care about their safety. Everyone needs to keep preventive policies to protect their assets as the object of attack. Bearing in mind that the security system encompasses state, private and public sector, crime prevention is in the hands of the private security agencies, police and citizens, i.e. companies through forms of self-protection.[8]

In the area of policing, Police Law provides a general framework for preventive action of the police. It is the responsibility of the Bureau of Public Security and the Sectors for internal affairs that take immediate measures to prevent crime. In the Rulebook on police work a chapter is dedicated on prevention of crimes and misdemeanors, which specifically regulates the manner of performing general and specific types of prevention (prevention of blood offenses and violent behavior, prevention of property and economic

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Krivokapic, V. *Prevencija kriminaliteta*, Police Academy, Belgrade, 2002.

Van Dijk Jan & Waard Jaap, A two - dimensional Typology of Crime Prevention Projects, Typology of crime prevention projects.

Spaseski, J., Aslimoski, P. & Gerasimoski, S. (2008) *Private Security, Police Academy*, Skopje and Centre for science-research work, Faculty for Turism and Hostility, Ohrid.

crime, prevention of traffic crime, prevention of juvenile delinquency and organized crime.

The activity of the police in the sector covers a range of activities including, first, foot patrol and motor-patrol activity. They constitute direct preventive action of police officers, who with their immediate presence take actions to maintain public order and peace in the area where they perform, protect life, personal safety and property of citizens, prevent the execution of criminal acts and endangering traffic safety, provide help and protection of citizens and observe the area to record and evaluate the security situation.

The concept of "community police" is part of police reform in Macedonia and is one of the strategic goals set in the **Strategic Plan of the Interior for 2007-2011** in the part "Building partnership "citizen - police". The main goals of this concept is to create safe communities, improving communication between police and citizens, increasing the level of cooperation with citizens, increasing the level of public confidence in police. For this purpose, within the Sectors for internal affairs departments for crime prevention are formed and a large number of inspectors for prevention are trained. Although in the literature we can meet the claim that the community has no impact in reducing the crime because this concept has no clear focus of work, it has great impact on crime fear reducing among citizens, can improve the relations between police and citizens and can increase trust in police. In order to improve the overall security situation in the region, the Department of crime prevention has great role, but also an obligation to implement activities relating to protection of life, personal safety and property of people, protection of freedoms and rights of citizens, control and regulation of traffic, maintenance of public order and peace, reconciliation and directing the preventive work of the police stations. Also, during 2012, Ministry of Interior predicted implementation of the project “Digital police” which will allow management and command with the most complex operations of the special police units from a central command center, where the police will have digital projection for the current situation on the ground. As part of the situational prevention is 24 hour security video surveillance in the busiest parts of Skopje, Kumanovo and Tetovo.

However, despite the preventive actions taken by the police (Only careful community is safe community, Prevention of burglary, Security of home and property, Summer without fires, Project "to roll together", aimed to raise general safety and security of citizens and to improve communication and cooperation between sports clubs, fans and police and others), there are no studies on the preventive effect in terms of reducing crime, and much less of reducing crime fear. There is no analysis of whether campaigns for prevention of traffic offences, the prevention of violence in schools, sports competitions, theft, and campaigns to prevent child

trafficking and drug abuse have a positive effect. Therefore, if we say that there is prevention without confirmation of the effect of appropriate preventive programs is wrong.

The role of the **municipality** in the field of situational prevention covers activities related to urban planning, public lighting, regulating the regime of traffic, construction and maintenance of street traffic signs, construction and maintenance of public parking, maintenance and use of parks and recreational areas. These measures can help to reduce the possibilities for crimes committing or to increase the risk offenders to be seen and caught. Moreover, under Article 11 of the Law on Police, the municipalities have formed **local councils for prevention** in order to build common recommendations for improving public safety in the area of the municipality, trust and partnership in preventing negative phenomena that affect security. In this regard, the municipality also has the obligation to prepare an annual report on public safety in the region and to submit to the Minister of Interior and the Ombudsman. Also, under Article 36 of the Law of Local Self-government, the municipality may make recommendations to the MoI of public security and traffic safety.

Within the private sector, security functions are delegated to the **Security Agencies** which number has increased in recent years. They are joined in the Chamber which represents 21 agencies, out of which 13 are in Skopje, four in Bitola, four in Tetovo, three in Strumica and two in Kumanovo. Their services are related to **technical security** (through the monitoring center (where it has installed video cameras), providing **preventive patrol** (monitor events, sports competitions, risky places such as schools, buildings, VIP securing, securing transport of money and other valuable shipments.[9] Increased number of agencies is caused by the growth of mass private property (shopping centers, supermarkets, private residential housing, and private educational universities), which owners require their services for security and protection of the estates.

However, despite above mentioned, the Republic of Macedonia can not be proud that build a solid and comprehensive preventive policy. Why?

Opportunities for future development

Prevention of crime is part of the control of crime, a requirement for security in the community and affects the reduction of crime. There is no doubt that every society should invest in prevention in all aspects through social development by reducing the opportunities for committing crime, by execution of sanctions, by reducing the risks of crime, by involving the

[9] Law on securing people and property, ("Official Gazette" no. 80/1999).

community etc. Prevention is a great field of work that covers numerous activities. It only takes the state, as a major supporter and builder of such policies, to want and to invest in crime prevention.

In the Republic Macedonia many conditions have to be met, first for establishment of appropriate preventive policy, and then for its implementation and evaluation. Priority is to build a comprehensive national strategy that will reflect the reality of crime (its etiological and phenomenological characteristics), existing capacities for the prevention of crime and to predict long-term strategic directions for prevention at all levels and in all areas of social life. For this purpose certain studies, analyses and evaluations are imperative. Good practices in the region may serve as a good guideline for creating good preventive strategy. Many guidelines for design, implementation and evaluation of preventive policies which are part of a movement for a culture of research and evaluation in the field of prevention (Beccaria project[10], UN Assessment tool for crime prevention) can help in that direction, as well. Also, a good theoretical basis can offer rational choice theory and theory of routine activities that are based on the situational prevention. Emphasis not only on the perpetrator but on the victim and the situation, as three elements of the crime should be integrated in every preventive policy.

Special attention should be paid to the crime which reduces the feeling of security among citizens and who victimizes citizens in their everyday environment. The task of government is to create conditions (legal, organizational, technical and material) for the prevention of crime as an integral part of criminal and social policy.

This paper maybe open questions without giving detailed responses or only put forward the basic problems facing the Republic of Macedonia in the field of prevention of crime. However, it is the purpose of the paper to awake interest especially among experts for scientific preoccupation with prevention in the Republic of Macedonia and for further detailed researches and studies in that field.

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QUALITATIVE AND QUANTITATIVE ANALYSIS OF LATENT PRINTS WITH UTILIZATION OF AUTOMATIC FINGERPRINT IDENTIFICATION SYSTEM

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Abstract

Identification of latent prints is a complex process which contains several stadiums. The first stadium consists of Collection, Preservation, Inventory, Package, Transport, and Submiting of the latent prints to the forensic laboratory. The second stadium is more complex and consists of their qualitative and quantitative microscopic analysis with the aim to estimate if the latent prints are suitable for identification, and finally the third stadium is computer dactyloscopic and comparative analysis with the aim to process them in the AFIS system. The software for automatic identification is a very powerful tool which provides fast searching through the dactyloscopic data base. The second level characteristics are analyzed based of their shape, type, spatial position and angle of spreading.

Additional parameter which is very important in this direction is the frequency of charascteritics position in the micro field which is subject of analysis, and also the angular position of the latent print at all. For this purpose analysis of the score number of given fingerprint candidates is performed taking into consideration the different types of the spatial position of second level characteristics and analysis of the angular position of latent print with accent on standard deviation and coeficient of variance.

Key words: latent prints, fingerprint, AFIS system, identification

Analysis of latent prints is a complex intellectual process which can be divided into few stadiums:

- Preliminary analysis of traces on the crime scene if they are developed at the spot or they are in form of patent prints, they can be expounded from different aspects such as: interpretation of the dynamics of the unlawful act in relation to the way the object is touched, the position of the hand and arm, the dynamics of deposition of the latent prints on the surface and exact location of the traces on the surface of the object;
- Preliminary analysis of the contaminant or matrix,
- The way in which the latent prints had occurred,

- Preliminary analysis in the terms of skin area from which they originate,
- Preliminary analysis of the latent prints at the crime scene in terms of their suitability for identification.

Chain of custody or chain of physical evidence is also a process which is of utmost importance for ensuring the legality and legitimacy of the physical evidence, so that without this important segment of the procedure we cannot have evidential value and we cannot have the basic legal and formal parameters which are necessary in the process of analysis and expertise of the latent prints or evidence at all.

Effectiveness and operability during the analysis of trace of the papillary lines is one of the basic problems which are present in the last decade. The point is that the police forensic science laboratory should offer more and more operational information and scientific facts to the law enforcement services, court and public prosecution. This set constellation of relationships can be analyzed from different aspects such as:

- Efficiency of preparation of preliminary analysis which are the first scientific source of information and which are suitable for planning investigation and taking other activities in relation to the Code of criminal procedure,
- Efficiency of searching through the forensic data bases and,
- Efficiency of preparing reports and expertise from the conducted forensic analysis.

This problem in the last decade has naturally imposed and it is in relation to the increased volume of criminal offences in the Republic of Macedonia. Our paper is devoted to a complete review of the functioning of the system for automated processing of fingerprints as a digital database, which is based on interoperability and interaction of the ten print (TP) databases *versus* latent prints (LP), which inter alia provides speed, efficiency, and operability in the everyday work. The term AFIS is translated from the English term "Automated Fingerprint Identification System", term that for this purpose is used for more than three decades. The following will give a brief explanation of the four letters contained in the abbreviation, reffering to the biometric system that the fingerprints are processed with:

- (A) process has eliminated the need for a print classifier to locate fingerprint cards from a file and compare two physical cards.
- The searchable database is composed of fingerprint (F) images collected from individuals either by using fingerprint cards or by electronic capture using a device similar to a scanner.

- The identification (I) aspect occurs when the person is fingerprinted, and the resulting images are searched against the database of fingerprint images on a local, state, or national database.
- It is considered a system (S) because it uses computers and software and can interact with subsystems and other identification systems, including other AFIS systems.

This way of defining the terms included in the abbreviation gives a complete overview and understanding of how this Biometric tool works. Processing of fingerprints in the AFIS system emanating from the suspect person over which the process of criminal registration has been conducted is effectuated according to Article 18 of the Guide and methods of conducting criminal registration and identification of persons and unknown dead bodies, where among other things it is said:

... after conducting the preliminary dactyloscopic analysis regarding the quality of the fingerprints, they are entered in the Central dactiloscopyc data bases as follows: Digital data bases in which ink prints which belong to the distal phalanges are scanned on the work station of the AFIS system and in the same time they get PIN number which is a unique number for every single tenprint card ....

Namely these databases contain foundation, an essence of the functioning of the AFIS system, where the fingerprints are divided into 16 partitions by type of the fingers, by type of sex and by type of the dactyloscopic formula. The collection of tenprint cards has dual purpose. In the same time it is a digital data base of registrated suspect persons, and digital data bases in form of indisputable dactyloscopic material, which is subject of comparative analysis with the trace of papillary lines, which are entered in the AFIS system due to identification and individualization. On the figure 1 we can see the way in which we process ten prints in the AFIS system.

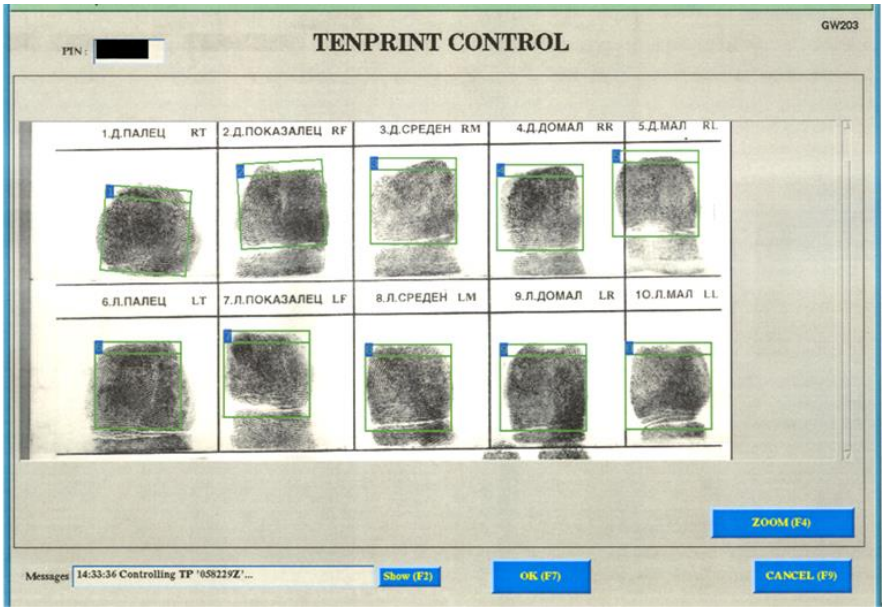


Fig.1 Control and position of fingerprints taken from a suspect person

After scanning, fingerprints are shown on the screen, taking a position in terms of vertical axis of the fingerprint passing through inner terminus. In this phase, every ten print card is getting personal identification number which is a specific number to every suspect person respectively.

Next, we follow the standard operative procedure of the AFIS system and we mark the second level characteristics, which means that every fingerprint has a unique algorithm consisted in average of 60 to 150 second level characteristics. Automated search through the digital collection of prints, in order to check whether these prints have been entered into the system or whether the person already exist in the data base, but under another name and surname, is conducted by using the RT and LT or RF and LF. This excludes the possibility to forge an identity.

Processing the traces of papillary lines into the AFIS system collected during the crime scene investigation, or during the development of the latent prints into the forensic laboratory, their legal basis is found in the Article 33 from the Guidelines on ways and methods of conducting a criminal act, registration and identification of persons and unknown cadavers where among other things it is said:

“Submitted traces of papillary lines in the Department of Crime Technique, after dactyloscopic analyzes in the central data base for traces of papillary lines are deposited, run as:

- electronic (digital) data base where traces of papillary lines are marked under a "case number" which means which SIA or police station is asking for the trace analysis,
- the ordinal number under which the traces are entered into the chain of evidence in the Department of Crime Technique, and
- the actual year, after which they are scanned and entered into the AFIS system.

In the first phase traces must be laid into a stable position with two-dimensional form by using photography in proportion 1:1, and afterwards are scanned in the system. After that it is obligatory for them to be positioned in terms of the vertical axis of the latent print passing through inner terminus which is often a problem because they are fragmentary. The essential part of the process of dactyloscopic analysis is the manual marking of characteristics from the second level, where certain parameters are noticed as:

- the type of the characteristic and its biometric capacity,
- its form of appearance, and
- its spatial and angular position.

This is the most critical part in the process of analysis because in this phase, from crucial importance are some other factors that should be taken into consideration such as:

- the level of deformity of the micro surface that is an object of analysis,
- the type of the surface,
- the mode of visualization of traces, and
- the lightning filters used during the fixation of the trace. This presents important segment of the processing for the purpose of giving correct coordinates in the searching process of the ten print databases.

After completing of this action which is crucial in the phase of dactyloscopic analyses, the traces are entered into the dactyloscopic databases with undisputable fingerprints where the system searchers according to the previously given algorithms.

As possible result of the search, are 30 fingerprints which according to their algorithms are the closest to the specific algorithm of the traces which were the object of the analysis. This means that the definite decision for identification and individualization of the traces is brought by the expert and in cases when there is no identification, it is made an entry in the permanent electronic database for non identified traces of papillary traces. Traces kept in this manner are objects of automatic comparative analyses

with each new dactiloscope material entered in the system, therefore in the practice identification can take place even after 5 or 10 years. The importance of the digitalization of this type of physical evidence is even bigger which is confirmed by the fact that in 2011, even 58, 35 % of the total number of investigations are done by using the automatic system for identification of the fingerprints.

In the scope of the research paper I will present an experiment whose aim is to explain the correlation between the second level characteristic which are detected in the phase of the dactiloscope analyses and the possibility of the system to perform the identification based on the given parameters taking into consideration several circumstances:

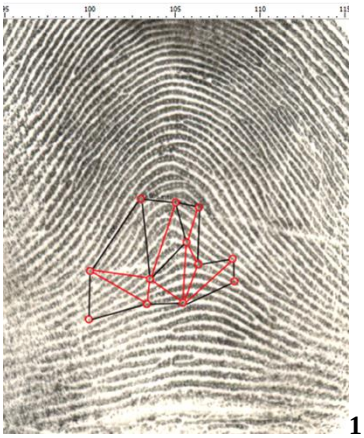
- The number of the characteristic from the second level;
- The spatial position of second level characteristics;
- The area that is covered by the characteristics, taking into consideration the polygon formed by them;
- The vertical position of the latent print which is passing through the inner terminus

The above presented has several aims:

- The spatial position of second level characteristics and possibility AFIS System to identify the trace which is entering;
- The score results that are provided by the AFIS system in the process of selection of the possible fingerprints which should be the closest parameter to the one of the traces
- The standard deviation between the different values of the areas or selection of the most suitable position of the second level characteristics which will offer secure identification.

Materials and methods:

- As an example are taken 10 identical fingerprints from papillary lines on which 12 second level characteristics are marked, but in each example the characteristics are with different spatial position and at the same time it is paid attention that the area that is covered by them is bigger in each following example;
- AFIS system "**MORPHO-SAGEM DXL 3.1**" by which the fingerprints are entered into digital database and identification with certain scores is expected;
- **Corel DRAW X3 Graphic** where the fingerprints are scanned, the length between the characteristics is measured by the Heron formula by which it is also performed the calculation of the area which is covered by the fingerprints on the micro field object of analyses.



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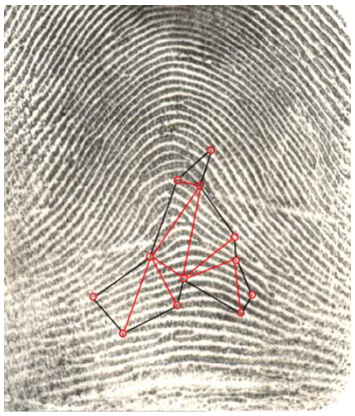

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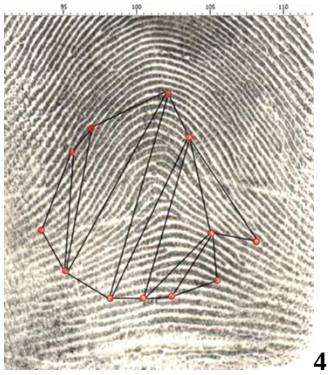
3 **Fig.1 Sample 1 Fig.2 Sample 2 Fig.3 Sample 3**



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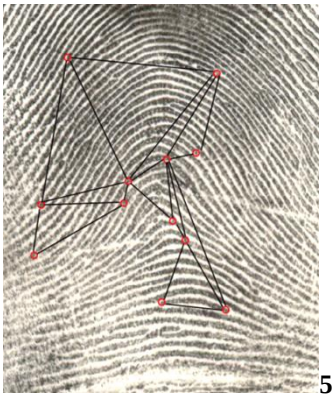

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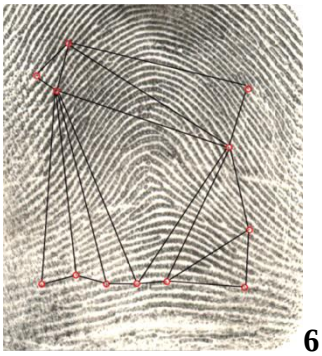

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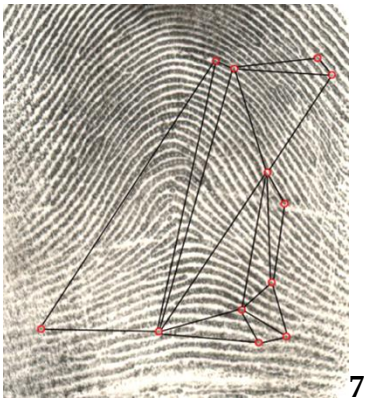
Fig.4 Sample 4 Fig.5 Sample 5 Fig.6 Sample 6



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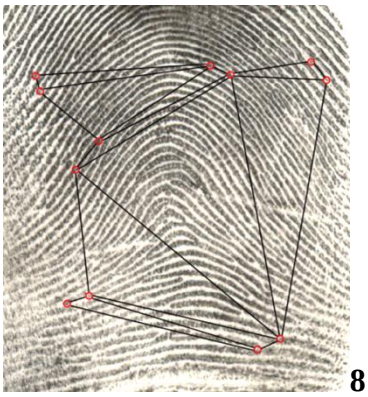

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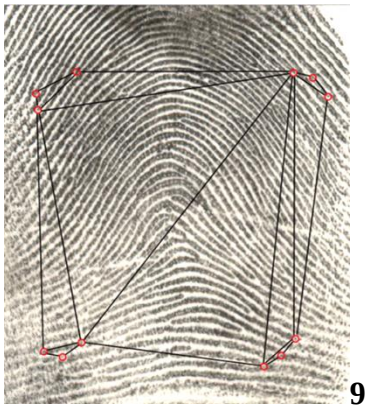

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Fig.7 Sample 7 Fig.8 Sample 8 Fig.9 Sample 9

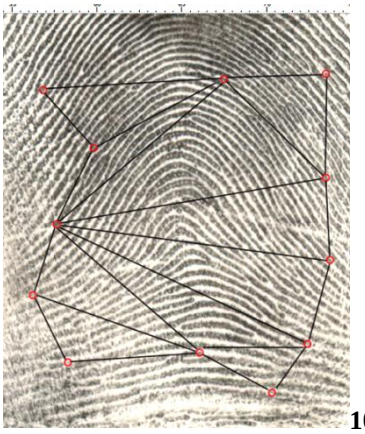

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Fig.10 Sample 10

Discussion and conclusions:

Fingerprint experts, in their everyday practice, meet with different examples of traces which according to their nature are suitable or non suitable for identification. Their processing in the digital database of fingerprints provides fast and secure way of their identification, where the expert, using the method of the computer dactyloscopic analyses is in position to detect all papillary lines deviation. Exactly here is set the biggest problem in relation with the way the second level characteristics are positioned on the traces surface. What the expert should expect from the system when its characteristics are thickly positioned on the micro field that is researched, and what when the same one are "scattered" on the whole traces surface.

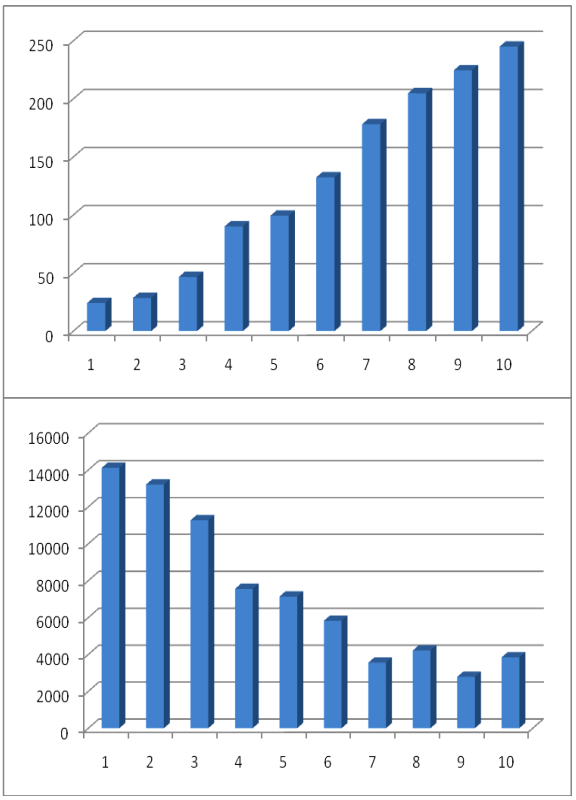
The spatial position of the characteristics has a wide importance in the papillary lines traces process of identification and that is directly linked to the exact angle position of the markers which are used for marking the characteristics. It is clear that the area that the second level characteristics are covering is in the opposite proportional of the value of the scores which occur in the AFIS in case of identification; that can be concluded from the values presented in Table 1.

Table 1. Display of the areas covered by the second level characteristics versus the scores which AFIS system has performed in case of possible identification.

Ordinal number of the sample	Number of the second level detail	Area that occupy second level characteristics	Scor number from the AFIS system for performed identification
1	**12**	**24,27**	**14116**
2	**12**	**28,58**	**13214**
3	**12**	**46,68**	**11276**
5	**12**	**90,2**	**7556**
4	**12**	**99,43**	**7138**
7	**12**	**132,448**	**5828**
6	**12**	**178,2**	**3557**
8	**12**	**204,82**	**4214**
10	**12**	**224,6**	**2787**
9	**12**	**245,01**	**3846**

Tab.2 Area that occupy second level characteristics, and

Tab.3 Scor number from the AFIS system for performed identification



The standard deviation of the above areas is 82,301 – that is the most expected deviation of the size of the area in which 12 characteristics can be found, which can result in certain number of scores in the AFIS system. The bigger standard deviation of the micro field area leads to the fact that the values are with wide range, which from the other side describes the variability of the micro field which is examined as directly linked to the variability of the scores that the AFIS system is giving in case of possible identification.

The standard deviation of the scores that the system is giving, are **4154,018** which is the most expected deviation of the number of scores of the AFIS system after the performed identification of the 12 characteristics.

This experiment should be appropriate indicator for the identification experts for the importance of the spatial position of the characteristics and possibility for their grouping. The characteristic examples from the above

described experiment are the 9th and 10th example where we have the following situation:

- 9th example covers area of **245,01 mm2** in scoring of **3846;**
- 10th example covers area of **224, 6 mm2** in scoring of **2787.**

In this situation we have opposite positioning of the score condition so that the score is bigger than the example with the bigger area, but this happens exclusively because in the 9th example we have certain grouping of the characteristics by three in a raw; during the 10th example such thing does not occur. Even in this situation we have little standard deviation of 748, 82 in relation with the previous calculations; this is exception that confirms the rules for importance of grouping of the characteristics. This important detail of the dactyloscopic analyzes and expertise should provide bigger efficiency in the working operation, and with that the number of the expertise on national level will be increased.

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FRAUDS FOR GAINING PROPERTY DURING THE TRANSITION IN R. MACEDONIA (WITH SPECIAL REVIEW OF THE SAVING BANK AND EXCHANGE OFFICE "TAT" FROM BITOLA)

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Abstract

In this study, the author points out to the necessity of explaining the lexical meaning of the words "deceit" and "cheating". In order to define the notion of the word „deceit", comparative and descriptive methods have been used by several authors. In the criminal approach, the definition of the notion of "deceit" refers to the existence of false information which the sender gives to the receiver with intention to achieve some illegal aims.

The research has been conducted by application of statistic method analysis (description) of the context, the analytic, synthetic, the inductive, deductive and the comparative method with the aim to find out the causes and the problems of the deceits as criminal acts which are incriminated in the criminal legislation in the "Chapter for Estate offences". Through the methods and techniques which have been used in the study, methodological approach to deceits has been encompassed as well as the criminal and legal approach, the criminalistic approach, criminology approach of the deceits and a special review of the savings bank and exchange office „TAT" from Bitola has been taken into consideration..

Key words: *deceit, cheater, lies, fraud, crime, offender*

Introduction

Defining and determining of the concept of Fraud

Our research is conducted with particular emphasis on the fraud pyramid scheme "TAT" from Bitola. The pyramid of the illegal way of saving and giving high rates of interest by the exchange and savings bank "TAT" from Bitola was discovered in March, 1997. This paper reviews the procedure and it analyzes the performance of crime by the owner of "TAT" from Bitola. In this financial scandal the "TAT" pyramid collapsed, together with about 65 million of around 12,500 depositors. In 1997 the owner of "TAT" deceived thousands of citizens whose deposits failed. This was "an

event that significantly changed the sphere of political life in the country and dethroned SDSM government. It was the first form of destruction of pyramid savings with negative consequences in terms of confidence to the banking institutions, and it is the first indicator of the level of crime in the Macedonian society."[1]

Scams are basically crimes against property and property rights and interests. They consist of giving somebody false information by misrepresentation or concealment of the circumstances for the purpose of gaining his or another person's property, i.e. obtaining illegal profit.

The crime fraud belongs to the group Classical crimes against property provided in criminal legislation, to protect property and property from confiscation, seizure and detention, as well as property rights and interests as one of the elementary civil property rights. Criminal Code provides protection of freedoms and human rights and other core values and the application of criminal justice coercion.[2] According to the constitutional position of ownership, it provides equal protection to all forms of ownership.

In dictionaries, encyclopedias and other professional guidelines, the term "scam" is explained (or brings into relation) with bringing someone in error. To "scams" someone means to take this wrong, but it means to let it down." [3]

A "mistake" means a wrong conclusion about something that is based on fictional and / or false facts, inability to separate reality (truth) of false (lie)."[4] Dictionaries do not distinguish between "fraud" and other related phenomena, which can lead to terminological confusion, which complicates the determination and preciseness of this concept in criminal procedural law and criminalistics. So, we can see a clear difference between the verb "cheat" and the noun "hoax" (commonly used with the same meaning). Thus, in criminal procedural law, in theory, and evidence in criminalistics it is important to distinguish between these two terms. The verb "deceive" means bringing someone in error. Here is a particularly important communication relationship (in the broadest sense) between the sender and receiver of information. "The sender of the information or the cheater sends false information to defraud in or to cause false beliefs regarding certain circumstances, i.e to mislead. The terms "defrauding" and "fallacy" are

[1] Cane Mojanoski, Chronicles of Macedonian democracy, Pakung, Skopje, 2000, p. 67.
[2] Criminal Code of RM (Official Gazette of the Republic of Macedonia No. 19 from 30.03.2004, with amendments Fig. No.81/05 Gazette, 60/06 73/06, 7/08, 139/08 114/09), Art. 2.
[3] Glossary of Serbo-Croatian literary Language, Matica Srpska, Novi Sad, III, 1968, p. 869.
[4] Glossary and synonyms of Serbo-Croatian Language, Belgrade, 1974, p. 454.

synonyms. In dictionaries, the term "fallacy" is defined as: misleading, deceiving and seduction."[5]

The term "defrauding" has the same meaning as the term "lying". The term "deceit" has a broader meaning. One can lie without clearly defined motives (due to subconscious desire to emphasize, for example) and may not be aware of the cause of their lying, sometimes it is not clear what he wants to achieve. Deception is lying that has clearly expressed the rational view. Cheating means that you are always aware of the motives, the behavior and goals the cheater wants to accomplish by deception. This means that any lying is not necessarily deceiving, but it can be self-cheating. In many dictionaries deception is deliberately, knowingly and intentionally conveying untrue in order to mislead somebody. For example, in Meyers Lexikon "fraud" is defined as behavior which intentionally causes misconception to somebody else.[6] In the Russian literature "fraud" is defined as intentionally bringing someone in error, giving somebody false data.[7] According to Duden the term "Fraud" means an indication that someone accepts something that it is not true. In some dictionaries it is noted that deception can be accomplished not only by claiming (with words) but also by behavior.[8]

The final definition of the term "fraud" is actually a very undemocratic one because, in a sense, it tolerates the use of lies and deception in the criminal-procedure. It narrows the concept of fraud. Beside the final determination of the notion of "fraud", in criminalistics as a science we meet objective determining of fraud. Fraud exists even if one is deluded by the negligence, unintentionally and unconsciously, and that in the literature it is defined as: die unbewussten Irrefuhrung (unconscious seduction), die ubeabsichtige Tauschung (unintentional fraud), das fahrlasige Erregen eines Irrtums", (negligently causing error).[9]

"The Hiland basic feature of the fair deception is that it can specify any reasonable person of a certain behavior. The prevailing belief is that the fraud that is used, (e.g. in courts), in order to come to confession or evidence in the criminal proceedings, does not violate the dignity and process

[5] Glossary of Serbo-Croatian literary Language, Serbian Academy of Science and Arts, V, 1968, p. 508.
[6] Mayers Enzyklopediches Lexikon in Banden, Mannheim, 1975, XIII, p.259.
[7] Cited from A. R. Ratinov, The Trial Psychology for Investigators, Moskva, 1967, p. 170
[8] Duden, Das gross Worterbush der deutchen spache in 6 Banden, Band 4, Mannheim, 1978, p. See more B. Simonovic, scams and atypical way of luring the suspect and the accused at trial, Safety, No. 15, Skopje, 1996/97,
[9] A. Ransiek, Die Rechte des Beschuldigten in der Polizeivernehmung, Heidelberg, 1990 p. 14, Lowe-Rozenberg, Grossekomentar StPO, Berlin, 1985, p.398, E.Dahle, Noch erlanbt oder schon verboten, kriminalistik, 8-9/1990, p. 431.

subjectivity of the accused, but undoubtedly threatens freedom of expression in his / her decision."[10]

Special emphasis on the collapsed pyramid savings and exchange office "TAT" from Bitola

In the Republic of Macedonia, in the period from the beginning of the transition, during 1990 to 1997 there were more pyramid schemes[11] and exchange offices. Such were: "Alpha - S", "Lavci", "Lambros", "South Reklam", "Dzhamadanche" and especially "Tat". The period of transition in the Republic of Macedonia, which is still ongoing, opens great opportunities for the grey market and for the criminal structures and "Hunters in blurry" for enriching in a quick way, and through a system of organized fraud and robbery amass considerable wealth.

In 1992 in Bitola the savings bank and exchange "Tat" was opened. Firstly, they opened their representative premises, and then appeared the aggressive advertising in which the citizens were promised large returns of their investments through high interest rates. At the beginning, the first interest payments were provided incidentally and probably from the capital of the savings banks.

Because they continued offering additional attractive conditions, nobody withdrew interest and dividends, but they remained to be capitalized as new deposits, actually remained on the savings accounts, due to further increase of the attractive interest rates from 20 to 30% per month. During 1995 and 1996 "Tat" reached the top.

At the moment when the number of new savers grew above the quantity that ensured the eventual payment of interest to those who would ask for it, the owners of the saving office drew the money from accounts or transformed it in other ways abroad and at the very same moment, they disappeared from the country. [12] Thus, the crash happened and that was the largest financial fraud in Republic of Macedonia.

Experiencing the affair "TAT", beside its criminal and political dimension, this exchange savings and organized crime managed to penetrate into all segments of the government. In "Tat" there were 24912 contracts for

[10] Love-Rozenberg, Op. cit., p. 338.
[11] G. Cvetkoski Macedonian octopus, op. quote., p. 136 - 137
[12] Pyramid scam is manipulative financial operation that was paid to investors (or depositors) return in the form of dividends or interest from their own deposit funds, or funds expended by the following investors / savers rather than actual profit earned. Pyramid scam usually involves an unusually high return that no other investor or bank can guarant in order to recruit new victims in the form of short-term dividends (or interest) that are either abnormally high or unusually consistent

savings, and the payment obligations to depositors were a total of over 2.5 billion. The amount of claimed savings was at the total of over one billion.

The duration of the pyramid saving office depended on the constant increase in the flow of money from the investors. The system was doomed, because profits from investments (if any) were less than the return payment to the investors (depositors).

In Macedonia, the most famous pyramid frauds were as we already mentioned: the saving bank "Tat" from Bitola, "Lavci" from Ohrid, "Alpha-S" from Skopje, "Lambros" from Resen, the game Jack-Pot, etc.. The biggest was the affair "Tat" from Bitola, which damaged about 12,500 people in more than 120 million German marks (at that time, the German mark was used as the usual saving currency).[13] The savings and exchange office "Tat" from Bitola registered its office in Bitola on the basis of the Law on Banks and Savings in Macedonia.[14]

Detection of crime in the saving bank and exchange office "TAT" - Bitola

The law enforcement and detection of subtle crime in Macedonia put into trial the savings bank and exchange "Tat" from Bitola, to investigate the crime. They used criminal tactics about learning, methods of detection and techniques of proof.

Indeed, after the situation with the savings occurred, the National Bank of Macedonia decided to apply the method for determining the scope and manner of operation of the savings bank and exchange "Tat" from Bitola. The National Bank of Macedonia and the Fund for Deposit Insurance issued an order in a written form by which the savings banks were required to prepare a list of all deposits up to 28. 02. 1997, and to highlight the savings and submit it to the National Bank of the Republic Macedonia.

Based on a list prepared by the savings bank "Tat" from Bitola, the National Bank reported that the number of 3996 deposits or parties as the savings bank does not correspond to the published list in which was shown a significantly bigger number of savings. In order to determine the exact number of deposits, the National Bank conducted a thorough supervision of the documentation of this saving bank, which was terminated on 05.03.1997. Through that control, it was found the existence of 24912 savers (depositors), not 3996 as it had been reported from the papers submitted by the savings bank and exchange "Tat" from Bitola. The National Bank of the

[13] Time, number 1007, 09/03/2007: Hundreds samoubieni desperate underground and criminals at large "http://mk.wikipedia.org/wiki/, (from 28.01.2010g).
[14] Law on Banks and Savings (Official Gazette of RM br.31/93 year from 05/20/1993).

Republic of Macedonia claimed that there was a difference in the reports totaling 20,916 parties or saving deposits. It is expressed as a percentage of 83.96% covered deposits, and actually were reported only 16.04% of the total number of savers. The aim of concealing the savings was to avoid the provision and taxes to be paid to the state by the saving bank "Tat" from Bitola; together with that, more types of crimes were committed, and from the moment of finding it out, there were criminal charges initiated for each of them.

During that period, the ownership of the pyramid scheme was arrested; its legal representative said that "Tat" was secured in the "TAM" sister insurance company of Saving Bank, which had reinsurance in "Lloyd". But after it was inspected by the Public Prosecutor's Office in Bitola, it was confirmed that "TAT" had never been insured in the "TAM". On 20.02.1997 it was signed an agreement between the "Tat" and the National Bank of Macedonia. The agreement in Article 2 states: "National Bank on its assessment will help the "Tat" even grant credit. The only requirement for "Tat" was a loan to pay back the deposits. The bearers of the agreement were the former governor of the National Bank, and the owner of "Tat". To this agreement "Tat" gave full legitimacy, but failed to revive. "[15]

There were two brothers who had worked in TAT and were announced as crown witnesses in the biggest financial affair in Macedonia. In their statements the brothers claimed that from 1992 to 1997, beside the actual contracts for loans, fictitious contracts had been made. Accounting on the "Tat" the father of the brothers, along with his sons, had a deposit of 250,000 euro in the savings bank. The brothers said that they were also cheated by the owner of "Tat".[16]

The applied tactics to gather operational knowledge of the criminal works in the "Tat", after the findings were confirmed, were available in books and records in order to obtain knowledge of detection of crime in the savings bank and exchange "Tat" from Bitola. The application of operational tactical measures helped in the inspection on the company documents in the savings bank and exchange "Tat" from Bitola. The discovery of a large number of illegal behaviors that were manifested by the forms of financial transactions and deceive depositors by many schemes and enterprises in Macedonia contributed to be discovered the illegal behaviors of its kind in the savings bank and exchange "Tat" from Bitola.

According to statistics, in every 100, 84 of the deposits were concealed while only 16 accounts were really and accurately reported or out

[15]www.tera.com.mk/index.php?option=com_content&view=article&id=2549:2009-01-02-16-45-40&catid from 13.02.2009.
[16]Ibid, www.tera.com.mk from 13.02.2009.

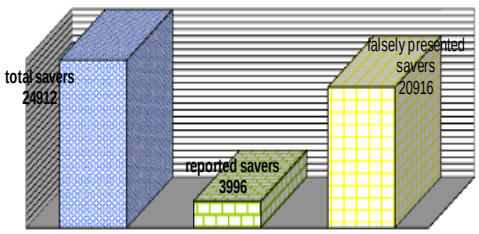
of one thousand (1000) savings deposits, 840 provident parties were hidden and only 160 savings parties were reported as real and existing. All this is due to the occurrence of failure and lack of awareness and responsibility to respect the law, and it was explained by many persons employed in senior positions in various institutions of the governing structure that were involved and had financial and material benefits from the "Tat". From the above it can be concluded that the savings bank and exchange office "TAT" from Bitola is a classic example of existence of organized crime in Macedonia in the period. The chart shows the number of savers who have been reported by the director and founder of the saving bank "Tat" Bitola. The facts from the audit and control that was made by the inspectors - auditors from the National Bank of Macedonia, are also expressed in the following chart." [17](Table No. 1 and Graphic. 1)

Table No. 1. Review of misrepresentation Savings parties (humidity) in the savings bank and exchange office "Tat" from Bitola in the Republic in the period 1992 to 1997

Item no.	Savings deposits in TAT	numerical display	percentage
1	on 05.03.1997 NB на MK found	24.912	100%
2	on 28.02.1997 „TAT" reported Deposit	3.996	16,04%
3	Total undercover deposit	20.916	83,96%

Source: Insights into the dossier of TAT, Sector Analysis and Research in SVR, Bitola

Graphic No. 1 Graphic overview of misrepresentation Savings parties (deposits) that were found in the savings bank and exchange office "Tat" from Bitola, in the period 1992-1997



[17] The data in Table 1 are the source of criminal charges filed by the National Bank of Macedonia Ku.no.271/97 from 14.04.1997. PPO Bitola asked MOI to submit a separate report setting data; it was submitted under Ku.no.283/97 of 16.04.1997, Bitola.

The alarm of investigators and law enforcement immediately took appropriate measures to ban the further work, made entry and full insight into the records and documents that were guided by the responsible in the saving bank, established a growing number of criminal offenses and three crimes or fraud of savers were noticed. Upon completion of all types of criminal acts by competent authorities of the state, additional charges were filled with full evidence and arguments submitted to the competent court to conduct an investigation and a court decision.

It was found that the savings bank and the exchange office "Tat" from Bitola was the result of the improper privatization in Macedonia. In this period it was created an expert government, formed in 1991. Then, the government experimented with privatization of the social capital in favor of government structures. If we try to do analysis over the main people of the Government who ruled in the period 1990 - 1997, we will see that most of the participants of the authorities are now millionaires and only a small part ended in prison.

We could say that there were a small percentage of honest politicians who did not take advantage, by their political governance, of the illegal operation of the private savings banks and exchange offices in Macedonia. It shows that in Macedonia, this type of crime is considered harmless to the society and punishments are very low, compared to other countries in the world.

Total number of criminal charges by type of crime in the savings bank and exchange office "TAT" from Bitola

The survey noted that beside the crime "hoax", the owner and director of the savings bank and exchange office "Tat" committed some other crimes as well. In the period from 1992 to 1997, other crimes which were committed were: forgery and destruction of the business records, tax evasion, reporting of personal data, forgery of documents, abuse of work position.[18] There are provisions in the judicial treatment of such crimes given

[18]Filed the following charges: Ku. no. 215/97- 02, of 02.04.1997, the Ku. no. 153/97 from 07.03.1997, the Ku. no. 154/97 from 07.03.1997, the Ku. no. 155/97 of 07.03.1997, the Ku. no. 184/97-01, on 21.03.1997, the Ku. no. 184/97-02, on 21.03.1997, the Ku. no. 185/97-01, on 21.03.1997, the Ku. br.185/97-02 from 21.03.1997 year, Ku. br.196/97 from 24.03.1997 year, Ku. no. 215/97-01, on 02.04.1997, the Ku. no. 272/97 from 15.04.1997, the Ku. no. 283/97 from 16.04.1997, the Ku. no. 300/97 from 18.04.1997, the Ku. no. 426/97-01, on 28.05.1997, the Ku. no. 633/97-03 from 25.08.1997 year. Bitola.

in the Article 247 paragraph 1 and 4 of the Criminal Code of the Republic of Macedonia. [19]

Six crimes were committed.

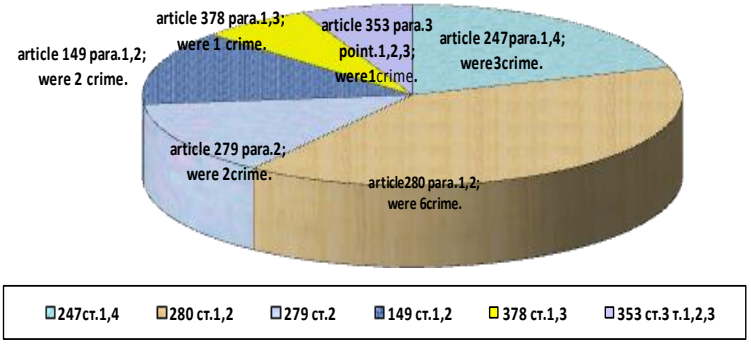
- "forgery and destruction of business records", when it is violated Article 280 Paragraphs 1 and 2 of the Criminal Code of the Republic of Macedonia, 2 crimes,
- "tax evasion", by which is violated Article 279 Paragraph 2 of the Criminal Code of the Republic of Macedonia, 2 crimes
- "abuse of personal data", by which was violated Article 149 Paragraphs 1 and 2 of the Criminal Code of the Republic of Macedonia,
- the crime of "forgery of documents", by which was violated Article 378 Paragraphs 1 and 3 of the Criminal Code of the Republic of Macedonia,
- a crime of "abuse of off work position", by which was violated Article 353 Paragraphs 2 and 3 of the Criminal Code of the Republic of Macedonia (CC of RM).

From the data analysis it was found that the six violations of the Criminal Code of the Republic of Macedonia made a total of 15 offenses.

Of the 15 reported 3 are related to fraud, or every fifth charge is of fraud, 6 refer to forgery or every third application is for forgery or destruction of business records, two charges are related to tax evasion and two charges are related to misuse of personal data, each 7 and 8 charges of tax evasion and abuse of personal data, one application is of forging documents and abuse of work position. The analysis noted that all committed crimes were in the area of crimes of property offenses, offenses against public finance, payment and commerce, criminal acts against freedoms and rights of the citizens, crimes against legal traffic and against power. According to the criminal police nomenclature, these crimes fall into the group of economic crimes (we can say organized crime) or subtle crime (refined crime or crime without violence).

Graphic no.2 The second Graphic overview of offenses committed in the pyramid scheme and exchange "Tat"-Bitola in the period 1992-1997

[19] Filed the following charges: Ku. no. 215/97- 02, of 02.04.1997, the Ku. no. 153/97 from 07.03.1997, Ku. no. 154/97 from 07.03.1997, Ku. no. 155/97 of 07.03.1997, Ku. no. 184/97-01, on 03/21/1997, Ku. no. 184/97-02, on 03/21/1997, Ku. no. 185/97-01, on 03/21/1997, Ku. no. 185/97-02, on 03/21/1997, Ku. no. 196/97 from 24.03.1997, the Ku. no. 215/97- 01, of 02.04.1997, Ku. no. 272/97 from 15.04.1997, Ku. br.283/97, on 04/16/1997, Ku. no. 300/97 from 18.04.1997, Ku. no. 426/97-01, on 28/05/1997, Ku. no. 633/97-03 from 25/8/1997. Bitola.



Verdict for the founder, owner and director of the savings bank and exchange office "TAT" from Bitola

Analyzing the verdict[20] of the owner and director of the savings bank and exchange office "TAT" from Bitola, we can see that the authorized court to conduct the proceedings and pronounce the verdict was the Ohrid Court. The judgment of the Court made the decision on granting amnesty or pardon, and the accused was sentenced only for the crime: "tax evasion" according to Article. 279 / 2 and on Paragraph 1 cc[21] Article 45 of the Criminal Code of the Republic.[22] The amount of the final judgment in terms of duration of the sentence, security measures and educational measures, was: imprisonment of 3 years and a fine of 250,000.00 denars (Article 45 of the Criminal Code implies to the other crimes which were committed)." [23]

It is questionable that the defendant was exempted, since according to the Constitution of the Republic of Macedonia amnesty and pardon gives the President of the Republic. It is not mentioned in any document why the amnesty and pardon were rendered, nor it is mentioned the reason for the amnesty. After all documentation and submissions to the authorities of the investigation, it is exempted that 14 crimes were committed with premeditation. From this judgment it is also obvious and conspicuous organized crime.

Fifteen criminal charges against the operation of the savings bank and exchange office "TAT" from Bitola were rejected, and complaint was written only by the Prosecutor's Office in Bitola. It is criminal to Ku. No. 300/97 of 18.04.1997. The reasons are explained in the Decision No. K.O.164/97 from

[20] Verdict K. No. 306/97 - II the Basic Court Ohrid, adopted on 25.12.1997
[21] cc - The relationship (clarification)
[22] Ibid, "Criminal Code of the Republic", Article 279 cc 45.
[23] ibid "Judgment of Basic Court Ohrid" with K. No. 306/97 - II from 25.12.2001

15.07.1997. The final judgment and the sentence were imposed by the Basic Court in Ohrid.

The process of judicial interrogation and making the final decision and sentence lasted four years and 9 months, from 07.03.1997 to 22.11.2001. On 22/11/2001 the final decision was made, and on 25.12.2001 the decision was submitted to the Department of Interior Bitola for its handling and reporting.

For comparison, we will mention criminal liability in the Republic of Albania where the owner of the pyramid scheme and exchange "Populi" was sentenced to 16 years of prison, and then there is the case of the American Savings Bank and Exchange whose owner was sentenced to 150 years of prison. In the Republic of Macedonia for this type of crime it was rendered a very mild punishment: imprisonment of 3 years and a fine of 250,000.00 denars which was not compatible to the crimes committed. From the verdict, it can be seen that Macedonia has a different interpretation of the law and a different measure of guilt. According to the analysis, we do not comply with the legal norms: if the amount for this type of crime is significant, the offender shall be punished with imprisonment of at least four years and a huge fine[24], while in the case of the owner of "TAT", the final judgment of three years imprisonment and a very low fine talks a lot about the legal system of our country.

All this shows that for this case, mechanisms for punishment have not been fully used, and all that perhaps in order to not disclose certain real facts of which nobody wants or dares to speak.

The creation of the "TAT" and the conducted investigation say that "TAT" was maybe created artificially by the state in order to raise the cash by which a quiet transformation of the capital from government to private hands was to take place. The exchange office and savings bank "TAT" from Bitola was the only establishment with authorization of state institutions to work with captured foreign currency purchases.

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ROLE OF THE SPECIAL INVESTIGATIVE MEASURES IN PREVENTION, DETECTION AND COMBATING OF HUMAN TRAFFICKING

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Abstract

Phenomenological characteristics of contemporary crime, especially of some of the most difficult of its forms (human, weapon and narcotics trafficking, organized crime, terrorism) require an application of specific methods of detection, prevention and combating. These measures consist of an offensive collection of information about the criminal activities of organized criminal actors (proactive investigation - action rather than reaction). The authors of the paper are dealing with the role of special investigative measures (special proof actions) towards the successful establishment of the initial principles and effective ways for detection and determination of the human trafficking crime facts. Adequate attention is paid to the special proof actions, in light of the new Criminal Procedure Code of Serbia from 2011 (monitoring and recording of telephone conversations or other communications, providing simulated business services and the provision of simulated legal transactions, controlled delivery and the undercover agent). In the paper, legislative solutions have been analyzed, focusing on the weaknesses and inconsistencies of the positive legal regulation. In the conclusion, the importance of proactive methods of investigation has been emphasized, with warning that the application of these measures, must not go too far in derogation of basic human freedoms and rights.

Keywords: human trafficking, proactive investigation, special investigative measures

Introduction

Human trafficking or modern slavery is a serious crime and a huge issue throughout the world. This is a very complex crime characterized by proliferation and concealment, by specialized, professional and organized operation of perpetrators, by vast financial power and use of psychological, physical and sexual violence of the perpetrators towards victims; that is why this crime is very difficult to detect, prevent, and prove.

Faced with the problem of trafficking in many parts of the world and with the state inability for effective prevention and combating various forms of serious crime with its measures and actions against violation of the fundamental rights and freedoms of the people, the international community during the turn of the century brought a number of conventions, declarations, recommendations and agreements.[1] Among them, a special place is given to The United Nations Convention against Transnational Organized Crime and its supplementary Protocol for Prevention, Suppression and Punishment for Trafficking of Persons, especially Women and Children from 2000 should be allocated, since their enactment laid the foundation for planned and organized opposition against the trafficking and other serious forms of organized crime on national and international level.[2]

Many states, including ours, that adopted The Convention against Transnational Organized Crime and the supplementary Protocol against human trafficking, assumed an obligation to harmonize their legislation with these international instruments.[3] Thus, the Republic of Serbia, within the substantive criminal law, prescribed crime of trafficking. It is provided, in fact, punishment for attempting, or complicity in the commission of the offense, organizing or ordering others to commit an offense (Art. 111b of the Serbian Criminal Code from 2003.[4]) Amendments to the existing charges made in 2005 and 2009 (Art. 388 CC) and other related offenses, such as trade of minors for adoption (Art. 389 CC), Illegal border crossing and smuggling of human beings (Art. 350 CC), slavery and transportation of slavery (Art. 390 CC), presentation, acquisition and possession of pornographic material and exploitation of a minor for pornography (Art. 185

[1] Nataša Mrvic-Petrovic, Trafficking in human beings as a specific form of female migration, Trafficking in human beings, Temida, no. 1, Belgrade, 2002, pp. 16 – 25.

[2] In Art.3 Protocol provides the definition of trafficking in human beings. It is a universally accepted definition, which in comparison to all prior to the most comprehensive way to describe the basic characteristics of this crime, and describes the three basic elements (action, method of execution means and the end-to-action). In: Official Gazette of the FRY - International Treaties, no. 6/2001.

[3] Official Gazette SRJ – International treaties no. 6/2001 from 27.06.2001.

[4] Law on Amendments to the Criminal Code of the Republic of Serbia, Official gazette of Serbia, no. 39 from 11.11.2003.

CC) were predicted. With it, in wider terms, the local criminal justice framework to counteract of human trafficking was created[5].

In the framework of the criminal procedure law, a number of procedural instruments related to the provision of the international criminal legal assistance were introduced, such as: transfer of sentenced persons, transfer of criminal prosecution, capture, exchange and analysis of information about the nature of the organized crime, facilitating of the identification, tracing, freezing or seizure of the property acquired through the crime, protection of witnesses, conduction of joint investigations, establishment of the joint investigative bodies, and others.[6] Prosecuting authorities, particularly in the phase of detection and investigation of crimes, is possible to use specific evidence actions - *special investigative techniques*. An opportunity was given to them, by the major powers and by some deviations from the general criminal procedure, to overcome the insufficiency of the classic evidence actions. Those actions, when it comes to acts of organized crime, are often ineffective and useless.[7]

Special investigative techniques are very effective proactive tool in the fight against human trafficking because they enable detection, arrest and punishment of the traffickers even without cooperation of the victim, without his / her report or testimony against traffickers. [8]

General characteristics of human trafficking

Trafficking is a composite and dynamic phenomenon which quickly and easily changes its manifestations and which easily adapts to changed social circumstances, requirements and the demand situation on the market of goods and services. It is a process that is realized through several stages (recruitment, transportation and exploitation) and more sub-stages, in which different actions with the aim of exploitation and acquisition of the victims alternate and intertwine, and gain a large profit, by traffickers[9]. The process of trafficking can last from several days to several months or years. Even if for some reason, sometimes comes to its termination, the same process can be restored again.

The trafficking takes place at the domestic and international level.

[5], Official gazette of Serbia nr. 85/2005, 88/2005, 107/2005, 72/2009 and 111/2009.
[6] Milan Skulic, Criminal Procedure Code, Belgrade, 2009, pp. 42 - 43.
[7] Momčilo Grubac, , Criminal Procedure Law, Belgrade 2009, pp. 518.
[8] Petar Stanojevic, Sasa Atanasov, The importance of proactive investigations in opposition to human trafficking, in: Collected paper of , Law Faculty in Prishtina with temporary seat in Kosovska Mitrovica, Kosovska Mitrovica 2011, pp. 102 - 105.
[9] Sasa Mijalkovic, Confronting human trafficking and smuggling of migrants, Belgrade, 2009, pp. 97 - 118.

When it comes to the international aspect of this phenomenon, the process of the trafficking realization can be analyzed with the geographical aspect. In this case the initial phase of the recruitment of victims usually takes place in the country of origin, which is predominantly poor and economically underdeveloped country, or a country in transition in which the war-torn roughly violate fundamental human rights and freedoms. The exploitation phase is realized in the country of destination which is mainly economically developed and politically stable. The transport and transfer of the traffic victims to their final destination takes place through the territory of the third countries, which are called the transit countries. In the case of internal trafficking, which records every day more and more increase in casualties in the world and in our country, the victims do not cross the border and do not go to the other country. In the place of destination the victims have been labor and sexually exploited; they were taken organs; they have been brought to slavery; or have been forced to participate in the armed conflicts, etc. Victims who refuse to comply with the requirements of the traders are severely psychologically, physically and sexually abused. It is not surprising that, when they are released by the prosecuting, due to the large variety of trauma and because of the fear for their lives and the lives of their families, they are not allowed to testify against the traffickers and to participate in the criminal proceedings against them.

These phases of the trade may not always be presented, or it is possible that the victim himself / herself came to the place of the destination where he / she was forced to exploitation. The Implementation of the trafficking process is impossible without a certain (commercial) activities of the traffickers. The traffickers, in order to realize the conceived plan and to achieve the maximum profit, must take a number of commercial activities. These actions, in spite of all precautions which have been taken, detect their hidden position to the relevant state bodies and the other entities. So, they rented rooms for the different agencies (for marital mediation, modeling, photo models, etc.) which carry out the recruitment of the victims, or the shelters and the public houses and the other premises where they keep and exploit the victims. Then, they carry out advertising of their offer in the process of recruitment, through the media, trying to attract and recruit as many victims as possible. In the process of the exploitation, by using different means of communication, they want to inform the potential users about the existing range of the service. Otherwise, the purpose of bringing the victims who are forced into prostitution would have no justification. The traffickers communicate with each other or with potential victims and clients via fixed and mobile telephony, via Internet, or by writing or otherwise. They organize and conduct in-country transportation of the victims, or across the border, or transit through the different means of transportation. They

purchase personal and travel documents and perform various financial transactions through all of the aforementioned activities.[10] The trafficking can only operate with the help of the following acts, and each of them represents potential evidence of personal or financial nature.[11]

Ratio Legis of the special investigative techniques application in the fight against trafficking

Because of some of the phenomenological features of the trafficking and the other psychological characteristics of the perpetrators, the trafficking crime is very difficult to detect and to prove with the use of the common, ordinary methods of evidence. It requires using of special measures, which are called - *special investigative techniques*. These are techniques that are atypical because they can be applied only to discover the evidence in relation with some very serious crimes, both in actual terms (considering the effects that are caused) and in terms of criminal justice (with regard to the prescribed penalty for them). In factual terms - since the appearance of the effects, and in criminal terms - since the penalty for them is prescribed. These measures represent a significant modification of some classic pieces of evidence using, and although they are primarily characteristic to the pre-trial proceedings, their evidence results are used in the criminal proceedings.[12]

It is actually a secret gathering of information through the infiltration in criminal groups and organizations[13]. These measures are often called "particular (special) investigative techniques[14] (methods, measures, actions[15])", "measures of secret surveillance[16]", and "measures to temporarily restrict the constitutional rights and freedoms in order to collect the data and evidence for criminal proceedings.[17]" This emphasizes their attachment to the pre-trial procedure. On the other hand, when we want to emphasize their role

[10] The fight against trafficking in human beings, Regional practical guide for anti-trafficking dedicated to the law enforcement agencies, United Nations Development Programme and the Government of Romania, 2003, pp. 22 - 31.
[11] Milan Zarkovic et al., The criminal justice system and legal practice in the fight against human trafficking in Serbia, A joint program of the UNHCR, UNODC and IOM to combat trafficking in Serbia, Belgrade 2011, pp. 43 - 44.
[12] Milan Skulic, Criminal Procedure Law, Belgrade 2006., p. 279.
[13] Asim Sakovic, Economics Criminalistics, Sarajevo 2002.
[14] Milan Skulic, Criminal Procedure Law, Belgrade 2009, pp. 265.
[15]Sasa Knezevic, Role of the undercover agent in proving of terrorim, in: Terorism and Human Freedoms, Tara 2010., pp. 277 - 287. Same: Criminal Procedure Code of Bosnia i Herzegovine, Official Gazette, no. 03/03.
[16] " Government Gazette of Montenegro, no. 57/09.
[17] Criminal Procedural Code of Croatia), Narodne novine br.152/08 i 76/09.

in the criminal procedure, they are called particular (special) proof actions[18] (methods). Unlike the classical police measures which are informal and have only the strength of evidence in criminal procedure, special investigative measures have evidential character. For the purpose of clarity of this work, we approve and continue to use the title "special investigative techniques", noting that the word "investigation" in the title does not quite match their place in the criminal proceedings, since they are usually related to pre-trial proceedings prior to the investigation itself.

It is undisputed that the use of special investigative techniques (proof actions) contributes to a more efficient criminal- procedural reaction process on the most serious forms of crime and the efficiency of the criminal procedure, but they significantly interfere with the guarantee of some of the basic human rights (right to privacy). Therefore, the procedural provisions clearly stipulate the limit of interference in the right to privacy and other fundamental human rights and freedoms, thus preventing possible abuses in the exercise of powers by those to whom it have been given. In accordance with the Resolution of XVI Conference of the International Association for Criminal Justice held in Budapest in 1999, in regulation of the special investigative techniques required to comply with the following principles: *legality* - application expressly provided by law**,** *subsidiarity* - with applying usual, conventional ,operational - tactical and investigative measures and actions, these measures can not achieve the stated goal, *proportionality* - between the derogation of fundamental rights and freedoms and the gravity of the offense and *the principle of judicial control* - court, granted the application of these measures and concerns about the legality of implementation[19].

Use of the special investigative techniques is explicitly provided in Art.20 of the UN Convention against Transnational Organized Crime[20], which provides for the application of controlled delivery, electronic monitoring and other forms of surveillance and undercover operations in order to effectively fight crime. This convention encourages the states to enter into bilateral and multilateral agreements to cooperate in combating all forms of organized crime. Art. 4 Par. 2 of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of crime[21] include the obligation of States Parties to adopt special investigative techniques that may

[18] Vojislav Djurdjic, Criminal Procedure Law- special part, Nis 2006, p. 248.

[19] Retrieved from: Goran Matic, Special investigative measures in criminal procedural legislation of Serbia – special proving actions, Pravni život, no. 10, 2007, pp. 97 - 110.

[20]" Government Gazette SRJ" - International Agreements (Official Gazette of SRJ- International Treaties), no. 6/2001.

[21]" Government Gazette SRJ - International Agreements, No. 7/2002 and " Government Gazette SCG - International Agreements, no. 18/2005.

include monitoring orders, observation, surveillance, and access to computer systems and produce specific documents.

On February 15th 2012, came into force the new Criminal Procedure Code of Serbia[22] (hereinafter: the new CPC). Starting from the next year, it will be applied in criminal proceedings for offenses that fall under the organized crime and war crimes (the offenses which according to the special law, are treated in the jurisdiction of the special public prosecutor's office). In the regular criminal procedure its implementation will starts on February15th 2013, and until then the Criminal Procedure Code from 2001[23] (hereinafter CPC) will be applied. Since the offenses of the trafficking usually run by the organized crime groups, to this cases in the future the provisions of the new CPC will be applied. On the other hand, Art. 504A. Para. 6 of the CPC from 2001, in the group of the "other very serious crimes" trafficking (Art. 388 CC), and trafficking of the minors for the adoption (Art. 389, par. 1 and 2 of the CC) were numbered. Thus, the legal basis for almost all applications of the special investigative techniques to the crimes that include trafficking in, and not committed within an organized criminal group, was provided. Therefore, we hereafter analyze the parallel provisions of the CPC from 2001 and the new Criminal Procedure Code.

By provisions of Chapter XXIX of the Code of Criminal Procedure from 2001 entitled "Special Provisions on Procedures for the crimes of organized crime, corruption and other very serious crimes," is prescribed the use of specific evidence gathering: monitoring and recording of telephone conversations or other communications (Article 504e CPC), providing simulated business services, and providing simulated legal affairs (Article 504i CPA), controlled deliveries (Article 504l CPA), an automatic computer search of personal and other data associated with them (Art. 504lj CPC), a cooperative witness (Article 504o CPC) and the undercover agent (Art. 504m CPA). They are divided into measures of infiltration and observation measures[24]. Infiltration measures are: providing simulated business services and contracting simulated legal transactions and use of undercover investigators, while osteo-mentioned measures are observation measures.

In The new Criminal Procedure Code in the special evidence actions are included: surveillance of communication (Art. 166 - 170), secretly monitoring and recording (Art. 171 - 173), simulated transactions (Art. 174 - 177), computer data searching (Art. 179 - 180), controlled delivery (Art. 181 - 182) and the undercover agent (Art. 183 - 187). Provisions about the

[22] "Government Gazette RS", no. 72/2011 and 101/2011.

[23] "Government Gazette SRJ", no. 70/2001 & 68/2002 and "Government Gazette RS", no. 58/2004, 85/2005, 115/2005, 85/2005 - state law, 49/2007, 20/2009 - state law and 72/2009.

[24] Tatjana Lukic, Undercover Agent, Collected papers of Law Faculty in Novi Sad, no. 10, 2005, pp. 505 - 522.

witness collaborator are part of the Code which refers to the consensual forms of the public prosecutor and the defendant (Art. 320 - 326) entitled "Agreement about the defendant testimony". We will hereafter refer to the contribution made by the special investigative techniques for detection, proving and suppression of the trafficking.

Secret surveillance of communications and secret monitoring and recording of the suspect

In the Criminal Procedure Code from 2001 this measure is known as the "monitoring and recording of telephone and other conversations or communications," and in the new CPC it is called - "secret communications surveillance". This special investigative technique is often called "the secret audio and video surveillance[25]. It is the authorization given by a court to competent authorities for carrying out recording telephone surveillance, or other type of communication of suspected person, or optical recording of that person, usually in his / her apartment or in other facilities, such as a public place. New CPC adds to these modalities the ability to monitor e-mail and the other addresses of the suspect, and the possibility of seizure letters and packages. On the other hand, specifying whether the recording can be done only at home or elsewhere is omitted. For the application of these measures, it is necessary to meet certain conditions. First, we need a minimum degree of certainty about the criminal act and offender-based suspicion, which is required to run the pre-trial (pre-investigative) proceedings. In addition, it is necessary to fulfill the principle of proportionality, i.e. that otherwise the necessary evidence cannot be obtained or that their collection would be considerably more difficult (Article 504e. § 1 CPC).

Special attention of the theory caused the solution to which that technique (and all other legally prescribed) may be applied in cases where there is basic level of suspicion that, with respect to any of these criminal acts carried out preparatory actions. In fact, our Criminal Code does not provide preparatory actions as a general stage in the execution of crimes, but it is retained as an institute of a special part of the criminal law, within certain crimes. Therefore, we believe that such a solution, given the proactive note of these techniques, is fully justified. In this case, it is necessary to meet additional requirements - that committed crime otherwise would not be prevented, discovered or proved, or that would cause disproportionate difficulties or high risk (Article 504e Paragraph 2 of the CPC).

[25] Milan Skulic, op. cit., p. 269.

The incentive for the application of this technique comes from the public prosecutor as a proposal to the investigating judge (the pre-trial judge) who decides on their implementation in a form of reasoned order. The order shall contain: data on the person to whom it applies, the degree of suspicion (basic level of suspicion), the method of implementation, the scope and the duration of the implementation. The legislature has set the maximum duration of covert audio and video surveillance for a period of six months, with possibility of extension to three months twice. That rule gives an absolute maximum of its application for a period of one year. Implementation of this technique may be terminated before the expiry of the period determined in the order when the reasons for its implementation have been stopped.

The order issued by the investigating judge is conducted by police officials, the Security-Information Agency (BIA) and the Military Security Agency (VBA) officials. Logistical support to these bodies provides postal, telegraphic enterprises, companies and other companies involved in transferring information. By provisions of the new CPC, the possibility of extending the observations of the suspect to another phone number or other addresses that are discovered during the implementation of these measures is provided (Art. 169, Para. 1 of the new CPC). About that the public prosecutor is informed by the authorities that provide support. Authorities which implement the order on the execution of these measures consist of daily reports on its implementation and submit them, together with the collected recordings to the investigative judge (the pre-trial judge) and the public prosecutor (at his request). After completion of the application of these measure, they will submit to the investigating judge (the pre-trial judge) all of the collected images and the final report that includes: the start and end of the measure, information about enforcer of the measure, a description of technical resources applied to the recording, the identity of persons covered by the measure, and evaluating the results of applying of the measure (Article 504z Paragraph 2 of the CPC). The judge informs the public prosecutor of the contents of the received material[26].

What is important of the collected images, it depends on the initiation of the criminal procedure against the suspected person. If the procedure was initiated within six months from the acquaintance of the public prosecutor with the collected material, images can be used as evidence in the procedure,

[26] The solution, according to which the collected material is submitted to the court, is criticized in the process theory. See: Sasa Knezevic, Application specific evidence actions to combat trafficking, in: Human Trafficking - legal protection in international and national level, Nis 2011, pp. 183 – 203. The argument is that the final report is submitted to the public prosecutor, as he / she decides on the further prosecution.

provided that the court decision can not be based solely on that evidence[27]. Otherwise, if the public prosecutor does not initiate criminal procedure in time, or declares that the images will not be used in procedure, the judge issues a decision on the destruction of the collected material, and shall inform the person to whom this measure has been applied.

CPC has solved the issue of so-called incidental evidence. This is evidence obtained during application of the measure secret audio and video surveillance systems, which is related to the execution of another crime, not one whose due execution ordered the application of this measure. Modern legislation (including our country) admits to incidental evidence only a limited credibility. In this sense is the solution that is given in Section 504z Paragraph 5 CPC, which allows its usage only in criminal proceedings for crimes that would otherwise allow the use of this special investigative measure (defined in Section 504a CPC).

Criminal Procedure Code from 2011 introduces a new special investigative technique which is called "secretly monitoring and recording of the suspect." It is a measure which is consisted in secretly recording or monitoring of a suspect with the aim to discover the persons whom the suspect contacts and communicates with, or with the aim of locating persons or things, or to establish identity (Art. 171 of the new CPC). This measure can be implemented in the public places, or the places where access is limited, and indoor (including means of transport), but not in the apartment. At the request of the public prosecutor, the decision on the implementation of these measures is passed by the judge. All of the other statutory provisions are consistent.

Provision of simulated business services and conclusion of simulated legal affairs

The special investigative technique finds its application in detecting and proving of crimes that belong to the so-called consensual crime (drug trafficking, arms trafficking, corruption…). It is actually consisted of two measures: providing simulated service, which is commonly used to prove bribery crimes, and the conclusion of simulated legal transactions, which is usually applied in proving drug trafficking[28]. The new Criminal Procedure Code names this action as "simulated work". In addition, as two possible modes of execution are specified: simulated purchase, sale or provision of

[27]On the gathered evidence decisions can not also be based if they are collected in contrary to the provisions of the CPC, or in contrary to order of the investigating judge. This legal solution is valid for any of the special investigative techniques.

[28] Stanko Bejatovic, Detection and investigation of criminal acts of organized crime, Review on criminology and criminal law No. 1/ 2006, pp. 43 - 73.

the business and the services, and simulated giving or receiving a bribe (Art. 174 par. 1 of the new CPC).

Material and formal conditions for implementation of these measures are set in the same way as in the extent of secret audio and video surveillance. The prescribed content of the order is slightly different from the solution provided for the previously exposed technique. The order must include: information about the person to whom it applies, the legal qualification (name and description of the crime), scope and duration of the measure (Art. 504i Para. 3 of the CPA). Maximum duration usage of this measure lawmaker set is somewhat narrower than the secret surveillance of communications, and it can last up to six months, with possibility of extension for another three months. Prediction of the shorter term is considered justified because it is a measure that is usually performed in a short period of time; it often needs a single "flash" operation. However, the new CPC determines the maximum duration of these actions in a different way. Summing up of the deadlines, we get the maximum duration of one year, when it comes to the criminal offenses of organized crime (Art. 175, Para. 3 of the new CPC).

This measure is carried out by authorized police officers, BIA, VBA officers, or some other authorized person, on the proposal of these bodies. This solution significantly expands the circle of entities that can appear in the role of simulated service provider, or a person who enters into simulated legal agreement. We consider that precise criteria should be set (with by-law acts) regarding the needed skills depending on the seriousness and importance of the task that has to be performed[29].

The provisions for daily and final report are identical to those of the previously analyzed technique. In addition, the report also contains information on the application of technical means, which indicates the possibility of parallel implementation of these measure and covert audio and video surveillance measure (with fulfillment of the statutory requirements). We find confirmation of this statement in Article 504j Para. 3 of CPC which provides for delivery of voice, or video and electronic records that are obtained by applying these measures. It is debatable whether the provision of simulated services and execution of simulated legal affairs is actually an incitement to the crime execution, as one of the stages in the commission of the crime, which is punishable under the provisions of the Criminal Code. This will be discussed in the next section.

[29] This will be usually in practice persons who have previously worked in the police, BIA or in VBA, but this legal solution opens the possibility that it can be a foreign citizen, which is very important, especially in terms of regional cooperation in combating crime.

Undercover agent

Because the human trafficking is most often a continuous activity that takes place over a longer period of time, and for the enforcement of the criminal activity is necessary the existence of a chain of people, of a great importance is the use of infiltration measures in the criminal milieu, and the other secret police operations. These measures are known for centuries, in an informal form in the work of the intelligence services. They were particularly used in the 19th century by the French criminal police, in which they were introduced by Eugene Vidoque, its founder[30]. Their usage in France is known since 19th century, and it is intended to protect the security of the sovereign. Measures of covert action (*undercover work*) in the modern sense began in the USA in the early 20th century. The essence of these measures is in inserting of certain persons, members of state bodies, in a criminal group under a false identity in order to collect information and evidence of preparation and execution of crimes as well as about members of the group.

Bearing in mind the basic characteristics, the term undercover agent could be determined as follows: an undercover agent is specifically trained, by the decision of the competent state authorities officially engaged person, or other person who infiltrates under the changed identity to a criminal organization, in order to gather evidence of criminal acts and crimes whose enforcement is prepared, as well as the very members of criminal groups which can be heard in criminal procedure as witnesses.

It is a criminal-tactical Institute, without it there is no effective detection of a complex, organized crime, in particular of an international crime. They are specially selected, trained and well-equipped officers, who, under the properly chosen legend (usually criminal) with a false CV and false papers, in order to make a base for their service (anchor points) for taking adequate measures. He / she must meet the way of life, underworld slang; he / she must play criminals or any other person on the margins of the society.

For using undercover agents, certain preconditions are necessary. First, that there is a basic level of suspicion that an organized crime was committed, or the offense for which according to the special law it is under jurisdiction of the public prosecutor's office of special jurisdiction, with the inability to obtain the evidence in another way, or that its collection is much more difficult. (Art. 162. par 2. of the new CPC). It is a criminal activity committed by an organized criminal group or by its individual members. So, unlike the other investigative techniques, the application of an undercover

[30]Istvan Fejes, , Responsibility of undercover agent and his victim, Compilation of works at the Law Faculty in Novi Sad., no. 2/2006, pp. 405 - 430.

investigator for investigation of the trafficking offense is excluded, unless it is done within an organized criminal group. It is unclear why the legislator allows the use of controlled delivery, providing simulated services and making simulated legal transactions and automatic search of personal and other data associated with them, and narrows the use of undercover agents, which is, in our opinion, a very important link in detection of these crimes. The application of this investigative technique is possible in the preparation of the crime, which has already been discussed. The formal requirement is also identical to the other special investigative techniques.

Personalization of the undercover agent is given by the Minister of Interior, BIA director, director of VBA, or a person authorized by them. Undercover agent is determined under a pseudonym or code. It is in connection with the so-called legend of the person who carried out the implementation of this measure, which includes his / her changed identity, identity documents with changed residents, the possibility to perform legal transactions in the false identity, and, in a word, to participate in the legal traffic. All data included in the legend represent an official secret. The circle of persons who may be involved in this capacity is set wider than the other investigative techniques. It can be: police officer, BIA, or VBA officer or any other person who meets the conditions regarding adequate training, and it can be even a foreign citizen. In the new CPC there is a provision under which in the role of undercover agent cannot be a person against whom is in progress a criminal procedure, or who are already convicted, or persons for whom there are reasonable grounds that they belong to an organized criminal group (Art. 504m Para. 6 of the CPC).

Realization of this measure may last as long as it is needed to collect evidence, but not to exceed one year. However, on the proposal of the Public Prosecutor, the duration of this measure may be extended by the decision of the judge for another six months (Art. 184 Para. 3 of the new CPC). Bearing in mind that its infiltration takes a lot of time, it seems a reasonable solution to the legislature to prescribe a longer maximum duration of these measures in relation to the other. Italian law, for example, does not stipulate a maximum time limit for activity of the undercover agent, but it estimates the state prosecutor[31].

In exercising of his delegated task, the undercover investigator may use technical means for monitoring audio communications of observed persons, as well as means for taking pictures or video recording. Bearing in mind that the combined usage of these two measures causes an additional influence over the basic human rights, we consider that during the secret audio and video surveillance it is necessary to comply with the provided

[31] Sasa Knezevic, op. cit., , p. 283.

conditions for implementation of these measures. Anyway, it is necessary to have the approval of the judge. An issue is also whether during the implementation of these measure the undercover agent can violent the inviolability, and its activities performed by penetrating the home or other premises. CPC is silent about it although it often happens that it is precisely this power which can be prevalent for the success of his mission. We believe that it is possible to entry into the flat with the permission of the pre-trial judge. The stumbling block, however, may be a provision in Article 171 Para. 1 item 1, which prohibits secretly monitoring and recording in the apartment of the suspect.

According to Art 185 Par. 4 of the new CPC[32], it is prohibited and punishable for undercover agent to incite another person to commit a criminal offense. Incitement is any act which intentionally makes or reinforces the decision of another person to commit a crime. In the case of incitement, the undercover agent would be criminally liable as a perpetrator of a crime, in a situation where incitement constitutes a separate offense, or as an accomplice, if the offense was committed, or it is not attempted, for the offenses where attempting is punishable (Art. 34 CC).

In the comparative law there are other solutions. Acting as an agent provocateur is allowed in the United States, Germany, Denmark, Belgium, Netherlands and other countries, certainly under strictly regulated conditions. In this sense, the special investigative techniques system given by our CPC is contradictory. Support for our claim is found in Article 504j Paragraph 4 CPC, which provides that "a person who gives simulated business services and concluded simulated legal affairs in conducting investigative judge order does not constitute a criminal offense, if the action taken by him / her in the CC is provided like a criminal act." This implies that execution of criminal acts committed during the implementation of this investigative technique was legalized. In contrast, incitement to commit a criminal offense to undercover agent is expressly prohibited during the implementation measure that inherently involves infiltration to a criminal group, which carries with it an increased level of danger for the life of the person on duty. For success in the implementation of this measure acceptance of undercover agent by criminal group members is needed, creating a relationship of trust and eliminating doubts about his / her true identity. An additional inconsistency is the fact that the undercover agent, during their engagement, can execute in parallel providing simulated services or simulated legal affairs abuse. Is it

[32]Under an agent provocateur in theory, is considered the official who soliciting another person to commit a criminal offense or to assist him in carrying out the same, in order to catch him in the execution-in flagrante.

possible then to apply the provisions 504j Paragraph 4 CPC, which exclude their liability of a crime and incitement?

The new CPC innovated a contemplated provision, and under Art. 176 Par. 2, the authorized person who finds a simulated business does not commit a crime. However, in the following paragraph inciting others to commit a criminal offense is explicitly prohibited. This solution is at least contradictory. First, a special basis which excludes the existence of guilt, and therefore a criminal offense is introduced, and then incitement is prohibited as well as actions which are absorbed by an enforcement action if taken one after another. It follows that our legislators continue to wander in finding a solution regarding the permissibility of provocation to commit a criminal offense.

Closely related to the previously outlined is the question about the admissibility of executing crimes by undercover agents in the application of the investigative technique. The CPC has no specific prohibition in this regard, which has opened the door to theory for different interpretations[33]. One view is that it is forbidden to commit a crime, especially since incitement was banned, since the theory accessoriness, according to which the incitement originates from execution. Second is the understanding according to which in this case a criminal law institute can be applied - extreme necessity[34]. According to this view, there is no crime if the offender executed it in order to remove a danger from goods or property which could not be eliminated otherwise, and thereby the evil that is committed is not greater than the threatening evil (Article 20, Paragraph 2.CC). There is no dispute that in the situation of the crime in the implementation of these measure can be applied basic institutes of the general part of criminal law, but it would be better to express the law to resolve the situation, especially since in the already mentioned measure (simulated services / affairs) one of grounds for excluding the existence of a criminal offense is prescribed.

In the ongoing criminal procedure, as one of the participants, the undercover agent may appear as a witness. According to legal provisions, they can be questioned as witnesses about the facts learned during the conduct of investigative actions, but so that the parties can not disclose his identity. Information of the identity is an official secret (Art. 187 Para. 2 of the new CPC). Testimony of so-called anonymous witnesses is a significant restriction of the right to counsel, because it excludes possibility to challenge evidence credibility of the witness testimony and to object about them.

[33] See: Ivan Ilic, Agent provocateur yes or no?, Collected papers from scientific conference *Dani Arčibalda Rajsa,* Belgrade 2011, pp. 389 – 397., Ivan Ilic, Undercover agent – status and prospects, in: Legal system and the social crisis, collected papers from internatonal scientific conferece. No. 2, Kosovska Mitrovica, Pravni fakultet, 2011, pp. 551 - 567.

[34] Milan Skulic, op. cit., str. 279.

According to the European Court of Human Rights practice, such testimony is inconsistent with the principle of fair trial[35]. The defense must be able to challenge the testimony of witnesses, and to bring into question the credibility of witnesses. Also, the testimony of undercover agents may not be the sole and conclusive evidence in the proceedings, as is provided in our law (Art. 187 Par. 3 of the new CPC). Further restriction on the action of undercover agent refers to so - called "accidental discovery", which means that it can be used only when it relates to some of the crimes, which otherwise can apply these investigative technique.

Controlled delivery

Controlled delivery is a powerful tool in the hands of police for detection, proving and suppression of different forms of transnational crime. There is a perception with regard to the form of mutual assistance in criminal matters[36]. It is performed by allowing the transport, for which there are indications that contain items or goods whose transport is prohibited (drugs, weapons, items incurred by crime or the means for committing offenses). There is no doubt that the implementation of these measures is possible on human trafficking, as the subjects of the illegal trade could be people[37]

Permission that this item can enter, leave or cross the territory of Serbia, is given by the Public Prosecutor of Serbia or the public prosecutor of special jurisdiction, who determines the manner of implementing these measures carried out by police or other government authorities authorized by the public prosecutor[38]. Controlled delivery is the only special investigative technique in whose application the last word is not left to the court. Bearing in mind that during its implementation human rights are also affected, excluding the judiciary from the process of implementation of these measure is a major drawback. Crucial for effective implementation of this measure is the cooperation between competent authorities of the states concerned, which is realized based on multilateral or bilateral agreements. There are no obstacles that the basis of the cooperation can be even a principle of reciprocity between the concerned countries. The law states that the purpose of carrying out of the measure is to collect evidence and identify perpetrators.

[35] See:, decision of the European Court of Human Rights in the case of Delta C vs France ser. A, no. 191, from 19. 12. 1990.
[36] Milan Skulic, op. cit., p. 280, same: Sasa Knezevic, Role of…op. cit., p. 286.
[37] Sasa Knezevic, Application specific…op. cit., pp. 195.
[38] In carrying out these measures an important role is played by customs authorities and inspection bodies.

In addition to the legal basis for cooperation, for the application of these measures, approval is required from the competent authorities of the shipment, and that passes through the following: that shipments will enter and leave or cross the territories of the states, that during the transport will be executed permanent monitoring, that prosecution of the perpetrators will be initiated, and that the competent authorities of countries will be concerned to exchange information on criminal prosecutions, etc. After execution of the measure of controlled delivery, a final report on the implementation of the measure will be submitted to the Public Prosecutor of Serbia, or to another public prosecutor in charge of the territory of Serbia. It is identical in terms of the content report for a measure providing simulated services and execution of simulated legal affairs.

It is interesting that lawmakers do not provide the longest period of time for that measure. Although the implementation of this specific measure, it is opportunity to mark the limit of application in terms of time, due to the derogation of human rights, which are inherently involved. Restricting its application only to cross-border transport of goods is also a lack because its application is certainly justified when the illegal transport does not exceed the borders of our country. However, the new CPC from 2011 has expanded the application range of the action to the transport within the borders of Serbia (Art. 181, Para. 1, item 1 of the new CPC). We recall that the use of this possibility is limited to the offenses committed within an organized criminal group.

Conclusion

The trafficking is a complex and serious crime, usually a form of the organized crime which, because of its complexity is very difficult to detect and prove. The special investigation techniques are the most effective tool which is available for detection and prosecuting and because of their proactive action they allow detection and proving the crime, not only when it was committed, but also when it is in the stage of preparation. For detection and prosecuting, the authorities are able to use different evidentiary standard and special actions, so called special investigative techniques, i.e. special evidentiary actions, which although used in the preliminary proceedings, have evidentiary importance at the court. A successful planning and management of the investigation of the trafficking involves articulating of the strategy and tactics of the investigation and of the operational objectives and the tactical actions of the detection and prosecution authorities. Tactical options which exist in terms of the actions and the measures that are applied during the investigation (such as monitoring, using of the technical equipment, monitoring and recording, etc..), the manpower and the other

resources, must be precisely defined in the action plan that forms the head of the investigation. [39]

As the most effective measure for detection and prosecution of the trafficking perpetrators is the measure of communication surveillance of the suspects, but it is a very dangerous technique – the use of undercover investigators and the involvement of the officials in the role of "fake customers". When it comes to the measure of surveillance, its effectiveness, according to the judges of the Special Department of the High Court in Belgrade depends on several factors: the zeal and ingenuity of the officials who carry out the direct supervision, the perpetrators ingenuity because they often change their phones and cards and more often they communicate in codes, and deny participation in the communication. It also depends on the high cost of the audio recording and on exhaustion by listening to the communication whose contents are irrelevant in this case[40].

Finally, it should be mentioned, that the application of the special investigative techniques requires legal, methodical, thorough and persistent actions of the police, because the offenders who have large financial resources will not save money in order to find the gaps in the treatment of the authorities and then reject the evidences which were gathered against them, as illegal. Although the application of the special investigative techniques is a very complex and demanding business for detecting and prosecuting, it should be applied always and everywhere it is possible, both on national and an international level, taking into account all of the positive effects of responsible entities in the fight against this crime.

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[39] Trafficking, Regional Standards, the Manual for the judges and the prosecutors training program in South Eastern Europe, International Centre for Migration Policy Development, Vienna 2006, pp. 177 - 178.

[40] Milan Zarković, et al.: op. cit., p. 43.

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THE NATURE OF THE DATA PROOFS SUPPLIED WITH APPLICATION OF THE SPECIAL MEASURE "SECRET SURVEILLANCE, OBSERVATION AND AUDIO-VISUAL RECORDING OF PERSONS AND OBJECTS"

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Abstract

The secret surveillance and the use of technical means for documentation as secret operational-technical measures, so called special measures, together with the other operational measures are the base of the criminal procedure. Based on the data and the proofs provided by application of this and similar operational-technical measures, the authorized institution initiates further proceeding of the criminal act. The danger of the far-reaching consequences of the organized crime and its transnational presence has provoked a great number of countries to alter the traditional classical operational-technical measures with special investigative measures. The aim of this transformation is to change the legal status of the data of operational and informative meaning, by which transformation, the power of validity of the proofs is achieved. The strongest power of this kind is achieved, not by their individual acceptance, but by conduction of simple and complex combinations composed of these measures or by application of the already existing procedures.

This paper is aimed at presentation of data and proofs acquired by the measure of secret surveillance, and visual and tone recording of persons and objects. Categorization of the data and the proofs is based on the criteria for distinction: the kind of the operational-technical measures, the kind of the criminal act of which they are gathered, and the phase in which they are gathered. The Law on Criminal Procedure in the Republic of Macedonia does not include points which talk about the system of means of proof and the conditions for their utilization. This paper will elaborate all these questions and dilemmas in relation to the permission or non-permission to the means of proof and the estimation of permissions given to the courts.

Key words: proofs, secret visual and tone recording, criminal procedure

Introduction

The activity of the police and security services is based on collection, processing, and use of data or information. The data collected by the police basically have another purpose as opposed to the data collected by the security services. Police data is primarily used for processing of cases, i.e. to identify suspects and collect evidence for criminal proceedings. On the other hand, the purpose of the collected intelligence and security information and data are rarely associated with the need to process cases, and is much more likely to be warned about the threat from the activities of extremists, terrorists and foreign leaders who are threatening the protected goods (constitutional order, defense and security of the country's vital economic and other national interests). Based on collected data, security services analyze and assess the endangerment of protected goods and take preventive measures, or their estimates refer to the decision of political and other government decisions.[1] Generally speaking, the problem of the police in the criminal and security services are the actions of potentially dangerous individuals, groups or organizations that do not necessarily belong to the world of crime.

These two uses of the collected data are sometimes intertwined, especially when it comes to organized crime, terrorism and other crimes against the state. In such cases, it is required cooperation and data exchange between the police and the security services.

The different purposes of the police and intelligence-security data bring the country in a difficult position by the fact that they precisely define the legal limits on secret data collection. In principle, states accepted easier enrollment under the law of secret data collection by police than when it comes to collecting data by the security services. Consequently, the data collected by the police in many cases become available and are subject to control of the prosecution and the court on the accused person; after the trial there should be no need for further keeping of such data as a secret, while data collected by the security services are rarely forwarded to prosecutors and courts, and often remain in the archives of the services. [2]

Special measures for secret gathering of data from a legal perspective, and the ways of collecting data governed by legal norms are

[1] Regulation of making risk analysis and criminal-investigative and criminal intelligence analysis in the Department of Organized Crime in Central Police Services in the Bureau of Public Security, Ministry of Interior, Republic of Macedonia, July, 2007:

[2] More on this in: Kilkeli Ursula, the right to respect for private and family life, Guide the implementation of Art. 8 of the European Convention on Human Rights, Directorate General of Human Rights, Council of Europe, 2001;

measures whose application is the authority of certain entities that are determined eligible.

The whole range of measures for data collection that serves the police and the security services can be divided into two groups:

- those whose use little or slightly penetrates into individual rights and freedoms
- those whose use temporarily restricts certain guaranteed rights and individual freedoms, especially the right of Policy.[3]

The first group includes traditional police measures, such as calling a person for obtaining information (informative conversation), taking statements from suspects (hearing), police observation, recording in public places, reporting the event by citizens and similar measures. Among the measures of this kind more security services include collection of data from publicly available sources, including open communication through the Internet, request reports from citizens and civil authorities, access to public records and other collections of data State authorities' and similar measures.

The second group of measures has a legal treatment because they penetrate by more subtle measures into the sphere of individual rights and freedoms and in that sense they use the term "special"[4] measures. Using no knowledge of the persons or organizations that collect data, there are also measures that secretly gather information. In this sense, practical measures for secret gathering of data are used.

From the analysis of the domestic and comparative law, as special measures for secret data collections are:

- Secret cooperation with individuals,
- Collecting and purchasing of secret documents;
- Insights into records of personal and data associated with them;
- Operating breakthroughs in organizations and groups (undercover agents, infiltration);[5]
- Secret monitoring and surveillance of persons in open space and public areas using technical means for photo documentation and recording of conversations;

[3] More in: Guide to implementation of Art. 8 of the European Convention on Human Rights, Directorate General of Human Rights, Council of Europe, 2001;

[4] Born, H., and Leigh, I., *Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies*, Oslo: Publishing House of the Parliament of Norway, 2005, p. 17, 140;

[5]See more: Vodinelić, V., Issues of the criminal - tactical institute: informant, informer, and undercover police officer, Security, 1/94, p. 65 - 74, 2/94, pp. 177 - 188, 3/94, pp. 285 - 300 and 4/94.

- Secret surveillance, recording and search the inside of buildings, interiors and objects;
- Secret surveillance over the content of letters and other means of communication;
- Surveillance, recording and monitoring of calls, telecommunication and other means of transferring data on the territory of the country or abroad, and;
- Special measures, i.e. supporting actions to combat organized crime and certain criminal acts (simulated business services, concluding simulated legal agreements, controlled delivery, questioning the witness assistant).[6]

At these special investigative measures in the comparative analysis of their representation in the legislation of various countries can be added three special powers that do not collect data but serve for realization of the measures for data collection:

- access to all places, for installation of devices for monitoring and recording,
- using false identity documents and other measures for suppressing and in some countries codes or special software for secret access to databases and their copying or alteration;
- Obtaining information from providers of telecommunication networks to use their services, communications, locations of running, etc...[7]

Years ago, the secret surveillance as one of the operational and tactical measures in the operational law enforcement work, had the epithet of "general" measure because it corresponded to the issues and working conditions of the criminal police.[8] As a general operational and tactical measure, secret surveillance and monitoring are applied by the operational staff in the way they think is the best in a particular situation, based on their prior knowledge gained from operational work and practical working experience. Specialized services dealing with this type of operational work mainly work in secrecy; this part of the operatives knows of the existence and scope of work of those services, and therefore they could not properly engage. Over time, with the changing of the criminal activities and modernization of the measures of repression, there was a need to introduce

[6] Born, H., & Leigh, I., op. cit., pp. 23-24.
[7] Ibid, p.37.
[8] Krivokapić, V., Criminalistic Tactics, Police Academy, Belgrade, 2005, p. 154.

appropriate legislation that will correspond to the new problems.[9] With the entry into force of the amendments of the Law on Criminal Procedure of the Republic since 2004, it was changed the way in which the criminal police act in the investigation procedure. In this new situation, secret surveillance and monitoring are important, especially in the phase of gathering evidence (for criminal acts, traces of the crimes and their perpetrators).

The special measure "secret surveillance, tracking and video-visual recording of persons and objects with technical means" applies for providing information and evidence necessary for successful conduct of criminal proceedings that otherwise may not be collected, mostly for crimes for which a sentence is of at least four years, for crimes for which a sentence is up to five years for which there is reasonable doubt to have been committed by an organized group, gang or other criminal association.[10] "In the pre-trial proceedings, the application of this measure is approved by the public prosecutor as a written reasoned proposal by the Ministry of Internal Affairs in case when they are not equipped with knowledge of the identity of the perpetrator. The application of the measure secret surveillance often goes combined with measures for supervision and monitoring of communications and visual tone recording of persons and objects for which there are grounds to suspect[11] that alone or in groups with other committed crimes: against the state, against humanity and crimes with elements of organized crime.

The secret surveillance, monitoring and use of technical means of documenting as a secret operational and tactical measures or so-called special measures, along with other operational measures, are the foundation upon which criminal proceedings are built. Based on the data and evidence provided by the application of this and other operational and tactical measures, authority in subsequent proceedings is initiated by indictment for a criminal offense. The danger of the devastating effects of organized crime and its transnational presence in most countries make traditional classical operational and tactical measures to turn into special investigative measures. The purpose of this transformation is a draft of the legal status of the data that had operational and informational meaning, and transformation of power. The strongest evidence power can be produced not by taking them individually, but by implementing simple and complex combinations

[9] Marković, T., Contemporary technique of investigation of crimes, Narodne novine, Zagreb, 1977, pp. 34- 45.

[10] Art. 142 - B, paragraph 1 of the CPC of the Republic of Macedonia, "Official Gazette of the Republic of Macedonia" no. 74/04.

[11] Grounds for suspicion are defined as an initial form of suspicion, based on the collection of data (evidence) and they are appropriate to resolve criminal and legal events. This degree of suspicion is called "sufficient doubt". Dzhukleski, D., What are grounds for suspicion, and that reasonable doubt, unpublished paper, Skopje, 2010.

composed of these measures or the inclusion of already standardized procedural actions.[12]

In this sense, in relation to the nature of the data and exhibits, they can be divided according to several criteria: type of operational-tactical measure, type of offense for the collected data (evidence) and the phase of the collected data (preliminary investigation, inquiry). Taking into account these criteria, we can talk about different[13] sources obtained by evidentiary grounds. The Law on Criminal Procedure of the Republic of Macedonia, i.e. its database, does not contain provisions related to the system of evidentiary means and conditions for their use. The law contains provisions prohibiting the use of certain evidence means or methods for obtaining evidence, but that does not mean that the use of all other non-exempt assets supporting the law, which are contrary to the legal and fundamental principles of the procedure and of social morality, would be allowed. As a rule in the modern procedure, the facts can be proven by any permitted means of evidence. Hence the application of the legality of evidence (Article 15 of the current Criminal Procedure of the Republic of Macedonia and Article 12 of the new Law of Criminal Procedure of the Republic of Macedonia whose application will be delayed) or "...The evidence obtained in an unlawful manner or by violation of freedoms and rights determined by the Constitution of the Republic of Macedonia, the law and international agreements, and evidence derived from them, can be used but cannot be based on judicial[14]decision.

"This is especially important if we know that the function of the special investigative measures is to provide information and evidence necessary for the conduct of criminal proceedings that otherwise cannot be collected, or the collection may be performed with great difficulties.[15] It is therefore very important to consider legal options and procedures prescribed for the legality of data and their probative value. Hence, any deviation from the legal obligation to conduct legal and permitted manner of collecting data and evidence can be evaluated as data and evidence collected against the constitutional order and the principles of the procedure.

By applying the measure of secret monitoring, observation and video-visual recording of persons and objects by technical means, in pre-trial proceedings are supplied videos, sound recordings, video sound clips and

[12] Tupancevski, N., Organized crime - gathering and presenting evidence, Edition: Organized Crime, Project and Programme Tempus CARDS, Skopje, 2002, p. 56.
[13] Vasiljevic, Tihomir, System of the criminal-proceeding law of SFRJ, 3ed, Contemporary Administration, Belgrade, 1981, p. 98 - 111.
[14] Law on Criminal Procedure of the Republic of Macedonia, "Official Gazette," No. 150 of 18.11.2010.
[15] Verushevski, Z., Application of technical means surveillance out of criminal proceedings, security, emergency number, Skopje, 1993, pp. 5 - 8.

photos of the suspected person and his / her contacts, movements and communications in public places. Pursuant to the provisions of existing (valid), and newly enacted Law of Criminal Procedure of Republic of Macedonia, data, reports, documents and objects obtained by application of special investigative measures, under certain conditions and manner specified by law, can be used as evidence in the criminal proceedings. Also, the new Law of Criminal Procedure provides that the operational officers, who participated in the implementation of measures, can be assessed as a protected witness under conditions determined by the provisions of the Law of Criminal Procedure. Moreover, their identity remains an official secret. Operational officers who implement the measure must ensure that the application of special investigative measures will be kept as an official secret. The law obliges the authority to implement these measures and strictly adhere to legally prescribed rules of conduct, because otherwise all data will be provided with their application as invalid[16] and may not be taken into consideration in the judgment.

According to the new Law of Criminal Procedure of the Republic of Macedonia, photographs, films or other audio or visual recordings obtained by technical means, can serve as evidence in criminal proceedings. Regarding the tape, other items which can be used as evidence are handled, taking care not to damage or destroy but preserve its content in unadulterated form; if it is necessary, to take measures to preserve the tape in unchanged form or complete its copy. Experts can reproduce these materials (evidence).

Although the Law of Criminal Procedure of the Republic of Macedonia does not regulate specific issues related to photographs, audio and video recordings obtained by applying the secret monitoring, observation and video recording tone measure, regardless of the legality of these data, based on the principles of the procedure, it is very important in the preliminary investigation and criminal proceedings that such data are taken in the authenticity of photographs and sound and video recordings. This is especially important for excluding the possibility of a photo or video editing and other forms of falsification of photographs and recordings, when the photographs or recordings are made tacitly or express consent of the suspect or defendant or his / her voice or the photograph.

The new Law of Criminal Procedure talks about secretly monitoring and recording of persons and objects by technical means outside the home or office space designated as private (Article 252, paragraph 1, 3). The obligation of the legislature, especially the organs of criminal proceedings enforcement of this measure, is to accurately define and determine what we mean by public space (outside the home or office space marked as private).

[16] More in: Karas, Željko, Unlawful proofs, Zagreb, Laserplus, 2006.

This is especially important if we consider the legality of the procedure for collecting data and evidence of other special investigative measures in the private room, home, etc.

When talking about the evidence value and legitimacy of the data obtained with the remuneration of the measure secret surveillance, monitoring and video-visual recording of persons and objects, it is very important to make accurate delineation and definition in terms of private space (sphere) and public space, because this measure is often applied in combination with other operational and tactical measures. Because of this combined application of this measure, if the boundaries of private and public are not clearly defined and outlined, its application can occur in breach illicit sphere. For example, there is a doubt whether the present legal determination of the measure for secret monitoring, observation and video-visual recording of persons and objects, with the technical resources in one part (the video-visual recording), does not affect the private sphere, because of the associated monitoring communications. This is more of a normative nature, because in the operating plan there is a difference between these two measures; the tactics of applying the video-visual recording measure of persons and objects that arises and goes along with secret surveillance and monitoring is different from the tactics of implementing the tapping measure. The new Law of Criminal Procedure provides limiting the application of the special investigative measures, especially when it comes to interception of communications and breach of privacy / space for implementation of the measure of secretly monitoring and recording of persons and objects by technical means outside their home or premises designated as private.

A good example, previously mentioned, is the Italian Law of Criminal Procedure. In its section of photographs and video recordings and tone as evidence in the criminal procedure, it is provided the opportunity for their use and they are not made in accordance with the suspect or the accused, if incurred as a result of the general security measures that are taken in the public space (streets, squares, parks, school grounds and facilities and other similar public areas or in public buildings and facilities: buildings of state bodies, institutions, hospitals, schools, airports, bus and railway stations, sports stadiums and halls and other similar public facilities and related open spaces, as well as workshops, stores, banks, exchange offices, facilities for work purposes and other similar facilities in which recording is performed regularly for security reasons) photographs, or sound and video recordings made during this situations; as indicated in the criminal procedure they can be used as part of the photograph or recording, separated by application of the appropriate technical means, and photographs taken as an extract from a video recording.

For the progress of science, and above all, improvement of the technical means in their disposal to the bodies authorized to implement the operational and tactical measures, the agenda constantly questions the permitted / prohibited evidence means, that they become completely defined by the law. Therefore, the assessment of the evidentiary means, in large part must be left to the court.

Conclusion

The data, reports, documents and objects obtained by application of special investigative measures LCP under the conditions and manners specified by law, as discussed in the paper, can be used as evidence in criminal proceedings. If the application of measures does not act in accordance with the legal provisions, the data obtained cannot be base of the judicial decisions. The special investigative measures may last longer than four months for offenses for which the sentence is of at least four years, and there is a reasonable doubt that they were committed by an organized group, gang or other criminal association, the judge of previous procedure may extend the period of application for even longer than 6 months, upon a written request of the prosecutor, based on an assessment of the usefulness of the collected data by applying the measure and the reasonable expectation that the measure can still get data of interest for the procedure.

When we achieve the purposes for which certain specific investigative measures were taken, the authority that issued or continued order shall immediately order the termination of the measures. If the public prosecutor drops criminal prosecution or if the data collected by the special investigative measures have no meaning for the procedure, they will be destroyed under the supervision of the judge. It shall be kept as an official secret.

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PENAL POLICY FOR ENVIRONMENTAL CRIME IN REPUBLIC OF MACEDONIA

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Abstract

In this paper the subject of scientific observation is the penal policy concerning environmental protection in Macedonia. The paper presents theoretical basics that determine the subject of crime against the environment and towards presenting the incriminations provided in Penal Code of the Republic of Macedonia.

Data for a period of ten years is being presented, gathered from the statistical Yearbooks of the Republic of Macedonia State Statistical Office. Data regarding the number of reported, charged or convinced persons presented for a period of ten years in this paper raises questions about the most visible components of penal policy. Environmental protection is of particular importance for Macedonia and its integration into the European Union, given that environmental protection and sustainable development are high in the priorities of the Union. These values (environment, sustainable development) in the future will only gain in importance.

Keywords: *environment, penal policy, environmental crime*

Introduction

Environmental protection is a matter of international, regional and state interest. Awareness for environmental protection is not only necessary, but it is also imperative and a necessity for what is called sustainable development, optimal utilization of resources by establishing the desirable balance between economic activity and industrial development on one hand, and preserving natural equilibrium, biodiversity and space on the other. The level of Environmental protection shows significant development and expansion on all sides in the world, but in fact the real level of protection is questionable. In Macedonia the first law that gives general framework for Environmental protection was adopted in 1996. The effective Law on Environment was adopted in 2005, modified and in complaints with European standards in this area.

Environmental Crime

Criminal behavior is defined by legal acts in a particular social community hence the different communities have different determinations of what constitutes a crime.[1] Negative social behaviors that can be determined as crime are: criminal offenses (most serious forms of violations that protect values determined by law), misdemeanors (minor degree of violation of norms of the society, but at the same time serious enough to be criminalized) and deviant behavior (behavior that can often be assessed as immoral, dishonest, etc., e.g., prostitution, alcoholism, etc.). The criminal offences are undisputed as behavior that entrances into the term of crime. Understandings regarding term of crime besides Criminal offences (Criminal offences are unquestionable) include only Misdemeanors or misdemeanors and deviant behavior (widest view).

In this paper subject of scientific observation are criminal offenses that have the Environment as an object of protection. Misdemeanors are not the subject of organized and systematic approach regarding data collection in this matter from the state administrative bodies.

About the meaning of crime in the people's lives a performed survey that includes 6,043 people from 11 countries which examines the attitudes of respondents displays following results: On the question: What is the greatest danger to them for their life, with results as follows: 1.27% of people think that it is the crime, 2.15% the terrorism; 3.13% think it is health/economic uncertainty; 4.12% think that accidents/natural calamities are the greatest danger and; 5. 8% think it is the war. [2]

Hence, the attitude of most people that crime is the greatest danger to their lives shows that crime is being serious challenge for any modern state. We consider Environmental crime for the purpose of this paper as: "criminal acts that are criminalized in chapter 22 of the Criminal Code of the Republic of Macedonia and violations in the field of environmental protection provided in other regulations".[3] Environmental crime in criminology is observed separately from other forms of crime. Environmental crime can be manifested as to be highly sophisticated in certain forms, even though links can be found between environmental and organized crime.[4]

According to Interpol Environmental Crime is a violation of national or international standards for environmental protection founded on providing

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[1] Bernard., J., T., **"crime"** Encyclopedia Britannica. *Encyclopedia Britannica Ultimate Reference Suite*, Chicago: Encyclopedia Britannica, 2010.

[2] Hugh P., *Term for global security, Tabernakul, Skopje* 2009, page 11.

[3] Malis Sazdovska M., *Ecological Criminalistics*, Grafic Mak Print, Skopje 2007, page 26.

[4] Todorovič, Z., *Institucija ekološke bezbednosti,* "Zadužbina Andrejevič", Beograd 2009, str. 25, наведено според: List „Borba"od 22.02.1996 godina.

protection and environmental sustainability in the world, biodiversity protection or preservation of natural resources.[5] In Britain Environmental crime represents unlawful behavior designated as such by law. Environment is defined as everything that surrounds us. The first section of the 1990 Environmental Protection Act defines environment as: all, or any media, air, water and soil.[6] Defining terms and categories, this Act provides that pollution is: "any release of substances in any medium environment from any process that is able/has the potential to harm human or any other living organism in the environment".[7] In Britain, as in our country, all activities related to environment are not codified in one act. According to competent authorities the crime investigations related to environment are about illegal activities/actions that directly threaten the environment. Such activities include: illegal trade in wild fauna and flora; Smuggling substances that are harmful to the ozone layer (ODS); Prohibited trade with hazardous waste; illegally undeclared or unregulated fishing, and illegal logging of forests and trade on timber from such an origin.[8]

Environmental crime is a serious international problem that can directly and indirectly affect the economy, security, and even jeopardize the normal functioning of a particular state. The consequences of this kind of crime can be felt in many ways starting from a waste of resources and even human death. According to Interpol, the environmental crime of criminal perspective is characterized as a highly professional and low-risk crime. The low risk can be as a result of inappropriate location due to lack of expertise and professionalism of the services that are required to combat this type of crime, inadequate legal framework or ineffective penal policy in terms of small penalties for these perpetrators.[9] Seriousness and profitability of this type of crime often leads to a situation where the performance of these crimes depends from some other activities such as: using certain tools, fraud or forgery of documents, forging passports, corruption, bribe, possession or use of illegal weapons and other items that are smuggled, such as drugs,

[5] *Environmental Crime Programme – Strategic Plan 2009 – 2010*, Interpol, Environmental Crime Programme, page 4, available at: http://www.interpol.int/Public/EnvironmentalCrime/Manual/strategicplan.pdf (03.04.2011, 14:32).

[6] *Environmental Crime and the Courts, Sixth Report of Session 2003 – 04*, House of Commons – Environmental Audit Committee, London 12 May, 2004, page 7.

[7] Ibid, page 7.

[8] Banks, D., and others, Edited by Mary Rice, *Environmental Crime, A threat to our future*, Environmental Investigation Agency (EIA), London October 2008, page 1.

[9] *Environmental Crime Programme – Strategic Plan 2009 – 2010*, Interpol, Environmental Crime Programme, page 4, available at: http://www.interpol.int/Public/EnvironmentalCrime/Manual/strategicplan.pdf (03.04.2011, 14:40).

weapons and human beings, and even murders. Some peculiarities are being related to the Environmental crime. For example, the severity of this kind of illegal behavior may be the lowest level (throwing a cigarette butt) up to severe forms of organized crime (trade with radioactive materials). The high dark figure of this type of crime is presumed to be huge. In fact, most of unlawful behaviors in this area remain unknown to the legal - organized social response mechanisms. Regarding some Criminological foundlings according to the British experience there is even noticeable connection between environmental degradation at the local level and the proliferation of other forms and types of crime.[10] Environmental crime is the least serious as any other form of crime. The leading motive in this kind of crime is an exceptional opportunity for financial gain, being characterized by: organized networks, improperly secured state borders, irregular migration, money laundering, corruption and exploitation of disadvantaged communities.[11] Currently this type of crime is one of the most profitable forms of crime and not surprisingly, receives certain forms of organized crime. The value of this crime is difficult to be evaluated, but Interpol is assuming that only the part of human wildlife spins billions of dollars. Interpol has activities in this area, especially identifying the connection between environmental and organized crime.[12]

Legal Protection of the Environment in the Republic of Macedonia

Crime legitimates the right of punishment, talks about an improper legal type of behavior, but also refers to a real criminal event, which is being characterized as formal, abstract type of prohibited conduct.[13] The formal definition is strict and says that crime is unlawful conduct such defined by law as a criminal offense whose characteristics are determined by law.[14]

Criminal Code is codified legal act containing all illegal types of behavior defining them as criminal offences. Criminal offences cause society's institutionalized response in a form of punishment. The nature of the criminal offence is to protect some society's good estimated common

[10] *Environmental Crime and the Courts, Sixth Report of Session 2003 – 04,* House of Commons – Environmental Audit Committee, London 12 May, 2004, page 8.
[11] Banks, D., and others, Edited by Mary Rice, *Environmental Crime, A threat to our future,* Environmental Investigation Agency (EIA), London October 2008, page 2.
[12] *Assessing the Links between Organized Crime and Pollution Crimes,* Interpol, Pollution Crimes Working Group, June 2006, available at: http://www.interpol.int/Public/EnvironmentalCrime/Pollution/OrganizedCrime.pdf (03.04.2011, 18:05).
[13] Kambovski B., *Criminal Law– general part,* Kultura, Skopje 2004, page 341.
[14] Kanevcev M., *Criminal Code* – full text, with short guidelines, explanations and register of terms, 2nd August, Skopje 2010, page 13.

values. Today we can agree that Environment is being object of protection in every contemporary Law, on international and national level. Theoretical arguments regarding Environment go to whether human life is an object of protection as threatened immediate object, or it is the environment and its media (air, water, soil) are the object of protection. The Criminal Code, in Chapter XXII, refers to acts against the environment (Article 218 to 234).[15] Constitution provides protection to the environment also and the ultimate organized legal protection is provided by the Law on Environment adopted in 2005[16], being systemic law in environmental protection modified many times. Other law which protects the Environment in particular aspects is:

Article I. Law on Waste Management (Official Gazette of the Republic of Macedonia no.68/04, 107/07, 102/08, 143/08 124/10);

Article II. Law on air quality (Official Gazette of the Republic of Macedonia no.67/04 92/07 and 35/10);

Article III. Law on protection against noise in the environment (Official Gazette of the Republic of Macedonia no.79/07 and 124/10);

Article IV. Law of Nature Protection (Official Gazette of the Republic of Macedonia no.67/04 14/0684/07 and 35/10);

Article V. Law on Waters (served Gazette no.87/2008, 6/2009 and 161/2009)

Article VI. Law on Management of waste packaging (Official Gazette no.161/2009);

Previous legislation Acts cover the following areas:

1. Environment
2. Conservation of nature
3. Protection from harmful noise in the environment
4. Waste management
5. Management of packaging waste;
6. Quality of Ambient air
7. Genetically modified organisms
8. Planning
9. Water
10. Batteries and accumulators and waste batteries and accumulators.[17]

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[15] *Criminal code of the Republic of Macedonia*, (Official Gazette of the Republic of Macedonia no.19 from 30.03.2004).

[16] (Official Gazette of the Republic of Macedonia no.53/2005, 81/2005, 24/2007, 159/2008, 83/2009, 48/2010 и 124/10);

[17] Available at: http://www.moepp.gov.mk/default-MK.asp?ItemID=B22EF3F504797B4DBA1360BEBFCCE102 (09.11.2010, 00:10)

Common to them all is the protection of the environment, surroundings, or what surrounds us.

The Criminal Code of the Republic establishes the following acts as Criminal offences:

- Pollution of the environment - Article 218;
- Pollution of drinking water - Article 219;
- Production of hazardous substances for treating livestock or poultry - Article 220;
- Unethical indication veterinary assistance - Article 221;
- Transferring infectious diseases in animal and plant life - Article 222;
- Contamination of feed or water - Article 223;
- Destruction of crops by the use of harmful material - Article 224;
- Usurpation of property - Article 225;
- Illegal exploitation of mineral raw materials - Article 225 - A;
- Devastation of forests - Article 226;
- Challenging wildfire - Article 227;
- Illegal hunting - Article 228;
- Illegal fishing - Article 229;
- Endangering the environment with waste - 2 Article 30;
- Unauthorized obtain and dispose of nuclear material - Article 231;
- Importing hazardous substances in the country - Article 232;
- Animal Torture – 233;
- Serious offenses against the environment - 234;[18]

Penal Policy

Kambovski defines penal policy as scientifically based activity of the society in the prevention and repression of crime, as the practice of crime prevention, as a strategy to effectively combat against crime inspired by the legislator.[19] Manev specifies the penal policy expressed through the enactment of laws in which criminal offences are being prescribed, penalties

[18] Criminal Code ("Official Gazette of the Republic of Macedonia" no.37/1996; 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139 / 2008, 114/2009). Decisions of the Constitutional Court of the Republic of Macedonia: U.no.220/2000 from 30.05.2001, published in "Official Gazette of the Republic of Macedonia" no.48/2001; U.no.210/2001 from 06.02.2002, published "Official Gazette of the Republic of Macedonia" no.16/2002; U.no.206/2003 from 09.06.2004, published in "Official Gazette of the Republic of Macedonia" no.40/2004; U.no.228/2005 of 05.04.2004 was published in "Official Gazette of the Republic of Macedonia" no.50/2006.

[19] Kambovski B., *Criminal Law– general part*, 2nd August S-Stip, Skopje 2006, page 37.

for such crimes also, then, courts and the politics expressed through the practice of courts to apply sanctions against the perpetrators of certain crimes, taking into account the assessment of social risk of certain types of crime which seeks to make criminal law more effective. In a broader sense, the term penal policy covers leading and parole, and the policy of granting pardons.[20]

Hence, we can conclude that penal policy is a general term that covers control and suppression of crime. In this section, the authors mentioned above are interested in parts of the penal policy, especially regarding incriminations established by the Legislator (one dimension of the definition of Manev and in this paper listed as Criminal offences in the Macedonian Criminal Code). This paper also reflects to the penal policy evident through the practice of the courts provided by the Yearbooks of the State Statistical Office analyzing numbers of reported, charged and convicted persons for the period of 2000-2009.

In terms of normative regulation on the subject, several important questions can be raised, such as:

- First, environmental protection is a relatively new area and it's being subject to constant and intense evolution of criminal law.

- The first law for Environmental protection (Law on the protection and improvement of the environment) was adopted by the Parliament of the Republic of Macedonia in 1996. This Law provided the necessary assumption for protecting the environment on an organized way; this assumption also included building institutional architecture for achieving this protection;

- "Law on Environment" was adopted in 2005 and we can say that this adoption has significantly upgraded the mechanisms to protect the environment while allowing organized approach regulating many of the issues of environment, being lex generalis on this matter. This law complies with European standards in the field. Unfortunately we cannot speak for effective Environmental protection in Macedonia on this matter;

- Law on Environment is a general law (comparable in terms of criminal law that has the same role as the Law on Criminal Procedure regarding the procedural aspects of the fight against crime); numerous areas regarding Environmental protection are regulated by Special laws; Law on Environment is being lex specialis vs. lex generalis regarding in this sense;

- Bylaws regarding the regulation of these areas are adopted and this assumption is provided.

In continuation of this paper some indicators for penal policy in Macedonia for 10 years are going to be presented, which we think is

[20] Manev P., Criminal Law Lexicon, Pavel Manev, Skopje, 2005, page 407.

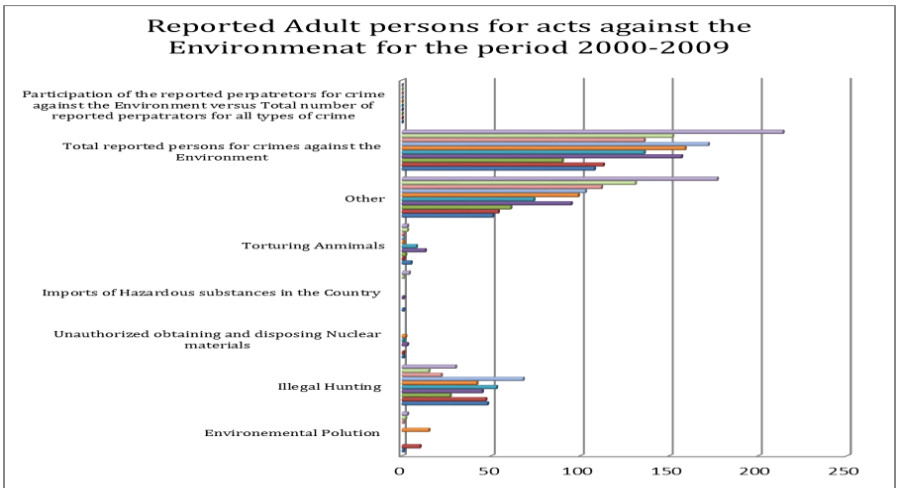
sufficient to raise some questions and provide certain data as a start of a long term organized and deepened observation on this field.

The observed period is suitable for analysis because it can be conditionally divided into two perfect halves as follows: first period, the period before and after the adoption of the Law on Environment in 2005, virtually dividing them into two ideal times. This temporal analysis allows assessment of some conclusions regarding the results or the possible changes after adopting the Law on Environment in 2005. Also, we would mention the relatively small usability of data from State Statistical Office, primarily due to inappropriate methodology for collecting them related to crime against the environment. Hence, this paper will only show the manifested forms of unlawful behavior that have been identified as such by the institutions. Complete determination of the state penal policy is a scientific approach of a much larger scale, which this paper has not covered.

However, given that such analysis in the scientific community in Macedonia are not enough actualized this is going to be contribution towards achieving the actual state on this field.

Among other things, the State Statistical Office each year publishes statistical yearbook in respect of reported, accused and convicted persons.

Table 1



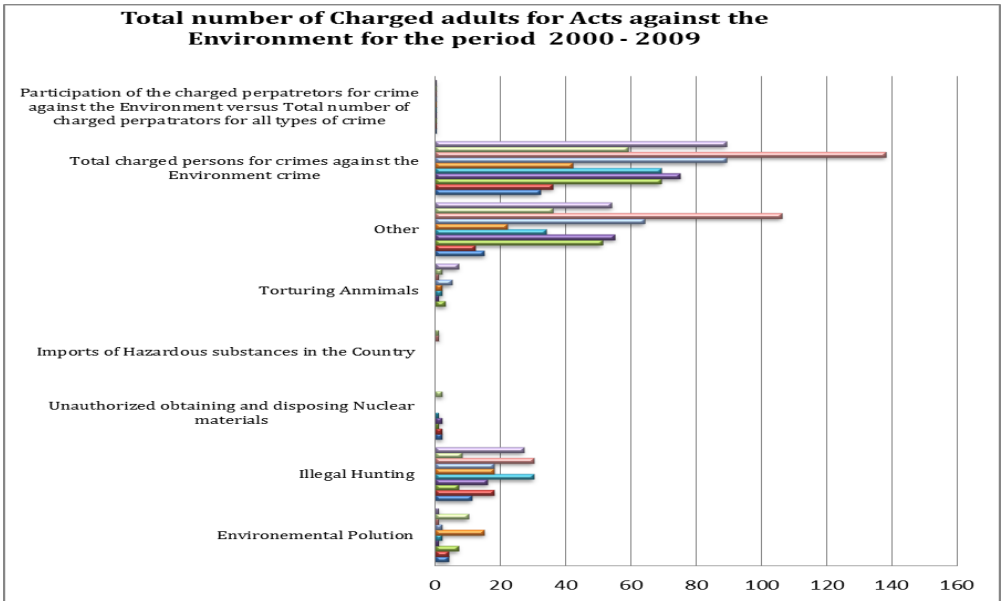
	Environemental Polution	Illegal Hunting	Unauthorized obtaining and disposing Nuclear materials	Imports of Hazardous substances in the Country	Torturing Anmimals	Other	Total reported persons for crimes against the Environment	Participation of the reported perpatretors for crime against the Environment versus Total number of reported perpatrators for all types of crime
2009	3	30		4	3	177	214	0,70%
2008	2	15		1	3	131	152	0,57%
2007	1	22			1	112	136	0,58%
2006		68			1	103	172	0,73%
2005	15	42	2		1	99	159	0,67%
2004		53	1		8	74	136	0,60%
2003		45	3	1	13	95	157	0,78%
2002		27			2	61	90	0,50%
2001	10	47	1		1	54	113	0,62%
2000	1	48	1	1	5	51	108	0,53%

Methodological framework of Statistical Yearbook of the SSO is established in a way that the indicators are divided into six groups according incrimination in the criminal code of the Republic of Macedonia: 1. Pollution of the environment; 2. Illegal hunting; 3. Unauthorized disposal of nuclear materials; 4. Entering dangerous substances in the country; 5. Animal torture; and 6. Other;

We would say that the methodological framework of SSO is inappropriate. This claim is for the reasons that at least 50% of the documented reported, charged or convinced persons are documented in the category "Other"! 177 registered persons from total 214 reported in 2009 are registered as “other”. For the observed period 2000-2009 from total 1437 reported perpetrators even 957 are registered in the category "other", which presents 66.59%, i.e. 2/3 of all reported perpetrators. Practically we do not know for what type of crime two thirds of the persons are being reported! Hence, we can talk about penal policy in relation to the total number of reported perpetrators, but with reservation in respect of specific phenomenology of crime, regarding that the most of the reported persons we do not know for what type of criminal offence are being reported.

In terms of trends of crime some conclusions can be extracted especially towards the fact that national legal response to this type of crime is constantly intensifying, but still, we would say very slowly, even getting the impression that this activity looks more as clumsy. The reasons for this situation we can find them in the mental structure of the citizens and economic situation in the country as two key indicators. Practical duplication of registered offenders in 2009 compared to 2000 is encouraging, but we would say not enough. We would say that increasing the number of registered is based on disclosure on the dark figure of crime, not on the effective increase in this type of crime.

Table 2.



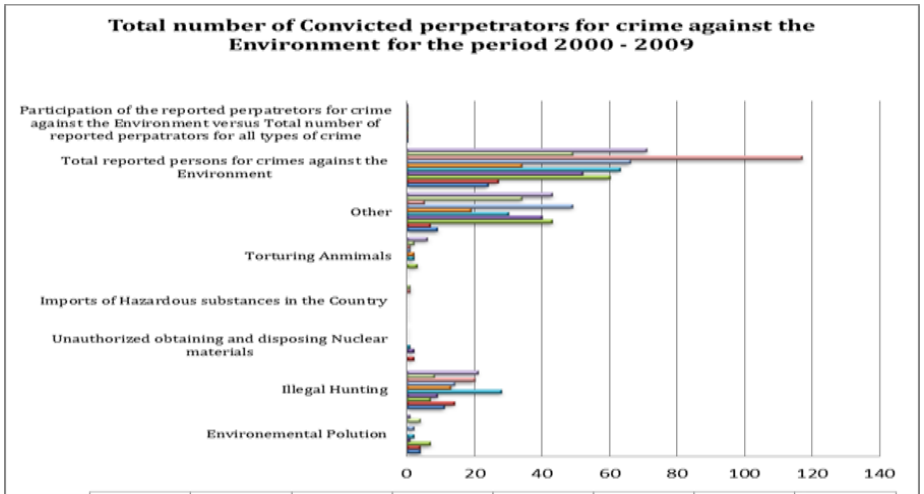
	Environemental Polution	Illegal Hunting	Unauthorized obtaining and disposing Nuclear materials	Imports of Hazardous substances in the Country	Torturing Anmimals	Other	Total charged persons for crimes against the Environment crime	Participation of the charged perpatretors for crime against the Environment versus Total number of charged perpatrators for all types of crime
2009	1	27			7	54	89	0.74%
2008	10	8	2	1	2	36	59	0.52%
2007	1	30		1	1	106	138	1.20%
2006	2	18			5	64	89	0.78%
2005	15	18			2	22	42	0.40%
2004	2	30	1		2	34	69	0.70%
2003	1	16	2		1	55	75	0.75%
2002	7	7	1		3	51	69	0.81%
2001	4	18	2			12	36	0.48%
2000	4	11	2			15	32	0.40%

Table 2 shows the structure of the number of charged persons for crimes against the environment. Regarding charged person we can say that the situation is almost identical with the reported persons, having in mind the identical participation structure of the number of accused persons in terms of total accused persons in Macedonia.

Subsequently, the share of reported and charged is almost identical for 2009.

The numbers of reported or charged persons is participating with under 1% and the maximum of 0.74% in the overall number of reported or convicted persons for the period 2000-2009. Conclusions based on comparison are going to be performed from the presented numbers in the graphic display below. In addition under identical methodological framework are presented tables of inmates for committed acts against the environment.

Table 3



	Environemental Polution	Illegal Hunting	Unauthorized obtaining and disposing Nuclear materials	Imports of Hazardous substances in the Country	Torturing Anmimals	Other	Total reported persons for crimes against the Environment	Participation of the reported perpatretors for crime against the Environment versus Total number of reported perpatrators for all types of crime
2009	1	21			6	43	71	0.72%
2008	4	8		1	2	34	49	0.51%
2007		20		1	1	5	117	1.21%
2006	2	14			1	49	66	0.71%
2005		13			2	19	34	0.38%
2004	2	28	1		2	30	63	0.77%
2003	1	9	2			40	52	0.68%
2002	7	7			3	43	60	9.40%
2001	4	14	2			7	27	0.41%
2000	4	11				9	24	0.37%

Table4

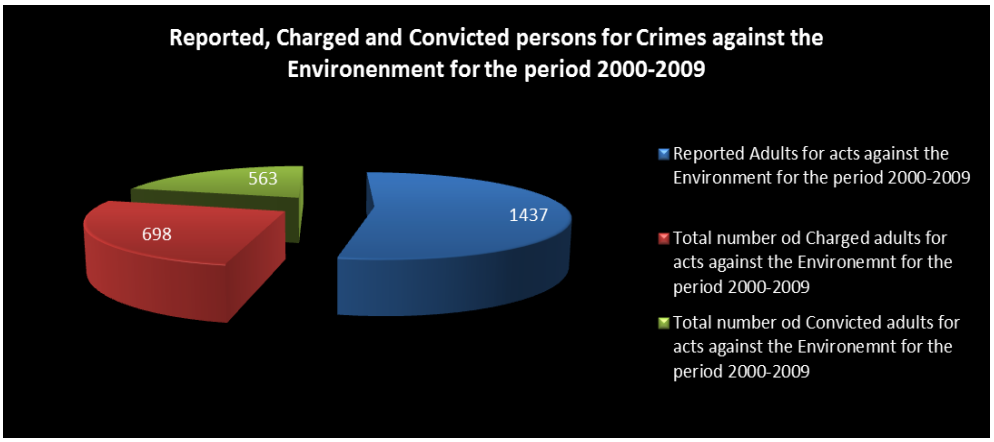
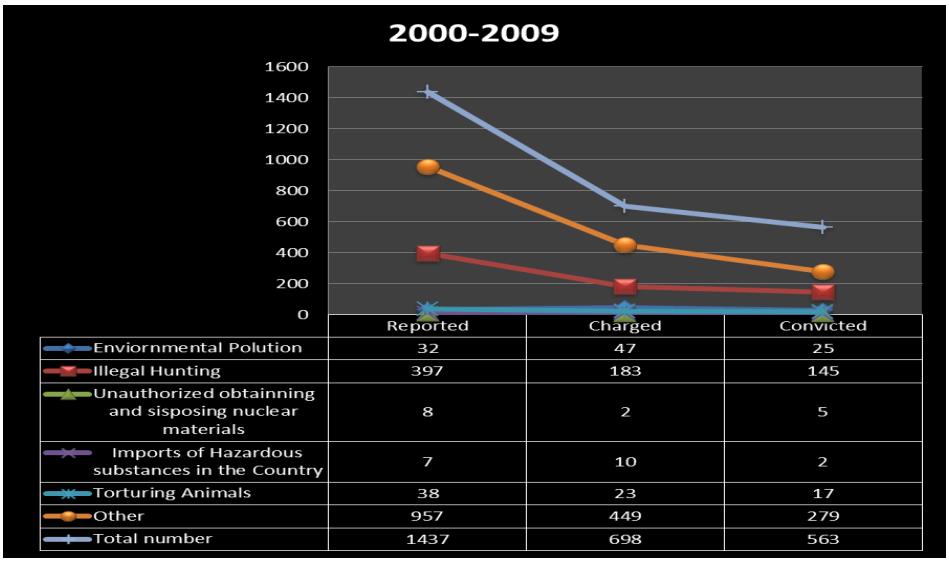


Table 4 presents the total number of reported, accused and convicted persons for crimes against the environment. The numbers shows that a third of the registered persons are being convicted. Less than half, or 48.6% of registered are charged. This condition inspires some questions and future activities in a path for extensive analysis. This analysis should include relevant institutions that are authorized for charging persons for offenses against the environment (in this case: State Inspectors for Environment, Authorized Inspectors for Environment on local level, Ministry of Interior, Customs of the Republic of Macedonia, other administrative bodies (e.g. Centre for Crisis Management and the Directorate for Protection and Rescue), public prosecutors and the third segment, the judiciary who should answer questions regarding penal policy towards acts against the Environment. Otherwise, 4/5 of the people who are charged for act against the Environment are being convicted, presenting 80.65%.

Table 5



	Reported	Charged	Convicted
Enviornmental Polution	32	47	25
Illegal Hunting	397	183	145
Unauthorized obtainning and sisposing nuclear materials	8	2	5
Imports of Hazardous substances in the Country	7	10	2
Torturing Animals	38	23	17
Other	957	449	279
Total number	1437	698	563

Concluding Observations and Proposals

Social regulation is a challenge for every society. Further challenge concerns the establishment of an optimal level of regulatory mechanisms which will provide overlap on the normative regulations and actual behavior of subjects. Generally speaking, the criminal justice system in Macedonia is characterized with human dimension. This claim is supported by the fact that almost half of inmates in prison for the past ten years have been sentenced to a suspended sentence of imprisonment.

However, in smaller or greater society there is a need of "elasticity" of the criminal legal response to a certain criminal behavior, depending on many factors such as economic condition, manner of presentation of socially relevant issues in public, tradition, the usual threshold that is generally acceptable level of acceptability of criminal behavior as "normal and common occurrence," and so on. Thus, precise set rules established by normative society - the legal system are subject to specific "manipulation" or elasticity of the institutional mechanisms that state holders have as an organized response of the society.

Certain questions regarding the penal policy depending on many factors (parts of them are mentioned above) are receiving/losing on importance. For example, penal policy in the Republic of Macedonia related to sexual abuse of children is being tighten on all segments of the penal policy system.

Regarding the Environment we would say that the situation is opposite. 25 inmates for "environmental pollution" for a period of 10 years,

145 people for illegal hunting for 10 years! 957 persons under the category "Other" for a period of 10 years are being reported. 449 of them are being charged (less than half) and 279 persons being sentenced for the observed period (practically in this category, “other” only 29% of the total number of reported persons have been convicted)!

In terms of final observations we would say that this paper is limited for its scientific approach. Nevertheless, the figures provide some inputs in terms of criminal reaction. First, the methodology of tracking crime by the State Statistical Office does not correspond with the actual situation and does not provide the essential need for accuracy in this matter. This claim is supported by the fact that under the unfortunate defined category "other" is recorded half, and sometimes two-thirds of the total number of reported, accused or convicted persons for crimes against the environment. Secondly, the number of reported, accused or convicted persons for committed offenses against the environment is continuously growing, and simultaneously increasing its share of the total number of reported, accused or convicted persons. For example 0.37% for 2000 rises to 0.72% in 2009 reaching its maximum in 2007 with a share of 1.21% in term of total number reported, charged or convicted persons. These trends show that the share of crime against the environment in the Republic of Macedonia is constantly and steadily increasing in terms of overall crime. We would say that this situation is a result of mild penal policy and mild repressive policy of Macedonia regarding this particular type of crime, taking into account the habits of the past and the necessary balance to the parameters of economic development.

Thus increasing the participation of this type of crime in relation to total number of crime according to as is a results on the reduction of the dark figure, and not his real expansion. Third, after 15 years of implementation of the Law on environment we suggest that criminology can take actions towards making empirical overview and assessment of the applicability of this regulatory mechanism, particularly assessing the institutional capacities. In this sense the capacity should be evaluated especially in terms whether penal policy in this section meets the objectives of its existence and propose certain solutions on this matter. Fourth, given that the number of inmates threefold differ from those reported, it is necessary to ask questions why this is so? Especially questions should be raised in terms of quality of documenting the behavior of the competent institutions when they are reporting persons for committed crime in this case against the environment. In this section, the State Inspectorate for Environment, municipalities, the Ministry of Internal Affairs of the Republic of Macedonia and the Customs Administration of the Republic of Macedonia have a key role.

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17. Law on Environment (Official Gazette of RM no.53/2005, 81/2005, 24/2007, 159/2008,83/2009, 48/2010 and 124/10);
18. www.interpol.int
19. www.moepp.gov.mk

AARHUS CONVENTION AND ENVIRONMENTAL JUSTICE IN REPUBLIC OF MACEDONIA

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Abstract

One of the most actual issues nowadays to which particular attention is given in the countries and the whole international community is the protection of the environment. In this aspect in order to improve the quality of the environment, numerous legal regulations are adopted initially on the international level which further states implement into their national legislation in order to improve and enhance the environment.

Emphases were made at the Aarhus Convention in terms of international law, which guarantees the right of free access to information, public participation in decision making and access to justice for things related to environmental protection. As such, this United Nation Convention is essentially connected with international human rights and fundamental constitutional rights and freedoms. Access to environmental justice at the Aarhus Convention, is based on the fundamental human right to public information and fair administrative and judicial proceedings.

In this paper detail analysis of this international act has been made, that Macedonia ratified in 1999, focusing especially on the third pillar – access to environmental justice, in direction of determining the measures and activities for its implementation in the national legislation and the measures and actions that have been taken for its real application in the Republic of Macedonia.

Keywords: *environmental justice, protection of the environment, Aarhus Convention, Republic of Macedonia*

Introduction

The issue of environmental justice is inevitably linked with the question what does the term environment mean. In that context is the understanding that the environment means water, air, land, their mutual relationship as well as the relationship between them and every other

creature.[1] There is an opinion according to which environment means the entire biosphere, and even the surrounding cosmic space, and cultural factors.[2] According to the Unique European Act from 1987 the term environment despite the natural human environment also means the overall socio-economic environment.[3]

The right to a healthy environment is a right that any human being has, which is a prerequisite for enjoying other rights, political, economical, social and cultural rights. It is not arguable that the later recognition of the right to a healthy environment for the fundamental human right is placed among the so-called third generation of human rights, despite the right of peace, the right of development and other rights that belong to the group of solidarity rights.[4] Namely, the questions arise whether the right to a healthy environment is a right in the true sense, whether its legal regulation is needed, what is its legal nature and etc.[5] According to Anthony H. Birch, a right can exist without any action by persons who have that right, or someone can have that right, without knowing about it.[6]

It can be said that the environmental justice ... evolved as a movement and concept of social sciences, with emphasis of "unfair" distribution of influence of modern society, such as exposure to risk, but also takes available resources into account - or rather their lack - for persons to whom acceptable decisions are pertaining. Environmental and social justice, by any standard implies efficient access to administrative and legal system in order to protect such rights and to apply the existing laws in the field of protection of health and environment.[7]

When we speak about the international legal framework that regulates the right to a healthy environment it should be emphasized that the number of international agreements in the field of environment is relatively small which explicitly has the right of a human to have a healthy

[1] Kiss and Shelton: Manual of European Environment Law, Cambridge, 1994, p. 4, sp: Slavoljub Popović, O problemima zaštite životne sredine – sa osvrtom na SCG, Pravni život, Časopis za pravnu teoriju i praksu, Udruženje pravnika Srbije, Beograd, 9-2004, str.385.

[2] Vuksanović, Značaj određivanja pojma čovekove okoline, Jugoslovenska revija za međunarodno pravo, br. 1-1998, str. 84'92, sp: Slavoljub Popović, O problemima zaštite životne sredine – sa osvrtom na SCG, Pravni život, Časopis za pravnu teoriju i praksu, Udruženje pravnika Srbije, Beograd, 9-2004, str.385.

[3] Slavoljub Popović, O problemima zaštite životne sredine – sa osvrtom na SCG, Pravni život, Časopis za pravnu teoriju i praksu, Udruženje pravnika Srbije, Beograd, 9-2004, str.386.

[4] Ljubomir Danailov Frckoski, International Law for Human Rights, Skopje, 2005,p.45.

[5] Renata Treneska, Right for healthy environment, Reformi, July-August, 1998, p.33

[6] Trenesla-Deskoska Renata, Constitutionalism and human rights, Faculty of Law "Justinian I", University "Ss. Cyril and Methodius", Skopje, 2006, p.55.

[7] Prof. dr Stevan Lilić, Arhuska konvencija i pristup ekološkoj pravdi u Evropskoj uniji i Srbiji, Liber anicorum Dobrosav Mitrović, Beograd, 2007, str.40.

environment. In that aspect the most common conclusions concerning the relationship between the objectives and activities in the field of environment with the human right of a healthy environment are extracted directly and often through a link with the health. Examples for that are the Vienna Convention for the Protection of the ozone layer, Climate change Convention, Stockholm Convention on long-term organic pollutants, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and other international documents that regulate human rights and explicitly formulate the right to a healthy environment such as the African Charter on Human Rights and Peoples' Rights and the Protocol to the American Convention on Human Rights.

Certainly it is possible for the meaning of this right to be extracted from other rights in a broader context which applies within the functioning of the European Court of Human Rights. However, the rights of future generations are referred to as a framework for policy concerning the environment since the Stockholm Declaration in 1972.[8]

The five conventions in the field of environment adopted by the United Nations Economic Commission for Europe (UNECE) constitute a cornerstone of international environmental policy of the UNECE and the basis for many national actions for protection of the human and his environment and support for sustainable development in the region.[9] These conventions and their associated protocols can confirm a lot of success - many UNECE member states are parties to the instruments and share their benefits.[10]

Besides regulating healthy environment as a basic human right in international documents, later the same is regulated in the national legislation

[8] Dragoljub Todić, Pravo životne sredine i humana budućnost, Pravni život, Udruženje pravnika Srbije, Beograd, 9-2006, стр.599.

[9] The Convention on Long-Range Trans boundary Air Pollution, 18 I .L.M. 1442 (1979), <http://www.unece.org/env/lrtap/welcome.html> [LRTAP Convention]; the Convention on Environmental Impact Assessment in a Transboundary Context, 30 I.L.M. 800 (1991), <http://
www.unece.org/env/eia/welcome.html> [EIA Convention]; the Convention on the Protection
and Use of Transboundary Watercourse as and International Lakes, 31 I .L.M. 1312 (1992), <http://www.unece.org/env/water/welcome.html> [Water Convention]; the Convention on the
Transboundary Effects of Industrial Accidents, 31 I .L.M. 1330 (1992), <http://www.unece.org/env/teia/welcome.htm> [IA Convention]; and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, UN D oc. E CE/CEP/43 (1998), < http://www.unece.org/env/pp/welcome.html> [Aarhus Convention]

[10] Wiek Schrage, Keith Bull and Albena Karadjova, Environmental Legal Instrument in the UNECE Region, yielaw.oxfordjournals.org (accessed on March 31, 2011)

of the countries first in the constitutional texts, and then elaborates it into the laws and bylaws. In that aspect the countries more or less accept the standards laid down in international regulation for environmental protection, but the question for discussion is whether enough measures are taken for their consistent and full implementation in protecting the values that are determined by them.

Aarhus Convention - an international instrument for protection of human rights

Convention on Access to Information, Public Participation in decision making and access to justice on environmental issues (known as the Aarhus Convention[11]) signed in the Danish city of Aarhus on 01.07.1998 is a historic step towards democratization and fulfillment of the right to healthy environment. It is an important tool in the development, maintenance and promotion of human rights. Namely, the right to a healthy environment would not represent a reality unless there is an opportunity for citizen participation in decision making related to the environment. Aarhus Convention is one of the instruments of international law which is extremely important to support this idea. The Convention was adopted by the United Nations Economic Commission for Europe.[12] The significance of this Convention is often likened to the importance which the democracy has for the political life. Democratization of decision making in matters related to the environment is certainly used as a description of the meaning which it has.[13]

Aarhus Convention is based on Principle 10 of Rio Declaration and Principle 1 of the Stockholm Declaration. The preamble states that every person has the right to live in an environment that suits his / her health and well-being, and the duty as an individual and together with others is to protect and improve the environment for the benefit of present and future generations.

The Convention is based on three pillars: enabling Access to Information, Public Participation in decision making relevant to environment and ensuring, Access to justice.

[11] Convention on Access to information, Public participation in decision making and access to justice in environmental matters, Aarhus, Denmark, 25 June 1998, http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf

[12] Maia Gachechiladze, Alexios Antypas, *The Aarhus Convention in Georgia: the long road to implementation,* Central European University [2009] 5 Env. Liability, p.190.

[13] Alexios Antypas, *The Aarhus Convention in Hungary*, Central European University [2003] 6 Env. Liability, p.199.

Public participation and access to information are recognized in Principle 10 of Rio Declaration. Namely, this Principle provides that the best solutions for the environmental issues are obtained by participation of all concerned citizens, on a relevant level.

Transparency and access to information are essential for public participation and sustainable development, for example, in order to allow the public to know which decisions are made, which decisions are planned, the alleged factual basis for the proposed and realized governmental actions and other aspects of government processes. Public participation is essential for sustainable development and good governance and in this sense is a condition for accountable and transparent government. It is also a condition for active involvement of both accountable and transparent actors such as civil society, including industrial issues, trade unions and NGOs. On national level, each individual should have appropriate access to information about the environment, which is possessed by the public authorities, including information on hazardous materials and activities in communities, as well as an opportunity to participate in decision making processes. In this regard states should facilitate and encourage public awareness and participation by making the information widely available. In this direction effective access to judicial and administrative proceedings is provided, including redress and use of legal medications.

Principle 10 combines public participation with public access to information and access to remedial procedures. According to Chapter 23 of Agenda 21, one of the fundamental prerequisites for achieving sustainable development is broad public participation in decision making. Agenda 21 (chapters 23-32, and 36) emphasizes the importance of the participation of all major groups, and special emphasis is given in Agenda 21, Rio Declaration, and the legally binding international instruments for ensuring participation in decision making of those groups that are considered politically disadvantaged, such as indigenous peoples and women. Principle 10 also supports the role of individuals in the implementation of national environmental laws and obligations before national courts and tribunals.[14]

The third pillar of the Aarhus Convention related to access to environmental justice can be defined as "an opportunity for the incorrect administrative decisions to be straighten out by a court or other independent authority established by the law"[15] Convention regarding access to justice in

[14] Training Manual on International Environmental law, United Nations Environment Programme, available at:
http://www.unep.org/environmentalgovernance/LinkClick.aspx?fileticket=VxBzgNZpi38%3D&tabid=383&mid=1024

[15] Jonas Ebbeson, op.cit. Comparative Introduction, u Jonas Ebbeson (editor), Access to Justice in Environmental Matters in the EU" Kluwer International, the Hague, 2002, p.8,

article 9 provides that each Party under its national legislation shall ensure that any person who considers that his request for access to information is ignored, wrongfully refused wholly or partly, that inadequate response is given or otherwise it is not processed in accordance with relevant provisions, has an access to a procedure of audit before a court or another independent and impartial authority (body) established by the law. Final decisions are binding for the body of public authority, which possess the information (…). Explanation is given in writing, especially when the access to information is refused (...).These provisions do not exclude the possibility of pre-audit procedure before an administrative authority and it is not limited by the requirement to have exhausted all administrative and procedural possibilities before initiated legal proceedings according to national legislation (...). In order to improve efficiency, each Party shall ensure that the public has access to information and access to procedures for administrative and judicial review and to consider the possibility of establishment of appropriate mechanisms that help to remove or reduce financial and other barriers to access to justice.[16] There are two situations. First, pursuant to Article 9, paragraph 1, any person who considers that his request for environmental information is ignored, rejected or that was not acted in accordance with the Convention access shall be enabled to the procedure of review by the court or another independent body. Second, according to Article 9, paragraph 2, each member of the public who has statutory interest or whose right has been violated shall be ensured a review procedure before a court or other independent authority because of denial of substantive and procedural legality of any decision, act or omission in respect of specific activities that may affect the environment. Despite decisions relating to particular activities the Contracting Parties shall provide access to justice in relation to other cases pertaining to other relevant provisions of the Convention (e.g. Decisions on plans and programs), "when is required by national legislation." Basically, national legislation should determine what basic interest and violation of right is, but it is an obligation to determine them in accordance with the objectives of the Convention in order to "enable the interested public wide access to justice".[17]

acc: Prof. Dr Stevan Lilić, Arhuska konvencija i pristup ekološkoj pravdi u Evropskoj uniji i Srbiji, Liber anicorum Dobrosav Mitrović, Beograd, 2007, p.405.

[16] Prof. Dr Stevan Lilić, Arhuska konvencija i pristup ekološkoj pravdi u Evropskoj uniji i Srbiji, Liber anicorum Dobrosav Mitrović, Beograd, 2007, p.404.

[17] Jonas Ebbeson, op.cit. Comparative Introduction, in Jonas Ebbeson (editor), Access to Justice in Environmental Matters in the EU" Kluwer International, the Hague, 2002, p.14, acc: Stevan Lilić, Ekološka pravda, Strani pravni život 1-3/2006, Institut za uporedno pravo, Beograd, 2007, p.198.

Aarhus Convention is essentially connected with international human rights and fundamental constitutional rights and freedoms. Access to justice under the Aarhus Convention is based on fundamental human right to a fair trial. This relationship is evident from the connection of the Aarhus Convention with other international documents pertaining to the protection of human rights, such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and in particular the European Convention on the Human Rights and Fundamental freedoms (1950).[18]

Although Aarhus Convention is not structurally and institutionally directly linked with the European Convention on Human Rights, however it can be concluded that Art. 6/1 of the European Convention on Human Rights, provides the basis that everyone in the decision making for his civil rights and obligations or a criminal charge against him, has the right to a fair and public hearing within a reasonable time before an independent and impartial court, established by the law.[19] In this aspect the European Court of Human Rights in its practice had more cases related to "environmental justice", but it provides "indirect protection"[20] through the protection of other rights and freedoms.

Republic of Macedonia and environmental justice

Republic of Macedonia as a fundamental value in the Constitution from 1991 provided protection and promotion of environment and nature. Pursuant to Article 43 from the Constitution everyone has a right to a healthy

[18] Hancock, 2003, acc: Stevan Lilic, The Aarhus Convention and access to environmental justice in the EU and Serbia, European Integration studies, Kaunas University of technology, Institute of Europe, No. 1 (2007), p.9.

[19] Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, available at: http://www.echr.coe.int/

[20] The rights that are used for the indirect protection of the environment can be divided into two groups: substantive and procedural rights, and the most used legal basis through which protection of the right to a healthy environment has been ensured are the right to life (for example the case, Guerra and Others v. Italy), the right to private and family life (for example the case of Powell and Rayner v. Great Britain) and the right to protection of property (for example the case of Fredin v. Sweaden).See more: Aleksandra Bujaroska, Bojan Bogeski, Guide-book in ecological law in Republic of Macedonia, Fondation Conrad Adenauer in Republic of Macedonia Justice and Environment. Human Rights and Environment – The Case Law of European Court of Human Rights in Environmental Cases, 2011.

environment, everyone is obliged to promote and protect the environment and nature, and the Republic provides conditions for fulfillment of the citizen's right to a healthy environment. To achieve these objectives Republic of Macedonia ratified numerous conventions relating to environmental protection.

One of them is Aarhus Convention[21] ratified in 1999 and in accordance with Art. 118 of the Constitution of the Republic of Macedonia became part of the internal legal order in the country. However, measures for its practical implementation are taken much later in October 2005 by adopting a Strategy and Action plan for implementing the Convention.[22]

Normative framework that provides protection of the environment in Macedonia comprises primarily by the Law on Environment, which is a framework law that unites the special laws on air quality, waste management, nature protection and Law on water. The Law on Environment[23] made a big step forward in creating conditions for implementation of the provisions of the Aarhus Convention and follows the obligations stipulated in the Convention for exercising the right of access to information, public participation in decision making and better access to justice issues related to the environment.[24]

Aarhus Convention in its first pillar (Article 4 and 5) provides a right of access to environmental information, which can be "passive approach" on the request of a individual, and so called "active approach", which stipulates the obligation for competent authorities to collect and publish information on its own initiative. The right of access to information in Republic of Macedonia is generally regulated by the Law on Free Access to Public Information[25], which ensures transparency and openness in the work of the holders of information, and enables natural and legal persons to exercise their right for free access to public information. The Law establishes the obligation for the holders of information (including information pertaining to

[21] On 01.07.1999, the Parliament of the Republic of Macedonia adopted the Law on Ratification of Convention on Access to Information, Public Participation in Decision-making and Access to justice in environmental matters ("Official Gazette of the Republic of Macedonia" no. 40/99)

[22] Ministry of Environment and Physical Planning, Strategy and Action Plan for implementation of the Aarhus Convention in Republic of Macedonia, p.6, Available: http://www.moepp.gov.mk/WBStorage/Files/Konecna%20Strategija-VLADA-11.2005.pdf

[23] Law on Environment ("Official Gazette of the Republic of Macedonia" no.53/2005, 81/2005, 24/2007,159/2008, 83/2009, 48/10 и 124/10, 51/2011)

[24] Ministry of Environment and Physical Planning, Strategy and Action Plan for implementation of the Aarhus Convention in Republic of Macedonia, p. 13, available at: http://www.moepp.gov.mk/WBStorage/Files/Konecna%20Strategija-VLADA-11.2005.pdf

[25] Law on Free Access to Public Information ("Official Gazette of the Republic of Macedonia" no.13/2006, 86/2008, 6/2010)

the environment) for their work to provide information to the public. According to Article 38 of the Law, employee in the holder of the information shall be exempted from liability if he/she gives protected information, if the information is of importance among other things, to prevent serious threats to health and life of people and endangering the environment.

With the ratification of the Aarhus Convention Republic of Macedonia undertook an obligation, in cases when citizens feel that the rights of access to information and participation were somehow disabled (request for information ignored or refused, inadequately answered, or unprocessed) to have the right for an access to a procedure before a court or another independent and impartial body established by the law. The Convention stipulates that citizens have access to fast procedure free of charge or at very low prices. In addition, authorities should inform the public and civil associations for an opportunity to seek legal assistance under these conditions.[26] Despite the competent authorities that are obliged to take measures according to legislation in this field there is one more institution that also acts in certain cases. The institution Ombudsman of the Republic of Macedonia has legal authority to act in cases where the right to a healthy environment has been violated by competent authorities, in order to determine the existence of violations of rights as a result of not acting to prevent the phenomenon that lead to pollution of the environment, not acting to prevent harmful noise, not taking inspection over the application of technological measures to protect air and water pollution, protection of waste and, etc. If we analyze previous experience of the Ombudsman in this field we can conclude that citizens rarely reported environmental contamination despite that it is directly related to their right to live in a healthy environment. In order to contribute for raising awareness of the citizens about their right to live in healthy environment the Ombudsman of the Republic of Macedonia in 2012, conducts a campaign together with the NGOs titled "You have a right to an environmental justice", which is a part of the Project "Green Justice for Republic of Macedonia".[27]

In Republic of Macedonia environmental protection is regulated and its legal protection is provided from many aspects.

Thus, protection of environment by criminal law is based on the concept that the environment is protected wealth *per se*. The basic principle of criminal law is the principle of subjective responsibility, i.e. liability based on guilt. In this regard, for a number of prohibitions related to the protection

[26] Handbook for public participation in decision making in field of environment, Ana Colovic, April 2006, Available at:
http://www.moepp.gov.mk/WBStorage/Files/Priracnik%20web.pdf
[27] More on: www.ombudsman.mk

of the environment criminal sanctions are predicted.[28] Pursuant to Penal Code[29] Chapter twenty-second (Articles 218 to 234) crimes against environment and nature are provided, i.e. criminal sanctions and actions that constitute the following offenses**:** Pollution of the environment and nature, Pollution of drinking water, Production of harmful products for treating livestock or poultry, Unscrupulous providing of veterinary assistance, Transmitting infectious diseases among animal and plant life, Pollution of livestock fodder or water, Destruction of crops by using harmful matters, Usurpation of real estate, Unlawful exploitation of minerals, Devastation of forests, Causing forest fire, Unlawful hunt, Unlawful fishing, Endangering of the environment and the nature with waste material, Unauthorized procurement and possession of nuclear materials, Bringing dangerous materials into the country, Torturing animals.

If we analyze the statistical data[30] for reported and charged adults for crimes committed against the environment during the period from 2000-2009 several things can be concluded. First, the participation of reported perpetrators of crimes against the environment in the total reported perpetrators is minimal and ranges from 0.53% in 2000, 0.78% in 2003, 0.73% in 2006 to 0.70% in 2009. The same applies to the participation of adults charged for crimes committed against the environment in the period 2000-2009, where participation is 0.40% in 2000, 0.75% in 2003, 0.78% in 2006 and 0.74% in 2009. Is the same case with the participation of adults convicted of crimes committed against the environment in the period 2000-2009, where participation is 0.37% in 2000, 0,68% in 2003, 0.71% in 2006 and 0.72% in 2009. Second, it can be noticed that there is some inconsistency and unclear situation in keeping records. Namely, the records are kept for the following offences: pollution of the environment, unlawful hunt, unauthorized procurement and possession of nuclear materials, bringing dangerous materials into the country, torturing animals.

Quite unclear is predicting of the section "other" that leads to confusion while identifying which actions are meant under it. This especially

[28] Stevan Lilic, Instruments of Environmental justice, Facta Universitatis, Law and Politics Vol. 9, No.1, 2011, p.42

[29] Criminal Code ("Official Gazette of the Republic of Macedonia" no.37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008). Decisions of the Constitutional Court of the Republic of Macedonia: no.220/2000 from 30.05.2001, published in "Official Gazette of the Republic of Macedonia", no.48/2001; no.210/2001 from 06.02.2002, published in "Official Gazette of the Republic of Macedonia", no.16/2002; no.206/2003 from 09.06.2004, published in "Official Gazette of the Republic of Macedonia" no.40/2004; no.228/2005 from 05.04.2004, published in "Official Gazette of the Republic of Macedonia" no.50/2006.

[30] Source: State Statistical Office, (www.stat.gov.mk)

consider the fact that in section "other", the highest number of reported,[31] accused[32] and convicted[33] adults for crimes committed during 2000-2009 are recorded.

When we talk about inspection in the field of the environment it should be noted that that is a special kind of administrative supervision. The inspection is a special form of administrative supervision, which is accomplished by direct insight into the appropriate legal and factual situation.[34]

In connection with the inspection supervision in the field of environment first we should point out the Recommendation of the European Parliament and the Council of Europe for minimum criteria for environmental inspections in the Member States from 2001.[35] As basic principles that are provided by the Recommendation are: preservation of inspection responsibility in the Member States, retaining of certain national structures in Member States and not repealing regulations of other inspections. In addition pursuant to the Recommendation environmental inspection means activity which involves checking and promoting compliance of the activities of controlled installations with requirements in the laws, directives, permits, monitoring the impact of the controlled installation in the environment.

According to the Law on Organization and Operation of the State Administration,[36] inspection supervision is supervision over the implementation and enforcement of laws and other regulations by state authorities, public enterprises, companies, institutions, individuals and legal entities.

Inspection in Republic of Macedonia is regulated also by the Law on inspection[37], which as a reform law aims to codify material for inspection in

[31] Reported adults for crimes committed during the period 2000-2009, in section "other" 51 from a total of 108 in 2000, 95 from 157 in 2003, 103 from 172 in 2006 and 177 from 214 in 2009)

[32] Adults charged for crimes committed during the period 2000-2009 in section "other" 15 from 32 in 2000, 55 from 75 in 2003, 64 from 89 in 2006 and 54 from 89 in 2009.

[33] Adults sentenced for crimes committed during the period 2000-2009 in the section "other" 9 from 24 in 2000, 40 from 52 in 2003, 49 from 66 in 2006 and 43 from 71 in 2009.

[34] Đorđije Blažić, Prilog teoriji o inspekcijskom nadzoru, Pravni život, no.9 1995; Đorđije Blažić, Inspekcije, Podgorica, 2000, acc: Prof. Dr Stevan Lilić, Prof. Dr. Predrag Dimitrijević, Prof. Dr. Milan Marković, Upravno pravo, Beograd, 2004, p.363

[35] Recommendation of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States, 2001/331/EC (Official Journal of the European Communities L118.41 27.04.2001)

[36] Law on Organization and Operation of the State Administration ("Official Gazette of the Republic of Macedonia" no.58/2000, 44/2002, 82/2008 и 167/10, 51/2011)

[37] Law on inspection ("Official Gazette of the Republic of Macedonia" no.50/2010, 162/2010, 157/2011)

general, then, to give priority to the repressive function of the inspection rather than to preventive function and to ensure effective and efficient operation of inspection bodies.[38] Law on environment as a general regulation that regulates the protection of the environment specifically regulates the inspection supervision. According to the regulation supervision over the enforcement of the Law on environment and regulations adopted pursuant to it shall be performed by a state body responsible for the environment. Inspection supervision over the enforcement of the Law on environment and regulations adopted pursuant to it shall be performed by the State Environmental Inspectorate[39], a body within the Ministry of Environment and Physical Planning. State Environmental Inspectorate performs inspection by state inspectors for environment and state inspectors for protection of nature.

If there are matters specified in the Law on Environment, which are in competence of the municipality, the City of Skopje and municipalities into the City of Skopje inspection supervision is performed by authorized inspectors for environment in the municipality, authorized inspectors for environment in the City of Skopje and authorized inspectors for environment in the municipalities of the City of Skopje. Regarding the application of the Law on environment regarding the trade in products, semi-products, raw material, chemical substances and packaging, as well as the labeling of products and packaging containing information on the environment impacts, inspection supervision is performed by the State Market Inspectorate, State Sanitary and Health Inspectorate, Phytosanitary Administration and State Inspectorate of Agriculture. If it is about the enforcement of the Law regarding the trade in products, semi-products, and raw materials intended for use by man for feeding and drinking and their packaging, as well as the labeling of products and packaging containing information on the environment impacts, inspection supervision is performed by the Food Directorate through Food Inspectors.

If we analyze the functioning of the State Inspectorate for the environment in the period 2007-2010 some increase can be concluded in the number of proceedings and adopted acts in administrative procedure. Namely, compared to 2009 and 2008 in 2010 the number of actions taken and acts adopted in administrative procedure is increased by 30%, and

[38] Др Искра Акимовска Малетић, Инспекциски надзор у области заштита животне средине у законодавству Републике Македоније, Зборник радова Правног факултета у Нишу, Тематски број посвећен Славољубу Поповићу, Ниш, 2011

[39] The State Environmental Inspectorate is managed by a manager. Department for inspection supervision is functioning within the Inspectorate, with state inspectors for environment and state inspectors for protection of nature and the Department which coordinates the affairs of the Inspectorate.

compared with 2008 the number of proceedings and adopted acts in administrative procedure in 2009 is increased by 20%. During 2007 the State Inspectorate for Environment acted on a total of 1,529 cases and prepared a total of 1,190 Minutes with conclusion, adopted 240 Decisions that orders /prohibits certain activities, submitted 19 requests for initiating misdemeanor proceedings and submitted 5 requests for initiating criminal proceedings, prepared 8 conclusions in order to stop the procedure and were submitted a total of 277 notifications/requests. During 2008 the State Environmental Inspectorate acted on a total of 1,394 cases and prepared a total of 1,013 Minutes with conclusions, adopted 267 Decisions that orders /prohibits certain activities, submitted 39 applications for the initiation of misdemeanor proceedings to the basic courts and misdemeanor Commission within the Ministry for Environment and Physical planning, submitted 18 requests for initiation of criminal proceedings to the competent courts. 7 conclusions for ending the procedure were submitted, and a total of 296 notifications/requests. Starting from September 15, 2008 when the application of the payment orders/fines began, 65 payment orders (warehouses for secondary raw material) were prepared.[40] During 2009, the State Environmental Inspectorate acted in more than 1,600 cases and prepared a total of 1,394 Minutes with conclusions for certain conditions when performing direct onsite inspection, in administrative proceedings adopted 329 Decisions with orders or prohibitions for certain activities of the subjects of inspection, submitted 48 requests for initiation of misdemeanor proceedings, prepared 26 payment orders-fine in the amount of 35,000 euros. Despite requests for misdemeanor proceedings 6 requests for initiating criminal proceedings were submitted. Total of 285 notifications / requests to the various legal entities and individuals were submitted.[41] During 2010 the State Environmental Inspectorate acted on 3,049 cases and prepared a total of 2,899 Minutes with conclusions for certain conditions when performing direct onsite inspection, in administrative proceedings brought 584 Decisions that ordered or prohibited certain activities of the subjects of inspections, submitted 26 requests for initiation of misdemeanor proceedings. Despite requests for misdemeanor proceedings 4 applications for initiating criminal proceedings before the competent courts were submitted. A total of 82

[40] Ministry of Environment and Physical Planning, State Environmental Inspectorate, Annual Report on inspection supervision for implementation of measures for environmental protection, January 2009.

[41] Ministry of Environment and Physical Planning, State Environmental Inspectorate, Annual Report on inspection supervision for implementation of measures for environmental protection, January 2010.

notifications / requests to various legal entities and individuals were submitted.[42]

It should be noted that the State Inspectorate for Environment since 2006 is a full member of the Network of environmental inspectorates of the European Union called IMPEL[43]. Also the Inspectorate is involved in the functioning of ECENA as a Network established for strengthening the capacity of the inspection.[44]

Instead of conclusion

Republic of Macedonia provides legal protection of the environment through the enactment of comprehensive legislation in the field of environmental protection and ratification of numerous international documents, which thereby become part of domestic legal order. With ratification of the Aarhus Convention Republic of Macedonia is obliged to take all necessary measures (legislative, regulatory and other), including measures for the realization of rights to information, public participation and access to justice. While noting that the principles of the Convention are fully transposed in the Law on environment, however, following questions are asked. First, whether at legislative level everything is taken for full implementation of the Aarhus Convention, and further, whether it provides a consistent application of the Convention.

Progress reports for the Republic of Macedonia prepared by the European Commission are in that direction too. The Report from 2011[45] notes some progress in transposing the acquis of the European Union into

[42] Ministry of Environment and Physical Planning, State Environmental Inspectorate, Annual Report on inspection supervision for implementation of measures for environmental protection, January 2011.

[43] European Union Network for the Implementation and Enforcement of Environmental Law is the network of the European Union for the implementation and enforcement of environmental law, which is an international association of authorities in the field of environment consists of member states of the European Union, the three candidate countries for EU membership among them Macedonia, Iceland and Norway. In 1999 Handbook (IMPEL Reference Book for Environmental Inspection) has been prepared, which is intended to be used as a tool by environmental inspectors in the European Union.

[44] Environmental Compliance and Enforcement Network for Accession (ECENA) – network established for countries that are in the process of joining the European Union, members are Macedonia, Serbia, Albania, Bosnia and Herzegovina, Croatia, Montenegro, Bulgaria, Romania, Turkey, and a member is European Commission.

[45] European Commission, Brussels, 12.10.2011, SEC(2011) 1203 final, Commission staff working paper the Former Yugoslav Republic of Macedonia, 2011 Progress Report, available on:

http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mk_rapport_2011_en.pdf

national legislation and ratification of multilateral environmental agreements. Limited progress made in aligning with the acquis for climate change is noted. It is important to emphasize the need to undertake significant efforts in order to implement national legislation, particularly in water management, control of industrial pollution and climate change.

It is noted that administrative capacities, at central and local level in all sectors are still weak. In this direction much more efforts should be made to achieve the required standards for environmental protection in terms of achievement among other and to the environmental justice in Republic of Macedonia, which can be achieved only with mutual and direct involvement of public authorities and NGO sector and all stakeholders in society.

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22. Ministry of Environment and Physical Planning, State Environmental Inspectorate, Annual Report on inspection supervision for implementation of measures for environmental protection, January 2010
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30. European Commission, Brussels, 12.10.2011, SEC(2011) 1203 final, Commission staff working paper the Former Yugoslav Republic of Macedonia, 2011 Progress Report,
31. Convention on Access to information, Public participation in decision making and access to justice in environmental matters, Aarhus, Denmark, 25 June 1998,
32. Convention for the Protection of Human Rights and Fundamental Freedoms, 1950,

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MEDIA INFLUENCE ON FEAR OF CRIME

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Abstract

Criminal events are the main subject of media interest in recent decades. Media (print or electronic) provide influential information and represent one of the most important sources of information on crime for the majority of the population. Considering this fact, this paper sets out and examines the question whether the coverage of programs and news in the media with information from the sensational character, as well as images and scenes of violent crimes create fear of crime! The literature considers that repeated exposure to information from criminal events and post effects of such events as a whole can have a strong power of influence on people.

Often the media consciously choose to present the criminal victimizations of specific groups of people, sometimes exaggerate the frequency of certain crimes in order to take attention and increase viewing by the audience. However, the impact of media on fear of crime and the people perceptions of crime depends on many circumstances, including: hours spent on watching television (local or national), the type of media (printed or electronic), the characteristics of messages and audiences, whether the victim was randomly selected, how much the criminal event is sensational, the manner of presentation and writing of information, the credibility of the source that presents the story, viewers prior victimization or their vulnerability, whether the reporting include the motive of the crime event and more other circumstances.

Furthermore, this paper pose and elaborate a very important question about what are the reasons behind the sensational manner of reporting and presentation of criminal events by the media.

Keywords: *media, fear of crime, crime*

Introduction

The members of society have numerous sources of information on which base they estimate their risk of victimization. Information from

friends, neighbors or social groups are important as is the direct victimization, but the media, print or electronic, are considered that provide most powerful information about crime for the majority of the population. Although not everyone was a victim of crime, but everyone can meet information about criminal acts. Those who were lucky not to be victimized or to know someone who was victimized, certainly read, seen or heard certain news, film, television or radio stories about those who were victimized. From these point of view question arises whether repeated exposure to crime stories and post effects of such events as a whole might have direct or indirect influence on people. Studies about the effect that the media have on the public refer to two interrelated questions. Does coverage of programs and news in the media with sensational and violent crimes create fear among the public and whether there is relationship between certain characteristics of the media and fear of crime?

Crime as a Subject in the Media

Criminal events are the main subject of the media in recent decades. News on television and in newspapers highlights sensational aspects of the murders, the brutal assaults or sexual offenses. Today, pop culture oriented mass media overcomes the everyday life of people. In the past, there were mass media and there was a reality, but now popular culture is everything, even reality and crime are presented as entertainment programs.[1] The media not always have shown such interest for crime. Interest for crime has numerously been increased for the last decades. A research conducted in Canada in 1988, during which more than 800 newspaper articles have been analyzed, has shown that more than half of them have been about violent crime, and another half about murders. This shows disproportionality among the official statistics and the newspapers presentation of it. The same conclusions were found in similar researches in Europe. In Scotland has been determined that 6.5 % of the news in the newspapers are crime related while 46% are related to violent and sexual criminal acts, besides official statistics which show that that kind of criminal offenses consists only 2.4% of reported criminal acts. The same pattern can be found in Birmingham, England. Smith found out that besides the fact that personal criminal acts are only 5.4 % from total number of reported criminal acts they are consisted/are represented in 72.7 % from the total number of news reports. According Kivivuori (2002) from Finland the intensity of violence on tabloid headlines

[1] Altheide, D., Mass media, crime, and the discourse of fear" p.2 http://www.iasc-culture.org/hhr_archives/fear/5.3caltheide.pdf from 20.11.2010.

has dramatically increased in the period of 1980-1997 but according official statistics, they have noticed a reduction of crime rate but the public fear of crime has been increased. Also Heber emphasizes that the media in Sweden create picture that the crime is more brutal and is increasing.[2] Till now in Republic of Macedonia a deeper research haven't been conducted about how much per cent of programs of the media consist information related to crime events or news that content some information about crime. But according the research of Macedonian Institute for media and Institute for democracy in 2007, through content analysis of the news presented in two media (one private A1 and one public MTV1), have been determined that beyond the fact that the highest percentage of the news are related to politics and economy, around 13% of them are about other news but most of them are news about criminal activities and accidents. The research report stated that the sensational and "shock" news related to crime are often represented in the first five minutes of prime time news or announcement. This confirms that with this percentage of information related to crime and accidents in the media news, especially those with sensational character, the Republic of Macedonia follows the negative trend present in the region and in the world of growing percentage of crime as theme in print and electronic media and from here the possibility of distortion of image among public about crime in the country.[3]

The Media and Their Influence on Fear of Crime

Knowing that the media generally report about sensational criminal acts, the researchers study this behavior pattern of the media and the effects on citizens perceptions and attitudes. However in literature yet its impact remains uncertain.[4] According certain researches the relationship between media and fear of crime is undetermined, but the tendency of media to present a huge number of violent criminal acts or sexual offenses lead the researchers to argue that the portrayal of crime by the media "disturb" public opinion about the presence and the frequency of criminal activities. Yet there are some claims that individuals interpret media in accordance with their personal perceptions on way to detect the sensationally and/ or selectively forcing their views towards crime.[5]

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[2] Ruuskanen, E., Jokinen, A., Yordanova M., Markov D., Ilcheva M. "Indicators of public confidence in criminal justice for policy assesment", European Institute for Crime Prevention and Control, Criminal Justice Press, Helsinki, 2009, p. 64.

[3] (http://www.netpress.com.mk/mk/vest.asp?id=14151&kategorija=7).

[4] Howard, J., "*Fear of crime*" Society of Alberta, 1999, p.12.

[5] National Crime Council "Fear of Crime in Ireland and its Impact on Quality of Life- A Report" published by the Department of Justice, Equality and Law Reform, 2009, p.8.

In general when is researched such a complex issue as the impact of media on fear of crime and certain perceptions of the public, it depends from many circumstances. Despite the circumstances related to *what kind of crime is reporting, the types of victims and the consequences arising from victimization or whether the victim in the event was chosen randomly*, Tom Roger cites other factors that may modulate the relationship between media and fear of crime including: *the type of medium, the sensationalism of crime, whether it is a local crime or is about crime on a national level, the credibility of the resource for the criminal event and how sensational is the presentation of crime and writing style*.[6] To all this we can add some specific characteristics of the viewers, listeners or readers, how many hours per day they devote to watching television, listening to the radio or reading newspapers through which they inform themselves about criminal events and more.

There are certain opinions that ***not all types of media have the same impact on the level of fear of crime.*** Certain research that has studied the effect of newspapers on the fear of crime, found that crime articles in newspapers can significantly contribute to the creation of fear of crime (Liska & Baccaglini 1990 and Perkins & Taylor 1996). Other studies which have compared the effects of the reports in print media and electronic media have received contradictory results with previous studies, they found out that newspapers have no effect on fear of crime. Chiricos, Eschholz and Gertz (1997) based on the research conducted in Florida on 2,096 respondents, found that there is significant relationship between watching the news on television and listening the news on the radio and fear of crime, but such a connection wasn't found between fear and newspapers.[7] British Crime Survey (2003) again showed that significantly more readers of tabloids said that they are worried about violent crime than readers of daily newspapers, while Liska and Baccaglini (1990) and Heath (1984) found a positive relationship between newspapers and radio news and fear of crime.[8] In Great Britain was found that readers of tabloid newspapers have higher levels of fear of crime than readers of broadsheet.[9] This difference can be attributed to sensational news in tabloid newspapers while in broadsheet newspapers less

[6] Rogers, T. "Towards and analytical framework on fear of crime and it relationship to print media reportage", from 10.08.2010 www.shef.ac.uk/content/1/c6/10/39/11/8rogers.pdf, p.4.
[7] Erdonmez, E., "The effect of media on citizens' fear of crime in Turkey", UNIVERSITY OF NORTH TEXAS, 2009, p.32.
[8] Wynne, T., "*An investigation into the fear of crime: Is there a link between the fear of crime and the likelihood of victimization*?", p.16 www. internetjournalofcriminology.com, from 20.12.2010.
[9] Wattanasin, K. "Fear of crime among people in Klong Toey Slum", Mahidol University, 2003, p.67.

factual and less dramatic crime stories are represented.[10] However, general conclusion can be made regarding the relationship between the type of the media and fear of crime because different studies in different temporal and spatial frames give different results. But when analyzing the impact of the type of media should be taken into account and how much people see, hear or read about criminal events. Gerbner et al. (1980) found out ***that for individuals who watch many hours of TV there is a greater possibility to feel more threatened by crime***, to believe that crime is more prevalent than is statistically recorded and to take more precautions regarding crime. The research of Gerbner et al showed that the portrait of crime on television is significantly more violent, random and dangerous than the real world. So those people who devote considerable time watching TV is considered to be influenced by the effect of "mean world" syndrome that they internalize these images and develop a terrible picture for the reality.[11] The relationship of the number of hours of television watching and fear of crime is confirmed in a research by Shanahan and Morgan (1999) who noted that 52% of those labeled as "heavy viewers" or who devote four or more hours of watching television are worried from the danger of being victimized, whereas 39% of those labeled as "light viewers" i.e. those who watch TV less than 4 hours said that they might be victimized.[12]

Certain studies link the number of hours spent on watching television, the impact of crime dramas on television and the effects of the news that cover news ***about local crime and crime on national level***.[13] Indeed, certain studies show that reading the news about crime in the newspapers generate fear of crime, *especially when reports are related to local crime and if in the event the victim was randomly chosen*. The research of Heath and Gilbert (1996) established that the relationship between media presentations about crime and fear dependens from the characteristics of messages and audiences. The presentation of a number of crime news from the local area causes increased fear among the growing number of audiences, (Brillon, 1987; Sheley and Ashkins, 1981), while the presentation of a number of criminal news not from a local area has adversely effect because the local viewers are feeling safer in comparison with other areas (Liska and

[10] Grabosky, P.N. "Fear of crime and fear reduction strategies", Trend issues in crime and criminal justice system, Australian Institute of criminology, Canberra, no. 44 http://www.aic.gov.au, from 03.03.2010, p.20.

[11] Dowler, K. "Media consumption and public attitudes toward crime and Justice: the relationship between fear of crime, punitive attitudes, and perceived police effectiveness", *Journal of Criminal Justice and Popular Culture*, 10 (2): 109-126, 2003, p.111.

[12] Erdonmez, E. "The effect of media on citizens' fear of crime in Turkey", UNIVERSITY OF NORTH TEXAS, 2009, p.13.

[13] Sanderson, J., " Fear of crime", p.9
http://www.police.qld.gov.au/resources/internet/programs/seniors/documents/appendixa.pdf.

Baccaglini, 1990). Heath (1984) found out that news about local crime affect on rising of level of fear of crime even more when the news are shown on sensational way and if the victim was randomly selected from the offender.[14] Chiricos et al. (2000) and Romeo et al.(2003) confirmed that there is a positive relationship between reporting local news and fear of crime but did not find the link when it comes to national news. The effect of local news on fear of crime is stronger for residents of areas that have higher crime and those who have had experience with victimization. It is not surprising fact the national news about crime that occur out of the people's town is associated with lower levels of fear because this strengthens the view that while crime is a problem somewhere else the crime is not increased in their area.[15] Winkel and Vrij stated that not geographical but psychological proximity increases the fear of crime in terms of hypothesis- the extent to which the reader identifies with the victim and the extent to which crime is described similar to the form of crime that someone is afraid of.[16] Lasthuizen et al. (2005) suggest that one single incident of violence which has extensive media coverage may be enough to effect on the public feeling of safety.[17] Other circumstance that can be added to the factor whether it comes to news from their local area or news from the national level is whether the members of the audience have characteristics that make them vulnerable to crime. Winkel & Vrij (1990) found out that women who read newspaper articles about rape provoke higher levels of fear of rape and these effects were greater if the stories in the media referred to rape in the local community.[18] The Haghighi & Sorensen research (1996) for national opinion about crime and justice established that the attention of local media for crime was significantly related to fear of sexual assault, robbery, beating, or shooting or being victim of a robbery while they are at home but did not established

[14] Callanan, V. J., "Feeding the Fear of Crime Crime-related Media and Support for Three Strikes", LFB Scholarly Publishing LLC, New York, 2005, p.81.

[15] Sanderson, J., "Fear of crime", p.9 http://www.police.qld.gov.au/resources/internet/programs/seniors/documents/appendixa.pdf.

[16] Van Beek Gert, "Fear of crime-feeling un(safe) and (in)secure in the risk society", pp. 7-8 www.fearofcrime.com, from 10.10.2009.

[17] Meško, G. Fallshore, M. Muratbegović, E.,"*Sources of Fear of Crime in Two Post-socialist Countries – Searching for explanations",* Sociology. Mintis iv veiksmas, 2007/(20), p.81 www.ku.lt/sociologija/files/2007_nr.02.70-91.pdf, from 20.02.2010

[18] Callanan, V. J., "Feeding the Fear of Crime Crime-related Media and Support for Three Strikes", LFB Scholarly Publishing LLC, New York, 2005, p.81.

connection between the fear of stealing a car, murder or being robbed until they are not at home.[19]

The degree of fear of crime also increases when the media lead campaign ***for victimization of specific groups*** such as the elderly. In that case, people tend to assume that members of these groups have an increased degree of risk of victimization. Thus, for example, young men are social group which has the highest risk from being victims of assault (usually by other young men), but unless there are serious consequences from physical attack, that story would not be considered worthy for attention by the media and even when is reporting it would be quite short. On the other hand, older women are typical social group which has the lowest risk of physical assault, but if some elderly woman was a victim of an assault, the media would like to visit her in the hospital and to present the whole event with sensational posts.[20]

Displacement of perception about crime characteristics can be noticed in the example when the media is "moving" the people's fear from known to unknown persons. For example, according to official statistics can be noticed that there is less risk for women to be killed by unknown men, because a greater percentage of them are victims of violence from man known to them. So the question is whether women should be advised to protect themselves![21] But despite that, the media are trying to create such a perception among people that in any time women or men can be killed by an unknown person on the street, what means that the danger is all around us.

It is not a surprise, but *the media have interest of reporting the most important stories, so often the focus of attention is on the stories that are associated with a sensational crime and that carry most serious consequences for victims* (severe physical injury or death). The media reports for crime are often focused on the most serious and sensational criminal acts on which way reporters initiate so-called "crime waves". It is thought that this kind of crimes are most valuable news since they are less common in everyday life. So, consequently the media tend to provide disproportionately more information about the most violent criminal acts, leading the public to the belief that this type of criminal acts are much more common than they really are. ***Sometimes the media lead "campaign" that focus on exaggerating the frequency of certain types of crime*** and for that reason many people can have a perception that they are on higher risk of becoming

[19] Dowler, K "Media consumption and public attitudes toward crime and Justice: the relationship between fear of crime, punitive attitudes, and perceived police effectiveness", Journal of Criminal Justice and Popular Culture, 10 (2): 109-126, 2003, p.110.
[20] Schneider, R & Kitchen, T. "Planning for crime prevention", Routledge, London, 2004, p.265.
[21] Waykes, M. "News, crime and culture", Pluto Press, London, 200, p.211.

a victim of these types of criminal acts.[22] According to Baumer media reports of crime they tend to exaggerate serious crimes or those associated with personal violence.[23] To all of this Heath (1984) adds that if ***the presentation of crime does not contain information on the possible motive for the crime***, which also can cause higher levels of fear than those presentations where the motive is unknown. Although he believes that some impact has the ***credibility of the source, that gives information about crime***. Thus, the study of Koomen et al. (2000) confirmed that readers who have been given a article for robbery and have been told that it is published in a newspaper with high credibility reported higher levels of fear than those who have been told that the source is less credible. They came to the conclusion that the credibility of the source can effect on attitudes, so if readers know that information have been received by such newspaper, then they will understand this information is more serious.[24]

Within the research "The feeling of safety among the citizens of Skopje" which was conducted in 2009 by a project team of Faculty of Security, within the questionnaire, certain question were related to from where participants receive the information about crime and how often they watch local or national television, listen to the radio, read newspapers or read on internet. But, results of the analysis have shown that the type of media or how often they watch TV or read newspapers or listen to radio are not connected with the fear of crime.

However, what is important for further analysis of the influence of media on fear of crime, the focus of attention should not be solely focused on quantitative analysis but also to insist on conducting deep interviews with respondents with aim to determine whether media directly or on any other way have influence on people's perceptions, attitudes and behavior and especially on fear of crime among individuals.

Instead of Conclusion

Based on all previously exposed, can arise the question why the media consciously create fear among people! *Such behavior of the media can be a result from several reasons*. In terms of the plurality of electronic media and fighting with competition, *programs coverage with sensational crime stories is just one step in getting the public attention*. Every day we

[22] Morrison, W. "Theoretical criminology: from modernity to post modernism", Cavendish Publishing Limited, London, 1995, p.20.

[23] Zondi Musa, L.,"Fear of crime in Ulundi", University of Zululand, Department of Criminal Justice, 2000, p.13.

[24] Rogers, T. "Towards and analytical framework on fear of crime and it relationship to print media reportage", from 10.08.2010 www.shef.ac.uk/content/1/c6/10/39/11/8rogers.pdf, p.5.

face shocking news in the first five minutes of the news on television, on the front pages of newspapers and on the news on the radio. Like second reason may be noted that *the deficit of other stories, crime stories are a buffer to fill the gaps in their daily reports*.[25] Terrible picture of urban life created by the media, politicians and other groups considered that serve the interest of the government because it is considered that only those people benefit from social polarization.[26] In fact, from a political perspective, campaigns for law and order or moral panic in the mass media can cause distraction of unresolved economic and social problems in the society,[27] which would mean that whenever politicians will find themselves in such a situation they will utilize the media for distractions of the public attention from these problems.

However, it can be concluded that there is still no specific responsibility of the media in creating or distorting public perceptions. The need for objectivity in presenting their news about crime, without sensationalism, drama or exaggeration probably is a challenge that are facing with, but it seems that it would be difficult to adequately respond to modern societies.

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THE FUTURE OF BIOMETRICS TECHOLOGY IN LAW ENFORCEMENT AGENCIES

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Abstract

In past decades, despite public's earlier reluctance toward biometrics technology, the research and development in this field make this technology irresistible to law enforcement as well as to increasingly security-conscious businesses. Since the September 11 attacks on USA, biometric technology is recognized as most secure among available methods for identification. It is widely employed in law enforcement both for forensics and government applications. In this paper we will discuss common mistake of misuse or interchange in terms 'forensics' and 'biometrics' identification, even by professionals. Also in history, some of the current and future uses of biometrics technology will be presented along with the general overview of some issues involved with its use in law enforcement agencies.

Key words: *biometrics, forensics, identification, law enforcement, security*

Introduction

Advances in technology have provided assistance to society in numerous ways, from transportation, agriculture, industry and communications to health care, entertainment, education and public services. The same is true in the field of law enforcement. Modern-day technology have significant impact in various aspects of law enforcement organization and work, from police vehicles and dispatch, detectives and special forces, through communication, crime analysis, case management, prosecution support, fingerprinting, DNA, all of them including the wide-scale use of computers [1]. The technology has created genuinely new investigatory

possibilities, enabling inquiries that would have literally been impossible prior to the human–technology partnership.

Still, involving modern technology is followed by one big issue namely 'reliable and accurate automatic personal authentication which is becoming a necessity for operation of modern society. Biometrics, as rapidly evolving technology which identifies people based on their physiological or behavioural characteristics, is becoming dominant over traditional means of authentication such as knowledge-based (something you know–password) and token-based (something you have–key) authentication. Biometrics has been widely used in forensics (criminal investigation, corpse identification, missing children...) and is nowadays widely adopted in a broad range of government (ID cards, border control...) and commercial applications (access control, computer data security, e-commerce...). In another words, biometrics is becoming a necessary component of any ID management system. We can say that fuel for biometric technology research was initially given from law enforcement agencies where all achievements were embraced in everyday work which is the reason why many people today stigmatized biometric with police work and forensics, although there is clear difference between forensics and biometrics.

In this paper we will try to give the insight in the constant advances in biometric technology and its use in law enforcement. In first Section we explain the main difference between biometrics and forensics and an overview of biometric used in law enforcement agencies is given in second Section. Some technologies issues considering future biometric applications and conclusion are stated in third and fourth Section respectively. We are hoping that presented material will be useful in gaining a greater understanding of how to employ biometric technology, perceive and prevent any possible misuse, and look at possible future applications.

Forensics and Biometrics – a General Contrast

Given their popularity, definitions for the terms 'forensics' and 'biometrics' identification are everywhere yet often misused or interchanged, even by professionals. In this section we will try to explain the differences.

What is meant by '*biometrics'* has been changed in the last century. At first it was 'the application to biology of the modern methods of statistics'.[1] Similar definition was in use in the 20th century: 'the analysis of biological data using mathematical and statistical methods'[2] but it was

[1] Sir Francis Galton, Biometry, *Biometrika*, 1901, 1: 7-10, http://www.galton.org/

[2] http://www.thefreedictionary.com/biometry Biometric (Life Sciences & Allied Applications / Biology)

changed to: 'Biometrics is science and technology of measuring and analyzing biological data. In information technology, biometrics refers to technologies that measure and analyzes human body characteristics', such as DNA, fingerprints, eye retinas and irises, voice patterns, facial patterns and hand measurements, for authentication purposes'.[3] Finally today's definition states 'the automated recognition of individuals based on their biological and behavioural characteristics',[4] but as Ross et al. pointed out, 'the term *biometric authentication* is perhaps more appropriate than *biometrics* since the latter has been historically used in the field of statistics to refer to the analysis of biological (particularly medical) data' [2].

On the other hand '*forensic science*' refers to the 'The application of scientific knowledge and methodology to legal problems and criminal investigations'.[5] In practice, forensic science draws upon physics, chemistry, biology, and other scientific principles and methods and is concerned with the recognition, identification, individualization, and evaluation of physical evidence. One of the main objectives in forensic investigation is to find marks (either left on the crime scene by the perpetrator or found on the perpetrator after the event (mechanism known as 'Locard's exchange principle')[6] associating an offender to an event under investigation. It is thus logical to use a range of physiological or behavioural data (*biometric data*) to sort and potentially individualize protagonists involved in offences [3]. Although manual classification of physical measures (anthropometry) and physical traces left and recovered from crime scenes (finger marks, earmarks ...) was successful, it began to be inadequate as databases had grown up, leading to development of an automatic approach for search (retrieval) process as only solution. Thereby we can say that the aim of biometric systems utilized in forensic science today is filtering potential candidates and putting forward candidates for further 1-to-1 verification by a forensic expert.

Generally, forensic information can be found in form of physical marks (fingerprints, footprints, palm prints, blood etc.) or as digital traces (digital recordings typically from phone-tapping and security cameras). Until recently only a few of available biometrics were considered in forensic investigation as shown in Fig.1, but as Dessimoz and Champod [3] stated,

[3] http://searchsecurity.techtarget.com/definition/biometrics

[4] ISO/IEC JTC1 SC37 Standards Committee on Biometrics http://www.iso.org/iso/jtc1_sc37_home

[5] http://legal-dictionary.thefreedictionary.com/Forensic+Science

[6] Locard's exchange principle states that 'with contact between two items, there will be an exchange' and is known most commonly as the idiom 'Every contact leaves a trace', http://en.wikipedia.org/wiki/Locard%27s_exchange_principle

face and voice biometrics, and to some extent modalities captured at distance such as ear, iris and gait can also be used as digital traces in forensic science.

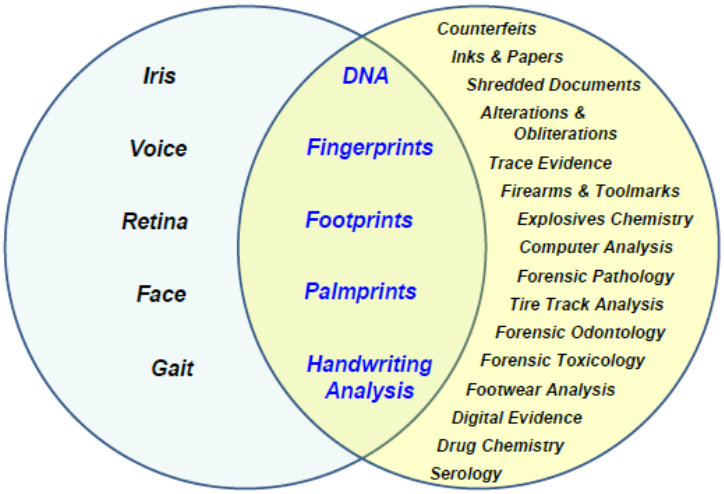

Figure 1. Biometrically enabled forensics[7]

Forensic science and biometrics both apply various identification sciences (the same or unique to each), although doing so for different reasons. Distinction between them considering an event as the central defining node between the two disciplines can be described (as shown in Fig.2) [8]:

- Applied before an event, such as a required verification before gaining access to something (Am I who I say I am?) or identification that is necessary to proceed ('Who am I?' or 'Am I on a 'watch list'?'), the *identification technology* is ***biometric***. Biometrics chooses which mode of identification will be used.

- Applied after an event, such as a crime ('Who is the victim?' or 'Who is the suspect?'), the *identification technology* is ***forensic***. Forensic scientists never know which mode of identification will

[7] 'The Future of Biometrically Enabled Forensics', presented at BC10 by Larry Chelko, Director U.S. Army Criminal Investigation Laboratory available at http://biometrics.org/bc2010/presentations/DoD/chelko-The-Future-of-Biometrically-Enabled-Forensics.pdf

[8] 'Biometrics and Forensic Science What's the difference?', presented at BC04 by MM Houck, Director of Forensic Science Initiative and E Rood, Director of Biometric Knowledge Centre available at http://www.biometrics.org/bc2004/CD/PDF_PROCEEDINGS/Microsoft%20PowerPoint%20-%202%20HouckBrief.pdf

be used ahead of time and must sort through all of the information to determine what methods to use (may not use fully automated methods).

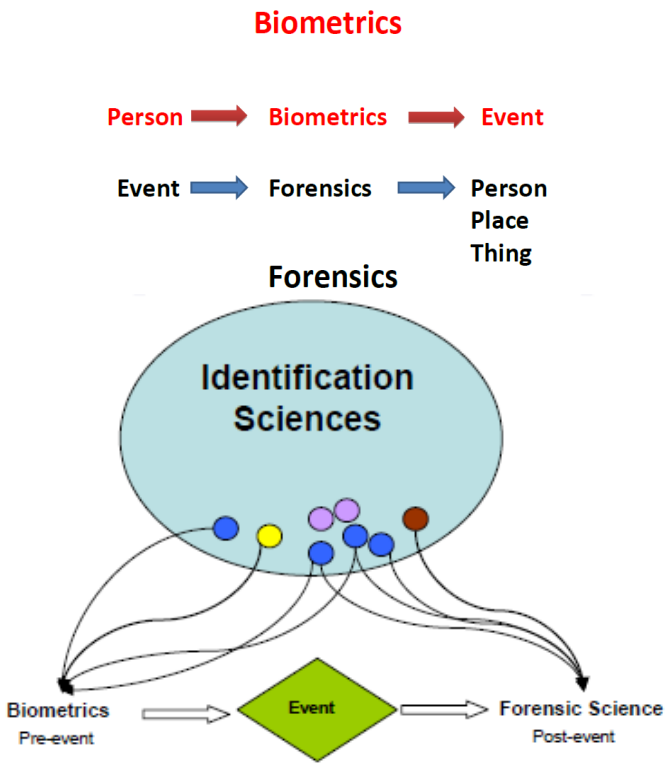

Figure 2. Difference between Biometrics and Forensics

Main distinctions between forensic science and biometrics can be described as:

1. Biometrics almost always deals with a 'closed population' of individuals in a database (verification mode resulting in decision 'Yes' or 'No') while forensic science has to work with the 'open population' of unknown suspects or victims (identification mode). Forensic biometric systems are used in practice as sorting devices without any embedded decision mechanism on the truthfulness of the identification. After comparing biometric trait against all templates stored in appropriate database as a result they provide a short list (up to 100) of possible candidates (matches). Final decision is left to forensic expert after performing manual comparison of every item in the list.

2. Since biometrics are implemented on live subjects intrusive techniques are not desirable, contrary to forensics where more intrusive techniques can be used for collecting data (e.g. from the deceased).
3. Forensics usually requires days of processing (versus seconds for biometrics) and are held to much higher accuracy requirements.[9]
4. There is a difference in data quality, capturing and storing. Biometric systems are usually constructed with the state-of-the-art data capturing devices, and once the recognition task is done, the instantly captured data need not to be stored (only set of extracted features, i.e. minutiae for fingerprints, is stored in template). However, the data captured in forensics need to be stored completely (i.e. whole fingerprint image rather than minutiae template) and are commonly of low quality resulting in low performance which limits the application of certain biometric methods.
5. Another big difference between biometrics and forensics is that in biometrics, the subjects are usually very cooperative, since they want to get recognized and gain the access; however, in forensics, the criminals do not want to get recorded nor recognized, and they are not cooperative while their biometrics are recorded. The criminals may use masks, wear makeup, make funny expressions or assume weird positions, all of which causes more challenges for biometric identification.[10]
6. There is also, clear distinction in the terminology, performance measures and reported conclusions used in the processes. The reported conclusion by the forensic expert can take different forms depending on the area considered. Mostly it is: *individualization*, *exclusion* or *inconclusive* (as for fingerprints), but it is also allowed to give probabilistic conclusions such as: *possible*, *probable* or *very likely* (for face or ear recognition, speaker verification, dental analysis or handwriting examination). The absence of supporting statistical data in the classic identification fields is viewed as a main drawback for the admissibility of evidence following the Daubert[11] [4]. At this point it must be stated that the forensic biometric comparison process aims at handling source level issues as its

[9] http://www.biometrics.gov/Documents/FAQ.pdf

[10] Yanjun Yan and Lisa Ann Osadciw, 'Bridging Biometrics and Forensics' available at: http://www.lcs.syr.edu/research/dreamsnet/publications%5CC_SPIECA2008_EI118.pdf

[11] Daubert v. Merrill Dow Pharmaceutical (U.S. 1993) Testimony admissible as 'scientific' if: (i) Theory or technique has or can be tested; (ii) subjected to peer review and publication; (iii) existence and maintenance of standards for use; (iv) general acceptance in scientific community; (v) known potential rate of error.

primary task: the whole process is not about names or identity, but in relation to source attribution between two submitted sets of features, and whether these data are coupled with personal information (such as name) is irrelevant for the comparison process.

History of Biometric Technology in Law Enforcement

In this section a short historical and technical overview of the development and the evolution of biometric systems and their forensics application (manually or in a semi-automatic way) is presented. Employment of biometric data for classification and/or identification in forensic science dates back to the turn of the 20th century.

Anthropometry – Biometrics as we know it today can be viewed as extension of Alphonse Bertillon's anthropometrical system of personal identification proposed in 1870s, initially divided into three integrated parts: (1) the bodily measurements that required measurements, conducted with the utmost precision and under carefully prescribed conditions, a series of the most characteristic dimensions of bony parts of the human anatomy; (2) the morphological description of the appearance and shape of the body and its measured parts as they related to movements 'and even the most characteristic mental and moral qualities'; and (3) a description of peculiar marks observed on the 'surface of the body, resulting from disease, accident, deformity or artificial disfigurement, such as moles, warts, scars, tattooing, etc.'[12] Besides bones measurement, he also proposed the use of the description of the iris colour (classified in seven classes) combined with eleven precise measurements. In parallel, he developed a standardized forensic photograph method, as well as a nomenclature for the description of the physiological features of the nose, the forehead and the ear, called 'portrait parle' or 'spoken portrait' [5]. Police authorities throughout the world used his system for a while until it was discovered that some people shared the same measurements.

Fingerprint – Historically the first classification attempt was proposed by Purkinje in 1823, who sorted the friction ridge flows into nine categories.[13] Fifty years later fingerprinting started to gain recognition for the purpose of identification. Sir William Herschel, British Administrator in District in India, requires fingerprint and signatures on civil contracts, while undertaking the first study of permanence (i.e. the fingerprint features do not change over time) [6]. At the same time, in 1880 Henry Faulds proposed to

[12] http://www.forensic-evidence.com/site/ID/ID_bertillion.html

[13] For description purposes only and without realizing the identification potential of the friction ridge skin

use fingerprints for investigative identification purposes, as finger marks could be detected on crime scenes. He also proposed the use of printers ink as a method for obtaining fingerprints. Even though Bertillon regarded fingerprints with skepticism he also included them on his anthropometric cards in 1894. The main forensic operational contribution came from the work of Galton who, in 1892, presented the basic axioms of fingerprinting, which are the notion of permanence (based on Herschel's work and data), and uniqueness.[14] He also mentioned the possibility to reliably classify fingerprints patterns into three basic patterns (arches, loops, and whorls) [7]. Sir Edward Henry, an Inspector General of Police in Bengal, India, develops the first system of classifying fingerprints. Galton-Henry classification largely gained acceptance for handling large databases and is even today in use in many countries (the FBI central repository) [8]. With the increase of ten-print card collections and the difficulties of single latent[15] searches, the evolution of automatic (analogue or digital) retrieval processing systems took off [9] in parallel with the technological advances leading to the development of the first computer-based fingerprint comparison systems in the late sixties of the 20th century, known as Automatic Fingerprint Identification Systems (AFIS). Forensic AFIS are largely based on minutiae matching.

Handwriting – Handwriting is a very personal and individual trademark of personality. As no two people have exactly the same handwriting, signatures have for hundreds of years been regarded as legally binding on documents of all types. Sir William Herschel who founded the system of identification through fingerprints believed that handwriting revealed character in the same way that fingerprints reveal identity.[16] In the context of modern forensic science, experts sharply distinguish graphology from true handwriting analysis. While graphology is not regarded as forensic evidence, it is still often used in combination with other techniques to profile criminals and to aid authorities in their investigations.[17] More commonly, forensic scientists use handwriting analysis for two more limited and defined purposes. One is to authenticate documents such as records, diaries, wills, and signatures and another is to link a specimen of handwriting with a crime suspect by comparing the suspect's handwriting with, for example, the handwriting on a ransom note or other communication linked to a crime. In

[14] Galton published the first statistical model on the fingerprint variability, http://www.galton.org/

[15] Marks left on crime scenes by friction ridges on the finger that may not be visible to the eye.

[16] http://graphicinsight.co.za/background.htm

[17] e.g. tracking down George Metesky, the ‘Mad Bomber’ of New York City, in the 1940s and 1950s http://www.enotes.com/handwriting-analysis-reference/handwriting-analysis

different words, when dealing with handwriting, forensic expert tries to assess existing similarities and dissimilarities between control and recovered samples through a subjective estimation of the individuality and variability of the material at hand. Up till now, most of the forensic cases of handwriting analysis are solved without actual application of automated systems. The underlying issue is the incapability of most of the state of the art handwriting examination systems to be directly applicable to the forensic cases, which is the reason to bring the forensic experts and the computer science experts under one roof. Only a few methods for automation, data basing and systematically analyzing handwriting have been presented up till now [10].

Palm print and Hand geometry – Palm print recognition inherently implements many of the same matching characteristics that have allowed fingerprint recognition to be one of the most well-known and best publicized biometrics. Both palm and finger biometrics is represented by the information presented in a friction ridge impression. In 1994 the first known AFIS have been built to support palm prints[18] and in 2004 first state-wide automated palm print database is deployed in the US.[19] Law enforcement agencies indicate that at least 30 percent of the prints lifted from crime scenes (knife hilts, gun grips, window panes...) are of palms, not fingers[20]. For this reason, capturing and scanning latent palm prints is becoming an area of increasing interest among the law enforcement community. Hand geometry systems have the longest implementation history of all biometric modalities. Concept was developed, patented and the first commercial hand geometry recognition systems became available in the mid 1980s [11]. One of the shortcomings of the hand geometry characteristic is that it is not highly unique, limiting the applications of the hand geometry system to verification tasks only (such as physical access control, time and attendance). During the 1990s and early 2000s a program of the United States Immigration and Naturalization Service (INS) called INSPASS[21] (INS Passenger Accelerated Service System) was used in order to facilitate the entry of pre-screened low-risk travellers through immigration and customs at certain airports. They utilized hand geometry as a biometric identifier. In 2002 it has been replaced by Trusted Traveller Programs: Global Entry,

[18] RECOWARE Ltd,
http://www.recoware.hu/a%20vilag%20elso/a_vilag_elso_nyitolap.html
[19] NEC system
http://www.necus.com/companies/20/NECSAMCustomerAwardByCalifCenterDigitalGovt.pdf
[20] http://www.biometrics.org
[21] http://www.biometrics.org/html/REPORTS/INSPASS2.html

SENTRI (Secured Electronic Network for Traveller's Rapid Inspection), NEXUS, and FAST (Free and Secure Trade Program)[22]

Face – The first real attempts to develop semi-automated facial recognition systems began in the late 1960s when Woodrow W. Bledsoe (under contract to the US Government) developed the system which was based on geometrical information. After localization of features such as eyes, ears, nose and mouth on the photographs by administrator, system calculated distances and ratios to a common reference point that was compared to the reference data.[23] In 1970s new subjective markers such as hair colour and lip thickness were added to automate face recognition [12] but the problem of manually computed measurements and locations still remained. In early 1990s Turk and Pentland [13] discovered that while using the eigenfaces techniques the residual error could be used to detect faces in images, made reliable real time automated face recognition possible. Automatic face recognition FIIS (Face Image Identification System) is considered as a visual pattern recognition problem, where selected facial features of a query image were compared to the features of a reference image or a database. Until recently forensic face recognition was generally performed by human operators using different approaches [14]: morphological analysis of facial structures, anthropometric measurements and superimposition of images. As presented in [15], face recognition attempts to represent the complex multidimensional features extracted from the image of a face in simpler and more general representations using e.g. principal component analysis (PCA), shape and texture or Gabor wavelets, and to perform the classification between the different patterns using e.g. Bayes, linear discriminant analysis (LDA), independent component analysis (ICA) or Graph matching. The contribution of such systems in surveillance activities and access control, especially with the performance improvement will gain more and more importance.

Ear – Using the ear in person identification has been interesting more than a century,[24] however, although the ear structure is quite complex the question is, if it is unique for all individuals. Identification can be based on photographs (or still images from video recordings) or based on earmarks left at crime scenes (for example when a burglar presses his ear against a door to listen into a room) or by taking thermogram pictures of the ear, and

[22] https://help.cbp.gov/app/answers/detail/a_id/738/~/ins-pass-program

[23] 'In Memoriam Woodrow Wilson Bledsoe', The University of Texas at Austin http://www.utexas.edu/faculty/council/1998-1999/memorials/Bledsoe/bledsoe.html

[24] The ear was considered by Bertillon (1890) as the most identifying part of an individual.

comparison is traditionally performed by skilled examiners.[25] The long history of using ear shapes or ear prints in forensic science has shown what characteristics[26] should be considered for automatic human identification [16]. Similar ways of acquiring and processing the biometric data at distance make the face and ear biometric appealing candidates for video surveillance and non-contact biometric recognition.

Voice – Forensic speaker recognition is the process of determining if a specific individual is the source of a questioned occurrence. Typically, forensic speaker recognition by experts relies on a variety of techniques (used alone or in combination), such as auditory stage (also known as aural perceptual or careful listening by trained phoneticians), semi-automatic methods (also known as auditory instrumental) for extraction of certain parameters (e.g. formant frequencies, average fundamental frequencies, vowel formants, pitch contour, spectral energy, etc.), visual stage, which involves looking over the spectrograms or readouts (popularly known as 'voice printing')[27], and automatic speaker recognition (computer-based the text-dependent and the text-independent (often required in forensic cases)) [18]. First prototype speaker recognition system was developed in 1970s by Texas Instruments Co., and was tested by the US Air Force and The MITRE Corporation. In 1997 NIST[28] began hosting annual speaker recognition evaluations workshop aiming to foster the continued advancement of the speaker recognition community.

Iris –Although the concept of using iris patterns as a method to recognize an individual was proposed in 1936 by ophthalmologist Frank Burch,[29] first iris recognition algorithm was patented and system implemented in 1990s. This patent of Dr. John Daugman is the cornerstone of most commercial iris recognition products to date. Method is recognized as one of the most reliable and accurate for automatic identification.

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[25] The assumption among members of the EU forensic science community is that forensic analysis of ear prints is more economical than that of DNA profiling, http://www.enotes.com/ear-print-analysis-reference/ear-print-analysis

[26] The Forensic Ear Identification (FEARID) project (funded by the 6th EU research framework) proposed to use weighted width, angular development and anatomical annotation as distinctive features for their semi-automatic system.

[27] First proposed in 1962, quickly recognized weak points such as the large variability of these spectrograms for a same individual and the fact that the visual representation of these spectrograms is not specifically speaker-dependent. In 1976, the US National Academy of Sciences recommended that this approach should only be used in forensic cases with utmost caution [17].

[28] 'NIST Speaker Recognition Evaluations' http://www.nist.gov/itl/iad/mig/sre.cfm

[29] FBI Biometrics Centre of Excellence, Iris
http://www.biometriccoe.gov/Modalities/Iris.htm

DNA – Deoxyribonucleic acid (DNA), a chain of nucleotides contained in the nucleus of our cells, can be used as a biometric tool for identification of unknown individuals or biological samples left by them. The analysis of the DNA molecule in forensic science is called forensic DNA profiling (also called DNA testing, DNA typing, or genetic fingerprinting).[30] The sensitivity of DNA profiling tests have dramatically increased over the last two decades and so is the speed at which results can be obtained. This is all, in part, due to the discovery of the polymerase chain reaction, a technique that can amplify large amounts of specific small sequences of DNA from the human genome. DNA profiling uses a variety of DNA typing systems,[31] including: restriction fragment length polymorphism (RFLP) typing, short tandem repeat (STR)[32] typing, single nucleotide polymorphism (SNP) typing, mitochondrial DNA (mtDNA) analysis, human leukocyte antigen (HLA)-typing, gender typing, and Y-chromosome typing. In 1998 the FBI launched Combined DNA Index System (CODIS– which is 13-loci system)[33] to digitally store, search, and retrieve DNA markers for forensic law enforcement purposes. Today that database has more than 4 million profiles from individuals and 150,000 crime scene sample profiles, and similar DNA database (10-loci system) in the UK reaches more than 3 million subjects. In order to ensure a minimal consensus on data basing in Europe European Network of Forensic Science Institutes (ENFSI) [34] and Interpol expanded system from 7 to 12 STR loci.

Future Implementation of Biometric Technologies

Advances in ICT technology has already dramatically changed police work. For instance not so long ago, a police officer could pull over someone who also happened to be a wanted murderer and not recognized it until is too late. Now **AFIS** and **FIIS** changed that. As a result of advances in sensor technology, portable fingerprint readers as the latest mobile device allow identification in real time. But research doesn't end there, and not only law enforcement agencies have embraced new technology, they are indeed

[30] http://en.wikipedia.org/wiki/DNA_profiling
[31] http://www.enotes.com/dna-profiling-reference/dna-profiling
[32] Currently, most forensic DNA profiling systems used for database purposes are based on the analysis of STRs. The advantage of using STRs is that they are stable within individuals, but vary greatly between individuals. STR population genetics are well documented, and when located on different chromosomes, STRs have shown robust independence from a statistical perspective. They can hence be combined to achieve a very high discrimination power.
[33] http://www.fbi.gov/about-us/lab/codis
[34] DNA-database management review and recommendations, ENFSI DNA Working Group, October 2011, http://www.enfsi.eu/page.php?uid=98

speeding up implementation of new scientific results by funding different projects.

In 1999 FBI's IAFIS[35], the FBI's large-scale ten-fingerprint (open-set) identification system, was established. It is the largest biometric database in the world, containing the fingerprints and criminal histories for more than 70 million subjects in the criminal[36] master file, along with more than 31 million civil[37] prints. This database includes not only fingerprints, but corresponding criminal histories; mug shots; scars and tattoo photos; physical characteristics like height, weight, and hair and eye colour; and aliases. As addition to ten-print fingerprint (rolled and flat) submission and comparison, Latent Fingerprint services, Subject Search and Criminal History Services, Document and Imaging Services and Remote Search Services are also included. Driven by advances in technology and customer requirements, the FBI has initiated the Next Generation Identification (NGI)[38] program. Aim is to further advance biometric identification services by introducing new multimodal (i.e., palm, voice, iris, facial, etc.) functionality.

AFIS employment dramatically changes latent fingerprint identification process since they can now be compared to many millions of prints stored in huge databases. This significantly increases the chances that some print in the database highly resembles to latent in question, often resulting in wrong identification. One example is the erroneous identification of Oregon lawyer Brandon Mayfield[39] as the Madrid bomber[40]. Experts agree that AFIS played a crucial role in this erroneous identification because the highly similar print was found precisely through a huge database search.[41] No research or answer to the question of how often AFIS mislead experienced examiners into believing to have a match exists, but the case is hardly unique and the issue has to be addressed by academic researchers and practitioners as well [19].

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[35] Integrated Automated Fingerprint Identification System: http://www.fbi.gov/about-us/cjis/fingerprints_biometrics/iafis/iafis

[36] Fingerprints are acquired as a result of an arrest.

[37] Fingerprints are acquired for background checks for employment, licensing, or other non-criminal justice purposes where authorized by federal and state law and in compliance with appropriate regulations.

[38] http://www.fbi.gov/about-us/cjis/fingerprints_biometrics/ngi

[39] In this case, four separate examiners, including one hired for the defense, wrongly concluded in independent examinations that Mayfield's print matched the print found at the crime scene. The print was subsequently attributed to an Algerian Ouhnane Daoud residing in Spain.

[40] The terrorist explosions in Madrid's commuter trains on the morning of 11 March 2004 killed 191 people, wounded some 2,000 more.

[41] Office of the Inspector General, recognizes in their report on the Mayfield case, that part of the problem is precisely the scale of AFIS searches and the possibility that they will generate incidental similarities: http://www.justice.gov/oig/special/s0601/exec.pdf

Although extremely powerful and impressive, AFIS performance capabilities are, like virtually all forensic sciences, rather dramatically exaggerated by Hollywood (CSI's) shiny depiction of fingerprint matching. It has been shown that when dealing with latent AFIS capabilities are thought not to surpass, or even to meet, those of human experts.[42] Nevertheless, they have been widely recognized as an extremely helpful crime-fighting technology, and so is the CODIS, giving the law enforcement officers the ability to identify possible suspects even when no prior suspect existed. Recently NIST published a revised biometric standard[43], where DNA, Footmarks and Enhanced Fingerprint Descriptions are added to existing fingerprint, facial image and iris. Researchers already are at work on new additions to the standard, including voice biometrics, traumatic injury imaging and analysis (such as bite marks), dental forensics (used to identify persons when DNA is not readily available, such as with skeletons) and conformance testing to the standard specifications.

At the present there is a great interest for automated facial recognition and the amount of applications will most likely increase even more in the future due to increased penetration of technologies, such as digital cameras and the internet, and due to a larger demand for different security schemes. Facial recognition, although is not most reliable biometric, holds several advantages over other biometric techniques: it is natural, non-intrusive and easy to use. Focus of research is shifted to application in surveillance systems and non-cooperative subjects as shown in Fig 3.

Another aspect of the future application include fusion of biometric data with all source identity intelligence analysis in order to obtain valid decision (strategies, tactics or operational). How Biometrics Enabled Intelligence[44] is used by American DoD is shown in Fig. 4. Development of Future Attribute Screening Technology (FAST) provides semi-automated screening using non-contact sensors to detect behavioural and physiological cues associated with militant in near-real time. The goal is to improve screening by providing science-based capability to identify known threats through accurate, timely, and easy-to-use biometric identification and credentialing validation tools.

[42] The National Institute of Standards and Technology gave on March 21 the final report on Evaluation of Latent Fingerprint Technologies, more on http://www.nist.gov/itl/iad/ig/latent.cfm

[43] Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information – 'ANSI/NIST-ITL 1-2011, NIST Special Publication 500-290', November 2011, http://www.nist.gov/itl/iad/biometric-120611.cfm

[44] Intelligence information associated with and/or derived from biometrics data that matches a specific person or unknown identity to a place, activity, device, component or weapon. Revealing of movement patterns is possible.

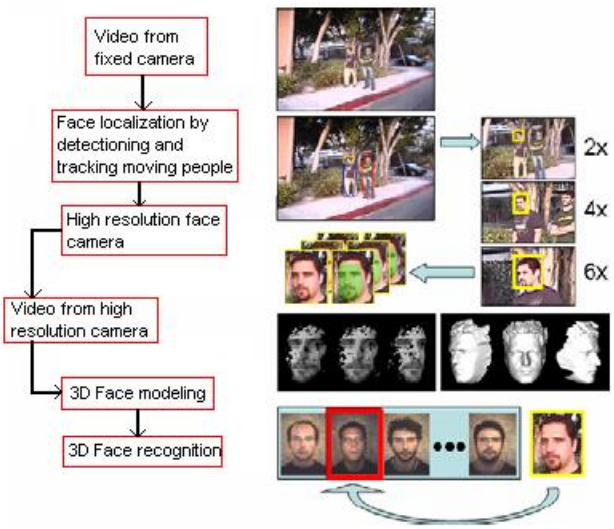

Figure 3. Improved Face Recognition from surveillance video[45]

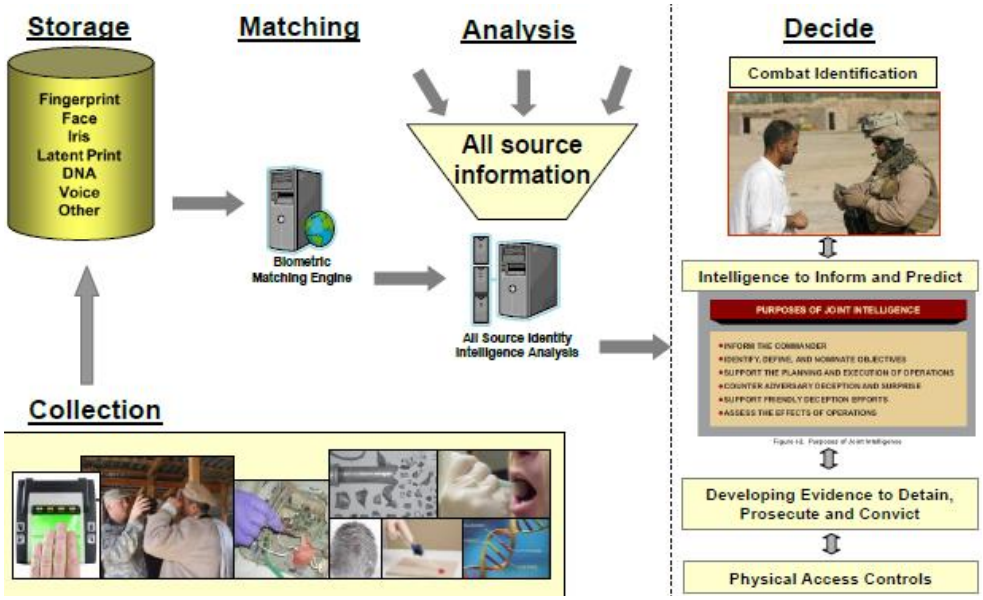

Figure 4. Biometrics Enabled Intelligence[46]

[45] 'Law Enforcement Biometrics Needs and Requirements', presented at BCC07 by Morgan JS, Deputy Director for Science and Technology, National Institute of Justice, available at http://www.biometrics.org/bc2007/presentations/Tues_Sep_11/Session_I/11_Morgan_DOJ.pdf

There are some studies and applications of brain fingerprinting system.[47] There are also proposals of conducting it on each individual every few years (a 10-minute computerized security screening), to see whether they possess particular knowledge, like how to carry out specific types of terrorist activities. Each person would be given a 'security risk profile', which would be stored in a federal databank to be used for authentication purposes at airports and public buildings. The FBI feels that this technology would be very helpful to law enforcement, but the cost of such a system is large and the public fears that this form of biometric technology may be or may lead to the ultimate widespread government intrusion into everybody's lives.[48]

All mentioned above suggests that there are three main areas of future research of biometric application in law enforcement agencies: (i) multi-biometrics databases and applications, (ii) research of face, ear, gait and voice biometric in order to utilize them in covert applications and surveillance, (iii) fusion of biometrics and intelligence analysis amplified with new cues like brain fingerprinting.

Conclusion

Law enforcement agencies are wide open for implementation of new technologies (including biometric) in their field of work expecting in return greater efficiency. The biometric technology became inevitable both in government (ID documents, border crossing...) and forensic applications (criminal investigation, parenthood determination, missing and exploited children, corpse identification).

There is a common mistake, even by experts, that biometrics and forensics identification are the same. Despite popular beliefs there are serious differences among them, from quality of input data, precision in performance, to decision upon samples comparison (embedded 'accepted' or 'rejected' in biometrics, and result if samples originate from the same source with a short list of possible candidates in forensics). Despite the differences, the same scientific principles and technical methods are used for handling biometric data in non-forensic and forensic applications, with exception of possible difference in acquisition methods. There are also serious

[46] 'The State of DoD Biometrics', presented at BC10 by Tom Dee, Director, Defense Biometrics available at http://biometrics.org/bc2010/presentations/DoD/dee-The-State-of-DoD-Biometrics.pdf

[47] Brain Fingerprinting is designed to determine whether an individual recognizes specific information related to an event or activity by measuring electrical brain wave responses to words, phrases, or pictures presented on a computer screen http://www.brainwavescience.com/TechnologyOverview.php

[48] http://www.cognitiveliberty.org/issues/mental_surveillance.htm

implications of using technology: possible bias to human experts and increasing number of erroneous identification due to searching through large databases. Not to mention huge privacy problem that was beyond the scope of this work. They all need to be fully considered or adequately understood. Future use of biometrics in law enforcement is focused on solving problems arising from employment of single biometric, with the multimodal approach and applications. Also, recognition at distance, based on biometric data, is the major component of forthcoming studies and forensic inquiries.

In this paper, we have certainly not covered all the possible issues, challenges and problems associated with biometric technologies but we have, we hope, illustrated with a few examples what is the main direction of their future development and employment in law enforcement agencies.

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GENDER MAINSTREAMING IN THE SECURITY SECTOR IN SERBIA*

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Abstract

Four resolutions on women, peace and security have been adopted by the United Nations Security Council (UN SC) since 2000 (Resolutions 1325, 1820, 1888 and 1889). Resolution 1325 "Women, Peace and Security" was adopted on October 31, 2000. This document emphasizes the consequences of bloody conflicts on women and girls and the importance of the role women have in peace building and post-conflict country recovery. Ten years later (on December 23, 2010) Serbia was one of the few countries in the world (19 in total) which had approved action plans for the implementation of Resolution 1325 at the national level. This paper provides an answer to the question why resolutions on women, peace and security are important for the security sector in Serbia, and offers an analysis of the National Action Plan (NAP) for the implementation of the UN SC Resolution 1325 in the Republic of Serbia in the period 2010-2015. Institutional framework and envisaged activities for the implementation of the NAP are stressed, with recognition of the potential to introduce gender mainstreaming into all security sector institutions in Serbia. An important segment of the analysis encompasses gender issues in the police reform process in Serbia.

Keywords: *gender mainstreaming, security sector, NAP, police*

Introduction

Introducing gender mainstreaming into security sector institutions is the essential determinant of the analysis of a concept defined in a broader way – relations of gender equality and security sector reform. The discussion on this issue has become topical in Serbia during the last ten years. That period has been marked as a turning point in the history of development of state institutions, social changes and socio-economic turmoil, and for reformation and determining state and national interests as well. The period termed as "transitional" and full of temptations also gained the epithet

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"reformative". The reformative course of development has spread to all areas of life, but its turbulence was most evident in the fields that are traditionally "untouchable", and patriarchally and stereotypically marked as mutually exclusive – in the area of equality of men and women within the security sector (in the military, police, intelligence agencies, customs, i.e. in all areas where a legal possibility for using force exists).

The Theoretical and Conceptual Framework

For theoretical understanding of the notion of gender mainstreaming and defining its role in the security sector reform processes, conceptual establishment of the following notions will serve as a wider theoretical platform: gender, gender roles, gender equality, gender mainstreaming, security sector reform (reform of the police).

In gender studies theories, the term *gender* refers to socially constituated roles of women and men.[1] This is social modelling of the biological sex, determined by understanding of tasks, actions and roles prescribed to men and women in society, in public and private life. However, gender is not only the socially constructed definition of men and women, it is also the socially constructed definition of relations between the genders. The construction encompasses the unequal power relationship with male domination and female subordination in most spheres of life. That relationship of gender inequality is also often unintentionally reproduced through public policies and formal structures.

Gender roles encompass all characteristics, tasks and responsibilities assigned to men and women based on the assumed biological differences.[2] They vary between cultures, societies and historical periods. In this study gender roles include the position, status, responsibilities and opportunities that are assigned to women in official, public documents and activities that underlie the process of security sector reform.

Gender equality does not mean simply the inclusion of equal numbers of women and men in all social activities, or treatment of women and men in the same way. It involves a strategy of inclusion of women's and men's interest and experience in development programs in all political, economic and societal spheres so that the benefits for both men and women are equal, and inequality is not renewed.[3]

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[1]Lithander, A., (2000), *Engendering the Peace Process*, Kvinna till Kvinna Foundation, Stockholm. This definition was also accepted by the Gender Equality Council of the Government of the Republic of Serbia.

[2] Lithander, A. *ibidem.*

[3] *Gender Equity – Concepts and Tools for Development*, The Centre for Development and Population activities (CEDPA), Washington, 1996.

The introduction of a *gender mainstreaming* (from English: main, stream - flow, or "the introduction of a gender perspective into the mainstream," or, "genderisation"), is the "(re)organisation, development and evaluation of policy processes, so that the prospect of gender equality is incorporated in all policies at all levels and in all stages, by actors normally involved in decision making."[4] Behind this seemingly complicated definition lies a simple principle that gender mainstreaming should be introduced to major institutional processes and policies, i.e. that each time when creating new strategies and policies and implementing them, their different impact on women and men should be taken into account.

This term first appears in 1985, at the Third United Nations Conference on Women in Nairobi, but only implicitly. Ten years later, at the Fourth United Nations Conference on Women in Beijing, in 1995, there is an explicit request to begin an implementation of the gender mainstreaming strategy. Its real initiator was the European Commission, which was first to use this term in the Third Action Plan on Equal Opportunities for Women and Men 1991-1995, but it was only in Beijing that the conditions were created to begin its implementation. The UN Economic and Social Committee gave the definition according to which introducing gender mainstreaming is a "strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality."

Council of Europe defines introducing of the principle of gender equality as a "reorganisation, improvement, development and evaluation of processes and policies so that gender equality perspective is incorporated in all policies and at all stages by the actors normally involved in policy decision making."[5]

- The basic principles of introducing of gender mainstreaming are:
- initial identification of issues and problems in all areas should include an analysis of gender differences and inequalities;
- it should never be presumed that the issues and problems are gender-neutral;
- gender analysis should regularly be carried out;

[4] Final report on activities of the Group of specialists on mainstreaming, Council of Europe, 1998.

[5] *Gender mainstreaming, Konceptualni okvir, metodologija i pregled dobrih praksi*, Završni izveštaj o aktivnostima Grupe specijalista za mainstreaming (EG-S-MS), str.10, Savet Evrope.

- the implementation of this concept requires political will, and often additional financial and human resources;
- introducing gender mainstreaming requires making efforts to extend a more fair participation of women at all levels of decision making.[6]

This strategy may include actions aimed at specific gender and affirmative action, when women or men are in a special unfavourable position. Interventions related to the specific gender may have as the target group only women, men and women or only men, so as to enable them to benefit equally from development activities.

Introducing gender mainstreaming is not simply adding a "women's component" or adding "gender equality component" into existing activities. It goes beyond increasing women's participation and signifies introducing experience, knowledge and interests of women and men into development programmes. The goal of gender equality mainstreaming is the transformation of unequal social and institutional structures into structures that are equitable and fair for both men and women.

Security sector reform means transforming the sector/security system, which includes all the actors, their roles, responsibilities and actions - working together to manage the system and its functioning in a manner that is more consistent with democratic norms and sound principles of good governance, thus contributing to a good functioning of the security framework.[7] Within this process, defense reform means transforming the state defense sector in such a manner that the following is true for its institutions: that they are under civilian control; that they are guided by the principle of accountability and good governance; that they maintain adequate force in a certain number; that they have representative structure; that the training and equipment are in line with the strategic environment; that they respect international law and thus contribute to achievement of national and international goals related to peace and security.[8]

International Legal Framework of Introducing Gender Mainstreaming in Security Sector Reform

[6] Handbook for the seminar "Introducing gender mainstreaming into security sector reform", (2010).

[7] OECD DAC, *Security System Reform and Governance*, DAC Guidelines and Reference Series, OECD, Paris, 2007. p.20.

[8] S.N. Anderlini & C.P. Conaway, Security Sector Reform, *Inclusive Security, Sustainable Peace: A toolkit for Advocacy and Action*, OECD, 2004.

Security sector reform, and within it reform of the police, includes respecting and implementing the most significant recognised and accepted statements of will and common consent of all participants of the international community at the level of United Nations and Union for Europe of the Nations (*Common Law*).

For creation of measures and activities, and within the documents which security sector reform in Serbia is based on, significant are also the recommendations contained in the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women in 1995. The Platform for Action points out that the world is still ravaged by aggressive wars, armed conflicts, colonial and other forms of foreign domination and occupation, civil wars and terrorism. In such circumstances, in particular during armed conflicts, there is a serious violation of human rights of women (murder, torture, systematic rape, forced pregnancies and abortions, etc.), in particular under policies of ethnic cleansing. It was stressed that the maintenance of peace and security at global, regional and local level, with simultaneous prevention of policies of aggression and ethnic cleansing, and resolution of armed conflicts, are of fundamental significance for protection of human rights of women and girls and for the elimination of all forms of violence against them and their use as a weapon of war.

In the section IV-E of the Platform for Action, entitled *Women and Armed Conflict*, six strategic objectives are established: increase the participation of women in conflict resolution at decision making levels and protect women living in situations of armed and other conflicts or under foreign occupation (objective E1); reduce excessive military expenditures and control the availability of armaments (objective E2); promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations (objective E3); promote women's contribution to fostering a culture of peace (objective E4); provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women (objective E5), and provide assistance to the women of the colonies and non-self-governing territories (objective E6).[9]

In the past decade UN Security Council (UN SC) has adopted a number of resolutions that focus on the necessity that, through the process of security sector reform, specific security needs of women and girls are taken into account and that women's participation in these processes is promoted.

[9] N. Petrović, D. Petrović, (ed.) *Rezolucija 1325 Saveta Bezbednosti Ujedinjenih Nacija u Srbiji - O ženama, miru i bezbednosti – Preporuke za izradu Nacionalnog akcionog plana za primenu Rezolucije 1325 Saveta bezbednosti UN u Srbiji*, Beogradski fond za političku izuzetnost, 2010.

Since 2000 the Security Council has adopted four resolutions on women, peace and security:

Resolution 1325 (SCR 1325), adopted in October 2000, recognises the specific impacts of armed conflict on women as well as the significant contribution that women can make to security and reconciliation. SRC 1325 is committed to increase representation of women in conflict prevention and conflict management. Special attention was paid to the need to incorporate gender mainstreaming in the implementation of peace agreements; in the process of disarmament, demobilisation and reintegration of combatants and training on gender issues for members of peacekeeping missions.

Resolution 1820 (SCR 1820) was adopted in June 2008. It requires states to take special measures to protect women and girls from sexual violence in armed conflicts and to allow them access to institutions of justice and provide assistance as to victims of violence. The SCR 1820 emphasises the role that members of the peacekeeping missions have in the protection of civilians and the urgent need to increase the number of women members of peacekeeping missions. The UN is required to develop mechanisms within the reintegration of combatants and security sector reform that would protect women from violence, but also to develop these mechanisms in consultation with women and women's organisations.

Resolution 1888 (SCR 1888) was adopted in September 2009 and by it, it is still insistied on prevention of sexual violence in armed conflicts. The SCR 1888 underlines the urgent need to include issues related to sexual violence in peace processes, agreements for the reintegration of combatants and security sector and judicial reform. It establishes new mechanisms within the UN to deal with cases of sexual violence in conflict. Participation of women in decision making processes is once again emphasized as a priority, as well as the inclusion of female staff in the missions led by the UN.

Resolution 1889 (SCR 1889) was adopted in October 2009. SRC 1889 expands the focus of the Security Council on the participation of women in establishing peace, stressing the need for women's participation in political and economic decision making. It emphasises as an urgent need: the inclusion of gender issues in all processes of recovery in post-conflict period; funding and creating programs for the implementation of activities for empowerment of women; specific strategies in law enforcement and judiciary, which will meet the security needs and priorities of women and girls.

In short, the mentioned resolutions require that the UN member states, through creation of national public policies, make conditions in which: women will be included in the agencies that supervise and control the security sector; more power will be given to women and women's

organisations, organisations of civil society (OCSs) in the process of reform of these sectors; through rational implementation of strategies it will be made possible for women to gain career advancement and get high ranks in the armed forces, police and others. Within the police reform, the realisation of these tasks would include: a high level of support for the professional advancement of women; lack of formal barriers, such as excluding women from certain forms of service or from some functions; establishment and functioning of women associations; equal criteria for promotion; setting goals and policies to improve status of women; mentoring programmes; additional training; changes in attitudes that are discriminatory in nature.

Considering and resolving of issues concerning the implementation of equality between women and men in all spheres of social life, including in the security sector reform, is an integral part of the European integration of Serbia. This process is inseparable from the Stabilisation and Association Process to the European Union, which was institutionalized within the National Programme for Integration of Serbia into EU 2008-2012. This programme defines the following priorities as particularly significant: 1. Development of the Centre for Peacekeeping Operations and participation of the Armed Forces in peacekeeping missions, the fulfillment of obligations stemming from membership in the Partnership for Peace, conclusion of the Security Agreement with NATO; 2. Taking part in multinational military exercises on the territory of the Republic of Serbia and on the territories of member states of the Partnership for Peace and NATO; 3. Adoption of the law that will provide a legal framework for the involvement of the Army of Serbia and the Ministry of Defense in providing assistance to the civilian population (Law on civil protection, Law on crisis management, etc.); 4. Cooperation with the International Criminal Tribunal for the Former Yugoslavia; 5. Monitoring the state of crime and trends in treatment of criminal acts against constitutional order and security of the Republic of Serbia, other crimes that have a political feature, or are inspired by hatred and crimes against humanity and other values protected by the international law; 6. Improving the access to justice, promotion of good interethnic relations, protection of the rights of women and children, promotion of institutional support to victims of discrimination and others. Some of the objectives set out in this programme are also: adoption and enforcement of the legal framework for prevention of all forms of discrimination, improvement of the protection of women and children, adoption of National Action Plan for implementation of strategies for improvement of position of women and promotion of gender equality.[10]

[10] Stojanović, S., Kesada, K., (ur.), *Rod i reforma sektora bezbednosti u Republici Srbiji*, Beogradski centar za bezbednosnu politiku, 2010.

National Legal and Strategic Framework

Gender equality is guaranteed by the Constitution of Serbia from 2006,[11] which strictly prohibits all forms of gender-based violence and ensures equal opportunities policy. The Constitution guarantees equality between women and men (Article 15); prohibits all forms of direct or indirect discrimination based on gender (Article 21); obliges the state to develop a policy of equal opportunities (Article 1), in accordance with the principles of rule of law, social justice, civic democracy, human rights and European values, which implies the creation of conditions for full development and advancement of women in all spheres of social life (political, economic, cultural), including the area of security (Art.21). The Republic of Serbia has adopted several laws relevant to the enforcement of protection against discrimination and human security:

- Anti-Discrimination Law,[12] governing the general prohibition of discrimination, forms and cases of discrimination, as well as the methods of protection against discrimination and establishment of the Commissioner for Protection of Equality, an independent government body, independent in the performance of work under this law;
- Law on Gender Equality (2009) regulates the creation of conditions for the implementation of the policy of equal opportunities for exercising the rights of women and men, adopting regulations and undertaking special measures to prevent discrimination based on sex, marital or family status, pregnancy or parenthood, as well as the procedure for legal protection of persons exposed to discrimination;
- The Criminal Code[13] incriminates all criminal acts that are classified as so-called international crimes, in chapter XXXIV entitled Crimes against humanity and other values protected by international law;
- Law on Cooperation with International Criminal Tribunal[14] determins the manner, scope and forms of cooperation of state bodies of the Republic of Serbia with the International Criminal Tribunal, providing legal assistance to the Tribunal and enforcing its decisions, further on, characteristics of actions to offenses under Article 5 of the Statute of the International Criminal Court, that is for the crimes against humanity and other values protected by international law.

[11] "Official Gazette of RS ", No.98/06.
[12] "Official Gazette of RS ", No.22/09.
[13] "Official Gazette of RS ", No.85/2005, 88/2005 - amand., 107/2005 - amand. "Official Gazette of RS ", No.72/2009 – amand.
[14] "Official Gazette of RS ", No.72/09.

The Republic of Serbia has defined its policy in the field of social development, European integrations, defense, security, promotion of gender equality and protection of women, through the key strategic documents. These are:

- National Millennium Development Goals of the Republic of Serbia,[15] which set several targets relevant for achieving gender equality, empowerment of women and development of the concept of human security.[16]
- Poverty Reduction Strategy (2002), in which women are identified as vulnerable social groups, and Roma women, women refugees, displaced women and women in rural areas, as particularly vulnerable groups, so a number of specific measures related to these categories of women have accordingly been provided.
- National Strategy for Improving the Position of Women and Promoting Gender Equality for the period 2009-2015 (2009), which establishes a comprehensive and coordinated state policy to eliminate discrimination against women, improve their position and integrate gender mainstreaming into all areas of activity of institutions of the system.[17]
- National strategy for prevention and combat against violence against women in families and intimate relationships has become the necessary framework to address the problems of violence against women in families and in intimate relationships with the synergistic action of all actors involved in this area. Also, the tasks and deadlines that will ensure efficiency in the institutions and lead to tangible results and benefits to victims of domestic violence and intimate relationships were set.[18]

[15] The document has been adopted in 2006 and it operationalises The UN Millenium Declaration.

[16] Target 1 (MDG 3: Promote gender equality and empower women): by 2015, halve economic inequalities between women and men (in poverty, employment, unemployment, participation in trade unions, promotion at work, wages; Target 2: by 2015, increase the representation of women at all levels of political decision making to at least 30%; Target 3: by 2008, complete the creation of systemic foundations for achieving gender equality (plans for the implementation of the Gender Equality Law, NAP and specific strategies); Target 4: by 2015, develop the system for the protection of female victims of violence and the system for the prevention of violence against women.

[17] The National strategy defines the following goals: 1. Increasing women's participation in decision making processes and achieving gender equality; 2. Improving the economic status of women and achieving gender equality, 3. Achieving gender equality in education; 4. Improving the health of women and promoting gender equality in health policy; 5. Preventing and combating violence against women and improving the protection of victims; 6. Eliminating gender stereotypes in the media and promotion of gender equality.

[18] "Official Gazette of RS ", No.027/2011 from 20.04.2011.

Doctrinal Documents of the Security Sector of the Republic of Serbia

Doctrinal documents of the security system (strategies and legislation), should, according to the process of harmonisation of legal norms in the international and national legislation, comply with the accepted rules of international law and ratified international agreements, which become the integral part of the legal system of Serbia.

The National Security Strategy (2009),[19] as basic values in the area of security, promotes: freedom, equality, preservation of peace building, rule of law, democracy and social justice, human rights and freedoms, national, racial and religious equality and gender equality, inviolability of property and preservation of environment. In this strategy, it is stated that Serbia is committed to respect the obligations of the UN Charter, the principles of the Universal Declaration of Human Rights and the Helsinki Final Act, that it is decided to develop and improve all aspects of security, that it is dedicated to creating conditions for promotion of human security, improving the role and position of women in decision making processes and strengthening national mechanisms for ensuring gender equality.

The Defence Strategy (2009) points out that Serbia contributes to building and strengthening security through peace and stability, that it builds and strengthens its own capacities and capabilities for the defense, as well as that through integration into European and other international security and defense establishments it operates jointly with other countries and contributes to strengthening national, regional and global security. This strategy defines the vital defense interests of the Republic of Serbia, including the protection of citizens' security, confidence building, improving security and stability in the region, cooperation and partnership with international security organisations and institutions of democratic government, and others.

The Review of Strategic Defence (2009) defines the mission and tasks of the Army of Serbia, including: Serbia's participation in building and maintaining peace in the region and the world, including participation in international military cooperation, in peacekeeping operations and the system of collective defense, as well as in supporting civil authorities in countering non-military threats to security.

National Action Plan for the Implementation of United Nations Security Council Resolution 1325 - Women, Peace and Security in the

[19] http://www.mod.gov.rs/lat/dokumenta/strategije/strategija_%20nacionalne_bezbednosti_lat.pdf./pristupljeno 5.2.2012.

Republic of Serbia (2010-2015),[20] an operational document of the Government of the Republic of Serbia, provides the basis for monitoring, analysing and proposing measures and activities for the advancement of position and representation of women in the security sector and in management positions, an effective protection of women in peace, conflict and post-conflict situations and greater participation of women in multinational operations and in international activities related to gender equality, peace and security.

National Action Plan (NAP) for implementation of Resolution 1325 in Serbia follows the strategic direction of the defense reform, with the aim that the Serbian Army will be professional, modernised, and under full democratic and civil control, which is determined by the Defense System Development Plan by 2010 (2006), the Defence White Paper (2005), and the Army Doctrine (2006). NAP only recognises some problems that realistically can arise in the areas of women's participation in decision making and in conflict, post-conflict situations and peace support operations, legal protection of women, as well as in activities aimed at sensitising the female and male members of the armed forces of the Republic of Serbia. Planned activities were determined on the basis of previously observed needs and refer to the period 2010-2015.

Gender Mainstreaming and Police Reform

Police reform means transforming or changing the police organisation into a responsible policing service that carries out police duties in a manner that meets the needs of local communities.[21]

Taking the initiative to integrate gender issues in police reform is not just a matter of operational effectiveness, it is also necessary for compliance with international and regional laws, instruments and norms concerning security and gender issues. Key instruments include:

- *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)*
- *Beijing Declaration and Platform for Action (1995)*

[20] Serbia will join the ranks of countries in the world that have passed an act on the implementation of Resolution 1325. These acts were adopted by: Austria, Belgium, Burundi, Chile, Holland, DR Congo, Denmark, Finland, Iceland, Liberia, Norway, Ivory Coast, Portugal, Rwanda, Spain, Sweden, Switzerland, Uganda and United Kingdom. In the Western Balkans only Bosnia and Herzegovina is in the process of developing the Action Plan.

[21] Groenewald, H. and Peake, G. (2004), Police Reform through Community-Based Policing and Guidelines for Implementation, International Peace Academy, New York.

Introducing gender mainstreaming in the police reform process includes:

- integration of gender issues in basic training for all police officers, including civilian staff;
- provision of mandatory and comprehensive training on gender sensitivity, gender based and sexual violence for the entire police personnel;
- organising a comprehensive training to acquire skills related to gender-specific issues, such as the examination of victims of trafficking, and protocols for responding to domestic violence, violence against the LGBT population, child abuse and sexual abuse;
- considering the possibility of establishing a women's police stations (WPS) or specific units against gender-based violence in order to encourage more victims to report violence.

The gender dimension of the police reform includes: adopting strategic goals for recruiting and retaining women; adapting human resources policies to ensure their non-discriminatory, gender-sensitive approach that favours the family; establishing women police associations and menthoring programmes; ensuring equal access to in-service training for career advancement, and so on.

At the same time, it should be noted that the changed gender roles and social structures provide space for more women to recognize the police as a career option. Extensive reform of the police service and equal opportunities policy contribute to maintaining a strategy of engagement, retention and advancement of women, but also in creating an environment for effective opposition to sexual and gender based violence and abuse. In addition, the absence of financial support, personnel or material environment should not be an excuse for the lack of gender reform in the police organisation.

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CRIMINAL JUSTICE REFORMS IN THE PART OF LEGISLATURE CONCERNING THE PROTECTION OF WOMEN FROM DISCRIMINATION AND VIOLENCE

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Abstract

The infringement of human rights, especially of those based on the difference between the sexes, not only causes extensive damage and suffering, but also poses a painful issue in the structure of the society. The international community is increasingly focused on eliminating this problem by joining every participant in a campaign against gender discrimination and violence against women. One of the crucial aims, in that regard, is that by 2015 each and every country introduce and implement national laws regarding this issue, punish all forms of violence directed against women in accordance with regulations of international documents on human rights. Having this aim in mind, the countries should be working on improving current and developing new legislation for the protection of women. The enactment of these laws would provide greater efforts in raising awareness within the educational system, and coping with discriminatory stereotypes and attitudes in the mobilization of the community. These laws envisage efficient criminal prosecution and punishment for perpetrators, greater support for the victims, and crime prevention. However, judicial reforms do not only encompass legislation reforms, but also work on the development of the policy, the procedures and mechanisms which enable their practical implementation and an equitable access into the system for everyone. State institutions, the judiciary above all, have an obligation to prevent and punish discrimination and most of all violence against women. The penal system provides law enactment and abidance, so the integration of gender issues in the reform process would enable its greater efficiency, thus making elimination of gender discrimination its primary goal.

Keywords: *judiciary, penal system, reforms, gender, discrimination, legislature, violence, women*

Introduction

Security is an invisible need and value that all people are entitled to. It is the security system that should create the conditions which enable people to satisfy this need. Furthermore, the concept of security surpasses the national security and focuses on the state institutions' ability or disability to provide protection for all citizens, thus enabling identification of threatened groups who carry the burden of poverty, discrimination, security system dysfunction, inefficient legal protection or armed conflict. Within this given framework, discrimination and violence against women could be acknowledged as security system dysfunction, inability to protect women or enable them to practice their human rights, or absence of a Commission for violence against women. Moreover, it is a common occurrence, especially in post-conflict societies and crises, for criminal laws to be flawed, procedures for addressing citizens' grievances to be insufficient or nonfunctional. If women are unsafe even when the country they live in is secure, then their lack of safety could only deteriorate as the threat for the country increases. What is alarming is that even today, when we talk about a 'modern world', women's security issues are not granted the attention they deserve and are often suffering due to a twofold marginalization: in the national security policy (as a private, family matter), and in the international security policy (as a domestic, sovereign affair). Even discrimination poses a threat for their security, since they lack the power to respond by force and to prevent harassment and violence directed against them, and find it difficult to cope with situations these cause. Reactions from the international community against discrimination and violence against women call for unification of all countries in introducing an adequate and effective legislative, which will cope with, and punish all forms of violence against women, will provide justice, support, protection, and rescue for victims, as well as appropriate investigation for detection and punishment of the perpetrators of these discriminatory and violent deeds. Those countries, which have already signed the regional or international documents, which contain, or refer to provisions on women's rights, are under obligation to implement these in their legal structure. Hence, reforms in the legal and penal systems on a national level represent the acceptance of these obligations and the creation of policies and mechanisms for protection of women from discrimination and violence in accordance with the rule of law and the international legal human rights framework. Furthermore, countries which aspire towards membership in the EU and NATO are even further motivated to implement these reforms, since they are in the direction of fulfilling the membership criteria.

International and regional legal and political framework of the legislation on violence against women

In the last two decades, violence against women has increasingly been regarded as a form of discrimination and infringement on women's human rights. Moreover, international agreements on human rights have significantly increased the obligations of the countries to condemn violence against women, to create and implement laws in reference to this issue, and punish this kind of violence in accordance with the international human rights standards. Comprehensive legislation is of the utmost importance for an effective and coordinated reaction in the case of violence against women, but it is by no means to be only limited to detection, prosecution and punishment of perpetrators, but rather extended to the enablement of measures in the direction of prevention of violence, support and victims protection, and explicit acknowledgement of violence against women as a form of gender-based discrimination and infringement on the human rights of women. In the general recommendation No.19 from 1992, the Committee for Elimination of Discrimination against Women (CEDAW) affirms that countries will be held responsible if they fail to prevent the violence and the discrimination against women, fail to investigate and condemn it, and fail to provide reparations. Furthermore, CEDAW recommends that countries enact laws against domestic violence and women abuse, rape, sexual assault and other forms of gender violence, and that they provide adequate protection for all women, as well as respect their dignity and integrity (para.5, 24(b)). This recommendation also envisages undertaking all legal and other measures, essential for the protection of women from gender-based violence, even including sanctions, provision of human resources, and establishing legal provisions for the protection of women from every kind of violence (para.5, 24(t)). Government institutions are under obligation to inform on the legal measures being undertaken, their efficiency, and the practical use of the laws against all kinds of violence and discrimination against women.

Among other international instruments, which impose a legal obligation on the countries to create or improve existing laws on violence against women, the Palermo Protocol and the Rome Statute could be named as being more significant. The Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime) requests that the countries introduce or strengthen necessary legislation (and other measures) against trafficking in women and children, as well as envisage criminal action and punishment for people who committed the criminal act. The Statute of Rome (Rome Statute)

by the International Criminal Court defines gender-based violence more broadly as a crime under international criminal law to date.

The international political instruments provide detailed guidelines for countries on how to strengthen the legal framework of the domestic legislation on violence against women. These are, in fact, declarations and resolutions published from conferences and summits of the UN: Declaration on the elimination of violence against women, ratified by the General Assembly of the UN in 1993; The Beijing Platform for action, adopted at the Fourth World Conference of women in 1995, and the reiterated call during the five-year review in 2000; Resolutions of the General Assembly of the UN, which calls on Member-States to intensify the efforts for elimination of violence against women, to strengthen legislation in this sphere by incorporating legal provisions for prevention and punishment of violence, and to strengthen criminal law and the procedure for all forms of violence against women. The common ground for all these instruments is the demand of Member-States to condemn violence against women, to disable secondary victimization of victims, to introduce legislation enabling effectiveness in prevention of violence and in prosecution of offenders, to strengthen penal and other sanctions in domestic legislation, and enable protection for victims and rehabilitation for criminal offenders.

On a regional level, the only convention aimed solely at the elimination of violence against women is The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women from 1995. This Convention is comprised of detailed provisions regarding the obligations of states to enact adequate laws and establish fair and effective legal procedures to protect women from violence. What is remarkable within the European system of human rights is the role of the Council of Europe and its regional agreements and political instruments, which impose an obligation to adopt legislative and other measures for the protection of women from discrimination and violence, or revise existing legislation and policies in an effort to create an efficient criminal legislation (European Convention of Human Rights, of 1950, European Social charter, revised in 1996, European Convention on the Protection from violence and inhumane and humiliating treatment or punishment, of 1989, European Commission on human rights, European court for human rights, Committee of Ministers, European Committee on the Prevention of violence, Recommendation 2002-5 of the Committee of Ministers to the Member-States for the Protection of women from violence). Moreover, the EU has published 5 Directives on equality (indiscrimination), which are legally binding for Member-states and aspirants for membership, which should regulate the specific means for achieving those goals in their national legislations.

In an effort to facilitate and encourage a coordinated action in coping with violence against women, a multitude of models of laws, strategies and measures have been developed within the UN. Hence, in 1996, the UN Special Rapporteur on violence against women has presented a framework for a legislation model on domestic violence, and in 1997 the General Assembly of the UN adopted a model for strategies and practical measures for the elimination of violence against women in the sphere of crime prevention and criminal justice. In 2010, the Department of Economic and Social Affairs, Division for the Advancement of Women prepared a Handbook for Legislation on Violence against Women in an effort to help countries improve the existing, or develop new legislation on the protection of women from discrimination and violence. According to this Handbook, the approach towards the creation of legal regulations ought to be comprehensive, meaning that all forms of violence against women should be criminalized, and it should encompass issues on prevention, protection and support for victims, as well as appropriate punishment for criminal offenders. Legislation should provide protection for all women and be entirely indiscriminate. The implementation of new laws on violence against women should be accompanied by a review and (if necessary) amendment of existing laws, which encompass provisions for the protection of women's rights in other areas of law, thus providing a consistent legal framework that promotes women's human rights, gender equality and the elimination of violence aimed against women. The legislation must be accompanied by the comprehensive political framework which encompasses the enactment of a national plan of action or a strategy for coping with the violence, in order for it to be effective. The quality of the police and the work of the public prosecutor are of the utmost importance for a full investigation and documentation of the violent acts, a successful court proceeding against offenders and their certain punishment. Hence, the legislation should provide the existence of specialized police and prosecution units, thus enabling formation of experts in this area, who will deal with and resolve cases of violence against women more efficiently. Furthermore, special courts are needed, which will have sufficient gender sensitivity and full understanding of the laws regarding discrimination and violence against women. For a comprehensive and timely implementation of these laws, the line ministry, in cooperation with the police, the prosecution, the judiciary, and the health and education departments, needs to introduce regulations, protocols, directions, instructions, standards, as well as standardized forms. The official departments that will not fully comply with the obligations in enacting these laws for violence against women should be sanctioned. In an effort to carefully and regularly follow and oversee the implementation of the legal regulations and for the areas which need reforms to be identified, an

institutionalized mechanism for management and evaluation is needed. This is why prevention is being given priority in the creation of laws. In that direction, activities for raising awareness should be envisaged, in regards to women's human rights and their protection against violence, modification of the discriminatory behavioral patterns-social and cultural, and sensitization of the media regarding this issue. Comprehensive and integrated services for support and aid available for all women must be provided for women victims of violence. Moreover, a charge-free telephone number should be created on a national level, as well as a safe shelter for emergencies, women's centre for legal representation and counseling, a crisis centre for rape cases, and access to health protection, in order for minimal standards of service availability to be established. In reference to the legal proceedings, the Handbook offers recommendations for national laws on violence against women, such as: mediation to be prohibited prior to and during legal proceedings, timely and expeditious legal proceedings (and if need be, even encourage fast-tracking of cases), charge-free legal aid and court support (in an effort to secure access to justice and avoid secondary victimization), and lastly, to guarantee and respect the rights of the victims of violence. It is furthermore recommended that in delayed reports of violence on behalf of the victims (which is most often due to a feeling of stigmatization, distrust, fear of revenge, lack of access to institutions in charge, etc.) not to be considered by the court as a mistake on the part of the complainant, hence reaching a negative verdict on the case (Legislation on violence against women, 2010).

Gender issues in the judiciary

The judiciary is closely linked to security, since an effective judicial system protects and promotes human rights, and discourages prospective criminal offenders from carrying out their criminal intents. The basis of security, peace, stability and democracy is in an independent and effective judicial system, whose policies, procedures and practices should allow for equitable human rights for all. Therefore, the basic goals of the reforms comprise:

Article VII. Introducing legal mechanisms and further mechanisms for their implementation;

Article VIII. Creating an impartial, accountable, effective and credible judiciary;

Article IX. Developing an integrated access to criminal judiciary within the courts, the police, the legal representatives and the prosecution;

Article X. Providing timely and equitable access to justice;

Article XI. Strengthening cooperation between governmental and non-governmental institutions;
Article XII. Introducing a mechanism for judiciary surveillance; and
Article XIII. Strengthening the role of the judiciary in conducting supervision over the remaining components of the security sector and the other governmental bodies (OECD, 2007:182).

The reforms in the judiciary are an ongoing process, which includes institutional reforms, policy reforms, constant training for the members of the judicial institutions, and a raised awareness of the government and the citizens alike (Quast, 2008:2).

Gender issues are of a crucial importance for any judicial reform, which strives toward abidance of the international human rights standards and democracy. The implementation of gender issues in national judiciaries implies:

Article XIV. Fulfilling the obligations in accordance to international law;
Article XV. Answering the specific needs of the community;
Article XVI. Building trust in the judicial system;
Article XVII. Ensuring a legitimate and representative justice sector;
Article XVIII. Reforming discriminatory laws and promoting human rights protection;
Article XIX. Ending impunity for people who commit gender-based violence;
Article XX. Enabling an equitable access to the institutions of the judiciary; and
Article XXI. Conducting effective supervision over all aspects of their activities and controlling them (Quast, 2008:3).

Gender violence is a widely present criminal offence, which in most of the cases goes unpunished. While it is mostly associated with the culture of silence, certain forms of gender violence are not considered as criminal offence in some national legislations, thus contributing to a culture of impunity, which in turn undermines peace and security. Even when legal regulations do exist, procedures and regulation in the judiciary discriminate against certain groups, for instance victims of domestic and sexual violence. Courts often face a lack of infrastructural capacity and expert knowledge, which renders them unable to prosecute gender-based violence criminal offenders. During court proceedings on sexual violence, victims are often threatened of being re-victimized due to the humiliation they endure in the course of the interrogation, while testifying and even after the trial. In the courtroom, various forms of gender prejudice and stereotypes can be

witnessed, often leading to discriminatory behavior. Therefore, courts, institutions conducting civil supervision or some non-governmental organization may form a workgroup. Such a group would examine the existence of gender prejudice in courtrooms, would help eradicate them, and would promote professional relations between men and women- judges and lawyers. Every participant in the judicial system should undergo training on women's rights (rights which are a part of international and regional laws and obligations), on the influence of gender issues on the judiciary, and on the legal procedures applicable in cases of gender-based violence. Professional and academic institutions ought to revise their curriculums and enable the discussion on gender equality to constitute a part of the lectures and trainings that should be compulsory for legal education (Report by the Secretary General of the UN, 2006). In order to speed up the process of gaining gender equality, countries should undertake special measures, by which female participation in the judiciary would be promoted, thereby gaining credibility and legitimacy in the community. In an effort to lower or eliminate discrimination against women, campaigns for educating the public are recommended. These campaigns are intended to change societal attitudes, which are a basis for discrimination and violence. It is very significant that preventive measures and response strategies are not focused solely on women, because it would mean that the fact that in most cases it is men who commit gender-based or sexual violence is ignored. Men, especially those who have greater influence on the behavior of other men, should actively take part in campaigns and interventions against violence against women. As experience has shown, this kind of campaigns, when thoroughly planned, are seen to have changed the attitude and behavior of a part of the male population (Barker, 2007:4).

Gender issues in the penal system

The penal system is a crucial part of the security sector, and is established to provide law enactment and law abidance. However, gender-based discrimination is present even in the penal system itself, mostly in the process of punishing the offenders and the way they serve the said punishment. The integration of gender issues in this system makes it more effective, since it is based on equality and on international human rights standards, furthermore promoting rehabilitation of prisoners. The goal is to pass tempered, equitable sentences that allow for rehabilitation, human dignity to be respected in prison institutions, and to provide the enjoyment of prisoners' legal rights. Due to the dominant role of prisons in the penal system, and the possibility of abuse and torture in them, many activities related with the penal system reforms are focused on prison reform. Human

rights infringement in prisons is widely present, and it encompasses: overcrowding due to lack of space, lack of means to satisfy prisoner's needs (food, medicine), infectious and mental diseases, violence and brutality against and among prisoners, and a serious lack of rehabilitative activities (ICPS, 2004:12). Along with these, various other problems occur in the penal system, such as: lack of means for imposing non-prison sanctions (due to which prison sentences are being imposed even in cases where non-prison sentences would be more proportional to the criminal offence in question), overuse of pre-trial detention, imprisonment in cases where social or welfare intervention would be far more just, corruption, severely underpaid staff, etc. (INSTRAW, 2008:2). Therefore, prison reforms should strive towards elimination of these and other problems.

Instituting gender-responsive policies and practices would help in:

Article XXII. Respecting human rights standards, and adequately responding in case of their infringement;

Article XXIII. Instituting an equitable penal policy, that is not discriminatory, but includes special security provisions which only refer to women. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment notes that women are usually locked and held in a small number of locations, in premises which have first been intended for male prisoners, which is why more attention should be paid to ensure they are being held in a decent custodial environment (The CPT Standards, 2006);

Article XXIV. Prisoners' rehabilitation, especially for those prisoners who are from marginalized groups and who have a prior history of violence and sexual abuse. Four out of five imprisoned women in Canada report that they have previously been abused (CHRC, 2003:1.1-1.7). The penal system should provide these women with counseling and psychological treatment, which will help them carry the burden of the violent experience, leading to a more successful rehabilitation.

Article XXV. Promotion of better public health, as women in prisons usually suffer from specific health problems which must be taken into consideration (such as gynecological problems, pregnancy, mental problems, etc.). Bad sanitary conditions in prisons and sexual violence that may lead to spreading sexually transmitted diseases pose an even greater threat to their health;

Article XXVI. Equal treatment and participation of men and women as clerks in the penal system, elimination of discrimination and violence against women, enabling them to advance in their profession, which is currently very limiting (INSTRAW, 2008:5).

One of the crucial goals of the penal system reforms should be preventing gender-based violence in prisons and providing an adequate response so such violence can be detected. Although it is very important that such criminal actions are punished, prevention is of paramount importance. These preventive measures encompass: adequate legislation, well trained, expert personnel and management, supervision over the work of prisons by an external, independent body, effective mechanisms for lodging complaints, protocols for dealing with and investigating cases of gender-based violence, personnel training, and medical services accountable to governmental bodies, rather than to prison authorities. Hence, mechanisms to protect women from the violence of prison personnel and other prisoners should be enforced. Supervision mechanisms should help facilitate the process of lodging complaints, reporting cases of violence, passing sentences, and offering support to victims of gender-based violence. Furthermore, the civil society and various groups dealing with women's issues should participate fully in the work of the prisons. Thus, violence could be prevented, and access could be granted to special services necessary to women prior and after leaving the prison (INSTRAW, 2008:10).

Gender-based violence in the national security policies

Security policies are strategic documents, which are of crucial importance in creating a coordinated response to security threats and may serve as a platform for reformation processes in the security sector. Including gender issues in security policies should result in the creation of policies and institutions which would effectively and lawfully offer protection and safety to men and women alike. Despite the fact that the security sector is tasked with citizen protection, security institutions and personnel may occasionally breed insecurity, especially for the vulnerable groups of the society. Violence could also emanate from the legislation and the policies that make up the rule of law. Gender-blind policies may directly or indirectly approve violence against women, gender inequality, exclusion policies, and discrimination. One of the processes that promote protection in that regard is the inclusion of both sexes in the decision-making processes. Equal participation of both women and men in local, national and international processes of security policy is in compliance with international norms and instruments, such as for instance the UN Security Council Resolution 1325. Inclusion of gender perspectives into the national security policies is essential to the compliance with international and regional gender-related laws, instruments and norms (Albrecht and Barnes, 2008:6).

Gender inclusive security policy takes into account the differing needs of men and women, including internal security threats, such as gender-

based violence. This global phenomenon falls the hardest on women. Statistically, UNIFEM estimates that every third woman in the world is a subject to some form of gender-based violence (assault, rape, trafficking, beating, etc.). The Centers for Disease Control and Prevention state that every year in the United States 1,500,000 women are raped or physically assaulted by their intimate partner. According to the United Kingdom Home Office, domestic violence is the leading cause for mortality among women 19 to 44 years of age. However, gender-based violence is also significant for men, especially in times of conflict, when they are subjected to sexual violence, sex-selective massacres and forced conscription (Carpenter, 2006:87). Due to the high prevalence and severe social and financial repercussions of gender-based violence, it represents a security issue that must be addressed in national security policies.

In addition to gender-based violence as a crucial internal security threat, greater attention must be paid to other gender-sensitive issues, such as:

Article XXVII. Achieving equality between women and men;

Article XXVIII. Gaining equal rights to take part in the institutions of the security sector;

Article XXIX. Elimination of gender discrimination in the security sector, or in the provision of security services to citizens;

Article XXX. Institutional codes of conduct (including special provisions against discrimination, sexual harassment and other forms of gender-based violence);

Article XXXI. Establishment of mechanisms that ensure the participation of civil society in the supervision and enactment of security policies, security sector reforms processes, and security sector institutions (Albrecht and Barnes, 2008:9).

In order to support gender-responsive development and security policies enactment, gender training should be provided to every actor involved in the creation of the said policy. Prospective subjects in such training should encompass:

Article XXXII. Differing security needs of both women and men;

Article XXXIII. Reducing discrimination and gender-based violence by security sector personnel;

Article XXXIV. Strategies for eradicating gender-based violence;

Article XXXV. International, regional and national legal and normative framework, which places an emphasis on equal rights for women and men;

Article XXXVI. Increasing the recruitment and advancement of women in security sector institutions;

Article XXXVII. Mechanisms for increasing civil society participation;

Article XXXVIII. Assessment of the policy's influence on gender and gender-based budget analysis (Born, Fluri and Johnsson, 2003).

In the end, I would like to emphasize that the inclusion of gender issues in the national security policies of countries, does not necessarily mean that gender-based violence and discrimination are eradicated. The policy does not have great value by itself. It is merely a political document which stands for a plan, a vision, a strategy, a concept or doctrine (DCAF, 2005:1), which must trigger action in the direction of efficiently ensuring justice for all. Thus, it is only when the security policy is introduced and properly enacted, that it accomplishes its goal.

Conclusion

No matter how much we are aware of the progress done in eradicating discrimination and inequality of sexes, the ugly reality of rape, spousal violence, sexual violence, and violence on the workplace and on streets illustrate and intensify women's subordinated role. Violence against women is seen as a form of discrimination and women's human rights infringement. International human rights agreements, especially those that refer to women's rights and protection, impose an obligation on Member-States to create and implement laws, thereby preventing and punishing violence against women, in compliance to international standards. Countries should:

Article XXXIX. Implicitly accept, ratify and enact international and regional human rights conventions, especially the Convention on Elimination of all forms of Discrimination against Women (CEDAW);

Article XL. Reform their laws and policies by including in them the principles of equity, gender equality and struggle against gender-based violence;

Article XLI. The legislature should ensure prohibition, punishment, prevention and legal aid for all forms of gender-based violence in a way that would protect and promote victims' rights;

Article XLII. Ensure legal education for citizens and gender training for all participants in the judicial system, thereby reducing obstacles faced by women in need of its institutions;

Article XLIII. Reform discriminatory laws, thus promoting human rights protection;

Article XLIV. Establish a representative and legitimate judicial system;

Article XLV. Strengthen the supervision over gender issues solution and achievement of gender equality;

Article XLVI. Criminalize all forms of violence against women in national legislations, ensure an effective prosecution and punishment for criminal offenders, and increase victim support and protection;

Article XLVII. Include civil society in the supervision, thus embracing it as a partner in reform processes in the judiciary.

Taking into consideration the wide distribution and the difficult social and financial repercussions from gender-based violence, national security policies should include this issue as a crucial internal security threat.

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КАЗНЕНО-ПРАВНИТЕ РЕФОРМИ ВО ДОМЕНОТ НА ЗАКОНОДАВСТВОТО ЗА ЗАШТИТА НА ЖЕНИТЕ ОД ДИСКРИМИНАЦИЈА И НАСИЛСТВО

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Апстракт

Прекршувањето на човековите права, особено оние во чија основа се разликите меѓу половите, не само што предизвикуваат голема штета и страдање на индивидуите, туку тие се и болна точка во структурата на целото општество. Меѓународната заедница се повеќе се фокусира на елиминирањето на овој проблем преку здружување на сите учесници во кампања против родовата нееднаквост и насилство врз жените. Една од клучните цели е до 2015 година сите држави да ги донесат и спроведат националните закони кои се однесуваат на оваа проблематика и да ги казнуваат сите форми на насилство врз жените согласно нормите на меѓународните документи за човекови права. За таа цел, државите треба да работат на подобрување на постојните и развој на нови закони за заштита на жените. Со законите треба да се обезбеди поголем напор во рамките на образованието за подигање на свеста и во мобилизацијата на во справувањето со дискриминаторските стереотипи и ставови. Законите треба да обезбедат ефикасно гонење и казнување на сторителите, да потикнуваат поголема подршка на жртвите и да овозможуваат превенција во таа насока. Сепак, реформите во правосудството, кои се постојан процес, не ги опфаќаат само реформите за законите, туку и развој на политиката, процедурите и механизмите со кои се овозможува нивна практична примена и еднаков пристап во системот за сите. Државните институции, пред се оние на правосудниот систем, се должни да ја спречат и казнат дискриминацијата, и особено насилството врз жената. Казнениот систем овозможува спроведување и почитување на законите, па интеграцијата на родовите прашања во процесот на реформите на казнениот систем треба да овозможи негова поголема ефикасност, при што отсуството на родовата дискриминација ќе биде негова основна содржина.

Клучни зборови: правосудтсво, казнен систем, реформи, род, дискриминација, законодавство, насилство, жени

JUDICIAL POLICE IN THE NEW CODE OF CRIMINAL PROCEDURE OF THE REPUBLIC OF MACEDONIA

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Abstract

The new Law on Criminal Procedure of RM, following the example of Italy, France and other European countries, introduced the so-called judiciary police in those countries designated as "judicial police". Actually, it is the existing criminal police, which work closely with the public prosecutor, and a part of it will be directly in the team of public prosecution in the so-called investigation centers of the Public Prosecution office.

Under the new Law on Criminal Procedure, the police now as judicial police, become a main assistant to the public prosecutor. Police and other state authorities responsible for the detection of crimes and their perpetrators in the pretrial procedure will be managed by the public prosecutor, which stems from its constitutional obligation to prosecute perpetrators of crimes. Cooperation between these institutions from the earliest stage of the criminal procedure is necessary and a prerequisite for discussion making, namely the public prosecutor to decide whether the evidence collected so far is enough or not enough to impose that criminal case to the court. Therefore, the cooperation of the public prosecutor and judicial police is in a completely new dimension and meaning in a system which is now under the new Criminal Procedure Act and will be adversarial in nature. The success or failure of the prosecutor in court is a joint success or failure of the judicial police and the public prosecutor.

On the other hand, the close cooperation and leadership of the public prosecutor over the judicial police, will bring benefit to the Ministry of Interior, especially to eliminate the accusations that it is politicized and selective in conducting the criminal investigations. This will positively reflect on the promotion of professionalism within the police, but also increased confidence in the police and other participants in the criminal justice system and society as a whole.

This is an important novelty in the criminal justice system, so this paper aims to analyze some basic questions about the competence, composition, organization and other practical issues related to the establishment and functioning of the judicial police.

***Keywords**: criminal justice system, judicial police, public prosecution,*

Introduction

The new Law on Criminal Procedure (LCP) modifies the criminal procedure in the direction of an approach to the European trends, in order to increase the efficiency of the criminal justice system, especially in the detection and the prosecution of various forms of organized crime and other serious crimes. The present Macedonian criminal procedure, so called mixed procedure (with aim to emphasize the difference with both: the Inquisition and Accusatory Criminal Procedure) is essentially an official investigation of the Court. The new Law puts the accusatory approach in the Criminal Procedure, with an emphasized role of the procedural fairness and input of the contradiction principle of the trial (Kalajdziev, Lazetikj-Bužarovska, 2011). Such system assumes an active role of the parties, while the judicial investigation is being abandoned, and the public prosecutor becomes *dominus litis* of the previous procedure, leading the investigation together with the police and having an obligation to gather evidence which will prove the guilt of the suspect in Court. Apparently, the greatest innovations in the new LCP are in the part of the previous procedure, and the relationship between the public prosecutors and the police is regulated according to the needs of the prosecutor's investigation, which does not interfere the own initiative of the police in the crime detection and prevention.

Previous procedure in Europe

The previous procedure in a lot of European countries has been delegated to the public prosecutor, who as an independent and autonomous institution of the judicial system, guarantees the law domination, with a particular emphasis on the protection of the human rights and freedoms, making it one of the most important pillars of the democratic systems towards which our country aspires. In these countries (Italy, Germany, France, USA and others) the public prosecutor manages, coordinates and controls the police in a functional sense, when it’s a matter of detecting and preventing crime. For that purpose, organizational reforms and specialized police units are composed (forensic laboratories, criminal techniques, information system with many databases, specialized organizational units responsible for detection of organized crime, corruption, violent and other serious crimes), as well as in the prosecution where with the cooperation receives an institutional procedure based on legal and sub-legal acts.

The police in the European countries since the Second World War are in constant reform (it can be said that the police forces and policing, as it is now known, are in constant reforms since the 18th century), as a result of numerous factors: political, economic, social, cultural, legal and even

national and international legal law reforms. All this is happening especially because of the dynamic changes in the nature of all criminal phenomena.

In the last few decades numerous studies and analyses of legislation and the practical work of the police show a continuous increase of its function and objectives, anywhere in the world, especially in the part of the crime prevention, detection and prosecuting. This is followed by new legal authorizations of the police, such as special investigative measures, whose implementation is sensitive and complex, and sometimes requires an implementation of reform in the training of the police officers, in the police organizational structure, means for implementing new measures, particularly clear procedures for their application. Any change of the legislation is intended to affect or replace the previous practice and routine in the work execution. The police procedures are sometimes accepted as an objective necessity, respectively that they are implemented correctly and effectively "according to the law", but some authors believe that the police apply the legal authority arbitration (Ruben G. Rumbaut and Egon Bittner, 1979). For example, the video surveillance in public places, if it is without adequate procedure and control may convert from a proactive measure for crime prevention into unfair and intrusive measure directed to the privacy of the entire population.

The lawful, accountable and professional police work is inextricably connected with a certain discretionary decision of the police officers, in a large part due to the crime nature, the inability of criminal, material and procedural law to foresee and regulate all the possible life situations wherefore the police are responsible. Police in relation to the crime must make a decision on two occasions: first when deciding whether there is sufficient data and evidence for existence, preparation or execution of a crime and potential offenders and second time when deciding which measures and means to use with each single offence. The limits of the discretionary decision of the police are most often legally regulated (in the Laws on Criminal procedure, Police laws, etc.), but the control of the public prosecutor and the Court is necessary for the human rights and freedoms protection and for the police functioning under the law domination and the democratic principles.

In all EU countries according to legal decisions, the police must report any crime to the prosecutor, except crimes with a negligible damage. The exception of this rule is the Netherlands, where there is no clear legal provision how do the police have to act when a crime is committed, and that’s why in 2003 the Board of the Chief Prosecutor adopted a Manual for the Police Handling during the Crime Investigation (Petar J.P. Tak, 2004/2005). This Manual obliges the police to take measures whenever the offender is known and when it is a matter of a severe or serious crime,

wherewith certain discretion in the decision-making which case to investigate, is allowed to the police. But, this specificity came from the fact that the police are an authority within the Ministry of Justice and its discretionary decision-making is limited and controlled, and the public prosecution is the one that in some cases doesn't initiate proceedings (he has the right to make a decision on the basis of opportunity).

In England, Wales and Ireland the police are independent in making decisions and the prosecutor doesn't have the opportunity to issue orders. In other countries where historically the criminal procedure is built on the basis of the Napoleon *Code Instruction Criminelle*, the public prosecutor is authorized to issue orders to the police regarding the investigation initiation, to give guidance on the scope of the investigation, but also to investigate independently crimes or to take part actively and to decide on the means and the measures taken in the investigation (or to make a demand from the competent court).

The present legal solutions for the judicial police in Italy and France

The public prosecutor in the Republic of Italy has a full responsibility in the conducting of the investigations for all the crimes. He can investigate the crime and decide on how it will be implemented. The relationship between the prosecutor and police was for the first time legally regulated by the Law on Criminal Procedure of the Republic of Italy, adopted in 1988, amended and completed in 1992 and in 2001, based on the decisions of the Constitutional Court of Italy (Berislav Pavišić, 2002). The prosecutor is *dominus litis* of the investigation, but there is a present tendency in practice to strengthen the role of the police. Indeed, it is obviously that because of the police operations, numbers of officers, public visibility and other reasons, the police are often the first institution that responds to every crime and similar criminal offenses. According to the Italian LCP, the police are in charge of its own initiative to collect information and data relating to crimes and the possible offenders and to undertake measures to prevent new crimes. Also the police must provide evidence, witnesses, to protect the victims and to collect all the relevant data that will enable a successfully crime offenders prosecution.

The police, as in the other countries, are a part of the executive power and it is hierarchically organized, where the heads of separate organizational units are responsible for compliance with the law and the foreseen procedures in the work. The law authorities violation is sanctioned by the police itself, but if it doesn't happen especially when the orders and the tasks given by the prosecutor are not accomplished, then the Chief prosecutor (there is one for each jurisdiction of the appellate courts) may initiate an

disciplinary proceeding against the police chief, after which a Commission composed by two judicial authority representatives and one police officer decides.

The Italian police are obligated to notify the prosecutor for any crime, respectively when it's a matter of a crime investigation for which there is a necessary participation of an attorney, then the case will be reported within 24 hours, and for the heavy crimes, the prosecutor must be notified immediately. Upon the notification, the prosecutor takes the investigation in all the cases of serious crimes, and the police must act upon the directions of the prosecutor. At the same time, the police may take additional actions which are necessary for a successful conduct of the investigation, but it notifies the prosecutor immediately, or more specifically, it is in constant communication with him.

The police operation and initiative remains a decisive factor in the crime detecting and it can collect always, without an order, data and information from witnesses, victims and a suspect not deprived of a freedom, in the presence of a lawyer.

On the other hand, the public prosecutor may act operationally and for this purpose every prosecutor in Italy dispose with two judicial police officers elected by public notice and which cannot be removed from their position without approval of the prosecution (whether their salary and rank are under the police jurisdiction). In the specialized departments of the Public Prosecutor, for example the Public Prosecutor against the mafia, the number of the judicial police members is bigger. In this type of departments criminal investigators work, also criminal forensics, financial experts and other experts, according to the needs of separate criminal cases.

The judicial police in France is governed by the public prosecutor, and controlled by the Chief Prosecutor and by the competent judicial investigative unit (Article 13 of the Criminal Procedure Law of the Republic of France). The public prosecutor is obliged to monitor, control and direct the police work in criminal cases. He is responsible for the coordination of various institutions involved in the investigation. He determines which authority will be in charge and responsible for the specific investigation and has the right to be informed about the work of all the institutions linked to that case. The prosecutors have the same authorizations of the judicial police and they may take certain investigative actions at their own decision. Otherwise, the Public Prosecutor in France is centralized, since the 19th century, in order to establish a homogeneous treatment of the prosecutors throughout the country (Jörg-Martin Jehle, Marianne Wade, 2006).

The Prosecutor in accordance with the Article 42 of the Law on Criminal Procedure of France has the right to seek assistance and support from the police, accomplishing its task, and to propose or to initiate measures

and activities for detection and prosecution of any violation of the Criminal law. For each received knowledge, for each measure taken by the police authorizations, the judicial police is obliged to notify the prosecutor by submission of official documents related to that event, in the original and prepared by an authorized officer-inspector of the judicial police, or the officer who had taken measures or was responsible for their implementation (Report of the Council of Europe, 2008). The French law stipulates that after the crime is being reported, the judicial police can't independently make decisions regarding the conduct of the investigation. But empirical evidence showed that the police make a selection for what and when to notify the prosecutor, so some crimes of lighter character or for which there are not sufficient data, end just as events registered in the police databases.

Generally, the prosecutor is obliged to control the previous procedure, that means the police work too, which in practice usually accomplish through direct contact of the prosecutor with the responsible officer of the judicial police, but when a investigation is conducted against crime group and a serious crime, then the prosecutor is managing the investigation (Jörg-Martin Jehle, Marianne Wade, 2006).

The place and the role of the judicial police in the new Law on Criminal Procedure of the Republic of Macedonia

The experiences from the practice in several European countries show that the police dominate in the investigation, because of, as we already pointed out, the greater presence on the territory, and the greater material and human resources. The exception of this is Italy, which is one of the reasons why the new Macedonian LCP follows that example. Hence this is the biggest reform in the current criminal procedure, which means that the previous procedure from a judicial investigation becomes a prosecutor investigation. In this law also, the previous procedure (pretrial) aims to gather enough evidence for a crime and his offender/offenders existence, in order for prosecutor to have enough evidence to decide whether to conduct a court proceeding or the activities on that criminal case will be stopped.

The previous proceeding in the new Law on Criminal Procedure is formally divided in two phases: 1. Preliminary investigation procedure (now titled as detection and reporting the crime) and 2. Investigative proceeding conducted by the prosecutor. The Law introduces The Judge of the Previous Procedure, who decides, at this stage, on the requests of the prosecutor for measures that interfere with the freedoms and the rights of the suspect persons.

The procedure of preliminary investigation begins with the police investigation, on assignment or upon request of the public prosecutor.

Besides the police, in the Ministry of Internal Affairs, during the procedure of preliminary investigation, the Financial Police, the Custom Office and the Directorate for security and counterintelligence also take measures, but their participation is determinate for crimes under their legal jurisdiction.

The police are obliged to conduct action upon received knowledge or received penal application and it can take the necessary measures to secure and discover the evidence and to find the offender/offenders of the crime. Generally, the police retain the previous authorizations, now more accurate and clearer. The novelty is that the law obliges the prosecutor to coordinate the work of the police and the other authorities and they should act on his orders and therefore in a legally specified period (30 days) must perform his tasks and submit a response.

The new LCP introduces a judicial police to make a distinction from the current solution which spoke of the Ministry of Interior Affairs and its members in order to emphasize the role of the public prosecution in the conduct of criminal investigations or to point out that the police and the other state authorities with similar authorizations are under the jurisdiction of the prosecutor. The new law especially emphasizes the connection between the judicial police and the public prosecution already in the early stage of the previous procedure. This will allow the public prosecutor to be continuously updated with the actions of the police, to assess regularly which evidence is necessary and whether they are sufficient, to control the legality in order to assess whether to dismiss the case or whether is it possible, based on the previously provided evidences to get a criminal case in court. Moreover, this is important and because of the new nature of the main debate it is now a party or it will be conducted in an impartial court where the prosecutor and the defense are equal to "weapons".

It should be noted that the relationship between the public prosecutor and the judicial police in this concept will be strengthened with the establishment of Investigative centers of the Public Prosecution. Members of the judicial police of the Ministry of Interior, of the Financial Police, Customs, and if necessary other specialists from different areas will work in the Investigative centers. The employee's selection in the Investigative centers will be done by published announcement to guarantee stability and professionalism of the members of the judicial police. In practice, such as in Italy, the crossing from Ministry of Interior or other institution in the Investigation Centers of the Public Prosecutor has to present a career improvement of the concrete inspector investigator. Otherwise, in accordance with Article 51 of the new LCP, the inspectors who went to work in the Investigation centers are fully available to the public prosecutor, they execute his directions and instructions, work under his control and, what is especially important, and they give answers to him for their work. Such a

legal solution enables a real operation of the Public Prosecutor, even when Ministry of Interior or the other institutions response inadequately or untimely on the specific crime, the prosecutor now alone with his team, can fully take over the conduct of the case. It should be noted that members of the judicial police cannot be removed from cases where they work by the heads of state institutions, without an explicit approval of the public prosecutor. The public prosecutor together with the existence of the Investigation Centers and the police will no longer remain alone in the further stages of the investigation and the whole criminal proceeding.

These legal solutions can be implemented only if they provide the necessary material and human resources, but however the most important thing is to approach the new legal concept to all entities. Indeed, the Academy for training of judges and public prosecutors, in the past period (2010-2011), organized a few trainings which included the biggest number of judges and prosecutors, but a relatively small number of members from the state institutions. On the other hand, there is no preparation of necessary modification for completing the reform of the criminal justice system of the Republic of Macedonia such as: the Law on Police, the Law on Public Prosecutor, the Law on Financial Police, the Law on Custom Administration and other laws. The process of reforms is difficult, the problems often arise and solution requires persistence.

Conclusion

The police and policing provoke a great interest among experts and the general public worldwide. The building of a modern democratic state need a police institution as a part of the formal social control, also as a part of the executive political power, and one of the institutions of the criminal justice system. This means that the police have many functions and tasks which must perform based on the principles of the rule of law with a respect of the human rights and freedoms. The efforts to maintain the security, as an individual, state and social need, put the police in front of challenges of different nature and require its adaptation to new and always different security tasks, such as criminality whose phenomenology in the contemporary society has a really hard predictable dynamics.

The crime detection, prosecuting and prevention can provide relatively satisfactory results, if the police build ethical and professional standards with respect to the legislation, and especially if there are institutional and informal forms of control of its work.

The new Law on Criminal Procedure introduced a prosecutor investigation, or the whole previous procedure has now been entrusted to the public prosecution performing its tasks in close cooperation with the police,

the Financial Police, the Custom Administration and other institutions. The experiences from the European countries that have made such reforms show that there is a danger that the police, because of the operation and the great available resources, will impose and dominate in the previous procedure. The challenges in the implementation of the new legislation are big and there are various possible outcomes.

There is an impression that the legislator giving the obligation to the Public Prosecutor to manage and control the police in taking measures and actions for crime detection and prevention, wants to reduce the political parties impact on the police work, and the possibility of using the police for personal and group interests with the selective application of the police power. It is interesting to mention that in Italy, Germany and other European countries, the prosecutors and the police take action against current prime ministers and presidents of states, ministers, deputies and other senior politicians and big businessmen, which also get an acceptance in the public and strengthen the legal awareness of the population and their confidence in the system. Whether Macedonia, with the reform of the previous procedure, will manage to approach to such desired results, mostly depends on the relevant institutions to be agents of the reforms, and the entities that accepts the reform as a solution for the existing weaknesses and problems. Also in the implementation of the reform the participation of all the entities is necessary, especially of experts, NGOs, media and the international partner institutions that can help with their experience and good practices and can encourage the achievement of the goal: effective previous procedure, which allows a fair court proceeding and a reduction of the crime, so that they can not endanger the overall development of the state and Macedonian society.

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METHOD OF TRIANGULATION IN CRIME RESEARCH

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Resume

In the foundation of theoretical and epistemological knowledge of applied science security various numbers of methods, techniques and tools can give certain results. Methodological triangulation, in particular the application of empirical research methods and procedures giving more or less reliable, objective and factual information and provide security to constitute science as a separate science.

Combining quantitative and qualitative elements in research design does not represent any new or radical concept in the study of crime. Different methods can be used to explore various dimensions of security. Thus, in literature there are many advantages in addition to go to persuade scientists to accept the multi-method approach (that combining methods increases the validity of results). Moreover, this integrated approach should be applied only if the study adds value by increasing understanding of the safety issue of concern.

***Keywords**: combined method, triangulation, crime, research*

Introduction

Numerous advantages are advanced in the literature to persuade researchers to adopt a multi-method approach, and the overarching theme is that combining methods increases the validity of the findings. The term "triangulation" is used in different ways, and there are number of related concepts (some synonyms, others with slightly different meanings), such as "multi-method research", "mixed model research", "mixed methodology", "triangulation".

Within this paper, we use the term triangulation which refers to research that combines quantitative and qualitative research techniques and approaches in one study of security, such as definition of Creswell: the method of triangulation employs strategies of inquiry that involve collecting data either simultaneously or sequentially to best understand research problems. The data collection also involves gathering both numeric information (e.g., on instruments) as well as text information (e.g., on interviews) so that the final database represents both quantitative and qualitative information.

Multi-Methods and Triangulation

In some senses the four research methods – questionnaires, interviews, observation and documents – can be seen as competing with each other. They vie with each other for selection by the researcher. They are different, and they are suited to some situations better than others. Yet, in another way, they can come to complement each other. They can be combined to produce differing but mutually supporting ways of collecting data. The possibility of employing more than one method stems from the fact that the various methods contain their own set of assumptions about the nature of the social world and the kind of data that can be produced to increase knowledge about the world. Theoretical debate about the relative merits of their underlying premises has failed to establish any single method as the universally accepted 'best' for all situations. The 'epistemological' debate continues; the jury is still out. This means that for those engaged in practical research, particularly the small-scale project researcher, none of the possible methods for data collection can be regarded as perfect and none can be regarded as rubbish. None has the sole key to 'truth', and none can be dismissed as hopelessly irrelevant for enhancing knowledge[1]. Nowadays, a far more profitable way to approach things, and one which is far more in tune with the mood of social research, is to recognize that each method provides its own distinctive perspective. Each method approaches the collection of data with a certain set of assumptions and produces a kind of data which needs to be recognized as having certain inherent strengths and certain inherent weaknesses in relation to the aims of the particular research and the practical constraints (time, resources, access) faced by the researcher.

The term 'triangulation' was first used in the context of social research by Campbell and Fiske. They propound that "the most fertile search for validity comes from a combined set of different measures". According Hammersley and Atkinson triangulation as a social science concept derives from a loose analogy with navigation and surveying. The term was used in these professional fields to refer to the use of two or more landmarks to pinpoint a position more accurately than if one was used.

Udo Kelle proceeds to identify the various meanings in which "triangulation"—which he regards as a metaphor rather than a precise concept—has come to be used and to determine which of these meanings is most appropriate for conceptualizing the combination of qualitative and quantitative methods. He distinguishes three meanings or models of triangulation: (1) triangulation as the mutual validation of results obtained on

[1] Denscombe Martyn "The Good Research Guide for small-scale social research projects" 2007.

the basis of different methods (the validity model), (2) triangulation as a means toward obtaining a larger, more complete picture of the phenomenon under study (the complementarity model), and (3) triangulation in its original trigonometrical sense, indicating that a combination of methods is necessary in order to gain any (not necessarily a fuller) picture of the relevant phenomenon at all (the trigonometry model). These three models are in turn brought to bear upon the potential relationships between the results yielded by qualitative and quantitative methods employed in the same study.[2]

In closing, Mayring turns to a premise of the inter-relation of the two paradigms which is more often than not left implicit: what are the advantages of such an inter-relation? It is especially in the context of his outline for an integrative documentation of the (qualitative or quantitative) research process that Mayring shows what the two paradigms stand to gain by no longer ignoring each other. In the case of the quantitative paradigm, this is in particular the greater proximity to the research subject, while the qualitative paradigm will profit most by making the various stages of the research process more transparent and systematic, thus increasing the generalisability of the results.

According to Ignjatovi toward the interrelationships of the combined methods and techniques in the literature vary internal and external triangulation:

a) internal when in the same project different techniques for data collecting / facts are combining (participant observation and documents analysis as a kind of observation in the narrow sense, natural and experiment in laboratory conditions, survey and interview as a form of inquire),

b) while the other, is using different research methods for studying the same subject (e.g. when in the study of the deviance subculture are applied official statistics, observation, collection of biography - as did the representatives of the Chicago School. Evaluation of the results of the second form of triangulation depends on the range and weaknesses of the applied methods, but in principle we can say that it deepens the knowledge because up to those aspects of the research subject to which it is impossible to reach using any separate procedure.[3]

Jupp argues that different methods can be used to examine different aspects or dimensions of the same problem. Deliberately avoiding the term ‘triangulation’ and replacing it with ‘methodological pluralism’, Walklate

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[2] Introduction: On the Compatibility between Qualitative and Quantitative Research Methods
http://www.qualitative-research.net/index.php/fqs/article/view/965/2106 (last access 27.02.2012)

[3] Metodologija Ignjatović Đ., “Metodologija istrazivanja kriminaliteta”, Beograd, 2009 godina (pp. 108-109)

advances a similar view: Methodological pluralism … reflects a view of the research process which privileges neither quantitative nor qualitative techniques. It is a position which recognizes that different research techniques can uncover different layers of social reality and the role of the researcher is to look for confirmation and contradictions between those different layers of information.

To Integrate or Not to Integrate?

Most research projects in the social sciences are in a general sense multi-method because alongside the main method of choice, subsidiary techniques are used. For example, conducting interviews in a prison will always involve some degree of observation of the social setting, which may impact on the research even if the data are not formally recorded or analyzed. Similarly, a study relying mainly on participant observation within a youth centre for children at risk of offending is likely to begin with reading published documents about the centre, for instance bids for funding, annual reports and newspaper cuttings.

Reflecting on his own criminological research career, Maguire (2000) argues for utilizing as many diverse sources of evidence as feasible to answer a research question. His rationale is that criminological research often involves working with information that is unreliable to varying extents. By bringing together different methods with their own blend of strengths and weaknesses, it is hoped that the weaknesses of one method can be countered by the strengths of the others. If the data gathered using the different methods offer similar conclusions, criminologists can be more confident that the conclusions offered are valid in the sense that they are plausible and credible.

Denzin also argues that his definition of each method implies a triangulated perspective. Also, he notes that the shifting nature of the social world and the biases that arise from the sociologist's choice of theories, methods and observers provide difficulties that a researcher working in the natural sciences does not face. Thus, according to him, the solution is to recognize these difficulties and to use multiple strategies of triangulation (data, investigator, methodological and theoretical) as the preferred line of action. He suggests that triangulation is the key to overcoming intrinsic bias that stems from single method, single observer and single theory studies.

Hammersley and Atkinson suggest researchers need to avoid naïve optimism, and resist the temptation to assume that the aggregation of data from different sources will produce a more complete picture. For the majority of qualitative research studies, the goal of establishing 'truth' is actively rejected and multiple versions of reality are acknowledged.

For most mixed method practitioners this justification is a commitment to data quality (or measurement validity) and fidelity to the phenomenon under study. Greene and colleagues, for instance, outline five primary purposes of mixed method research[4]:

(a) Triangulation: Convergence or corroboration of results via different methods.

(b) Complementarity: Elaboration, enhancement, or clarification of the results of one

method through the use of another.

(c) Initiation: Seeking out contradictory findings that could help reframe the research

question or model.

(d) Development: Using the findings from one type of research to inform another.

(e) Expansion: Expanding the range or breadth of the research through multiple methods.

Johnson and Turner define the "fundamental principle of mixed method research" more concisely: Methods should be mixed in a way that has complementary strengths and no overlapping weaknesses. It involves the recognition that all methods have their limitations as well as their strengths. The fundamental principle is followed for at least three reasons: (a) to obtain convergence or corroboration of findings, (b) to eliminate or minimize key plausible alternative explanations for conclusions drawn from the research data, and (c) to elucidate the divergent aspects of a phenomenon.

Triangulation seems to be the most commonly cited reason that mixed methods are incorporated into research. Triangulation—or, more specifically, methods triangulation, in the context of methods alone—refers to the use of more than one method while studying the same research question in order to "examine the same dimension of a research problem". The researcher is looking for a convergence of the data collected by all methods in a study to enhance the credibility of the research findings. Triangulation ultimately fortifies and enriches a study's conclusions, making them more acceptable to advocates of both qualitative and quantitative methods.[5]

Complementarity allows the researcher to gain a fuller understanding of the research problem and/or to clarify a given research result. This is accomplished by utilizing both quantitative and qualitative data and not just

[4] A.R. Piquero and D. Weisburd (eds.), Handbook of Quantitative Criminology, 2010.

[5] Sharlene Nagy Hesse-Biber "Mixed Methods Research Merging Theory with Practice" 2010.

the numerical or narrative explanation alone to understand the social story in its entirety.

Mixed methods assist the researcher's total understanding of the research problem; this understanding represents the third reason for using mixed methods: development. Mixed methods often aid in the development of a research project by creating a synergistic effect, whereby the "results from one method help develop or inform the other method". For example, statistical data collected from a quantitative method can often shape interview questions for the qualitative portion of one's study. Jenkins's (2001) research on rural adolescents and substance abuse illustrates the potential of the development factor in a mixed methods study. Jenkins administered a structured questionnaire to quantitatively measure students' drug use. Her study also included a follow-up set of focus-group interviews and open-ended questionnaires intended to capture students' perceptions of "drug resistance difficulties" to a variety drugs ranging from alcohol to LSD to various types of narcotics. The results from conducting both these studies sequentially contributed to Jenkins's overall understanding of drug abuse among this population. Her initial use of a structured questionnaire provided her with a statistical understanding of student drug use. A follow-up focus-group study provided her the opportunity to triangulate her data (asking whether the findings from both studies agreed), and, in doing so, she found that the results from the focus group were "consistent with the open-ended questionnaire findings... (and) provided further clarification and, in some instances, additional information".[6]

One of the reasons cited for using mixed methods is initiation; a study's findings may raise questions or contradictions that will require clarification, thus initiating a new study. The desired effect of the new study would be to add new insights to existing theories on the phenomenon under examination. In fact, findings from this study might uncover a completely new social research topic and launch a new investigation leading us to a fifth reason for doing mixed methods research: expansion. Expansion is intended to "extend the breadth and range of the inquiry". Producing detailed findings helps enable future research endeavors and allows researchers to continuously employ different and mixed methods in their pursuit of new or modified research questions.

Here, we will present some criteria for assessing the quality of your mixed methods research question:

- Is your question feasible? Can you, in fact, research this question?

[6] Ibid.

- Do you have the time, money, and research skills to proceed to answer this question?

- Is the question ethical—that is, does it meet the standards of an institutional review board (IRB) ethics evaluation?

- Is the problem stated in a way that addresses the variety of different concerns/issues surrounding a given research problem?

- Is the research problem clearly stated and focused? For the quantitative component of the question, ask: Were the independent and dependent factors presented? Were hypotheses presented?

- Did the researcher define his or her main concepts?

- Is your question significant? There are a number of ways in which a research problem might be considered significant: Does the research problem add value to the existing literature? Does it suggest a new area for inquiry that looks promising? Does the research problem address an important research area in need of new knowledge?

Despite the benefits of triangulation, there are also certain limitations. The findings are, for example, not projectable in a statistical sense. However, qualitative research has the unique ability to overcome this by providing insight into the underlying issues most pertinent to the population under study. Furthermore, other constraints (e.g. time, costs) may also prevent effective use. The most commonly heard critique is that quantification devalues qualitative data, reifies it, and diminishes its value. Nevertheless, triangulation has vital strengths and encourages productive research. To summarize, this method is seen by the researcher not only as a tool, but also a solution in our complex world to provide valid and reliable data. Therefore qualitative-quantitative debate should be moved from conflict to co-operation.

That way, we would like to advocate that researchers adopt a pragmatic and theoretically coherent approach to data collection, using appropriate methods to answer their research questions. The latter is important because researchers need to guard against the tendency to keep adding research techniques to their research design in an eclectic manner with the blind hope that it will produce a better thesis, report or other publication. A multi-method approach should only be pursued if it adds value to the study by enhancing understanding of the criminological issue of interest. Sometimes there may be little to be achieved by using different methods. As Jupp argues, some combinations of methods do not work well because they are founded on different assumptions about the nature of the social world and how it can be explained. Hence, combining methods does not automatically enhance validity. There are often pragmatic reasons for considering carefully whether a number of methods should be utilized.

Maguire shares the useful advice he received as a novice researcher: "the best tip is to imagine the final report and work backwards".[7] The researcher is required to have previous vision or strategy and goals, if he wants to accomplish with the research.

Conclusion

Some researchers believe that qualitative and quantitative methodologies cannot be combined because the assumptions underlying each tradition are so vastly different. Other researchers think they can be used in combination only by alternating between methods; qualitative research is appropriate to answer certain kinds of questions in certain conditions and quantitative is right for others. And some researchers think that both qualitative and quantitative methods can be used simultaneously to answer a research question. So, even with research methods, distinction between positivism and interpretivism is not clear-cut. For instance, a well-established literature now exists that addresses how case studies—historically, an interpretive research method—ought to be conducted within a positivist tradition. Similarly, an ethnographer might collect large amounts of data within an interpretive tradition yet still use inferential statistics (typically, a positivistic method of data analysis) to try to determine whether selected behaviors (not all behaviors) of some group manifest certain kinds of regularities. As a final example of how research methods do not produce a clear signal of whether someone is a positivist or an interpretive researcher, considering protocol analysis. Perhaps ironically, researchers who most likely would be classified as positivists developed protocol analysis as a research method. In many ways, however, protocol studies reflect an interpretive research tradition. The focus with protocol studies is on obtaining thick, rich data to obtain insights about human cognitive processes. Moreover, the data collected from protocol studies is often analyzed from an interpretive perspective as well as a positive perspective.[8]

Triangulation is neither a new nor a radical concept. Indeed, the differences between so-called "qualitative" methods and so-called "quantitative" methods in social science have been called "more apparent than real". Importantly, the practice of triangulation strategy in crime research has been around much longer than the brand name.

The usual emphasis in triangulation is on combining methods, e.g., survey questionnaires with non-standardized interviews, although examples

[7] Noaks L., Wincup E., "Criminological research, understanding qualitative methods", 2004 (pp.7-17)

[8] Weber R., "The Rhetoric of Positivism Versus Interpretivism: A personal view" MIS Quarterly Vol.28 No.1, March 2004

are also common of studies where triangulation is claimed on the basis of using a number of data sources (self, informants, and other commentators), a number of accounts of events, or a number of different researchers. The broad idea in the conventional approach to triangulation is that if diverse kinds of data support the same conclusion, confidence in the conclusions is increased. Equally, the use of mixed methods is not automatically applicable to all research questions or issues. In practice, there might be no need for – any benefit from – using alternative methods. As Sandra Mathison states there is no magic in triangulation. The evaluator using different methods to investigate the same program should not expect that the findings generated by those different methods will automatically come together to produce some-nicely integrated whole". To qualify as a triangulation strategy the research needs to have a clear and explicit rationale for using the contrasting methods. With other words, this approach does not mean "anything goes"!

A key feature of triangulation method research is its methodological pluralism or eclecticism, which frequently results in superior research (compared to mono-method research). This research will be successful as more investigators study and help advance its concepts and as they regularly practice it. There are predictions that the future of criminological research (like its past) will be far more open and encouraging to mixed method research designs.

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МЕТОД НА ТРИАНГУЛАЦИЈА ВО ИСТРАЖУВАЊЕТО НА КРИМИНАЛИТЕТОТ

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Резиме

Во втемелувањето на теориско-епистемолошките сознанија на безбедносната наука се применуваат бројни методи, техники и средства кои даваат определени резултати. Методолошката триангулација, посебно примената на емпириските истражувачки методи и постапки даваат повеќе или помалку проверени, објективни и вистинити сознанија и обезбедуваат да се конституира безбедносната наука како посебна наука.

Комбинирањето на квалитативни и квантитативни елементи во истражувачките дизајни не претставува ниту нов, ниту радикален концепт во истражувањето на криминалитетот. Различните методи можат да се користат за да се истражат различните димензии на безбедноста. Така, во литературата постојат мноштво предности кои одат во прилог кон тоа да ги убедат научниците да го прифатат мулти-методскиот пристап (дека комбинирањето на методите ја зголемува валидноста на резултатите). Притоа, овој интегрален пристап треба да се применува само ако и додава вредност на студијата со зголемување на разбирањето на безбедносното прашање кое од интерес.

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