МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА

БАЛКАНОТ МЕЃУ МИНАТОТО И ИДНИНАТА: БЕЗБЕДНОСТ, РЕШАВАЊЕ НА КОНФЛИКТИ И ЕВРОАТЛАНТСКА ИНТЕГРАЦИ

INTERNATIONAL SCIENTIFIC CONFERENCE

THE BALKANS BETWEEN PAST AND FUTURE: SECURITY, CONFLICT RESOLUTION AND EURO-ATLANTIC INTEGRATION

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SECURITY DILEMMAS AND GEOPOLITICAL TRENDS IN INTERNATIONAL RELATIONS WITH PARTICULAR REFERENCE TO MIDDLE EAST, EASTERN EUROPE AND WESTERN ASIA

SECURITY IN THE ERA OF SMART TECHNOLOGY

Dear,

The international scientific conference "International Scientific Conference: The Balkans between Past and Future: Security, Conflict Resolution and Euro-Atlantic Integration" is an annual conference organized by the Faculty of Security Skopje, member of the University Ss Kliment Ohridski from Bitola. The main goal of the conference is to contribute to the clarification of issues related to the security and Euro Atlantic integration of the Balkans region, through presentation of scientific papers and discussions in the context of security, conflict resolution and contemporary Balkan and Euro-Atlantic integrations.

The specific objective of the Conference is the theoretical conceptualization of topical issues, with the task of encouraging and giving impulse to the evaluation of practice, with emphasis on opening discussions on theoretical and epistemological problems of security, conflict management, especially the need for defining the scope and the development of research methodology for security phenomena and security in general, its structure and forms of occurrence and the relationships between them.

The contemporary (global) security is focused on the issues of security and transition, conflict and conflict resolution in the Balkans, risk management, regional co-operation, building democratic relationships, rule of law, smart technology etc., which inevitably requires synergy of science, politics and practice in addressing and solving systemic and acute problems of the contemporary society.

In the last two decades the Balkans has been in the process of defining its reform processes and building institutions and institutional structure able to meet the requirements for Euro-Atlantic integration. The countries from this region have achieved the objectives set by the Euro-Atlantic integration, with different levels of efficiency and dynamics. Bulgaria and Romania are EU Member states since 2007 and Slovenia since 2004. Croatia has finished the negotiations and will become a Member state in July, 2013. Montenegro is in the process of negotiations for membership, Serbia is a candidate country with a good chances to start the negotiations in a near future and Republic of Macedonia is leading a high level political dialog with EU representatives. Bosnia and Herzegovina and Albania are aspirants. This speaks about the commitment of all countries towards Euro Atlantic integrations.

In the last few years, normative conditions were created in the Republic of Macedonia for increasing and deepening the reform process of its security systems, particularly of the police and the sector for internal affairs in general. That is why it is important to consider the experiences from the reforms of the security systems, especially the transformation of police systems and organizations. In this sense, the exchange of experiences in EU member and candidate countries is of great importance. Also important are issues related to risk and crisis management, particularly in the Republic of Macedonia in the period when the country has made a visible step forward in reforming its security systems and has become part of

Euro-Atlantic integrations. Bearing in mind all this, a need has emerged for the analysis of the preparations, the fulfillment of the conditions imposed by the European Union, and especially the definition of the legal framework and the functioning of the political system.

Taking into consideration the fact that the Faculty of Security functions within the system of higher education institutions of the University "St. Kliment Ohridski", as well as its tasks of continuous organized efforts for theoretical conceptualization and re-evaluation of security practice, the organization of the Conference is a serious challenge for contemporary science, whose task is to open dilemmas and debates about security, risk and crisis management, regional co-operation and their importance in the system of science. In this aspect, it is of great significance to evaluate the constitution and the development of security sciences, as organized and systematized knowledge of the security as a phenomenon, its organization and relations, as well as its activities, which impose the need for critical revalorization of scientific and research efforts.

The Conference will host scientists from

Topics of the Conference.

1. Conflicts and conflict resolution in the Balkans
2. The Balkans, national states and EU integration
3. Regional cooperation and/or European and Atlantic integration of the Balkans
4. Security Issues and Risks Related to International Law and Trade
5. Democracy, Rule of Law, Human Rights
6. Security in the Era of Smart Technology
7. Security dilemmas and geopolitical trends in international relations with particular reference to Middle East, Eastern Europe and Western Asia.

Number of received abstracts - 142
Number of accepted papers – 111
Number of negative reviews – 10

Participating states: Republic of Macedonia, Serbia, Croatia, Slovenia, Bosnia and Herzegovina, (Republic of Srpska), United States of America, Romania, Italy, Peoples Republic of China, Poland, Albania, Sweden, The Netherlands, Monte Negro.

ORGANIZING COMMITTEE

CONCLUSIONS

The international scientific conference "International Scientific Conference: The Balkans between Past and Future: Security, Conflict Resolution and Euro-Atlantic Integration" annual conference organized by the Faculty of Security Skopje, member of the University Ss. "Kliment Ohridski" from Bitola.

1. Conference is the theoretical conceptualization of topical issues, with the task of encouraging and giving impulse to the evaluation of practice, with emphasis on opening discussions on theoretical and epistemological problems of security, conflict management, especially the need for defining the scope and the development of research methodology for security phenomena and security in general, its structure and forms of occurrence and the relationships between them.

2. The contemporary (global) security is focused on the issues of security and transition, conflict and conflict resolution in the Balkans, risk management, regional co-operation, building democratic relationships, rule of law, smart technology etc., which inevitably requires synergy of science, politics and practice in addressing and solving systemic and acute problems of the contemporary society.

3. In the last two decades the Balkans has been in the process of defining its reform processes and building institutions and institutional structure able to meet the requirements for Euro-Atlantic integration.

4. The countries from this region have achieved the objectives set by the Euro-Atlantic integration with different levels of efficiency and dynamics. Bulgaria and Romania are EU Member states since 2007 and Slovenia since 2004. Croatia has finished the negotiations and will become a Member state in July, 2013. Montenegro is in the process of negotiations for membership, Serbia is a candidate country with good chances to start the negotiations in a near future and Republic of Macedonia is leading a high level political dialog with EU representatives. Bosnia and Herzegovina and Albania are aspirants. This speaks about the commitment of all countries towards Euro Atlantic integrations.

5. In the last few years, normative conditions were created in the Republic of Macedonia for increasing and deepening the reform

process of its security systems, particularly of the police and the sector for internal affairs in general.

6. That is why it is important to consider the experiences from the reforms of the security systems, especially the transformation of police systems and organizations. In this sense, the exchange of experiences in EU member and candidate countries is of great importance.

7. Also important are issues related to risk and crisis management, particularly in the

   Republic of Macedonia in the period when the country has made a visible step forward in reforming its security systems and has become part of Euro-Atlantic integrations.

8. Bearing in mind all this, a need has emerged for the analysis of the preparations, the fulfillment of the conditions imposed by the European Union, and especially the definition of the legal framework and the functioning of the political system.

9. In this aspect, it is of great significance to evaluate the constitution and the development of the security sciences, as organized and systematized knowledge of the security as a phenomenon, its organization and relations, as well as its activities, which impose the need for critical revalorization of scientific and research efforts.

10. Security as science and practice spread, and thus the security system and policy must include broad concepts and practices of security.

11. European and Euro-Atlantic integrations of all countries in the region is of a great importance for development of democratic processes and maintenance of stability, peace and prosperity in the Balkans.

12. Failure to resolve the open issues between neighboring countries in the region remains a real threat to peace and stability, and the case of the Republic of Macedonia shows that it can be an obstacle to further integration into EU and NATO.

Organizing Committee
Ohrid, 08 June 2013

EUROPEAN NATIONALISM AND BALKAN NATIONALISM CAN THEY CREATE NEW STATES IN EUROPE?

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Introduction

Nationalism is a condition of consciousness, feelings or sentiment of a group of people who live in a determined georgraphical region, speak the same language, and have the same religion. Nationalism of an exclusive nature is based on fear and the rejection of all that is foreign or alien. In opposition to liberal nationalism, the xenophobic nationalism is closely connected with chauvinism, as an exaggerated and unreasonable patriotism, with excessive pride in one's own country and a belittling of other nations[1].

The French Revolution, from 1789 to 1799, when the old monarchy was abolished and a new state on a national foundation was established, marked politically the coming of the era of modern nationalism. Napoleon channelled the dynamic forces of the revolution and his armies were the catalyst for the dispersal of the seed of nationalism throughout Europe. Nationalism was the unifying force in Germany and Italy in the nineteenth century, and a factor in the downfall of Turkey and Austria-Hungary.

Nationalism appears in various forms, including: a) Uniting force, b) Force of disintegration, c) Force of independence, d) Force of colonial expansion, e) Force of aggression; f) Force of ant colonialism, g) Force of economic expansion [2]. Nationalisms among Balkan peoples and countries were undoubtedly uniting force and force of independence; as they were force of disintegration for the Ottoman Empire and Austria-Hungary. However, some of Balkan nationalisms appeared as force of aggression as well, like in Balkan Wars 1912-1913 when Greece, Serbia and Bulgaria occupied and divided Macedonia, and Serbia occupied almost all of Albania.

[1] See for more details in: Snyder Louis L., *Encyclopedia of Nationalism* (New York: Paragon House, 1990): X-XI, XVIII-XXII, 52-53, 244-247, 427 - 428.

[2] See in: Ibid.

Exclusiveness of nationalism is very good described by the Seven Rules of nationalism [3]: 1. If an area was ours for 500 years and yours for 50 years, it should belong to us - you are merely occupiers; 2. If an area was yours for 500 years and ours for 50 years, it should belong to us - borders must not be changed; 3. If an area belonged to us 500 years ago but never since then, it should belong to us - it is the Cradle of our Nation; 4. If a majority of our people live there, it must belong to us – they must enjoy the right of self-determination; 5. If a minority of our people live there, it must belong to us – they must be protected against your oppression; 6. All the above rules apply to us but not to you; 7. Our dream of greatness is Historical Necessity, yours is Fascism.

In this paper I argue whether "greater state" nationalisms in the Balkans and nationalisms/ separatisms in some other European countries (like in United Kingdom and Spain) can lead to creation of new states in Europe.

"Greater state" nationalisms in the Balkans in the 19th century

There are two main reasons for Balkan's conflicts. First, there are a lot of historically overlapping ethnicities, cultures and religions; a number of peoples and ethnicities in a limited territory. Another reason is that the Balkans, as a location, has **high geopolitical significance**, at the crossroads of routes from Europe to Asia and Africa. For centuries these crossroads were fought over, and the great powers set their borders as was in their best interests.

Balkan peoples, who lived as minorities within the Ottoman Empire and Austria-Hungary, lived intermixed with other cultures, so that those group with aspirations to form separate states often made competing claims on the same territory. The increase of these nationalist movements led to conflicts between the peoples, first with the two empires of which they were a part, and then in clashes with each other. The nationalist movements for Greater Greece, Greater Serbia, Greater Romania, Greater Bulgaria, Greater Albania, Greater Croatia, Greater Montenegro, and others exerted great influence during the nineteenth century and in connection with Balkan Wars and the First World War. Some of them seemed to succeed during the Second World War (creating Greater Bulgaria, Greater Albania), although for very short time.

a) **Greater Greece**. Constantinople was the centre of Hellenistic nationalism. The patriarch of the Orthodox Church lived there, and it was home to more Greeks than was Athens, which became the centre of the Hellenistic movement only after the Young Turk revolution and the

[3] Seven Rules of Nationalism, formulated by David C. Pugh, Norwegian Refugee Council.

departure of Venizelos from Crete to become the premier of the Kingdom of Greece. Smirna was the second city in importance after Constantinople, and there lived also more Greeks than in Athens. Greek nationalism flourished along the Anatolian coast of the Aegean Sea and on the islands. The aim of Hellenism was to replace the Turkish Mohammedans with Greek Christian rule over all parts of the former Byzantine empire, with Constantinople as a capital city.[4] Pursuing the aim of creating a "Greater Greece", Greek expansion was directed firstly towards the region of Thessaly and then towards Epirus, Macedonia and other regions that were under Ottoman rule.

b) **Greater Serbia**. The Serbs were the first Balkan people to affirm their nationality in response to the call of Napoleon Bonaparte. The Serbian Uprising, beginning seventeen years before the Greek, achieved its first prominent successes in 1804. The Serbs received recognition of their independence from the great powers and Turkey in 1878 with the Berlin Treaty. The plan to create a Greater Serbia, in its most modest version, included "all Serbian regions," including Montenegro, Macedonia, and Bosnia. In the maximalist variant, the plan included all lands covered by the large medieval Kingdom of Stephen Nemania, [5] which existed until Serbia's subjugation by the Turks after the famous battle of Kosovo, in 1389. Even though not historically tied significantly to the Dalmatians, Croatians, and Slovenians, the Serbs spoke of these people as their kin and longed for unification at the expense of Austria-Hungary, just as in the case with the unification of Italy. In addition to these territories, the Serbs demanded, on an ethnic or historic basis, from Austria-Hungary Bosnia, Herzegovina, and Novi Pazar.

c) **Greater Romania**. The Romanians also based their nationalist aim on invocation of the days before the Ottoman Empire and directing their aspirations first of all towards parts of Hungary, Bulgaria, and Serbia. By the use of the historical method they defined their demands for Transylvania, Banat (from Timisoara and Bukovina), at the expense of Hungary; Bessarabia, at the expense of Russia; an enclave on the southern part of the Danube, at the expense of Serbia; and of Dobrudja, at the expense of Turkey and Bulgaria. The Romanian aspirations were a combination of ethnic,

[4] See in: Gibbons Herbert Adams, *Nationalism and Internationalism* (New York: Frederick A. Stokes Company, 1930): 148-152.

[5] In the famous *"Nachertanije"* of Ilija Garashanin, published in 1844, where the author develops the idea for liberation from dependence on Russia and Austria, it is stated: "Serbia must persist in breaking away and receiving stone after stone from the Turkish state, so that from this good material in the good foundations of the old Serbian kingdom once again a new Serbian state can be built and constructed."

historical, economic, geographic, and strategic arguments not otherwise found in the entire history of nationalism. [6]

d) **Greater Bulgaria**. Bulgarians longed for a country within the borders outlined in the San Stefano Treaty. With this Treaty, which can be seen as a declaration of Balkan nationalism, Russia drew a Greater Bulgaria, including Macedonia and parts of Serbia. Even though less than four months later the other great powers reduced autonomous Bulgaria significantly through the Berlin Treaty, the aspirations of Bulgarian nationalists for a Greater Bulgaria remained. They believed that after the unification with Eastern Roumelia, in 1885, the process should continue and include Macedonia and a part of Thrace.

By adhering firmly to this San Stefano "fiction," Bulgaria suffered military defeats with which it decreased, rather than enlarged, its territory. Bulgaria waged the First Balkan War in order to create a Greater Bulgaria, and, dissatisfied with the territories it obtained, it began the Second Balkan War, in which the hope for a Greater Bulgaria vanished once again. In 1918, Bulgaria again was on the side of the defeated forces in the First World War and, once again, its borders were decreased. It continued to rely on the forces and interests of some of the great powers and, in 1942, it "received' Macedonia from Hitler's Germany, but the dream of a greater Bulgaria crumbled with the outcome of the Second World War.

e) **Greater Albania**. After Albanian demands were ignored by the Berlin Congress in 1878 in favour of Montenegro, Serbia, and Bulgaria, the Albanian League was formed in June 1878 in Prizren to express the protest against this kind of treatment. The League demanded recognition of Albania by the great powers and insisted on preventing its partition between the neighbouring enemy states, aiming for the unification of all Albanians within the territory of the Ottoman Empire.[7] Geopolitically, Greater Albania project demanded not only the territories which ethnically and historically belonged to the Albanians (forming an absolute majority only in Scutari and Yanina vilayets), but went far beyond encompassing the entire Albanian ethnic population, dispersed in different areas over the neighbouring Balkan regions. "Greater Albania" aspirations remained after the formation of Albania in 1912, especially reinforced during the Second World War, when Albania came into Italy's sphere of interest.

f) **Other Greater State Nationalisms**. **Greater Croatia** desired to place under its patronage all the Slavic countries under the rule of the Austro-Hungarian Monarchy. A **Greater Montenegro** aimed to annex parts

[6] For example, Russia's offer to give Dobrudja to Romania in compensation for the annexation of Bessarabia was not accepted, but used to reinforce Romanian claims to Dobrudja while at the same time reinforcing Romanian claims on Bessarabia.

[7] Dako Christo A., *Albania, The Master Key to the Near East* (Boston, 1910): 57.

of Albania, Herzegovina, and Serbia.[8] In these states the nationalist spirit, economic interests, and the expansionist mentality of the ruling classes came to the fore in megalomaniac plans.

From this brief exposition of the "greater state" nationalist aspirations of the Balkan peoples, it follows that: 1. the nationalisms of Greece and Bulgaria, as well as of Albania, were directed against Turkey; 2. Romania and Serbia could accomplish their nationalist goals by destroying Austria-Hungary; 3. most of the Balkan states could only realize their "greater state" nationalisms at the expense of each other.

While the neighbouring Balkan peoples were gradually attaining their independence, the Macedonians remained under the rule of the Ottoman Empire. Macedonia was the point where Greater Serbian, Greater Bulgarian and Greater Greece nationalisms met[9], with harsh consequences. The principle of Macedonian partition served as a basis for expansionist tendencies of the Balkan states and for their alliance against the Ottoman Empire during the Balkan Wars of 1912-1913.[10]

Current Balkan "greater state" nationalisms

The Balkans has often been referred to as Europe's powder keg. Almost any Balkan country has territorial claims to one or several of their neighbors. Any of these disputes could spread beyond the region in an attempt to change these borders. Ideas of a greater Albania, greater Bulgaria, greater Greece or greater Serbia are still alive. From time to time there are discussions regarding "unfair borders", not only by "public and academic communities", but also as part of programs of some political parties and movements in some of these countries. Particularly, economic and political crisis in some Balkan countries has been followed by ideas of greater state nationalism.

In 1986 "Memorandum of the Serbian Academy of Sciences" was published[11], that strongly criticized Tito and the SFR Yugoslavia for anti-Serb policies. It served the Serbian nationalist project for "Greater Serbia", involving anti-Croat, anti-Slovene, anti-Albanian, anti-Muslim and anticommunist ideas and sentiments. The Academy promoted the idea for

[8] See: Ranko Petkovic, Balkan, neither "flame" neither "peace" (Zagreb: Globus, 1978): p. 12 - 13

[9] See: Gibbons Herbert Adams, Op. cit, p. 152-156.

[10] For more details see: Helmreich E. C., *The Diplomacy of the Balkan Wars, 1912-1913* (Cambridge, Mas., 1938); P. Stojanov, Macedonia in the Politics of the Big Allies in the time of the Balkan Wars (Skopje, Kultura, 1979).

[11] Memorandum was published in Vecernje Novosti on September 24, 1986. It accused Croatia and Slovenia of conspiring against Serbs, and advocated that Serbs were subjected to genocide at the hands of irredentist and separatist Albanians in Kosovo.

unification of all Serbs in a single state in order to protect Serb nation. It condemned "genocide" anti-Serb policies in Kosovo, where the Serb minority was said to be oppressed by the Albanian majority. In 1986, Slobodan Milosevic became head of the Serbian Communist Party. He aimed to transform Yugoslavia from federalism to centralism under Serbian domination, as a tool for realization of the ultimate goal: unification Serbs in a "Greater Serbia".[12]

The "**Bulgarian National Doctrine: Bulgaria in the XXI Century**", prepared by the Scientific **Centre for the Bulgarian National Strategy in 1997**, claims that Bulgaria "borders only with its own lands and population (!)". The neighbouring countries are seen to manifest chauvinism towards Bulgaria: "They have appropriated autochthonous Bulgarian lands, inhabited by Bulgarians (Serbia - the Bulgarian Pomoravie, Timok, the Western Provinces and Vardar Macedonia; Greece - Aegean Macedonia and White Sea Thrace; Romania - Northern Dobrudja; Turkey - Adrianople Thrace)", and "they have submitted the Bulgarian population to assimilation".

The **Albanian Academy of Sciences and Arts in the "Platform for Solution of Albanian National Question" of December 1998** deals with the idea of a Greater Albania. Aiming for control of the territories of Kosovo and part of Montenegro, as well as parts of Macedonia and Greece, this Platform underlines the ultimate goal of "Albanian national movement" as unification of "ethnic territories" with Albania: "Wherever Albanians are, from this or that side of the border," they should finally be "in one country." It stated that the international community should assist Albanians in achieving the goal of "correcting the injustice that for centuries has been done towards the Albanian people." In conclusion, there is a statement that the Albanian national question is still unresolved because "half of the territories are under the slavery of a few foreign countries".[13]

Geographically the Balkan states include Albania, Bulgaria, Bosnia-Herzegovina, Greece, Macedonia, Romania, Serbia, Slovenia, Turkey, Croatia, Montenegro and Kosovo. Almost every Balkan state has had a dream to be greater than it is, very often involving the same territories. It is impossible to create "greater" states in a space as small as the Balkans. It is a region with an area that is just one twentieth of that of Europe, while at the same time, with increasing number of states after Yugoslavia's dissolution, it is home to one quarter of all European states.

[12] See more in: Caner Sancaktar, The Serbo-Croat Relations in Yugoslavia. Constructive Cooperation and Destructive Conflict, TASAM Publications, Istanbul, 2010, p. 206 - 208.

[13] Gordana Risteska, Albanian National Platform – starting points, directions and aims, Nova Makedonija, 24 - 26 April 1999.

Separatism in Europe

The concept of a homogeneous national state in Europe did not lead to assimilation of a number of ethnic groups in the social and cultural processes. The Cornish, the Scots and the Welsh were not assimilated into British; the Basque and Catalonians did not become Spaniards, the Flemish and Walloons, Belgians, the Alsatians, Bretons and Corsicans, Frenchmen. Separatism is most apparent in certain regions of Europe such as Great Britain (Scotland, Northern Ireland), Spain (Catalonia, Basque Provinces), Belgium (Flanders), Italy (northern provinces), and France (Corsica). Separatist activity manifests not only within the political sphere, but sometimes - in Northern Ireland, Irish Republican Army (IRA); in Basque Country (ETA); and in Corsica - it also transforms into terrorist attacks.

A considerable number of separatists tend to seek concessions from the central authorities through negotiations, demanding referenda on the independence of respective territories (Scotland, Catalonia). Separatists achieved considerable success in the local elections in Catalonia (Spain, November 2012) and Flanders (Belgium, October 2012). The leaders of the Scottish separatists, having won the local elections of 2011, forced London to negotiate the issue of the referendum on independence of this part of the United Kingdom.[14]

Interesting and provocative article was published, regarding possible political map of Europe for year 2035, by group of Russian experts last summer in publication "Ekspres"[15]. They predict the territorial changes will start in British Isles, where Scotland will declare independence after referendum in year 2014. That will give the impetus for unification of Ireland. Basque and Catalonian states will declare independence from Spain taking also a part of French territory. They anticipate that collapse of multiculturalism will start in France. Unable to assimilate various former colonial ethnicities of different colors, it will have to resort to their deportation. High concentration of Islamic groups will pave a way for possible rise of Islamic Arabic state in southern France. Lorraine on federal basis will join Germany. Belgium will finally divide and the Flemish will enter in union with the Netherlands. Italy will divide in two parts. Southern Italy will be unable to retain integrity and Sicily and Sardinia will declare independence from it.

[14] See more in: Vladimir Schweitzer, Separatism in the European Union, Russian International Affairs Council, 13 March 2013.

[15] "Ekspres" 09.07.2012., No.27 (908). After analyzing CIA, GRU and number of different intelligence institution available sources, as well as the works of Alvin Toffler, Zbignew Brzezinski and Samuel Huntington, geopolitical experts have compiled a possible political map of Europe for year 2035.

According to this article, in 2035 Bosnia will be divided between Croatia and Serbia, while Albania unites with Kosovo and part of Macedonia creating Greater Albania.

Of course, nobody can exactly predict the future. One can see this either as possible reality, or as speculation and wishful thinking. Although it is possible for some of mentioned territorial changes to appear, I would say for many of them that are not probable. Another key question is regarding consequences of such territorial changes – whether they would appear by peaceful means or as result of violent secessions.

Scottish separatism

After more than eight months of intense negotiations, on October 15, 2012, the UK Prime Minister David Cameron and the Scottish first minister Alex Salmond signed Edinburgh agreement[16], to stage a referendum before the end of 2014 asking a simple yes or no question on whether Scotland should become independent. The deal states that both governments "look forward to a referendum that is legal and fair producing a decisive and respected outcome".

The planned referendum on Scottish independence has attracted a great deal of attention. Many experts believe that if Scotland were to gain full independence, it could create a “domino effect” provoking other stateless nations to secede from their respective states.

The ballot is expected to take place in the autumn of 2014 – around the time of the 700th anniversary of Scotland’s military victory over the English at Bannockburn. Previous balance between the two royal families reigning in Great Britain before the Acts of Union of 1707 – the English and Scottish dynasties – is also in support of Scottish separatism. It was further increased by the discovery of oil and gas deposits off the shore of Scotland late in the 1970ies. It is also very powerful claim for separatists that an independent Scotland would be the sixth richest country in the world.

Scotland has been a part of the United Kingdom for more than 300 years. Moreover, in its present form, United Kingdom has existed for less than a hundred years, because in 1921 a large part of Ireland became the Irish Republic and broke away from the United Kingdom.

Scotland has a population of 5 million people, which is roughly the same size of population as Denmark, somewhat bigger than the Republic of Ireland.

Position of the European Commission in Brussels is that if it becomes independent “Scotland will have to leave the European Union and then re-

[16] Full title is: Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland.

apply for entry." However, there is a historical precedent for a state remaining within the European Union, even though it is not the state that negotiated entry. Namely, West Germany became part of the European Economic Community at the beginning of process of European integration, and the reunification into today's Germany created a state that had not signed the Treaty of Union.

It should be emphasized that Scotland is in much better economic position than many current members of the European Union. It is a country with a very large volume of oil deposits, and with control over the majority of fishing in the European Union. It is not probably for EU to turn its back to such country and we should have in mind that it is a matter of politics rather than law.[17]

The British government claimed until very recently that "if Scotland became independent then Scotland would no longer be a part of the European Union." But at the same time British government announced that it was proposing to hold a referendum on the United Kingdom's membership of the European Union. So there is ironic situation of Scotland remaining within the European Union, while at the same time the rest of the United Kingdom leaving the EU, with Scotland simply taking the place of the rest of the UK.

Separatism in Spain

At the forefront of the struggle for sovereignty in Spain are representatives of the most advanced autonomous regions - the Basque Country and Catalonia, making demands of political, cultural and linguistic characters. Regional separatism in the past decade manifested itself in two main forms - a terrorist armed struggle (the ETA in the Basque Country) and civil, often massive claims for independence (in the same Basque Country and Catalonia). How great is a threat of the territorial integrity of the Spanish state today?

The population of Catalonia and the Basque Country has suffered from disregard of their national, cultural and language special features by the central authorities. Franco's dictatorship forced complete unification, so that the autonomy of Spain took place in a bitter struggle with the conservative forces, brought up on the Francoist ideas of rigidly centralized Spanish state. The Constitution of 1978, of the state-territorial structure of Spain, "is written" only in general terms, there is no complete scheme of separation of powers between the central, autonomous regions and municipalities, and

[17] See more in: Prospects of Scottish Independence, Interview with Professor David McCrone, Russian International Affairs Council, 19 February 2013.

some of its provisions are ambiguous and are perceived by different political forces in different way.

The reason for these differences to a large extent is the nature of the autonomous State, which is a unitary decentralized formation with numerous features, typologically characteristic of federal states. [18]

However, granting of autonomy (which generally occurred in the mid 80's) again fueled radical appetites, and moderate nationalists, who considered they had received inadequate rights and demanded further expansion of their rights. The desire of nationalities and regions of Spain to raise their status is also due to the deployment process of European integration and globalization and the associated fear of losing their language and traditions, dissolved in a globalized world environment. In the Basque Country and Catalonia, an important part of the ideological arsenal of the separatists is played by a myth-making process, traditions "of an ancient sovereign nation", while rejecting the actually existing traditions that bind these regions of Spain. The collapse of several multinational states (USSR, Yugoslavia, and Czechoslovakia) has also strengthened the disintegration processes in Spain.

Separatism in Catalonia

Over history Catalonia and Spain had experienced a common pattern: Spain had been unable to assimilate Catalonia like the French did with their inland different nationalities, and at the same time Catalonia had not have enough power to alter the Spanish institutions and create a territorial model more favourable to its demands.

Catalan nationalism is fed by the fact that their region, until recently, would give a significant portion of their earnings to the state budget, providing up to a quarter of the total budget revenues of Spain. Catalans believed that they fed the whole country and were "noble donors compared to the rest of Spain"; while at the same time some of their autonomous projects cannot be realized. The development of separatist sentiment in the region did not stop the fact that according to the Autonomous Statute of 1979, Catalonia has acquired a wide scope of authority in matters of local government, public safety (they have their own police which are not subordinate to Madrid), transportation, communications, public education and culture, language, and environment protection. In contrast to the Basque Country, Catalan separatists have for many years chosen peaceful unarmed methods of fighting over the central government. [19]

[18] See more in: Sergej Khenkin, The potential of regional separatism in Spain, Russian International Affairs Council, 26 June 2012.

[19] See more in: Steven Erlanger, Europe's Richer Regions Want Out, The New York Times Sunday Review, October 6, 2012.

Unlike the Basque Country, for Catalonia, the autonomous statute expanded its powers: the flag, national anthem and national day of Catalonia were officially recognized. In many other areas (judicial and law enforcement system, tax collection, language rights) the right of autonomy was increased in comparison with the Statute in 1979.

However, the radical nationalists remained dissatisfied, striving for the attainment of the region's sovereignty. Their conflict with the central government remains. The Spanish government insists the Spanish constitution does not permit any one of Spain's 17 regions to unilateral secession.

In May 2010 the Spanish Constitutional Court decided to declare unconstitutional the new Statute of Autonomy of Catalonia, for overstepping the limits of its autonomous jurisdiction. Cutting Catalan aspirations, which had been approved by almost 90% of the deputies in the Catalan Parliament and by the Catalans via referendum with a strong majority (73.9% voted in favour), this decision of the Constitutional Court have provoked negative reactions of both the general public and the constitutional experts of Catalonia, and resulted in constitutional and political crisis in Spain.

Between September 2009 and April 2011, around one half of the Catalan municipalities held unofficial and non-binding referendums on independence from Spain, in which more than 800,000 citizens took part. In September 14, 2012, a massive demonstration – with an estimated 1.5 million people, 20% of Catalonia's population - took place on the streets of Barcelona, demanding independence for Catalonia, under the slogan „Catalonia, New State in Europe". BBC stated that „Spain's economic crisis … has sharpened Catalonia's demand for fiscal independence from Spain, as well as political autonomy".

On January 23, 2013, Catalan regional parliament approved a declaration alluding to sovereign rights. It is not a complete statement of independence, but parliament's declaration insists that the Catalan people have the right to self-determination. Over sharp opposition from the conservative Spanish government in Madrid, the Catalan parliament voted 85-41 for the declaration, with two abstentions. A key part of the declaration reads: "The people of Catalonia have - by reason of democratic legitimacy - the character of a sovereign political and legal entity."

The increase in the support for independence started in the beginning of 2009, being in co-relation with economic recession, which began at the end of 2008. In the midst of Spain's deep economic crisis, which has brought the long-simmering independence issue to the forefront, the trend rapidly intensified. A survey from November 2012 by the Catalan government's polling center showed 57% of Catalans would vote for independence, a 6 percentage-point increase from June 2012 and a 14 percentage-point increase from mid-2011.

Conclusion

Although it is not easy to answer the question can Balkan nationalisms and European nationalisms/separatisms create new states in Europe, the answer is that it is possible for some countries, but not probable for many of them. The next important point is regarding consequences of formation of new states – are they going to be established by peaceful means or to be followed by armed conflicts.

The concept of "**balkanization**" came into being because the formation of states on the Balkan Peninsula was accompanied with mutual conflicts due to ethnic or territorial problems and implies the involvement of foreign and major powers in such divisions and fragmentation. The concept of balkanization itself as "the division of a region into smaller, antagonist states" represents a synonym of the divisions and atomization of the Balkan region. The creation of the state of the South Slavs, after the First World War, was to have been processes contrary to balkanization. Disintegration of SFR Yugoslavia in 1991, followed by armed conflicts 1991-1995, meant a continuation of balkanization.

The Dayton Agreement, ending war in Bosnia and Herzegovina in November 1995, insisted emphatically on maintaining the territorial integrity of the country so that "balkanization" would not continue neither along ethnic nor religious lines. In 2006 Montenegro gained peacefully its independence[20]. In 2008 the Assembly of Kosovo adopted Declaration of Independence [21] from Serbia, continuing division into smaller states, but without armed conflict.

In connection with the presupposed possible process of further disintegration of states, not only in the Balkans, the conclusion of the study prepared by the Council for Foreign Relations is significant: "While the creation of some new states can be indispensable or unavoidable, the fragmentation of the international community into hundreds of independent territorial entities is a recipe for an even more dangerous and anarchic

[20] An **independence referendum** was held in Montenegro on 21 May 2006. It was approved by 55.5% of voters, narrowly passing the 55% threshold. The Assembly of the Republic of Montenegro made a Declaration of Independence on 3 June 2006. Serbia expressed its intention to respect the referendum results and declared itself the legal and political successor of Serbia and Montenegro.

[21] **Kosovo declaration of independence** was adopted on 17 February 2008 at a meeting of the Assembly of Kosovo. The participants unanimously declared Kosovo to be independent from Serbia, while all 11 representatives of the Serb minority boycotted the proceedings.

world"[22]. If the powerful idea of self-determination were to be applied to ethnicities, and if such a combination was given legitimacy, in connection with the principle of human rights of groups, this would lead to many more conflicts in the world.

In the twenty-first century, the paradox of the European Union, which is built on the concept of shared sovereignty, is that it lowers the stakes for regions to push for independence. It seems that euro zone crisis, growing inflation and unemployment, high growth of immigrants from the poorest countries, unresolved environmental and energy problems, among other factors, has accelerated calls for independence from some EU member countries. Catalonians call for a referendum on independence from Spain, although Madrid considers it illegal. Scotland has got an independence referendum from United Kingdom for the autumn of 2014. The Flemish in Flanders have achieved nearly total autonomy, but still resent what they consider to be the holdover hegemony of the French-speakers of Wallonia and the Brussels elite.

In general, politically active separatist forces are ready to achieve their goals through democratic dialog, without giving up such forms of resistance as mass protests, regional strikes or use of the mass media and the Internet for their purposes.

The secession procedure in Spain and United Kingdom demands the consent of the other members of the respective federations, including the approval of central parliaments. National monarchs shall have the last word. In particular, King Juan Carlos I of Spain and the Catholic church of Spain are strongly opposed to Catalan and Basque separatism.

The issue of sovereignty over natural resources remains unclear. British authorities have quite explicitly declared that Scottish shelf oil deposits in the North Sea cannot become the sole property of Edinburgh.

European Union's constitution states that newly established countries cannot automatically become EU members, but have to comply with a highly complex procedure of acquiring full membership. As regards the accession of new members, NATO shares the same viewpoint.

There is **a limited space for success of greater states nationalisms in the Balkans**. Greater Serbian nationalism faced a series of defeats during the last decade of the 20-th and at the beginning of the 21-st century (in Croatia in 1991-1992 and 1995, in Bosnia and Herzegovina in 1992-1995, in Kosovo in 1999 and 2008, in Montenegro in 2006). It is very difficult to create "greater" states, without armed conflicts, in a space as small as the Balkans.

[22] Quoted after: Gidon Gottlieb, Nation Against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty, New York, Council on Foreign Relations, 1993, p 2.

Greater Albania would not just incorporate Kosovo, but also take parts of Macedonia, Southern Serbia, Greece and Montenegro with large Albanian populations. A Greater Albania, like Greater Serbia and some other well known expansionist adventures of the past, would be more likely to end up harming its intended beneficiaries, but also everyone else. Attempting to realize their dream of Greater Albania, Albanian extremists could imperil the stability in the region and in Europe.

There are **stabilizing factors in the Balkans, and the key one is integration**. European integration process, accompanied by the abolition of frontiers, creation of a single market for goods, capital and services, expansion of the authority of supranational bodies, works against nationalism and national separatism.

The future for the Balkan countries is to live together and live in peace by building Europe as a whole. Practically all Balkan countries, for the first time after their liberation from the Ottoman Empire, today aspire to the same aim - to be included in the European institutions and organizations. In the Balkan wars and in both World Wars the Balkan countries found themselves on opposite sides of the barricades. In times of peace in the XX century they belonged to different political and military alliances and to different social systems. In the time after the end of the Cold War and the crisis in former Yugoslavia, for the first time a new quality appeared in the Balkans: all Balkan countries accept the European framework, i.e. inclusion in European institutions such as: the Council of Europe, the European Union, NATO and the Partnership for Peace. Their gradual "entrance" into Europe can have a strong reverse effect on the coordination of their different interests and on overcoming traditional Balkan burdens. This could contribute significantly towards the resolution of the issues, in line with European standards, and towards the acceptance of economic development as an absolute national priority and, all in all, towards a turn away from the past to the future! [23] European Union and the Balkans share a vision of a democratic Europe without borders, a Europe that would lead to vibrant and market-oriented Balkan democracies.

Europe is bringing back the Balkans into its sphere of politics. Continent seemed to be prepared to get the Balkans gradually in, instead of ghettoizing them. The results are already evident, a number of Balkan countries are full members of NATO and EU, and talks are under way for further progress.

However, today there are some concerns about trends in EU's selective implementation of international law and membership criteria regarding admission of new member states. There are examples of Turkey

[23] See in: Ranko Petkovic, Political Map of the Balkns after the Cold War and the Yugoslav Crisis, International Politics, Belgrade, No. 1044, 1 Maj 1996, p. 3

and Macedonia, to whom European Union imposed additional conditions and postponed their accession processes. Division of the Balkans in different categories of countries, members and non-members of NATO and EU, is worrying practice. It could either open the door to new fragmentation of the region, or create more space for greater state nationalisms.

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DEMOCRACY, RULE OF LAW, HUMAN RIGHTS

VICTIMISATION IN PENAL INSTITUTIONS IN THE REPUBLIC OF MACEDONIA

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Introduction

Despite major efforts for respecting the rights of marginalized groups, among which and convicted persons, we are witness of pure public concern about the situation in our penal institutions. It seems that much more marginalized is the emergency of victimization in our penal institutions not only in the media but between scientific and professional public. Obviously this is not sufficiently attractive topic for the media. From time to time appear fragments from some reports submitted by the relevant international bodies, institutions, committees, commissions, that performing control on the conditions in these institutions, which more or less will worry or disturb the public, but it very quickly forgotten and the situation remains concern only for those who are working "ex officio". The usual public pressure that feels when on the agenda is a "more attractive" theme, is absent.

Regarding the reluctance of the scientific and professional community one of the logical explanations is the unavailability of data for such victimization. The braver claim is that this is due to reluctance for the position of these persons in the society, and in such institutions, primarily due to their stigmatization.

Even emphasizing the rights of prisoners and controls performed by the competent authorities, as well as specialized international bodies (eg, the Committee against Torture) and other non-governmental organizations (national and international) have led to the actualization of this issue. On the other hand, as noted in the explanation of the need to conduct a similar survey in Croatia[1] also in Macedonia these studies are not implemented,

[1] It is research that is conducted in the Republic of Croatia by the Department of Criminology at Faculty for Special Educationa and Rehabilitation, University of Zagreb entitled "Nasilje u penalnim ustanovama" and under the guidance of prof. Dr. Irma Kovco-Vukadin. Thanks to its readiness for cooperation the proposed project, prashalnicitete,

unlike the foreign experience and knowledge. An exception is the study about prison society (Arnaudovski & Caceva, 2000) of which at least indirectly, can be extracted some conclusions related to possible victimization of inmates, and which, above all, those associated with deprivations that necessarily face these people with. But it is conducted almost two decades ago (1995) which further emphasizes the need for research related to the victimization of inmates.

Forms of Victimization in Penal Institutions

For what kind of phenomenology of victimization in penal institutions we speak, or more precisely - what forms of victimization?[2]

Criteria for separation may include: the type of relationship (horizontally and vertically) and by type of violence. Horizontal violence is among inmates and vertically violence is against inmates and staff around. According to the second criteria, the type of violence talks about interpersonal physical violence, physical violence against themselves (self-injury, suicide) and sexual violence. (Kovčo-Vukadin, & Mihoci, 2010: 336).

According to other authors, victimization in prisons, usually occurs as physical, psychological, sexual, economic and/or social and manifested in relations between inmates between prison staff and inmates and among the staff. Economic and social victimization will not be subject of our interest, because it would exceed the scope of this paper.

Although prevails the opinion that in the prison most commonly form is of physical victimization[3], the results of some studies have shown that

literature and other materials were available to us, that were in function for the realization of this research. In this opportunity we express our special thanks to my colleague Irma Kovco-Vukadin.

[2] Victimization (victimizirung, victimisation) denotes the process of becoming a victim (HJ Schneider, V. Nikolić Ristanović, V. Vodinelić i dr.) or process when someone or something becomes a victim (G. Ponti). Toa is the process of converting potential into real victim, his final overall score (SS Ostroumov, IV Frank). It is interesting that some authors for victimization rather talk about forms of violence in prisons. We in aour paper and research, talk about different forms of victimization, without being reduced to violence. The reprtoarat of victimization in penal institutions is far wider than that referred to violence. Moreover, we are aware that we will be unable to encompass all forms of victimization, but will focus on those that are most common in those specific institutions. We also will be limited withthe responses of the respondents about forms of victimization they were victimized or victimize other inmates. However, we can note that and those authors that use the term violence, they include a broader term that is not down to physical violence, but, among other things, includes eg. and psychological violence or as some call it abuse. (See in this respect the example. Rodoman, MA., 2002: 467)

[3] Most of the research devoted to physical victimization, especially among inmates, but for this impression contribute the media to.

most cases of victimization, occur in the form of psychological, economic or social victimization. (Knudten, R. 1990: 62)

According Radoman (2002: 467), however, the phenomenology of violence in prisons is different- from physical violence to various forms of psychological abuse. Physical violence is reflected in the form of fights from a different intensity, causing light and serious bodily injury, sexual violence until the worst crimes like murder. Psychological violence is reflected in the types of different threats, blackmail, manipulation, pressure, force, setting requirements and "applications" that can not be refused etc. However, the author concludes that the number of violent acts is incomparably greater than the number of reported cases. So and this author agrees with the statement that one of the features of victimisation in prison is the large dark figure.

Why we think that the emergence of victimization in penal institutions is unjustifiably neglected in our society. We start from the idea that these facilities are suitable setting for violence or violent behavior generator, in which there is more often manifested violence and victimization unlike on freedom, which is confirmed by relevant researchs on this phenomenon. Wolf et al. (2007) conducted a survey on a sample of 22.898 prisoners in order to determine the rate of physical victimization and they conclude that their research confirms the thesis that prisions are violent spots.[4]The rate of physical violence for male inmates is 18 times higher than the rate among general population, and the rate of physical victimization of women is 27 times higher than the rate among general population. (Kovčo-Vukadin & Mihoci, 2010: 336). The notion that this is characteristic of other societies and that this is not present to that extent in our society, at least should be checked, and this point that was one of the main reasons that to be determinated through empirical research.

Research: Position of Convinced Persons in Penal Institutions in Macedonia

Based on the reports of the Ombudsman of Republic of Macedonia, the European Commission and the Committee against Torture (CPT), can be identified serious deficiencies in penitentiary system in Macedonia: poor

[4] The paper will sometimes have duality of terms used, that will speak for penal institutions and prisons. In this paper these terms will be used with the same meaning, although we are aware that the first term is broader. We do at least from two reasons, one because most of the authors quoted use the more common term prison, and the second, less prosaic for reasons of rationality. Also instead of term labor in penitentiary institutions use the term penal facilities, although they are according to us the same meaning as a result of greater use of second term in recent literature, especially that which we used in the paper.

material conditions[5], overcrowding,[6] lack of recreational, educational and sports activities;[7] violence among inmates, abuse by prison staff,[8] inadequate health care, including inadequate coping with psychological problems of the convicted persons, drug abuse, flaws in the implementation of legal requirement for medical examination of every new inmate,[9] deaths and suicides.[10] (Project: Position of inmates in penitentiary institutions in Macedonia, 2012: 3).

In the context of paper subject we emphasize the note of the Committee for the Prevention of Torture (CPT) that inter-inmates violence remains a serious problem in prison Idrizovo and prison authorities still do not take any measures to prevent. There are numerous incidents of fights among inmates because different groups vying for control over drug trafficking, cell phones, etc.11 We agree that there are such forms of violence in our prisons, but we did not specify them in the research on that way, but we talk about different types of victimization in prisons.

This situation in Macedonian prisons certainly raises concerns as to the authorities, and the general public. Formal factor determines the position of the inmates and has a major impact on the process of socialization. The situation in penitentiary institutions is a complex problem which necessarily requires scientific observation. Only an objective scientific analysis can give an appropriate response about directions in which state institutions should to operate in order to improve the situation of the convicted persons. So, by

[5] Thus, the Ombudsman of the Republic of Macedonia in its annual report for 2010 finds that poor material conditions in prisons RM especially in “Idrizovo" is still a problem that worrying. See: Ombudsman Annual Report 2010, p. 42-43.

[6] Thus Ombudsman information on the situation with the rights of inmates in the penitentiary in the country (from November 2010) in the period June-September 2010, in Idrizovo with a capacity of 900 persons were accommodated 1266 people

[7] Recent reports of the relevant international and domestic institutions say there are practices of ignoring the legal obligation to provide recreational, educational and sports activities of inmates. It's hardly surprising application of CPT (in his final report to the Government) state to provide educational, sporting and cultural activities of inmates in Macedonian prisons. See: CPT, (2012), Report to the Government of the Republic of Macedonia on the visit to Republic of Macedonia carried out by CPT from 21 September to 1 October 2010, CPT / Inf (2012) 4), p. 30

[8] See: CPT, (2012), Report to the Government of the Republic of Macedonia on the visit to Republic of Macedonia carried out by CPT from 21 September to 1 October 2010, CPT/Inf (2012).

[9] CPT, (2012), Report to the Government of the Republic of Macedonia on the visit to Republic of Macedonia carried out by CPT from 21 September to 1 October 2010, CPT/Inf (2012) 4), p. 40.

[10] See, Annual Penal Statistic of Council of Europe (SPACE I).

[11] See: CPT, (2012), Report to the Government of the Republic of Macedonia on the visit to Republic of Macedonia carried out by CPT from 21 September to 1 October 2010, CPT/Inf (2012), p.26.

analyzing the situation, by identifying the factors, the task of the research should answer the question, what is the status/position of convicted persons in Republic of Macedonia? And not just legal, educational, but the one associated with human, cultural, intercultural, social relations and conditions in the context of the conditions of normative, economic, personnel nature and extent of the relationship of the so-called prisoners society with others and with society at all. Project: The Position of inmates in penitentiary institutions in Macedonia, 2012: 4-5).

In this context, we can note that as one of the specific objectives of the research is determination of the type and extent of victimization that is the subject of our interest and research.

In connection with the above mentioned as one of the important indicators of status of inmates in prisons (which is our central question) is the ratio between the actual number of employees and number of persons that should be employed under Systematization for work positions. According to the Annual Report of the Directorate for Execution of Criminal Sanctions for 2011, in the Sector for resocialization in prison Idrizovo according Systematization for work positions is envisaged, 107 persons that should work, but are employed only 30- ty persons. It is undoubtedly very important sector in the process of socialization, and this deficit of personnel is an indicator of serious difficulties in achieving re-socialization as a main objective that should be achieved by the execution of sentence. This is especially if we start from the assumption that the number of employed persons is determinated and dimensioned by the number of inmates and is a standard that is necessary to comply if they want appropriate results in the reintegration of inmates into normal life.

Nothing less is the worrying situation in the security sector where missing almost a third of number of employees (namely, by Sistematization of work positions of the Prison Idrizovo are predicted 364 employees, but are employed only 208 people). It is known also that and this structure of the employees have a very important role not only in security of the facilities but also in the process of re-socialization. We can note a similar situation with the filling of the work places according Systematization in the other penal facilities in Republic of Macedonia (see same Report). Hence no need to wonder about the alarming number of recidivists in penal institutions in Macedonia. The number of primary perpetrators and recidivists is almost equaled in 2011 - 1129 primary offenders and 1083 - recidivists. However, this is another confirmation of the fact that it is not problematic the concept of resocialization as supreme principle in our system of execution of criminal sanctions, but the problem is with those that concept and principle should implenment in practice.

Overcrowding of penal institutions in recent years becomes a problem in Macedonia. Although to these findings we came to an indirect way, the data themselves are quite indicative, even alarming, especially when it comes to the biggest prison in the state in which is concentrated 1/3 of the prison population in the country. The capacity of the prison Idrizovo, according to official data is 852 inmates, but in 26.12. 2012, 1240 inmates stayed in it, that is 60.8% higher than predicted. Overcrowding in penal institutions, although to a lesser extent, we have in prisons in Prilep (85 convicted persons, and capacity for 65), Stip (inmates 270, and the capacity is 210 persons), Strumica (inmates 122, capacity is 64), Tetovo (inmates 74 and capacity is 58 persons), Ohrid- juvenile prison (in terms of custody is 30, and the capacity of the facility is 18 detainees).

The main hypothesis of our research is: The situation in Macedonian prisons affects the process of resocialization of inmates, on their psycho-social condition and contributes for occurence of victimization. (Project: The Position of inmates in penitentiary institutions in Macedonia, 2012: 11).

Considering the subject of interest in our paper and research, we formulated the following hypothesis: The situation in prisons in Macedonia is close associated with the occurrence of victimization.

One of the key issues in context of this hypothesis, in our opinion, that should answer this research is: What is meant by "state in Macedonian prisons"? Because it is a possible cause for the process of re-socialization of convicted persons and their psycho-social situation, and what we're interested-especially its connection with the occurrence of victimization. So I would like to have clear definition what is meant by "state in Macedonian prisons"? Should be determinated what elements will be considered for operationalation, what it is supposed to be one of the tasks of the research team.

The explanation provided in addition to this hypothesis cannot help much[12] and seems more inclines to the psychological perception of "the state in prisons" that does not mean that it is an unimportant aspect, but it is not the only one. Moreover, because in the Projects is underlined that in research

[12] In the explanation: It starts from the assumption that the characteristics of convicted persons (age, ethnicity, education, family status, employment, previous convictions, length of sentence, crime) makes a particularly complex and responsible task of penitentiaries for necessary appropriate regulatory, financial, personnel and premises. This responsibility is particularly due to increased complexity, multi-layered, psychological conditions of the inmates, who according to the forms of expression, content and intensity are different, and assume that appropriate social, professional and supervisory work related to the treatment and the process of socialization in penal institutions (rights and obligations of inmates), deprivations related to deprivation of liberty and their impact on the process of rehabilitation of inmates, the psychological consequences of deprivations ... (ID: Position of inmates in penal institutions in Republic of Macedonia, 2012: 11).

will be used "triangulation procedure, in which, according to the multidisciplinary approach will apply methods, procedures, techniques and tools that will assist you to respond to hypothetical framework". (Project: The Position of inmates in penitentiary institutions in Macedonia, 2012: 11)

Victimization in Macedonian Penal Institutions

Research about attitudes of inmates in penal institutions in Republic of Macedonia, for the situation in them, reviewed through two segments: from aspect of re-socialization process and from aspect of victimization, was conducted by a research team at the Faculty of Security-Skopje[13] in part of penal institutions included in the sample, in period of October-December 2012. According to the subject of this paper attention is being directed towards the inmates / situation in penal institutions, reviewed from aspect of their victimization (of inmates).

First question that arises from here is whether in R. Macedonia there are some official statistics related to victimization in penal institutions. Looking for this kind of statistics and the lack of research on this topic, we found that e.g. The Directorate for Execution of Sanctions not keeps records for use of forcible means and firearm against inmates, apart although it is legal obligation for penal facilities regularly to inform the Directorate in order to carry out control, as to determine the reasonableness of the application of these forcible means (art. 188 par. 2 Law on Execution of Sanctions). We received information from the Directorate that such records are kept within the penal institutions (established is a special book for registration of such cases). By contrast, in Croatia for example, the Directorate for execution of sanctions stretches data (equivalent of our Department for execution of sanctions) for: the number of inmates and violent incidents, attacks on officials: physical clashes between inmates; inmates self-harming, suicide attempts and completed suicides; applied forcible means, found knives and others tools in search in rooms and people. (See further: Kovčo-Vukadin & Mihoci, 2010). The research for attitudes of inmates in penitentiary institutions in the Republic of Macedonia, about the conditions therein, examined by two aspects (from aspect of process of re-socialization, and from aspect of victimization), was conducted by the research team at the Faculty of Security-Skopje, in part of penitentiary institutions covered by the sample. As for the section dedicated to the

[13] The research team was led by Prof.. Dr. Cane Mojanoski and team members were: Professor. Dr. Oliver Bačanović, Doc. Dr. Dragana Batic Doc. Dr. Mary Milenkovska, Doc. Dr. Iskra Maletikj-Akjimovska and Assoc. Dr. Vesna Stefanovska

victimization penal facilities may be noted that this is the first research of this kind in the Republic. Macedonia.

a) Methods of collecting and processing data - One of the issues that we faced with was where we can find data related to the scope of victimization. We decided to do it through survey as technique (through two questionnaires, one associated with victimization, and the second with the re-socialization). Also, in the research we used and the questionnaire for staff in the penitentiary institutions.

Interestingly, some researchers have concluded that for measurement of prison conditions more relevant are the data received from inmates than from the staff (Camp et al., 2002). However, Dagget and Camp (2009) conducted a survey on a sample of 10 prisons with minimal security and have found that the perception of inmates' security correlated with official data. Considering the different results from different studies, Wolf et al. (2008) warn of the importance of the variables that are formulated for the epidemiological and behavioral data for undue behavior in prisons. (Kovčo-Vukadin & Mihoci, 2010: 335).

b) The hypothesis related to victimization, was: In penal institutions there are much more different kinds of victimization than in life of freedom.

The main subject of our interest was the attitudes of inmates for the conditions in prison through response for the prevalence of victimization. Questionnaire that served as a tool for determining the attitudes, consist several parts. Specifically the part I had issues relating to socio-demographic characteristics of the participants (inmates), as well as issues related to the amount of the sentance, the type of offense, length of stay in the institution in which currently serves the sentence, previous convictions (their and of family members); possible abuse of drugs or alcohol by a family member; way of referring to the institution (* interesting is that the record for recent data leads and the Directorate for Execution of criminal santions- see Annual Report); II Part Victimisation of the inmates (respondent) by other inmates through some forms of victimization/ to define for what kind of victimization is about- according questions is about: physical, verbal and sexual violence), further, premises / place where happened, gender of the attacker, the time of the event/during which the activities of convicted persons and frequency of violence, the consequences of the event, (not) reporting the event to the offical and possible intervention (in terms of offered aid); III part concerns the application of forcible means against inmates by members of the security sector as an indicator of possible victimization (considered all possible forcible means according Law on Execution of Sanctions) and the consequences of their application, Part IV contained questions about the

possible role of respondents as victimisers as compared to other inmates and the consequences of their victimization, part V contains a set of questions that test the degree of aggressiveness of the participants (inmates).

c) The sample survey covered a total of 217 respondents, which included the following prisons in Macedonia: Idrizovo (including women's prison), Stip, Bitola, Strumica, Struga and Tetovo. Representativeness of the sample is provided by the so-called purposeful sample of 10% (+, -) of the prison population in these facilities at the time of the survey.

Other criteria for forming the sample were: the type of offense and length of stay in penal institution.

The proportion of respondents placed in the respective institutions included in the sample were as follows: Idrizovo (67,3 %), Shtip (12.4%), Strumica (6.9%), Bitola (6%), Struga (4.1%) and Tetovo (3.2%) of the respondents. All respondents are males. The respondents female are satteled in the only penal institution in Macedonia for female convicted persons Penitentairy Idrizovo. In our sample are included 25 female respondents or 11.5% of the total number of respondents.

The regime of penalnite institutions that affect on their categorization and displays through legal classification: closed, semi-open and open institutions, and closed type semi-open and open type of divisions within an institution. Their representation is as follows:

From which devision in the institution is the respondent			
		Frequency	Percent
	Idrizovo – open devision	26	12,0
	Idrizovo- semi-open devision	9	4,1
	Idrizovo- closed devision	86	39,6
	Idrizovo- female devision	25	11,5
	Jail Strumica	15	6,9
	Jail Bitola	13	6,0
	Struga – open devision	9	4,1
	Jail Tetovo	7	3,2
	Stip	27	12,4
	Total	217	100,0

The relationship between men (192 or 88.5%) and women (25 or 11.5%) in the sample adequately reflects the representation of men and women in penal institutions in Macedonia and is in favor of the representativeness of the sample.

The proportion of inmates according to place of residence (coming from city 72.8%, while from rural areas only 9.7%) is in a way surprising

because it changes our picture of the origin of the inmates regarding this feature. However within the examined individuals dominate inmates (almost 2/3) arising out of the cities. In addition it must be noted that even 17.5% of respondents did not answer this question.

National structure of respondents roughly corresponds to the structure of the total population of the Republic of Macedonia (Macedonians are dominant with 56.2%, Albanians are 20.3%, and on third place are Roma with 6.9%, while the procentage of other nationalities in the sample is almost negligible). In terms of religion is obvious domination of the two dominant religious groups in the Republic of Macedonia, the ratio between them is almost 2: 1 (Orthodox were represented by 56.7% and Muslims 32.7%), while the participation of other religious groups, as in the previous feature is negligible.

In terms of education dominate respondents with secondary education (35.5%), followed by those with finished elementary school (23%) and category with not finished elementary school (12.9%).

For our research were very interesting the data about recidivizam of the respondents. Noteworthy is the data that almost 40% of the respondents[14] are recidivists that gives us inditions for more conclusions, but we will certainly focus on its relationship with victimization (own or from other inmates or staff from the institution, as well as their role in victimization of other). In this context, significant are the data for respondents that previously had been sentenced to probation. Their presence also can not be underestimated and is almost 1/4 (Specifically 23%) of respondents.

Relating to the type of offenses for which respondents are in penal institutions can be classificated in few groups as follows: violent offenses (37.8 / 42.7%),[15] property offenses (25.3/28.6%), offenses related to organized crime (19.4/21.9%) and offenses against official duty (1.4/1.6 %). We can conclude that in the sample, in accordance with the structure of the offences for which they are imprisoned, dominated respondents who did serious offenses.

According to the length of the prison sentence in the sample dominate inmates who have been sentenced to 1-5 year imprisonment (33.6%) from 5-10 year (22.1%) and over 10 years (18%) that goes in

[14] Based on the report of the Directorate for Execution of Criminal Sanctions can already see that the number of recidivists in primary offenders in Macedonian prisons is almost equal!

[15] The second percentage given in brackets is greater because you are getting when you refuse those questionnaires with no answer by respondents (in this case omitted to say for what kind of offense is the respondent in institution) . In the database, this percentage is taken under column: Valid percent.

confirmation of the previous assertion that in the sample included in most are respondents who commited serious crimes.

Research results and discussion

The first group of issues concerning the victimization is related with victimization of inmates by respondent. The general conclusion is that respondents are not largely victimized and if so then it is about lighter types of victimization (usually verbal or psychological, the second more specific through gestures, mimics, etc.). Most common specific forms of their victimization are: provoking gestures / mimics 27.6 %[16] (20 /33,33%[17] one time 21/35% - two to three times), verbally provoking 23.96 % (19/37,25% – one time and 25/49% - two to three times), taunt / humiliation 24.4 % (23/43,39% – one time 14/26,41 % - two to three times), threats that will hurt 24.4 % (17/32.27% – one time 18/33.96% - two to three times), forcible capture of clothing 21.65 % (22/46.8 %- one time12/25.53% - two to three times), threatening with gestures 17.97 % (19/48.71 % – one time 13 /33.33 % two to three times), pushing 19.35 % (24/57.14 % – one time 10/23.8 % - two to three times), swearing 25.34 % (15/27.27 % – one time 1629.09 % - two to three times), calling with abusive names 22.2 % (13/27.08 % – one time 15/31.25 % - two to three times). Much less prevalent are more severe forms of victimization, such as eg. slapping / s 20.73 % (25/55.55 % – one time 10/22.22% - two to three times), hitting in face 20.27 % (16/36.36 % – one time 16/36.36 % - two to three times), assault with a weapon 10.59 % (14/60.86% – one time 3/13.04% - two to three times) threats with weapon 10.67 % (17/58.62 % – one time 5/17.24 % two to three times), attempted strangulation 13.36 % (15/51.72 % – one time 6/20.68 % two to three times), beating 12.44 % (15/55.55 % – one time 6/22.22 % - two to three times), hitting with the hand in body 16.58 % (13/35.13 % –one time 11/29.72 % - two to three times), hitting with an object 16.58 % (17/48.57 % – one time 11/31.42 % - two to three times), forcible capture of body part 18.43 % (18/61.11% – one time, 11/0.92 % - two to three times) throwing something 16.2 % (17/48.57 % – one time, 8/22.85 %- two to three times). At least it is represented a forcing on sex work 8.29 % (10/55.55 % – one time and 2/11.11 % - two or more times). We should note that the respondents were given the opportunity to respond to multiple victimization, but we can conclude, as the number victimization in given choices increased,

[16] Percentage before bracket we get after the absolute number of specific types of victimization put in relation to the total number of the respondents (217).

[17] The percentage figures in brackets are received when the total number of actual victimization put in proportion to the intensity of the same victimization (once, two times or three times ... up to ten or more times) of participants (inmates) included in the sample.

the number of such cases, according to their expression, decreased and fo that reason their presence does not specifically present.

	%	once %	Two to three times %
provoking gestures / mimics	27.6	33,33	35
verbally provoking	23.96	37,25	49
taunt / humiliation	24.4	43,39	26,41
threats that will hurt	24.4	32,27	33,96
forcible capture of clothing	21.65	46,8	25,53
threatening with gestures	17.97	48,71	33,33
pushing	19.35	57,14	23,8
swearing	25.34	27,27	29,09
calling with abusive names	22.1	27,08	31,25
slapping / s	20.73	55,55	22,22
hitting in face	20.27	36,36	36,36
assault with a weapon	10.59	60,86	13.04
threats with weapon	10.67	58,62	17,24
attempted strangulation	13.36	51,72	20,68
beating	12.44	55,55	22,22
hitting with the hand in body	16.58	35,13	29,72
hitting with an object	16.58	48,57	31,42
forcible capture of body part	18.43	61.11	0.92
throwing something	16.2	48,57	22,85
forcing on sex work	8.29	55,55	11.11

The places where victimization occurred most often were, a cell, i.e room (22 – one time , 9 – two times 12 three or more times) and hallway (24 – one time 16 - three or more times).

In terms of the gender of the person who committed victimization or attack, overwhelmingly dominate male inmates (40), compared to females

represented in 16 cases. But, we should mentionl that the sample included a total of 25 female respondents.

Dominant age of victimisers is: from 31 - 40 years (22 – one time, 6 twice and 6- three or more times) from 21 to 30 years (13 – one time, 7 – twise 11 - three or more times) and from 41 to 50 years (8 – one time, 4 – twise 3 - three or more times).

The time when usually occurred victimization is, between 12 h-18h (17 – one time, 9 - twise 6 - three or more times), from 18 h- 24 h (9 – one time, 8 twise, 11 - three or more times).

The issue about over which activity occurred vitimisation of inmates-most common answers were: during walk (16 – one time, 8 – twise, 5- three or more times) and during daily rest (14 – one time, 5 - twice and 3 - three or more times).

The most common consequences of victimization are: bruising (16 – one time, 5 - twice and 8 - three or more times); scratches on skin (15 – one time, 5 – twise, 8 - three or more times) cuts (12 – one time, 4 – twise, 5 - three or more times) head injury (8 - one, 6 – twise and 4 - three or more times), face injury (8 - again, 3 - two times 6 - three or more times).

Deserves attention also the question about does victimised person reported the case to the officer in prison. Given the fact that the in column "never" were counted and the responses for those which had not been victimized at all, the figure of 136 people who never reported the case we should take it figuratively. Likely in the future research this moment should be taken into account in order to formulate an appropriate question, with which immediately will be set apart those who were not victimized. As for those who reported victimisation-29 respondents did it one time-, 4 – twise and 12 respondents three times.

As for the offered help, when it about medical help, she was offered to 22 respondents (from which on 11 one time, on 7 - twice and on 5 - three more times). In providing psychological aid, offer was still modest, so the victims get this type off aid only in 10 cases (6 – one time, 3 – twise and 1-three times). Almost are the same results when it comes for offering some other interventions. These results are indicative regarding the consequences of victimization arising performed or to provide authorized persons. So in the future should these people have more to educate and train regarding manner of dealing with the victimization of inmates and the consequences that arise from it.

Follow a set of questions related to the use of forcible means against inmates by members of the security sector. It should be mentioned that any use of these means does not mean automatic victimization of inmates. From criminal law aspect they should be associated with abuse or misconduct of powers of these people thar are given to them according to Law for

Execution of Sanctions, and thoroughly regulated by the relevant sublaws. Hence when we talk about the application of these means we highlight them without being able to penetrate into the justification or unjustified in their application. In this did not help us neither the addressing to the Ministry of Justice, in particular the Directorate for Execution of Sanctions, because by them we received information that they don't have records regarding the use of forcible means. We believe this is contrary to the Law for Execution of Sanctions (art. 188 par. 2) according which for every assets of each forcible means by members of the security sector should submit a written report. The list of the most used forcible means according answers of respondents, are: separation- 20,73 % (against 26 person-one time 55,3 %, 10 persons -two or three times- 21,2 %, 5 persons- four to five times a person - six to seven times to 3 persons 8-9 times) use of physical force- 20, 7 % (against 25 people-once- 56,7 %, 8 - two to three times- 18,18 %, 3 - four to five times two - eight to nine times sprama 6 persons ten or more times) , use of a baton 20,73 % (19 – once-43,18%, 16 - two to three times- 36,36 %, 4 persons 6-7 times and 6 persons ten or more times). We conclude that more severe forcible means are the less are used against the respondents, which is a good indicator, among other things, for the respecting of principle of gradation i.e. the legitimacy in the use of these means.

The use of such forcible means as common consequences that are caused are: bruises (in 21-respondent once in 9 - three or more times); scratches on skin (15/55,55% - again, 6 - and 6 twice - three or more times); face injuries (13/61,9% - again, 3 - and 5 twice - three or more times), head injury (12/50 % - again, 6 - and 6 twice - three or more times), contusion (10/62,5% - again, 1 - twice, 5 - three or more times).

Finally follows a group of questions related to the role, i.e. representation of respondents in victimizing of other inmates. It is interesting that here dominate more serious forms of victimization (than when respondents were victimized), such as slapping /s- 21,19 (22 – once/47, 82, 12 - two or three times-26,08 %); hitting in face- 17,97 % (18 – 46,15 % once and 11 - two or three times-34,20 %); hitting the body by hand 14,28 % (15/48,38% once, 12/38,7% two to three times); hitting with foot 14,28 % (14/45,16%- once and 9/ 29,03%- two to three times) beating 11,52 % (18/72 % - again, others are negligible); mockery 9,67 % (13/61,4% again, other negligible) swearing 17,87% (11/28,2 % - once 13/33,33% - two or three times). Less represented are eg. Blowing 15,2% (18/54,54% - one, others are negligible); assault with a weapon 6% (8/61,5 % - one, while two and multiple victimization are negligible). Among the least represented, according answers of respondents are: forcing to a sex work- 4,6% (6 - once, 1 - two to three times). These results somewhat surprising and seems to be in favor of the sincerity of the answers of the respondents. Namely, they admit

when they will find themselves more violent when they are in role of victimisators!

From such victimization arises more consequences, including the most common: bruising 9,67 % (for 19/61,29% people-once, for 8/25,8% - twice on 4 persons three or more times), face injury 10,59% (13/56,22% persons once, 5/21,7% - twice 5 persons three or more times), eye injuries 8,75% (12 persons/63,15% once for 4 - twice, and 4 persons and three more times), scratches on the skin 8,75% (9/47,13% persons once, 7/36,84% - twice and on 3 persons three or more times)

Conclusion

The paper contains theoretical and empirical components. In the theoretical part was placed the importance of the appearance of victimization in penal institutions, classification/forms of victimization/violence, justification of scientific study and other Research abput victimisation in our penal facilities was carried out at three levels: between inmates and participants and vice versa, as well as through the use of force by officers against respondents.

According to the obtained results, the state with the presence of victimization in penal institutions is not a concern. Of course there is the question about the sincerity of the respondents. Also the willingness of the researchers to create an environment for cooperation in completing the questionnaire, starting from the explanation of the research objectives, (no) motivation of participants to "waste time" on something that don't brings visible benefits, scope and complexity of the questionnaire, or illiteracy, limited intellectual abilities of participants, to (by the researchers) nasetenoto influence the leaders of informal groups that are created in close and others. Of course there were conflicting examples where inmates emphasized that this is a good way to spend time in prison had plenty of, even issues that arose the interest. Also somewhat surprising data on their relatively high abstention when giving answers (approximately every fifth respondent did not answer the questions). Towards that will add that total, and that other studies confirm also the large dark figure of victimization in prisons. This indirectly can be concluded by the extent of its application. The situation is complicating with the circumstance that are missing official records / data volume of victimization in institutions.

On average about 20% of the respondents confirmed that they were victimized. However, there dominate the lighter forms of victimization, primarily manifested through verbal and psychological, on account of severe forms of victimization. The data that was available did not allow us to conclude whether these people were victimized by two or more forms of

victimization, and whether the same persons appear in the role of victims and the role of victimizers.

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REFORM OF SERBIAN POLICE - BETWEEN GREAT EXPECTATIONS AND HUMBLE RESULTS

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Abstract

Serbian police under the rule of Slobodan Milošević in the 1990s were the pillar of the personal rule regime with main task not to serve and protect the people, but to support the political regime and protect ruling elite.

After democratic changes in October 2000 as a part of the overall social reform, the reform of the Ministry of Interior was launched immediately. Cornerstone challenges of this reform were flagged as the four "Ds" – de-politicisation, de-centralisation, de-criminalisation and de-militarisation. Mainly positive remarks would be heard in the statements and presentations from the official sources while foreign experts, national independent researchers and NGO`s are very critical of the reform results.

Serbia is still not a consolidated democracy, but rather, in a way, a weak state lacking basic political and national consensus even on "big issues". For this reason, it is very hard to predict the future development in policing. It will depend on the development of the social and political situation and the moves of the EU and international community. A necessary prerequisite for speeding up the reform process in police and policing in general is a radical change in the way that the political leadership is managing the process of transition towards a modern and open society based upon the rule of law and a respect for human rights.

The Recent History of Serbian Police

Frequent disruptions of historical continuity have been reflected in the police organization. The period after World War II saw an ideologically motivated police force with low level of respect for human rights. During the period of socialism (1945-1989) Serbia, as a constitutive republic of SFR Yugoslavia, emphasized the ideological component of security. Party-state security was provided by the strong state apparatus such as the public and secret police which, under the Ministry of Interior (MoI),

held wide-ranging legal powers and often violated human rights as they were accountable only to the communist party.[1]

With the dissolution of the SFRY in 1990s and the subsequent disintegration of the political system of socialist self-management, Serbia formally stepped into the multi-party system. However, in reality it was ruled by the Socialist party of Serbia, with Slobodan Milošević as the inviolable leader of party and state. The police were the pillar of the regime, whose main task was not to serve and protect the people, but the political regime e.g. the ruling elite.[2] The police were separated from the people and misused for political aims, principally to protect the regime and suppress the democratic movements rather than enforce the law, and ineffective in fighting crime and outside any form of effective democratic control. Many serious crimes remained unsolved and fear of crime among citizens was high. Some criminals were even protected, due to their actions in both the war in Bosnia and Herzegovina and Croatia and the smuggling operations of the state. A number of high-ranking police officers and managers were involved in, or very close to, organised criminal groups. The police were also very forceful in interventions against political opponents of the regime, especially during street demonstrations. The police model become highly centralised and militarised, which subsequently led to the introduction of a military ranking system for the police in 1995. Loyalty was ensured by direct appointments of politically obedient people to elite positions in the service. The serious de-professionalisation of the police occurred as a consequence of the misuse by the authoritative regime for its personal needs and because of the domestic and external crisis produced by the same regime. The de-professionalization of the police is also the result of militarisation, politicisation, centralisation, criminalisation and ethnical cleansing process that Serbian police was caught in. In other words the Ministry of Interior (MoI), the only and the most powerful police organisation in Serbia, has within itself contained public and state security on the entire territory of the country.

[1] The main values that had to be protected from a plethora of 'domestic and foreign enemies' were ideological: for example, the system of socialistic self-management, the brotherhood and unity of nations that lived in Yugoslavia and the non-alignment foreign policy. Securing them was the priority of the police and other agencies which controlled both media and citizens alike.

[2] The security services, especially the Ministry of Interior, were together with state-controlled media, the main pillars of the Slobodan Miliošević's personal power. "Hard" and "Soft" powers have jointly completely furthered the Serbian citizens from the horizon of freedom as well as isolated the Serbian society from the democratic world. The use of physical violence was limited to the opponents of the regime, while the spiritual violence practiced by media targeted all citizens and it didn't make any difference between us and them.

The situation in Serbia culminated with the 1998-1999 Kosovo crises and the subsequent NATO military intervention, after the breakdown of negotiations in Rambulliet. Milošević was defeated in elections held in September 2000, and his attempt to falsify the results failed due to massive civil resistance that culminated in demonstrations of over 600,000 people in Belgrade on the 5th October 2000 (Kešetović & Davidović, 2007).[3]

After democratic changes, it became apparent that a complete revision of the security concept was a high priority and that immediate and substantive change in all the organisational and functional sections of the Ministry of Interior must correct the serious inherited shortcomings (links between some police officials and organised crime, corruption, politicisation, militarisation, centralisation, lack of control and respect for human rights, code of conduct, capable managers, personnel and equipment). Analytic expert reports summarized all the main problems (Slater, 2001; Monk, 2001). As a part of the overall social reform, the reform of the Ministry of Interior was launched immediately, aiming to create a police that will be more democratically oriented and aware of respecting human rights in its actions against crime and the protection of citizens and their property, as well as organised in line with the highest standards, norms and rules of the EU countries.[4] Cornerstone challenges of this reform were flagged as the four "Ds" – de-politicisation, de-centralisation, de-criminalisation and de-militarisation. The reform process has been greatly helped by the international community, primarily the Organization for Security and Co-operation in Europe (OSCE), Council of Europe, Danish Institute for Human Rights (DIHR) and the national experts of the Ministry of Interior Advisory Body, as the manager of the reform project.

[3]At first, the 5th October political changes were characterized as the revolution (Serbian version of the Prague Spring), but perhaps from the present perspective they could better be described as the change of the incumbents of top leadership positions rather than a thorough change of social relations, the value system and establishment of balance of power.

[4] The reform of the MoI was delayed due to three-month long interregnum, meaning the period of the power-sharing by the representatives of the "old powers" and the fighters for social change in all important state institutions, including the MoI, administered by the three Co-Ministers. The forming of the first democratic government by Zoran Đinđić was followed by the parallel approach to the MoI reform both on the operational and strategic levels. Subsequently after the initial élan and certain results the Prime Minister was assassinated by the members of the MoI which was undergoing the reform. This was followed by the state of emergency and the fall of the government legitimacy which created inadequate ambient for the reform. The new government was formed in January 2004. After the initial consolidation, the main direction of MoI reform was agreed upon. It was in line with the direction of the previous government, but while they were preoccupied with the formal issues of the reform, the new Minister focused on the essential issues.

The reform of the Ministry of Interior has been implemented in three main areas:

the reform of practice (increasing the efficiency of work);
legislative reform (drafting of laws and regulations); and
long-term strategy for the development of law enforcement agencies.

The years 2001 and 2002 represented a radical break with the negative legacy of the past. A new organisational structure of the Ministry has been set-up, whereby the Republic Security Service[5] has been separated from the Ministry of Interior and the new Security-Information Agency (BIA), responsible for protection of the national security, placed under the civil control of the Government and Parliament. The guidelines for further reform of the police, including the reform of the relevant legislature, police education and the plan for the equipment and modernisation of Ministry of Interior have been clearly-defined and validated by the Government. Personnel changes down to the lower managerial levels have been made. The police have become more representative and responsive to the population. The institute of the beat officer started operating, prevention programs have been launched, and new technologies have been implemented in some fields of police work. New legislation related to internal affairs was completed, as a legal basis for a quality and comprehensive police reform. Strategic laws on Security-Information Agency and on the Power of State Bodies in Suppressing Organised Crime have been adopted, as well as three laws of a particularly reformist nature (Law on Police, Law on Police Education and Law on Records of the Security Service). The passage of the new Law on Police, plus other police laws and by-laws, are the most necessary organisational changes carried out as the initial phase of a further and more thorough restructuring of Ministry of Interior.

Reform Results

Mainly positive remarks, deprived of a self-critical view, would be heard in the statements and presentations from the official sources at conferences and round tables (Kuribak, 2008). On the other hand foreign experts, national independent researchers and NGOs are very critical of the reform results.[6] The Conflict Studies Research Centre analysis concluded

[5] Notorious Resor of State security.

[6] Bakic, B. & Gajic, N., (2006). Police Reform in Serbia: Five Years Later. OSCE: Belgrade; Downes, M. (2004). Police Reform in Serbia: Towards the creation of a modern and accountable police service. Belgrade: Law Enforcement Department, OSCE Mission to Serbia and Montenegro; Milosavljević, B. (2004). "Reform of the police and security services in Serbia and Montenegro: attained results or betrayed expectations". In P. Fluri &

that "police reform was slow, as neither of the post-Milošević administrations had an overall reform strategy, which led to lack of internal capacity and precise time-frames. If the results are to be sustained a long-term home affairs strategy needs to be in place."(Bakić & Gajić, 2006)

De-politicisation continues to be a very distant ideal. Although recent legislation (Law on Police, 2005) has made a nominal division between political and operational components, political influence is still overly present at all levels and the Minister of Interior is still seen as the top operational police officer. Goran Petrović, an ex-chief of the State Security Sector, views ideas of professionalization and depoliticisation, two pillars of the modern police, as abrogated with numerous solutions within the new legislation. The fact that the Director of the police is appointed by the Government on the proposal of the Minister, would be a small step towards his imaginary autonomy, if the Minister did not appoint almost all the other senior police managers, as is evidenced by a number of provisions. The Director is responsible for the work of the police, but has no managerial autonomy. Powers granted to a politician, such as the Minister, is contradictory to the ideas of professionalization and depoliticisation. Furthermore, the fact that the Minister decides on the promotion of police staff, the deployment of special police units, and is able to direct police investigations pending the public prosecutor being made aware of them, highlights the fact that the political function is neither marginalised nor limited. On the contrary, the Minister is a despot with unlimited powers (Kešetović & Davidović, 2007)

In real terms, there has been no concerted move towards decentralisation; the police service remains a centralised authority, reflecting the structure of the centralised state. Centralised management of the budget and short-term planning have impeded the delegation of decision making and police officers at the local level have little freedom in addressing specific local issues and working more closely with communities. This has also impacted the development of a coherent community safety agenda. (Kešetović & Davidović, 2007)

It is difficult to estimate the degree of progress towards de-criminalisation, due to a lack of data and an ineffective system of accountability. Some of the structural elements and causes of criminalisation are suppressed, but there are still policemen that are very close to ‘controversial’ businessmen. It is not easy to estimate the level of corruption in the police, but, based on data about police salaries, and the estimates of

M.Hadžić (Eds.) Sourcebook on Security Sector Reform. Geneva/Belgrade: Geneva Centre for the Democratic Control of Armed Forces and Centre for Civil-Military Relations. See more in Kešetović, 2008.

overall level of corruption in Serbia, it might also be rather high. The Serbian police still have a long way to go in effecting de-criminalisation and progressing in the fight against corruption.

According to police officials, the Serbian police are now demilitarised as recent police legislation abolished military ranks in police, except in some special police units (e.g. the Gendarmerie). The key question is, however, whether military logic and relations are still present within the Serbian police. Police officers still have very few discretionary powers and execute the commands of their superiors without question. Thus, the hierarchy is still premised upon a rigid superior-subordinate relationship, defined by prerogatives of rank, where initiative is neither sought nor encouraged. (Kešetović, 2008)

The main achievement of the reform, within the declared priority areas, on the operational level are in the fields of organised crime, forensics and border policing. (Kešetović & Davidović, 2007)

The reform of Serbian police has turned out to be a very difficult task. Any attempt to explain the somewhat limited result of reform should take the following obstacles into consideration:

During the period of provisional technical government, as a result of an apparent political agreement, the State Security Sector was left to be tackled by the new Serbian government. Accordingly, in this four month period of transitional government, there were no changes or any start of the reform process in that Sector.

The lustration of the police service was not carried out;

The DOS (Democratic Opposition of Serbia) governing coalition was heterogeneous with strong internal rivalries which weakened the democratic momentum. This also applies to Koštunica's government that was in coalition with Milošević's party. The consequence is the lack of a political will for real change;

Political instability;

The assassination of Prime Minister Djindjić slowed the reform process;

Amongst all political actors in Serbia, the police are still comprehended as wielding power for their own purposes rather than for those of public service (Kešetović & Davidović, 2007)

Future Developments in Policing

At the beginning of the 20th century, the dominant perception was that the states/governments have the primary, and sometimes the sole responsibility, for ensuring security in the sense that they determine what kind of security is required (quantitatively and qualitatively) and provide

funds (in terms of organizational and financial) to achieve such security (Kešetović, 2007b) Today we are facing "the restructuring of policing" (Bayley & Shearing, 2001) and in the field of performing the security tasks besides the public police, as the state authority responsible for ensuring the safety and property of people and the protection of public order, there is a number of entities that define their security needs (sponsors) and there are also the subjects that will meet those needs (providers). Unfortunately, Serbia is still far from these processes, since the prevailing concept of security is still state-centric. However, in the late 1990s the private security sector emerged and has rapidly grown since.

From the beginning, the development of the private security sector was moving in two directions; (1) towards establishing private agencies that were engaged in protecting not only "new businessmen", politicians, "celebrities", but also criminals and both former or current members of secret services; and, (2) towards establishing private security companies that inherited the role and jobs of former security services in public and/or public companies that were engaged in classic jobs of securing property, people or business. While doing so, the agencies, as a rule, worked in an illegal, frequently unlawful manner, while private security companies, that could have even had a larger number of employees, were slowly developing their field of activity and the private security sector in general.

In a period of only one decade, the number of employees in the private security sector has grown to around 30.000. Companies and enterprises engaged in private security are situated in various Serbian towns. The process of privatization, followed by the arrival of foreign companies in the Serbian market, have also conditioned a rise in the quality and expanded the range of supply in the private security market in Serbia. The rise in the industry of private security in Serbia is confirmed by the data that a yearly turnover of private security companies increased from €10 million in 2001 to nearly €26 million in 2003 (according to official data of the NBS Solvency Centre). The investments of private security companies' owners were particularly aimed at new security technologies and equipment, which cannot possibly be said for training and educating of employees.

The primary problems the private security sector is facing are:

Absence of a contemporary categorical apparatus in the field of internal security, which emerges from the fact that in Serbia there is no clearly formulated national security concept that should be primarily focused on prevention (not repression) and adjusted to the character/course of historical changes of the social corpus that is moving towards the private as its fundamental feature;

In connection with that, the absence of a conceptual apparatus, with which current occurrences in the sphere of internal security, especially of the

private one, would be determined adequately, thus becoming adaptable to a critical opinion, projecting, conceptualization, strategic planning…;

Lack of laws that would rationalize the number of negative, or at least undefined occurrences and relations that are already present in the reality of the private security sector - private investigators / detectives, private surveillance systems, the abuse of private securities – especially in the situations of taking control of a private facility or premises, the lack of standards in the manner of offering private security services, lack of standards in the manner of offering private security services, lack of systematic training and educating of employees in the private security sector, licensing of the companies and employees in the sector, protection of employees' rights, disloyal competition in the market of security services…;

Lack of partnership between the private and state security sectors, as the key precondition for achieving security and safety of citizens, a local community and society in general.[7] This tells us something about at least two facts; (1) the governing model of internal security in Serbia, which is always state-centralized, and, in relation to this; (2) the ever present stereotype of the police as the only performer of security in the society; and

Lack of any conception on crime prevention at the national level, and therefore lack of any vision about the place and the role of the private police in prevention. (Kešetović, 2010:63-65)

New player in the security arena is the municipal police like the organizational unit within the city administration securing implementation of tasks that are within the jurisdiction of the city.

Municipal police are in charge of exercising control over the application of laws and other regulations and general acts of communal areas and other activities under the jurisdiction of the city, exercising of supervision in urban, suburban and other local traffic, in accordance with the law and regulations of the city, protection environmental, cultural goods, local roads, streets and other public facilities of importance for the city and support implementing regulations that will ensure the smooth flow of life in the city, preservation of city resources and perform other tasks from jurisdiction of the city. Municipal Police Law came into force in July 2009, Published in the Official Gazette of RS 51/09. From spring 2010 in Belgrade and 23 other towns in Serbia the municipal police are established with the main task to enforce different municipal regulations and minor offences and demeanours.

[7] The state security sector (police) and private security work in parallel, mutual relations are not regulated, and collaboration so that occasionally occurs in some cases based on personal relations and acquaintances, not on a system that has made self-sustaining (Kešetović, 2007b).

Serbia is still not a consolidated democracy, but rather, in a way, a weak state lacking basic political and national consensus even on "big issues". Due to this reason, it is very hard to predict the future development in policing. It will depend on the development of social and political situation and the moves of the EU and international community as well. A necessary prerequisite for speeding up the reform process in police and policing in general is a radical change in the way that the political leadership is managing the process of transition towards a modern and open society based upon the rule of law and a respect for human rights.

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STRESS AND STYLES OF COPING WITHIN THE INMATES IN THE FEMALE PRISON IN THE REPUBLIC OF MACEDONIA

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Abstract

The greatest part of the research in penology and penology psychology refer to etiology, phenomenology and the treatment of male perpetrators of crimes, as they dominate in the total criminality. Criminality of women is an aspect not enough explored in the world, and especially in the Republic of Macedonia. Female perpetrators who are a part of the penal system are vulnerable category and that is why it is important to research their specifics and create appropriate treatment programs.

This paper deals with a research conducted in the prisons in the country; the research covered 25 women from the prison Idrizovo, who were surveyed in December 2012 and January and February 2013. The goals of the current study were to distinguish the types of stressors female prison inmates must typically face and to determine how the inmates cope with these various stressors, using The BASIC Ph Integrative Multi-Modal Model.

The results of the research suggest that for female inmates, separation from family - especially children, is the biggest stressor. Women inmate for coping with stress use different strategies, like emotional (A) (express emotions, reading, writing) and social strategies (S) (sharing with others, membership and support of the group). Cognitive strategy (C) is not used enough, because women in the prison feel isolated and cannot influence the things. Data obtained in this study will be used in proposing and developing specialized treatment programs for female inmates in prison.

Keywords: prison, female inmates, stress, coping, treatment

Introduction

The term stress belongs to the categories of highly stressed and significant dimensional phenomenon, so it is almost impossible to give one general and uniform definition. Therefore, different definitions of stress are accepted: stress as a reaction, stress as stimulus from external or internal environment and stress as a special relationship between man and his environment.

Lazarus and Folkman define stress as "the relationship between people and their environment, which is from person's point of view estimated as a situation that exceeds its capacity and impairs its welfare".[1] Therefore, they propose a stress model that emphasizes transactional nature of stress, viewing it as a two-way process: the environment causes stress, and the individual finds ways to cope with it. Thus the role of cognitive appraisal is emphasized, which is a mental process by which people evaluate two factors: the threat to their own well-being and capacity to cope with the stressor.

Coping with Stress

The way a person evaluates a situation or event strongly affects the process of confronting that person and its emotional reactions. For different people, the same situation may be experienced differently because people do not have the same ability to cope with stress. Because of the fact that stress is an imbalance between the people and the environment, coping means an action (cognitive and behavioral), which seeks to reduce or to tolerate the conflict. McCrae and Costa (1986) think that coping is a response to stressful situations, which helps to establish the psycho-social adjustment.

As stress, and the concept of coping is viewed as a process, Lazarus and Folkman define coping as "permanently changeable cognitive and behavioral efforts to deal with the specific external and / or internal demands that are assessed as a burden or as so difficult to go beyond the resources that a person has"[2].

The essential functions of coping are the unpleasant emotion regulation and problem-solving that create stress. According to Lazarus and Folkman, there are two main forms of coping: coping focused on the problem and coping focused on emotions[3]. Coping focused on emotions aims to reduce pain and includes strategies as avoidance, minimization,

[1] Lazarus and Folkman: Stress, Estimation, Facing. Naklada Slap, Zagreb, 1984
[2] Ibid
[3] Ibid

distancing, selective attention, positive comparisons and finding positive values in negative events. Here are also: avoidance (denial), positive thinking, using of humor, religion, reinterpretation, imagery (wishful thinking, imagining), emotional expression, social support, self-control, and passivation.

Behavioral strategies such as exercise, meditation, seeking emotional support, as well as alcohol consumption, venting anger also represent forms of coping focused on emotions.

Coping focused on the problem is active coping, which consists of solving the problem which is the source of stress. General coping strategies of this kind are action planning (cognitive effort focused on finding solutions to problems) and taking action (taking particular actions to solve the problem).

Basic Ph Integrative Multi Modal Model

Muli Lahad, a psychologist from Israel who deals with the psychotherapy of traumatized people, believes that, in order to successfully help one individual exposed to stress, we need to recognize the channels of communication of the individuals with the world. He noticed that people use a maximum of six channels of communication in coping with the world, and thus also coping with stress: B (Belief), beliefs or values; A or emotionality, feelings and moods, I or imaginativeness and creativity, S, or sociality and relationships with other people, or C cognition, facts and solve specific problems or physiological PH and physical activity[4].

Lahad called his theory - BASIC PH. Although for a normal existence we need to use all 6 channels for coping with stress, studying the speaking and behavior of people who are under stress, Muli Lahad found that people primarily use one, two or three channels. He also believes that by analyzing the speech or by implementation of specific diagnostic techniques can be observed that the channels of communication are dominant. That is necessary for developing a strategy to help traumatized individuals. It is this multi modal approach that suggests a combination between these elements in the unique coping style of each person. This model of stress and coping is very applicable and could be well adapted to the prison population to develop healthy ways of coping.

The "BASIC PH" model of coping and resiliency, developed by Prof. Mooli Lahad, was the first to describe coping as an on-going effort to manage life challenges. This is the theory, widely used as an effective resiliency assessment, intervention, and recovery model. Underpinning the

[4] Lahad M.: Community Stress Prevention, Kiryat Shmona, Israel, 1993

model is the suggestion that every person has internal powers, or coping resources, which can be mobilized in stressful situation; the effort to survive coming from a healthy rather than a pathological instinct.

Stress in Prison: Women Perspective

Being in prison for most people is a very intense stressful situation. On a scale of stressful life events according to psychiatrics Holmes and Rache being in prison is at the top (the fourth place). It is known that the incidence of suicide, self-harm, violence and even murder in prisons increased compared to the general populations. The main problem and stressors that are listed in the research are: the lack of family and friends, lack of freedom, lack of specific items or activities, conflicts with other prisoners, regrettable and disturbing thoughts about children and the past, concerns about the future after the release, boredom, inadequate accommodation, unsatisfactory level of medical services, lack of support from the staff, concerns for personal safety. Negative aspects of the prison environment, such as the presence of other inmates, overcrowding, lack of intimacy, contribute even more someone to experience stress.

The results of researches show that there are large individual differences in adaptation in prisons. Individual differences related to gender, age, race and family structure. It is found that women are more vulnerable to stressful circumstances in prison than men. Prison isolates the women from their family and friends. They cannot perform their usual duties. This causes sadness, guilt and puts tremendous stress on them. The physical and mental health needs of women are different compared to men. Traditionally, most of the prison inmates are males, and the prison environment is therefore shaped by the needs of males and do not cater to the special needs of women prisoners. Women in prison have a double disadvantage. The gender disadvantage and discrimination gets worsened during imprisonment, which is further amplified upon their release from prison. Gender sensitive interventions need to take into account psychological distress in a life stage perspective.

One of the issues which are markedly different for women in prison compared to men relates to their status as mothers. Corston argues that women are far more likely than men to be primary parent of young children and this factor makes their prison experiences significantly different[5].

[5] Corston, J. (2007) The Corston Report: A review of women with particular vulnerabilities in the Criminal Justice System. London: Home Office

"Probably the most difficult aspect of imprisonment for women is separation from their children."[6] Often family members do not take children to visit their mothers in prison and mothers themselves sometimes do not allow the children to stay in the prisons' surroundings. Research shows that mothers normally planned that upon release from prison live with their children.[7]

In a recent study of deprivation of women in Serbian prisons, using factor analysis showed that for women-prisoners, as a result of deprivation of liberty is the most difficult physical and psychological separation from the child / children that prevents them from caring for the child/children[8].

Inmates, who are mothers and those who are not, do not have different patterns of emotional distress when they are in prison. Although they have a similar amount of depression, anxiety differs gradually. Both of the two groups experience anxiety, but, while the level of anxiety to women who are not mothers decreases, level of anxiety to mothers increases, which can be explained by the constant stress of separation from their children.[9]

Women, in stressful situations avoid confrontation, accept personal blame and rely on social support more than men. Women also experience failure, frustration, indecision, body change, fatigue and loss of will to live.[10]

Aim of the Research

This research is a part of the on-going research project of the Faculty of Security - Skopje, "Position of the Convicts in the Penitentiary Institutions in Republic of Macedonia" conducted by the research team from the Faculty of Security - Skopje. Within this project a survey of the convict's attitudes towards the conditions in penitentiary institutions was conducted in five Macedonian prisons (Idrizovo, Stip, Bitola, Strumica, Struga).

The goals of the current study were as follows:

to distinguish what types of stressors female prison inmates must typically face and

to determine how the inmates cope with these various stressors, using The BASIC Ph Integrative Multi-Modal Model.

[6] Crites, 1976: The female offender, Lexington, MA: Lexington Books

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[9] Fogeli Martin, (1992): The mental health of incarcerated women, Western Journal of Nursing Research, 14 (1), 30 - 47

[10] Boothby and Durham (1999): Screening for depression in prisoners using the Back Depression Inventory, Criminal Justice an Behaviour, 26, pp. 107 - 125

Methodology

Although for the purposes of wider research, all 25 women are tested with Questionnaire for socialization and Questionnaire for victimization, as well as with a greater number of the psychological tests, which measures various characteristics of the person, for the purposes of this research are used the following instruments[11]:

Questionnaire for socialization (used a portion of the questions), specially prepared for this research;

RIDOC (Rhode Island Department of Correction) - structured interview to the convicted persons, mainly the questions pertaining to the assessment of the stressor in the prison and coping mechanisms;

The Aggression Questionnaire (AQ), Buss, A. H. & Perry, M. P. (1992).

Questionnaire for re-socialization is specially designed for this research and contains: general data, the questions related to the stay in jail: a form of the crime, length of sentence, the engagement of working, leisure time, contacts with the outside world, using the benefits, health care, treatment in institution, regime in prison, disciplinary measures, the security of the institution, deprivations, protection of rights, the problems in the prison.

The Aggression Questionnaire (AQ), Buss, A. H. & Perry, M. P. (1992)

Buss and Perry (1992) developed the AQ as an updated version of an earlier scale, the Hostility Inventory (Buss & Durkee, 1957). The version of the AQ employed was a self-reported measure that consisted of 29 items and four subscales: physical aggression (9 items), verbal aggression (5 items), anger (7 items), and hostility (8 items). Subjects rated their response to each item of the AQ on a 5-point scale that ranged from 1 (Extremely uncharacteristic to me) to 5 (Extremely characteristic to me). Physical and verbal aggression are instrumental components of aggressiveness, anger is physiological and hostility is cognitive componen of aggressiveness.

Internal consistency for the four subscales and total score range from .72 (Verbal Aggression) to .89 (Total BPAQ score). Retest reliability for the BPAQ over nine weeks is also satisfactory (correlations ranged from .72 for

[11] In psychological testing of women inmates except the authors, took part Vera Stoimenova and Valentina Vlaisavljević MA of clinical psychology

Anger to .80 for Physical Aggression and for the total score; Buss & Perry, 1992).

RIDOC Prisoner Interview consists of questions that related to stress as:

What is the most difficult part about being imprisoned? (Why, how, how often?)

Is that difficulty also the most stressful part of being imprisoned? (Why, why not?)

Is there anything that you do that helps you cope with [name the problem reported in the first question]?

What do you do to cope with each of [name them] those difficulties?

Answers were analyzed by qualitative analysis, using categories of the model BASIC PH.

Description of the Sample

In the Republic of Macedonia, there is only one female department within the Penal institution Idrizovo in Skopje. According to the annual report, since 2011[12] in this prison stayed 1316 persons, of whom 52 women (3.9%). In relation to the entire inmate population in Macedonia (total 2012 convicts in all prisons) women represent 2.6%.

At the time of the research in the unique women prison in Macedonia there are 52 women of whom 25 were covered (those who wanted to participate).

From the point of view of the age of inmate imprisoned population there were: 8 women (34.8%) of age up to 30; of 31 to 50 are 13 (56.5%), and over 51 years of age - 2 (8.7%). Most represented age group are women of 20 to 33 - 12 (48%), then those who are 34 to 47 are 8 (32%); of 48 to 60 are 4 (16%), and the least represented are women under 20 years of age, only one women (0.4%).

From the point of view of the marital status, 4 (16%) women are single, one widow (4%), 9 (36%) are married, separated 2 (8%), divorced 6 (24%), other 2 (8%). Those who have children are 19 (76%) women, and the remaining 6 (24%) do not have children.

Compared to the number of children, 4 (16%) have one child, 7 (28%), two children, 5 (20%) of three children, and one woman has four or more than four children (by 4%).

In terms of educational structure, data obtained show that the most numerous women are with completed secondary school 14 (56%), then

[12] Annual report for 2011, Ministry of Justice

primary school 6 (24%), with university degree are 2 (8%) and the same number without education 2 (8%) .

Before they were sentenced, in a constant working relation were 8 (32%) of the prisoners for a limited time worked 3 (12%), occasionally worked 3 (12%) women, user of social welfare were 4 (16%), in a regular education 2 (8%), and unemployed 4 (16%).

The largest part of the women of ethnic Macedonians in 19 (76%), Roma are 3 (12%), Albania 2 (8%) and others (4%).

In relation to religion, orthodox are 18 women (72%), Muslim 5 (20%) women, Catholic women (4%) and one Protestant (4%).

From the total number of female respondents the results are the following: one woman was convicted of theft (4,0%), one woman was convicted of trafficking in drugs (12%), two women were convicted of fraud (8%), one woman was convicted of kidnapping (4%), one woman was convicted of attempted murder, murder, premeditated murder (4%), one woman was convicted of incitement to sexual acts (4%), 5 women were convicted of incitement of minors to prostitution, incitement of minors, mediation in prostitution, prostitution (20%), one woman was convicted of sexual attack, sexual acts with minors (4%), three women were convicted of robbery, armed robbery (12%), two women were convicted of human trafficking, trafficking in minors (8%), two women were convicted of robbery and murder (8%) and two women (8%) did not respond.

Regarding the length of sentence to 1 year sentenced 4 (16%), 1 - 5 years 13 (52%), 5 - 10 years of 7 (28%) and over 10 years 1 (4%) women.

Drug addicts were 5 (20%) women before coming to prison.

Results

Stressors that women face in prison

Separation from beloved ones, especially from their children is the hardest thing for the women inmates.

As an illustration of this can serve the following information: unsupervised visits do not have 70% of women, free exit from the institution to 7 hours do not have 76% of inmates, the absence from the institution have never used 52% women, and free outlet to 7 hours never gets 68% of women.

This means that women have rarely visit family and children outside prison. Contacts with children are mainly reduced to the visiting in the prison that some women avoid, because they do not want their children to see them in the prison environment.

Women who were sentenced to long sentenced, cannot go on weekends until they spend two-thirds of their sentence. Thus, the meetings with children are reduce to the very short time they spend together in the special room in the prison, which is not the pleasant ambient for high-quality contacts.

If we also consider the fact that, due to slowness of the judiciary, the court procedures for some women are not finished yet and they cannot use their weekend release from prison even after they have served two thirds of their sentence, the problem becomes even more serious.

From the point of view of maintaining the emotional connection with children through regular and quality contacts, this situation seems stressful for mothers and for their children. How women feel and what they think about this situation shows this comment of inmate mother: "Separation from my children is the most difficult for me. They grow up, I'm out of their world and their world has changed... For me, the world stopped... The children have grown up and I inevitably distanced myself from them".

The other stressors for women inmates are: loss of freedom, the specificity of the other woman inmate with which they share the prison ("Women are difficult"), the uncertainty of the prison, dissatisfaction of the prison officers, fear of the future, a sense of unfairness to judgment, boredom, bad conditions in the prison.

Coping with stress: What are the most common ways that women use to cope with stress?

Based on the model BASIC PH strategies of coping are: cognitive, emotional, social, imaginative, a strategy that is based on the beliefs and values and physical strategies.

This research represents an attempt on the application of theory "BASIC PH" to diagnose the modalities for coping with stress in the female prison population.

The cognitive strategies include information gathering, problem solving, self navigation, internal conversation or lists of activities or preference. This strategy is used the least. Women feel isolated from the rest of the world and they feel powerless to solve problems while they in prison.

Another type will demonstrate an emotional or "affective" coping mode and will use expressions of emotion: crying, laughter or talking with someone about their experiences; or through non-verbal methods such as drawing, reading or writing. This is one of the most common strategies. The women commonly express their emotions crying when they are alone, rather than express emotions in front of others.

Some women read, some write a diary or poetry. One woman creates fashion designs. This includes watching television and listening to music.

Inadequate ways of confronting with emotions are often present, like: suppression of emotions, avoiding being with others, avoiding emotions, oversleeping. However, the most frequent way of avoiding confronting emotions is the response to imprisonment that implied also health negating such as increased smoking and seeking psychotropic medication.

A third type will opt for a social mode of coping, and receive support from belonging to a group, having a task, taking a role and being part of an organization. Together with emotional strategy, this strategy is most common in women inmate population. Namely, one part of the women discusses their problems with a roommate or with some close women in prison. They also, at difficult moments rely on family and friends of whom commonly are well accepted.

But, in prison, women enter into conflict that usually remains unresolved, because to their assessment, staff does not help them.

A fourth will use imagination either to mask the brutal facts, by day-dreaming, pleasant thoughts, or divert their attention using guided imagery; or try and imagine additional solutions to the problem that go beyond the facts -improvisation. This strategy is not used often, but when used it is to imagine that they at home with her children and life planning when they come out.

Type five will rely on belief and values to guide them through times of stress or crisis. Not only religious belief are meant here, political stands beliefs or feeling of mission (meaning) are also intended, the need for self-fulfillment and strong "self" expressions. This strategy is rarely used. Only several women read spiritual literature or can find some meaning in the fact they are going.

“Ph” type people are those who mainly react and cope by using physical expressions together with body movement. Their methods for coping with stress are relaxation, desensitisation, physical exercise and activity. Directing energy is an important component in many modes of coping.

This type of coping is typical for the women who work in the prison’s kitchen. They are almost all day there, and all say that work helps "not to think about problems." Although working conditions are not the best and they work all day, including weekends, except as physically active, they are active in the social sphere. One woman says: "Working in the kitchen helps me the most, I feel like the staff, not inmate." There they feel accepted as a part of a group that actively helps to overcome stress.

Women who are engaged in the prison are 15 (60%) and 9 (36%) are not. Engaged women in 72% of cases considered that the work helps them to

easily handle with prison. They consider that working positively affect their behavior and mood.

The dysfunctional ways of coping with stress is present: withdrawal, oversleeping, waiting for the sentence to pass, patience, and often taking psychotropic medication.

What women inmates proposed to improve their position?

They proposed structuring of time through work commitments, hobbies, courses and other content. They consider that there should be a psychologist with whom they could discuss when they feel disturbed. For the women, the use of solitary confinement as a punishment has no effect; the reward would be a more effective strategy. Engagement through intellectual work is something they want, especially educated women.

Results of the test of aggressiveness

We compared the results of this test with the US norms. In terms of all the test subscales women showed higher scores than the US norms.

The score on a scale of physical aggression is well above average for women (in our sample was 32.04 versus an average of 17.9 female population). On a scale of verbal aggression resulting value is also above average (15.87 vs. 13.5), the scale of anger (20.74 vs. 16.7) and the hostility scale (22.65 versus 20.2).

Interestingly, the women of this test show slightly higher scores than men prisoners on the scale of physical aggression (men versus women 32.04 31.02) and on verbal aggressiveness scale (women vs. men 15,59 15.87). This is unusual because the norms for women are somewhat lower, particularly for physical aggression.

One explanation for the higher aggressiveness in our sample may be that it is a consequence of higher aggressiveness before, knowing that perpetrators of crimes compared with normal population have a higher degree of aggressiveness. However, the presence of aggression in women is an indication that they are not well adapted to prison and it is one of the indicators of stress. One measure of poor adjustment to prison is high rates of disciplinary infractions and time spent in solitary confinement. More than half of women (52%) were disciplinary penalties, a quarter (25%) were in solitary confinement, while 16% were abolished privileges for disciplinary offenses.

The reasons can be found in dissatisfaction with their position, disconnection from the life of the freedom, especially separation from family, rejection of society, difficulties in the prison, lack of privacy, the

impossibility of women with higher sentences to go home for weekend, conflicts between women in prison are likely associated with their increased aggressiveness.

This situation was supposed to be an alarm for the prison system to bring some changes that would lead to reduction in dissatisfaction and aggression in women.

Conclusion

The main goal of imprisonment must be rehabilitation and reformation instead of punishment. There is a need to enable prisoners to lead useful and law-abiding lives on their return to the community. Keeping such a focus, the negative effects of imprisonment should be minimized; mental health should be maintained and promoted.

Our research show that the biggest stressor for women in the prison is the distance of the children and the family. The few researches that deal with stress and coping of women offender show similar results[13]. This separation could be particularly difficult for mothers with young children, and maintaining family contacts and connections may be an especially important treatment target for females.

Women inmate for dealing with stress use different strategies, like emotional (A) (express emotions, reading, writing) and social strategies (S) (sharing with others, membership and support of the group). Cognitive strategy (C) is not used enough, because women in the prison feel isolated and cannot influence things.

Negy, Woods, and Carlson hypothesized that for female inmates, strategies which attempt to manage emotional distress rather than the actual stressor will work best since the inmate is often unable to change many facets of her environment. However, they found that both types of coping resulted in better adjustment[14].

Physical activity (Ph) as a strategy is used very little, in our opinion mostly because of the lack of adequate conditions. Thus, women do not have a gym in which they can practise any form of exercise. This strategy is present only among the women who have work engagements.

"Maladaptive coping" included maladaptive habits (taking medication, smoking, oversleeping), isolation, giving up, and a general "inability to cope". It seems that coping styles do affect the adjustment to imprisonment and the well being of female inmates, during their prison

[13] Crites, 1976: The female offender, Lexington, MA: Lexington Books

[14] Nagy, C, Woods, D. J., & Carlson, R. (1997). The relationship between female prisoners' coping and adjustment in a minimum-security prison. Criminal Justice and Behavior, 24, 224 - 233.

sentence. Individual differences also play a huge part in the coping strategies, adjustment and behaviour while in prison.

The examination of female inmates' coping styles has several implications, particularly for rehabilitative purposes. These findings could impact early intervention strategies and prevention of maladaptive behavior during being in prison. Adjustment to a prison environment may also influence how an inmate will adjust to the community upon release. The examination of inmate coping styles can also lead to implementation of new therapeutic techniques within the prison. For instance, once it is discovered what coping styles are employed, they can be utilized in a therapeutic setting, such as individual or group therapy. Also, particular skills of the inmates, such as writing or craft-making, may be found to be effective coping strategies. Such skills can be expanded upon to allow the inmate to utilize these skills for possible employment or profit upon release. It is important to recognize the strengths of these inmates, so that their own resources can be modified or expanded upon for maximum benefit, both for the individual inmate as well as society.

Institutional changes could improve coping techniques to reduce loneliness, boredom and aggression whilst in prison. In addition to this, therapeutic groups and communities are important for inmates' adjustment and coping in prison. Furthermore, institutional opportunities and programs are beneficial for inmates; therefore more need to be provided in order to make the prison experience as beneficial as possible. However, even if a substantial number of opportunities and programs are available, it is the choice of the inmate to participate in them. It is very important the program models would be designed to address the specific needs of women offenders.

Our research shows the need to expand the modalities of coping with stress. According BASIC Ph, it is necessary to start treatment with the dominant modes of coping, in this case emotional and social strategy. It is good to start working in groups with awareness of emotions and thus finding cognitive coping strategies. This group can help. Then, it is good to organize sports activities (Ph) that are now completely absent. It would be useful for women to learn techniques of relaxation (Ph).

It is very important to support women to have higher quality contacts with their children and to introduce family-focused programmes. Creative workshops in which women would write, draw, design would stimulate imagination (I) as one of the strategies for coping with stress.

Through workshop's approach, introducing other women would foster assertive communication which would decrease mutual conflict. At the same time, the group would discuss about values and replacement of criminal value system.

Examining the positive affect in the coping process may shed light on how coping can help women inmates to avoid or minimize adverse effects of chronic stress in prison, as well as how coping might help to promote psychological well-being. Therefore, future research may wish to focus on more of a qualitative, process-oriented approach to gain a more in-depth view of the coping process.

We believe that coping mechanisms that are a dynamic category would follow during workshops with a group of women inmates that we plan to do in the future period.

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DEMOCRATIC LEGAL GUARANTEES OF THE REPUBLIC OF MACEDONIA AS A MODERN STATE

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Abstract

This paper is an attempt to determine the guarantees of societies in the modern world. Democracy, legal state and human rights make a unity that cannot be separated. Human rights in their tense and dependent relationship with the democracy are the most visible criteria for the character of the government. They limit its self-will by delimiting the zones of influence even when it comes from the citizens. A legal state canalizes all the principles and practices, which guarantee the freedom of the individual and his or her participation in the overall functioning of the society. A state built over the principles of democracy with emphasized accent of respect and protection of human rights is a radical contrast to the state absolutism and basic criteria for the rule of the law.

Established international standards which guarantee and protect the human rights as universal and non separable with the law are proclaimed as a civilization ideal. We wonder why in a modern society imagined as human and civilized we are facing discrimination, problems in the legal procedures, illegal trafficking, spread of economic poverty and ecological catastrophe. Why it is a society where the new forms of violence and war crimes are reaching larger extents? Is the society ready to deal with the new challenges and the respect the human rights? It seems that the world today is away from the imagined civilization ideal and the protection of human rights on the Balkan is a difficult mission.

Republic of Macedonia has ratified almost all agreements related to human rights at international and European level and has adopted an extensive legislation which directly or indirectly regulates the human rights issues. Yet, what is the extent of its implementation. Whether the society will be characterized as democratic ones depends on the functioning of the institutions and implantation of the legislature.

In line with this, this work aims to show the inseparable thread between the democracy and the legal state with an accent of the human rights.

Key words: democracy, legal state, human rights, protection, institutions, international regulations, rule of law

Introduction

As a result of the evolution of the man's goal to create a humane and impartial society, where all people as free beings would practice their individual and collective rights, characteristic for their human nature, the idea and concept of human rights and freedoms emerge and develop. The development goals of this idea originate from the moral rights and obligations between the people who live in a civil society or between the people and political authorities i.e. the institutions of the civil society.

It is developed to a degree to be undersood as the most general system of values, embraced by the majority of polities and cultures, as a cultural achievement of the development of the religious, philosophical and legal doctrines and theories and, in general, the development of human thought.

In theory, human rights are generaly valid and equal for everyone.

All human beongs are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.[1]

Humn rights can not be bought, inherited or earned, they are simply universal, inalienable and immanent for every human being which implies that they can not be taken away and refuted.

As basic criteria, human rights reflect citizen's role in the society and as such are particulary important in their mutual interaction. The more they are respected and protected the lower the opportunity for it to be resorbed and abused by the authority. They control and regulate the performance of the state's government towards certain individuals, freedoms are given to individuals in relation to the state, through which the state is required to meet people's basic needs, who are under its jurisdiction.

The level of achievement and respect for human rights in a society is the only measurable criteria for evaluating the overall efficiency of the society and the need for its adapting or changing.

In this context, human rights, democracy, and rule of law are core values of today's living. That is why it is necessary to provide assurance that all human rights, whether civil, political, economic, social or cultural to be respected and protected everywhere.

[1] United Nations General Assembly. (1948). Universal Human Rights Declaration, Article 1 Retrieved from http://www.un.org/en/documents/udhr/

International human rights standards and their incorporation into domestic legislation

The concept of the legal state and the rule of law in the modern domain of development is undoubtedly in the foreground suppresses the respect of human rights and freedoms as the primary criterion for the existence of law and the state.

Human Rights are defined as the rights contained in the international acts and documents, and accepted by many states as part of their national legislation[2]. Starting points around the concept: the life and dignity of the human being. He is the nucleus around which to build the whole concept of human rights and freedoms.

In this sense, human rights today have their legal basis and concept in the international law, in the form of written legal norms and standards, as well as relevant institutions that guarantee and control their implementation and compliance. They are incorporated into the national legal systems of modern states to guarantee and ensure their compliance with the everyday life of its citizens.

Human rights and their respect constitute the most important basis for the construction of a modern and democratic society that for which every state strives. Respect for human rights nowadays in the democratic, developed societies, such as the European Union, is raised to a high degree. The European Union and its institutions and documents today ensures a high level of respect for human rights and freedoms.

Our country as a candidate to join the European Union, from its independence up to today has taken more steps to meet EU standards on human rights and freedoms, which is an undeniable fact. However, before the independence, it dwelled for a longer time in the socialist structure of society which had a different treatment and respect for human rights and freedoms. After gaining independence, again it entered in a specific and complicated, and it would be correct to say a confusing period of transition, which with its features opened many opportunities for violation of human rights and freedoms. But as a modern state, although relatively young, in its independent existence as a state aims and is oriented towards joining the European family of democratic legal states within the European Union. For these reasons, the Republic of Macedonia is in the process of harmonizing its domestic legislation with the European law and in this sense, the legal norms in the field of human rights and freedoms to implement in the domestic law as a condition without which it can not (sine gua non) for achieving this

[2]United Nations General Assembly. (1948). Universal Human Rights Declaration, Article 1 Retrieved from http://www.un.org/en/documents/udhr/ Article 1

historic goal. That is why the importance of respecting and implementing international standards for the protection of human rights and freedoms in the Macedonian legal system emphasize principles that get directly into the core of the process of European integration of the Republic of Macedonia. However, the right does not exist only through the existence of legal norms, but even more through the remedies for their protection within the meaning of the maxim ubi jus ibi remidium - where there is a right there is a remedy.

Today's level of civilization development, in all countries with a democratic system the preferential significance of the international law is generally accepted over the domestic law and is an undeniable part of the domestic law. In this direction, in accordance with the Constitution of the Republic of Macedonia "International agreements ratified in accordance with the Constitution are part of the internal legal order and can not be changed by law"[3].

Macedonia has ratified almost all major human rights treaties at the international and European level, as the UN conventions, the ILO, UNESCO and the Council of Europe.

Establishing legally binding obligations, Macedonia is a state-by sequence human rights treaties of the UN. Some of them are:

International Covenant on Economic, Social and Cultural Rights – CESCR, 1966

Inter-national Covenant on Civil and Political Rights– CCPR, 1966 (not accepted responsibility for interstate complaints, Art. 41);

Optional Protocol to the CCPR, 1966

Second Optional Protocol to ICCPR, 1989

Convention on the Rights of the Child – CRC, 1989

Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment – CAT, 1984 (accepted responsibility for the investigation, individual / inter-state complaints, Articles 20, 21, 22);

International Convention on the Elimination of All Forms of Racial Discrimination – CERD, 1965 (accepted responsibility for individual complaints, Art. 14); etc.

Core ILO conventions ratified by the Republic of Macedonia are:

Freedom of association and collective bargaining – Convention no. 87 and C98 Convention (ratified in 1991);

Elimination of discrimination in respect of employment and occupation – Convention No. 100 (ratified 1991). Convention No. 111 (ratified 1991).

[3]Parlament of the Republic of Macedonia. (1991). Constitution of the Republic of Macedonia, Official jurnal No. 52/91, 01/92, 31/98, 91/01, 84/2003, 07/05,03/09; Amendment 118,

Elimination of forced and compulsory labour – Convention no.29 (ratified 1991) and Convention br.105 (ratified 2003).;

Abolition of child labour – Convention br.138 (ratified 1991) and C182 (ratified in 2002)

In terms of the relevant conventions of UNESCO, Macedonia has ratified the following agreements:

Convention on Technical and Vocational Education, 1989

Convention on the protection and promotion of the diversity of cultural expressions, 2005

Convention against Discrimination in Education, 1960

Establishing binding legal obligations, Macedonia is a state-side of the following agreements established under the auspices of the Council of Europe, which relate to the protection of human rights:

European Convention for the Protection of Human Rights and Fundamental Freedoms– ECHR, In 1950 (signed 1995g.a entered into force 1997).

Protocol to the ECHR, 1952 (signed this 1996 entered into force 1997.) and Protocols to the ECHR from 1-14;

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987

European Social Charter,1961 etc.

Constitutional concept of human rights in the Republic of Macedonia

In the literature one can find positions that attempt to create an effective protection of human rights, not only creating sound declarations, is „in the core“[4] of the new constitutions of Central and Eastern Europe, including the Republic of Macedonia.

In this sense, we believe that every constitution whoe supporting pillar doesn not embrace human rights is undemocratic and “not valid”. Therefore, any modern national legislation seeks to fully incorporate and comply with international obligations and human rights standards. The legislation should provide protection of human rights of all individuals in a society. Therefore, you should provide for appropriate national guarantees such as, separation of powers, independence of the judiciary, equality before the law and the existence of external control mechanisms[5].

[4]Herman S. (1991). Constitutional Developments in East Central Europe, Journal of International Affaire, vol.45,No.1,1991, page.81

[5] Ministry of Foreign Affairs. (2009). Strengthening the National Human rights Protection System, Manual for embassies of EU States, Human Rights Division. The Netherlands, page.99

During the adoption of the Constitution, the Republic of Macedonia has accepted the liberal concept that understands human rights as inalienable, and the state is only their guarantor. "The purpose" of the constitutional protection of human rights is "the individual", and its dignity.[6]

The Constitution of the Republic of Macedonia[7] incorporates international human rights standards. As one of the fundamental values referred to in Article 8 of the Constitution are the fundamental rights and freedoms of man and citizen, recognized in international law and confirmed the Constitution. In addition to the fundamental values also included are - the free expression of national identity, the rule of law and respect for the generally accepted norms of international law.

Chapter 2 of the Constitution of the Republic of Macedonia elaborates in detail the human rights that are divided into civil and political rights, economic, social and cultural rights as well as the guarantees of basic freedoms and rights. Right here you can see the liberal concept of human rights which the Constitution has accepted and the importance which is given to the human rights in the highest legal act.

Human rights in the Constitution are seen individually and purpose of the constitutional protection of the citizen and his dignity. Main feature of the concept of human rights is equality, which is defined in Article 9: "Citizens of the Republic of Macedonia are equal in their rights and freedoms regardless of sex, race, color of skin, national and social origin, political and religious beliefs; property and social position. All Citizens are equal before the Constitution and the laws."

Apart from the right to equality the Constitution of the Republic of Macedonia covers a wide range of civil rights which include freedom of association, freedom of assembly, the right to vote, the right to complaints, the right to respect and protect the privacy of personal and family life as well as a number of other rights provided in the chapter for fundamental human rights and freedoms.

The Macedonian Constitution fully protects the right to life. The death penalty can not be imposed in any situation and any form of torture is prohibited as well as an inhuman or degrading treatment or punishment. The constitution declares the principle of presumption of innocence and states that everyone charged with a criminal offense shall be presumed innocent until his guilt is determined by a final court decision.

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[6]Renata, T.D.(2009). Constitutional concept of human rights in the Republic of Macedonia, European human rights standards and their implementation in the legal system of the Republic of Macedonia, Proceedings of the scientific debate, Skopje, Republic o Macedonia

[7] Parlament of the Republic of Macedonia. (1991). Constitution of the Republic of Macedonia, Official jurnal 52/91, 01/92, 31/98, 91/01, 84/2003, 07/05,03/09;

Improving and increasing the scope of human rights and freedoms in Macedonia was covered with the amendments to the Constitution. The Amendment VIII has strengthened the rights of ethnic communities which states "Members of communities have the right to express freely, foster and develop their identity and their communities and use the symbols of their community.

The Constitution also includes the legal effect of international agreements signed by the country. In the act of ratification they become an integral part of the Macedonian legislation which is confirmed by the constitutional provision provided in Article 98 whereby courts adjudicate based on the Constitution, laws and international agreements ratified under the Constitution.

Also in Article 118 of the Constitution states that international treaties which will be ratified by us are becoming an integral part of the internal legal order and can not be changed by law. The Constitution of the Republic of Macedonia establishes authority for the protection of constitutionality and legality which operates as a Constitutional Court who, among other responsibilities, has the duty to protect certain freedoms and rights of citizens under constitutional powers.

Rule of law and legal state as a concept in limiting and controlling state power

Often in everyday and political life between the notions of the rule of law and the legal state does not distinguish, and they are equal. What really connects and makes similar these two notions is that in essence they are putting two concepts that are aimed at achieving the political ideal of limited and controlled power.

One of the fundamental values of the constitutional order of the Republic of Macedonia is the rule of law. This term refers to conditions that must be provided, namely all acts and activities of the state bodies must be based on the provisions contained in the highest legal act of the state, ie the Constitution and laws-application of the principle of constitutionality and legality and of corse enrollment to all individuals and authorities under the constitution and laws - submission to all of the legal order. Certainly, the state must necessarily comply with the statutory provisions, but the laws must be in accordance with human rights and freedoms, ie the leading thread in the decision, and in particular in their implementation it is necessary to be human rights and freedoms. Holders of state power, ie the state as a whole in achieving activities account must have the view that the rights and freedoms of the people of their natural rights, and the role of the state is not to give or consuming them, but to guarantee and creates conditions for their respect and

protect. This means that the rule of law opposes tyranny and makes them responsible and punishable procedures without exception, even when it comes to power holders. This is certainly the most important institutional prerequisite for the realization of the principle or concept of rule of law, independence of the judiciary. Rule of law can not have if not consistently implemented the principles of legality and legal certainty.

If you take into account that democracy is intended to prevent a person or a small group of people to rule the people of arbitrary manner, then the rule of law ensures that a state has an autonomous legal system which ensures equality before the law, limiting the powers of public authorities and ensuring equitable access to independent and fair judiciary.

One free democracy, which confirms the participation of the social parts in the formation of the political will, there is a need for state-legal creation. Democracy and the rule of law form an indivisible unity. With the notion of the rule of law, indicates the degree of relatedness of the state and law (understood as the sum of all the laws and other regulations), in which the state with the help of law shall regulate the legal relationship between individuals, legal relations within the state organization, as well as the legal relationship between the state and citizens, who thus become citizens. Certainly the rule of law implies equal treatment of all subjects in the state, ie the equal application of the constitution and the laws, and of course all those principles and modes of behavior that guarantee freedom of the individual and his participation in political life. State law is a radical contradiction to the police state and state svoevolieto. In it, individual lives are constantly supervised by the "up" in the constant threat of sudden mixing of the existing state security apparatus. In all this he feels controlled and constantly monitored by mistrust, which poisons the entire human coexistence. Despite all precautions citizens can never get rid of the hand of the state. One that causes dissatisfaction among those in power, he threatens arrest or harassment, loss of employment or can carry in camp without having to exercise their right to a proper trial. But if it is brought before a judge, it is approached as an official political leadership, because there is no principled independence of the judiciary. Judiciary in these systems is only one of many organizational techniques for "human material" may be available. Thus, an ordinary citizen never knows if they fell face vladeachite herself nesigurnsot involves dependence and non-freedom. Forgive this right may still function normally in the private sphere, namely in dictatorships punish thieves or those who committed a traffic offense. But we can not rely on this, because all law is equally valid if called. Ultimately the dictator or the state party determines what is right.

Protection of human rights at the national level and the responsibility are the role of institutions in the protection and promotion.

National human rights institutions, in particular human rights commissions, play a significant role in the promotion and protection of human rights domestically. Therefore the strong protection of the human rights agenda of a democratic and free country must necessarily engage in and the establishment of such an institution at the national level, where the institution already exists, it is taking continuous measures and steps aimed at strengthening its mandate, professionalism and facilities.

Paris Principles[8] represent the so-called "Soft law" relating to the status of national institutions for human rights are basic standards on the basis of that form National Committees or human rights institutions. Accordance with the standards of the Paris Principles should be mandated institution for active promotion and protection of human rights explicitly defined at the highest level with the Constitution of the State or legal text.

Basic obligations in accordance with the established principles derived for national human rights institutions, inter alia, the submission of opinions, recommendations and proposals to the government, parliament or other competent bodies, in the exercise of its advisory role, which among other things may refers to any legal or administrative provisions, practices or any situation of violation of human rights. Other duties include the preparation of reports on the situation in the country in connection with the exercise of human rights, as well as the obligation to point out the government of the country concerned situations in any part where human rights are violated and to give their suggestions and initiatives to overcome such situations. National human rights institutions are responsible to ensure the harmonization of national legislation, regulations and practices with the obligations imposed by international covenants and conventions ratified by the country, as well as to monitor their implementation at national level.

The procedure for the appointment of national human rights institutions is implemented by a special Sub-Committee on Accreditation in the framework of the International Committee for coordination. Subcommittee reviews applications for acquiring the status of a national institution primarily from the point of view of meeting the specific Paris's Principles by the reported body within national context. In the Republic of Macedonia has no accredited national human rights institution. At the moment when the National Institution for Human Rights will be established in accordance with the Paris's Principles, it will further contribute to the effective protection of the rights of persons and citizens of the Republic of Macedonia.

[8] UN General Assembly.(1993). Paris Principles , adopted in resolution 48/134;

Judiciary as a central institution in the protection of human rights

Might say, in the protection of human rights, the main problem is generally known fact present at the international and national level (more or less in a particular country) - marginalization of law and inconsistent (neglect) the principle of separation of powers on legislative, executive and judicial, that all together negatively reflects to respect and protection of human rights. Despite this situation, continuing the process of glorification and the domination of politics and political (executive) power, which constantly finds forms and means - (open - double standards, or hidden - through ambiguous norms, or in confronting the international principle for example, the principle of "consensus" in the EU with the "right to self-determination of peoples, including the name of your state) in reality -to rule and to impose its political will and interests. How else can be understand, in the beginning of XXI century, imposing absurd dispute over the name of Republic of Macedonia, contrary to the international principles and norms of equal treatment of nations and states, human rights for national identity and dignity, expressed in the name of the state.

This condition, more or less, is also present at the national level, with inconsistent tendencies of the unprincipled accomplishing of the principle of division of state power not only through non establishment of a mutual balance of relevant institutions, holders of individual governments, but also with problematise constitutional and legal relations between the three authorities, especially with attempts to influence and political control over the judiciary. So today, in the modern world, is more than needed reaffirmation of international and national principle of an independent judiciary, which not only normative, but the real need to obtain and has a central place and to be vertebrate of rule of law, democracy and the protection of human rights and freedoms.

There is no adequate institution through which the most justly can be resolved most of the conflicts, abuses of power and authority, criminal behaviors (from organized crime to corruption), the elimination of violations of individual human rights and freedoms, or their protection and promotion.

Ombudsman in protecting human rights

In accordance with Article 2 of the Law of the Ombudsman[9], the Ombudsman is a body of the Republic of Macedonia, which protects the constitutional and legal rights of citizens and all other persons when they are

[9] Law of Ombudsman , Official Journal of the Republic of Macedonia no. 60/2003

violated by acts, actions and omissions of the actions by the state administration and by other bodies and organizations with public mandates. Ombudsman as an institution is the last shelter in which the damaged people seek protection in order to accomplish their rights, which were violated by the state administration. Ombudsmen usually have the role of supervisors and the same accomplishing by exploring the complaints submitted by citizens through inspections and examination of the work of state bodies as well as through other forms of conducting of inspections and investigations that the Ombudsman raises on its own initiative.

Ombudsman of the Republic of Macedonia protects the constitutional and legal rights of citizens who are violated by the state administration and by other bodies and organizations with public mandates. Ombudsman pays particular attention to the protection of the principles of non-discrimination and adequate and equitable representation of members of communities in the state bodies, bodies of local self-government and in the public institutions and services.[10]

The Ombudsman is independent and autonomous in the performance of their function and duties within its jurisdiction, performing it on the basis and in the framework of the Constitution, law and international agreements ratified in accordance with the Constitution.[11]

Need of establishment of a National Preventive Mechanism

UN member states realized that it is necessary to take preventive measures to achieve the objectives of the Convention against torture and other kind of brutal, inhuman or degrading treatment or punishment, and to strengthen the protection of persons deprived of their liberty against torture and other inhuman or degrading treatment or torture.

Preventative nature of regular visits of the places of deprivation of liberty, according to their specific purpose and methodology, makes them different from protective visits that focus exclusively on a specific appeal to solve a specific problem. Preventive visits by national mechanism, which has the authority to enter into all places of deprivation of liberty, with or without prior notice, has access to all documents and the right to speak with a person of his choice, will certainly have a strong deterrent effect of implementation of torture or any other form of brutal, inhuman or degrading treatment. These visits are proactive, regular and on the spot are identifying the gaps

[10] Amendment XI, paragraph 2 of the Constitution of the Republic of Macedonia, 2001.

[11] Article 3 of the Law of Ombudsman , Official Journal of the Republic of Macedonia no. 60/2003

and identify the elements that may lead to the establishment of conditions or treatments that are considered as a torture or other forms of brutal behavior.

The purpose of this preventive mechanism is through a process of continuous dialogue with the authorities, through which points out the problems in a timely manner to correct and improve the gaps and at the same time and in a timely manner to prevent possible side effects.

National Preventive Mechanism under the Ombudsman

National Preventive Mechanism (NPM) in the Republic of Macedonia was established by the Law for Ratification of the Optional Protocol to the Convention against torture and other brutal, inhuman or degrading treatment or punishment[12] by the Republic of Macedonia. The purpose of this preventative mechanism is to establish a system of regular visits conducted by independent international and national bodies on places where people are deprived of their liberty, in order to prevent torture and other brutal, inhuman or degrading treatment or punishment.[13] With this law, the Republic of Macedonia declares that the Ombudsman has been appointed to act as the National Preventive Mechanism and with his consent and non-governmental organizations and organizations that have the status of humanitarian organizations in the country can take some of the responsibilities of the NPM. NPM functioning as a special separate organizational unit within the Ombudsman, whose main task is the prevention of torture and other brutal, inhuman or degrading treatment or punishment? NPM prepares and operates according to its own work program and in accordance with the specific methodology that includes a system of regular visits to all places of detention under the jurisdiction of the state.

According to the adopted legislation, prevention is done by establishing a system of regular visits that may be announced or unannounced. National preventive mechanism based on detecting conditions preparing a report with appropriate recommendations that the Ombudsman shall submit to the competent authorities and to propose measures to be taken in order to improve overall conditions in places of detention. The competent authority to which the report is sent is obliged to examine the recommendations of the NPM and to start dialogue with it for possible implementation measures. NPM in the Republic of Macedonia in accordance

[12] Law for ratification of the optional protocol to the convention against torture and other brutal, inhuman or degrading treatment or punishment, Official Journal of Republic of Macedonia " nu.165/2008

[13] Article 1of the Optional protocol to the Convention against torture and other brutal, inhuman or degrading treatment or punishment, Official Journal of Republic of Macedonia " nu.165/2008

with the powers arising from the Optional protocol has access to all data and information relating to the number of persons deprived of their liberty, as well as the number of places and their location; has access to all information relating to the treatment of these persons, as well as the conditions of their detention; access to all places of detention and their installations and facilities; has opportunity to have private discussions with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply with relevant information; has the liberty to choose the places it wants to visit and the persons they want to interview; and right of contacts with the UN Subcommittee on prevention of torture, to send information to them and to hold meetings with them[14]. NPM at the end of each year, prepare a separate annual report, and in accordance with the Optional protocol, the Republic of Macedonia is obliged to publish and distribute them publicly.

Commission for Protection against Discrimination

Commission for protection against discrimination is an independent body with status of legal entity and works in accordance with the responsibilities defined by the Law of prevention and protection from discrimination[15] which provides prevention and protection from discrimination in the realizes of rights guaranteed by the Constitution of the Republic of Macedonia, laws and ratified international agreements. By law is prohibited any direct or indirect discrimination, calling and encouraging discrimination and helping in discriminatory treatment on the basis of sex, race, color, belonging to a marginalized group, ethnicity, language, nationality, social origin, religion or religious beliefs, other kind of beliefs, education, political affiliation, personal or social status, mental or physical disability, age, family or marital status, property status, health status or any other basis provided by law or ratified international agreement. According to the responsibilities established by law, the Commission shall act on complaints, give opinions and recommendations for specific cases of discrimination, to the complainant's, gives information about their rights and opportunities for prosecution or other action for protection, for violations raises initiative for initiation of proceedings before the competent authorities, establish cooperation with the authorities in local government, responsible for the achievement of equality and the protection of human rights, providing

[14] http://www.ombudsman.mk

[15] Law for Prevention and protection from discrimination, Official Journal of Republic of Macedonia , nu.50/2010

opinions on draft laws relevant to protection from discrimination.[16] The Commission also has jurisdiction to act proactively and preventively by monitoring the implementation of the law, initiating amendments to the regulations for the implementation and promotion of the protection from discrimination, by providing recommendations to the national authorities to take measures to achieve equality and conducts studies, research and training related to discrimination.

Institutional weaknesses

All have some weaknesses to be called "national human rights institutions" according to the Paris's Principles. The big problem is that the Ombudsman as an authority fails to protect human rights when they are violated by private actors in society, does not guarantee the plurality of all social factors relevant to human rights, the focus is more directed towards the protection of violation of rights, but the promotion of human rights and the prevention of violation are in the background of the functioning. Furthermore, a serious lick is the fact that the recommendations of the Ombudsman are optional that in condition of low political culture affect the efficiency of protection and guarantee of rights and freedoms. If you have in mind that as an institution is already established, with competence, availability and functioning, there would be no resistance from the government, so in order to eliminate these and many other shortcomings, we believe that it is necessary to strengthen and improve the position of the Ombudsman in direction of extension of the competences, deepening and channeling of the legal framework, and of course focusing on research, promotions and trainings on human rights. When we are speaking for weaknesses of mentioned institutions the Commission for protection against discrimination has only a narrow domain of protection- only from discrimination, then the legal requirements for commissioner election are too wide positioned that influence to choice of people who are not prepared to respond to tasks; Commission does not have administration and a lack of human resources because the commissioners are "freelancers". Certainly additional weakness is that independence is in doubt due to the fact that part of the commissioners is employed in executive power, and no financial independence (except for pay).

In order to protect and promote human rights in addition to the existing institutions (governmental, non-governmental, independent commissions and bodies, etc.) we believe it is necessary to establish a new

[16] Article 24, Law for Prevention and protection from discrimination, Official Journal of Republic of Macedonia , nu.50/2010

institution-only, expert body which would be responsible for the promotion, protection training and prevention of violation of constitutionally guaranteed rights. Institution or body will ensure plurality, with a focus on research and crystallization of international human rights standards. Naturally this would cause some difficulties, namely resistance could occur by the government, would have financial repercussions and of course there is the possibility of overlapping responsibilities. Of course, the degree of efficiency in the protection of human rights, by existence or non-existence of a new institution or expert body, is based on cooperation between existing institutions that in its focus on action have human rights. But cooperation should not be reduced only at the national level. Deepened international cooperation ensures consistent implementation of the legislation and the willingness and determination of the state to set human rights and freedoms on the level of priority.

Conclusion

Protecting and promoting human rights is an imperative of every modern society and a prerequisite for the effective functioning of any democratic country. Their protection is as well a prerequisite for Balkan countries membership in the EU as is in the case of R.Macedonia. However in some cases it seems that there is an overlook of the fact that there are certain principles which are immanent to a legal state and need to be respected. It seems that the management with the system of the legal state is getting out of the framework provided by law. Considering that the focus of the International Organization's reports is on the actions of the police, the conditions in the prisons and of course the judicial system, it is save to say that in addition to the lack of political will to change things at the same time we are talking about systematic issues that penetrate to the lowest level of any of the systems mentioned. It is certain that Macedonia will have to work harder on human rights protection and decreasing discrimination especially in cases where they have been violated in a legal processes, and also understand that the mechanisms of a legal state and the division of government in the modern democracies are made to prevent politics prevail the law and establish some kind of controlling mechanisms in order to protect them from arbitrariness and abuse. Certainly, the human rights protection and promotion remains an important element of the Macedonian foreign policy. The Republic of Macedonia is a member of the principal conventions for human rights within UN, has been reporting regularly regarding their implementation and is in close cooperation with the committees established with these conventions. Macedonia is continually reinforcing the activities and participation in the international organization's

bodies that are active in this area. The country has strongly supported the formation of the Human rights council in 2006, as a most suitable forum for further human rights and fundamental freedoms promotion through a universal partnership and dialog. For these reasons the Republic of Macedonia applied for membership in the Human rights council in the period of 2013-2016.

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EXTRA-PARLIAMENTARY INSTRUMENTS OF SECURITY SECTOR OVERSIGHT AND HUMAN RIGHTS PROTECTION IN THE REPUBLIC OF SERBIA

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Abstract

In light of new security risks, an increased level of power is given to security institutions related to the use of special investigative techniques and coercive measures, which can potentially jeopardise basic human rights and democratic principles. In order to overcome such problems, a legal and institutional framework for democratic control of the security sector is needed, primarily in order to enable parliamentary control. However, studies have shown that in the process of democratic control in Serbia, the Parliament itself is the weakest link, while the constitutionally and legally defined oversight activities are not conducted in practice. On the other hand, insufficient attention has been paid to the so-called extra-parliamentary control instruments, i.e., independent state institutions, such as the Protector of Citizens, the Commissioner for Information of Public Importance and Personal Data and Protection, and the Equality Protection Commissioner. These independent state institutions primarily deal with certain aspects of the protection and enforcement of human rights, while simultaneously playing a significant role in the surveillance of the security sector.

Key words**: **parliamentary control, extra-parliamentary control instruments, independent state institutions, security sector, human rights

Introduction

During the period of transition and reform of its entire system and the security system in particular, the Republic of Serbia has faced numerous challenges. On one hand, on the path to the EU integration it is necessary to fulfil the basic condition of a democratic society – to enable stability of the institutions that are guarantees of democracy, the rule of law, and the

respecting and protection of minority rights (Copenhagen criteria). But, on the other hand, in order to respond to contemporary security risks, it has become necessary to give more powers to security institutions for employment of special measures and procedures (special investigative techniques), as well as of coercive measures, which can potentially jeopardize basic human rights and the rule of law, i.e. the basic principles of democracy. (Hadžić, Petrović, 2008: 28.).

There is a belief that the optimal balance of protection of human rights with respect of the public imperative (Huntington, 1957) can be achieved through efficient control of the security sector, especially with a strengthening of the control role of the parliament, given that the parliament maintains financial control and produces legal parameters for security issues, but also for the protection of human rights (Born, 2003: 18 - 19). Studies of the parliamentary surveillance of the security sector in the Republic of Serbia - in addition to the fact that the adopted legislation provides a framework for its successful implementation - have shown that Serbia faces many problems in facilitating this control, which was stressed even in the 2012 European Commission Progress Report for Serbia. In this report it is stated that no progress was made in relation to the establishment of civilian surveillance of security sector, and that parliamentary control has remained very limited in practice (Serbia 2012 Progress Report).

On the other hand, hardly any attention has been paid to the researching of the roles of independent state institutions in the surveillance of the security sector, in particular those whose original duty is protection of human rights. These institutions are known as extra-parliamentary control instruments, or "the fourth" branch of the government (Orlović, 2009: 66). Hereby we refer to the institutions of the Protector of Citizens, the Commissioner for Information of Public Importance and Personal Data and Protection, and the Equality Protection Commissioner. These independent state institutions play a significant role in the security sector oversight, thus establishing a certain balance between the achievement of security and protection of human rights.

In the following section of this text, we will first show the results of parliamentary surveillance of the security sector in practice, before analysing the work of independent state institutions (extra-parliamentary control instruments) and their role in the process of surveillance of the security sector and the protection of human rights.

Parliamentary Surveillance of the Security Sector

According to the Inter Parliamentary Union (IPU) and the World Bank joint study "Tools for parliamentary oversight: a comparative study of

88 national parliaments", parliamentary oversight refers to: review, monitoring and supervision of government and public agencies, including the surveillance of implementation of policy and legislation (Yamamoto, 2007: 9). On the basis of this definition we can describe the key function of the parliament in performing surveillance as follows: the detection and prevention of abuse, arbitrary behaviour or unlawful or unconstitutional actions of government and public institutions. At the core of this function is the protection of the citizens' rights and liberties, as well as a call for government accountability of spending the taxpayers' money.

In Serbia, as well as in the majority of parliamentary democracies, a clear normative and institutional framework for parliamentary surveillance has been established. The State Parliament strictly defined its competencies and surveillance tools, with the most important: legislative activity, parliamentary questions, motions, formation of an inquiry committee for investigation of a specific issue, budgetary control, i.e. decision-making on the budget for the security sector and the control over the budget spending, as well as the formation of parliamentary committees responsible for defence and security.[1]

A study by the Belgrade Centre for Security Policy (BCPB) stated that the competencies of the State Parliament, especially in the fields of adoption and oversight of budgetary spending, are not put into practice, while there is also an evident lack of professional training for MPs for the implementation of budgetary control. Such an attitude can be viewed as a lack of cooperation between the Committees that cover the fields of security and defence and the Financial Committee as a key interpreter of "cash flows". At the same time, the Committee for Defence and Security was identified as the weakest link in the implementation of parliamentary oversight.[2] Although the activity of the Committee for Defence and Security in the period between 2006 and 2009 was limited, no instances of abuse of authority in the implementation of special measures, nor of human rights violations, were recorded in the security services. On the other hand, the use of coercive measures by the police increased in that period (coercive measures were employed 2186 times in 2006 and 3005 times in 2009)

[1] The competencies of the State Parliament vis-a-vis surveillance of the security sector are defined by: the Constitution of the RS, the Law on the State Parliament, the Law on Army, Law on the Security Information Agency (SIA), Law on the Military Security Agency (MSA) and Military Intelligence Agency (MIA), Law on Police, Law on usage of the Army of Serbia and defense forces in Multinational Operations abroad, State Parliament Rules of Procedure, Law on the Bases of Security Services Institutionization, Law on Government.

[2] In the latest convocation of the State Parliament from 2012, the work of two committees is related to security issues: Committee for Defense and Internal Affairs and the Security Services Control Committee.

(Đorđević, 2012: 388). However, during the researched period, the Parliamentary Committee did not control the use of special measures and procedures and coercive measures, while the lack of set procedures for conducting site-visits and public hearings was determined.[3] Additionally, it is stated that one of the main problems is the non-existence of the Committee work-plan. (Odanović, 2012: 322- 328).

Further important research was performed in 2011. It was comprised of a questionnaire sent to the Serbian parliament, as well as interviews with members of the parliament committees relevant to security issues. The sample included 71 members of parliament or 28,4% of the population (250 in total). The research confirmed that the State Parliament had numerous surveillance tools and that representatives understood their significance; however, those tools are not used in practice. The representatives identified insufficient education, the non-existence of criteria for the election of committee members, the lack of resources and experts, as well as the lack of political and security culture, as the most important problems in implementation of the oversight tools. (Roković, Ivaniš, 2013).

Apart from tools for surveillance of the security sector defined by the State Parliament, the instruments of extra-parliamentary control, i.e. independent state institutions are extremely important. However, members of Parliament do not believe that these institutions play a significant role in the process of security sector oversight. In the study of achievements of parliamentary oversight of the security sector in Serbia, a high number of representatives negatively evaluated the importance of the role of the Protector of Citizens in the achievement of oversight of security sector control, while a smaller number of interviewees thought that the role of this institution was important. The number of interviewees that explicitly gave a negative mark shows that there is no dilemma as to whether or not the role of this institution is important, which is in opposition to the defined competencies of the Protector of Citizens related to the security sector surveillance and the results of the activities of this institution. On the other hand, a high number of MPs regarded the role of the Commissioner for Information of Public Importance and Personal Data and Protection as very important for the security sector surveillance process. Taking into account the positive evaluation of the role of the Commissioner for Information of Public Importance in the control of the security sector, it can be concluded that the emphasised presence of the Commissioner in the media in addition to the visibility of the mechanisms had a significant influence on the favourable judgment of the role of this institution. The information given by

[3] Public hearing was introduced with the new convocation of the State Parliament in 2012.

the Commissioner is “served” in small portions and more frequently, which tends to create an impression of continuity in the work of this institution (Roković, 2012). At the same time, the capacity of the aforementioned extra-parliamentary institutions is profiled through the personal authority and capability of their leaders.

On the other hand, the analysis of the reports of these institutions confirms that they indeed play a significant role in the achievement of human rights protection, as well as in the security sector oversight. That is to say that, unlike the State Parliament, these institutions put their competences and powers in practice to a greater extent.

Extra-Parliamentary Instruments for Surveillance of the Security Sector

The instruments of extra-parliamentary surveillance are independent national bodies that represent "the basis for the establishment and strengthening of independent and impartial control of the executive government" (Čamernik, 2010:19). The significance of these institutions is reflected in their control, monitoring, preventive and regulative function. The security sector oversight by the independent state institutions is connected only to particular issues the institutions follow, in this case: the oversight of protection of rights, personal data and access to the information of public importance. These institutions oversee the security system by publishing annual reports with the outline of complaints vis-a-vis the actions of security institutions, suggestions for the amendment of legislation related to security, public discussion on security issues, promotion of human rights and standards of good governance and transparency in the security sector (Petrović et al, 2012: 194). Thanks to the expertise in various fields and links with the civil sector institutions, these institutions have an invaluable role in complementing the overseeing work of the parliament and other institutions.

In the following part of the paper we will present the roles of the Commissioner for Information of Public Importance and Personal Data and Protection, the Protector of the Citizens (Ombudsman) and the Equality Protection Commissioner, in the area of security sector oversight and protection of rights, adding that important roles in the security sector oversight play several other independent state institutions, primarily the State Audit Institution and the Anti-Corruption Agency.

The Commissioner for Information of Public Importance and Personal Data and Protection

The Constitution of the Republic of Serbia contains a provision ensuring the right to access information held by public authorities and institutions that exercise public powers (RS Constitution, Art. 51/2). The issue of access to public information is regulated in detail by the Law on Free Access to Information of Public Importance, which introduced a new independent body into the system of government institutions - the Commissioner for Information of Public Importance (Law on Free Access to Information of Public Importance, 2004).

In accordance with the Law on State Administration and the Law on Free Access to Information of Public Importance, public institutions (Ministries, administrative bodies within the Ministries and special institutions) are required to allow public access to their work, according to the law governing the access to the Information of Public Interest. Among the responsibilities of the state administration arising from the Law on Free Access to Information of Public Importance is publication of reports on the official websites of the institutions. The purpose of publishing reports is to ensure that public authorities make available the most important information related to their activities, institutions, responsibilities, resources, payroll, public procurement, and other issues.

From the inception of the institution of the Commissioner until 2011, 541 complaints were filed against the Ministry of Interior, of which 400 were resolved, while for 141 the appeal is still pending; against the Ministry of Defence 78 complaints were filed, out of which 49 were resolved and 29 in the process. Against the Military Intelligence Agency (MIA) one appeal was filed and resolved, while against the Military Security Agency (MSA) four complaints were filed, three were resolved and one is still in the process. Against the Security Information Agency (SIA) 15 complaints were filed, 13 were resolved, and two are pending.

The Office of the Commissioner published the data received from the security institutions regarding the number of requests for access to information addressed to these institutions in the 2010 Report on Implementation of the Law on Free Access to Information of Public Importance. The Ministry of Interior received 1007 requests, Department of Defense - 78, the Security Information Agency (SIA) - 42, while MSA and MIA did not submitted their reports to the Commissioner.

According to their purview, the Commissioner and the Ombudsman jointly submitted proposals to the Constitutional Court for the review of the constitutionality of the Law on Electronic Communications, the Law on the Military Security Agency and Military Intelligence Agency, particularly to

those provisions of the laws which enable data about communication of the citizens to be collected without court decisions, which are contrary to the Constitution of the Republic of Serbia. In 2012, the Ombudsman and the Commissioner submitted a proposal to The Constitutional Court for a review of the constitutionality of Article 286, Paragraph 3 of the Law on Criminal Procedure, since it affords the police the right to engage in the secrecy of letters and other modes of communications on the order of the public prosecutor, rather than the court. In June 2012 the Constitutional Court decided that provisions of the Law on MSA and MIA were unconstitutional.[4]

In order to promote access to information and protection of personal data in the legal system of the Republic of Serbia, the Commissioner has repeatedly raised initiatives for the adoption of new or changes to the existing regulations or supported similar initiatives that have come from the other parties. In 2010, the initiatives concerning the security sector were as follows: an initiative raised within the Ministry of Internal Affairs to repeal the Bylaw on Official and State Secrets and the Manner of Keeping and Release from Obligation to Keep Official and State Secrets of 1976, which had not entered into force until it has been published. (Report, 2010: 68).

By the adoption of the Law on Personal Data Protection (2008), the Commissioner for Information of Public Importance was renamed as the Commissioner for Information of Public Importance and Personal Data Protection. After the supervision over the implementation of obligations under the Law on Personal Data Protection, the Commissioner sent 14 warnings to the ministries and filed 14 requests for misdemeanour proceedings against Ministers as responsible persons in certain ministries, as representatives of the state authorities. Among others, a warning was sent to the Ministry of Defence (Report, 2011: 41).

The Protector of Citizens (Ombudsman)

The Protector of Citizens (Ombudsman) of the Republic of Serbia is an independent and autonomous state institution, introduced into the legal system of the Republic of Serbia in 2005 by the Law on Ombudsman. The capacities of the Protector of Citizens are to supervise the legality and regularity of the work of administrative institutions vis-a-vis the exercise of individual and collective citizens' rights, to protect and promote human and minority rights and freedoms of citizens. The Ombudsman plays a significant role in the surveillance of the security sector in the field of realization and protection of rights, as well as in the process of legality and regularity of the

[4] National Assembly adopted amendments to the Law on MSA and MIA and aligned it with the decision of the Constitutional Court.

work of the security sector institutions. Since its inception, the Ombudsman has submitted 6 annual reports, whose analysis established that the biggest number of citizens' complaints was related to the work of the representatives of executive power, in particular of the Ministries of the Government of the Republic of Serbia, as well as to the work of various institutions, agencies and enterprises entrusted with public authorities.

Traditionally, out of the total number of complaints about the work of various Ministries, the highest number is related to the work of the Ministry of Internal Affairs. During 2007, 13,82% complaints related to the work of the Ministry of Internal Affairs, and 2,3% to the work of Ministry of Defence (Annual Report of the Protector of Citizens, 2007: 31). In 2008, out of the total of 220 complaints related to the work of the Ministries, more than one third was related to the Ministry of Interior (80), while 11,8% were complaints concerning the work of the Ministry of Defence. In addition, during 2008, the Ombudsman conducted a number of control visits to several police stations and state prisons (Annual Report of the Protector of Citizens, 2008: 58).

In the 2009 report, it is again stated that out of the total number of complaints (468) about the work of the Ministries, the highest number referred to the Ministry of Internal Affairs (198), while 23 complaints related to the work of the Ministry of Defence. Throughout 2009, the Ombudsman carried out 19 visits to prisons and police stations. Some visits were announced in advance, and some, pursuant to the authorities of the Ombudsman, were unannounced. (Annual Report of the Protector of Citizens, 2009: 74.).

Consequently, the Ombudsman conducted control of the work of 92 police stations in a number of cities and municipalities, after which he issued several recommendations to the Ministry of Interior, which acted on almost all recommendations in a timely manner. Additionally, in 2009 the Ombudsman received 83 complaints concerning the violation of rights of persons deprived of liberty. (Annual Report of the Protector of Citizens, 2009: 26.).

The highest number of complaints in 2010 (637) was related to the work of the Ministry of Internal Affairs (265), while 39 complaints referred to the work of the Ministry of Defence. (Annual Report 2010) This trend continued in 2011, when 36.5% of complaints were filed against the Ministry of Internal Affairs and 15.01% against the Ministry of Defence (Annual Report of the Protector of Citizens, 2011: 144).

Again, during 2012 the highest number of complaints was related to the Ministry of Internal Affairs (392). The highest number of complaints submitted to the Ombudsman related to the failing of authorities to act upon citizens' requests in the prompt time. In 2012 there was a noticeable increase

in the number of complaints against the Ministry of Defence (117 complaints), primarily with regard to the number of complaints filed by active members of the Serbian Army. Most of the complaints were related to the irregularities in the regulation of employment status. (Annual Report of the Protector of Citizens, 2012: 80 - 98.). According to the 2012 Annual Report, there was an increase in the number of the complaints filed by the staff of the military security services with regard to unfair treatment by superiors of those who reported illegal or irregular practices in the work of the Military Security Agency and the Military Intelligence Agency. Complaints were also related to the procedures of assessment, re-posting within and outside units as well as to the verbal pressure (Annual Report of the Protector of Citizens, 2012: 148). The increase of the number of complaints in the MoD regarding employment status regulations, promotions, appointments, education and similar issues, requires an additional analysis of reasonableness of complaints, starting from the clearly regulated procedures of the Military personnel management.

In 2010, the Ombudsman conducted a preventive control visit to the Security Information Agency (SIA). The main goal of the visit was to gain insight into the legality and correctness (appropriateness, proportionality etc.) of the SIA's work, in the exercise of authorities within its purview which affect the guaranteed citizens' rights and liberties and, as necessary, to issue recommendations with the aim of improving the legality and soundness of the SIA's operations, and the advancement of human rights in general. The course and the results of the visit were presented in detail in a separate report that was submitted to the State Parliament, containing recommendations for the State Parliament. (Report on a preventive control visit by the Protector of Citizens to the Security Information Agency, 2010).

Within the framework of the surveillance over the security sector, the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection noted that within the purview of the security services and police there were irregularities in the implementation of special measures that jeopardize the privacy of citizens' (tele) communications, hence recommending 14 systemic measures for the improvement of the current situation (Annual Report of the Protector of Citizens, 2012).

The Equality Protection Commissioner

Undoubtedly one of the important instruments for protection of women's rights, the ban on discrimination, as well as for the security sector oversight is the Equality Protection Commissioner, the position established on the basis of the 2009 Law on Prohibition of Discrimination. It is an independent, autonomous and specialized state authority, whose basic task is

to prevent all forms, types and instances of discrimination. The Commissioner is competent to carry out the procedure based on complaints in cases of discrimination, to file complaints for protection from discrimination, to file offence reports, to warn the public about the instances of discrimination and to recommend measures for promoting equality protection.

It is often asked why gender equality is important for the security sector reform. The integration of the gender issue in the security sector reform and parliamentary surveillance of the security sector is necessary from the viewpoint of adherence to the international norms related to security and gender equality, as well as for achieving the standards of democratic societies. The Recommendation 1713 of the Council of Europe (Recommendation 1713) states that the countries should ensure the presence of a certain number of women in various security sectors at all levels. However, studies on women in politics in the last 25 years have shown that women are underrepresented or not represented at all in parliamentary committees that deal with security and defence issues (Women in Politics, 2010). This negative trend is present in the Republic of Serbia as well. Not a single woman is a member of the Committee for Defence and Internal Affairs, while there is only one woman in the Committee for the Control of Security Services (chairs the Committee). According to the data of the Statistical Office of the Republic of Serbia, in the Ministry of Internal Affairs, 21% of employees are female and 79% male. In the Ministry of Defence, women make up only 2% of professional armed forces staff while men make up the remaining 98% (Statistical Office of the Republic of Serbia, 2011).

The data from the National Action Plan for the implementation of the UN Security Council Resolution 1325 - Women, Peace and Security in the Republic of Serbia, reveal inadequate position of women in the security sector. Some more recent studies in this field corroborate those data. According to the data from September 2010, 19.5% of the total number of employees in the Ministry of Defence and Serbian Armed Forces are women. In the professional army service at the Ministry of Defence and the Serbian Army, 2.6% of the total number are women: 0.5% army officers, 0.4% non-commissioned officers and 7.2% professional soldiers (National Action Plan for the implementation of the Resolution 1325, 2010). The highest rank in the Serbian Army held by a female officer is colonel, and until now no female officers have attended the General Staff Course, which is the precondition for the promotion to the highest military ranks. The data on the representation of women in the Ministry of Internal Affairs, according to the Ministry of Internal Affairs November 2012 Report, show that in the last 12 years the percentage of women in comparison to the total number of Ministry

of Internal Affairs staff members has grown continually (2000 – 15,2%; 2012 – 21,8%) (Bjeloš et al., 2012).

At the end of 2011, on the recommendation of the Equality Protection Commissioner a gender-sensitive language was introduced in the Ministry of Defence and the Serbian Armed Forces. Until now, only one instance of sexual harassment in the Armed forces was recorded, when a female member of the Serbian Armed Forces reported sexual harassment by a superior to the Equality Protection Commissioner (Bjeloš et al., 2012).

Given that the first Equality Protection Commissioner was appointed in 2010, it is still early to estimate her role in the security sector control, as it is possible to assess the function of control and surveillance only in practice, through concrete cases.

Conclusion

The establishment of mechanisms of democratic control of the security sector and the protection of human rights are among the key issues for transition countries on the road to Euro-integration. Although there is a clear legal and institutional framework for implementation of surveillance in Serbia, the studies showed that there are some barriers for its implementation in practice. The Parliament, the central body of democratic control, carries out its function through the capacities of parliamentarians. Therefore, it is in their performance, given their insufficient interest, the lack of education for the oversight implementation (especially for the budgetary control), the inexistence of criteria for election of the committee members, scarce resources and a small number of experts, the lack of political and security culture, where we should search for the answer for better and more efficient practice. Certainly, committees in charge of the fields of defence and security are integral to the work of parliamentarians and to the implementation of parliamentary oversight. Through clear definition of their competencies and through a capacity building for the implementation of democratic control, the new convocation of the Parliament has been afforded an open space for better regulation of this important field.

On the other hand, the independent state institutions, also called extra-parliamentary instruments of oversight, or the fourth branch of government, implement their capacities and authorities in practice. The most important results in relation to the work of these institutions are reflected in the achieving of the right to access information of public importance and protection of personal data, the protection of rights, the obligation of state institutions to publish annual reports about their performance, i.e. to make the security institutions more transparent and open to visits. Thanks to the work of the independent state institutions, the transparency, accountability

and good governance standards in the security sector have improved. The work of these institutions has established a certain ballance in the achievement of security and protection of human rights, while complementing the control function of the parliament and other institutions.

The success of the work of the independent state institutions does not depend solely on a well structured legislative, but also on the authority of the leaders and the teams of these institutions, and particularly on the level of the security culture of its objects. Consecutively, the optimum outcome of the independent state institutions work in the field of democratic control, but also in the human rights protection, will be achieved only with the full endorsement of democratic values and standards by all citizens, especially by those employed in the security sector.

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SECURITY AND SAFETY IN THE PENITENTIARY INSTITUTIONS IN THE REPUBLIC OF MACEDONIA

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Abstract

The paper attempts to assess the compatibility of the Macedonian prison system with the European standards regarding the requirements of security and safety. European prison rules provide that "proper order in prison shall be maintained by answering the requirements of security, safety and discipline". At the same time, there is a developing jurisprudence of the European Court of Human Rights upholding the obligation of the State to maintain the safety of the convicts. As the Court in the case Salman v Turkey stated, "persons in custody are in a vulnerable position and the authorities have the duty to protect them". Therefore, this paper focuses upon the following questions: Are the Macedonian prisons a safe and secure place for the persons deprived of their liberty? Or: Are the European standards regarding the requirements of security and safety in penitentiary institutions implemented in the Republic of Macedonia? In this regard, the paper analyses the relevant international acts adopted within the Council of Europe as well as the case law of the European Court of Human Rights, and aim to evaluate the impact they had on Macedonian legislation, policy and practice. Further on, the paper analyses the national legislation, the relevant literature and the data collected within the research project "Position of the Convicts in the Penitentiary Institutions in the Republic of Macedonia" conducted by the Faculty of Security in Skopje. In the concluding remarks of the paper we argue that despite the positive changes that the Republic of Macedonia has undertaken in order to harmonize the Macedonian penitentiary system with the European one, it is not in a full accordance to the European standards. In addition, it suggests some steps for reinforcement of the national mechanism for maintenance of the safety and security of the convicts.

Key words: prison, Macedonia, security, safety, European standards

Introduction

Described in the literature as "complex bureaucracies that are subject to regulation through a range of external monitoring and internal inspection mechanism" (Van ZylSmit; 2010), prison in modern societies regularly attracts the interest of the experts. The subject of the researches varies, e.g.: job satisfaction and job stress of the correctional staff (Paoline, Lambert,

Hogan; 2006); comparing jails in rural and urban contexts (Applegate, Sitren; 2008); changing role, composition and power structure of the prisons in certain countries (Liebling; 2006); heightened risk of prisoner abuse that is created in supermax prison settings (Haney; 2008); suicide in prison (Suto, Arnaut; 2010). Life behind bars - out of the sight of the broader public - is intriguing from different aspects. In the field of imprisonment, an interesting and controversial issue is the security and safety in the penitentiary institution. The state is responsible both to protect the society and the victims, and to safeguard the welfare and dignity of the convicts. But, how to provide secure and safe coexistence in institutions described in the literature as "total institution" (Hensley, Wright, Tewksbury & Castle; 2003) "closed, single-sex societies separated from society socially and physically (Hensley, Wright, Tewksbury & Castle; 2003) - where the individuals live against their will. A number of instruments were adopted at international and regional level establishing standards that are useful guidelines for the state in achieving this goal. In this regard, the paper attempts to assess the compatibility of the Macedonian prison system regarding the safety and security with the standards established within the Council of Europe (CoE).

If one agrees with the scholars' observation that "when a judicial authority sends someone to prison, the international standards are clear that the punishment imposed should be only deprivation of liberty" (Coyle; 2009) then one can conclude that the state may restrict only those rights, which are lost as a consequence of deprivation of the liberty. Life and well being of the prisoners are indisputable. Convicts are deprived of their liberty not their dignity. The state is responsible to organize the prison system in a way that protects the convicts' well being from the risks deriving from the environment, other persons and even from themselves. As Woolf argues "there are three requirements which must be met if the prison system is to be stable. They are: security, control, and justice" (Coyle; 2009). Therefore, the paper's main concern is whether Macedonian penitentiary institutions are a secure and safe place for those who are doing time within them. Prison security covers the following elements:

physical security that includes "the architecture of the prison buildings, the strength of the walls of those buildings, the bars on the windows, the doors of the accommodation units, the specifications of the perimeter wall and fences, watchtowers and so on and provision of physical aids to security such as locks, cameras, alarm systems, radios and such like,

procedural security that includes "procedures which have to be followed to prevent escape and to maintain good order", and dynamic security that includes "alert staff who interact with prisoners, who have an awareness of what is going on in the prison and who make sure that prisoners are kept active in a positive way (Coyle; 2009). The paper attempts to

identify standards regarding security and safety in prison adopted within the CoE and to analyze their implementation in Macedonia. In addition, it tries to assess whether Macedonian authorities achieved fair balance between the security and safety in prison. As the Committee on the Administration of Justice from Belfast (CAJ) in one of its reports it is concluded, "the security focus does not necessarily lead to a safer environment" (CAJ; 2010).

The paper is divided into three sections. In the first section the paper identifies European standards regarding safety and security in prison through analyses of the legal instruments adopted within CoE and the case law of the European Court of Human Rights (ECtHR). In the second section, the paper critically evaluates the compatibility of the Macedonian prison system with the European standards through analysis of the national legislation, the reports of the national and international monitoring mechanisms and the results of the survey of the attitudes of the convicts towards the conditions in penitentiary institutions. The survey was conducted within the research "Position of the Convicts in the Penitentiary Institutions in the Republic of Macedonia" by the research team from the Faculty of Security in Skopje. In the conclusion, the paper identifies the main weaknesses of the Macedonian prison system which affect the security and safety in the penitentiary institutions in the country. In addition, it suggests some steps that should be taken by the authorities in order to entirely comply with the European standards in that area.

European Standards Regarding Security and Safety in Prison

CoE has adopted a number of acts, binding and non-binding, aimed among other things to guarantee prison security and safety of the persons deprived of their liberty. The European Convention on Human Rights (ECHR) is the key element of the European system for protection of human rights designed within the CoE. But, it is not the only one. As Murdoch (2006) argues "the European picture is much more complex". In 1987 the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was established under the European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The CPT "by means of visits examines the treatment of the persons deprived of their liberty with a perspective for strengthening if necessary, the protection of such persons from torture or degrading treatment or punishment" (Article 1). CPT has developed its own standards for protection of the persons deprived of their liberty against torture and inhuman or degrading treatment or punishment through annual general reports. At the same time, the institutions of the CoE adopted a number of recommendations or resolutions regarding the treatment of convicts.

European Prison Rules (EPR) adopted by the Committee of Ministers (2006) - as the most comprehensive one - have established certain mechanisms that should provide secure and safe custody of the detainees in accordance with the human dignity. Also, the recommendations concerning: juvenile offenders, management of life-sentence and other long-term prisoners, prison overcrowding and prison population inflation, ethical and organizational aspects of health care in prison, foreign prisoners, custody and treatment of dangerous prisoners prescribed some standards towards security and safety that should be guidelines in the member states. A brief review of the relevant literature is sufficient to reveal that an increasingly great number of authors (e.g. Murdoch, 2006; Van Zil Smith & Snacken, 2009; Boillat; 2012) testify about the interaction or interplay between the institutions of the CoE in the penitentiary field. In this context, e.g. the EPR recalls on the ECHR, on the case law of the ECtHR and on the work of the CPT.

The Article 1 of the ECHR obliges the states "to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention" which inter alia entitles the state to take certain activities and measures to protect the human rights and freedoms (positive obligations) within its jurisdiction. As Akadji - Kombe (2007) concludes, "such measures may be judicial (where the state is expected to lay down sanctions for individuals infringing the Convention, whether it issues legal rules for a kind of activity or for a category of persons). But, they may also consist of practical measures (for example, of the measures which prison authorities are required to take in certain cases to prevent prisoner suicides). In addition, the Article 2 of the ECHR provides that "everyone's right to life shall be protected by the Law". At the same time, the Convention explicitly prohibits torture or inhuman or degrading treatment or punishment (Article 3).

The state obligation under the ECHR to protect the human rights and freedoms is particularly stringent where a person is in its immediate jurisdiction. ECtHR emphasizes that "persons in custody are in a vulnerable position and the authorities are under a duty to protect them" (ECtHR: Salman v Turkey, 2000). Furthermore, it notes that "it is incumbent on the State to account for any injuries suffered in custody, which obligation is particularly stringent where that individual dies" (ECtHR: Paul and Audrey Edwardsv UK; 2002). The Article 2 of the ECHR "enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction" (ECtHR: L.C.B v UK; 1998), including - Osman case - taking "preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual" (ECtHR: Osman v UK; 1998). In this context, there is a developing jurisprudence of the ECtHR upholding the State's obligation to protect the life (to undertake preventive measures) of

the convicts against a real and immediate risk deriving from the criminal acts of another individual. If one agrees with Mowbray (2004) that "prisoners obviously have limited abilities to protect themselves (e.g. they normally have no choice of whom they live with)" then one can conclude that this is a reasonable attitude of the ECtHR or as Mowbray (2004) observes "a highly desirable extension of Osman." But, what if the risk to live of the convict derives from the convict itself? Bearing in mind, the experts observation that "any deprivation of physical freedom may by its nature entail mental distress on the part of the detainees and, consequently, the risk of suicide" (Duterte; 2003) and that "there is an inherent tension between the security mission of prisons and mental health considerations" (Fellner; 2006), the important questions is: Is the state obliged under the ECHR to protect the prisoners from self-harm? Whether the principles of dignity and autonomy prohibit any repressive measures against prisoner's freedom of choice and action? The ECtHR considers these dilemmas in the case Keenan v UK and concludes that "there are general measures and precautions which will be available to diminish the opportunities for self-harm, without infringing on personal autonomy" (ECtHR; 2001). As Ovey and White (2006) consider the Court in this case "took a particularly robust view of the needs of a prisoner who was suffering from mental illness which include a risk of suicide". It is important to stress that the ECHR requires the State "to protect the health and physical well-being of persons deprived of their liberty, for example by providing them with the requisite medical assistance" (ECtHR: Kats and others v Ukraine; 2009) and where it is "faced with a prisoner known to be suffering from serious mental disturbance and to pose a suicide risk", to "take special measures geared to his condition to ensure its compatibility with continued detention" (ECtHR: Kats and others v Ukraine; 2009). EPR also requires the state to put in place procedures that ensure safety of prisoners, prison staff and visitors, including to assess the risk that each inmate poses to others and to itself as soon as possible after the admission and to observe national health and safety laws.

As it has been stated above, the ECHR explicitly prohibits torture or inhuman or degrading treatment or punishment. The ECtHR considers that "that conditions of detention may sometimes amount to inhuman or degrading treatment" (ECtHR: Dougoz v Greece; 2001) through interpretation of the Article 3 of the Convention. However, according to the case law of the Court, "ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3" (ECtHR: Kalashnikov v Russia; 2002) and "the assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim"(ECtHR: Kalashnikov v Russia; 2002).

European prison rules (EPR) provide that the "good order in prison shall be maintained by taking into account the requirements of security, safety and discipline" (Rule 49). The EPR prescribes that "the security measures applied to individual prisoners shall be the minimum necessary to achieve their secure custody" (Rule 51.1). Therefore, it requires the authorities in the member country as soon as possible after admission to assess prisoners in order to determine: the risk that they would present to the community if they were to escape; and the risk that they will try to escape either on their own or with external assistance" (Rule 51.3). After the assessment "each prisoner shall be held in security conditions appropriate to these levels of risk" (Rule 51.4) and "the level of security necessary shall be reviewed at regular intervals throughout a person's imprisonment" (Rule 51.5). The EPR oblige the state to provide physical, procedural and dynamic security in prisons (cumulative). In exceptional circumstances the EPR allows application of special high security or safety measures that should be applied only to individuals following a clear procedure. The CPT also accepts the need of high security units (special conditions of detention), but demands human treatment of the convicts hold in them as well as existence of the satisfactory programme of activities. In line with this, the ECtHR observes that "it cannot be said that detention in a high-security prison facility, be it on remand or following a criminal conviction, in itself raises an issue under Article 3 of the Convention" (ECtHR: Van Der Ven v Netherlands; 2003). Furthermore, the Court concludes, "the removal from association with other prisoners for security, disciplinary or protective reasons does not in itself amount to inhuman treatment or degrading punishment" (ECtHR: Van Der Ven v Netherlands; 2003). However, the Court's final decision regarding the compatibility of the applied special security measures with the Article 3 of the ECHR depends on circumstances of each individual case i.e. "the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned" (ECtHR: Van Der Ven v Netherlands; 2003). For instance, in the case Van Der Ven v Netherlands it criticizes the practice of routine (weekly) strip-searches of the applicant for a period of approximately three and a half years in combination with a great number of surveillance measures.

Based on the analysis above, one can conclude that in order to meet the European standards the national authorities should achieve a right balance between the security of the society, prison staff and convicts on one hand and the safety and dignity of the convict and its re-socialization and reintegration in the society on the other hand.

Implementation of European Standards in the Republic of Macedonia

The Republic of Macedonia, as a member country of the CoE, must accept the principles of rule of law and the enjoyment by all persons within its jurisdiction (including convicts) of human rights and fundamental freedoms, as well as to contribute in realization of the aim of this organization. For the purpose of the paper, it is important to be noted that the country is obliged to implement the standards regarding the treatment of the convicts adopted by the CoE. To this end, national authorities should harmonize the Macedonian legislation concerning the treatment of the detainees with the European standards. Harmonization of the national legislation is the first step in fulfillment of this state's obligation under the international law, but not the only one. The accomplishment of the obligation requires much more than just a formal compliance of the legal framework with the Strasbourg standards.

The new Law on the Execution of the Sanction entered into force in 2006. The Law is trying to find a fair balance between the protection of the society and of the victim on one hand, and the safe and secure custody consistent with the dignity of the convicts and its reintegration in the society as the ultimate goal of the imprisonment on the other hand. The convicts, during imprisonment, are guaranteed protection of their psychophysical and moral integrity and the right to personal safety and self-esteem of their personality. At the same time, the Law prohibits any form of torture, inhumane or degrading treatment and establishes a complex mechanism of control over the execution of the prison sentence in the penitentiaries and the correctional institutions in the country. In addition, it provides that the good order and the discipline shall be maintained in the interest of the security of the institution, to enable coexistence of the inmates and to achieve the goals of the treatment (Article 176). The Law on the Execution of the Sanctions prescribes the means of coercion that can be used by the staff and the disciplinary liability of the convicts. Furthermore, it allows use of force only when it is absolutely necessary and in precisely defined circumstances. This requires high professionalism and competence from the personnel employed within the penitentiary institutions. The Law provides legal basis for classification of the convicts: every prisoner must be held in security conditions appropriate to the level of risk it presents. What is important for the purpose of this paper is the fact that the convicts, in accordance to the positive legal regulations, are entitled to health care according to general regulations on expense of the Budget of the country. The Law on the Execution of the Sanction obliged the competent authorities to provide medical screening for each convict during their time in the correctional

institution, granted access to doctor for every convict and guaranteed special treatment appropriate to their condition to a certain groups of convicts (mental ill convicts, convicts who are suspected of an infectious disease, pregnant inmates etc.). Pursuant to the Law on Execution of Sanctions, a series of bylaws, programmes and strategies were adopted in order to provide a more accurate basis for safe and secure custody, including: Rulebook on allocation, classification and displacement of the convicts in the penitentiary institutions; House Rule; Manuel for convicts; Manuel for use of the instrument for assignment of the risk and need of the convict and Guidelines for determining the types and methods for treatment of the inmates.

The new Law on the Execution of the Sanctions (2006) is a step forward in the treatment of the convicts. Nonetheless, despite the positive changes that the Republic of Macedonia has undertaken in order to harmonize the Macedonian penitentiary system with the European one, the system still has weaknesses that affect or could affect the security and safety of the convicts. What concerns the most is the fact that serious gaps remain in practice, regarding the implementation of the legislation. If one analyses the CPT reports, he or she can identify many deficiencies in the treatment of the convicts, particularly in the Idrizovo Prison. CPT strongly criticizes the overcrowding and the deplorable material conditions as a constant problem of the Macedonian prisons through the years. It has detected other serious treats to security and safety of the convicts: ill treatment by the staff, inter-prisoner intimidation or violence, absence of effective managerial supervision, lack of personnel, drug trafficking, lack of managerial capacity, inadequate medical care, failures in risk assignment, etc. (see: Table 1). The table suggests to the lack of action by the authorities in order to overcome the detected shortcomings. The similar weaknesses in the prison system in the country remain through the years. The national authorities have not granted the prison system the thoughtful attention it merits, yet. Therefore, one could not be surprised that the Macedonian public deals with the issues as following: Can a person drown in a bucket of water in his cell? Namely, the death of the murder suspect Tanevski in Tetovo Prison (claimed to have drowned in a bucket of water in his cell) raises a number of questions within the CPT.[1] If it is a suicide it still requires an explanation whether the national authorities undertook all necessary measures (in accordance with the principles of dignity and autonomy) under the ECHR to protect the detainee.

[1] CPT, inter alia asked: "Why was there no medical examination of this prisoner? Why was there no proper supervision by staff that night? Why were the three cell-mates instead requested to clean the cell before it was known what was the cause of death, thereby rendering impossible an effective forensic examination of the scene of the death"? See more in CPT(2008), Report to the Government of the Republic of Macedonia" on the visit to Republic of Macedonia" carried out by CPT from 30 June to 3 July 2008, CPT/Inf (2008) 31

Table no. 1. Remarks by the CPT that affect safety and security

REMARKS BY THE CPT THAT AFFECT SAFETY AND SECURITY			
2007	2008	2010	2011
ill treatment by the staff	Ill treatment by the staff	Ill treatment by the staff	Ill treatment by the staff
inter-prisoner intimidation /violence		inter-prisoner intimidation /violence	inter-prisoner intimidation /violence
use of chains and			
	Suspicious deaths	Suspicious deaths	
absence of effective managerial supervision	absence of effective managerial supervision	absence of effective managerial supervision	absence of effective managerial supervision
failures to record evidences of ill-treatment		failures to record evidences of ill-treatment	failures to record evidences of ill-treatment
lack of personal	lack of personal	lack of personal	lack of personal
drug trafficking	drug trafficking	drug trafficking	drug trafficking
lack of managerial capacity	lack of managerial capacity	lack of managerial capacity	lack of managerial capacity
inadequate medical care	Inadequate medical care	inadequate medical care	inadequate medical care
failures to conduct medical screening on the day of admission	superficial medical screening/failures to conduct	failures to conduct medical screening on the day of admission	

Source: http://www.cpt.coe.int/en/states/mkd.htm.

Similar problems in the Macedonian prisons are identified by the national monitoring mechanism as well. The Ombudsman of the Republic of Macedonia in its annual reports highlighted serious shortcomings in the treatment of the convicts as the international monitoring mechanisms. If we are to analyze the table below, based on the analysis of the Ombudsman's annual reports (Table no. 2) we can see that the same problems reappear through the years (same as in the CPT's reports). In this part, a special concern presents the convicts' complains about selective classification marked by the Ombudsman Annual Reports in 2012, particularly if one bears in mind the significance of the proper classification of the inmates for its treatment and its safety as the safety of the others. Thus, we can conclude that the Macedonian authorities need greater efforts regarding the implementation of the legislation in practice.

Table no. 2 Remarks by the Ombudsman of the RM that affect the security and safety

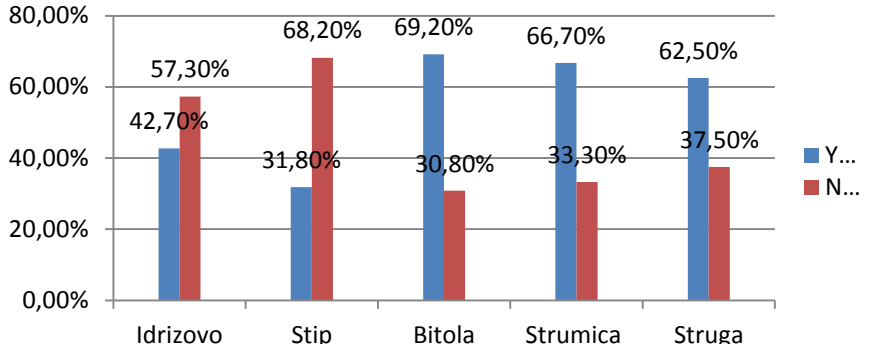
REMARKS BY THE OMBUDSMAN OF THE RM THAT AFFECT THE SECURITY AND SAFETY			
2009	2010	2011	2012
overcrowding	overcrowding	overcrowding	overcrowding
ill-treatment by the staff	ill-treatment by the staff	ill-treatment by the staff	ill-treatment by the staff
inter-prisoners violence	inter-prisoners violence	inter-prisoners violence	Inter-prisoners violence
lack of personal	lack of personal	lack of personal	lack of personal
inadequate health care	inadequate health care	inadequate health care	inadequate health care
suicides		suicides; suicide attempts	
			selective classification

Source:
http://www.ombudsman.mk/ombudsman/MK/predmetno_rabotenje/godishni_izveshtai.aspx

The analysis of the level of implementation of the international standards regarding the treatment of the convicts in the Republic of Macedonia is one of the goals of the on-going research project of the Faculty of Security in Skopje. Within this project, a survey of convict's attitudes towards the conditions in penitentiary institutions was conducted in five Macedonian prisons (Idrizovo, Stip, Bitola, Strumica, Struga) from November to December 2012. Based on the results of the survey one can conclude that the majority of the convicts in these prisons (54 % of those who answered)[2] do not feel safe within the penitentiary institution where they are doing time. As one can see from the Graph No. 1, the feeling of insecurity of the persons deprived of their liberty is the particular problem in the Stip Prison (more than 68 % of the convicts do not feel safe) and the Idrizovo Prison where 57,3% of the convicts do not feel safe within the prison. It is interesting to note that the convicts in Macedonia prisons feel more secure in their rooms (cells) than in the institution in general.

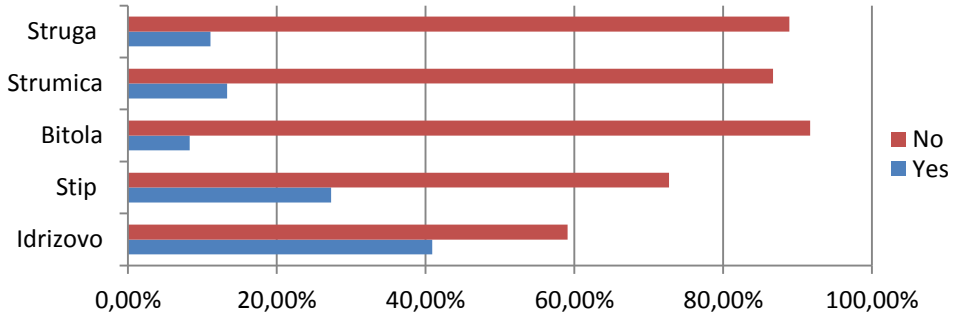
[2] The paper in the following pages presents only the results of those respondents who answered the question subject of the analysis .

Graph no. 1. Do you feel safe in the institution?



Data collected through the research also shows that one third of the respondents (33,7%) feel fear of constant attacks and intimidations by the inmates. This is a particularly concerning issue in the Idrizovo Prison. In the biggest prison in the country 40,9% of the respondents feel fear of constant attacks and intimidations by the inmates. Feeling of fear of constant attacks and intimidations by the inmates expressed a relatively large number of the respondents (27,3%) in the Stip Prison. On the other hand, this percentage is relatively lower in other prisons involved in the survey. The research results are consistent with the findings of the international and national institutions involved in the monitoring of the Macedonian prisons. Namely, the CPT as the Ombudsman of the Republic of Macedonia in their reports marks the inter-prisoner violence or intimidation as a significant problem of the Macedonian prison system, especially in the Idrizovo Prison. The survey has detected fear of constant attacks and intimidations by the personnel or an employed person among the convicts as well. However, the percentage of the detainees who feel this kind of fear is smaller - 26, 7% of them

Graph no. 2 Do you feel fear of constant attacks and intimidations by the inmates/ an inmate?



As it has been mentioned before, the CPT and the Ombudsman of the Republic of Macedonia marked the inter-prisoners violence or intimidation as present phenomena in the penitentiaries institutions. The survey speaks in favor of these remarks. 17, 8 % of the convicts answered that they were forced by another inmate to perform a particular job and 26, 5 % of them answered that they had participated in a fight with other inmates in the institution. At the same time, almost twenty percents of the surveyed answered that they were forced to do something illegal, either by the staff (19,5 %) or by other convicts (19,1 %). The results from the survey also indicate that the drug trafficking is a serious problem in the Macedonian prisons. Namely, nearly half of all the respondents (49,6 %) testify that one can easily buy or get drugs in the institutions, and more than half of them (55,3 %) testify that one can easy buy or get drugs by another inmate. The biggest concern regarding drugs issues is the Idrizovo Prison, where 58, 8 % of the respondents claim that the illegal drugs are easily available in that institution, and 64,3 % of them claim that one can easily buy or get drug from another inmate. The question if a drug trafficking in the penitentiary institution in the country is possible without the involvement of the staff remains a challenge for a future research. This is the state, particularly if one bears in mind the fact that 22,3 % of the respondents answered that the employees asked them bribes, and 26,6 % of them that they were asked bribes by other convicts. The CPT underlines the corruption as a problem in Macedonian prisons and requests for measures to combat it (CPT; 2012). The results of the survey supports the CPT's consideration that national authorities should make further efforts in order to fully implement the legal obligation for medical screening of every newly admitted convict on the day of the arrival (see: Table no.3). On the other hand, the health personnel in

Macedonian prisons should also be more diligent in recording the evidence of ill treatment of the inmates.

Table no. 3. Phenomenon that affect security and safety in penitentiary institutions in the RM

	Yes	No
Forced to do something illegal by the staff	19,5 %	80,5 %
Forced to do something illegal by other convicts/ a convict	19,1 %	80, 9 %
Forced by another inmate to perform a particular job	17, 8 %	82, 2 %
Asked bribes by the employees	22, 3 %	77, 7%
Asked bribes by other convicts/ a convict	26, 6 %	73,4 %
You can easy bay/get drugs in the institution	49,6 %	50,4 %
You can easy bay/get drugs by another inmates	55,3 %	44,7 %
Participated into a fight with other inmates in the institution	26, 5 %	73, 5 %
Passed medical screening upon admission	82,8 %	17,2 %

European standards require the state to hold every prisoner in security conditions appropriate to the risk that he or she will present to the society if he or she escapes or to the risk that he or she will try to escape. If one analyzes the data collected within the research mentioned above, one can conclude that an increasingly big percentage (94, 4%) of the convicts who were interviewed stated that they had never tried to escape from the prison where they were doing time. In addition, 4,6% of them stated that they had been punished for an escape. Specific conclusions concerning the obligation of the competent authority to prevent prisoners from escaping cannot be reached just based on statistics, but the numbers speak in favour of the prison authorities. However, whether the national authorities try to protect the society more than they try to provide safety of the convicts or if they achieved fair balance between the security of the society and the dignity of the convicts - remains a challenge for future research?

Conclusion

In order to assess the compatibility of the Macedonian prison system with the European standards (standards agreed within the CoE) regarding prison security and safety, the paper analyzed the national legislation, the reports of the relevant international and national monitoring institutions, and the data collected through a survey of the convicts' attitudes towards the conditions in the penitentiary institutions that were conducted in five Macedonian prisons by the Faculty of Security. Based on this analysis, one can conclude that authorities have made substantial efforts in order to harmonize the national prison system with the European standards. Almost all standards related to security and safety in penitentiary institutions are

implemented in the legislation. However, Macedonia does not comply entirely with this obligation under the international law. The legal framework is not backed up with effective law-enforcement mechanisms. Serious gaps remains in practice, regarding the implementation of the legislation. The paper identified many weaknesses in the Macedonian prison system which affects security and safety in prison: overcrowding, deplorable material conditions, ill-treatment by the staff, inter-prisoner intimidation or violence, lack of personnel, absence of effective managerial supervision, inadequate medical care, gaps in the established mechanism for combat and recording torture in prison and drugs trafficking. At the same time, the provided analysis in the paper suggests that corruption among the staff is another problem faced by the prisons in the country. What concerns the most is the fact that the same weaknesses in the prison system in the country remain through the years. The national authorities have not yet given the prison system the attention it deserves. Therefore, in order to comply entirely with its obligation (regarding the security and safety in prison) under the membership in CoE, Macedonia should in near future improve the material conditions within the prisons, reinforce the established law-enforcement mechanism in this field, and implement comprehensive anticorruption programme in prisons. Only the professional and competent staff could provide secure and safe custody. The paper did not involve in debate whether there is a link between the drug trafficking and the tolerance of the inter-prisoners violence in the prisons and the corruption among the staff, but underlines the question of whether the drug trafficking in the penitentiary institution in the country is possible without involvement of the staff as future research challenge.

The European standards require from the state to achieve a proper balance between the security of the society, prison staff and convicts on one hand, and the safety and dignity of the convict and its re-socialization and reintegration in the society on the other hand. The paper provides us with solid arguments to claim that Macedonia is far from reaching the fair balance. Whether the state tries to protect the society more than it tries to provide safety of the convicts remains a challenge for future research. One of the most famous prisoners in the world Nelson Mandela noted, “it is said that no one truly knows the nation until one has been inside the jails” (Coyle; 2009). The story that our jails tell about our nation is anything but nice or a success. In order to improve the situation we need strong political will and public support and pressure. But, does the public even care enough about the people who live in the so-called “total institution” (Hensley, Wright Tewksbury & Castle; 2003) - out of the sight, out of the mind? I do not think so. I hope I am wrong.

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CONNECTION BETWEEN CRIMINAL VICTIMIZATION AND FEAR OF CRIME

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Abstract

The initial researches on the fear of crime are generally concentrated on testing the hypothesis whether previous victimization affects the fear of crime and our elaboration is mostly within the frames of victimology researches. From here arises the model of victimization for explaining the fear of crime which indicates that previous victimization is a factor that affects on people fear. The perspective of victimization is based on the principle that the fear of crime within the community is caused by the level of criminal activity and victimization or that people hear about crime whether through conversations with others or from the mass media. (Bennett, 1990) This refers to the issues of how experience with crime affects on the level of the fear of crime. The contact with crime may be either direct for person as a victim of crime, indirect in the sense that a person can know others in the closer or wider community or elsewhere who had been victims of crime or received information from some networks or through rumors. (Wattanasin, 2003:4).

Connection between Previous Victimization and Fear of Crime

Regarding relationship between the fear of crime and previous victimization, various studies and researches have given different results in space and time. Some studies found a statistically significant impact of victimization on higher levels of fear of crime, while others found very little or no effect, so from here the question is, whether the impact of victimization may have been overestimated in studies where the relationship between the two variables are determined. Studies of Rountree and Land (1996), Parker and Ray (1990) and Skogan (1987), Grabosky (1995), Ranzijn, Howells & Wagstaff (2002), in UK - Maguire & Corbett 1987; in Germany: Stephan 1976; in Netherlands: Cozijn & van Dijk 1976, in the United States: McIntyre 1967; Block & Long 1973; Balkin 1979; Friedman et al. 1982; Liska et al. 1988 found a strong connection between previous victimization and the fear of crime. Statistically significant connection between previous victimization and fear of property crimes were established in researches of

Dull & Wint 1997 in the United States. This shows that victimization generates experience and on this base we study changes in the perceptions of further victimization or consequences that may arise from it. (Mohamed, Saridakis & Sookram, 2009:7)

In contrast, studies of Bennett and Flavin (1994), McGarrell and others (1997) and Quann and Hung (2002) failed to establish statistical relationship between these two variables. The relationship between the previous experience with victimization and their fear of crime is not as strong and according to Winkel. Previous experience with victimization can increase the level of fear of crime by increasing the individual perception for the risk of victimization. Alternatively, fear of crime can be reduced or remain at the same level if the severity of the consequences which arise from victimization is reduced. (Winkel, 1998: 473) It is believed that victimization in particular way, has indirect impact on fear of crime by assessing the personal risk. Also what will be the level of fear of crime depends on how the personal skills for dealing with it are assessed. (Boers, 2003:14)

This inconsistency may in certain part be explained by the difficulties which appear in the objective measurement of the impact of previous victimization; further, substantial limitation may appear when many studies do not attempt to link the type of previous victimization and the fear of specific criminal acts, even when in the research, the link of certain types of prior victimization are often related to fear of crime as a global index. We must emphasize that some influence may have the fact that respondents do not always remember that they were previously victimized, especially if the consequences of victimization were not very serious, and this is a lack prescribed to victimization surveys.

Direct experience with victimization and fear of crime

The relationship between personal experience with victimization and the fear of crime is quite explored. But, the results are not as consistent as the link between sex and fear. Some of the early researches showed that personal victimization has no effect on fear (Relss, 1967, Biderman et al. 1967), Hartnagel, 1979; other studies and researches showed a weak relationship between these two variables (Braungart, Braungart and Hoyer, 1980; Garofalo, 1979; Skogan and Maxfield, 1981; Stafford and Galle, 1984; Van Der Wurff and Stringer, 1989), while some have found a strong relationship (Gomme, 1988; Giles-Sims, 1984; Lawton and Yaffe, 1980; Lee, 1983; Liska, Sanchirico and Reed, 1988; Miethe and Lee, 1984; Parker and Ray, 1990; Skogan, 1987) (Callanan, 2005:33). The researches made by Hill (1985) in the United States, Sundeen, Miethe & Lee (1984) in Washington, DC and Van Dijk (1985) in Netherlands found that fear of crime is not

connected with direct experience of victimization, while Lee (1983), Gilessims (1984), Krannich (1985) and Cnockalingam (1988) found that victimization was the strongest predictor of fear.

Detailed researches of this connection were the main purpose of the research on Garofalo (1979). In an attempt to constructs a model of predictors for fear of crime, he found that victimization is connected with the fear of crime within gender and age group. Those participants who were not victims stated a lower degree of fear than the victims. He also suggests that the results may change if a longitudinal analyzes is done. According to him, victimization which occurred more than 12 months prior to the time of the survey would have little effect on the results of fear of crime. (Garofalo, 1979) Johnson (2005) found out that persons who were at least one time victims of crime - five years before conducting the research - often say that they feel fairly or very unsafe. (Šakic, 2010: 6)

Based on the International Crime Victimization Survey (ICVS) conducted in 1992 and 1996 it was noted that women victims especially in Western Europe showed increased feeling of insecurity and avoidance of going out of the house at night. The differences were particularly high for the victims of robbery and sexual assault. Male and female victims in all regions showed an increased percentage of avoiding certain places at night. Further analysis revealed that women who had been victims of attempted rape showed the highest level of fear in both indicators through which fear of crime is measured. (Zvekic, 1998)

There is clear evidence of the specificity of the relationship between the type of victimization and the prevailing fear of specific types of criminal acts. E.g., among respondents who were victims of crime such as robbery or obscene phone calls, it was found that they were feeling insecure when they were alone at home, while the victims of attacks that usually take place outside the home did not had greater level of fear when they were at home than those who were not victims. (Grabosky, 1995:2) The effects of personal victimization and fear were the focus of attention of Toseland (1982). The author found that fear was greater among those who have been victims of burglary in the apartment but not among those who have been victims of attacks and threats. Skogan (Skogan & Maxfield, 1981) perceived that after the relationship with the age, gender, or incomes of the respondents (which independently affects the level of fear) is removed, the link between victimization and fear becomes stronger. In terms of types of victimization, they found that apart from the personal crimes, the victims of burglary have a greater degree of fear. Smith and Hill (1991) found that victims of property offenses and victims of property and violent crimes had higher levels of fear than just the victims of personal crime, but the researches' that study the type of victimization found that the level of fear is higher among the victims of

violent crime. (Denkers and Winkel, 1998; Skogan and Maxfield, 1981; Thompson and Norris, 1992). Dull & Wint (1997) found that students who were victims had less fear of personal crime but a greater fear of property crimes than those who were not victimized. During the survey in 2009, as part of the thesis "The influence of socio demographic characteristics and victimization on fear of crime" at the Faculty of Security in Skopje, it is understood that previous victimization from physical attack influences the perception of the likelihood that people can become victims of almost all crimes listed in the survey (except for fraud, but does not affect on the emotional aspect of fear of crime). But we must note that the number of respondents who are victims of physical assault (were wounded or beaten) is quite small (about 6 %), so this effect should be taken conditionally.

Similarly, Borooah & Carcach found a specific link between the victims of some type of crime and greater fear of crime from similar types of crimes. A person who had previous experience with victimization of some personal criminal acts is inclined to have a higher degree of fear in future of personal victimization, while victims of burglary in the apartment have consequently increased fear of burglary in the apartment. (Sanderson, 2009:11) This way of generating the same type of fear of crime from which the respondent was victimized is shown in the survey of the thesis "The influence of socio demographic characteristics and victimization on fear of crime", where previous theft victimization highly influenced on their perception of the chances of becoming victims of theft. It is interesting that within the respondents who were victims of fraud or financial damage, the previous experience affects on their perception for the possibility of fraud in the next 12 months and in the fear of fraud.

Certain crimes cause greater levels of fear than others. If someone became victim of a robbery, he or she feels a greater degree of fear. Robbery usually includes a stranger, weapons, physical attacks and loss of considerable amount of money. Burglary in the apartment (because of the attack on privacy and significant loss) (Smartt, 2006:28) generates a greater degree of fear. Persons who showed a high degree of fear of walking at night in their neighborhood are victims of sexual assaults. They come after the victim of a robbery, burglary, assault, vandalism, theft of a motor vehicle, theft in the home and personal theft. It was also concluded that the victims, even victims of violence, should not be treated as a homogeneous group. (Howard, 1994:4)

Longitudinal studies have found that victims of violent crime express fear for a longer period of time, apart from the victims of property crimes (Skogan, 1987; Norris and Kaniasty, 1994), (Callanan, 2005:33) Keane (1995) found that experience with certain crimes may be a better predictor of

fear than others. Especially for serious personal crimes such as sexual assault. (Scott, 2003:204)

Some authors believe (Hale, 1996) that the impact of previous victimization on the fear of crime undoubtedly is dependent on the person's skills and techniques for dealing with stress caused by victimization. (Skaric, 2010:6). However, it must be noted that the results showed that previous victimization affects on fear of property crimes, while previous victimization by violent crime affects on fear of crime in the cognitive aspect (on the perception of the likelihood of other crimes, although mentioned that these results may be questionable). Overall, we can conclude that if there is a certain correlation between previous victimization and the fear of crime, that link can be seen in direction that previous victimization can affect exactly on fear of the same or similar crimes from which the respondents were victimized.

In the studies, a special attention is set on the link between frequency (number) of previous victimization and whether it affects on the fear of crime. Kury and his colleagues found that those who appear as multiple victims have higher levels of fear than those who appear as victims only once (Kury and Ferdinand, 1998). (Callanan, 2005:33). Cenn (1967) found a reverse correlation between the experience with crime and the fear; he stated that as the incidents of violent victimization increase, the level of fear decreases. Sparks (1977), analyzing the survey data, found that among those who had not been victims, those who had been victimized in one case, and those who repeatedly found themselves in the role of victims, there is no significant statistical relationship with the feeling of safety in the home and on streets. However, Schneider (1982) argues that "if the victim is not being adequately treated after victimization, then with new victimization, he or she will experience an increase in the level of fear of crime, given that victims are disappointed by the law enforcement authorities such as the police." This is an interesting conclusion; if a victim is not properly treated by the official authorities, this can contribute greatly to secondary or indirect victimization which of course would mean that when people know that if they can't receive help and support in a probable victimization, this can affect on the increase of the level of fear of crime. Similar results emerged from the research in Trinidad and Tobago in 2005, where it was found that victims who have not reported victimization or they reported to police but the police did not do anything, showed higher levels of fear than other respondents. Here, we can highlight the key role of the police in the sense of safety and reducing the fear of crime.

The reasons for different results about the relationship between the fear and previous direct victimization can be found primarily in the methodological flaws in the measurement of previous victimization and fear

of crime, failure to control other variables, as well as the small number of victims. (Van Beek Gert, 2004:7) Another issue that arises when examining the link between victimization and the fear is that many of the victims take protective and active measures against crime, which could lead to reduction in their fear of crime. As a further explanation of why the relationship between them sometimes cannot be determined, suggests that victims often use various defense mechanisms to convince themselves that their victimization was not harmful (Agnew, 1985; Weinrath and Gartrell, 1996). (Callanan, 2005:34). Probably as an explanation for these mixed results, we may note that perhaps only certain types of victimization can affect on increased fear from crime and if in the survey it is used interview as a technique, not all respondents would admit that they had been victims of certain crimes, especially for certain crimes that are connected to violence (e.g. sexual harassment, rape among female respondents, physical assault among male respondents).

Influence of Indirect Experience with Victimization and Fear of Crime

People always receive information connected to crime. There are various sources of information that can be direct or indirect. In the researches on the fear of crime, the question of whether the information that we have about someone's victimization may have an impact on the level on the fear of crime, often appears. For this purpose is included the term "indirect victimization (vicarious victimization)", which is entered by Scogan in the literature, and is supported by Baumer who claimed that the experience with crime can have a ripple effect. (Baumer, 1978) Indirect experience with victimization occurs when people get experiences with crime through knowledge or receiving information that some person was a victim of crime. This information can be obtained from some friends, relatives, local information networks, through rumors (gossip) or through the media. (Baur, 2007:4)

The question is why the indirect experience is the one that has a strong impact on the fear of crime. And how can we explain that? Theoretically, some authors claim that in the mind of the person who had not been personally involved as a victim the imagination spreads and allows comparison of techniques with the victim and thus the personal vulnerability increases. (Van Beek Gert, 2004:7) In other words, the person who had not been a victim of the crime act and has the opportunity to hear about it, is able to imagine such situation and to compare with the victim and as a result, to cause an increased sense of personal vulnerability. (Šakic, 2010:10)

This theory was probably confirmed in many studies, but it should be noted that not only the indirect experience of victimization is a factor that

can greatly increase the level of fear of crime. It should be considered as part of a wider model in which all the so far mentioned authors and researchers see and include plenty of variables which would explain the fear of crime as a complex phenomenon.

The studies suggest the possibility that there is a greater connection between the fear of crime and the indirect experience of victimization than between the fear of crime and the direct victimization. One of the reasons for this relationship is the verbal spread of experience of the indirect victimization (Covington& Taylor, 1991). This is confirmed by Clarke and Lewis (1982) who also explore the impact of indirect victimization of personal crimes in neighborhoods with high and low levels of crime where it was found that indirect victimization was fourteen times greater than the frequency of direct victimization. (Wattanasin, 2003:59)

The results however are quite different in sense of the impact of the indirect experience of victimization on the fear of crime. Within the study and the researches in Finland it was shown that young people who had indirect experience with crime have a greater effect on their fear of crime, but within the elderly, news and rumors have a bigger influence. (Ruuskanen, Jokinen, Yordanova, Markov & Ilcheva, 2009:57) Clarke and Lewis (1982) while studying the elderly in some British urban areas found that the indirect victimization may not be sufficient to generate fear but it is an important source of information for crime that affects the person's perceptions for safety in neighborhood and these perceptions have a feedback on the individual subjective assessment of the risk of victimization. (Wattanasin, 2003:59)

The relationship between the indirect victimization and the fear of crime was identified as the strongest when the victim that was coming from the respondent's local area (rather than some distant location) as well as when the victim was known to the respondent. Skogan & Maxfield (1981) tested the „Talk - Knowledge - Fear - Model" through which they found out that knowledge about victims is connected with higher levels of fear especially when victimizations appear closer to the respondent's home. (Skogan & Maxfield, 1981)

When it comes to the type of the previous indirect victimization and the fear of a particular type of crime, Thompson, Bankston and Pierre (1992) found that the fear of property crime notes significant increase within respondents who live in households in which someone has been victimized in a violent crime but there was no impact if he or she had been victimized in a property crime. (Callanan, 2005:33) In the frame of his Master thesis (prior mentioned), it can be seen that the indirect experience of victimization does not have a strong influence on the fear of crime except with certain exceptions, i.e. respondents who know someone who was the victim of a

physical attack. In the emotional aspect of the fear of crime, the indirect experience of respondents with robbery affects on the emotional aspect of fear of assaults.

In order to fully determine the impact of the indirect experience with crime, it should be supplemented additional considerations in the aspect on how the media as a source of information about certain types of crime, together with the crime news, affect perceptions of the crime and what kind of impact they have on the fear of crime.

Conclusion

The relationship between previous victimization and fear of crime is a particularly important topic when it comes to crime - victim research. Despite the fact that the victimization model is the first model to explain the emergence of fear of crime, we cannot be adamant about their strong and direct link. There is evidence that both types of victimization can increase the level of fear of crime but it is still unclear what actually the contribution of the previous victimization on the subsequent fear is. This is because not always experiences of the victim are consequently linked to fear of crime. In order to examine the extent and the aspects that the previous victimization (direct or indirect) had on the fear of crime, there is a need for additional study that will explore the fear of crime through quantitative and qualitative methods and techniques in order to comprehensively study and explain the relationship between previous victimization and fear of crime.

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THE POSITION AND COPING STRATEGIES AMONG LIFE-SENTENCED INMATES IN THE R. MACEDONIA

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Severe forms of crimes, committed with intention or low motives, the criminal legislation of RM from 1996 instead of death penalty introduced life imprisonment with a chance of parole after 15 or 20 years. In addition, according to LES, the main purpose of sentence execution, despite the incarceration, is the process of re-socialization and social adaptation, which is implemented through regular and specific treatment programs. According to the economic situation and development of the country, the conditions and treatment in which sentence is served compared to standards, are reduced to a minimum, while specific treatment programs for inmates who are sentenced to life imprisonment (lifers), as prescribed in a strategy, are insufficient. This opens a question about the position of these inmates, how it affects their mental life and how they deal with it. On the other hand, they are on the top in the hierarchy of so-called "prison society", and through the criminal infection affect other inmates, which opens the question of the level of possible threats to the environment and society.

Within the larger study conducted in prisons of the RM, to lifers who serve their sentence in prison "Idrizovo", in order to identify the main sources of stress and specific ways of reacting and coping, are given COPE (Coping Orientation to Problems Experienced) and semi-structured interview RIDOC (Rhode Island Department of Correction).

As a specific problem of lifers is the longer adaptation period, the uncertainty of a parole, poor medical care conditions, absence of specific treatment program for these people, insufficiently trained staff, etc. The results will be used for further development of specific treatment programs of lifers, and appropriate training of staff working with them.

Keywords: life imprisonment, lifers, stress, coping strategies, men

Introduction

Criminal-legal determination of the life imprisonment sentence.

According to the Constitution of RM as the highest legal act, no one may be restricted except by a decision of the court in cases and procedure established by the law (Art.12, p.2). It means that the inmates have all rights and freedoms set out in the Constitution, except the right to freedom of movement, with established mechanisms for control and supervision over the execution of the sentence and creating realistic assumptions about resocialization and social adaptation, as a basic precondition for return in the society after serving the sentence.

The Criminal Code (CC) of the RM recognizes five types of penalties (Art.1), which is the most severe sentence, and that can be: time-limited and life-imprisonment. After abolition of the death penalty in 1996, it is replaced by life imprisonment, which today is the longest and most stringent penalty in RM, which can be imposed in cases of serious crimes, committed with intent (Art.35, p.4)[1]. It may be replaced with only 20 years of imprisonment or conditional release, but not before at least 15 years serving (Art.36, p.4). Not excluded nor amnesty and pardon, and it must be 15 years of minimum served sentence[2]. This penalty may not be imposed to a person who at the time of execution is below 21 years old (Art.35, p.4).

Imprisonment in RM is executed in the correctional institutions (LES, Art.25 p.1) that by the level of security and freedom restriction and the kind of measures that are applied to inmates, institutions may be of closed, open and semi-open type (LES, Art.27). Lifers are housed at one place within the closed part (except some of them who during the sentence serving are distributed in other parts) in the prison "Idrizovo," which is closed

[1] According to the CC of the RM, except qualified forms of homicide (Art.123, p.2), with life imprisonment can be punished in crimes where someone is deprived of life intentionally, such as crimes in: (Art.273, p.4), (Art.238, p.4), (Art.303, p.3), (Art.306), (Art.309), (Art.327, p.2), (Art.330, p.5), (Art.333, p.4), (Art.419, p.3), (Art.420, p.3), (чл.421 ст.3); as well as other crimes against humanity and international law, including: (Art.403), (Art.403-a), (Art.404), (Art.405), (Art.406), (Art.407, p.3), (Art.407-b), and (Art.409); for which crimes is prescribed minimum 10 years prison sentence and leaves the courts by free court conviction to determine life imprisonment as the most severe punishment in RM.

[2] Pardon Law (consolidated text)

institution[3] of general type and highest security level in the RM, where most of the inmates and the most severe penalties are placed.[4]

Treatment of lifers

According to CC, despite the realization of justice, the purpose of punishment is: 1. prevent the offender to commit crimes and his correction, and 2. upbringing to influence on others not to commit crimes (Art.32). Prison sentence involves freedom deprivation of offender, whose main purpose is to protect the society from crimes. This will be achieved if during sentence execution the inmate will be able to return and include in the society where will live independently and will not break the law (LES, Art.11, p.1), which involves taking measures by the professional penitentiary staff to inmates, named treatment[5]. In addition, of particular importance is the encouragement of sense of responsibility and motivation of inmates for voluntary and actively participate in the treatment, by the penitentiary staff (LES Art.11 p.2), because the acceptance and the results of the treatment will depend on the inmate, who has the right to refuse or can show resistance towards it. Condition about this is the inmate to be treated as a person, with dignity, needs and qualities (LES, Art.12), to be assured that it is about personal values which are of his interest and if this experiment will be confirmed. This behavior is often in question according to the conditions in penitentiary institutions, although according to the Human Rights Committee to the UN it should not depend on the material opportunities that are available to the states.

The envisaged methods of treatment include various individual (conversations, counseling, etc.) or group (group counseling, psychotherapy, etc.) ways of proceeding. In addition, the rights and duties of the inmates are legally certain, and their active participation in the correction is encouraged by a whole system of conveniences, such as visits, free exit from the

[3] In the institution of closed type are served executed sentence of imprisonment for more than three years for primary perpetrators, and over six months against recidivists. (LES, Art.49 p.1)

[4] Decision for the deployment of inmates and juveniles in penitentiary and correctional institutions and detained persons in detention departments of correctional institutions, Directorate of prison administration, 2008

[5] Time is an unlimited process of taking a set of organized systematic and dynamic procedures in order to improve the positive and change the negative personality traits (habits, attitudes, values, preferences, interests and motivation) of inmates, or achieve other structural and dynamic traits that will not appear as individual determinants of crime in the future.

institution, vacations outside of the institution[6]. The starting point of the treatment should be resulted from the interdisciplinary observation of inmate's personality in the receiving department, through criminological - penological, sociological, psychological, medical, pedagogical, etc. examinations which result from individualization of sentence execution. Thus, every inmate is classified in the appropriate part or treatment group, because of successful implementation of same kind treatment measures. The practice shows a lack of psychological instruments, specialized for prison population, and their standardization and adaptation for our country, as well.

Lifers serve their sentence in accordance with the provisions for sentence execution and enjoy all rights and conveniences as other inmates, except those limited with the institution house rules (have no right to progress in more liberal parts, nor use conveniences outside of the institution) (LES, Art.49 p.2). In addition, the legislation does not provide special distinctions of their status as a specific category, given the length of the sentence, as in some of the European countries. Strategy for resocialization and social adaptation of prisoners 2010-2012 provides regular[7] and specific treatment programs[8], from which in practice the second are totally lacking, and regular almost are completely absent. Hence, the question is which are the specifics of the lifer's position and on what should be put an emphasis in the development of treatment program of this specific group?

Sentence's time in distinction, which results in long-term sense of uncertainty - inmates don't know when, whether or how will be released, which negatively affects their mental health and treatment goals.

It is the cruelest sentence in the RM, which lifers place highest in the hierarchy of prison society and requires a great deal of caution and most serious approach by the society, prison management and staff, and other prisoners.

Difficulty and sensitivity of the problems and conflicts related with the nature and sensitivity of criminal acts which determined criminal behavior, combined with problems arisen in the prison, requires great caution and seriousness in the approach of the professional staff, especially in the psychological treatment.

The sentence length creates incomparable problems (social isolation and deformation, loss of time orientation, prolonged sexual abstinence,

[6] Guideline for determining types and ways of inmates treatment, Directorate of prison administration, 2011.

[7] Right to: work, education, moral and ethical upbringing and self-organization, leisure, sport, religious needs.

[8] Abusers of drugs, alcohol, sexual offenses, violent behavior, juveniles, younger adults, women, and lifers.

loneliness, loss of responsibility, search for identity, "withdrawal" and "deep freeze of feelings" routine of their fully life, dependence on the institution, etc.), and on the other hand they have specific needs, especially in the communication with the outside world, which requires an higher understanding by the treatment personnel.

Successful implementation of treatment programs prefers the initial period of sentence serving, when emotional instability culminates and is the best for the treatment acceptance. Lack of programs in this period may cause harmful or irreparable consequences, as a result of the inappropriate setting of the relationship between inmate and the prison personnel, and finding ways to cope and adapt out of the treatment.

Lack of programs for education and work, which are of critical importance to long-term sentences, creates anger and strong feeling of uselessness, which encourages illegal activities for survival and completely converse the treatment.

The absence of objective programs with understandable criteria for assessing the eligibility of releasing allows personal or political manipulation by decision makers for provisional release, which cause feeling of injustice and anger among inmates.

On the other hand, the inability to immaculate risk prediction of lifers to redo serious crimes, by the experts, is the main obstacle of release decision making, which prolongs their release until achieving psycho-physical age.[9]

Recommendation of the European Council (2003) indicates the need for organization of lifer's prison life in order to approximate their real life, assessment of risk and needs and reduction of the harmful effects of the long-term sentences, which includes: planning of sentence serving with possibility for personal choice for daily life activities, prevent the disruption of family ties: housing in the prison institutions near their families, allowing letters, phone calls and visits as often as it's possible; encouragement of other contacts with the world outside: getting different forms of going out of the prison as an award, access to press, and etc.[10]

Stress and coping styles

Stress is especially present and of research interest among the prison population. Various authors defined it in different ways. Thus, despite

[9] Sulejmanov, Z. (1997). Penological compendium. Skopje: Grafohartija, pp. 485-510.

[10] Council of Europe, Committee of Ministers, Recommendation Rec. (2003) 23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners.

the physiological definition of Sally (1993), in which it is a non-specific set of bodily changes as a common response to the physical and mental demands that are put in front of the bodies; Folkman and Lazarus see it as a dynamic relationship of person with the environment, which as a specific transaction occurs in situations where environmental and/or internal demands exceed the adaptive abilities of the person. In short, stress is a result of person's assessment that the relationship with the environment has been changed.

While stressor is an event/s that endanger our lives or our nearby life, property and etc., or can change our current life, and can be external event or internal request; stress is an internal state or experience. Lazarus explains stress within its so-called transactional model, which consists of three elements:

Personality characteristics, who are relatively permanent - qualities, values, beliefs, goals, abilities, and str., and characteristics of the environment in which person functions - requirements, opportunities, and obstacles;

Cognitive assessment of the stressor, which may be: primary - assessment of importance and significance of the stressful event, and secondary - evaluation of influence opportunities of the event, which will be assessed as stressful, and coping - constantly changing cognitive and behavioral efforts, in order to overcome specific external and/or internal demands, that person assesses as too big for its own powers. During it, consistently are applied different coping strategies - that seek to resolve a stressful situation or to mitigate the harmful effects that are changing depending on the relationship between person and environment, and every change of that relationship leads to a new assessment.

Changes are created as a result of the coping strategies implementation changing the stress degree. According this, the environment can appear as a support and as a source of the stress, and the long-term consequences as new sources of stress. There is no good and bad strategies, that is a result of the assessment; and consequences can be short-term - emotional reactions, and long-term - quality of life and health.[11]

There are two general coping strategies, such as: 1. problem focused coping - focus on problem solving or doing something to avoid sources of stress, that prevails when person feels that something can be done to solve the problem and has control over the stressful situation, and 2. emotion focused coping - focus on reducing or managing negative emotions and emotional instability associated with a stressful situation, and prevail when there is a sense that stressor is something that have to be endure. First, is

[11] Mejovšek, M. (2002), Uvod u penološku psihologiju. Zagreb: Naklada slap i Edukacijsko-rehabilitacijski fakultet, Zagreb, pp.35-62.

typically taking action, and second the passivisation. The choice depends on the context in which coping is taking place, but also on personality traits (understanding of this relationship, particularly in long-term sentences, is especialy important for treatment programs preparation and establishing the way of acting by the professional team for its successful implementation).

In this context, Carver explores 16 types of coping strategies, of which first five are "problem-focused", next four "emotion focused", and the last six consider as empirical assumptions related to certain theoretical strategies. These are: 1. Active coping - taking active steps to try to remove or circumvent stressors or to mitigate their effects; 2. Planning - getting to strategies for action by thinking about what steps to be taken for best dealing with the problem; 3. Suppression of competitive activities - abstraction or distance from other activities or processing competitive information, to avoid distraction of attention to other events, in order to fully concentrating on dealing with stressors; 4. Restrain - waiting adequate opportunity to act, restrain not to obtain premature; 5. Use of instrumental social support – look for advice, assistance or information; 6. Use of emotional social support - getting moral support, sympathy, or understanding; 7. Focusing on and venting of emotions - a tendency to focus on what is catastrophic or disturbing in order to experience and ventilate negative feelings; 8. Behavioral disengagement - reducing the effort of dealing with stressors, even cancellation from attempts to achieve goals that are related to stressors; 9. Mental disengagement - a wide range of activities that serve for distraction of thinking about behavioral dimension or goals related with stressors, such as daydreaming, escape through sleep or "loss" in TV; 10. Positive reinterpretation and growth - turning the stressful moments in a positive sense; 11. Denial - refusing to believe that stressors exist or attempt to act as stressors is not real; 12. Acceptance - accepting the reality that there is a stressful situation, but also accepting the current lack of active coping strategies - this is an effective strategy when stressors is something that is necessary to adjust, but not when it can easily be removed; 13. Religious coping - the tendency of turning to religion; 14. Humor - tend to transfer stressors in humor, and 15. Use substance use - inclination towards use of addictive substances (e.g., alcohol, drugs, etc.) in stressful situations.[12]

Stress and coping strategies of the prison population - previous research

Given that studies showed higher levels of stress, anxiety, depression and suicides in prisons in relation to the general population, of

[12] Carver, C.S., Scheier, M.F., & Weintraub, J.K. (1989). Assessing coping strategies: A theoretically based approach, Journal of Personality and Social Psychology, 56, 267-83.

great importance for research are coping strategies and the support of their development by the treatment institution. The highest stress level was showed among newly arrived long-term sentenced inmates in USA, compared to those at the end of serving such sentences, as well as of short sentenced newcomers; although was not shown a difference in the stress level, prisonisation and self-esteem among long-term sentenced and lifers, indicating that differences depend on the sentence length, but also on developed strategies of coping with negative experiences.[13]

The basic deprivations faced by inmates refer to the time management, maintenance of family and other relationships with the outside world, and preserve their identity and self-esteem, as well, but they are strengthened among long sentenced, due to the factor of time.[14] "Problem-focused" strategies was proved as less effective, since it can not be correct the offense have been done and solve the problem of their imprisonment as a stressor. It is confirmed among 30 inmates, men, in the Netherlands, where was found better health among users of "emotion-focused" strategies, compared to those inclined to hold negative feelings, which social significance includes sharing emotions with others in the social network, while cognitive meaning implies redefining the perception of the situation with an emphasis on positive aspects, which reduces negative emotions intensity.[15]

Among lifers, given the increasing influence of prisonisation, of particular importance is the development of mature coping strategies. They first have to adapt to the new environment, then socially adapt to be able to contact with the staff and inmates, and finally, psychologically adapt by developing appropriate coping strategies (most effective has proved religion and optimistic approach). Typical for them is reduced interest in relations with the outside world, thinking about the future, sensitivity to their relatives problems by feeling helpless against it and etc., which increase the respect of prison regime and discipline.[16] In contrast, immature ways of coping mean resistance to the prison routines and rules and violence for frustration relief in order to restore self-confidence and self-defense.

[13] MacKenzie, D.L., Goodstein, L. (1985), Long-term incarceration impact and characteristics of long-term offenders. Criminal Justice and Behavior, 12 (4): 395-414.

[14] Flanagan, T.J. (1981), Dealing with long-term confinement adaptive strategies and perspectives among long-term prisoners. Criminal Justice and Behavior, 8(2): 201-22.

[15] Harreveld, F.V., Pligt, J.V., Claassen, L., Dijk, W.W.D. (2007), Inmate emotional coping and psychological and physical well-being. Criminal Justice and Behavior, 34(5):697-708

[16] Sapsford, R.J. (1978), Life-sentence prisoners-psychological changes during sentence, British journal of criminology, 18 (2):128-45.

Other authors emphasize the importance of developing a sense of control over their lives, as a condition for successful dealing with prisonisation - they should try to adapt in the prison which depends on their conscious choice, rather than put accent on something they can not affect. This can enable the routine activities and discipline, against which they don't need to fight. On the other hand, routine activities are shelter from stress, providing a sense of safety, by giving a feeling that they know what to expect from prison life; but also an opportunity to release the tension that would otherwise be created and spilled over other prisoners, which will cause violent behavior and problems; and as well turn them away from predatory inmates which would undermine their carefully wrought adjustment. Lifers are usually the most peaceful inmates, because violence disrupts the routine life on which they strongly held, and would returned them at the beginning of adaptation process. They have to organize their lives by avoiding problems that affect on developing higher self-control in the process. Lifers in the USA allow control by making the most of their time alone with themselves in the room, avoiding contact with strangers, especially not-lifers for protection of problems. So, management use them as a weapon for more stable environment and living conditions in the prison, which is their main goal, too. A condition for this is development of coping strategies that imply wisdom and mature approach to events. On the other hand, life drives them to develop larger tolerance and empathy for others, to help the weaker and younger, or to act as "peacekeepers" or "parent", creating a status of respect, feeling personal worth and useful for the society. Of special importance are the relationships with the family and other lifers that reduce their feeling of loneliness and where they feel understood.[17]

Among Croatian prisoners, as the strongest stressors appear the lack of contact with the outside world, housing and health problems (restriction of freedom is the strongest stressor, while the rest come from it and are with lower intensity). The intensity of the stress is higher as the prison is more closed. Most widely used coping strategies are: active coping, reinterpretation, planning and daydreaming, and at least is focusing on emotions. It was showed somewhat higher probability those who are better adapted less to use coping strategies and is inversely relationship between adaptation degree and the length of stay in prison. Positive attitude towards sentence contributes to successful adaptation, and in higher level of perceived stress the less is possibility for that.[18]

[17] Johnson, R., Dobrzanska, A. (2005). Mature Coping Among Life-Sentenced Inmates: An Exploratory Study of Adjustment Dynamics. Corrections Compendium: 8-9, 36-38.

[18] Mejovšek, M. (2002). Uvod u penološku psihologiju. Zagreb: Naklada slap i Edukacijsko-rehabilitacijski fakultet, Zagreb, pp.72-6.

Methodology

The research is conducted in from November 2012 to April 2013, as a part of larger survey about the position and psychological characteristics of inmates in the penitentiary institutions in the RM, as a project by the Faculty of Security, supported by the Ministry of Justice and Ministry of Internal Affairs, which still goes on. The subjects are interviewed, to avoid ambiguities in the questions and language differences.

Purpose

The aim of this article is to answer these questions:

What is the position of the lifers in the RM?

Which are the dominant stressors and used coping strategies?

Table 1. Basic characteristics of lifers in RM and the sample

	Lifers	Sample		Lifers	Sample		Lifers	Sample
Age f. (%)			Nationality f. (%)			Duration of serving f. (%)		
28-30	6 (20,0)	4 (22,2)	Macedonian.	12 (40,0)	7 (38,9)	0-5	7 (23,3)	6 (33,3)
31-35	5 (16,7)	3 (16,7)	Albanian	14 (46,7)	8 (44,4)	6-10	15 (50,0)	6 (33,3)
36-40	5 (16,7)	5 (28,8)	Romas	3 (10,0)	2 (11,1)	11-15	5 (16,7)	4 (22,2)
41-45	4 (13,3)	3 (16,7)	Turks	1 (3,3)	1 (5,6)	up to15	3 (10,0)	2 (11,1)
46-50	7 (23,3)	3 (16,7)	-	-	-	-	-	-
up to 50	3 (10,0)	0	-	-	-	-	-	-
Educational level f. (%)			Marital status f. (%)			Recidivists f. (%)		
LEL	18 (60)	8 (44,4)	Married	No inf.	6 (33,3)	Yes	11(36,7)	9 (50,0)
MEL	11 (37)	9 (50)	Divorced	No inf.	4 (22,2)	No	19 (63,3)	9 (50,0)
HEL	1 (3,3)	1 (5,6)	Single	No inf.	7 (38,9)	-	-	-
-	-	-	Widowed	No inf.	1 (5,6)	-	-	-

The sample

In the time of research lifers are represented by 1.36% from the total prison population in the RM, or 2.28% from prison population in "Idrizovo".[19] From total 30 lifers, all are men[20], on 28-66 years, with average age of 40.83; from four nationalities - mostly Albanian (46.7%); most with

[19] Annual Report of the Directorate of prison administration about the situation and working of the penitentiary and correctional institutions in Republic of Macedonia for 2012.

[20] In the RM there was not rendered a life sentence of any woman, until now.

low educational level 20 (66.7%); with average length of serving in time of research of 8,14 years, of which 15 (50%) of 6-10 years, 7 (23.3%) at the beginning, and just 3 (10%) with up to 15 years (which asked for pardon, but had been refused). All are convicted for homicides, some combined with other criminal acts; from which 3 (10%) are committed abroad - 2 were transferred in RM; and no one is a foreign citizen. From all of them, 20 (66.7%) admit the crime; and just 11 (36.4%) are recidivists.

The sample consists of 18 subjects (60%) which voluntarily accepted to take a part in the research, 28-50 years aged and average age of 37.6 years; average length of serving sentence – 8.2 years; 22.2% used marihuana or another kind of drug before the imprisonment (we don't have information how many of them are addicts now, even they are not registered like that). Other characteristics are more correspond with those of the total lifers (Table 1).

Instruments

As instruments are used:

Inventory of coping styles - COPE Inventory (Carver.C.S, et al., 1989), which involves 15 types of coping strategies in the stressful situations (explained on pp. 8 and 9), which are measured with scores (theoretical range of 4 to 16) on each of the 15 subscales.[21] There is not a total score for general usage of coping strategies. COPE is given for the first time on the prison population in RM in this research.

Semi structured interview for inmates from RIDOC (Rhode Island Department of Correction), from which are processed just questions for determination of the main prison stressors, ways of copping and suggestions they give for condition improvement.

Statistic procedures: measures of central tendention, variability, correlation and qualitative analyze.

Results

The results show that as the highest ranged stressors, for lifers, are: on the first place is freedom limitation and the separation from the families and close people (66,6%); then injustice in the judging (in terms that they are innocent, the penalty is higher than they deserve or adding crimes that they haven't done) (38,9%); and at least are the absence of treatment (education,

[21] Carver, C.S., Scheier, M.F., & Weintraub, J.K.(1989). Assessing coping strategies: A theoretically based approach. Journal of Personality and Social Psychology, 56, 267-83.

work, and etc.), and the prison environment and conditions (61,1%) (Table 2).

Table 2. What is the hardest/most stressful related to that you're imprisoned (on the first, second and third place)?(N=18)

Stressor 1	f	%	Stressor 2	f	%	Stressor 3	f	%
Freedom limitation	8	44,4	Not guilty	4	22.2	Life is standing	5	27,8
Separation from close ones	4	22.2	Injustice in the judgment	3	16.7	Prison environment	4	22.2
He did the crime	2	11.1	Separation from close ones	4	22,2	Prison conditions	2	11.1
Not guilty	1	5.5	Freedom limitation	3	16.7	Freedom limitation	1	5.5
Amount of penalty	1	5.5	Financial problems	1	5.5	No visits	1	5.5
Uncertainty of the end	1	5.5	No visits	1	5.5	Financial problems	1	5.5
Sexual abstinence	1	5.5	On trial for children	1	5.5			
			Prison relationships	1	5.5			

On the question how they cope with the problems, we got the next categories of answers: 1. The biggest part are relying on active coping and communication with the judicial authorities (55,5%) given that 44,4% declare themselves as not guilty and are fighting for the retrial, and 11,1% already got a right to ask parole; 2. relying on the contacts and the outside world help - most of them are fed and completely financed from out of the institution, and as a main factor which helps them to withstand are contacts with the family and/or female partners, although some of them don't have anything from that (from all have family in 33,3%, and from the rest 27,8% doesn't even have female partners, just 20% have children, and 6,7% doesn't have any visits); 3. relationships in the institution - other lifers are as second family for most of them; 4. Routine activities that they give by themselves, as TV, different games, cooking, walking, praying, and etc. - just 13,3% are working in prison, and the most of the others asked, but they didn't got explanation that there is no work or because of the amount of the sentence?! 5. Just a small part pay attention on the strategies focused on psychological

control and trying to adapt out of the activities (hopes, try to accept, are nervous, thinking what to do, take care of their health and etc.)

As suggestions for improving the conditions according to inmates, we conclude that: 1. most seen this as useful conversation with a psychologist, which for the majority was first done within of this research. They point the need for conversation, especially with professionals for resocialization, while the majority said that they don't have open conversation and support from almost any employee, vs. existing injustice and incorrect attitude towards them. 2. Providing conditions for work, earning money and continuing education. 3. Separation of drug users and sick prisoners, as the main causes of problems, violence and crime in prison, and to prevent drug enters in the institution, given the large number of addicts in the prison, which is growing due to lack of specific programs for their treatment. 4. Improving prison conditions that are financially certain, such as food, water, conditions of hygiene and bathing, health and medicine, aid for the poor, gym, rooms that will not traumatize children during visits, and etc. Some indicate the inability to obtain permission to be taken to the doctor out of the institution. 5. Proposals related to increasing freedom of movement within the prison, communication with the outside world and other inmates (more visits as an award, going out up to 7 hours, contacts with other prison parts, reducing the waiting time for visitors and etc.) and other conveniences, given the length of the sentence and the inability to go home at the weekends.

From Table 3 we conclude that among lifers in RM dominate "the problem-focused" coping strategies. As most useful has proven the strategy focused on religion, then active coping and restraint, while the least prevalent are the substance use (which is illegal), humor and behavioral disengagement[22] - they more fight to be released or to solve some problems in prisons which are within their power, and less work to adapt. Most rely on the great belief in God, which calms them and see it as the only salvation. Sequence authors stress the importance of religion in combating stress in prisons, by influence on the optimism increase and improvement of psychological and physical health, reducing the rate of suicides, helps in accepting responsibility for the committed offense (which is a main precondition for successful rehabilitation) and guilt pressure relieve. Others see it as a mature strategy for living more responsibly, by helping self-control and self-esteem establishment, rejection of pointless aggressive behavior towards others and themselves, and channeling energy into a useful and meaningful way of dealing with time. For this reason, religious

[22] In contrast, in the non-prison population in the US dominate planning, acceptance and positive reinterpretation and growth, while the least represented are the use of substance, denial and behavioral disengagement, according to Carver et al. (1989).

programs, informal religious groups are recommended for successful adaptation and reducing recidivism, especially in the most closed parts of the prisons, severe crimes and long sentences.[23]

The correlations between coping strategies with age and length of sentence serving among lifers, has proven significant only between length of stay and acceptance (r = 0,55> 0.468 to 0.05, df = 16), which confirms that longer time is necessary for adaptation.

Table 3. Dimensions of COPE among lifers in RM (N=18)

	COPING STYLES	M	Rank	σ	M
1.	Active coping	3,18	2	1,66	2,97
2.	Restraint	3,15	3	2,31	
3.	Suppression of competing activities	2,90	5	2,29	
4.	Planning	2,86	7	2,54	
5.	Use of instrumental social support	2,75	9	3,07	
6.	Use of emotional social support	2,86	7	2,22	2,50
7.	Mental disengagement	2,54	10	1,86	
8.	Focus on and venting of emotions	2,50	11	1,80	
9.	Behavioral disengagement	2,11	13	2,73	
10	Religious coping	3,63	1	2,48	2,50
11	Positive reinterpretation and growth	3,01	4	1,84	
12	Acceptance	2,90	5	3,18	
13	Denial	2,28	12	2,26	
14	Humor	1,92	14	2,92	
15	Substance use	1,24	15	1,93	

Discusion

Given the seriousness of the crime and the length of the sentence, in terms of the need for adaptation of lifers to the needs of the society, very important is the system to pay attention to their needs, especially considering the current lack of the specific treatment programs and general lack of conditions for implementation of regular programs, as well as specific training for staff working with lifers. Long incarceration has destructive impact of the psychological, physical and social well-being on inmates. Deprivation which mainly refers to the freedom, goods, services, family, social and sexual relations and security, impact on decreasing the autonomy,

[23] Thomas, J., Zaitzow, B.H. (2006), Conning or Cinversion? The role of Religion in Prison Coping, The Prison Journal, 86(2): 242-59.

self-esteem and self-respect, which requires building mature coping strategies in order to adapt to the conditions. In addition, most of them feel the impact of prisonisation and dehumanization as processes, though adaptation period of lifers is the longest and last even several years. Most important factor for successful coping and adaptation on prison life for lifers is the prison regime and constructing the routines from each of them, which affects on increasing the confidence, sense of control over their own lives, safety and stress reduction, which enables their daily life to be meaningful. For this purpose, it is necessary to put attention on developing mature and constructive coping strategies, despite resistance and violence as a weapon of survival. It involves specific treatment programs where emphasis will be placed on "the emotion-focused" strategies, religion, acceptance, restraint, positive reinterpretation and humor. In addition, employment and educational engagement, making condition for daily sporting and organizing common games, which are missing, would created the conditions for building routines and directing the negative thoughts on some useful engagement, which will reduce the level on violence and crime in prisons. In RM, for lifers, major stressors are: limited freedom, separation from the family and lack of activities as work, education, sports and etc., while dominating coping strategies are "problem focused" and turning to religion.

It is recommended that:

Legal defining of the maximum length of sentence duration, as could be given guidance on the objectives during the treatment progress, legal categorization of life sentence (with and without time limit and possibility for pardon) to determine the specifics of the treatment, as well as legal defining the term "long-term sentence", as one condition for that;

Providing conditions for working, education and complete health care;

Preparation of specific treatment programs for lifers, which will be focused on more mature coping strategies, different for various periods of sentence duration, and with special emphasis on religion;

Employing professionals for a conversation with inmates, especially psychologists for treatment (taking in account the absence of any person in “Idrizovo"), and psychologists for treatment of employees, in order to reduce stress and become more effective;

Psychotherapeutic groups with exercises for tension discharging, raising self-esteem, encouraging strategies focused to emotion, humor and positive reinterpretation, resolving conflicts, improve and strengthen the relationships with other lifers, exercise the roles of "leader" and "peacemaker" in order to increase self-esteem, and etc.;

Assessment of the psychological status by professional team at the prison, which includes a psychologist, as during reception, at certain times

during the sentence serving (to determine the progress made in treatment and the ways they used to handle), and before submitting a request for pardon, as well;

Providing specialized psychological instruments for prison population, with their previous standardization for RM, as well;

Specialized training of personnel responsible for dealing with lifers;

Increased engagement of personnel, especially in the part of resocialization, preparation of plans and unified pattern along which they will work;

Venture stronger efforts by prison professionals for maintaining relationships with the families, support for establishment new ones, maintaining and increasing communication with the outside world, opportunities for free communication, and even exit from the institution by the security officer; organization of round tables and conferences to promote inter-institutional cooperation with the Centre for social welfare and Ministry of labor and social affairs, Ombudsman, and other relevant institutions, in order to decrease the prejudice in cases of prison sentenced persons, especially lifers;

Commission for pardons to make appointment with the inmate as a condition of making decision, consider the psychological situation, and the degree of treatment implementation, and in case inmate is not ready to be released, to give suggestions for further work. That commission should include psychologist and psychiatrist, as well;

Separate addicts and ill from other inmates; introduction programs for withdrawal from addictions, as major factors for crime and violence in prisons;

Enhanced control system, in order to reduce eventual improper working and corruption in prisons.

Conclusion

The main problem among lifers is their successful adaptation to prison life and the indetermination of the sentence. Condition for this is developing mature coping strategies, on which especially there is a need of putting attention to a professional team that should be additionally trained and specialized in working with this type of inmates. Additional stressor is the lack of treatment. Lifers have specific needs that require differentiation in the legal framework. Of particular importance is the involvement of psychologists in the professional team for treatment of inmates, and a psychologist who will work with the personnel, as executors of high level of stress and responsible profession.

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LEGAL FRAMEWORK FOR PROTECTION OF THE RIGHTS OF THE CONVICTS IN THE PENITENTIARY INSTITUTIONS IN REPUBLIC OF MACEDONIA

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Abstract

The convicted persons are a special category of people in the country that have limited freedom of movement while performing the sanctions. In this respect they do not fully enjoy constitutional rights, but still have a number of constitutional rights, such as the use of legal remedies, as regulated with appropriate legislation.

Starting from the normative and institutional structure of the penitentiary system in Republic of Macedonia, the paper will analyze the normative framework on the rights of the convicts in the penitentiary institutions in the country. Taking into consideration the international standards in this field in the paper analysis of primary and secondary legislation concerning the rights of the convicts in penitentiary institutions in the Republic of Macedonia will be performed especially concerning the legal remedies for protection of their rights.

In order to answer the question whether legal remedies that are sufficient to ensure the guaranteed rights to the convicts in the penitentiary institutions in the Republic of Macedonia are available to them, are the convicts familiar with them and if they had the opportunity to use them, the paper will present and analyze the results of the Research "The position of the convicted persons in penitentiaries in the Republic of Macedonia," conducted by the Faculty of Security - Skopje, University "St. Kliment Ohridski"- Bitola, which relate to the protection of the rights of the convicts through the use of legal remedies. In that aspect some of the conclusions are that information for the legal remedies for the protection of the rights of the convicts and the use of legal remedies by the convicts are on low level which certainly represent a basis for undertaking some concrete measures to improve the situation in this field.

Keywords: legal remedies, convicts, penitentiary institutions, jails, human rights, Republic of Macedonia

Introduction

Fundamental rights and freedoms of man and citizen, recognized in international law and prescribed by the Constitution of the Republic of Macedonia are one of the fundamental values of the constitutional order of the Republic of Macedonia. According to the Constitution freedom of man is inviolable and cannot be restricted to nobody, except by a court decision and in cases and procedure in accordance with law (Constitution of the RM, art.8 and 12). In that aspect imprisonment is allowed after judgment for conviction by a competent court, which means that the goal of imprisonment must be the execution of the sentence imposed by court decision (О Бојл, Варбрик, p. 137). The prison environment is intrinsically cruel, volatile, and secretive (i.e., more conducive to random violence), not only because of its spatial limitations but also because of the effects of prisonization-having to adapt to a conspiratorial-survivalist set of norms and behavioral expectations dictated by the highly structured nature of prison environment (Souryal: Stinchcomb, 2005, p.302). All persons deprived of their liberty shall be treated with respect for their human rights. They retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody. (European Prison Rules, Part 1, Item 1, 2) Thus, the restriction of freedoms and rights cannot be applied to the right to life, prohibition of torture, inhuman and degrading treatment and punishment, the legal definition of offenses and penalties, as well as the freedom of conviction, conscience, thought, public expression of thought and religion. (Constitution of the RM, art.54) So, no one shall be subject to torture or to inhuman or degrading treatment or punishment and harassment in this context is never allowed, even for high public interest (О Бојл, Варбрик, p.69).

The enforcement of sanctions of the convicts in the Republic of Macedonia, as a special category of people who have limited right of movement is regulated by appropriate legislation that includes certain laws and secondary regulation including among others: Bylaw for House Rules for the convicts in the penitentiary institutions; Bylaw for time that should pass and the requirements that should be meet by the convicts in a certain type of institution or in appropriate sector in the institution from general type; Bylaw for determining the remuneration of convicts for their work and Guidelines for types and methods of treatment. According to constitutional determination that international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law (Constitution of the RM, art.118), important are the provisions of the European Convention on Human Rights, the European Convention for the Prevention of Torture and Inhuman Treatment or Punishment, Strasbourg

1987 (with Protocols 1 and 2 of 2002), the European prison Rules, the Convention against Torture and other Cruel, inhuman or degrading Treatment or Punishment of the United Nations since 1984, United Nations Minimum Standards for treatment of prisoners, the Optional Protocol to the Convention against Torture and other Cruel, inhuman or degrading treatment or Punishment, adopted by the United Nations in 2002. The principles established by relevant international regulation are not intended to describe in detail a model system of penal institutions in the countries, but to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management. With the ratification of the Optional Protocol prevention on international level has been provided by implementation regular expert visits by representatives of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), which have a general permit for unrestricted access to all places of deprivation of liberty, for information and discussions alone with all persons deprived of liberty, without consequences for those who shared the information. Prevention on domestic level prescribes existence of a National Preventive Mechanism (for example in France was established a new institution-Controleur General, in the UK there is a number of existing monitoring bodies, and in some countries this task is assigned to the Parliamentary Ombudsman – in Republic of Slovenia), which have essential role in including domestic mechanisms for monitoring the condition and treatment in places of detention where persons are deprived of their liberty. That clear indicates that human rights obligations are primarily the responsibility of local authorities supervised by independent home protection systems (Аќимовска Малетиќ, 2010). With the Law on ratification of the Optional Protocol (Official Gazette of RM no. 165/08), in accordance with Article 17 of the Protocol, the Ombudsman of the Republic of Macedonia is appointed to act as the national preventive mechanism. In cooperation and with prior consent of the Ombudsman, NGOs registered in the country and the organizations that represent charities in the country can perform some of the competencies of the national preventive mechanism. Consequently, the Law Amending the Law on Ombudsman (Official Gazette of RM no. 114/2009) has been adopted, according to which the Ombudsman provides special protection to several categories of persons including persons who are subject to torture and other cruel, inhuman or degrading treatment or punishment in the bodies, organizations and institutions in which freedom of movement is restricted.

Normative and Institutional Framework for Enforcement of Sanctions

Enforcement of sanctions imposed for crimes and offenses according to the legislation in the Republic of Macedonia are regulated by the Law on Execution of Sanctions (hereinafter: LES). The sanctions passed for punishable acts will be executed when the decision by which the sanction was pronounced will be finally valid and when there are no legal obstacles for execution of the decision. The execution of some sanctions can start even before the decision for determining of the sanction become finally valid, only when this is prescribed with the law. According to Article 3 of the LES, the persons, against whom the sanctions are applied, are deprived of or have restricted rights only within the limits that are necessary for achieving the goal of the sanctions, in accordance with the Law. The Law prescribes obligation that the rules on execution of sanctions are applicable impartial. Also, discrimination on the grounds of race, color of skin, sex, language, religion, political or other beliefs, national or social origin, property and social status or some other status of the person against whom the sanction are applied, is prohibited. The religious feelings, personal conviction and moral norms of the person against who sanctions are applied, have to be respected. The persons, against whom the sanctions are being applied, are treated in a manner which, to the extent possible, corresponds to their personality. They are treated humanely, by respecting their personality and dignity, preserving their physical and mental health, considering the achievement of the goals in specific sanctions. (LES, art. 6)

Macedonian legislation determines the bodies for execution of the sanctions. The court that reached the first instance decision for passing the sanction, is obliged to send the decision to the competent court according to the place of permanent or temporary residence of the convicted person immediately but no later than 3 days after the decision will become executive. The decision becomes an executive, when, after it becomes finally valid, there are no more legal obstacles determined by the LES. The judge for executing the sanctions is obliged to start with the execution of the sanction by taking the legally determined actions and measures immediately after the reception of the decision. In all Basic Courts a Judge for Execution of Sanctions is appointed. The Judge for Execution of Sanctions protects the rights of the convicted persons, supervises the legality of the procedure for execution of the sanctions and provides equality of the convicted persons before the law. Also, the Judge performs activities and decides for: sending of the convicts on serving the imprisonment sentence; postponement of the imprisonment sentence; interruption in serving the sentence and abolishment of the interruptions of sentence serving; calculation of the sentence, if the

competent court did not pass the appropriate decision; obsoleteness of the execution of the sentence or termination of the execution of sentence due to the convict's dead, notification of the competent court in order to pass appropriate decision; cooperation with the competent Centers for social work about the post-penal aid and the execution of the alternative measures; replacement of the fine with imprisonment sentence; payment of the fine on installments and other cases regulated by law.

Responsible body for the affairs of execution of sanctions is the Directorate for Execution of Sanctions (hereinafter: the Directorate).[1] The Directorate organizes, executes and supervises the execution of the imprisonment sentence, the juvenile imprisonment, the alternative measures: protective supervision pronounced with a probation verdict or probation dismissal, community work and house arrest, as well as correctional detention as an educational measure (LES, art.14)

According to Article 18 of the LES, imprisonment sentence and correctional detention as an educational measure are executed in penitentiary and correctional institutions, that are establish and abolish with the Law. The penitentiary institutions[2] in the Republic of Macedonia can be penitentiaries and jails. The Minister of Justice using the general provision organizes the deployment of the convicts and the juveniles in the penitentiary and correctional-educational institutions, as well as the detainees in the detention departments within the penitentiary institutions. According to their security level, the extent of freedoms' limitation and the types of the treatment applied upon the convicts the penitentiary institutions can be institutions of closed, a semi-open and of open type (LES, art. 20)

Execution of Sanctions Pronounced for Criminal Acts

The goal of the imprisonment sentence is qualifying the convicted person to become involved in the society with best possible chances on independent life in accordance with the Law. Constitutionally

[1] According to Art.17 of the Law on operation and organization of the bodies of the public administration ("Official Gazette of RM", no. 58/2000, 44/2002, 82/2008, 167/10, 51/2011), the Directorate is a body within the Ministry of Justice having a legal entity authorization. The Law on execution of the sanctions determines the organizational structure and the area of responsibility of the Directorate. Director of the Directorate manages the affairs of execution of sanctions. The Director is appointed by the Government of the Republic of Macedonia, on a proposal of the Minister for Justice.

[2] Penitentiary institutions are: Idrizovo Penitentiary with an "open" division in Veles, Shtip Penitentiary, Struga Penitentiary of open type, Bitola Jail, Gevgelija Jail, Kumanovo Jail with an "open" division in Kriva Palanka, Ohrid Jail, Prilep Jail, Skopje Jail, Strumica Jail and Tetovo Jail. Correctional-educational institutions are: Tetovo Correctional Facility and Skopje Correctional Facility (LES, art.18, par.3 and 4)

guaranteed right that the psycho-physical and moral integrity of the convicted person must be protected and the prohibition of any kind of torture, inhuman or degrading treatment and punishment is more precise regulated with the legislation. Namely, during the execution of the imprisonment sentence, the psycho-physical and moral integrity of the convicted person must be protected, and his personality and dignity must be respected. While it prohibits any form of torture, inhuman or degrading treatment or punishment, and an obligation is prescribed that the right to personal security of the convicted person and the respect of his personality must be insured. (LES Art.37, 38)

It is prescribed that the system of the execution of the imprisonment sentences in the country is organized in such a manner, which enables the classification and displacement of separate categories of convicts in separate institutions or in separate divisions in different institutions and groups, for the purpose of easier implementation of different kinds of treatment, for preventing the criminal infection and for maintaining the discipline. The convicted persons are disposed in different institutions for execution of the imprisonment sentence. Their position and the system of their disposal are determined according to the provisions of the Law and in accordance with the court decision.3 This is, in general, in accordance with the provisions of the European Prison Rules, which set out the basic requirements to be provided with reference to convicts in prison and their accommodation.

Also, it is prescribed that the convicts will be placed in separate sleeping rooms in accordance with the institution's possibilities and with their own agreement. They serve the imprisonment sentence in a group and they are disposed in groups, where the measures of education and re-education of same type may be implemented. The convicts are obliged to

[3] In that aspect the convicted persons of a different sex will serve the imprisonment sentence separately, the convicted persons who serve an imprisonment sentence for a first time will be separated from the recidivists, the sentence for juvenile imprisonment imposed upon juveniles under age of 23 years shall be executed separately from the adults sentenced to imprisonment, the persons being in pre-trial detention will be separated from the persons serving the imprisonment sentence. In the institution for execution of the imprisonment sentence, the convicted persons will be classified according to the necessity and the type of the required treatment, their age, personal characteristics and other circumstances of importance for the evaluation of the personality of the convicted persons. Also, in the facilitiy for execution of sanction convicted persons will be classified according to necessity for performing measures for treatment and the type of treatment, their age, personal characteristics and other circumstances that are important for evaluation of the personality of the convicted person. In the disposition, classification and dislocation of the convicted persons, the type and the nature of the committed crime and the level of the criminal responsibility must be taken in consideration.

follow the institution's rules. Also, it is foreseen that the discipline in the institution for execution of the imprisonment sentence should be maintained rigidly but righteously with respect of the human personality. But collective punishment of convicts is prohibited, as well as the use of forcible means as a punishment. Also it is prescribed that the convicted persons are provided with a health care. They cannot be exposed to medical or other experiments which disturb their physical, psychological and moral integrity. The agreement of the convicted person for their participation in the experiment does not exclude the responsibility of the person who approved it. Also, the convicts should be provided with work, which will be useful and an appropriate to the way of its performing at freedom. The achieving of an economic benefit must not be the only goal of the work. The convicts must not be required to do activities, which are dangerous and harmful for their health and the working hours has to be adequate with the working hours at the freedom. Also, it is prescribed that the convicts do not pay taxes for the petition requests, official actions and decisions taken in connection with the implementation of provisions of the Law on execution of sanctions (LES, Art.44–48).

The Position of the Convicts

Starting from the general principles for the execution of a sentence of imprisonment, the position of the convict determined with a court judgment, as well as from the aims and criteria of the classification, both the expert team of the institution and its director shall determine the convict's classification, accommodation, programme on convict's treatment and labor engagement.

In that aspect, conditions are determined precisely concerning the premises for accommodation of convicts in terms of their minimum size (for each convict at least 9 cubic meters space), the basic hygienic requirements, the needed sanitary and hygienic installations.

There is obligation for respecting the rules that are prescribed, in accordance with the institution's possibilities for their accommodation in separate rooms at night, providing every convict with a separate bed, in cases of their accommodation in joint premises (not exceed the number of 5 persons in one sleeping room), a careful selection should be made of those convicts who are suitable for socializing with other convicts in the institutions, and performing a supervision at night, (into conformity with the institution's type and nature).

Also, other issues are precisely determined, such as providing the convicts with clothes, underwear and shoes that should be suitable for the

climatic conditions and the season, while must not in any manner be degrading or humiliating one. They should be clean and in good order.

Further, the convicts have to be provided with appropriate bedding suitable for the climate conditions, which should be maintained in a good order and changed as frequently as it is necessary for the bedding to be always clean.

The convicts are obliged to maintain their personal hygiene and therefore they should be provided with water and with toilet items as are necessary for both maintaining hygiene and preserving the health. Because of healthy reasons and in order to maintain their good appearance and self-esteem, the convicts should be enabled to maintain the hair and its cutting, and the convicts-males should be enabled to shave themselves.

The convicts shall be provided food, that must be precisely prescribed, adequate to the scientific knowledge as to food, and it has to be heterogeneous as well as tastefully prepared. The food shall be equal for all the convicts and they shall be allowed to choose the food being prepared in the institution. Exceptions have been prescribed for the convicts performing heavier activities and they shall receive four meals daily, the ill convicts, pregnant females before their parturition and those after their parturition, shall receive a food according to the quality and type determined by a doctor. Every day before the meal's distribution, the director, the doctor or other qualified person in the institution shall check up the food's quality and enter the findings into the control book. Healthy drinking water shall be available to the convicts at any time.

Also, there is possibility according to which the convicts can work during the enforcement of sanction (depending on the section treatment and the amount of the penalty they can work in the institution's economy units, outside the institution, under supervision in legal entities and other institutions, in the legal entity where they used to work prior to serving the sentence). The full working hours of the convicts shall be 40 hours weekly, and as an exception, the full working hours of the convicts may last longer than 40 hours weekly, in the cases and under the conditions as stipulated by law. The convicts have the right of compensation for the work. Also, they are entitled to eight hours uninterrupted rest during the day and one day for rest in the week. The convicts must be enabled to spend at least two hours daily outside the closed premises. 70% of the convict's compensation may be used to satisfy personal needs, and the rest of 30% are kept as a deposit in the institution and shall be given to the convict at his release from serving the sentence or, upon his request, it may be given to his family during serving the sentence.

The convicts being temporarily unable to work without their own guilt because of illness, have a right of compensation from the funds

achieved by the convicts' work, with an appropriate implementation of the general regulations on health insurance. Also, the convicts who don't work without their own guilt and who have not their own funds, shall be provided by the institution with the essential means for satisfaction of their personal needs.

It is prescribed that the convicts having spent 6 months of an unbroken work, including here also the time spent for healing because of their labor injury or vocational illness shall have a right of an unbroken annual vacation in accordance with the general regulations. If not otherwise stipulated by the Law, the vacation shall be spent in special premises of the institution. The stay in those premises during the annual vacation should be organized in a way that will make possible relaxation, recreation and rest of the convict. During spending the vacation, the convict shall receive a compensation for work as if he has worked.

The convicts have the minimum technical prerequisites for protection while performing work. Also, they have a right of disability insurance for an accident at work or a vocational illness. The convicts have been granted an accrued time for the period of time which they spend working with full working hours according to the general regulations, if they pay the contributions from the compensation for work. The convicts have a right of health protection according to the general regulations and are provided with the necessary medical aid and hospital treatment according to the general regulations, while the expenses for the health protection are covered by the Budget of Republic of Macedonia.

In a case the convicts are suspected of being ill of a contagious disease, or noticed to suffer physical or mental disturbances which may prevent them from their adaptation in the milieu, they should be accommodated in special premises of the institution, upon both medical findings and referral by the doctor. The convicts with determined physical and mental disturbances, as well as certain addictions, shall be subject to medical treatment in the institution, and when it is necessary, upon medical findings of a doctor, they shall be referred in an appropriate medical institution. An ill convict may request a specialist medical check-up at his expense, if the institution's doctor has not determined such check-ups. The institution's director shall decide the convict's request after receiving an opinion by the institution's doctor. If the convict endangers his health or life by refusing food or by refusing medical treatment, necessary medical measures to feed and heal him may be undertaken even without his consent.

The LES guarantees the fundamental rights of the convicts-females during their pregnancy, parturition and maternity and prescribes providing them with an expert medical care, as well as to the leave of absence from work, when the general regulations are applied. As a rule, the convict-

nursing mother shall stay in the maternity section until her child has become one year aged, if before it she has not been released from the serving her sentence.

Also, the legislation prescribes obligatory organization of education, as a part of the general system of education and training, providing conditions for organizing and developing sports, recreational and other leisure activities, which are of relevance to the maintaining of physical and mental health of the convicts, providing libraries in the institutions, using books and daily press in Macedonian language and in the language and letter of their ethnicity or in the language they speak, and enabling them to use other means of public information and communication.

The convicts are allowed to satisfy their religious feelings and needs in accordance with the institution's conditions and possibilities.

According to the European Prison Rules prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organizations and to receive visits from these persons. Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact. In any case it is prescribed that national law shall specify national and international bodies and officials with whom communication by prisoners shall not be restricted. In Republic of Macedonia regarding the communication of the convicts with the outside world a possibility is prescribed according to which the convicts have a right to keep up a correspondence, while the correspondence in the institutions of closed type and in the closed divisions shall be performed under the supervision of the institution. The institution's director shall prevent the delivery of a letter if it is necessary for protection of the convict's personality or for the reasons of the institution's security. According to article 142 of the LES the convicted person is entitled without any kind of limitations to communicate with his/hers defense lawyer, the state institutions and with the international organizations for protection of human rights. Also, the convicted person may be allowed to have telephone calls. Upon request by his family, the telephone conversation with the convict may be allowed if it is necessary for him/her to be informed about something which is urgent and which cannot be postponed. The telephone conversation in both the institution of closed type and in the closed division shall be made in presence of an official person.

According to international standards and national law the convicts in Republic of Macedonia have a right to receive visits from the members of their closer family, other persons, (with the approval of the Director of the institution), his defense lawyer or proxy holder who represents him in his legal and other affairs. The visit of the defense lawyer shall be performed without presence of an authorized person.

It is prescribed that the Director of the Directorate will enable visits by representatives or authorized persons of the state organs and other institutions who, in accordance with the Law, the general regulations and the International Law, are supervising the work of the penitentiary institutions. Also, the Director of the Directorate will enable the representatives or authorized persons of competent state organs to make visits in order an enquiry to be conducted as well as to collect sufficient evidence for conduction of criminal procedures. According to Article 149, paragraph 3 of the LES, the Director of the Directorate may permit visit of representatives of:

1) Institutions and associations tasked to work on the protection of the human rights of convicted persons

2) Media

3) Institutions, science-educational institutions, associations and persons who work on a research study for elimination and prevention of crime.

In that aspect, the visitor compulsory has to hand over written request with the explanation of the reasons for the visit and the Director of the Directorate may permit the visitor a conversation with convicts. It is prescribed that the visit by those persons could be postponed or denied because of security reasons. The convicted person has the right to refuse any photographing, recording, as well as meeting the visitor.

The convicts may receive shipment. Before handing the shipment, its contents shall be checked up in the presence of the convict. The convicts have right to receive a monetary shipment, which they handle in accordance with the institution's house rules.

Also it is prescribed that the convict may be married while serving a sentence. If it is impossible for the marriage to be concluded before the competent organ at freedom, it shall be made in a special room of the institution.

Prescribed rights and obligations of the convicts according to the legislation are explained further with the appropriate secondary legislation. In this respect the convicts have the right to information, or to have available laws, by-laws pertaining to the way of executing the imprisonment, the rights and obligations of the convicts during the imprisonment, the House Rules of the institution and Manual for convicts (House Rules, Art.40). That is in a

way in accordance with the provision according to which every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution (Council of Europe, Resolution (73) 5, Item 35.1)

Protection of the Rights of the Convicts through Usage of Legal Remedies

The international standards prescribe that the protection of the individual rights of prisoners with special regard to the legality of the execution of detention measures shall be secured by means of a control carried out, according to national rules, by a judicial authority or other duly constituted body authorized to visit the prisoners and not belonging to the prison administration. (Council of Europe, Resolution (73) 5, Item 56.2) In that respect, the prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority. If mediation seems appropriate this should be tried first. In case when a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority. In any case prisoners shall not be punished because of having made a request or lodged a complaint. The competent authority shall take into account any written complaints from relatives of a prisoner when they have reason to believe that a prisoner's rights have been violated. No complaint by a legal representative or organization concerned with the welfare of prisoners may be brought on behalf of a prisoner if the prisoner concerned does not consent to it being brought. Prisoners are entitled to seek legal advice about complaints and appeals procedures and to legal assistance when the interests of justice require (Council of Europe, European Prison Rules, Item, 70.1 - 70.7) Here we should point out the amendments proposed by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment according to which the development in international standards shall be mirrored in changes to Rule 35 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), reflecting that the rights of detainees to legal representation and to access to justice should not only pertain to fair trial, but are also necessary to protect detainees' specific rights relating to detention regime and conditions (Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment, Summary on the discussion on the on-going process to amend the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), 2013, item 8)

In Republic of Macedonia the constitutional right of every citizen to petition state and other public bodies, as well as to receive an answer (Constitution of the RM, Art.24) is precisely determined with the legislation.[4] For that a citizen cannot be called to account or suffer adverse consequences for attitudes expressed in petitions, unless they entail the committing of a criminal offence. Although convicts are in a special position in correctional institutions they have the right to petition to the bodies responsible for enforcement of sanctions and to the other authorities competent to act in order to protect human rights. They also have the right to protection of their rights in a manner and procedure provided by the Law on the execution of sanctions. To protect their rights related with their position and treatment in the institution, for questions related with the sentence, as well as for protecting their families and interests, the convicts have a right to submit legal remedies, petitions and other requests to the competent organs and to receive answer from them. The legal remedies, petitions and other requests, as well as the answers received shall be referred and received through the institution. The institution is obliged to provide the convicts information and legal aid how to use the legal remedies and how to take actions to protect their rights. The illiterate convict may also submit legal remedy or other petition request in minutes that will be taken in the institution. On the legal remedy, petitions and other requests as well as on the envelope of the answers received, there shall be written the time and the date of their reception in the institution, and after it, all of them shall be at once sent to the addressee that is the answer shall be delivered to the convict. It is very important to stress that in submitting the legal remedies, the convicts have a right of discretion (LES, Art. 166, 167)

As to the violated right or other irregularity, the convicts have a right of an oral complaint to the institution's director or to the person authorized by him. Also, they have the right of written complaint to the institution's director, within the term of 8 days from the day when the right's violation has taken place or 8 days from the learning about that violation. In cases when the convicts are illiterate they are entitled to give the written complaint at the minutes that will be taken before the institution's official person, which is

[4] The Law on Proceedings upon Grievances and Suggestions regulates the procedure according to which complaints and proposals of citizens and legal entities are to be handled by public authorities, such as: the President of the Republic of Macedonia, the Parliament of the Republic of Macedonian, the Government of the Republic of Macedonia, the courts, state government bodies, local governments, public institutions and services and other bodies and organizations exercising public powers.

authorized by the institution's director. The institution's director is obliged to examine the assertions stated in the complaint and to issue a decision within the term of 8 days from the day of appeal's reception. Against the decision of the institution's director or in case when the director has not decided on the lodged complaint within the term stipulated by law, the convict has a right to lodge an appeal to the Directorate within a term of 8 days. The Director of the Directorate is obliged to examine the assertions stated in the complaint and to issue a decision within a term of 15 days from the reception of the appeal. The Directorate's decision is considered as final. Against the decision of the Directorate's director and in cases when the convict has not received an answer from the Directorate within the term determined with the law the convict has a right of court protection (LES, Art. 168-171)

Against the decisions issued by the competent court for stoppage of the sentence for a period longer than 30 days and parole, as in other cases determined by the LES, the convict and the Public prosecutor have a right of appeal to the higher court within a term of 3 days from the reception of decision. If not otherwise stipulated by the LES, the convict's complaint will not postpone the execution of the decision, against which an appeal has been lodged. The procedure for protection of the rights of the convicts', which have been initiated by using legal remedies, is urgent (LES, Art. 172, 173).

When the convict considers that his human rights have been violated during the serving of the sentence he/she may submit a complaint to the European Committee for prevention from torture and inhuman behavior and to High commissioner for Human rights in United Nations. Upon request by those bodies, the director of the Directorate shall entirely examine the complaint's assertions of the convict and shall inform the appropriate body about the established facts through the Ministry of Justice. It is prescribed that the Director of the Directorate shall enable the representatives of the bodies or the organ to have an immediate inspection and conversation with the convicts and the official persons, for establishing the situation upon a convict's complaint lodged to those bodies (LES, Art.174). Those provisions contribute to achieving greater scrutiny of penitentiary institutions and with that to greater transparency in those institutions in the country.

Starting from the established international standards that all prisons shall be subject to regular government inspection and independent monitoring, it is prescribed that prisons shall be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law, and the provisions of these rules. In that respect, European Prison Rules prescribe that the conditions of detention and the treatment of prisoners shall be monitored by an independent body or bodies whose findings shall be made public. Such independent monitoring body or bodies are encouraged to co-

operate with those international agencies that are legally entitled to visit prisons. While it should be noted that there are differences in supervision by different oversight mechanisms, including that there may be differences in their competence and capacity, which inform a different approach. For example, a visit by the National Preventive Mechanism or an Ombudsman, (notwithstanding that in some states the Ombudsman is the NPM) may be different; e.g. it may be a preventive visit or it may be to investigate a complaint. (Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Summary on the discussion on the on-going process to amend the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), 2013, Item 17).

Regarding the protection of the rights of the convicts in penitentiary institutions in Republic of Macedonia as a national control mechanism we should highlight the activities of the Ombudsman of the Republic of Macedonia), who before being appointed as a national preventive mechanism against torture acted upon the complaints[5] from the convicts and through preventive visits generally followed the situation in penitentiaries. It should be pointed out the amendments to the legislation concerning the Ombudsman in order to strengthen the role and importance of this institution in the Republic of Macedonia. Namely, the amendments particularly emphasized the special competence of the Ombudsman in terms of his treatment towards detainees and imprisoned persons that are residing in the penitentiary and correctional institutions. With the clearly listing of the competence of the Ombudsman to conduct direct inspections and visits at any time without prior notice and approval, to talk to people in these organizations or institutions without the presence of officials, additional opportunity to act in this field is given to the Ombudsman in order to strengthen the protection of the rights of these citizens. In this regard, is the possibility envisaged for the residents in these institutions to have the right to send complaints to the Ombudsman in a sealed envelope without being checked by the officials of the agency, organization or institution that houses them and to get a response in a sealed envelope without being checked by the officials? Additionally, metal mailboxes have been placed in those institutions where the convicts may put complaints, comments and requests, and those boxes can be opened only by the Ombudsman. The reason for this was that the complaints from the convicts and the requests did not arrive to the addressee or to the authorities, as was observed by the Ombudsman in the previous period of

[5] In the last five years the number of petitions filed by the convicts to the Ombudsman of the Republic of Macedonia was 8.27% of total complaints filed in 2011, 6.40% of the total complaints filed in 2012, 9.77% of total complaints filed in 2010 year, 9.55% of the total complaints filed in 2009 and 7.05% of total complaints filed in 2008 (Ombudsman of the RM, Annual Reports, 2008, 2009, 2010, 2011, 2012)

operation. But, the question is their proper and smooth use. In fact, during 2012, the Ombudsman found that in the Prison in Strumica the Prison service has a direct insight on the mailbox of the Ombudsman, and that on the mailbox there was a written paper Directorate for Execution of Sanctions that could mislead the convicts. Also, when visiting Tetovo Prison the Ombudsman concluded that mailbox is not correct, it is easy to open it and both the convicts and the prison staff have access to it. In addition it was found that through a system of video surveillance the Director personally and the Security service in Tetovo Prison has direct control over the mailbox. (Ombudsman of the Republic of Macedonia, National Preventive Mechanism, Annual Report, 2012, p.61). It is undisputed that from the analysis of the Ombudsman's work it could be concluded its important role because through direct contact with the convicts and insight to spot the Ombudsman concludes[6] the actual conditions found that are related with the execution of the sanctions of the convicts.

Results of the Research: "The Position of the Convicts in the Penitentiaries in the Republic of Macedonia"

In order to investigate and determine the attitudes of the convicts in the penal and correctional facilities in the Republic of Macedonia from October to December 2012 a Research project "The position of the convicts in the penitentiaries in Republic of Macedonia" has been conducted by a research team from the Faculty of Security – Skopje in five Macedonian prisons (Idrizovo, Stip, Bitola, Strumica, Struga and Tetovo). One of the goals of this project is the analysis of the protection of the rights of the convicts by using legal remedies in context of the treatment of the convicts in the penal and correctional institutions in Republic of Macedonia.

In terms of protecting the rights of the convicts by using the legal remedies in the survey have been analyzed various issues arising from the normative framework for execution of sanctions. In that aspect we should stress that were taken into account only the results of those respondents who answered the analyzed questions. Of course it is indicative the number of

[6] General conclusions of the Ombudsman of the Republic of Macedonia are that the living conditions in prisons are inadequate, particularly because of their overcrowding and other conditions, in terms of communication of the inmates with the outside world found that is satisfactory, then the absence of continuous exercise of the supervisory function in the prisons and that the visits of the inspectors for enforcement of sanctions and the judges for the enforcement are only formal. As a result of the concluded facts the Ombudsman estimated that generally there is not significant positive progress regarding the functioning of the penitentiary system in the country according to the standards established by LES and international norms (Ombudsman of the Republic of Macedonia, Annual Reports, 2008, 2009, 2010, 2011, 2012)

convicts who did not answer the questions, perhaps due to the complexity of the formulated questions arising from the specific material that covers the legal issues or due to a fact of not existing of additional question that will include the respondents who did not have a need to use legal remedies. As can be seen from Table 1 the question numbered from 26.1 to 26.8 apply to legal protection which the convicts accomplish within the authorities responsible for execution of sanctions. Other questions from number 26.9 to 26.13 apply to the legal protection that the convicts can perform before other national and international bodies when they seek protection of their rights in cases when they believe they were injured during the execution of the sanction in penitentiary and correctional institution.

Table 1 - Protection of convict's rights through usage of legal remedies

	Total	Not answered	Answered	No (%)	Yes (%)
26.1. Does the institution give information and legal assistance for the use of legal remedies and taking actions to protect their rights?	201	16	185	56,2	43,8
26.2. Are you familiar with the right to submit legal remedies, petitions and other submissions to the relevant authorities and other institutions and to get an answer from them in order to protect your rights?	201	17	184	47,3	52,7
26.3. Have you been given the right to use the oral complaint for violation of right or committed other irregularities to the director of the institution or person authorized by him in?	201	26	175	42,7	54,3
26.4. Have you been given the right to use a written complaint to the director of the institution, within 8 days from the violation of right or from the knowledge for the violation of right?	201	28	173	41,6	58,4
26.5. In case you have submitted a written complaint to the director of the institution, has the director made a decision within eight days from the receipt of the complaint?	201	48	153	49,7	50,3
26.6. Have you been allowed to submit an appeal within 8 days to the Director of the Directorate for Execution of Sanctions against the decision of the director of the institution or if the director has not decided upon the complaint within 8 days?	201	53	148	57,5	42,6
26.7. If you have submitted a complaint to the Director of the Directorate for Execution of Sanctions whether the same has been decided within 15 days?	201	61	140	61,4	38,6
26.8. Have you been allowed to use the right to judicial protection in case when you did not receive a response from the Directorate within 15 days?	201	70	131	67,9	32,1

26.9. Are you familiar with the possibility to apply to the European Committee for the Prevention of Torture and Inhuman Treatment or the High Commissioner for Human Rights of the United Nations when you consider that your basic human rights have been violated during the execution of the sanction?	201	27	174	60,3	39,7
26.10. Have you been allowed to apply to (CPT), the European Committee for the Prevention of Torture and Inhuman Treatment or the High Commissioner for Human Rights of the United Nations when you consider that your basic human rights have been violated during the execution of the sanction?	201	50	151	71,5	28,5
26.11. If you answered YES on the previous question, has the meeting been granted with the representatives of those bodies or authorities?	201	86	115	68,7	31,3
26.12. Are you familiar with the right to seek specific protection from the Ombudsman of the Republic of Macedonia if you are subjected to torture or other cruel, inhuman or degrading treatment or punishment in the institution?	201	26	175	39,4	60,6
26.13. Have you asked the protection from the Ombudsman of the Republic of Macedonia, because you have been subject to torture or other cruel, inhuman or degrading treatment or punishment in the institution?	201	25	176	68,8	31,3

Namely, the questions under number 26.1 and 26.2 apply to the issue how much the convicts are informed about the possibility to use legal remedies for protection of their rights. In that aspect, from 201 convicted person did not answered 16 persons on the question whether the institution provides information and assistance to the use of legal remedies and taking actions to protect their rights. From 185 convicted persons who answered this question more than half or 56.2% responded negatively or that the institution does not provide them with information and legal advice regarding the use of legal remedies and taking the actions to protect their rights, and 43.8 % answered positively. Regarding the question whether they were familiar with the right to file legal remedies, complaints and other submissions to the relevant authorities and other institutions and to get the answer from them in order to protect their rights did not answered 17 persons out of 201 convicted persons. Thus the 184 convicted persons who responded 47.3% answered negatively and more than half or 52.7% responded positively or that they are aware of their right to submit legal remedies to the authorities for the protection of their rights. In that aspect from the distributed answers it can be concluded that, more than half of the

respondents who answered the questions, which is associated with awareness of the ability to use legal remedies to protect their rights are familiar with normative possibilities, but that the institution did not have a large impact on the information and the legal assistance in aspect of their practical use.

The question under number 26.4 to 26.8 applies to the use of certain legal remedies within the facility by the convicts regarding the protection of their rights. Thus, in terms of whether they were allowed to exercise their right to an oral complaint to the director of the institution or person authorized by him, regarding the violation of right or other committed irregularity from total of 201 convicted persons 26 did not responded. From the 175 persons who answered this question more than half or 54.3% responded positively, that they were allowed to exercise their right to an oral complaint to the director of the institution or person authorized by him for violation of their certain right or other irregularity. However a high percentage of respondents or 42.7% answered that they were not allowed the right to an oral complaint to the director of the institution or person authorized by him.

Regarding the question whether the convicts were allowed to exercise their right to a written complaint to the director of the institution, within 8 days of the violation of the right or from the knowledge of the violation of law answered 28 people out of 201 convicted persons. Thus, from 173 respondents who answered 41.6% responded negatively and 58.4% responded positively or that they were allowed to exercise their right to a written complaint to the director of the institution. While only 50.4% (from 153 convicted persons who responded) of respondents said that in cases when filed a written complaint to the director of the institution he/she issued the decision within eight days of receipt of the complaint. The results are worrying in aspect that more than half or 57.4% (from 148 persons who responded) of respondents were not allowed to appeal within 8 days to the Director of the Directorate for Execution of Sanctions against the decision of the director of the institution or if the director has not decided upon the complaint within 8 days. Is worth mentioning that 53 convicted persons out of 201 convicted persons, who participated in the survey, did not answer this question that imposes the conclusion that they probably were not in such a position to appeal to the Direction for Execution of Sanctions. Quite a number of respondents that did not answer the question if appealed to the Director of the Directorate for Execution of Sanctions whether it has been decided within 15 days, or 61 persons did not answered from a total of 201 respondents. From 140 respondents who answered this question 61.4% responded negatively, while only 38.6% responded positively or that within the legal determined period was decided upon their appeal by the Directorate for Execution of Sanctions. Also, is high the number of respondents (70

persons) who did not answer the question whether they were allowed to exercise their right to judicial protection and in case they don't receive a response from the Department within 15 days, implying the conclusion that it probably comes to persons who had no need to seek court protection. However, quite worrying is that from 131 persons who answered this question 67.9% of respondents answered negatively or that they were not allowed to exercise their right to judicial protection.

Questions from 26.9 to 26.13 apply to information and opportunity of the convicts to seek protection of their rights before other national and international bodies. Thus, on the question whether they were familiar with the opportunity to submit a request to the European Committee for the Prevention of Torture and Inhuman Treatment or the UN High Commissioner for Human Rights when they consider that their basic human rights have been violated during the execution of the sentence, only 39.7% of the 174 respondents who answered this question gave a positive response that they are familiar with the possibility to apply to this body or authority, that speaks that they are not sufficiently addressed for the opportunities offered by the legal framework.

From 151 respondents who answered the question whether they were allowed to apply to (CPT), the European Committee for the Prevention of Torture and Inhuman Treatment or the UN High Commissioner for Human Rights when they considered that their basic human rights have been violated during the execution of the sentence, a high percentage of 71.5% respondents gave negative answer or that they were not allowed. On the question if they were allowed a meeting with the representatives of the above mentioned bodies in cases when they applied to 68.7% of respondents out of 115 persons who answered this question said they were not allowed, and 31.3% said they were enabled to do that.

On the other hand is quite a high percentage of respondents (60.6%) of the 175 respondents who answered positively to the question regarding the awareness of the right to seek specific protection from the Ombudsman of the Republic of Macedonia if they were subject of torture or other cruel, inhuman or degrading treatment or punishment in the institution. However protection from the Ombudsman of the Republic of Macedonia, in cases they were subject to torture or other cruel, inhuman or degrading treatment or punishment in the institution sought only 31.3% of the 176 respondents who answered this question.

The results of the research project that reflects the attitudes of the convicts regarding the protection of their rights by using the legal remedies according the legal framework show that the level of awareness of opportunities for convicts to protect their rights through the use of legal remedies is low, and extremely is low the percentage of convicts who had

been decided in the legal determined deadline regarding their requests by the bodies competent for the execution of the sanctions. Also, the level of awareness for the opportunities to protect their rights through the competent international bodies and authorities it is not satisfactory, although the situation is slightly better regarding the awareness of the competencies of the Ombudsman of the Republic of Macedonia. However, the percentage of respondents who were enabled to seek protection of their rights before these bodies and institutions or to perform talks with them is low.

Conclusion

Republic of Macedonia since the independence in 1991 until today, and especially after becoming a candidate country for the European Union membership undertakes many activities in order to harmonize its legislation with the EU legislation and internationally accepted standards. In the field of execution of the sanctions Republic of Macedonia is trying to follow international standards and in this regard had ratified important international conventions and documents that concern this field. International standards in this field are implemented in the Macedonian legislation intended to ensure adequate protection of the rights of the convicts, as a special category of people who have limited right to freedom of movement and for whom the state should also provide minimum standards for enjoyment their rights. However, despite the efforts to take appropriate decisions to improve the normative and institutional solutions in this area however for the negative developments in this field speak numerous reports of relevant institutions (e.g. the European Committee for the Prevention of Torture and other inhuman treatment, the Ombudsman of the Republic of Macedonia). In that respect European Commission found some limited progress in 2011[7] and some progress in the area of the prison system in Republic of Macedonia in 2012.8 Hence there is a need to take urgent measures that will improve the

[7] European Commission in 2011 found that parts of the prisons where degrading and inhumane conditions had been reported, including the semi-open wing of Idrizovo prison, were renovated. Also, has concluded that the country has yet to develop an effective national strategy for the prison system. Overcrowding and poor health-care remain causes for concern. Most of the prisons remain underfunded, understaffed and unable to cover their basic maintenance expenses. One of the conclusions was that an effective independent inspection mechanism is needed in order to safeguard against human rights violations in prisons. (European Commission, the Former Yugoslav Republic of Macedonia, 2011 Progress Report)

8 European Commission in 2012 found that number of measures were adopted on re-socialisation of convicted persons, also a risk assessment manual was produced, identifying risks and the needs of prison inmates, than standardized procedures were adopted regarding the management of penitentiary facilities, notably the procedures for hygiene

position of the convicts in the penitentiary institutions in RM. For that purpose, first of all, besides further improvement of the normative framework and institutional capacity, is necessary to take concrete measures to continuously inform the convicts for the opportunities available to them in order to use the legal remedies to protect their rights and especially to enable them to use those remedies in practice. Also, for proper implementation of the rights of the convicts and especially for their proper information and practical use of legal remedies there is a need to take measures for training of the staff in the institutions responsible for the execution of sanctions.

Of course the starting point for undertaking such comprehensive measures and activities aimed at improving the situation of convicts in correctional institutions in the Republic of Macedonia should be empirically comprehensive research in order to detect specific problems that exist at the moment and will also enable to determine the parameters for future possible changes in order to improve the situation of convicts in correctional institutions in the country. Preliminary results of a survey on the situation of the convicts in the penitentiary institutions in Republic of Macedonia to some extent give a picture of the situation concerning the execution of sanctions. The analyzed results of the research give general conclusion that the awareness for and use of legal remedies to protect the rights of the convicts is on low level and that is certainly a basis to take some concrete measures to improve the situation in this field.

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LIMITATION OF HUMAN RIGHTS DURING POLICE CONDUCT IN CRIMINAL AND MINOR OFFENCE PROCEEDING

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Abstract

The Republic of Srpska Police represents a state body that is entrusted with the use of force monopoly for the purpose of protection of the state, the legal order and citizens from violent threatening. This made the Police a body which cannot be avoided during the initiation and the course of the criminal and minor offence proceedings.

When analyzing the role of the police in criminal and minor offence proceedings, it can be concluded that the police is the one which gathers evidence necessary to initiate, lead and wrap up the criminal and minor offence proceedings. In order to meet all the requirements in these procedures and during its conduct, the police may limit the human rights and freedoms to a great extent. This is justifiable if that limitation is according to the law, that is, if it is done for the purposes of the evidence gathered for the trial, and only in the cases and the manner prescribed by the law.

In order to avoid limitations of human rights during the police conduct, it is necessary that the police keep to the certain principles, as well as to the principles of criminal and minor offence procedures derived from the international legal documents.

This paper will point out the principles that police must meet in their conduct, as well as the human rights that may be limited during the police conduct, all for the purpose of meeting legal requirements in the criminal and minor offence proceedings.

Key words: human rights, police, principles, limitations, protection.

Introduction

If human rights are considered an essence of each democratic system and legal order, then it can be interesting to analyze the manner in which police, as one of the fundamental state bodies for human rights protection, may be able to limit those rights during their conduct.

Certain legal provision provides the police with the possibility to limit some human rights and freedoms when performing their activities and meeting legal requirements from the area of their competences (criminal and minor offence proceedings).

Since internal security and safety of a state represent one of the basic tasks of the police, it is necessary to point out that it is only possible if the police is given the powers that can limit human rights of those who have, in some way, menaced the rights and freedoms of other citizens, or have threatened to endanger the legal order.

When observing the concept of human rights at one hand, and the police role in a community on the other hand, it can be noted that it is a two-way connection. This connection is based upon the fact that the police is a state body set up by the government to protect the legal order of the state, while the human rights serve to protect citizens from possible threatening by the government. At the same time, the police represent the most important body entrusted with the task to protect human rights.

Therefore, the police are empowered to maintain the legal order in a society and to protect social values proclaimed by the very state. In order to provide the protection of the proclaimed social values, it is necessary that the state prescribes certain rules that must be obeyed in order to protect the mentioned values and establish the system where disobedience of those rules will be sanctioned. The role of the police is to maintain the social order in a way that it provides for the obedience of the rules of conduct prescribed by law and suppresses any aspect of illegal activity. To put it simply, it suppresses all behavior qualified as those which are opposed to the rules prescribed by the state. The procedures in which police enabled the judicial bodies to sanction the individuals who break the rules prescribed by the country are criminal and minor offence proceedings (it is necessary to mention that a minor offence proceeding provides for certain cases where the police are allowed to sanction the perpetrators by themselves). Through this role in the mentioned procedures, the police fulfill their essential of protection of social values proclaimed by the state. On the other hand, the police also limit the human rights of those who have broken social rules or have behaved in illegal manner, that is, have threatened the protected social values.

In order to prevent possible misuse during the police conduct in criminal and minor offence proceedings, it is necessary that the police follow the principles of these proceedings, but also to keep up to the principles of their police powers at the same time. Thus, the police in concrete cases cannot apply the law in manner that will have violation of law and human rights as a consequence.

In their conduct in the criminal and minor offence procedure and by applying their powers, the police can violate the following human rights guaranteed by the Republic of Srpska Constitution: right to human life, right to freedom and personal safety, rights to protection of human dignity, physical and spiritual integrity, personal privacy, personal and family life, right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment, right to liberty, right to the equal protection in the proceedings before the court and other State bodies and organizations, the set of rights in the criminal proceeding, right to defense, right not to be held guilty for a criminal offence until proved so by a final decision of the court, right to the freedom of movement, to the freedom and secrecy of correspondence and other forms of communication, right to the protection of secrecy of personal data, right to the inviolability of the home, right to peaceful assembly and public protest.

Legal Limitations of Certain Human Rights

In order to discuss the limitations of certain human rights, it should be said that there is no universal and simple definition of human rights. Theory offers different principles, which are simply different points of view of human rights. This paper will not look into deep legal and philosophic views on human rights by different theoreticians, but it will only point out to one specific view on human rights by Misa Djurovic. Human rights are not simple elements; they are not atomic, but molecular in their structure. They are complex sets of elements. Each right is entitled to its content, scope and power. The content represents the immanent part of one right's identity, while scope and power are a relation part of that right and are dependent on the relation of that right with some other right or collective goals. Each right entails certain correlative obligations of other individuals or institutions. If we start from the assumption that the right is a simple ascertainment of the abstract freedom, we end up with nothing. The necessary condition for the presence of certain right is to have a limitation to the other one. Our freedom of action goes as long as the others have the duty not to disturb us, as well as our power goes as far as it encounters the power of others. (Djurkovic, 2001:81).

For a significant number of human rights, especially those which refer to freedoms, it was established a possibility to limit those rights by law and there were stated the reasons for such limitations. This does not refer to the limitations which apply to all human rights (obligation to obey Constitution and law, as well as dignity and rights of the others), but to the possibility to impose certain law limitation to the entitlement of some rights (e.g. arrest, search, tapping, limitation of freedom of movement, prohibition to gathering etc.) (Milosavljevic, Popovic, 2009:173). It can be noted that legal limitations of human rights have the aim to enable the state bodies entitled to preserve the legal order with the efficient authorization (at first place police), with the aim to bring to justice all those who act in illegal manner.

It is only the law that has that legal force to define the measures for limitation of certain human rights, as well as to foresee concrete cases where those measures will be applied, but it can also prescribe the manner in which certain limitations will be applied. If we look at it from the point of view of the police powers, it can be concluded that those police powers represent legal limitations of human rights, and their final goal is to set up the adequate measures which will be undertaken by the police with the aim to meet all requirements from the area of their responsibility. With regard to this, it should be noted that police powers can be defined as a legal and sufficient instrument for the protection of the state and their citizens. But if we look at the police powers from the point of view of the individuals who exercises them, it can be said that they are the right and obligation of each police officer so that they can undertake certain measures and actions in the law prescribed cases. (Jovicic, 2011:65).

Therefore it can be concluded that police powers, the ones that are applied in criminal and minor offence proceedings, are nothing else but legal limitations of certain human rights, and they enable police to exercise their role in the mentioned procedures in the most efficient manner. So it should be emphasized that police exercise part of the legal limitations of human rights in practice with the aim to sanction and bring before judicial institutions the individuals who perpetrate criminal or minor offences.

It is very important to have proportionality and control of proportionality between the public and individual interest when applying the police powers. For example, the law-maker will get the necessary support if they limit the freedom of movement to enable police to perform their tasks, but the support will be absent or significantly smaller if the freedom of movement is limited so that police work becomes easier. The correlation and balance between the police powers on one hand, and constitutionally-defined rights and freedoms on the other hand, are established by the Constitution. Therefore, it can be concluded that certain police powers are directly derived

from the constitutionally allowed limitations of certain rights and freedoms of the citizens. These constitutional limitations exist in order to protect public freedom and the rights of the others, which is at the same time the aim of the police that serves as an instrument for the country to guarantee and exercise that protection (Miletic, Talijan, 2011:148).

Principles of Criminal and Minor Offence Proceedings the Police Must Comply With in its Activities

The role of police in criminal and minor offence proceedings is of essential importance for the success of these two procedures. It is the police that provide the evidence for successful initiation and conduction of criminal and minor offence proceedings. The role of police in minor offence proceedings is broadened in the cases determined by the law, making it possible for the police to sanction the individuals who have committed a criminal offence and also determine the sanction for their illegal behavior. When fulfilling their legal obligations in terms of gathering evidence for successful initiation and conduction of these two procedures (regardless if police is fulfilling its criminal or minor offence role) the police must use its legal powers that include limitation of certain human rights. This is bound to happen since, on one hand, the nature of police activities makes this inevitable, and on the other hand, the nature of powers applied by the police implies that during the exercise of certain police powers, human rights of the persons upon who these powers are exercised are limited.

In order to prevent arbitrary procedures and abuse of powers given to police officers and endangering human rights, it is necessary to comply with certain principles that are valid in both criminal and minor offence proceedings. These principles were created as a consequence of obeying general principles of the Constitution of the Republic of Srpska, Constitution of Bosnia and Herzegovina, binding international conventions concerning protection of human rights, as well as those based on the Law on Minor Offence Proceedings of the Republic of Srpska and the Law on Criminal Proceedings of the Republic of Srpska.

Before pointing out to the principles that the police must obey during its procedures regarding criminal and minor offences, it should be emphasized that one of the characteristics of a minor offence in the Republic of Srpska is its link with the criminal proceedings, resulting in implementation of the same principles in these procedures. Therefore, minor offence procedures in the Republic of Srpska are regulated by the provisions referred to the Law on Minor Offences of the Republic of Srpska, as well as provisions of the Law on Criminal Proceedings of the Republic of Srpska that are applied in minor offence procedures mutatis mutandis. Concerning

the basic principles of the minor offence procedures, it should be emphasized that the minor offence procedure is conducted in compliance with certain regulations or principles that are applied as basic or managing principles. Those principles are taken from the criminal procedure, i.e. from the Law on Criminal Proceedings of the Republic of Srpska (Mitrovic, 2011:120-121). As we can see, the principles the police must comply with in criminal proceedings are identical to the principles that must be obeyed in minor offence proceedings. These principles must be obeyed because of two key reasons: first of all, during the actions in the abovementioned procedures, the police must obey basic principles of the procedure since they represent an active participant of these procedures upon whose legal activities depends the final result of the procedure. The second reason is the fact that obeying these principles, the abuse of police powers with the purpose of endangering human rights is prevented.

The following principles are applied in criminal and minor offence procedures: the principle of legitimacy, the principle of presumption of innocence, the principle in dubio pro reo, the principle ne bis in idem, the principle of the rights of persons deprived of their liberty, the principle of interrogation of the defendant, the principle directed to the right to defend, the principle directed to the right to use mother tongue and alphabet, the principle of notification delivery, the principle of legitimate evidence, the principle of assistance to an ignorant party, the principle pointing out to the right of compensation and rehabilitation, right to trial without delay, the principle of equality in proceedings, the principle of free evaluation of evidence, the accusatory principle, the principle of legitimacy of criminal and minor offence prosecution, the principle of two stages of criminal and minor offence proceedings, the principle of publicity, the principle of contradiction and the principle of proximity and morality.

In order to prevent broadening this issue, we will pay attention to only some of the principles. Naturally, in the beginning we should say more about the principle of legitimacy. This principle represents the basic principle of criminal and minor offence proceedings that all the participants in any of these two procedures are obliged to comply with. It can be easily concluded that, in accordance with this statement, the police also must obey this principle in their activities during these procedures. By obeying this principle, its essence is achieved and that is that no one who is innocent is grounded for a criminal or minor offence, and that the perpetrator of a criminal or minor offence is always pronounced appropriate sanction in compliance with the law. The importance of this principle is the fact that all the other principles are in accordance with the principle of legitimacy (Djordjevic, 2012:151). The principle of legitimacy implies that before bringing a binding verdict, the suspect, i.e. the accused may have limited

freedom and other rights only under the requirements prescribed by the Law on Criminal Proceedings. The purpose is that no innocent person is accused, and that the perpetrator of a criminal offence (or minor offence) is appropriately sanctioned. Among other things, the Law on Criminal Proceedings provides the assumption of innocence, the principle in dubio pro reo, the rights of persons deprived of their liberty, the rights of the suspect and the accused and the right to defend (Simovic, 2005:12). The principle of legitimacy originates directly from Article 111 of the Constitution of the Republic of Srpska where it is prescribed that "state bodies and organizations exercising public authorizations may deal with the rights and obligations of citizens only in certain cases or apply measures such as constraint and limitation, only in procedure prescribed by the law in which everyone is given the opportunity to defend their rights and interests and to file a complaint, i.e. use another legal means prescribed by the law".

The principle of assumption of innocence represents a principle that was entered into the criminal and minor offence proceedings from the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Constitution of the Republic of Srpska. This principle implies that no one may be considered guilty for committing a criminal offence or minor offence until determined by a binding verdict (in criminal proceedings) or valid decision on minor offence or final minor offence warrant (in minor offence proceedings). The acceptance and obeying of this principle in proceedings conducted by the police imply guaranteeing the respect of personality and dignity of the accused and contributes to the concept of "fair trial", as well as protection of the guaranteed human rights.

The principle of assumption of innocence is further exercised by application of regulations referring to argumentation on behalf of the initiator and the obligation of the court and other body to evaluate whether or not there has been a criminal or minor offence using certain level of possibility when reaching a verdict, using the principle of in dubio pro reo (Vejic, Gluscic, 2009:99). The principle in dubio pro reo implies the obligation of the court to bring a decision stopping the criminal or minor offence proceedings not only when it has been determined that the defendant is not guilty, but also when it has not been proved that the defendant has committed a criminal or minor offence (Mitrovic, 2011:123).

The principle of the rights of persons deprived of their liberty from the aspect of police in criminal and minor offence procedures plays a very important part in protection of human rights. The Law on Criminal Proceedings of Republic of Srpska and the Law on Minor Offences of Republic of Srpska prescribe the situations in which a police officer may arrest an individual who has committed a criminal offence. Logically, the use of this power is applied in a restrictive manner in minor offence proceedings.

By using this authorization, the police limit the citizen's right to freedom. Since there is a possibility to endanger one of the most fundamental human rights (right to freedom) during arrest, it is necessary to respect the rights of the persons deprived of their liberty, without exception. The rights of persons deprived of their liberty have their origin in the Constitution of the Republic of Srpska and other legal regulations the criminal and minor proceedings are based on. Every person deprived of his or her freedom has the following rights:

to be immediately informed about the reasons of apprehension and criminal or minor offence he or she is being accused of in their mother tongue or any other language that they understand,

to be advised that he or she is not obliged to give a statement, and that everything he or she says may and will be used as evidence against him,

that his or her family or any other person designated by him or her is informed about his apprehension,

the right to choose a defense attorney during the trail,

the right to unrestricted communication with his defense attorney,

the right for the defense attorney to be present during the hearing,

the right to be handed over to the prosecutor's office in the shortest possible period of time (in case of a criminal offence within 24 hours) or to be taken before the court immediately or within 12 hours (in case the arrest was conducted as a result of fulfilling the requirements to make arrest based on a minor offence),

the right to a trial within a reasonable period of time (in case of minor offence proceedings, the trail must be held within 12 hours after the arrest),

the right to inform a representative of the consulate in case of arrest of a foreign citizen,

the right to appeal in case of arrest, and other rights.

The essence of the principles that we have described, as well as other principles mentioned, is that they have to be obeyed in criminal and minor offence proceedings by the police, the court and the prosecutors' office in order to prevent endangering human rights and freedoms of the persons who have committed a criminal or minor offence.

Group of rights protected by the implementation and respect of the abovementioned principles in criminal and minor offence procedures refer to: right to independent, impartial and public trial before the court established according to the law, right to presumption of innocence of the defendant, right to know the subject of the charge, right to defend, right to examine the evidence and be present during activities related to evidence, defendant's right to remain silent, right to suggest the evidence and be

present during activities related to evidence, right to appeal, principle ne bis in idem, right to equality, respect the principle of legitimacy.

Principles that must Be Obeyed by the Police during Exercising Police Powers With the Purpose of Human Rights Protection

Police powers, and especially means of constraint as a special kind of police powers, represent powers inflicting deeply into human rights of the citizens. These reasons imply the obligation of respecting certain principles by the police when exercising these powers with the purpose of fulfilling its role in criminal and minor offence proceedings. In that context, we are primarily focused on the following principles: legitimacy, exercising measures with the least harmful consequences to citizens and their organizations, discretion in decision making, humanism and protection of human rights and freedoms, efficiency, restrictive use of constraint.

Regarding the principle of legitimacy in case of exercising police powers we can say that this principle would imply consent of all material documents of police officers with the legal documents referring to particular situation in which a certain police power is being exercised. In simple, police officers may use police powers only in situations when prescribed by the law and in the manner prescribed by the law or bylaws. This principle gives priority to the law and forbids actions contrary to the law and legal standards in general. The principle is based on constitutional regulations that generally prescribe that the abuse of human rights and freedoms is against the constitution and in compliance with that it is punishable, which is thoroughly regulated by the law.

The principle of exercising measures with the least harmful consequences to citizens and their organizations: This principle, the same as the previous one, has the rank of a constitutional principle, since it represents the other side of the principle of legitimacy. Considering the consequences and the level of endangering the citizens' human rights that exercising police powers may have on the citizens, which is particularly visible when exercising the power of constraint, one can clearly see the necessity of implementing this principle in practice. Proportionality in the use of force by police officers is of a high importance, and it simply means that a police officer using force must not cause greater harm than the one that threatened by a unlawful action which was prevented by coercion (Jovicic, 2011:75). In the context of this study, this would imply that the police in their handling of criminal and minor offence proceedings, when necessary to use force - must take into account to not jeopardize to a greater degree the human rights of persons against whom the constraints are applied, than the degree of

vulnerability of the human rights of third parties by their unlawful act caused by the person who acted unlawfully.

The principle of discretionary decision-making process of police powers must be applied in such a manner that it is not abused and misapplied. This principle leaves no possibility for the law enforcement officers to create a new right in certain situation (mimicking valid legal norms) and act upon their own discretion, but implies that they are to comply their behavior with one or more of the proposed legislative options to address a specific situation. Therefore, in case of a discretionary decision-making process, a police officer must choose between alternatives, but not in his own will, but always in public interest and in compliance with the purpose as referred to in the law.

The principle of humanity and protection of human rights and freedoms implies the obligation of police officers using police powers, especially the means of coercion, to take into account the dignity of people and their moral integrity.

The principle of efficiency imposes an obligation on the police officers in the application of force to apply their powers in a quick and efficient manner, thus ensuring that the rights of citizens are not unduly impaired in long terms, but only for the time necessary for the performance of required official duties.

Restrictive use of force as one police power that leaves consequences to the persons the force is applied on, demands the police officers to exercise these police power only while there is the reason for its use, meaning that, as soon as the reasons that led to the use of force cease to exist, using force must immediately stop. Besides this, restrictive means imply that the mildest means enabling the performance of official duties must be used when dealing with a particular situation.

Code of Conduct for Law Enforcement Officials

Code of Conduct for Law Enforcement Officials was adopted with the aim of improving the protection of the integrity of the humans, especially in situations where there are opportunities for human rights violations and abuse of power. The Code was adopted by the United Nations General Assembly Resolution 34/169 of December 17th 1979. The term "law enforcement officials" applies to all officers of the law, whether appointed or elected, exercising police powers, especially the powers of arrest or detention. Persons responsible for the application of the law by this code are obliged to protect human dignity and fundamental rights of the individual. In law enforcement, force may be used only in necessary situations, and to the extent required by the duty. One of the responsibilities is keeping secret and

confidential information acquired during performance of their duties and the prohibition of abuse of such data and information. Those responsible for law enforcement must take into account the health of persons deprived of their liberty, must not resort to acts of torture, inhuman or degrading treatment or punishment, must not be corrupt and the law binds them in the same way as all other citizens, they must obey the law and ethics and indicate its breach to persons or bodies monitoring law enforcement (Baksic-Muftic, 2002:201-203). It can be concluded that the intent of this international legal document to protect the integrity of the person and the human rights of people whose behavior is not in accordance with the law, that is, it is evident that all the rules and guidelines restrict those who exercise power in their action when interfering with the basic human rights.

Conclusion

It can be concluded that the police appear as a holder of a double role in relation to human rights: it is, on the one hand, the main carrier of the active role of human rights defenders, their function in society creates conditions for the enjoyment of human rights to all the members of the society, and on the other hand, it is obliged to act with the utmost respect for human rights.

By obeying the principles of criminal and minor offence proceedings and acting in compliance with the latter, the police are left without the possibility to abuse or endanger human rights of persons who have been accused or suspect for committing a criminal or minor offence.

It is essential that the police, in addition to the principles that apply in these proceedings, respect the principles that are essential for the protection of human rights of persons against whom police powers are applied, especially use of force by police officers. The most important principles are: the principle of legitimacy, exercising measures with the least harmful consequences to citizens and their organizations, discretion in decision making, humanism and protection of human rights and freedoms, efficiency, restrictive use of constraint. The essence of the existence of and adherence to these principles is precisely reflected in protection of human rights of persons against whom law enforcement powers are applied.

It is necessary to point out that often there are objections made by the police on the account of the concept of human rights, according to which the concept has negative consequences on the effectiveness of police conduct, and that it provides for the perpetrators than the victims of crime. Many believe that the police in their handling of criminal and minor offence proceedings are limited by the principles and rules that prevent them from achieving greater efficiency, and that those limitations are precisely related

to the concept of human rights. We consider this to be an informal fallacy, and to support this we would like to emphasize the following: the police is not required to take over the role of court of law and be the main distributor of justice, but to bring the perpetrators to justice and gather evidence for their prosecution, but it is also necessary for the police to comply its activities with the law and exercise its powers only in situations prescribed by the law and in the manner prescribed by the law. It is our opinion that the concept of human rights knows no limitations of certain human rights based on the law, but any arbitrary limitations of human rights are contrary to this concept, as well as any type of violation of citizens' equality before the law.

The meaning of human rights and their respect by police officers during criminal and minor offence proceedings is in restriction of the power of free acting of repressive state bodies (police) to the limit where the space of personal rights and freedoms begins, legally protected from interference of third parties and state bodies (police), that is the requirement that each such activity (referring to violation of those rights) must be based on the law. The point of existence of human rights is to guarantee an individual his or her independence from the government authorities where the requirements toward the state are reflected in not taking certain actions that would bring to question human rights and freedoms.

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THE RELATIONSHIP AND MUTUAL INFLUENCE BETWEEN SOVEREIGN EQUALITY OF STATES, INTEGRATION AND HUMAN RIGHTS AND FREEDOMS

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Introduction

To talk and to argue about the sovereign equality of states, in a situation of pervasive real inequality in the international community, is more than a challenge! Namely, it is obvious that in the modern era, the literature hardly pays attention to the issue of sovereign equality of states! In fact, the sovereign equality of states as a principle, was the most "actual question" in the period after the Second World War and at the time of the establishment of the largest global international organization – United Nations.

Today, as in the last few decades, the sovereign equality of states has been commonly observed through the prism of the "unequal world" where power and wealth are "playing" the title role! Moreover, there are individual cases where examines the relationship between the sovereign equality of states and the system of decision-making in international organizations. Most publicists, however, simply observe the equality as a general principle, underlying all rules of international intercourse, without taking into account its specific practical aspects and impacts. Hence, it can be reasonably concluded that the relationship between the principle of sovereign equality of states and the formal requirements for admission to international organizations not subject to the interest of contemporary scientific community.

Hence, the main impetus for exploration of this question lies in the need to establish or rather prove that the principle of equality of states as actors in the international community is closely associated with the terms of their integration into international organizations. The starting point is the idea that the equality of states actually supposes the same conditions that will apply to the accession of any state in the international organizations. Consequently, each time when, in respect of a particular state will apply additional requirements for admission in the international organization, should be considered as violation of the sovereign equality of states. It causes multiple negative effect: in terms of the integration processes of the

state, in terms of the exercise of certain human rights and freedoms, as well as in terms of the level of democratization of society as a whole!

Through depth analysis of this correlation, will try to prove that by applying different (informal) requirements for admission of certain countries in the international associations, actually is denied the sovereign equality of states, as well as the principle of equality of individuals, in terms of certain human rights and freedoms. In fact, the Article reposes on the following thesis: "The Inequality" in the countries' accession in the Euro-Atlantic organizations, not only adversely affect the process of integration and democratization of the country itself, but it also affects the achievement of the human rights and freedoms of its' citizens.

The analysis starts from the premise that all contemporary international organizations (UN, EU, NATO, etc..) were established and operate as systems of states and structures of cooperation between sovereign and equal states. Their existence is based on common fundamental ideas and values, such as the maintenance of peace, unity, equality, freedom, solidarity and security, and respect for human rights and freedoms. The named values must be "aimed" and be respected by all member-states equally, but, also by the candidate countries for membership. Simultaneously, the founding acts of all international organizations emphasize that the unity and the integration are depending and are possible, only if they (the organizations) showing respect consistently to the equality among the nations!

All this negative feedback effects and impedes the integration of the country in the international "family". The more difficult the integration, above all, causes, negative repercussions for the country itself, and moreover on international plan (negative symptom for the country, indication of weak economic development and power, the safety is questioned, the use of various international funds is disabled), and internally (can cause financial difficulties and instability, security problems, institutional crisis, etc.)... In addition, the problem of the integration is accompanied with the respect of human rights and freedoms, in sense that it hinders or completely prevents the achievement of certain rights and freedoms guaranteed by the adopted legal acts, respected precisely by the indicated international organizations.

On the other hand, the more difficult integration (with all the negative consequences that can be caused) and the more difficult or complete disabling of the achieving of certain human rights and freedoms, can have a negative impact on the degree of the democratization of country, or more precisely, it can cause retrograde processes in the institutions and the functioning of the social system as a whole!

The aim of the authors comes down to this: by proving the negative impact that can be caused because of the inequalities of the countries while accessing in the organizations, and that reflects on their

international integration, the democratization and the human rights, to encourage, or actually to raise the awareness, but also the responsibility of the relevant international factors that there is a serious need of changing the attitude of the world politics to this question.

The understanding and the essential nature of "the sovereign equality of states"

Although, apparently, we are all clear what exactly means the abovementioned "phenomenon", however, is more than needed to give a single definition of the principle of sovereign equality of states in international law, as a starting point in examining the relationship: equality of states-integration in international organizations-human rights-democratization.

Namely, the word "equality" has been used in so many different meanings in the literature of politics, philosophy and law, so, it seems essential to begin the exploration by laying down certain commonly accepted definition of sovereign equality of states. Bearing in mind the basic idea of the Article which is in front of you, the authors opted to immediately accede to the substantive review of the subject, without presenting the roots and origins of the principle of sovereign equality of states. Indeed, that will be a very demanding task, due to the multitude of different opinions and views, but also because there is no consensus either in terms ofwhether the equality of states should be considered as a principle, right, attribute or concept? There are also, differences between the authors in terms of the essence of equality of States - whether equality refers to the rights of the States or to their capacity (Dickinson, 1920). For these reasons, will focus solely on the equality of states, as it is represented and defined in international documents, with a particular emphasis on the most significant documents of international organizations.

The principle of sovereign equality is a fundamental norm that regulates the conduct of states in the international community (Ansong, 2012). Its fundamental nature is evidenced by its enshrinement in the Charter of the United Nations. Though the principles of State sovereignty and equality of States in international law predates the UN Charter, still, its adoption as the basis of a 'universal' international law applicable to all states and not only European states, was relatively novel. Thus, during the Moscow Conference of 1943, a precursor to the UN, the universal application of the concept of sovereign equality of states was recognized in the Declaration of the Four Nations on General Security (Declaration on General security). The Declaration on General Security recognized: the necessity of establishing at the earliest practicable date a general international organization, based on the

principle of the sovereign equality of all peace-loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security. Article 2.1 of the United Nations Charter states that: "The Organization is based on the principle of the sovereign equality of all its Members". In fact, the principle of "Sovereign Equality" was present in customary international law and also in the League of Nations, which was the predecessor of the United Nations. International persons (states) are equal before the law when they are equally protected in the enjoyment of their rights and equally compelled to fulfill their obligations. This would seem to have been the significance of the remark, made by the first French delegate at the Second Hague Conference in 1907, that "each nation is a sovereign person, equal to others in moral dignity, and having, whether small or great, weak or powerful, an equal claim to respect for its rights, an equal obligation in the performance of its duties."

The nature and the content of the established principle of sovereign equality of states was in details elaborated in the "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations" (Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 1970). The Declaration provides that: "All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature". It further, elaborates on the principle of sovereign equality of States as including the elements of juridical equality of States, the enjoyment by States of the rights inherent in full sovereignty, the duty of States to respect the personality of other States, the inviolability of the territorial integrity and political independence of the State, the freedom of each State to choose and develop its own political, social, economic and cultural systems, and the duty of States to comply fully and in good faith with their international obligations and to live in peace with other States (Paragraph 59 of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 1970).

States are deemed equal just by their status as states under international law. By their very existence as States, States are legally or juridical equal. The juridical equality here is not just a mere statement that all states are equal by their very existence as states; it translates into equal rights and duties. The equality is therefore juridical in nature in that, all states are equal under international law in spite of asymmetries of inequality in areas like military power, geographical and population size, levels of industrialization and economic development. The notion of juridical equality

of States has emanated from the conception of States as being sovereign in their relations with one another, hence juridical equality can only exist between sovereigns because "the sovereignty of States implies that they may not be subjected to one another, and this subjection is also precluded by their mutual equality" (Kreijen, 2002).

The sovereign equality of states and the international integrations

Determining the equality of state in this way, presupposes and imposes equal conditions for admission to the international associations of global character. After all, their founding treaties have determined criteria applicable equally to all countries in admission process, and, at the same time, have not indicated the possibility to apply different conditions for certain countries. But, the problem arises in practice, when, although informal, still there are imposed certain additional requirements for admission of some states in international organizations, which disproves the equality postulate in real life. It's surprising how modern science does not almost deal with this issue, although we are faced with evident cases of violation of the equality of states in terms of the conditions for admission to international organizations! Actually, most of the discussions about the relationship between equality of states and the conditions for admission to international organizations have no scientific, but political approach, hence the call to the scientific community to think about this issue!

One of the crucial principles, sovereign equality of states means legal equality of states, that is equality of legal rights and duties. The doctrine of the sovereign equality of states is an umbrella category for it includes within its scope the recognized rights and obligations which fall upon all states. As it was mentioned in previous part, it amounts to a confession that all states are equal members of the international community, as persons of the International law. Consequently, the actual differences and inequalities between countries, such as: geographic location, the size of the national territory, its population, economic and military power of the state, as well as their traditional friendship with other countries, should not affect the principle of the sovereign equality of states (Simpson, 2004). The principle of sovereign equality is applied both in the relations between countries, as well as regarding the international organizations and alliances.

Among other, the equality guarantees that each state will enjoy the rights inherent in full sovereignty, and, that each state has the duty to respect the personality of other states, which have derived from the fact that states are basic cells or entities of the international community. No doubt, the right of association and unification in various forms, as well as membership in

international organizations and integrations of different character, is one of the essential rights acquired by each state at the moment when the state accomplished the prerequisites for statehood. Indeed, a state's decision to become part of "global family" is a result of freely expressed will, in a world that must be ruled by a sovereign equality of states.

Consequently, whatever is lawful, just, or equitable for one state, should be equally lawful, just, and equitable for others. The greater or less extent of territory, number of population, and power, can never modify the perfect juridical equality of states in all that concerns the exercise of their rights and the fulfillment of their duties!

So, simplified, the sovereign equality of states essentially means that they are fully equal when "knocking" at the gates of an international organization, when seeking to be admitted as full members of the integration. Using the "language" of integration processes, sovereign equality of states imply equal conditions for admission to any state within certain international community, because only in that way equality of states it would be possible in terms of guaranteed rights and obligations! The acceptance of each country in international organizations would depend solely on its capacity and freewill to meet anticipated formal conditions for membership, same conditions under which the existing members of the international organization have acquired their membership, which is actually stipulated in constituent acts of contemporary international organizations! So, any case of imposing different or additional conditions for admission to the international organization would mean violation of the principle of sovereign equality of states, seriously advocated by international organizations as its creators!

But, let's face what happens "on the ground", through examining the membership in existing international organizations! Admission to membership in the United Nations, as main global organization, is conditioned solely by the peacefulness of the country and the fulfillment of the obligations, contained in its fundamental documents. Namely, "membership in the United Nations is opened to all peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations", as it is prescribed in Article 4.1 of the Charter of the United Nations. Obviously, the act doesn't allow imposing additional conditions for any state when requesting membership in the UN! Indeed, the admission to membership depends, actually is based on a judgment/decision of the Organization itself, however, the organization decides on membership solely on the basis of the assessment of whether the state meets the formal requirements for membership! The decision can't be arbitrary, nor is it allowed the membership of a particular country to be conditioned by fulfilling additional requirements, which were not valid in previous cases of

admission. But, if deeply analyze some individual cases, will become clear that it is not exactly as it seems! After all, there are cases where, although informal, still impose additional conditions that determine membership in the international organization. Such was the case with the admission of the Republic of Macedonia to the United Nations. In fact, despite a positive report on the fulfillment of all formal requirements, however membership was conditional-state admission under the provisional reference "the former Yugoslav Republic of Macedonia", used by international organisations and states which do not recognise translations of the constitutional name Republic of Macedonia (Република Македонија, Republika Makedonija)! This is the first and only case of registration of a state to UN membership under the provisional reference instead of constitutional name! Analyses show that the additional conditions are always veiled, or find justification in any of the prescribed formal requirements (Rothwell, Kaye, Akhtarkhavari and Davis, 2011). This confirms the thesis that relations in international community aren't always and exclusively legally based, but they are leaded by the "Great Powers" and their interests.

Talking about the European Union and its enlargement, the founding Treaty of Rome stipulates that "The Union is founded on the principles of liberty, democracy, respect for human rights and basic principles of the rule of law, principles which are common to all states. Emphasizing the values that are common to all states, leads to the conclusion that sovereign equality of states is one of the postulates on which "lie" the foundations of the international community. The Maastricht Treaty has determined that "any European State which respects the common values and principles, can submit an application for membership of the Union". Furthermore, the admission into the Union for each country is tied to the fulfillment of the so-called "Copenhagen criteria 1993", composed of Political, Economic and Legal criteria, later, supplemented by Administrative (Madrid) 1995 criteria. But, let's don't pretend that we don't see the reality - in each subsequent circle of EU enlargement, noticeable, formal membership conditions are expanded with some new, previously unknown requests. For example, so-called "Absorption or integration capacity of the EU" criteria, referring to the union's capacity to accept a new member, without jeopardizing the functioning of the institutions. Such treatment puts into question the sovereign equality of states, actually it denied it, at the same time, putting new applicants at a disadvantage! "Macedonian case" is the best example for the establishment of additional informal conditions for membership in EU. Notably, despite the fact that the Republic of Macedonia several years in a row gets positive Progress reports by the European Commission, there is still no date for the start of accession negotiations, because of the so-called "name dispute"! Namely, according to documents of the European Union,

the constitutional name of the country can't be an obstacle for the admission of the State, if it meets the formal requirements for membership. But, the real problem is that the request for change of use of the constitutional name in international community hide itself behind the planned formal terms, so one gets the impression that there are no additional conditions imposed to the country! Another example, almost identical to the previous, is related to Macedonia's membership in NATO. It only confirms that, despite the fact that international organizations are major protagonists of the idea of sovereign equality of states, however, they aren't immune to the power and political influences and pressures, when deciding for admission of new-member state!

Moreover, the sovereign equality of states, from the point of view of membership accession to international organizations, is threatened by the different approach that organizations apply in relation to the Western Balkans countries, regional instead of individual approach, which had often been discussed in relation to the Western Balkans countries. The question goes back to the debate of the 1990s about the regional priorities of the Stability Pact for the Balkans versus the individual competition encouraged by the Stabilization and Association process (Rupnik, 2011).

The sovereign equality of states and the realization of human rights and freedoms

Hampered international integration of states adversely affects or even, in some cases, completely prevents the realization of some rights and freedoms of the citizens of those countries, enshrined in international declarations and conventions. In particular, denies one of the most important rights enjoyed by each person as an individual, inherently human nature as such - the right to equality with all other individuals!

The efficient respect for the equality of the individuals, has great impact to the probability and the quality of the realization of many other rights guaranteed." Undoubtedly, therefore, the Universal Declaration of Human Rights, the foundation of international law on human rights and the articulation of the philosophy of the international protection of human rights, in Article 1 provides that: "All human beings are born free and equal in dignity and rights." The principle of equality is further elaborated in Article 2, which proclaims the prohibition of discrimination in relation to the enjoyment of human rights and fundamental freedoms. So, the principle of equality of individuals is one of the basic prerequisites for the exercise of other guaranteed rights. Universal basis of human rights expressed in these principles means that: human beings are equal because they share a common essence of human dignity and human rights are universal, not because of the

will of States or international organizations, but because of their affiliation to humanity (Human Rights Today: United Nations Priority, 1998).

Set on and inspired by the same values, the European Convention on Human Rights and Fundamental Freedoms (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950) was the first international instrument in which sovereign states have agreed to be legally bound to provide a full spectrum of human rights and freedoms to everyone within their jurisdiction. The Convention has established a "supranational control system", with the responsibility for providing guaranteed human rights, not only for States in respect to their citizens, but also for the international organizations in which the states are members!

Therefore the dilemma: Whether citizens of countries that have difficulties with their admission in international organizations (because of the above mentioned reasons), can effectuate the internationally guaranteed human rights and freedoms, in the manner as the citizens of other countries? Or, are the citizens of these countries placed in a less favorable position in relation to citizens of other countries, in that they are prevented in realization of certain human rights, because of the irrational obstacles to their countries' membership in international structures?

The disruption of the sovereign equality of states in admission processes, threaten the equality of individuals, as well as the possibility to achieving other human rights. This is especially related to some of the rights belonging to the group of economic and social rights of individuals, including: The right to work (for example, citizens of countries whose integration into the EU is hampered by imposing additional conditions, can't fully exercise their right to work in the EU or they needed work permits, despite the fact that such individuals meet the formal criteria for particular position), the Right to education (there is a limited access to educational institutions in the EU, for students-nationals of countries that have a problem because of the informal criteria to become its members), the Right to possession. Apart from them, individuals are often faced with serious difficulties to effectuate some other rights, for example: The Right to participate in cultural life, in the usage of scientific progress, The Right to participate in the use of the joint World heritage and other data and development, The Freedom of movement and Residence (Limited freedom of movement and Residence, which is one of the oldest freedoms in the history of mankind!), Freedom of association and protection of the right to organize etc.

This, apparently does not look "scary" because often it is viewed as an isolated case, but should be borne in mind that the right of every individual has equal value, and therefore everyone should be unhindered and equal in exercising of the protected right!

Concluding remarks

The sovereign equality of states as a principle, over time, becomes increasingly important, due to the increased communication between countries, especially due to the enhanced influence of international organizations across the world. It allows states to enter into mutual relations as equal partners, and at the same time, to be equal members of the international organizations.

The principle of sovereign equality is a fundamental norm that regulates the conduct of states in the international community. It means that they have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

When talking about the integration process, the sovereign equality of states is demonstrated by imposing equal conditions for admission to all states! Consequently, any imposition of additional requirements for membership, mean a violation of the principle of sovereign equality of states, putting a state in disadvantage compared to other members! It affects harmful in two directions: it hinders the integration process of the country in the international community, but also prevents the realization of some guaranteed rights and freedoms for citizens of particular country. The laboured integration and disability in the realization of certain human rights and freedoms, in turn exercised negative repercussions on the democratization of society, hindering its natural course and development. The practice shows that within states who “see” themselves as part of Euro-Atlantic integration, but still are "out" of them, citizens' increasing aversion regarding the international organizations, and comes to the "closure" of states to inside! Reticence in turn, negatively affects the degree of democratization of society as a whole!

Therefore, there is obvious need of raising the issues about relationship between sovereign equality of states and admission in international organizations, considering cases from the practice where imposing additional conditions for membership. Of course, science should make a contribution by paying more attention to this issue, analyzing suspicious examples of conditional membership in international organizations with additional requests!

By proving negative repercussions that can be caused by the inequalities of the countries while accessing in international organizations, and that reflects on their integration, democratization and human rights, we try to encourage, or actually to raise the awareness, but also responsibility of relevant international factors that there is a serious need of changing the attitude of the world politics towards this question.

Keywords: equality of states, integration, human rights, democratization, international organizations.

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CONFISCATION PROCEDURE AS A TOOL FOR FIGHTING ORGANIZED CRIME – PRO ET CONTRA

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Abstract

In the last few decades focus of criminal law and investigative and judicial praxis has been moved to the organised crime and, significantly, to the investigating and confiscating the proceeds of crime. A sort of seizure of proceeds has been presented in Serbian legal system for more than half a century. Given the limited range of the practical use of this institute, particularly in the context of combating organized crime, domestic lawmakers have recently offered new solutions for seizing "criminal property", such as the institute of seizing proceeds obtained by criminal activities. This has been provided for by a special statute. The paper analyses specific features of organized crime, which call for an approach different from the standard ones, and then moves on to analyse critical views expressed with respect to such solutions, as well as the state of affairs in domestic legislation and practice which preceded the enactment of the said statute.

Finally, the author concludes that the seizure of criminal proceeds can be regarded as a desirable instrument in combating organized crime, but that, at the same time, a lot of attention should be given to creating the relevant legal framework in order to avoid numerous potentially harmful effects. The text elaborates on such effects and emphasizes the international influence on the creation and practical implementation of national models.

***Key Words**: **seizure of property obtained through c**riminal activities, organized crime, The Act on Confiscating the Proceeds of Crime*

Introduction

In the absence of appropriate occasions most people are honest and trustworthy (Manning, 2005: 15). However, in real life, numbers of operations daily happened in the various spheres of social life and bussines may bring illegal proceeds, whether it comes from illegal activity per se (eg. human trafficking or narcotics trafficking) or illicit activities that violate the norms of a legally regulated environment. (eg. Crimes in economy) Regardless of the type, criminal activities require appropriate social and even criminal law response. One of the effects of this reaction should be the realization of the principle that no one should keep benefit from crime. This

principle has been applied in different forms of deprivation obtained using either the criminal or civil proceedings.

In the Serbian legal system forfeiture of property acquired by criminal offense has been existed for more than half a century, but in the opinion of many experts, its practical application could not be considered as a successful. It is interesting to note that less than eight months after adopting the changes that promoted this measure, experts assessed that its practical implementation "has not fully achieved" and that "there is no particularly rich experience in that way" (Petrić, 1961: 1, 11). It is difficult to determine what led to that failure, the incomplete legal norms, and sluggishness of the domestic justice system, lack of expert personnel and specialized investigative unit or something else. More recently experts and judicial officials said that courts in Serbia have not enough, in addition to criminal sanctions, pronounced measures of confiscation (Popić, 2007) and that the existing regulations have not been applied (Ilić, Banović, 2007: 316 , Ilić, 2008a: 21). All together suggests that there is an obvious disharmony between the proclaimed principle and jurisprudence. Courts have not been reluctant to investigate flows of illegal financial gain, especially in cases in which it changed the forms and owners.

Consequently, the statistics in this area were devastating. For example, according to 2005 data year, the measure of confiscation imposed just more than 10% of persons convicted of crimes against the economy, property and official duties (Ilić, Banović, 2007: 313), while according to other sources, for the period since 2002 - 2005, that number was at the level of a half percent (Serbian Office for the Prevention of Money, 2008: 7)[1]. A similar situation has been also observed in neighboring countries (see Ivičević - Karas, 2007: 673).

The application of this institute faced a further challenge to the era of intensive development of organized crime. Additional difficulties, relating to the activities of organized criminal groups, are that a large number of criminal cases in this sphere, often called "victimless crime", remain undetected. Due to the absence of trials in which the acquired property gain should be taken away, there is accumulation of proceeds of crime and its subsequent investment in new criminal ventures. Smellie has rightly observed that the possesion proceeds of crime is a powerful way to create, protect and maintain bastions of organized crime (Smellie, 2004: 2). When it comes to trials against members of organized crime groups, they usually involve "only a drop in the ocean of their criminal activities", and they were

[1] According to data published in the draft national strategy for the fight against money laundering and terrorist financing, 386 out of the 76,532 sentenced persons (0.504%), have been affected by confiscation. As mentioned above, the statistics covered the period since 2002 - 2005.

considered as "risk of job". In that sense, confiscation of proceeds taken by the specific offense which was the cause of the trial, in addition to the fine, is not enough to deter organized crime actors from further criminal ventures. In fact, previous experience has shown that the sentencing offenders, without taking away their property and assets, often is not enough, because after they get out of the jail they continue dealing with crime. Moreover, their activities usually do not stop even while they are in prison because their economic power remained intact (Ilic, 2008: 21).

Given the above, it is rightly to ask the question whether criminal law achieves its protective function in the segment related to the prevention of unjust enrichment of persons in the area of organized crime and are in addition to regular, required a different, more modern equipment in order to consistently implement the criminal protection of society against crime, and especially of its organized forms. As a response to the asked question most European national legislations have offered a solution in the form of forfeiture of property acquired through crime, where the direct cause of this reaction was often murders of journalists or investigators, whose area of interest was the acquisition of individual wealth disproportionate to their legal engagement (see Levi, 2000: 5-6). Variety of opinions in this area, actuality and focusing on application this institute as one of the key tools in combating organized crime, tell us this is a very important issue that will most certainly be in the spotlight of scientific and professional community for many years (Lajić, 2010: 361).

Specifics of Organized Crime in Favor of the Application of Confiscation of Criminal Assets

Crime affects not only the victims, but also other citizens. When it is seen in the broadest sense, crime has its price, and the burden of paying the damage affects "ordinary citizen", taxpayer. Higher crime rate in a society causes higher costs which are allocated for the government departments, institutions, prevention programs, etc.,[2] and, consequently, there is less money for what might be called the "upgrades" (the development of culture, arts, sports, etc.). Therefore, the higher crime rate deteoriates the quality of life of every individual, no matter what he does not have to contribute anything to bad condition in that area.

[2] Manning enumerated a series of 10 sectors, which are reflected in costs caused by crimes. These are: 1) law enforcement, 2) crime prevention programs, 3) prevention and rehabilitation of drug addicts, 4) prisons, 5) courts, 6) the prosecution, 7) pleading at the expense of the state, 8) medical care of victims, offenders and others, including the cost of treatment of patients with AIDS, 9) damages of business entities and 10) costs of insurance companies (Manning, 2005: 1-2).

Special threat comes from organized crime, which trough corruption and other forms of illegal activity, undermines the foundations of society. Globalization has contributed to its development. She has made a positive impact on the world economy, but also led to the creation of new opportunities for the growth of organized crime, as well as new challenges that will face the justice system and law enforcement (Bell, 2000: 1). Traditional criminal justice system, which primarily involves imprisonment, does not give adequate results, mainly due to the great financial support that these groups have, and the fact that they, as noted Vettori, much more depend on finance than from people who do their "dirty work" (Vettori, 2006: XI). At the same place the author states that this was the main cause why the motto "tough on criminal wealth" quickly spread trough majority of European Union countries and found their place in the new legal solutions aimed at confiscation of proceeds acquired by illegal actions. When considering the phenomenon of organized crime Laudatti goes a step further, and ask what values are generally protected by regulations which prevent the accumulation of criminal wealth. The problem that arises is not just about crimes, or even economic order and the protection of free competition among entrepreneurs and market transparency. This author believes that criminal organizations which are earning huge amounts of money have no longer the need to kill. Instead, they systematically resort to corruption of public officials, media buying, involving in the management of financial institutions, affecting electoral mechanisms and influencing the election results. In this way wealth of mafia organizations practically affect the existence of democracy and the rights and obligations of each of us (Laudatti, 2007: 4).

The phenomenon of organized crime has aroused increasing attention in Serbia, as well. In The National Strategy for Combating Organized Crime has been made a kind of characterization of this phenomenon.[3] Namely, he was recognized as a threat, which delves into all aspects of society, it destroys lives and cause great damage, produces and encourages other kinds of crime, causes feelings of fear and hopelessness, and disrupts the integrity and reputation of the state institutions and the state in general (Government of the Republic of Serbia, 2009: 3). The problem of preventing and combating criminal offenses of organized crime is specific, for several reasons. In the first place it should be noted that the system which is operating on detention the organizers and members of organized criminal groups, or removal them from the crime scene, is not efficient. In this case, on their place comes another member of the criminal organization, thus the

[3] National Strategy for Combating Organized Crime has been adopted by the Government of the Republic of Serbia, 26th of March 2009.

organization does not lose its functionality and can freely operate in the future. The traditional concept of criminal law responsibility, therefore, aims to establish individual guilt, but is typical for modern organized crime that frequently changes concrete actors, behind which stands an efficient organizational structure and the detailed procedures to achieve goals, similar to multinational companies (Mršević, 1994: 90). Further, the application of forfeiture of property taken by committing crimes, which should establish financial status of perpetrators that existed before the crime, cannot successfully compete with the accumulation of material goods and the increasing of the economic power of criminal organizations, which is mostly based on illegally acquired financial gain. The reasons for this situation, in our opinion, can be found in a few facts.

The first involves committing specific crimes by organized criminal groups, which can be named "crimes without victims", or "crime of offer". For these offenses is a characteristic that is unlawful activity conducted "to the mutual satisfaction" (e.g. smuggling or selling weapons or narcotics). The absence of the victim, in the classical sense of the criminal law, means that the offenses take place away from the public and the body of criminal prosecution. If we add to this the lack of anticipatory action, caused by the limited resources of state structures, or their inertia, and the worst interaction with organized crime, it is clear that the consequences will necessarily consist in the existence of a number of organized criminal groups, which can, more or less undisturbed, act for a long time in a certain area or region, and thus generate criminal profits. Due to the secret nature of organized crime, and given the fact it is often unable to identify individual victims, it is necessary to pay attention to the provision of sufficient resources intended for the investigation of this phenomenon, i.e. to make available to investigators adequate legal mechanisms for the implementation of the investigation, and to provide the necessary evidence (European Union [EU], 2000: 15). Another important fact which contributes to failure of conventional measures against organized crime lies in the extent of application. When individuals from criminal organizations become object of the trial, the application of forfeiture of property acquired by a criminal offense in the general process cannot accomplish a given task. Although it may be reasonable to assume that individuals or criminal groups are not engaged in a criminal act just once, as an exception, but the longer the time involved in the same or a similar activity, which implies that a large portion of their assets are acquired at the same (illegal) way (Vettori, 2006: 8), the member affected are usually lower positioned in the hierarchical structure of the criminal organization. The property that they own changes the title during the trial. Even, if there is a sentence at the end of the trial, in the absence of interim measures, it does not achieve anything more than

declaratory applying of the mentioned principle, through the realization of symbolic confiscations. The soldiers are the ones who are affected, while the generals are, according to Evans, away from the scene (Evans, 1994: 2). In doing so, the criminal organization does not lose any of the acquired financial power, and organizers remain out of the reach of criminal justice, which gives them the aura of untouchability in the long run.

Due to these reasons, the fight against organized crime, in addition to the classical approach, focuses more on the possibility of confiscation of proceeds of crime. This measure is considered to be a very effective instrument, which achieves numerous goals that cannot be achieved by traditional activity. Typically, positive effects of criminal forfeiture are: a) preventive effects, given that the getting material gain is motive of acquisition of the majority of crimes (EU, 2000: 18), and then (b) to prevent infiltration proceeds in the legal economy and reduce opportunities for corruption, (c) the criminal organization is deprived of the basic tool for performing further criminal activity, (d) in the focus comes the top management of criminal organizations and (e) it supports the rule of law and one of the basic principles of criminal law, according to which no one can get benefit from committing crimes (Golobinek et al., 2006: 15; Ilić, Banović, 2007: 302). Prichard stated that the forfeiture of proceeds of crime could increase public confidence in the criminal justice system and remove negative role models from society (Prichard, 2007: 58). The author mentioned an intermediate goal that is achieved by confiscating the criminal profit, which is consisted in the financing other activities aimed at reducing the harm from crime.

From an economic point of view, the seizure of illegally acquired assets results in optimal deterrence of potential offenders, for two reasons: (a) it is a transfer of funds from the offender to the government without costs, (b), which improves the efficiency of identification of criminal assets by criminal services (Bowles, Faure, Garoupe, 2000: 539). Members of organized criminal groups obviously do not commit crimes out of necessity, but to raise the standard of living to a level that corresponds to "successful people". Courakis observes that this is a stereotype that media almost aggressively promote as a desirable lifestyle in modern societies (Courakis, 2001: 197). Actions of their "removal from society", as mentioned Prichard, can really send a strong message to the public that crime is not profitable, and those who have acquired the property and still gain in an illegal way may undermine the certainty of permanent peaceful enjoyment of their rich (Prichard, 2007: 58). (Paoli and Fijnaut noted that the suppliers of illegal goods are forced to work under constant threat of arrest and confiscation of their property and resources of the police and the judiciary (in systems where such measures exist), and that participants in criminal trades try to organize

their activities in a manner that ensures minimal risk of detection (Paoli, Fijnaut, 2006: 314). These authors, citing Reuter, found that the incorporation of the drug transactions into criminal networks and reducing the number of customers and employees are two of the most common strategies that illegal entrepreneurs applied to reduce the threat from the law forces. Nelen said that the countries with the highest level of democracy have developed systems to detect suspicious financial transactions and enacted legislation that allows them to search, seize and confiscate assets which are believed to be owned or controlled by criminals, and that after the terrorist attacks on the United States, 11th September 2001, there is a firm belief that a better insight into the relationship between capital flows and terrorist activities are vital in the fight against terrorism and organized crime (Nelen, 2004: 517). The foregoing facts clearly testify to the fact that the legal framework about confiscation of criminal assets significantly influences the behavior of participants in the crime scene, if in nothing else, at least in the fact that criminals do not feel safe when it comes to enjoying savings placed into different material goods.

It could be concluded that the confiscation of assets gained through criminal have not only criminal law justification, but integrative level, arising from the need to coordinate the activities of sub-national level in the fight against serious crime (Ilić, 2008: 16). In this context it should be mentioned the EU Strategy for the prevention and control of organized crime at the beginning of the new millennium (EU, 2000). There is a particular chapter in this document, talks about investigating, seizure and confiscation of illegally acquired assets. It also emphasizes the prevention of acquiring criminal profit, which is recognized as a key motivation for dealing with organized crime. It should be noted that international and regional European agreements invite States Parties to create legislative and other preconditions for confiscation of criminal proceeds of serious crimes, with expanded powers of public authorities, special investigative techniques, reducing evidence standards and moving the burden of proof to the defendant.[4]

Critique of the Confiscation Processes as a Special Tool in the Fight Against Organized Crime

As much as the confiscation of criminal assets imposed as a necessity in the fight against the scourge of organized crime, it should be noted that the academic community, as well as the professional community, are not entirely

[4] In this sense, the most important are The Vienna Convention (1988), The Strasbourg Convention (1990), The New York Convention (1999), The Palermo Convention (2000) and The Warsaw Convention (2005).

unique to justify the previously said. In some foreign author's papers can be found that the systems of confiscating criminal proceedings have been built before any serious analysis of the problem of organized crime, and without estimating of reach of its application in national legal systems. It has been present a critique of the system relating to the real purpose of the adopted regulations, which are seen as hidden fiscal measures (see Nelen, 2004).

Also, the provisions relating to the procedure of confiscation criminal profits were targeted. One of these refers to the distribution of assets confiscated by government to the agencies which participated in the confiscating of property (called self-financing), which, admittedly, can cast doubt over objectivity in determining the priorities of action of these bodies (see Blumenson & Nilsen 1998; Stessens, 2003: 56-60). Buggisch noted that the enthusiasm of politicians related to the effectiveness of the criminal confiscation of profits increases in proportion to the quantity of confiscated goods, and that the state always has got less money than it needs (Buggisch, 2003: 5). Hence, the author evaluated confiscation as a principle might seem acceptable as long as no one involved in this work personally, or as long as it is used as a tool to fight organized crime, rather than as a toll to "fill gaps in budget".

We should not ignore the Freiberg's thought, which says that sophisticated crime causes intensive legal response, and more importantly, that the unsuccessful reactions tend to generate more stringent laws, in anticipation or hope that they will be more effective (Freiberg, 1998: 67). As stated by the author, the history of the confiscation of proceeds is linked to the ongoing and unresolved tensions between those who aspire to the formulation and implementation of effective and efficient confiscation law on the one hand, and those who accept that it is necessary to deal with organized crime and the drug trade, but not at the cost of loss of the rights of the offenders in such proceedings. Smellie said that globally accepted view that the fight against drug trafficking and organized crime cannot be successful if you do not confiscate the profits. However, despite this, it is considered that in this field was achieved a modest success (Smellie, 2004: 3).

Also, it is possible to hear remarks like Nelen's, according to recent research showed that members of criminal organizations do not exclusively pursue significant economic and political influence. Some Dutch and international cases showed that the criminals rather would pay a large amount of money instead to go to jail (Nelen, 2004: 525), which significantly reduces the initial hypothesis about the success of confiscation as a way for the fight against organized crime. However, in the first case, it could be said that the mentioned pursuit of economic and political power largely depends on the completeness of the system and the integrity of public officials on the

one hand and opportunism and assessment of potential impacts on these spheres of social life on the other hand, performed by chiefs of criminal organizations. If they assess their chances as potentially less successful, that does not mean that they will give up the criminal activity, but only that their attention will be directed more to peaceful enjoyment of acquired wealth, rather than on the political and economic goals. Paoli and Fijnaut expressed considerable skepticism about the impact of organized crime on the economy and politics in developed western countries (except Italy), but they stated, however, there is a real danger existing in countries with low levels of development social and justice institutions (Paoli & Fijnaut, 2006: 318-323). In this regard, relevant is Škulić opinion, according to which a typical organized crime group has no political agenda, nor it is motivated by ideological interests. As stated, its goals are money and power, while its involvement in politics can be a part of activities that aim to provide favoritism or immunity for their illegal activity, which is also the criterion by which they differ from organized crime groups whose criminal activity is politically motivated (Škulić, 2008: 23).

On the other hand, previously mentioned willingness to pay (or confiscation of criminal wealth) instead going to prison cannot be properly interpreted in the absence of a complete picture of the property of person whose property is in question, which generally remains unknown. The amount of money or property which for most people seems large may be just a small portion of "savings" which belongs to the head of a criminal organization, and in this context we can say that the revocation of the visible part of the property (basically a small part of his goods), does not have to be a great pity for the person to whom the property is confiscated. Consequently, he will rather agree to such confiscation than the sentence involving deprivation of liberty, because it is lesser of two evils to which he is exposed.

The critique should not forget the possible abuses that may occur in the investigating, seizure and confiscation of property that is suspected as proceeds of crime. In Serbia we could hear attitudes that it must be purely legalistic approach in assessing compliance with the requirements to do seizure and confiscating of assets, which is relevant statement regardless of the legal system in which it is applied. Populist approach in the implementation of the provisions on confiscation, which would be based on the current political, fiscal and promotional or personal reasons of judicial or political positions, Nikolic warns, could easily lead to loss of sense of such legislation and, ultimately , to exposing taxpayers to risk of paying high compensation claims in the cases in which the national courts or the ECtHR found violations of the rights of persons from whom the property was confiscated (Nikolic, 2009: 10). But in any case, taking into account the

previous critical tones, attitudes and warnings related to the implementation, it could defend the view that despite the principle set of critiques, the use of this mechanism may contribute significantly to the removal of motives for doing organized crime and bring positive effects previously mentioned in the text. This fact is emphasized in the earlier mentioned EU Strategy for the prevention and control of organized crime at the beginning of the new millennium (EU 2000: 18). As it is noted in a document of the Northern Ireland Assembly, undeserved success which criminals have been achieved is an insult to the majority, engaged in honest work (Northern Ireland Assembly, 2001: 1). Of course, it is rarely in the scientific community to achieve consensus on complex issues like this. So, here presented principled disagreements should be seen as quite appropriate, constructive remarks that should be seriously considered, and during appropriate building of system elements, not to allow happening the previously described negativity.

Past Situation in Serbia as a Cause of Creating a Special Procedure for Confiscation Proceeds of Crimes

When we look at the state of the Serbian law, we can see that most authors generally agreed that the situation related to the confiscation of property gained through crime was not satisfactory, until a special law regulating this area is adopted. Obviously the isolation of the country and the policies conducted in the nineties led to the incorporation of elements of organized crime in the state institutions. That is why Serbia in that regard, is generally seen as a bad standing (Savić, 2007: 5). Savić said that the servile political culture, authoritarian system of government, the supremacy of politics over society and weakening of the institutions, beside the general impoverishment of the population, have created fertile ground for the emergence and development of corruption and organized crime (Savić, 2007: 5).

It seemed that the local political elite at the beginning of the new millennium, noted the need for rapid and effective action in creating the organizational, human and technical requirements for an effective fight against these evils, with the creation of an appropriate legal milieu (Banović Lajić, 2008: 72), whose integral part is normative regulation of confiscation of proceeds of crime. Unfortunately, the process of completing the necessary prerequisites has been followed, in the form of birth pains of young democracy, by many concerns, controversy and wanderings, but we would, however, be able to say that things are moving in a positive direction, and that the situation in this field nowadays is much better than five or ten years (Banović Lajić, 2008: 72).

Principled reviews of earlier normative framework were ranged from reviews that the legal basis for the confiscation existed before (despite some flaws), but that lack of knowledge and experience in prosecutors, police officers and judges, as well as the absence of specific units of specialized investigators for financial investigation constituted the main reasons for ineffective seizure and confiscation (Golobinek et al., 2006: 12), to the fact that those legal provisions were qualified as unsuitable for giving a strong enough powers in the fight against organized crime and in the fight for identifying, seizure and confiscating proceeds, therefore it was not used enough in practice (Dragičević-Dičić, Sepi, 2008: 339). Further, some authors noticed derogation from international standard (Ilić, Banović, 2007: 316), or indicated the possibility of confiscation of property obtained by criminal offense, but not those acquired in connection with the offense, despite the fact that contemporary experience shows that organized crime obtain such property (Sepi, 2007: 35), beside the enumeration of a set deficiencies (Dragićević-Dičić, Sepi, 2008: 340).

There was also general agreement that the already mentioned lack of enforcement for financial investigation, which would precisely identify the type and amount of property obtained, along with criminal investigations, could be marked as one of the most important problems. Their lack ultimately led to the fact that after the end of trial there will not be a property to confiscate from the perpetrator, and previously experience has clearly indicated that if already at the initial stages of the trial gain is not identified, and interim measures ordered, during the trial probably will not be a property on which to set up interim measures later (Ilić, Banović, 2007: 312). After all, the National Strategy for Combating Organized Crime provides as one of the main goals increasing efficiency in the fight against organized crime trough appropriate repressive and preventive action, beside the confiscation of proceeds of crimes, whereby the criminal confiscation is getting recognized as one of the basic principles for its successful implementation (Government of Serbia, 2009: 2). It is needed a proactive approach, based on intelligence, which led to the discovering and preventing the activities of organized crime, to arresting of offenders, the destruction of criminal networks, as well as the seizure and the confiscation of illegally acquired funds (EU, 2000: 5).

Inability to solve the problem of the confiscation proceeds of crime in an easy way, in the context of the fight against organized crime, is visible in the recent domestic legal history. Namely, noting that the current response to the problem of organized crime is too lenient, the legislature has intervened quickly in this area. Namely, one year after Serbian law adopted the new procedural legislation in year 2001 the changes have been provided special provisions for seizure and confiscation proceeds of organized crime. Because

these rules did not applied in practice, seven years later was adopted a special legislation, lex specialis, which regulates in detail the matter of seizure, confiscation and disposition of the proceeds of crime, and the above-mentioned provisions of the Criminal Procedure Code have been invalidated. The measure of success of this project made by the national legislature will prove in the time which is coming.

Conclusion

Dangers that come from the problem of organized crime should be viewed in the broader context, because they have not been identified in offenses only, nor in disorders that may occur in the market due to the influence of "dirty" capital. Moreover, they directly attack the foundations of a democratic society, where the most vulnerable are the societies in which the building of democratic institutions is still in progress. In addition, it should not be ignored the social context of organized crime, exemplified by the impact of the propagation of individuals from the criminal milieu and their lifestyle, which presented in some media formats can have a significant impact on the younger members of the population.

When we talk about confiscation of criminal assets as a means to fight organized crime it should be noted that there is no single and uniform access which unconditionally guarantee success. As it can be seen above, the creators of the legal framework may act in good faith in completing their duties and thereby be faced with many risks, which even if circumvent or overcome, will not necessarily provide a guarantee about the success of the adopted mechanism. Practical confirmation of this hypothesis can be found in the Review of the best practices of the Council of Europe on preventive measures against organized crime, which states that different societies have different propensity on social entrepreneurship and risk, as well as different state of integrity their institutions. Countries in transition, such as ours, in which this process takes it seems infinitely long (author's note), it may be required additional work on the prevention of organized crime, in order to get more effectively combat this phenomenon in relation to the mere use of repression (Council of Europe, 2003: 22).

As previously mentioned one of the local authors and designers of Serbian legal framework in this area, it could be concluded that the confiscation of property acquired through crimes has not only law justification, but its integrative level, resulting from the need to coordinate activities in the fight serious crimes on the supranational level (Ilić, 2008: 16). The legal principle that prohibits the enrichment through criminal experienced the full recognition in the relevant documents of the European Union at the beginning of this millennium. Even earlier, in the late eighties

of the last century there were lively international normative and legal actions that resulted in the adoption of important international agreements, whose substance emphasized the importance of monitoring, investigating, seizure and confiscating property that is suspected to be gained trough crimes.

Attention which is attracted by this problem and its international dimension clearly indicate the importance of regulation within the area of criminal confiscation of property, and generally similar attitudes about the individual elements which are expressed in these paper and most European legal systems, as well as their long standing practical application justify new forms of confiscation of illegal proceeds and say that it is applicable and useful tool in the fight against the scourge of organized crime.

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HATE CRIMES AND CRIMINAL JUSTICE REACTIONS IN THE REPUBLIC OF MACEDONIA

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Abstract

Quite a number of social phenomena, with a long history of existence and significant adverse consequences, just in the modern society began attracting the attention of the public, both general and professional and scientific. Such is the case with hate crimes. Their understanding is related to the reality research in many areas of social life, including the segment criminal justice reaction to various forms of socially unacceptable behaviour. Over time, this also had its sequence in increasingly dominating and better quality research of various forms of hate crimes. Often, the results of the research have influenced the innovations in the area of criminal justice reaction to this type of criminal behaviour. This also applies to the criminal legislation of the Republic of Serbia. In the text that follows we will try to point out some of the measures taken in the normative area, but also the need to undertake additional activities aimed at creating a system that shall make the state's response to hate crimes even more consistent and adequate.

Key words: hate crimes, criminal justice reaction, criminal charges, police conduct

Introduction

Hate crimes include a wide range of offences that have in common the fact that the behaviour of perpetrators, up to a significant extent, even decisive extent, are based on prejudice and intolerance towards certain social groups or individuals. There is no doubt that these crimes, if not recognize or ignored, may pose an additional threat to the society. This is also due to the tendency of their growth in a dramatic scale and manifestations in increasingly brutal forms in the cases of inadequate reaction.

Despite the fact that, as a specific form of violation of human rights, hate crimes are recognized and studied only in the modern world, many different forms of their manifestation appeared in the far away, but also in the recent past. Examples are many, and as an illustration we can mention the persecution of Christians in the first centuries of our era, the attitude towards the natives of the American continent during the period of its occupation and colonization, persecution of Jews by the Nazis before and during World War II, as well as frequent attacks on members of different minority groups in the countries of the modern world that are based on intolerance and hatred of people with other racial, religious, ethnic and national origin, sexual orientation, members of various fan groups, and so on.

The fact that different forms of intolerance are increasing throughout the world was shown also by the participants of the International Conference on Anti-Discrimination held in Bucharest in early June 2007, organized by the Organization for Security and Cooperation in Europe. On this occasion they agreed about a fact that the states of the modern world do not use all available resources to combat this phenomenon, and they emphasized the concern that the perpetrators of hate crimes, in many cases, are punished with mild sentences, and often are acquitted.

Characteristics of hate crimes

Studies typically show the high dark figure of hate crimes and their growth in many countries in recent decades. Within the registered criminality, however, hate crimes are present in low participation. However, that is not negligible either (Ignjatović, Simeunović - Patić, 2011:87). The term hate crime, or, as it is often defined as crime motivated by prejudices[1] serves to highlight the crimes that are motivated with perpetrators' hatred toward a particular person or a group to which the person belongs, for real or in accordance with perpetrator's assessment. In this regard, hate crimes are defined as criminal behaviour that is motivated by prejudice (Hutton, 2009), whereby they, as an assumption, belief or opinion, might be used as a basis for action (Jacobs & Potter, 1998). This is about criminal offence motivated by hatred, hostility or prejudice towards the persons or property based on

[1] Prejudices are relationship towards different objects and are logically groundless, persistently maintained and accompanied by extreme emotions. Prejudices apply not only to the relationship that is logically groundless, persistently maintained and accompanied by emotions, but also to the negative relationship, and then they mean: judgment, underestimating, hostility, etc. Usually, when we talk about ethnic or racial prejudices, we refer to the prejudices in this sense. Not all negative attitudes are called prejudice, but only those that are considered to be unjustified (Rot, 2008).

actual or perceived race, ethnicity, gender, religious or sexual orientation of the victim (Mc Laughlin & Muncie, 2001) or victim's disability (Sullaway, 2004).

Hate crimes are usually manifested as violence of members of dominant groups against members of marginalized and minority social groups – white people against coloured people, natives against immigrants, heterosexuals over homosexuals, etc. (Barkan, 2009:287). The victims are perceived by the perpetrators as a threat to their community (economic, political or cultural) and are usually subjected to verbal abuse, property damage and physical violence that can range from trivial attacks and harassment with "low intensity" all the way up to a murder (Dunn, 2004:3).

Despite the fact that there is no unity in the definition of the concept of hate crime, a key element that distinguishes is the motive of the crime, and its definition comes down to resentment, prejudice or hatred towards a certain person i.e. group to which the victim belongs in accordance with the reality or the perpetrator's assessment. In the criminal sphere that behaviour manifests with the activities directed to intimidate and threaten individuals or entire groups. The consequences of these activities are not only reflected in the injuries and violation of the rights and freedoms of an individual towards whom the action of the criminal offence is directed, but they also disturb the serenity of minority groups to which the victims belong, i.e. harmonious relationships in the wider community (Kovačević, 2009:93).

Crime can be manifested as an act of intimidation, threat, property damage, physical assault, murder, but also as endangering by execution of other punishable acts, before all, criminal offences. In accordance with the aforesaid, the term "hate crime" is used to label specific types of offences, and not as a definition of a particular criminal offence that is within a special provision anticipated by the Criminal Law - Code (OSCE/ODIHR, 2005:9-14).

Within the instruction that the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe published in 2009, it was pointed out that for the qualification of a criminal offence as a crime committed out of hatred is necessary for it to fulfil two criteria: a) committed act must be defined as a criminal offence in the criminal code, b) the act must be "motivated by prejudice" – it is not necessary that a perpetrator felt hatred toward the victim (OSCE/ODIHR, 2009:16).[2]

[2] Unlike hate crime that is used to indicate a different behaviour that manifests animosity, intolerance and discrimination, hate speech means expression that contains messages of hate or intolerance to any racial, national, ethnic, religious or other group or its individuals and represents a powerful tool for encouraging discrimination, violence, hostility, etc., and as such, it may be a stimulus for the performance of hate crimes.

Hate crimes are different from others, even from criminal offences from which it can be derived, not only because of the motivation of the perpetrator, but also because of many elements that are connected to the victim that the perpetrator selected motivated by victim's belonging to some social group. Unlike victims of other criminal offences, victims of hate crimes are not selected in accordance to "who" they are, but in accordance to what they represent. In other words, the object of the attack is replaceable and may be any member of a particular group, and a message that is sent by the performance of an offence is not passed only to the immediate victim, but also to the wider community to which the victim belongs. For these reasons, when it comes to hate crimes, it is often emphasized that those crimes are symbolic criminal offences and that their consequences are intimidation of victim and other members of the community to which the victim belongs. The performance of criminal offences send the message to victims that they are not welcome and challenges their right to full participation in the society. These offences also send the message to the other members of the community that they are not accepted and that they could also be targeted (OSCE/ODIHR, 2009:17).

Starting from the basic causes of the various forms of hate crime, some authors classify them into more subgroups including: hate crimes for fun; defensive hate crimes; missionary hate crimes; retaliatory hate crimes (Levin, McDevitt, 2008:11-14).

For hate crimes out of fun the emphasis is that these are the lightest form of those criminal offences. It is about, above all, the minor property crimes and acts of slight physical violence in which the perpetrators are younger persons (often minors) who have not yet fully formed stereotypical attitudes and who are often performing those acts spontaneously in a group over randomly selected victims and for fun and/or proving.[3] That being said, it is also emphasized that the imposition of lighter sanctions to the perpetrators can affect the change in the way they perceive the reality and that it can prevent them from doing it again.

Defensive hate crimes are characterized by far more serious relationship of the perpetrators towards the victims and existence of expressed prejudices. The perpetrator has a feeling of vulnerability of some of his rights by persons belonging to a particular social group, and the attack on selected victims is perceived and presented as a defence of his jeopardized rights/interests. Most of the attacks are better organized and have a stronger intensity; the perpetrators are adults and victims are settlers i.e.

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http://www.yucom.org.rs/upload/vestgalerija_38_5/1198696141_GS0_Metodologija%20govor%20mrznje%20zlocin%20mrznje.pdf, available on the 01.07.2012

[3] So for example, the data from Boston police department show that 91% of perpetrators did not know the attacked person (Levin, McDevitt, 2008:11).

immigrants. In mixed ethnic communities such as those that exist in the United States of America the cases when such offences are occurring at the workplace are not rare.[4]

Missionary form of hate crimes stands out by pathology of perpetrators and distorted picture of the reality that exists in them. They perceive events that occur incorrectly, exaggerating their importance and interpret them unilaterally, and then they go for a "mission", their task is to make the world a better place for people in their environment. Performed criminal offences and their consequences can be very serious, and it is considered that the sanctions imposed on the perpetrators must be strict.

Retaliatory hate crimes are fairly similar to defensive hate crimes, but they are characterized by the fact that they seem to be revenge for the hate crimes that really happened to that person, or that the person mistakenly believes it happened. The two main types of retaliatory hate crimes are alignment of "scores" for the previous hate crime and alignment of "scores" of the act of terrorism. After the attack on the World Trade Centre in the USA, there was an increase of 1.600% reported hate crimes directed against Muslims and Arabs (Levin, McDevitt, 2008:13).

Hate crimes have the potential to cause uncertainty in the general population, as well as to deepen the existing and to cause new divisions and disturbance in the community. These crimes can worsen the existing tensions between the groups and have a significant role in the emergence and escalation of various conflicts, especially those that are based on the differences in racial, ethnic or religious grounds. In situations when the relations between ethnic, national or religious groups are already sensitive, hate crimes can have an explosive effect.

Criminal Justice respond to hate crimes in the Republic of Macedonia

Normative framework

Criminal justice response to hate crimes can be manifested in two ways. The first involves standardization of specific criminal offences that will include hate crimes (USA, Croatia, etc.) which, from the already provided criminal offences against life, body, property and other, differs in emphasized specifics towards the objects of the attacks/ protection (members of racial, national, ethical, religious groups, persons with disabilities, persons

[4] The survey that covered 2078 employees, and which was conducted in the nineties in the last century, showed that 27% of them have experienced some sort of harassment based on the ethnic prejudices at their working places. These offences are mostly property damage, robberies, harassments, sexual harassments and even rapes (Weiss, Ehrlich, Larcom, 1991-1992).

of same-sex sexual orientation). In the same time in USA there are different regulations in 45 federal states that regulate the issues connected to hate crimes. Federal government has the leading role in dealing with criminal activities that are motivated by prejudice. The second way involves the introduction of special criminal offences labelled as hate crimes - Serbia, Montenegro, Bosnia and Herzegovina, and many others (Kovačević, 2011:56).[5]

As it was already emphasized, the criminal justice legislation of the Republic of Serbia does not recognize the legal institute of hate crimes, but it has the appropriate mechanisms that, in a part, regulate these sensitive issues. First of all, in the Criminal Code of the Republic of Serbia[6] (hereinafter the CC RS) in the provision under the title "inciting national, racial and religious hatred and intolerance" is stated that a person who causes or incites national, racial or religious hatred or intolerance among people or ethnic communities living in Serbia, shall be punished by imprisonment from six months to five years (Article 317 paragraph 1). If the offence was performed with the use of duress, maltreatment, endangerment of safety, exposure to derision of national, ethnic or religious symbols, damage of others' property, desecration of monuments, memorials or graves, the perpetrator shall be punished by imprisonment from one to eight years (Article 317 paragraph 2). In case that this offence was committed with the abuse of position or authority, or it happened because of riots, violence or other aggravated consequences for the cohabitation of people, national minorities and ethnic groups living in Serbia, for the offence under the paragraph 1 the perpetrator shall be punished by imprisonment from one to eight years, and for the offence under the paragraph 2 by imprisonment from two to ten years (Article 317 paragraph 3).

The Article 174 of the CC RS, under the title "harm caused to reputation because of the racial, religious, ethnic or other belonging", states that one who publicly exposes a person or a group to mockery because of belonging to a certain race, colour, religion, nationality, ethnic origin or other personal feature, shall be punished by a fine or imprisonment of up to one year.

The Article 387 paragraph 1 of the CC RS under the title "racial and other discriminations" states that a person who, on the basis of race, colour, religion, nationality, ethnic origin or other personal characteristic, violates fundamental human rights and freedoms guaranteed by the generally accepted rules of international law and ratified, by Serbia, international

[5] Within the OSCE region, 23 states have such model (OSCE/ODIHR, 2009:33)

[6] "Official Gazette RS", no. 85/05, 88/05 – correction, 107/05 – correction, 72/09, 111/09 and 112/2012.

treaties, shall be punished by imprisonment from six months to five years. The same sanction is envisaged for the one who persecutes organizations or individuals for their commitment to the equality of people (paragraph 2). In paragraph 3 the imprisonment is from three months to three years, for the cases of spreading ideas about the superiority of one race over another i.e. for the propagation of racial hatred or incitement to racial discrimination. The one who spreads or otherwise makes publicly available a text, image or any other representation of ideas or theories, which advocates or incites hatred, discrimination or violence against any person or group of persons based on race, colour, religion, nationality, ethnic origin or other personal characteristic, shall be punished with imprisonment from three months to three years (paragraph 4). Anyone who publicly threatens that will perform a criminal offence against a person or group of persons because of race, colour, religion, nationality, ethnic origin or any other personal characteristic, which is punishable by imprisonment from more than four years in prison, shall be sentenced by imprisonment from three months to three years (Article 5).

In the Article 131 of the CC RS under the title "violation of freedom to express beliefs and to perform religious ceremonies" there is a fine or imprisonment up to one year that is stipulated for the one who prevents or restricts the freedom of beliefs or performance of religion, as well as for the one who prevents or interferes with the practice of religious rituals, as well as the one who forces another to express his religious beliefs (Article 131 paragraphs 1, 2 and 3). In the case that any of the mentioned acts were performed by an official, that perpetrator shall be sentenced up to three years in prison (Article 131 paragraph 4).

One should bear in mind that the legislator, within the general regulations on punishments (Article 54 of the CC RS), emphasized that the court shall punish a perpetrator to a sentence within the limits prescribed by law for that offence, bearing in mind the purpose of punishment and taking into account all the circumstances that influence the punishment to be lower or higher (mitigating and aggravating circumstances), and especially: the level of guilt, the motives for which crime was performed, the degree of endangerment or damages to protected object, the circumstances under which the offense was performed, the past life of the perpetrator, his personal circumstances, his conduct after the performance of the offence and in particular his relationship towards the victim of the offence, and other circumstances related to the personality of the perpetrator. From the above it can be concluded that the legislator, although in a general way, i.e. with the special emphasis on the importance of motive to commit an offence and the relationship of the perpetrator towards the victim, points out to the necessity of respecting prejudice and hatred as a driver of criminal behaviour.

About a kind of, we could say indirect, introduction of a special regime of criminal justice reaction to the hate crimes in the national legislation of the Republic of Serbia, one can speak on the occasion when the formulation "criminal offence performed out of hatred" was introduced into the CC RS. This was done in December 2012[7] in the Article 54a of the CC RS that is labelled as a "special circumstance for the punishment of the offences committed out of hatred". With this the legislator shows that it has recognized the specificity and severity of hate crimes, and it emphasized the fact that the offence was committed out of hatred because of race and religion, national or ethnic origin, sex, sexual orientation or gender identity of another person, shall be, by the court, considered as an aggravating circumstance, unless it is stipulated as a characteristic of some other criminal offence.

Criminal charges for criminal offences with the elements of hate crimes

Within the observed period (January 2007 - August 2011), police officers from the Ministry of Internal Affairs of the Republic of Serbia conducted their work in compliance with the valid regulations, and they have also conducted the work in relation to many events in which there were elements of hate crimes i.e. elements of criminal offences stipulated in the CC RS that are, often, performed under the influence of prejudice, intolerance and hatred towards members of other national, racial, ethnic, religious, fan and other groups, i.e. towards the individuals of different sexual orientation, disabilities, and other "various persons".

In relation to these events, police officers have submitted criminal charges for the performance of 205 offences for inciting national, racial and religious hatred and intolerance from the Article 317 CC RS, as follows:

2007 for 48 performed criminal offences (28 of these criminal offences were solved in the same year)

2008 for 47 performed criminal offences (23 of these criminal offences were solved in the same year)

2009 for 45 performed criminal offences (25 of these criminal offences were solved in the same year)

2010 for 29 performed criminal offences (23 of these criminal offences were solved in the same year)

in the period from January to August 2008 for 36 performed criminal offences (27 of these criminal offences were solved in the same year).

[7] "Official Gazette", no. 112/2012

For the performance of recorded criminal offences 237 persons were reported (204 of Serbian nationality, 10 of Muslim nationality, 8 of Hungarian nationality, 4 of Croatian nationality, 2 of Albanian nationality, 2 of Romanian nationality, and 1 of German, Vlachs, Macedonian, Roma, Croatian, Gorani and Slovakian nationality).

In the submitted criminal charges the offences that were performed were also 23 physical attacks (20 of which were solved). There were thirteen attacks on persons of Roma nationality, two on persons of Hungarian nationality and two on citizens of the Republic of Croatia, one person of Serbian, one of Albanian and one of Muslim nationality and two cases against the members of other nationalities. In one of the attack minor injuries were inflicted to two persons of Iraqi nationality. Criminal charges have been submitted against forty-one persons of Serbian nationality and against one person of Muslim and one person of German nationality. Out of these criminal offences six were performed in 2007 (5 are solved); five in 2008 (all are solved); two in 2009 (both are solved); three in 2010 (two are solved) and seven in the period from January till August 2011 (6 are solved). In three cases, in criminal charges, the offence was a fight where the victims were persons of the Roma nationality (one in 2008, one in 2009 and one in 2010). All criminal offences are solved and criminal charges were submitted against nine persons of Serbian nationality and one person of Muslim nationality.

Citizens also reported 97 cases of "writing of slogans and graffiti" directed toward different ethnic groups. 34 cases are solved. Statistics: in 2007 – 24 (9 solved), in 2008 – 23 (3 solved), in 2009 – 21 (6 solved), in 2010 – 12 (7 solved) and in the period from January till August 2011 – 17 (9 solved). Criminal charges were submitted against 35 persons of Serbian nationality, against two persons of Hungarian nationality and one of Croatian, Slovakian, Romanian, Roma and Muslim nationality.

There were 55 cases of verbal threats out of which 53 are solved. Statistics: 2007 – 12 (11 solved), in 2008 – 9 (all solved), in 2009 – 15 (14 solved), in 2010 – 7 (all solved) and in the period from January till August 2011 – 12 (all solved). Verbal threats were made towards the persons of the following nationalities: Roma – 15, Serbian – 12, Croatian – 7, Hungarian – 6, Albanian – 5, Muslim – 3, Rusyn – 2, Gorani – 1, Bunjevci – 1 and Yugoslavian – 1, as well as one citizen from the Republic of Nigeria. In one case the insults were directed at the same time to the Muslims, Turks, Montenegrins and Albanians. Criminal charges were submitted against 76 persons of Serbian, 7 persons of Muslim, 4 Hungarians, 3 persons of Croatian, 1 of Romanian, 1 of Gorani and one of Vlachs nationality.

During the observed period 7 anonymous threats were recorded (five are solved), two in 2008, two in 2009 and three in 2010. In three cases anonymous threats were directed to persons of Hungarian nationality, in two

cases to persons of Serbian nationality and in one case to persons of Roma and Croatian nationality. After solving those criminal offences criminal charges were submitted against three persons of Serbian and one person of Croatian nationality.

Out of seven cases of damaging religious objects (three in 2007, two in 2008, one in 2009, and on in 2010) four are solved. In two cases the damage was made on Roman Catholic and Serbian Orthodox churches, as well as on the Christian Adventist Church, and one on the Islamic religious community. Criminal charges have been submitted against four persons of Serbian nationality, two persons of Hungarian nationality and one of person of Albanian nationality.

Those submitted criminal charges covered the following as well:

three cases of damaging objects belonging to people of Roma nationality (all are solved, and the perpetrators were eighteen persons of Serbian and one person Macedonian nationality);

two cases of damaging buildings belonging to the people of Albanian nationality (both cases are solved and the perpetrators were three persons of Serbian nationality);

one case of damaging memorial bust dedicated to the founder of the Protestant Church (the perpetrator is unknown);

three cases of damaging of other objects (cases are solved and the perpetrators were three persons of Serbian nationality);

one case of displaying Nazi symbols during a concert (the perpetrators were four persons of Serbian nationality).

Within the observed period police officers submitted five reports for criminal offence of damaging the reputation based racial, religious, ethnic or other affiliation under the Article 174 of the CC RS, for the following:

writing of slogans – 2, by unidentified persons to the detriment of Roma people (2007) and Serbs (2009),

an insult to the detriment of the police officer of Roma nationality (2011),

an insult to the detriment of the Minister of Public Administration and Local Self-Government by the person of Albanian nationality, and

burning the flag of the Republic of Croatia by the person of Serbian nationality (2011).

Two criminal charges have been submitted for the criminal offences of racial and other discrimination from the Article 387 of the CC RS. One offence was performed by an unidentified person at the detriment of Roma persons (2007), and one was performed by the persons of Serbian nationality at the detriment of the citizen of the Republic of Guinea (2011).

Two criminal charges were submitted because of the offence of violation of freedom and religion and the exercise of religious rites under the Article 131 from the CC RS. In one case, an unknown perpetrator broke a wooden cross on the Serbian Orthodox Church (2007), and nine other persons of Serbian nationality threw stones on the building of the "Jehovah's Witnesses" religious community, (2008). Some other offences were made to the detriment of religious objects with the aim to gain unlawful profit, in which the method of execution and other factors point out to the religious intolerance as a relevant motive. It was determined, however, that in most cases, the offences committed against places of worship, were motivated solely by obtaining unlawful profit (in 2007 – 79,6%, in 2008 – 64,8%, 2009 – 74,8%, in 2010 – 77,9% and in the period from January till August 2011 84% out of the total number of events). On this occasion, from the religious objects they mainly stole the money from the contributions of the faithful, sacred objects, copper gutters, and objects of cultural, historical and religious significance. Most of these offences were performed to the detriment of the Serbian Orthodox Church, while sporadic cases were recorded to the detriment of the Roman Catholic Church and the facilities of other religious communities. Despite the fact that in most cases the motive was to obtain unlawful profit and where the most damage was made to the detriment of the Serbian Orthodox Church, events that happened on religious objects were recorded because of the way of their execution (breaking windows and writing of graffiti with offensive content on religious objects) and because of the environment in which they were made they can be placed in the context of religious intolerance (in 2007 – 83 or 20,4% of the events on religious objects in that year; in 2008 – 81 or 21,6%; in 2009 – 54 or 11,6%; in 2010 – 51 or 12,1%; and in the period from January till August 2011 – 28 or 9,3%).

One criminal charge was submitted because of the suspicion that an offence of attempted murder was performed, from the Article 113 in relation to the Article 30 of the CC RS (2008) against person of Serbian nationality who has performed that offence against the person of Hungarian nationality.

One criminal charge was submitted for the performance of the offence of aggravated bodily injuries from the Article 121 of the CC RS by the persons of Serbian nationality who insulted and hit few times the person of Muslim nationality (2011).

One gets the impression that the presented normative framework of criminal justice reaction stipulated in the CC RS, although firmly established and widely set, is not sufficiently respecting the need of recognition and highlighting of the elements of hate crime in all the cases in which it is manifested in practice (this is primarily in the terms of crimes against life

and body). On the way of determining the actual extent of hate crimes is the facts that the most victims do not want to participate in surveys aimed in that direction. This is sometimes related to factual reasons, for example if the victims are illegal immigrants they do not know the language, they are not available to researchers because they have no permanent address or they left their countries because of the crimes they have suffered (Ignjatović, Simeunović - Patić, 2011:89).

Conclusion

It is unquestionable that the criminal justice provisions in the Criminal Code of the Republic of Serbia are not, cannot and must not be the only response to hate crimes, nor even the only normative framework of this response. Like in other states where many other aspects of a comprehensive national programme for combating violence motivated by prejudice are also important, including the following: training of staff responsible for discovering, solving and proving crimes performed out of hatred, processing and working with victims; gathering more complete data on criminal offences motivated by prejudice, regardless of the fact if those offences are processed as criminal offences motivated by hatred or not; establishing of anti-discrimination bodies with a mandate to support the victims of hate crimes including the victims of discrimination; the ability to meet community and promotion of relationships between agencies for law enforcement and community groups so the victims can feel that they can, with full confidence, report the criminal offences; education of public (especially young people) about the tolerance and non-discrimination (OSCE/ODIHR, 2009:12).

Criminal offences performed out of hatred represent a form of violent expression of intolerance and have a profound impact on the victim, but also to the group with which the victim is identifying herself/himself (negative impact on community cohesion and social stability). Due to the fact that hate crimes vary from other crimes by perpetrator's motive and that the motive is often irrelevant for proving the basic elements of the criminal offence, in numerous criminal offences the motive is rarely adequately investigated. For these reasons it is not a surprise that the statistics in the states with more effective mechanisms for collecting data on hate crimes often show higher number of hate crimes than the statistics of the states that do not have an effective systems for data collection (OSCE/ODIHR, 2009:11). In connection to this is also the choice of appropriate criminal justice framework that will, as special forms, recognize criminal offences motivated by hostility, prejudice and hatred directed toward individuals from other racial, ethnic, religious, ethical and other social groups. The laws that are

clear, specific, and easy to understand will increase the likelihood that the representatives of law enforcement institutions will apply that law in practice. Although criminal justice provisions are representing only one part of a broader response to the problem of hate crimes, in combination with other means those provisions and their reinforcement can be a powerful catalyst for the change of social attitudes. In spite of the existing and presented solutions and achieved results, there is no doubt that the space for the improvement of criminal justice reaction to the hate crimes still exists in the criminal justice legislation of the Republic of Serbia.

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ASSUMPTIONS AND SELECTION PROCEDURE - APPOINTMENT OF EXPERTS*

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Abstract

This paper deals with issues connected to the assumptions and selection procedure (appointment) of experts. Dealing with the selected issue was imposed as a result of increasing use of expertises in determination of legally relevant facts in criminal and other judicial proceedings. Also, we have concluded that the quality of expertise depends largely on the competence of experts, which affects the realization of fair trial standards. This has imposed the idea that in this work we present comparative and national legal solutions in the field of selection or appointment of an expert. Guided by this idea, we first defined expertise in terms of criminal proceedings law, and we then analyzed the most important regulations of the countries in the region, including positive national law, which regulates the assumptions and method for the selection (appointment) of experts.

***Key words**: assumptions, procedure, selection (appointment), expert*

Introduction

Since crime is a complex social phenomenon it requires an interdisciplinary approach, over time besides the legal the following aspects of its studies, prevention and control are being promoted: criminal, criminology, penology, forensic pathology and other aspects (Aleksić& Milovanović, 1995). In the same time, the development and specialization i.e. sub-specialization of science and technology in modern economy is forcing criminal court to increase the use of expertises for the detection and identification of certain facts (Milošević, 1996). With this it is possible to meet individual interests of citizens who are, in some way, involved in the process of establishing the truth in a particular criminal matter, that their

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rights and duties competently decided by the competent authority, on which legal, vocational, professional, fair and responsible treatment they can rely (Žarković& Kesić, 2004). There is no doubt that among the essential assumptions of raising the quality of expertise there are those that are related to the criteria and procedure for the appointment of court experts. On the other hand, although the findings and opinions of an expert have undoubted value for the clarification of a criminal matter, the court, which has the freedom in evaluating offered evidence, can and must check the quality of undertaken expertise and analyze the findings and opinions given by an expert. This means that the court, in case of doubt in the correctness of the expert testimony, can order new, repeated or additional expertise. In case that in the work of some experts it spotted "serious failures" the court has the option to initiate the review of the justification for their further engagement.

Basic elements of normative definition of expertise in regulations for criminal proceeding

The issue of determination of expertise within the provisions of criminal procedure law can be viewed through the prism of a number of circumstances. For the purposes of this paper the analysis included only those of general type, namely the circumstances related to the determination of the nature of this action, as well as assumptions and procedure for the appointment and dismissal of experts. This will also be done through the comparative analysis of the solutions for legal proceedings present in the countries in our region.

In terms of determination of legal expertise's legal nature, analyzed process legislations (Republic of Serbia, Republic of Macedonia, Republic of Croatia, Republic of Montenegro, Bosnia and Herzegovina, Federation of Bosnia and Herzegovina and Republic of Srpska) have unique standing point. That unique issue is about one of the proving actions (from the chapter VII Criminal Proceedings Code (ZKP) RS, chapter VII ZKP CG, chapter VIII ZKP B&H, chapter VIII ZKP FB&H, chapter XV ZKP SRP), i.e. one of the proving actions (from the chapter VII ZKP RS/2011, chapter XVIII ZKP RC) or it is about the evidence, which is the case in ZKP RM (chapter XVIII).[1]

[1] ZKP RS – Criminal Proceedings Code of the Republic of Serbia, Official Gazette SRY SRJ, no. 70/01 and 68/02 and Official Gazette RS, no. 58/04, 85/05, 85/05 – state law, 115/05, 49/07, 20/09 – state law, 72/09 and 76/10; ZKP RM – Official Gazette RM, no. 150/2010; ZKP CG – Criminal Proceedings Code of the Republic of Montenegro – Official Gazette RCG, no. 57/09 and 49/10; ZKP B&H – Criminal Proceedings Code of the Bosnia and Herzegovina, Official Gazette B&H, br. 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09; ZKP FB&H –

Nearly identical definitions are present in the provisions of mentioned regulations that determine the objectives that are trying to be realized by ordering and performing expertise. Namely, expertise is determined with the objective to enable a determination or evaluation of some important fact (Article 113 ZKP RS, Article 236. paragraph 1. ZKP RM, Article 308 ZKP RH, 136 ZKP CG, Article 95 ZKP B&H, Article 109 ZKP FB&H, Article 169 ZKP SRP), i.e. determination or evaluation of some fact within the proceedings (Article 113 ZKP RS/2011). Key definitions of expertise with which this action is different than all others are given in different manners, i.e. with the highlight on different elements of this unique action.

In some legislations emphasis is on realization of previously set objectives by obtaining the finding and opinions from persons who posses necessary professional knowledge (Article 113 ZKP RS, Article 236. paragraph 1. ZKP RM, 136 ZKP CG, Article 95 ZKP B&H, Article 109 ZKP FB&H, Article 169 ZKP SRP), i.e. professional skills or expertise (Article 308 ZKP RH).

In addition to the aforementioned conclusions regarding the performance of expertise by the person who has the necessary expertise, the provisions of Article 95 of the ZKP B&H, Article109 FB&H ZKP and Article ZKP 169 SRP, explicitly distinguished scientific and technical knowledge. At the same time the emphasis is that experts, as a special type of witnesses, may testify by giving the expertise about the fact and opinions that contain evaluation of the facts, and with that to help the court to assess the evidence or clarify some questionable facts. Macedonian legislator particularly stresses out the fact that the expertise can be made only by the experts who are enrolled in the Register of experts (Article 236. paragraph 1. ZKP RM). Besides that there is a possibility to hire a technical consultant who should assist the parties in understanding certain specialized matters or in challenging given expertise. Technical advisor can be suggested by the public prosecutor and the defendant or his attorney, and he is selected from the list of registered experts. At most the parties may have at their disposal the services of two technical advisors (Article 244, paragraph 1 CPA RM). The defendant has a guaranteed right to engage a technical advisor at the expense of budget funds, in cases of defence of poor people (Article 244, paragraph 2 CPA RM).

Criminal Proceedings Code of the Federation of Bosnia and Herzegovina, Official Gazette FB&H, no. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07 and 9/09, 12/10; ZKP SRP – Criminal Proceedings Code of the Republic of Srpska, Official Gazette RS, no. 100/09; ZKP RH – Criminal Proceedings Code of the Republic of Croatia, Official Gazette no. 121/11; ZKP RS/2011 – Criminal Proceedings Code of the Republic of Serbia, Official Gazette RS, no. 72/11 and 101/11.

The Article 113 of the new Criminal Proceedings Code of the Republic of Serbia (ZKP RS/2011) does not stress out that the outcome of expertise is in the form of findings or opinions. It states that the authority of the proceedings shall determine an expertise when for the assessment or evaluation of some fact within the proceedings there is a need for professional knowledge. For the first time this regulation emphasizes that the expertise cannot be determined in order to establish or evaluate legal matters upon which the decision has to be made in the proceedings.

Normative determination of the assumptions for selection (appointment) of experts in special regulations

Analyzed legislations are characterized with the existence of numerous similarities in criminal definition of expertise, as well as the facts that this proving action is covered almost with the identical number of articles (21 in ZKP RH, ZKP RS/2011, ZKP B&H, ZKP FB&H and ZKP SRP, 20 in ZKP RS and ZKP CG), slightly less number of articles (14) in ZKP RM. In addition, certain issues related to the expertise are regulated with special regulations such as: Law on Court Experts of Serbia (ZSV RS),[2] Law on expertise RM (ZV RM),[3] Law on Court Experts of Montenegro (ZSV CG),[4] Law on Experts of the Federation of B&H (ZV FB&H)[5] and Law on Experts of the Republic of Srpska (ZV SRP).[6] Within the legislation of the Republic of Croatia regulations that define the issues for the selection and work of experts are partly contained in the Law on Courts (ZS RH),[7] within the part that has the following title: "Permanent court interpreters, experts and appraisers" (Article 123-129), and in the Regulation on permanent court experts (PSSV RH).[8]

Among the key issues to which these regulations are paying attention are also those related to the criteria for the appointment of an expert. Although the legislation provisions are almost identical in many ways there are such differences that show different ways of defining procedures that have the ultimate goal to ensure the competence of selected (appointed) expert, and thus the reliability of their findings, i.e. their opinions about the facts in the proceedings. In the text that follows the attention shall be paid to those elements that can be viewed through the prism of preconditions and

[2] Official Gazette RS, no. 44/2010.
[3] Official Gazette RM, no. 115/2010.
[4] Official Newsletter RCG no.79/04.
[5] Official Newsletter of the Federation of B&H", no. 49/05 and 38/08.
[6] Official Gazette of the Republic of Srpska no. 16/05.
[7] Official Gazette no. 150/05, 16/07, 113/08, 153/09, 116/10, 122/10 and 28/13.
[8] Official Gazette no. 88/08 and 126/11.

guarantees of experts' competence, i.e. precision and reliability of the finding and opinions they provide. The issue of the competent of experts is one of the most important to which the attention is paid in relation to fulfilment of standards for the accreditation of forensic laboratories (Žarković et al., 2010 and Milošević et al., 2009).

General conditions for selection (appointment) of experts (citizenship, education and dignity)

The theory represents almost undivided view that an individual who may be appointed as an expert must be competent (adult and sanity), moral and professional (Milošević, & Kesić, 2009). In other words the expertise of an expert is the most important feature of his engagement in the concrete case, but every professional cannot be unconditionally designated as an expert (Jokić, 2009). Therefore, it is insisted that the experts, besides the expertise, have some other qualities such as: fairness, criticism of work, responsibility and the ability to clearly and reasonably present their findings and opinions. Namely, the expert must satisfy the criteria of the ethics code for experts (Simonović, 2004). The best insight into the conditions for the selection (appointment) of experts can be achieved with the analysis of relevant regulations that are governing this area.

Key legal criteria for the appointment of experts in the Republic of Serbia, Republic of Croatia and Republic of Montenegro is the fulfilment of conditions for the work in government institutions (Article 6 ZSV RS, Article 6 ZSV CG), i.e. for admission in civil service (Article 2 PSSV RH). Analysis of relevant regulations (Article 40 Law on civil servants of the Republic of Serbia[9] - ZDS RS; Article 16 law on civil servants and employees of the Republic of Montenegro[10] - ZDSN CG; Article 6 Law on civil servants and employees[11] - ZDSN RH) shows that this general requirement for the appointment of experts is largely defined differently in mentioned states. Although in all the assumptions it is noted that that person needs to be an adult citizen of that state, in accordance with the provision of the mentioned law of the Republic of Montenegro a foreigner or a person without a citizenship can also be employed in some governmental institution under the conditions determined with the special law and international conventions.

In the Republic of Croatia, for admission of foreign citizen or person without a citizenship into the civil service, besides the fulfilment of the

[9] Official Gazette RS, no. 79/05, 81/05, 83/05, 64/07 67/07, 116/08 and 104/09.
[10] Official Gazette of Montenegro no. 50/08 and 86/09.
[11] Official Gazette no. 27/01, 92/05, 86/07 and 28/10.

conditions stipulated by special legislation, it necessary to have the prior approval of the Ministry for general administration (Article 2 PSSV RH stipulates that the citizen on the Republic of Croatia, citizen from EU member states or some other state that signed the Agreement on European economic area, can be appointed as permanent court expert).

In the Republic of Serbia the ability to receive a foreign citizen or a person without citizenship into the service is not predicted.

The assumptions for the admission to the civil service in the Republic of Serbia is also the prescribed education and the fulfilment of other conditions stipulated in the law, other regulations and regulation on internal organization and systematization of working posts in the state institutions (Article 40 ZDS RS).

Besides having the required education in the Republic of Montenegro the candidates are explicitly required to be of good health.

In the Republic of Croatia it is emphasized that the law and the regulation on the internal organization of a state authority or the regulation on the internal order of the state authority prescribe special conditions for the admission and deployment of employees to a certain workplace – concrete education and profession, working experience in the profession, passed state exam, special professional skills and knowledge, special health abilities, etc. (Article 7 ZDSN RH). In Section 2 of PSSV RH it is expressly required that the person has good health in order to be capable of performing the work of a permanent court expert.

Inadequacy of applicants for civil service in the Republic of Serbia is related to termination of employment with the state authority for serious breach of duty, i.e. conviction to imprisonment of at least six months (Article 40 ZDS RS).

In the Republic of Montenegro this category of circumstances gets more attention and numerous obstacles are predicted. Namely, it is required that the candidate has not been convicted of a criminal offence that renders him unfit for service in the state authority, but also that a criminal prosecution is not upon him for a criminal offence which is prosecuted ex officio (Article 16 ZDSN CG).

ZDSN RH dealt the most with these assumptions. There is an obstacle for the employment in the civil service, unless a special law provides otherwise, for a person who is convicted of criminal offences against freedom and human and citizen rights of the Republic of Croatia, the values protected by international law, life and body, sexual freedom and sexual morality, marriage, family and youth, public safety of persons and property, security of payment system, the judiciary, the authenticity of documents, official duties, as well as those for which the sentence is an unconditional imprisonment of at least three years. This does not apply to the

person who is in accordance with the provisions of the Criminal Code in rehabilitation by force of law (Article 8 ZDSN RH).

Within the ZV B&H, as well as within the ZV SRP there are no indicating provisions about the conditions experts must fulfil in order to be employed as civil servants.

ZV FB&H determines that a citizen of Bosnia and Herzegovina may be appointed as an expert, and regarding the above mentioned conditions ZV SRP requires that the person is a citizen of Bosnia and Herzegovina, that he has working capability (adult and sane), that he has not been sentenced to imprisonment for offences against the order and security of the state, for crimes against humanity, international law, against official duties or other responsible duties or for other criminal offence committed for personal gain or low excitation.

Provisions of the ZV RM define the expert as a person who holds a license to provide expertise in certain field and who is registered in the Register of experts. License for the performance of expertise is issued by the Ministry of Justice RM, and preceded its issuance there is professional exam in order to determine the skills of person needed for the performance of expertise within a certain area (Article 2 paragraph 1 points 5, 6 and 7 ZV RM).[12] The law does not specifically talk about the conditions for the appointment of an expert, but we rather indirectly conclude about them from this provision on the conditions for passing the professional exam. This provision specifies that a person must have a permanent residence and the citizenship in the Republic of Macedonia (Article 9 paragraph 1). However, there are no obstacles for an expert to be a foreign citizen or foreign specialized institution, if there is no expert/institutions in the RM that can perform a certain kind of expertise, within the condition that, in accordance with the law in which they are registered as experts, are fulfilling the conditions for the performance of an expertise (Article 7).

Special conditions for selection (appointment) of experts (appropriate education, professional and work experience, integrity)

As already mentioned, conditions for the appointment of individuals as experts, in addition to the general requirements for the work in state institutions, the laws that govern the issue of expertise are prescribed by the special conditions as well. These conditions are primarily related to

[12] The professional exam is taken before the commission formed by the Minister of Justice for each particular area of expertise. The Commission consists of the president, two members with the expert's license, their deputies and the Commission secretary from the staff of the Ministry of Justice with the mandate of four years (Article 12 DM RM).

appropriate education, professional knowledge, practical experience in a particular area of expertise and worthiness to perform an expertise.

When talking about the education and experience the following is required:

appropriate (university) education from the second level studies (graduate academic studies - master, specialist studies, specialized professional studies), or at the level basic studies, for a specific area of expertise; (exceptionally, the expert may be a person who has at least completed high school, if for a particular area of expertise there are not enough experts who have acquired university education Article 6 ZSV RS);

university education from a certain area (diploma of finished four years university education or a diploma with 300 ECTS), as well as that he is not banned, with a final judgment, to execute the profession, activities or duties, within the duration of legal consequences of prohibition (Article 9 paragraph 1 ZV RM);

appropriate university diploma for a specific area of expertise (exceptionally, the expert may become person who has at least a high school diploma, unless there is not a sufficient number of experts for the particular area) - Article 6 ZV CG);

appropriate university education, namely: professional studies, undergraduate or graduate university studies – court expertises can be perform by an individual with the finished high school diploma within the appropriate area (Article 2 ZS RH);

to have appropriate education (Article 3 ZV FB&H);

to have university degree (ZV SRP), exclusively an expert may become a person who has a high school or college education in the areas in which the person with that education can perform a professional and skilful expertise (Article 3.).[13]

In terms of the conditions for the appointment of an expert, the mentioned laws pay most of the attention to the selection and definition of those assumptions that guarantee their ability to perform entrusted expertise in a quality manner. In the Republic of Serbia it is required from a candidate to have at least five years of professional experience, but also a professional knowledge and practical experience in a particular area of expertise (Article 6 ZSV RS). The candidate for an experts proves his professional knowledge and practical experience for the particular area of expertise with published professional or scientific papers, with a certificate of participation in consultations organized by professional associations, as well as opinions or

[13] The law contains no provision as to which entity should be responsible for this type of assessment, which may be considered as its disadvantage, since determination of the competence of experts depends on it.

recommendations of the courts or other government agencies, professional associations, academic institutions and other legal entities in which the candidate performed professional jobs. The burden of proving the professionalism and practical experience does not exist for a candidate with scientific vocation (Article 7 ZSV RS).[14]

According to ZV RM, a person applying for a professional exam in order to obtain the conditions for entry into the Register of experts, must have at least five years experience in a particular area for which applying to take a professional exam (Article 9 paragraph 1). However, there are exceptions to this rule related to the possibility of acquiring a license without taking the exam, and those refer to the following persons:

PhDs from a particular field of science or persons who are in doctoral studies, after the issuance of licenses and registration in the Register of experts;

Master of Science in a specific scientific field and the persons who passed the exam from medicine or second level studies at university - Master studies in a specific scientific field, after the issuance of licenses and registration in the Register of experts;

if persons who have a college or high school education and who are registered as craftsmen in a particular field (goldsmiths, furrier, watchmaker, jeweller, optician or other craft) apply for the issuance of a license and if they meet the following conditions:

that they have the citizenship of the Republic of Macedonia;

that they have residence in the Republic of Macedonia;

that they have at least five years of working experience within the particular area;

that they are not convicted by a final court judgment for an offence carrying a prison sentence of more than six months during the duration of the legal consequences of the conviction and

that they have a certificate issued by a particular institution for the craft work, and after the issuance of a license and registration in the Register for experts (Article 20 paragraph 1 ZV RM).

In the ZSV CG much more attention is paid to the assumptions in the. And this regulation requires that the candidate has experience in the profession for at least five years, has professional knowledge and practical experience in a particular area of expertise (Article 6), but it also points out that a candidate proves his professional knowledge and practical experience in a particular area with published professional or scientific papers, as well as with the opinions or recommendations of the courts or other government

[14] In practice this category of experts also proves their professionalism with scientific contributions and experience in particular area.

agencies, professional associations and other institutions. A person with specialized and scientific vocation is not required to submit evidence about his professional knowledge and practical experience (Article 7).

The Article 2 PSSV RH requires that the candidate have, after completion of appropriate studies or appropriate school, worked within the area of his profession, as follows: at least 5 years - if he completed undergraduate and graduate university studies or undergraduate university studies, i.e. professional studies and specialized graduate professional studies; at least 8 years if completed appropriate undergraduate university studies or professional studies; at least 10 years of relevant working experience if completed the appropriate high school (this exceptionally). The same Article stipulates the ability of candidate for the work as permanent court's expert is determined on the basis of an expert report after a vocational training with permanent court's expert of the appropriate profession under whose supervision the candidate must complete at least five expertise, design findings and opinion (exemption from this the provision are doctors specialists whose ability to perform as court expert was determined when they passed their professional specialist exam after their specialist internship).[15]

Professional training for any business or profession is conducted in accordance with the program that is being created by the appropriate professional association and for medical experts that is being done by Croatian Medical Chamber, Croatian Dental Chamber, i.e. some other professional chamber. Professional training of medical specialist with a valid license from the Croatian Medical Chamber and Croatian Dental Chamber cannot last longer than 6 months, and a medical specialist with a valid license from the Croatian Medical Chamber and Croatian Dental Association, who has the title of primaries or is in scientific-teaching profession, cannot last longer than 3 months. Specialist in forensic pathology with a valid license from the Croatian Medical Chamber is not required to perform the training. After the finished professional training that was mentioned professional associations shall, on the basis of report from the permanent court's expert who trained the candidate in professional training, within a month create an opinion in writing about the success of training provided and the qualifications of candidate for the performance of judicial expertise and submit it to President of the appropriate county or commercial court (Article 6 PSSV RH).

[15] In the effort to define, within this segment, as much as possible adequate criteria to guarantee the competence of the candidate the in two occasions the Minister with his act changed this provision (Official Gazette RH, no. 08/09, and followed by Official Gazette RH, no. 126/11).

In the ZV of FB&H requests that the applicant has the appropriate experience and professional knowledge in a particular area; that he is a person with proven professional abilities who enjoys a reputation as a careful, objective and expeditious expert in a particular field. With the request for the appointment of an expert the candidate will submit published scientific papers, evidence of participation in organized forms of training, at least three letters of recommendation from the Presidents of the courts, prosecutors or judges before whom the applicant has eventually performed earlier expertise, or from managers of scientific or other institutions and agencies, i.e. other legal entities in which the applicant has worked or works, or for which he performed professional jobs, as well as the list of the last ten cases in which he performed the duties of an expert, if he has already performed the kind of work (Article 5 FB&H).

The ZV SRP also requests the appropriate professional knowledge and qualifications, practical skills and experience in a particular type of expertise; that the candidate has a minimum of five years of work experience in the areas which the applicant has stated in the request for the appointment; that the candidate does not to conduct activities that are incompatible with the work of an expert (Article 3). The applicant (candidate), in his application for the appointment as an expert, states the scientific area (medicine, finance, etc.), as well as a sub specialty which he applies. Besides the request for the appointment of an expert the candidate must submit an expert opinion of the relevant state organs, institutes, or other professional institutions for specific scientific areas, as well as evidence of participation in professional development, as well as evidence that the expert was trained for specific expertise, which is done only in government organizations or agencies (Article 5 ZV SRP).

In certain regulations, in addition to the requirements in terms of education and professional experience, it is required that the candidate is worthy of becoming an expert (Article 6 paragraph 4 ZV RS), or that he is a person who is known for his integrity and high moral qualities (Article 3 ZV FB&H), i.e. high moral qualities (Article 3 ZV SRP).

Normative determination for selection procedure (appointment) of experts in special regulations

Very significant differences are present in terms of the normative regulations for the procedure for selection and appointment of experts.

In the Republic of Serbia, the appointment of experts is started by the Minister of Justice with the public call for the appointment of an expert in the Official Gazette of the RS and on the ministry's website, when it is determined that there is an insufficient number of experts in a particular area

of expertise (articles 11 ZSV RS). The request for an appointment, which with the attachments that prove compliance with the requirements for the performance of an expertise is submitted to the Ministry, must contain personal information, vocation, CV, area of expertise and sub-specialty of the candidate (Article 12 ZSV RS). The decision on the appointment of an expert is passed by the Minister and it represents the basis for the registration of an expert into the Register of experts. Against the decision with which the appointment is denied, the candidate for an expert may initiate administrative proceedings (Article 13 ZSV RS). The issue of the selection process and appointment of an expert is far more detailed, and it might be more appropriate to say that it is governed by the legislation of the countries in the region.

According to ZV RM procedure for the issuance of licences and registration in the Register of experts is conducted by the Ministry of Justice. A person who is interested in performing expertise applies for a licence in the Ministry of Justice, by presenting evidence of the professional exam (except in mentioned exceptional cases) and evidence that there are no final decision banning his from exercising the profession, activity or duty, as long as the legal consequences of ban are valid. Licence issued for expertise is valid for the period of five years and may be renewed by submitting the request to the Ministry of Justice, not later than two months before the expiry of the previous license. Extension of the license can be accomplished by a person who, in a one year period, was not fined three times by the competent authority before which the expertise was done, and if year he has attended mandatory training for continuous improvement that is conducted by the Chamber of experts (Article 19 paragraph 1 - 5 ZV RM). After determination of eligibility for the issuance of a license, and oath shall be taken in the presence of the Minister of Justice, the President of the Supreme Court of Macedonia and President of the Chamber of experts with which the person has acquired all the requirements for receiving a licence and registration in the Register of experts (Article 21 ZV RM). Register of experts is maintained by the Ministry of Justice of the Republic of Macedonia and it is obliged to send it, each year no later than March, to the courts in RM and to the Chambers for experts (Article 22 paragraph 1 and 2 ZV RM).

The ZSV CG emphasises that the applications of candidates are being considered by a five-member commission formed by the Supreme Court of the Republic of Montenegro. Two members of the commission shall be selected among judges, two members from the court experts and one from the Ministry of Justice (members of the Commission who are selected among judges are appointed on the proposal from the general meeting of the Supreme Court, members of the Commission selected from the Experts association are appointed on the proposal of the body defined by the statute

of the Association, a member who is selected from the Ministry of Justice is appointed on the proposal of the Minister - President of the Commission shall be selected and appointed judges). Commission members are appointed for the mandate of four years (Article 11 ZSV CG). The Commission first determines whether the candidate meets the requirements from the Article 6 ZSV CG, and if it finds that the evidence submitted by candidate are not sufficient for evaluation of his expert knowledge and practical experience it shall send the request to the Association of court experts for verification of his expertise. If a candidate does not accept the performance of checks of his professional knowledge and practical experience or if the check does not show satisfactory results it shall be considered that the candidate is not fulfilling the requirement provided by law in order to become an expert (Article 13 ZSV CG).[16]

In the Republic of Croatia, the appointment of permanent court experts is initiated with the request that is submitted to the President of the County or the Commercial Court that has the jurisdiction in accordance with the place of residence of the applicant, or the main office of a legal entity. The request can be accompanied with a list of published scientific and professional papers. Till 2011 when the regulations were amended, before deciding upon the request of the President of the appropriate County or Commercial Court sent the candidates to professional training held by the permanent court expert witness who is proposed by one of the professional associations. Amendments to the PSSV RH from 2011 stipulate that before deciding upon a request the President of the appropriate County or Commercial Court shall send the candidate to the professional training in the relevant professional association of permanent court experts. Thereby, the training cannot last longer than one year (Article 5). Permanent court experts, private individuals and permanent court experts in legal entities are appointed and dismissed by the President of the county court, or of the commercial court for that area. The applicant has the right to appeal to the Ministry of Justice within 15 days after receiving the decision which denied

[16] Test of professional knowledge and practical experience of candidates for a particular area of expertise is made by at least three members of the Association of court experts with scientific or specialist titles appointed by the competent authority designated by the Statute of the Association. If a particular area of expertise is deficient with experts who have scientific and specialist titles, the test is made by the experts with university diploma. After the performed check the Association of court experts submits the written opinion to the Commission about the qualifications of candidates for the performance of expertise (Article 14 ZSV CG). Method of evaluating professional knowledge and practical experience of candidates, as well as the costs of assessment are regulated closely by an act of the Association of court experts and approved by the Ministry of Justice. Cost for evaluation of professional knowledge and practical experience is paid by the candidate (Article15 ZSV CG).

his appointment as a court expert. Permanent court experts have the mandate of four years and may be reappointed (Article 126 paragraph 4 ZS RH). In the process of reappointment of a permanent court expert, as well as in the process of the expanding the field of expertise of already appointed court expert, the expert does not take an oath and is not obliged to undertake the professional training (Article 11, paragraph 5 PSSV RH). Prior to the appointment as a court expert the candidate is obliged to submit a proof of the conclusion of the compulsory liability insurance for the settlement of a claim, which was caused by his actions as a court expert to President of the County or the Commercial Court that is responsible for his appointment.[17]

ZV FB&H stipulates that the Minister of Justice appoints an expert commission to determine the proposal of the list of experts. Permanent members of this Commission are the President of the Supreme Court of the Federation of Bosnia and Herzegovina or a judge authorized by him, the president of the Bar Association of the Federation of Bosnia and Herzegovina or the lawyer authorized by him, the main federal prosecutor or prosecutor authorized by him, representative of the Federal Ministry of Justice, and three temporary members are chosen from the leading experts in the areas in which the expertise is made and they are appointed by permanent members by majority vote. Besides the evidence with which the candidate confirms that he meets the requirements to become a court expert (Article 5, paragraph 2 ZV FB&H), the Commission shall obtain the other data and information, including the court records, recommendations and opinions from professional associations, experts associations, opinions from current or former employer about the candidate's skills that are being considered as necessary in order to determine the competence of the candidate (Article 6 ZV FB&H). The Commission conducts a competitive examination of candidates in the form of a written test with which the ability of the candidates is checked in accordance with the criteria set out in the Article 9 ZV B&H.[18] After the written test the expert committee may decide to perform an additional verbal test of some candidates who did not completely meet the written test, where on each case a separate decision is made by the Commission for the competitive examination of candidates from that area (Article 7 ZV FB&H).

[17] The candidate must be insured during the period of appointment as a court expert. Minimum sum insured is not less than 200.000,00 Kuna. At the beginning of each calendar year appointed court expert is obliged to submit the proof of insurance contract concluded for the current and following year to the President of the competent County or Commercial Court (Article 7 PSSV RH).

[18] Procedure for qualification test is defined with the special regulation passed by the Federal Minister of Justice. (Article 7 ZV FB&H).

The Commission checks whether the applicant is able to perform as an expert by taking into account especially the following criteria: a) professional knowledge and performance results; b) proved professional capability based on the results achieved so far in his career, including participation in organized forms of training; c) the ability proven through published scientific papers and through the activities in professional associations; d) capacity to work and the ability to professionally and clearly explain the provided findings; e) ability to impartially, conscientiously, diligently, decisively and responsibly perform the work of an expert; f) conduct outside work, integrity and reputation. After the conducted competitive exam by the candidates and evaluated evidence from the article 5 and 6, paragraph 2 from the ZV FB&H and acquired certificate, as well as the knowledge that certain candidates are capable of performing as experts, the Commission determines a proposal of the list of experts which is submitted to the federal Minister of Justice (Article 9 ZV FB&H). Federal Minister of Justice passes a decision for the appointment or a dismissal of an expert according to the proposal of the Commission. A candidate who has not been proposed by the Commission cannot be appointed as an expert. The expert is appointed for a mandate of six years and may be reappointed. The decision on the appointment shall be submitted to an expert (Article 10 ZV F &HB). Experts shall be insured against liability for damage caused in the performance of an expertise. The minimum amount of insurance, type of insured damage and the extent of risk to be covered are determined by the Federal Ministry of Justice (Article 36 FB&H).

In ZV SRP stipulates that in order to determine the list of experts the Minister of Justice shall appoint an Expert commission consisted of the permanent members: President of the Supreme Court of the Republic of Srpska or a judge authorized by him, the President of the Bar Association of the Republic of Srpska or a lawyer of authorized by him, the main republic prosecutor or a prosecutor authorized by him, the representative of the Ministry of Justice of the Republic of Srpska and an odd number of temporary members selected from the leading experts in the areas in which the expertise are performed and those members are appointed by the permanent members by majority vote. Apart from the evidence submitted by the applicant, if deemed necessary, the Commission may also obtain other information and data, including court records, recommendations and opinions from professional associations, expert associations, opinions from the current or former employer about the competence of candidates, etc., as it deems necessary to determine whether the applicant meets the requirements related to the competence of candidates, etc., in order to determine whether the applicant meets the legal requirements . The Applicant shall bear the costs of the Commission, and the decision on costs is made by the Minister

of Justice (Article 6 ZV SRP). The Commission conducts a qualification exam of applicants within the relevant field that checks the ability of applicants in accordance with the statutory criteria (Article 7).[19] Experts in the Republic of Srpska are, with the decision of the Minister of Justice and on the proposal of the Commission, appointed for a mandate of six years, and after that period the expert's mandate is extended for the next six years, without applying for re-appointment, except in case of experts' dismissal (Articles 10 and 12 ZV SRP). Experts are mandatory insured against liability for damage caused in the performance of their expertise. The minimum amount of insurance, type of damage and the extent of risk to be covered are determined by the Ministry of Justice (Article 37).

Conclusion

There is no doubt that the expertise is one of the most important means of evidence in criminal and other legal proceedings. However, the quality of expertise depends not only on the applied scientific and professional knowledge, but also on the personality of an expert. That is why issues related to the assumptions and methods for selection or appointment of an expert are of high importance. The analysis of the presented foreign and domestic regulations in this area supports the made assertion. There is no doubt that during the selection (appointment) of an expert one must take into account the professional qualifications of an expert; achieved level of knowledge and skills in a particular field; work experience; evaluation of expert's previous work; periodic professional development; moral character of that person, etc. Assessment of the fulfilment of these criteria is important not only for the proper and complete determination of the lawful relevant facts, but also for the achievement of the standards expressed through the institute of fair trial. Bearing in mind that in modern criminal proceedings the use of scientific, technical and technological achievements are increasing in order to determine the truth, it means that this will increase the participation of experts and, therefore, also

[19] Procedure for qualification tests is determined with the separate Regulations passed by the Minister of Justice (Article 7 ZV SRP). Regulation on the qualification test for candidates in the Republic of Srpska ("Official Gazette of the Republic of Srpska" no. 4/09) determines the procedure for qualification test for experts' candidates in the Republic of Srpska, the work of the commission that conducts the testing, grading system, and other issues related to qualification testing of candidates. The exam consists three parts: solving practical task, written part within the appropriate profession and the written part which relates to the regulations governing the place and role of experts (Law on expert, Criminal Procedure Code, Civil Procedure Code and the Law on general administrative procedure).

the need for precise regulation of all circumstances related to the conditions and procedures for their engagement in judicial procedures.

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POLICE MANAGEMENT - ART OR SCIENCE?

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Abstract

This paper deals with Police management in democratic societies, considering the question of whether the Police management is an art or science or both.

Discussion on police management as an art involves systematic application of knowledge and skills in order to achieve an objective. The basic premise in the definition of Police management as a skill is its application. Accordingly, Police managers must apply their knowledge and skills to the achievement of goals and objectives of the Police.

Science involves a systematic study of the subject leading to a general knowledge about the subject. There are different types of science which are more or less related to management. For instance, if we consider the exact sciences such as chemistry or physics, they are not related to management, especially to Police management. The research analyzes the characteristics of natural and physical sciences, in which the experiments often take place in a laboratory setting; as such, they cannot be applied to the study of management and organizational culture. However, this does not mean that managers and researchers cannot conduct valuable research on relation to the Police. It means that when dealing with the complexity of organizational life, conducting research is more difficult, and therefore the results may not be as exact as it would be expected. The inexact sciences such as psychology or sociology have been used to systematically study organizational behavior and to develop general concepts and methods of the work of the Police officers.

Sustained Police management is the combination of art and science in a continuous effort to achieve a consensus among as many concerned parties as possible, implying to the activities and behavior of Police, without neglecting the actors who are not part of the consensus. A successful Police manager should be guided by the importance of the rule of law, improve his or her understanding of how the Police can become both more effective and more efficient, and strive to improve the quality of the services performed by the employees and the members of the community.

Key words: management, police management, art, science.

Introduction

The key aspects to be examined within this discussion are related to the discipline of Police management. This discipline is relatively in its commencement and therefore there are plenty of related terminologies. The comprehensive study of Police management can be traced back to the 19th century - mostly in spheres such as sociology, psychology, law, politics, security, etc. However, serious debates about the relationship of Police management and other sciences arose in the last half century, when numerous Police structures around the world were inclined to seek help and support from scientists in order to identify and target the Police work toward the best practices of Police action.

One of the issues causing interests in the scientific circles is the relationship between science and profession, precisely between scientific and professional result. One can get the impression that - to what extent the science is underdeveloped - to that extent boundaries are unidentified. The profession means knowledge, primarily applied knowledge. Application of knowledge includes transfer of scientific results as a new experience enriched the profession with the skills and orientations (Mojasnoki, 2012a, p: 131).

Over the last two decades, the police have been modernizing in a rapid pace, developing new practices and policies that have reformed and changed the policing industry (Weisburd and Braga, 2006a). Experiences from the development of the police service in the past half century in the Republic of Macedonia, as well as in many countries which belong to the former "Eastern Block" are different in their nature and manifestation. Previously targeted primarily to achieve the interests of the state, police was the service that hardly accepts any change and modernization. After the fall of communism and the introduction of new concepts of civil society and liberal democracy, the police (albeit slowly and with great difficulties) put the citizen in the centre of their interests, as well as guaranteeing and promotion of fundamental freedoms and human rights. The new model of community policing is promoting new relation between the police and the citizens and their access to justice. This means that the police officers are more willing to introduce innovation and to perform research in terms of their actions and activities.

The main objective of this paper is to raise the issues of relationship between science and practice in policing, to argue about autonomous scientific discipline of police management and police management in real, everyday situation of policing.

Relations between Police Management and Science

Changes in the priorities of the police and the growing openness to the public undoubtedly lead to a wider space for cooperation between science and profession, i.e. between police managers and scientist. In the EU member states, and especially in the USA, but also in other democratic countries in the World, police managers are often scientists. Despite their leading activities within the police, they often themselves engage in research and analysis of police procedures.

Through higher education institutions which promote graduates with degree in police science as well as security and criminology, scientists impose as an unavoidable factor in the creating part of police activities. They participate in the development of new programs for crime control, problem oriented policing, "hot-spot policing" as well as in a number of strategic innovations including implementation of the new technologies. (Weisburd, D. & Neyroud, P. 2011). In their efforts to innovate and change over the last two decades, the police have often enlisted the help of academics and researchers. In the development of Compstat in New York City, for example, academic research not only helped to define why new approaches were necessary (Bratton, 1998; Bratton and Knobler, 1998), but police scholars like George Kelling were enlisted to help identify and refine promising police practices. Intelligence-led policing is strongly linked to academics who have called for use of advanced statistical and analytic tools in dealing with crime problems, and many police agencies have sought to enlist researchers to help them develop such tools (Peterson, 2005; Ratcliffe, 2002; 2008). Hot spots policing has its origins in basic academic research, and has been the subject of systematic scientific evaluation (Braga, 2001). More generally, police-researching partnerships have been a prominent feature of the policing landscape over the last two decades, and it is no longer surprising to see researchers in the police agencies.

The application of social science techniques to the study of police administration for the purpose of increasing effectiveness reduces the frequency of citizen complaints and enhances the efficient use of available resources. (Weisburd and Neyroud, 2011:21)

However, a CEPOL study of police research in European police agencies found that only five out of 30 countries showed a "high" value accorded with the police science research. In contrast, in nearly half of the countries research was seen as being of "low" value. The CEPOL study categorized low value through two characteristics: little or no demand from police for research and police training being conducted without reference to scientific or academic knowledge (Hanak and Hofinger, 2005).

In the Republic of Macedonia in the last few years, an increased interest in research on phenomena directly or indirectly associated with policing is evident. We can also notice that the relations among police officers or police managers and science are much closer than before, but still there is a wide scope for strengthening such relations. Despite the good intentions to strengthen the relationship between the police and science, there is still a large gap between these two interrelated categories.

Science is increasingly getting into the good part of police procedures and activities, especially in many methods used in forensic, for example the DNA tests, digitization of the database with fingerprints, digital tachographs mandatory for trucks and buses and other technologies that are being introduced to improve the detection and identification of persons. The fact that this also includes social science is not surprising. This has often been neglected by the police, but has begun to play an increasingly important role over the last few decades both in terms of advancing crime analysis and in evaluating and assessing traditional police practices and new innovations in police strategies. By science we also refer to the advancement of use of scientific models of inquiry such as problem-oriented policing. In our paper, we will argue that despite the advances made in the use of science in policing and in the leadership and management of policing, science has yet to move to the center stage.

Prospects of science are not fully utilized in police structures. For example, in the Macedonian police, just like in every country in the region - even in Europe, there is no proper system for evaluation of the activities of police managers. Further more, public is still too little aware of the working conditions and activities of police managers. Although the officials carry out and implement strategies for various areas of police actions, they are prepared without significant participation of researchers and without scientific verification.

Most police agencies do not see science as critical to their everyday operations. Science is not an essential part of this police world (Hanak and Hofinger, 2005; Jaschke et al., 2007). Higher education institutions are outside the police systems and are mainly part of the public universities. It does not support the claim that science and police profession should go hand in hand. Although there were attempts to ensure that police managers will be introduced to scientific principles which they are to apply in their daily operations, up to date there are no serious indicators that managers in the police services are using some of the scientific methods and procedures when planning and implementing their activities. As an example we can mention the following: The diploma / masters in applied criminology at Cambridge, which included practice-based research, was required for senior law enforcement managers for a brief period in the late 1990s.

Of course we should not neglect the fact that scientific data from social science can hardly be applicable in police procedures, especially without prior checks and preparations. Therefore, it may well be understood the fact that in the exact sciences, or sciences where the results of the research are taken with high probability and accuracy, the relationship between science and practice is really close. As an example we can take the field of medicine. Is it possible to imagine success in medicine without wide network of researchers who are standing behind all medical protocols and public health policies? In the sphere of medicine, science is valued by the doctors (practitioners), and the general public. In policing there is - as Jonathan Shepherd, a recent recipient of the Stockholm Prize in criminology and originally a medical researcher and practitioner has remarked – a problem with the "credibility of the social science research" (Shepherd, 2007). The police do not see social science as essential to the work of police agencies. The reasons for this behavior, despite the lack of sufficient research, are significant lack of funds allocated in the state budget to finance the scientific research in policing, and hence to the police management. Unlike other scientific areas where state support for scientific purposes reaches high sums, in policing the planned funds are minimal or even almost not available at all. Further more, the divisions between researchers and the practitioners are particularly marked. The first mentioned (researchers) come to relevant experience on which they are to base their scientific results in a difficult way. The conducted researches are very different from the everyday, real police work, which involves decision-making in a short period of time and acting immediately after discovering about the particular event.

To simplify, the police work is quite dynamic and fast, and the way to relevant scientific knowledge is slow and "taken with leisure". But, academic policing research generally ignores these aspects of the police world, often delivering results long after they stop being relevant, and many times focusing on issues of little interest to the police managers. Real issues in policing often have little practice in the halls of universities. In medicine, clinical involvement is seen as an important part of the research enterprise, and clinical professors are well integrated into the medical science. But in policing, academics would be unlikely to advance to universities if they nested themselves in police agencies to address specific problems such as riots control or car accident investigations. As such, the everyday problems of policing have little status in the universities (Carter, D.L. and Sapp, A.D. 1990). In the Republic of Macedonia, police management as a separate science discipline has been studied at the Faculty of Security, as well as at some private universities, only theoretically, with little or no connection to the practice. Other levels of education (basic police training courses), however, did not provide topics of police management.

We believe that a radical reformation of the role of science in policing will be necessary if policing is to become more open and closer to the citizens and social life. This is directly related to the support and legitimacy of police actions both within the service and from the aspect of the citizens in general. The question which arises inevitably is whether the police departments should conduct research for their needs and develop the police science inside the service alone, or it should continue to be mainly conducted by universities or higher education institutions. In countries like the Republic of Macedonia where the budget for development and promotion of police activities are really modest, the issue of their development should be left to the university. Another issue is the relationship between university teachers and police managers. If the procedures and rules for co-operation are clarified, than the data will be more accessible for both. For the first mentioned - to conduct additional research and to propose relevant steps; to the second mentioned - for more appropriate use of scientific knowledge in their everyday activities.

Police Management as an Art

According to Mojanoski, science and profession have at the same time both parallel and divergent flows, where the profession encompasses scientific results as a transfer, as its own new experience built-in ability to solve complex problems (Mojanoski, 2012a, p: 132).

An issue which is of great importance both for the police and for the entire social life is the issue of governance or police management. It is evident that the role of police organization in today's society is being changed more rapidly than ever. As new development has unfolded, new challenges have confronted police managers. New concepts of policing, such as the community policing, the problem oriented policing, and the neighborhood oriented policing require new supervisory and managerial skills (Kessler, 1999.4r). Instead of the day-to-day management, their new challenges have become focusing on clear responsibility and accountability for results, client oriented service style, and professional and business-like management. Wise leadership starts from wise police managers. To be successful leaders, police supervisors must be experts in getting things done through officers. Supervisors have to learn to "read" subordinates and diagnose situations before deciding how to respond. They have to become students of human behavior and of such behavioral science disciplines as psychology and sociology. Effective police managers serve as trainers, educators, planers, friends, communicators, performance evaluators, etc. Everyday, police organizations face more sophisticated, more challenging, and more complex problems. In brief, Brown suggest that in many instances,

police managers are rising to the challenge, questioning many of the traditional concepts about police services delivery and redefining the police mission itself. (Brown, 1985: 70).

Although police officers face these challenges and complexities in the streets every day, the greater parts of the required tasks and responsibilities lie on the supervisory and managerial side. The roles of police managers become more diverse as they climb the career ladder. The more senior the rank they achieve, the broader their perspective needs to be. Everything becomes higher at each higher rank.

For this reason, this study focuses on the issue of roles of police supervisors, which is a crucial issue to all police organizations in the world. The attempt of this study is to identify the fundamentals of police supervision for an effective police management.

The roles of the police supervisors are extremely difficult, as they deal with police officers on the one hand, and middle or upper management on the other. The concerns, expectations, and interests of officers and management are inevitably different, and, to some extent, in conflict situations and especially in bureaucratic and paramilitary type of police organizations (Özgüler, 2011: 67). In those organizations, officers and managers are, respectively, at the bottom and the top of the organization; while it is the managers' job to squeeze as much productivity out of the officers as possible. "Supervisors find themselves right in the middle of these contexts. Their subordinates expect from them some level of understanding and protection from the management's unreasonable expectations and arbitrary decisions, as well as to represent their interests. Management, though, expects supervisors to keep employees in line and to represent the management's, and overall - the organization's interests" (Peak et al., 1999:38).

"The first responsibility of a leader is to define reality. (Max DePree)"

From ethical to legal and disciplinary issues, the first level supervisors play a key role in police organizations in the same manner as in any organization. There are a remarkably large number of roles and activities to be undertaken by the operational level managers in their daily work. For example, permanent communication with subordinates is necessary for them to realize the situation in origin, i.e. that the supervisors are informed about the actions of their employees on daily basis by receiving feedback for the activities undertaken during the day. There is no doubt that only supervisors can give immediate feedback. However, this task requires a certain set of qualities. First of all, these responsibilities can be performed successfully only by fair, knowledgeable and therefore respected supervisors. These qualities are very important for effective supervision.

We have already mentioned that some of the most important activities of the police manager are associated to counseling or providing advisory support to the staff, by effective communication with the employees and a friendly and benevolent attitude toward all. As a counselor, the supervisor should be a good listener. This trait is necessary for a healthy and empathetic relationship. He or she should also give careful advice when it is needed. On the other hand, he or she should know when not to talk. This is important to gain the subordinates' confidence. He or she should be a good communicator. A good supervisor excels in the concise use of words as tools. As a friend, he or she should support their charges when they need a boost. Supervisors should also have courage enough to tell their employees when they are wrong (Garner 1995:7).

"A good leader is not the person who does things right, but the person who finds the right things to do" (Anthony T. Dadovano)

According to Stefanovic, there are nine functions of police management. These functions are as follows: a) Monitoring and evaluation; b) Decision making; c) Planning; d) Organizing; e) Ordering; f) Coordination; g) Controlling; h) Information and representation; i) Analyzing and Assessment;

Other relevant authors recognize all those functions, but as basic and additional. Malish Sazdovska and Dujovski recognize four basic or main functions and four additional. According to them, the basic are functions of the police management are: a) Planning; b) Organizing; c) Managing; d) Controlling;

Additional functions of police management are: a) Decision making – this function is contained in all other managerial functions; b) Ordering – process of transferring decisions to subordinates, known also as delegation; c) Coordination – process of connecting, directing and harmonizing power; and d) Motivating - influence subordinates in order to stimulate the desire to perform work;

Managers at all levels of the police hierarchy are addressed to closely cooperate and agree with each activity. Their success is strongly associated the success of others. As Dentzker points out, "No matter how capable the leaders are - at or near the top level of management, they will operate in a near vacuum if wise leadership is not provided at the operational level where the day-to-day work is done" (Dentzker, 1999: 129).

It was previously mentioned that human relationships that build and nurture managers, have a great significance for the development and achievement of the goals of the police. Most of the countries are experiencing a practice where managers at the operational level are mainly recruited from the police after they had spent several years in service and gained further education, mostly university degree. The acquired work

experience and communication with the colleagues are an advantage of the new supervisors because for many of them the personal reputation and the working environment are of key importance. The steps from an officer or cadet to a supervisor are gradual and call for a new set of skills and knowledge, largely different from what was learned at street level policing or at school. These steps involve a host of knowledge and skills supposed to get their officers to 'do their very best'. This means that figuring out the strengths and weaknesses of each, defining good and bad performance, providing feedback, make sure that subordinates efforts coincide with the organization's mission, values, goals and objectives (Peak et al., 1999:39). Even though it is one of the most difficult challenges in the world, as Holden states: "the effective law enforcement manager must be able to work with people, because that is what the law enforcement agencies do" (1994:12-13). Further more, according to Henning, the supervisor who recognizes that "each employee is a distinctive individual with his or her own needs, personal likes or dislikes, strengths and weaknesses, and hopes and dreams has already taken the first large step toward earning the loyalty of the employees" (1994:42).

Another very important segment of management is communication. "The individuals who cannot communicate clearly and openly to their subordinates and superiors, will not succeed as police supervisors" (Garner 1995:165). Thus, they will not have good relations with their subordinates. Effective supervisors understand others and are understood easily by them, both orally and in writing. They avoid distractions, prejudices, emotions, inappropriate language and difficult attitudes. Instead, they communicate effectively by proper exchange of information and ideas. In the Republic of Macedonia, there is a large gap between superiors and subordinates, especially in the sphere of mutual communications. To reduce or completely overcome the gap, a serious analysis of the situation is required, as well as organization of courses with topics of communication which will provide a different view of the possibilities for cooperation between all structures and levels of the police.

There are several characteristics of the police managers; we can put them in one of the following categories:

Traditional supervisors. They expect aggressive enforcement from subordinates rather than engagement in community oriented activities or policing of minor disorders. They are more likely than other types of supervisors to make decisions because they tend to take over encounters with citizens or tell officers how to handle those incidents.

Innovative supervisors are characterized by a tendency to form relationships (i.e., they consider more officers to be friends), a low level of task orientation, and more positive views of subordinates. These supervisors

are considered innovative because they generally encourage their officers to embrace new philosophies and methods of policing.

Supportive supervisors. These supervisors support subordinates by protecting them from discipline or punishment perceived as "unfair" and by providing inspirational motivation. They often serve as a buffer between officers and management to protect officers from criticism and discipline. They believe this gives their officers space to perform duties without constant worry of disciplinary action for unintended mistakes.

Active supervisors. They embrace a philosophy of leading by example. Their goal is to be heavily involved in the field alongside subordinates while controlling patrol officer behavior, thus performing the dual function of street officer and supervisor.

Conclusion

We have argued in our essay on the question of whether the police management is a science or an art. Now, at the end, we can come with the conclusion that police management is both science and art. Particularly important for the development of the scientific discipline of the police management and for the police work in general, is the strengthening of trust between the researchers and practitioners. This will make significant changes in the police. It would change the fundamental relationship between research and practice. It would also fundamentally change the realities of police science in the universities. We believe that such a change would increase the quality and prestige of police science. It is time to redefine the relationship between policing and science. We think that bringing the universities into police centers and having the police take ownership of police science will improve policing and ensure its survival in a competitive world of provision of public services.

Police management as science will grow rapidly in the future. Close relationship between the science and the practice will allow a greater involvement of scientists in the real world of police activities, and in the same time they will offer an opportunity for practitioners to have new and up to date information relevant to meeting their everyday duties.

Police management as an art will continue to be the central pillar of policing in a democratic society. Police managers at all levels need constant upgrading of their knowledge and skills, in order to deal successfully with the risks of the police profession in the modern world. Only the managers with a sense for fast and crucial changes of the society and the citizens will be able to deal with their subordinates, as well as with their superiors.

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INTER-RELATIONSHIP OF DEMOCRACY AND HUMAN RIGHTS IN THE MODERN STATE

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Abstract

The context between democracy and human rights has always been interesting for research and observation. This specific interdependent relationship is dynamic, multidimensional and often controversial. Nowadays, it is generally accepted that human rights constitute the modern democracy, while the democratic system provides human rights. The human rights concept is a universal and rather complex category that can be observed from different aspects: legal, political, economic, sociological, anthropological, and theological. However, a common value of all aspects of this concept is the fact that human rights represent necessary and sufficient condition for a modern and democratic developed state. On the other hand, the development and sustainability of the democratic capacity of a country can be represented and measured through the concept of human rights. Practically, defining and respect for human rights are the most important elements of the modern democratic countries which built their society on the principles of rule of law and legal state. This paper represents a comprehensive scientific analysis of the Macedonian society through the prism of human rights from legal, political and economic aspect and a realistic assessment of the degree of democracy in the Republic of Macedonia. In this paper, a comparative analysis of the human rights concepts (in qualitative and quantitative terms) will be made as well as their contribution to the democracy development in some EU member states. The goal of this analysis is to determine where the Republic of Macedonia stands compared with the developed countries as well as to have an insight to which human rights segments need to be improved.

***Keywords**: **modern democracy, human rights concept, modern state, human development index**.*

Introduction

It is an undisputable fact that the democratic political regime in modern states essentially implements and assumes standards for the respect and promotion of human rights and freedoms. But, human rights and

freedoms also constitute to democracy and simultaneously encourage economic development in modern states. So, there is a mutual correlation and interdependence of democracy and human rights in modern social systems. Although human rights and freedoms occupy part of the "public authority" in the private and social life, the context between democracy and human rights is observed in proportional terms. Some controversies about this relationship occurred when there is a conflict of two basic principles: democratic right to decide on important social issues and the request for the human rights to be out of the state jurisdiction. However, these controversies are beyond the numerous democratic and institutional instruments on national and international level.[1]

Considering the fact that human rights and freedoms constitute the democracy as a form of government, and on the other hand the democratic system should promote human rights and freedoms, in this paper we will try to elaborate the dilemma of whether Macedonian democracy provides rights and civil liberties in the necessary extent. Special emphasis will be placed on the personal, the political and economic rights and freedoms, which determine human development in the modern state. Although it is a particularly specific obligation for democracy and human rights to be measured, in this paper will be made an effort to present and analyze their relationship trough quantitative values.

Democracy - Condition SINE QUA NON for the Human Rights and Freedoms

The source of citizenship is the state that emerges as a guarantor of personal, political, cultural and social freedoms and human rights. With the personal freedoms and rights, the development of citizenship in history also began. They are a condition for realization of other freedoms and rights. The political freedoms and rights are the second generation of human rights and freedoms. Through them, citizenship comes to full expression in the political sphere. They occur in an extended form with the development of the parliamentary democracy. (Sharic, 2006). Through observation of the freedom of speech, expression and press, freedom of assembly and association, the right for equal protection in front of the law and the right to proper procedure and a fair trial, we can obtain a rather real picture of the shape and scope of democracy that is practiced in a state. According to this,

[1] Practically, the correlation between democracy and human rights is best presented in Article 21 (3) of the Universal Declaration of Human Rights, which states: "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

personal and political freedoms and rights are the basic determinants that influence the democratic capacities of the states as well as their economic development. In this context, we made a comparative research of the status of these rights and freedoms in Macedonia, Croatia and Slovenia, according to the data contained in the annual reports of the American NGO Freedom House, for the period from 2005 to 2012.[2] The first conclusion is that in Macedonia the situation regarding human rights (personal and political) as well as the specified status (partly free) are unchanged, i.e. the same in this fairly long period of time.[3] On the other hand, if you look at data for Croatia we will conclude that since 2010 there has been progress in the area of political rights and that in this period of eight years Croatia has the status of a free state. Best ranked is Slovenia which, continuously since 2005, has the status of a free state with the best evaluate compliance of personal and political rights and freedoms.

Table 1: Data for the Republic of Macedonia (Source: http://www.freedomhouse.org/report/freedom-world/freedom-world)

Year	Status	Freedom Rating	Civil Liberties	Political Rights
2005	Partly free	3.0	3	3
2006	Partly free	3.0	3	3
2007	Partly free	3.0	3	3
2008	Partly free	3.0	3	3
2009	Partly free	3.0	3	3
2010	Partly free	3.0	3	3
2011	Partly free	3.0	3	3
2012	Partly free	3.0	3	3

[2] We believe that Croatia and Slovenia represent appropriate states that can comparatively be observed with the Republic of Macedonia in the field of democracy and human rights because: the three countries are former members of the SFRY; have similar conceptual development and tradition of democracy and human rights; are part of the Balkan Peninsula, etc. On the other hand, the fact that Slovenia is already a member of the EU, and Croatia will be this year, is sufficient to compare and apply their experience in the practice and development of democracy and human rights in Macedonia.

[3] Macedonia, as it is shown in Table 1, is ranked with 3 on a scale where the best score is 1 and the worst is 7.

Table 2: Data for the Republic of Croatia (Source: http://www.freedomhouse.org/report/freedom-world/freedom-world)

Year	Status	Freedom Rating	Civil Liberties	Political Rights
2005	Free	2.0	2	2
2006	Free	2.0	2	2
2007	Free	2.0	2	2
2008	Free	2.0	2	2
2009	Free	2.0	2	2
2010	Free	1.5	2	1
2011	Free	1.5	2	1
2012	Free	1.5	2	1

Table 3: Data for the Republic of Slovenia (Source: http://www.freedomhouse.org/report/freedom-world/freedom-world)

Year	Status	Freedom Rating	Civil Liberties	Political Rights
2005	Free	1.0	1	1
2006	Free	1.0	1	1
2007	Free	1.0	1	1
2008	Free	1.0	1	1
2009	Free	1.0	1	1
2010	Free	1.0	1	1
2011	Free	1.0	1	1
2012	Free	1.0	1	1

The ppartial implementation and (non) compliance with the personal and political human rights in the Republic of Macedonia, according to these data, imply the conclusion that democracy as a form of governance is not fully realized, i.e. that are not fulfilled all the necessary assumptions for the full realization of these rights and freedoms of a democratic system in our country.

In this regard, of particular interest are also the presented data on the extent of successful political transformation of undemocratic states in the democratic regime under Bertelsman index for transformations (BTI). In this sense, as the indicators are taken into account: statehood, political participation, the rule of law and so on. Macedonia noted progress in 2010, but in 2012 once again has been ranked on the 29th place out of 128 countries in the sector of political transformation. Croatia also declined in terms of political transformation in 2008, when it was ranked as eleventh in comparison to 2012, when it is ranked on the 16th place out of 128 countries.

However, compared to Macedonia, Croatia is in a much better position. Slovenia continued to move to the top three places in the past year in the sector of the political transformation, i.e. it is ranked on the second place out of 128 countries. We can conclude that the established democratic system in Slovenia, with active citizen participation and especially mature statehood, is especially favorable for the respect of civil and personal rights and freedoms. On the other hand, the Macedonian democratic system, which is qualified as insufficiently democratic - according to BTI, and as a partly free - according to Freedom House, is not legitimate enough and has not full capacity for realization of the people's sovereignty and the personal and political rights and freedoms as constituent elements of the democracy.

Table 4: BTI for Republic of Macedonia
(Source: http://www.bti-project.org/index/status-index/)

Year	Ranking	Political transformation	Ranking	Economic transformation	Poverty *	HDI/rank
2012	29/128	7,60	28/128	7,11	4.3	0.728/ 78/187
2010	24/128	7.95	26/128	7.1	3.2	0.82/ 72/182
2008	29/125	7.75	24/125	7.29	2	0.80/ 66/182

* Percentage of population living on less than $2 a day.

Table 5: BRI for Republic of Croatia
(Source: http://www.bti-project.org/index/status-index/)

Year	Ranking	Political transformation	Ranking	Economic transformation	Poverty *%	HDI/rank
2012	16/128	8.4	14/128	8,11	2	0.796/ 46/187
2010	15/128	8.50	15/128	8.11	2	0.87/ 45/182
008	11/125	8.85	13/125	8.29	2	0.85/ 44/182

Table 6: BTI for Republic of Slovenia
(Source: http://www.bti-project.org/index/status-index/)

Year	Ranking	Political transformation	Ranking	Economic transformation	Poverty* %	HDI/rank
2012	2/128	9.65	3/128	9.25	<2	0.884/ 21/187
2010	3/128	9.75	2/128	9.29	<2	0.93/ 29/182
2008	2/125	9.70	3/125	9.29	<2	0.91/ 27/182

The Role of the Market Economy in Promotion of the Human Rights and Freedoms

Market economy or free and market oriented economy is the second determinant of the democratic system as a form of governance established by the free will of the citizens. Economic rights, which are part of the political and personal rights and freedoms, practically determine human development, human dignity and prosperity in a given social framework. The economic situation, the unemployment, poverty and low living standards of the citizens are the most important economic indicators that determine the democratic capacity of a country and the level of respect for human rights and freedoms. In the previous tables it was shown the trend of the human development index (HDI) of the Republic of Macedonia for the period from 2008 to 2012, compared to the same trends in Croatia and Slovenia. This indicator is calculated by the normalized values of the life expectancy, achieved education and GDP per capita. Thus, a basic way for HDI use is to rank countries according to whether they are developed, developing or underdeveloped. HDI value can range from 0 to 1. Values below 0.5 are considered to represent a low level of development of the country.[4] The Human Development Index of the Republic of Macedonia is 0.740 which ranks the country on the 78th place (out of 187 countries). Human Development Index for Europe and Central Asia as a whole region is 0.771 which puts Macedonia below the regional average.[5]

[4] The ultimate goal of the development process, according to the concept of human development, is the expansion of human choice in terms of human capabilities to lead a long and healthy life, to be well educated and have a decent standard of living.

[5] The Human Development Index for the Republic of Slovenia is 0.892 which ranks the country on the 21st place and for the Republic of Croatia is 0.805 which ranks this

As it was mentioned previously, one of the most significant developmental problems, which largely determine the quality of people's life, is the problem of poverty. Changes in the level of poverty, basically, are the result of changes in the average income and changes in income distribution. According to the concept of human development income poverty is significant, but not the only dimension of poverty. Poverty is a multidimensional and complex phenomenon and, in general, it represents a lack of opportunities for human development.[6] The Human poverty index (UNDP, HDI, 1997) combines the basic dimensions of poverty: the short life, lack of education, social exclusion and lack of material goods, which shows that human poverty, is more than the income poverty. Having in mind that poverty is a multidimensional and complex phenomenon, it is clear that such a constructed index of human poverty, whether it is underdeveloped or developed country, can not give a completely correct answer on the extent of poverty in the country. Hence, for mutual complementarities, it is recommended simultaneous application of the human poverty index along with the income poverty indicators. In the Republic of Macedonia the percentage of poor was 30.4% (according to the State Statistical Office in 2011). Long-term unemployment, unresolved social and legal status of certain categories of citizens, illiteracy, bankruptcy, technological surplus, etc., directly affect a large number of citizens. Their exclusion can be compared to one kind of discrimination, considering the fact that they are unable to access and achieve more basic rights. For these reasons was formed the so-called vicious circle of poverty - unemployment - exclusion - injustice which calls into question the citizenship, human rights, solidarity, humanism, etc. Based on the perceived conditions in some areas in which poverty is expressed or concentrate, there are measures, activities, policies and solutions that are proposed in order to help in its reduction. In this context, it should be mentioned that some efforts were made in order to increase employment by improving the business climate and strengthening entrepreneurship, providing better education, providing better health care,

country on the 47th place out of 187 countries. Moreover, Macedonia is qualified as a developed country with high HDI rank, while Slovenia and Croatia are qualified as highly developed countries with very high HDI rank (according to the United Nations development program (UNDP) - Annual Report for 2013:

www.undp.org/content/undp/en/home/librarypage/hdr/human_developmentreport2013.html).

[6] From the perspective of the human rights, the Office of the High Commissioner for Human Rights sees poverty as "a human condition which is characterized by continuous or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and achievement of other fundamental civil, cultural, economic, political and social rights".

establishing a system of social protection for the poorest citizens, information and communication literacy, gender equality etc.

Institutional Framework and Mechanismis for Promotion and Protection of Human Rights and Freedoms

In Macedonia there is a fairly comprehensive institutional framework for protection of human rights and freedoms, and legal mechanisms for their promotion and protection: Ombudsman Office (Ombudsman), the Constitutional Court, the regular court system represented by basic courts, Appellate courts, Administrative Court, High Administrative Court and Supreme Court of the Republic of Macedonia, Public Prosecutor, the committees established in the Parliament as permanent working bodies (Standing Inquiry Committee for Protection of freedoms and rights of citizens, Committee on Equal Opportunities for women and men) Committee on Interethnic Relations; a number of administrative bodies (Commission for Protection against Discrimination, Commission for Protecting Access to Public Information, Directorate for Personal Data Protection, Agency of Administration), and bodies established on local government level. The role of these national human rights institutions, despite their protection, also extends to ensure harmonization of national legislation, regulations and practices with the obligations imposed by international covenants and conventions to which the Republic of Macedonia has accessed, and to monitor their implementation on a national level. Regarding the topic of this paper, the relationship of democracy and human rights, in this section we will analyze the actions of the European Court of Human Rights in the cases against the Republic of Macedonia, Croatia and Slovenia. From the data listed in Table 7 interesting conclusions can be derived. Namely, the trend of treatment of the court cases against the country declined in 2012 compared to 2008. The same conclusion applies to the Republic of Slovenia as well. However, here we should take into account the fact that since 2004 Slovenia is a full member of the European Union, which certainly has positive implications in terms of human rights and freedoms, as a European top value. The Republic of Croatia, which will join the European family in June this year, has an opposite trend: in 2008, 793 complaints were submitted in front of the ECHR, while in 2012 there were 1232 complaints against Croatia. However, what is evident is that in 2012 the number of cases against Macedonia in relation to ECHR is much smaller compared to the cases against Croatia and Slovenia. From these figures we can derive two alternative sets of conclusions: either that human rights and freedoms in the Republic of Macedonia are respected in a better way than in referent the countries, or the citizens in the Republic of Macedonia have a passive

attitude, lower culture, tradition and knowledge for active use of all legally allowed means in order to protect their human rights and freedoms. Taking into account the data obtained from other relevant sources listed in this paper, however, our view is that the citizens of Macedonia do not show an active interest for the protection of human rights and freedoms especially in front of the international institutions.

Table 7: Total applications (Source:http://www.echr.coe.int)

Country	Total applications per year			
	2008	2009	2010	2011	2012
Macedonia	1030	1077	1029	1020	1136
Croatia	793	979	1594	1752	1232
Slovenia	1218	3183	1434	1332	1218

Conclusion

Concluding observations of the analyzes and data presented in this paper show that the Republic of Macedonia must take proactive measures in the future in order to improve protection and successful promotion of human rights and freedoms. As a country that has been partly free, with a high index of human development, not very well positioned in terms of political and economic transformation, it can be concluded that Macedonia is located in the middle between the best and worst-rated countries. Hence, comprehensive reforms in the country should be directed towards meeting global demands for accessible and effective protection of human rights and freedoms. Also, better living standards in economic and social sphere should be provided for the citizens, as well as democracy promotion. In this direction it takes several types of reforms that the Republic of Macedonia should undertake: organizational, in terms of decentralization and redefinition of the national institutions responsible for human rights protection in order to make them more accessible to the citizens; institutional, in terms of a national body introduction in order to protect human rights according to the Paris Principles; personnel, in terms of better acquaintance with the concept of human rights and their protection by the individuals that are already employed as well as dissemination of that knowledge to the young people that will practice this issue in the future; informational, in the form of informational campaigns that will be used for

citizens to be informed about their rights and institutional mechanisms that are available to protect those rights. The permanent EU and NATO membership is the strongest warranty for the survival, stability and future of the country and its constituent bases. This is why it is essential for the Republic of Macedonia to fulfill all the necessary accession conditions as fast as possible in order to join Euro-Atlantic integrations. This can be done by strengthening political plurality, improvement of the economy as well as the rule of law. As a result, human rights and freedoms should receive full promotion and protection.

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HUMANITARIAN AND HUMAN RIGHTS LAW IN THE CONTEXT OF WOUND BALLISTICS AND SELECTION OF HANDGUN AMMUNITION

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Abstract

This article will present a study of effects on the human body produced by penetrating projectiles, which is called terminal ballistics or wound ballistics. For more than 150 years, scientists have studied the interaction of bullets and fragments from explosive weapons with human tissue. Such studies so far have influenced medicine (how wounded people were treated), the development of international humanitarian law (restriction of specific weapons) and, more recently, crime investigation (crimes committed with firearms have been used). The selection of effective handgun ammunition for law enforcement is a critical and complex issue. It is critical because of that which is at stake when an officer is required to use his handgun to protect his own life or that of another. International humanitarian law, as a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict, protects persons who are not participating in the hostilities, and prohibits the use of certain weapons. This article brings together what is believed to be the most credible information regarding wound ballistics, and how it can be connected with the human rights and humanitarian law concerning the selection of handgun ammunition. It provides common-sense, scientifically supportable, principles by which the effectiveness of law enforcement ammunition may be measured.

Key words: projectile, weapons, bullet wound, wound ballistics, handgun ammunition, law enforcement, international human rights and humanitarian law

Introduction

As a discipline, ballistics generally deals with projectile flight and other parameters such as air resistance - air density, gravitational pull it all - and a host of others which unfortunately have a bearing on the projectile flight and retard it from its ideal motion in 'vaccuo' (see more in G.M. Moss, D.W. Leeming, C. L. Farrar, 1995). By definition, the study of physics inside the gun barrel is called internal ballistics. The physical study of the

projectile, or the bullet, between the muzzle and the target is called external ballistics. The study of effects on the body produced by penetrating projectiles is called terminal ballistics or wound ballistics (see more in Fackler, M.L., MD, 1987 and DiMaio, V.J.M., 1987).

For more than 150 years, scientists have studied the interaction of bullets and fragments from explosive weapons with human tissue. Such studies have had an effect on how wounded people are treated, the development of international humanitarian law in relation to weapons and, more recently, the investigation of crimes in which firearms have been used. This field of study is known as wound ballistics (Fackler, M.L., MD. 1987).

As a general rule military or police academies, and to a certain extent other scientific institutions that have interest in wound ballistics, have insufficient budgets. Therefore instead of running our own researches and experiments, we have to rely on the literature that is out there. Nevertheless as the old Romans used to say while indicating unexplored territory on their ocean and land maps, hic sunt leones ("here be the lions" or sometimes translate in to: "here be the dragons").

A closer look in to existing literature related to the issue in the modern democratic context raises serious dilemma. Precisely there is a considerable disagreement among surgeons, ballistic experts and the manufacturers of bullets on the finer points. Conclusions particularly differ on the nature of the bullet wound and how best it should be treated. The problem becomes even more complex in the context of evolution and development of human rights law on one hand and economic - a profit driven interest related to specific ammunition manufacturing on the other.

Given the limited space the article will address the issues related to nature of the bullet wounds and efforts to foster life protection through international humanitarian law and human rights law.

Comprehending the Problem

The selection of effective handgun ammunition for law enforcement is a critical and complex issue. It is connected to law and order protection and their comrades' lives protection. At the same time practice has shown that human beings are amazingly endurable and capable of sustaining phenomenal punishment while persisting in a determined course of action (i.e. one could survive even after he or she had been shot). The issue is made even more complex by the dearth of credible research and the wealth of uninformed opinion regarding what is commonly referred to as a "stopping power". Finally part of the complexity comes from modern and universally accepted standards of state organization. Today democratic control over the

armed forces (military and law enforcement) is a vigilant corrector of potential abuse of states' power and protector of the individual citizens.

The concept of immediate incapacitation as the only goal of any law enforcement shooting (once when the decision has been made to pull the weapon and shoot and the legal threshold criteria has also been met) is subject of disagreements. Arguably this latent conflict has been exposed only after 11th of September and after the US led coalition has launched the so called Global War on terror approach to confront threats posed by modern terrorism. The approaching to terrorism as an act of war raises serious questions, among others, in the context of use of deadly force by the soldiers on the ground conducting counter-terrorist operations. Although in coalition US soldiers have quite different approach when it comes to the right to life from their European coalition partners.

Namely while US soldiers use "shoot to kill" approach, most of the European coalition partners (including Macedonian soldiers) use "shoot to wound" approach. The root causes of these discrepancies (that have also affected rules of engagement and urged many European countries to put national caveats) come from different legal tradition in the context of human rights protection. Common wisdom today is that human rights are universal (Sepúlveda et al. 2004), egalitarian, inalienable and natural (Nickel, Fall 2010), at the same time they are limited in two directions (Council of Europe, 1950). The first limitation comes from egalitarian other individuals' right. The second limitation comes from the need for public safety or common good as the duty of the state. In this specific context when it comes to the right to life (in the light of protection of security and safety), the US in most cases has so far taken approach that public safety is more valuable than individual freedom (Willson, 2005: 209-234). Quite opposite, most of the European coalition partners give more value to protection of individual freedoms (Londras, 2011: 3-5). Nevertheless, although legal in its essence, this debate has additional background and explanation related to the wound ballistic researches and effects.

According to Jeff Chudwin a shoot-to-wound mandate would "not be valid legally" because it sets a standard far beyond that established by "Graham vs. Connor", the benchmark US Supreme Court decision on police use of force (Force Science News, March 20th 2006). In addition, after the so called Miami shootout incident, the FBI has changed its course. Although both Matix and Platt (two suspected robbers) were hit multiple times during the firefight, Platt fought on and continued to injure and kill agents. This incident led to the introduction of more powerful handguns in the FBI and many police departments around the United States (Federal Bureau of Investigation, 1986). Thus, as Fackler argues while this concept is subject to conflicting theories, widely held misconceptions, and varied opinions

generally distorted by personal experiences, it is critical to the analysis and selection of weapons, ammunition and calibers for use by law enforcement officers (Fackler, M.L., MD. 1987). However, the complexity does not end here.

Parallel to the above debate there is a considerable debate and difference of opinions about the terminal ballistics of an ordinary bullet. The surgeons, the ballisticians and the manufacturers have argued about this effect (i.e. the terminal effect) which has been inaccurately thought to be a function of the muzzle velocity. This unfortunately is not quite true, and this short article should provide useful information for the surgeons, the ballisticians and the layers to understand basics of wound ballistics. These findings and debates have serious influence over the lawmakers opinion and thus consequently over the human rights and humanitarian law norms' development.

Hence despite all of the complexity and overlapping it is clear that to understand complexity created by the quest for democratic control and human rights protection on one hand and appropriate practice of public safety and justice on the other, one needs to consider comprehensive approach connecting social and technical science achievements. Thus, it is clear that wound ballistics as a science connects ballisticians (mechanical aspects of projectiles flights), medical science (nature of the wounds) and legal scholars (international humanitarian and human rights law), shown on Figure 1.

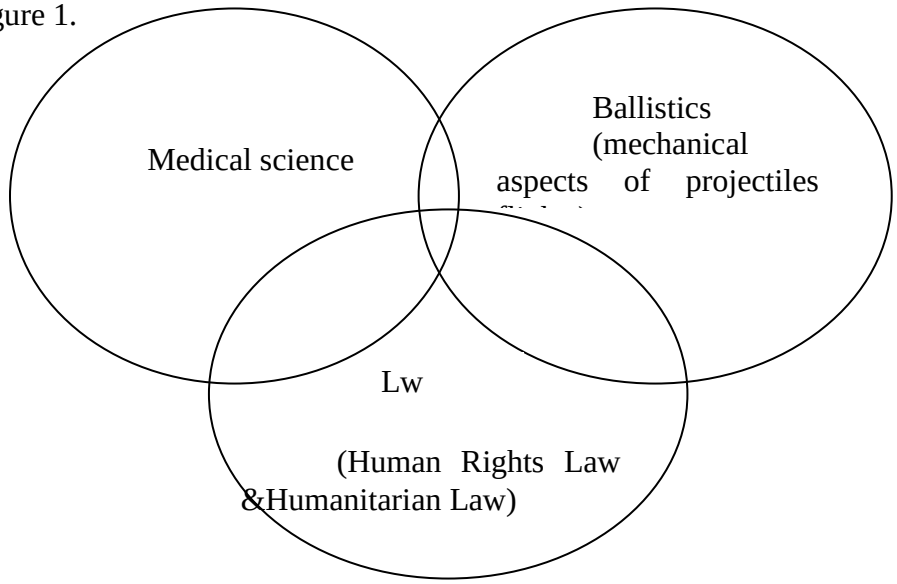

Figure 1 – Elements of wound ballistics and other sciences

Wound Ballistics Issues

Types of ammunition

In order to understand wound ballistics, we must understand the differences between different types of ammunition - bullets. If the bullet is fully covered by the metal, it is called a full metal jacket (FMJ) or full metal cased (FMC) bullet (shown in Figure 2) (see more in Sykes LN Jr, Champion HR, Fouty WJ., 1988). They are also referred to as "military bullets".

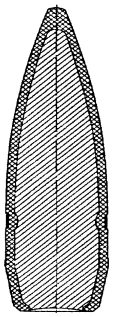

Figure 2 - Full metal jacket (FMJ)

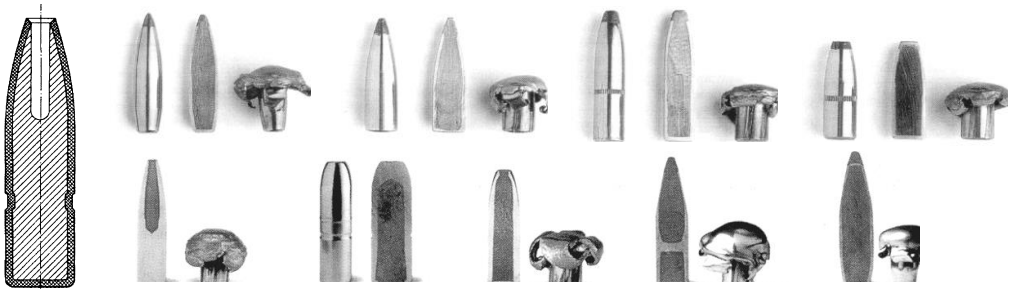

Figure 3 - The mushroom deformation of a bullet tip

It was agreed in the Hague Convention of 1899 that all military-grade bullets must be of FMJ type (see more in Sykes LN Jr, Champion HR, Fouty WJ., 1988,). This resolution was intended to minimize the damage caused by bullets during wartime. However, the main purpose of using bullets in a civilian situation, especially in law enforcement, has been different. That aim has been to maximize the ability of the bullet to injure, so that the adversary would be incapacitated almost instantly. This goal led to the design of a bullet whose lead core is exposed at the tip - Semi-jacketed bullet (SJB) (see

more in Sykes LN Jr, Champion HR, Fouty WJ., 1988). A number of other names are used, such as “dum-dum bullet”, “soft-point bullet”, “soft-nose bullet”, or “hollow-point bullet” (shown in Figure 3), of which there are various kinds of designs. Basically, the tip of the bullet has a hollow in the middle and the soft lead is usually exposed, features that facilitate the deformation of the bullet on impact. The metal used for bullet casings is usually brass, an alloy made of copper and zinc.

A bullet does not fly in a straight line; it is affected by gravity and air friction. As do all other projectiles, a bullet flies in a nearly parabolic line. Most weapons have rifling inside their barrels, which spins the bullet on its axis of travel. This spinning helps to stabilize the bullet (see more in Sebourn CL, Peters CE, 1966). During its flight through the air, there is also yawing, precession, and nutation motion (shown in Figure 4). This peculiar external ballistics imposes uncertainties on the exact orientation of the bullet on impact with its target, which in turn affects the wound ballistics.

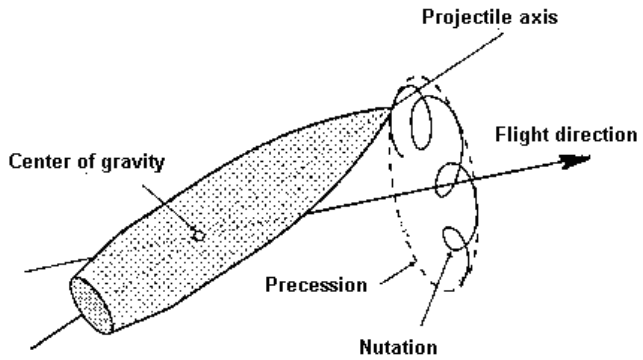

Figure 4 - Motions of a bullet during its flight

(Source: G.M. Moss, D.W. Leeming, C. L. Farrar (1995): Military Ballistics, Brassey’s (UK) Ltd, London)

On impaction with a human target, the bullet tears through clothing or body amour, if there were any. Then it penetrates the body by crushing skin and subcutaneous tissue. The energy possessed by the bullet dissipates to the surroundings, which causes cavitations and a transient vacuum. The vacuum may suck fragments of skin, pieces of cloth, or dirt from outside into the wound, and thus contaminate it. The bullet may also fragment, deform, or tumble and slow down and transfer more energy to the surroundings. Hard tissues like bone may be shattered, and the bone and bullet fragments often form secondary projectiles that cause further damage. If the bullet still possesses sufficient energy, it may exit the body and leave a hole. The exact

path of a bullet inside the human body is difficult, if not impossible, to predict. Even under a laboratory-controlled environment, the path of a bullet inside a gelatin block is not always consistent.

Mechanics of handgun wounding

The wounding mechanisms of projectiles are usually discussed in the literature under various categories, namely, permanent cavity, temporary cavity, sonic waves, and secondary projectiles (fragmentation). In order to predict the likelihood of incapacitation with any handgun round, an understanding of the mechanics of wounding is necessary. There are four components of projectile wounding (see more in Josselson, A., MD, 1982 - 1983). Not all of these components relate to incapacitation, but each of them must be considered. They are:

Penetration. The tissue through which the projectile passes, and which it disrupts or destroys.

Permanent Cavity. The volume of space once occupied by tissue that has been destroyed by the passage of the projectile. This is a function of penetration and the frontal area of the projectile. Quite simply, it is the hole left by the passage of the bullet.

Temporary Cavity. The expansion of the permanent cavity by stretching due to the transfer of kinetic energy during the projectile's passage.

Fragmentation. Projectile pieces or secondary fragments of bone which are impelled outward from the permanent cavity and may sever muscle tissues, blood vessels, etc., apart from the permanent cavity (according to DiMaio, V.J.M, 1987). Fragmentation is not necessarily present in every projectile wound. It may, or may not, occur and can be considered a secondary effect (see more in Fackler, M.L., Malinowski, J.A., 1985).

The physical characteristics of projectiles also contribute important effects to the extent of tissue damage that is produced. The tendency of a projectile to deform, fragment, or change its orientation inside the human body (stability of the projectile during its flight and motion in the human body – Figure 4) can help to transfer energy and thus cause more damage. Most bullets used in the civilian or law enforcement agencies nowadays have hollow-point designs, and they tend to deform or mushroom on impact (shown in Figure 3). This mushroom effect slows the bullet down and allows energy transfer into the surrounding tissues, but the slowing-down effect hampers the penetration power of the bullet.

Projectiles incapacitate by damaging or destroying the central nervous system, or by causing lethal blood loss. To the extent the wound

components cause or increase the effects of these two mechanisms, the likelihood of incapacitation increases. Because of the impracticality of training for head shots, this examination of handgun wounding relative to law enforcement use is focused upon torso wounds and the probable results.

All handgun wounds will combine the components of penetration, permanent cavity, and temporary cavity to a greater or lesser degree (as it is shown in Figure 5). Fragmentation, on the other hand, does not reliably occur in handgun wounds due to the relatively low velocities of handgun bullets. Fragmentation occurs reliable in high velocity projectile wounds (impact velocity in excess of 600 meters per second) inflicted by soft or hollow point bullets (according to Josselson, A., MD, 1982-1983). In such a case, the permanent cavity is stretched so far, and so fast, that tearing and rupturing can occur in tissues surrounding the wound channel which were weakened by fragmentation damage (see more in Fackler, M.L., MD, 1986). It can significantly increase damage (according to Fackler, M.L., Surinchak, J.S., Malinowski, J.A., 1984) in rifle bullet wounds.

In cases where some fragmentation has occurred in handgun wounds, the bullet fragments are generally found within one centimeter of the permanent cavity. DiMaio, V.J.M. (1987), stated that "the velocity of pistol bullets, even of the new high-velocity loadings, is insufficient to cause the shedding of lead fragments seen with rifle bullets". It is obvious that any additional wounding effect caused by such fragmentation in a handgun wound is inconsequential.

Of the remaining factors, temporary cavity is frequently and grossly overrated as a wounding factor when analyzing wounds (according to Lindsay, Douglas, MD, 1980). Nevertheless, historically it has been used in some cases as the primary means of assessing the wounding effectiveness of bullets.

Further, the temporary cavity is caused by the tissue being stretched away from the permanent cavity, not being destroyed. By definition, a cavity is a space (according to Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986) in which nothing exists. A temporary cavity is only a temporary space caused by tissue being pushed aside. That same space then disappears when the tissue returns to its original configuration.

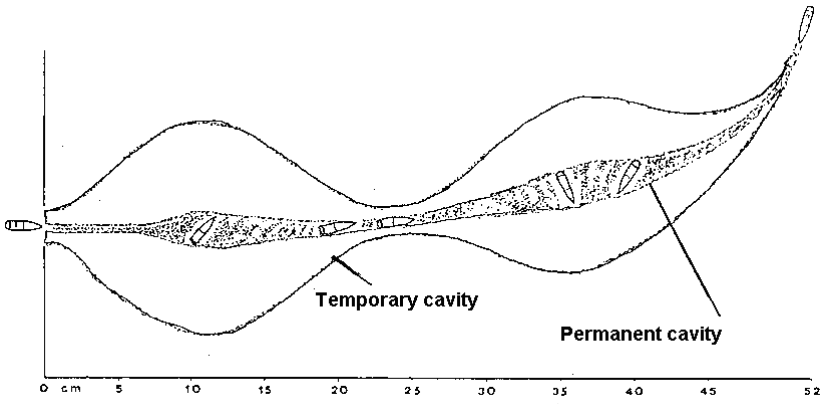

Figure 5 – Wound profile caused by the 5,45 mm bullet fired from AK 47 rifle
(Source: B.P. Kneubehl: Measuring the Wounding Potential of Rifle and Handgun Bullets, International Workshop on Wound Ballistics, Thun, 1999.)

Frequently, forensic pathologists cannot distinguish the wound track caused by a hollow point bullet (large temporary cavity) from that caused by a solid bullet (very small temporary cavity). There may be no physical difference in the wounds. If there is no fragmentation, remote damage due to temporary cavitation may be minor even with high velocity rifle projectiles (see more in Fackler, M.L., Surinchak, J.S., Malinowski, J.A., 1984). Even those who have espoused the significance of temporary cavity agree that it is not a factor in handgun wounds.

In the case of low-velocity missiles, e.g., pistol bullets, the bullet produces a direct path of destruction with very little lateral extension within the surrounding tissues. Only a small temporary cavity is produced. To cause significant injuries to a structure, a pistol bullet must strike that structure directly. The amount of kinetic energy lost in tissue by a pistol bullet is insufficient to cause remote injuries produced by a high velocity rifle bullet (according to DiMaio, V.J.M., 1987, page 42).

The tissue disruption caused by a handgun bullet is limited to two mechanisms. The first, or crush mechanism is the hole which the bullet makes passing through the tissue. The second, or stretch mechanism is the temporary cavity formed by the tissues being driven outward in a radial direction away from the path of the bullet. Of the two, the crush mechanism, the result of penetration and permanent cavity, is the only handgun wounding mechanism which damages tissue (see more in Wound Ballistic Workshop: "9mm vs. .45 Auto", FBI Academy, Quantico, VA, September, 1987, Conclusion of the Workshop). To cause significant injuries to a structure

within the body using a handgun, the bullet must penetrate the structure. Temporary cavity has no reliable wounding effect in elastic body tissues. Temporary cavitation is nothing more than a stretch of the tissues, generally no larger than 10 times the bullet diameter (in handgun calibers), and elastic tissues sustain little, if any, residual damage (see more in Fackler, M.L., MD, 1986).

International human rights and humanitarian law norms in the context of wound ballistics

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. The law protects persons who are not, or are no longer, participating in the hostilities. It places restrictions or prohibitions on the use of certain weapons and methods of warfare. But also, (according to the "UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials"), governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

The right to use force is a right of an individual or authority to settle conflicts or prevent certain actions by using force to either: a) dissuade another party from a particular course of action, or b) physically intervene to stop them. In nations of the developed world and the developing world, governments allow police, citizen, corrections, or other security personnel to employ force to actively prevent imminent commission of crime, or even for deterrence. It may also be exercised by the executive branch (i.e., through the president, prime minister, premier, governor, or mayor) of a political jurisdiction, deploying the police or military to maintain public order. The use of force is governed by statute and is usually authorized in a progressive series of actions, referred to as a "use of force continuum" (O'Connell, Mary Ellen, 2007).

International humanitarian law also prohibits the use of certain weapons. These are weapons that, by virtue of their design, cause particularly severe injuries against combatants. Such weapons are prohibited

on the basis of the general prohibition to use weapons and methods of warfare which cause "superfluous injury or unnecessary suffering".

Human rights law stipulates that the use of force by law-enforcement officials must be legitimate and proportionate. These rules derive in particular from the right to life and the obligations to respect human dignity and the physical and mental integrity of the individual. Guidance on how the use of firearms can comply with legitimate and proportionate use of force can be found in the general and specific provisions of the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

One of the earliest international humanitarian law treaties dealt with the design-dependent effects of bullets: in the St Petersburg Declaration of 1868, States responded to the development of bullets designed to explode within the human body by renouncing "the use, in time of war, of explosive projectiles under 400 grams weight." The preamble to this Declaration affirms that the only legitimate objective of war is to weaken the military forces of the enemy. It therefore stated that in war it is "sufficient to disable the greatest possible number of men". This objective would be exceeded by the use of weapons which "uselessly aggravate the sufferings of disabled men, or render their death inevitable" (See more in Customary International Humanitarian Law, Volume I: Rules, Jean-Marie Henckaerts and Louise Doswald-Beck, 2005).

Even though bullet technology and military practice have evolved, making some aspects of this prohibition (e.g. the anti-material use of exploding projectiles under 400 grams) obsolete, the preamble of this instrument is of lasting value and is the basis of the prohibition on weapons which cause "superfluous injury or unnecessary suffering". Furthermore, States still generally refrain from the anti-personnel use of bullets which explode within the human body.

In 1899, the States adopted the Hague Declaration Concerning Expanding Bullets. This was "inspired by the sentiments which found expression" in the St Petersburg Declaration. The Declaration prohibited "the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions". The severe wounds are caused by such bullets, also called semi-jacketed bullets. The prohibition on the use of such bullets is widely respected in armed conflicts and virtually all State armed forces equip their soldiers only with full metal jacket bullets.

In 1977, the principle originally contained in the St Petersburg Declaration of 1868 was confirmed with the adoption of Article 35 (2) of Protocol I additional to the 1949 Geneva Conventions. This provision prohibits the use in international armed conflict of "weapons, projectiles and

material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering". The subsequent prohibitions of the use of anti-personnel landmines, blinding laser weapons and weapons the primary effect of which is to injure by fragments which in the human body escape detection by X-rays have been inspired entirely or in part by this rule (See the 1997 Convention on the Prohibition of Anti-personnel Mines; See the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and that instrument's Protocol I on non-detectable fragments, as well as its Protocol IV on blinding laser weapons).

The 2005 ICRC study on customary international humanitarian law (see more in Customary International Humanitarian Law, Volume I: Rules, Jean-Marie Henckaerts and Louise Doswald-Beck, Cambridge University Press, 2005, pp. 237 - 244, 268 - 274) concluded that the prohibition on the use of means and methods of warfare of a nature to cause superfluous injury or unnecessary suffering has become a rule of customary international law binding on all parties to both international and non-international armed conflicts, whether or not they are parties to the specific treaties containing this prohibition. This study also stated that the prohibition on the use of bullets which expand or flatten easily in the human body and the prohibition on the anti-personnel use of bullets which explode within the human body have achieved the status of customary international humanitarian law and are applicable both in international and non-international armed conflicts.

Conclusion

Wound ballistics is a science that is partly physical and partly biomedical. Gunshot wounding mechanisms should be looked at as interactions between the penetrating projectile and the body. In fact, the resultant damage depends on many factors, which include the anatomy of the wounded subject, the bullet and firearm designs, and the specific organ being injured. Chance occurrence also takes an important role in determining the exact missile path inside the body.

It has been frequently said that "no two shootings in real life would be the same". On the whole, the mass and velocity of the projectile establish the upper limits of possible tissue damage, whereas which tissue the missile encounters and where, whether the missile fragments or expands, and at what point the missile yaws or tumbles all have important roles in the ultimate damage.

International humanitarian law is a set of rules to place restrictions or prohibitions on the use of certain weapons and methods of warfare. The selection of effective handgun ammunition for law enforcement is a critical

and complex issue. Human rights law stipulates that the use of force by law-enforcement officials must be legitimate and proportionate. These rules derive in particular from the right to life and the obligations to respect human dignity and the physical and mental integrity of the individual.

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CORRUPTION AS A THREAT FACTOR TO THE FUNDAMENTAL VALUES OF THE STATE

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Abstract

Corruption as a phenomenon, is one of the most serious threats to the rule of law today: instead of rule of law and its norms, individuals are governed and led by covetous purposes. Corruption is established and expressed as a form of hidden and illegal reallocations and (ab)uses of the core of the social power and authority. Through corruption, and in conjunction with other mechanisms of the party state, the principally inpersonal authority and power are privatized and then converted into a marketable article. Here is the exchange or swap of the possessive part of political power and the power for material goods. From there, corruption, especially "mass" in the Republic of Macedonia is a key way to obtain certain public services and goods. One of the fundamental values of a democratic society is the respect of the basic human and civil rights and freedoms. Corruption poses a serious threat to the democracy, justice and the human rights, equity and social justice. Corruption undermines this situation and hampers economic development of the countries. It is contrary to the principle of the rule of law and poses a direct threat to the democratic institutions and the moral foundations of the society.

If we talk about the mistreatment of the corruption and its placing into certain frames, we can freely say that it occurs in the function of direct threat to the fundamental values of the state, which are the basic rights and freedoms of the citizens.

Key words: corruption, threat, democracy, human rights

Corruption - Real Threat to the Civil Rights

It seems that the corruption is a constant companion in the development of a federal union. It successfully adapts and exists in different socio-political and economic systems. Corruption finds especially suitable soil in the economically underdeveloped countries with unstable political system, where there are serious violations of the human rights and freedoms.

As a phenomenon, corruption hinders the democratic development, jeopardizing the fundamental and existential human rights and freedoms of the citizens. It violates competitiveness and hence hindering the economic development of a country. Corruption threatens the rule of law, and thus directly threatens the democratic institutions.

Given the fact that the respect for human rights and freedoms in the democratic systems represents a priority, the seriousness of what needs to be approached in managing or reducing corruption in all spheres of human life is evident. The degree of success in dealing with corruption which will be achieved depends on several factors, such as the political and economic conditions in the country, expressed political will and the constructed system of legal action and powers of specialized government bodies to prevent corruption, etc.

Corruption occurs in different forms which can be defined according to specific corruption offenses, and we must not neglect the fact that all forms of corruption must include crime. This means that corruption, according to its content, crosses the border of the criminal legislation. Corruption is a wider term than the criminal corruption, which means that there are phenomena that can be characterized as corruption, but are not criminal acts (Cotic, 2001:301).

Corruption is a complex crime with blurred boundaries, so it is often difficult to distinguish between the offender and the victim. It does not mean that it must be one-dimensional transaction in which the active forces the passive side: both sides can have mutual benefit, and the victim may be a third person or the community at large. There are cultural and social factors in the understanding of this issue.

It does not mean that it must be a one-dimensional transaction in which the active forces the passive side: both sides can have mutual benefit, and the victim may be a third person or the community at large. There are cultural and social factors that impact the understanding of this issue. Giving gifts as a token of appreciation or circumvent bureaucratic obstacles, can be considered acceptable in one culture and unethical behavior in other.

The published research results[1] show that immediately after the unemployment and the poverty, citizens of the Republic of Macedonia consider corruption the most significant problem of our country.

[1]Research titled "Corruption in the Former Yugoslav Republic of Macedonia", made by the Office of the United Nations in Vienna, published by the State Statistical Office of the Republic of Macedonia, www.dzsrm.com.mk, accessed 11.02.2013.

International and National Legal Instruments in Coping with Corruption

The international community has recognized the dangers of corruption which directly affect the most vital values of society, especially in the beginning of the new millennium. It became clear that necessary legal measures to regulate and implement successful fight against corruption have to be overtaken. A number of international regulations were adopted, conventions and agreements by the United Nations, the Council of Europe, European Union, International Monetary Fund and other international organizations and bodies.

Here we will mention some more important instruments to deal with the corruption by the international community: the UN Convention against Corruption adopted in 2003 in Mexico and two Conventions of the Council of Europe[2], the Resolution establishing the group of states against corruption (GRECO), etc. International rules (conventions, treaties) oblige the member states to regulate their legislation in accordance with the international regulations and provide necessary system of institutions and legal measures to prevent corruption and international cooperation in this area.

The legal framework of the national legislation in the Republic of Macedonia for the struggle against corruption was implemented in 2002 with the adoption of the Law for prevention of corruption[3] supplemented and amended several times in 2004 and 2008, ratification in 2007 by the Republic of Macedonia to the UN Convention against Corruption in 2003, and the establishment of the State Commission for Prevention of Corruption (SCPC) as an independent body, responsible for implementation of the measures for prevention of corruption and conflict of interests.

Corruption in the Republic of Macedonia

As well as in the other countries in the Western Balkans, corruption is deeply involved in all aspects of social life in the Republic of Macedonia. The scientific and professional community, the international community, NGOs and other bodies and organizations, have adjusted their attitudes about the high percentage of presence of corruption and lack of efficiency of its management. These facts are confirmed by the ranking of countries according to the index of perception of corruption - Transparency

[2]Criminal Convention against Corruption in 1999., Convention on Civil Law - Combat Corruption 2002 .

[3]Official Gazette of the Republic of Macedonia, no. 46, 83 from 2004.

International.[4] The ranking is done on 176 countries and territories around the world at the level of perception of corruption in the public sector, presented on a scale of 0 - 100. Two thirds of the 176 countries were ranked according to the result by the index score below 50, on a scale of 0 (which is perceived as highly corrupt) to 100 (which is perceived as very clean) [5]. Macedonia is ranked on 69th place with 43 index, which indicates that it is in the group under 50, and the group of countries with high corruption, although it is better ranked than the other countries in the Western Balkans.

Shortly after the publication of the report of the Transparency International for the high level of corruption in the Republic of Macedonia, by the Faculty of Security in Skopje, during the month of January 2013, research was conducted on the topic "The views of the citizens of corruption", which research is in addition to the contribution of the scientific thought in the determination of the causes and factors that lead to the high rate of corruption, as well as finding out appropriate solutions for overcoming of such situation.

The aim of the research was to gain knowledge of citizens about corruption in the Republic of Macedonia, how to introduce them with corruption, the situations in which people are exposed to corruption, modalities of disclosure, prevention and evidence of corruption, areas of highest incidence of corruption, etc. The survey covered 1176 respondents, 38 municipalities territorially divided in eight regions of the country, precisely: Skopje, Pelagonija, Northeastern part, Polog, Vardar, East, Southeast and the Southwest mountain Region. The selection of respondents was made on the principle of a recent birthday of a family member (Mojanoski, C. 2012:416-423). Structured interview (face to face) was applied. Instrument is structured into 6 blocks of questions.

The next section will show the characteristic of the issues covered in the survey.

The first set of questions relates to demographic data including sex, age, nationality, religion, education, occupation, employment status. The second set of issues concerns the knowledge of citizens about corruption. How do they perceive the term corruption means of introducing corruption, the most common situations in which people are at risk of corruption,

[4]Report of Transparency International for the index on perception of the corruption in 2012 published on the web site www.transparencyinternational. com.mk

[5]According to the research, countries with lowest corruption are: Denmark (90), Finland (90), New Zealand (90), Sweden (88), Singapore (87), and as most corrupt are: Somalia, (8), Korea (8) Afghanistan (8) Sudan (13),

methods of discovery (disclosure), proof, anti-corruption. The issues are outlined in the following form:

In your opinion how can corruption BE REVEALED? (Rate like this: 1 - least, 7 - most. Number is circled in each row. The circled number may be circled only once in any order.)

1. by reporting the corruption acts by a citizen with known identity	1	2	3	4	5	6	7
2. to anonymously report acts of corruption by citizens	1	2	3	4	5	6	7
3. with supervision of the administrative authorities	1	2	3	4	5	6	7
4. with work with the authorities and institutions dealing with the fight against corruption	1	2	3	4	5	6	7
5. with operational and tactical measures and investigating activities of the bodies that enforce law	1	2	3	4	5	6	7
6. special investigative measures to detect corruption	1	2	3	4	5	6	7
7. with assistance from the media	1	2	3	4	5	6	7

The third group of questions is related to the specific experiences of corruption (Could citizens be at risk from corruption, to receive or give bribes) in any of the situations, such as: to avoid the consequences of offenses, to exercise legal rights from public authority in a short period of time and out of the procedure, acquisition of property in accordance with the Law for shortened procedure, at employment or advancement of work, accelerated procedure out of the procedure, enrollment at a college or taking an exam, participation in committees for public procurement and similar.

The fourth group of questions concerns the grading of the corruption in everyday situations of citizens, as well as preventive and repressive measures and actions in the fight against corruption and forms of corruption in certain sections of society.

The fifth group of questions concerns the willingness and determination to fight corruption.

The sixth and final chapter also covers elements of the system to combat corruption. It also covers elements of citizen input in the development of the system for struggle against corruption in respect of the

laws, ethical norms and Code, avoiding situations of corrupting, education and awareness on corruption, willingness to report corruption offenses, their experience in participating in activities of anti-corruption bodies, as well as proposing measures and activities for improvement of the system to combat corruption.

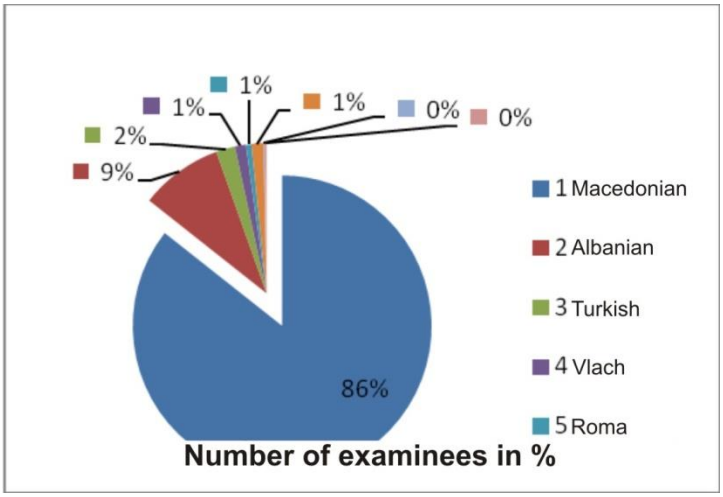
Analysis of the results from the conducted research

The survey included adult citizens on the whole territory of the Republic of Macedonia. Given the fact that it is a multiethnic community with presence of several ethnic communities, the research was conducted on the territory of the Republic of Macedonia, on a part which covered almost all ethnic groups living in the country. A more detailed overview of the respondents according to the national composition is presented in Table No. 1.

Table 1. Graphical display of the examinees according to their ethnic belonging

Nationality	Number of examinees
1 Macedonian	1007
2 Albanian	105
3 Turkish	24
4 Vlach	14
5 Roma	7
6 Serb	15
7 Bosnian	1
8 other	3
Total	1176

The survey was conducted on citizens with different educational qualification. It included citizens without education at all, with primary school, qualified workers, with high school, advanced diploma and bachelor students, master and PhD.



The dominant group covered in the research is the respondents with high school, which according to the statistical indicators is the dominant population in the Republic of Macedonia. The percentage of examinees according to their education looks like this:

Level of education	Number of respondents
1 without education	8
2 primary	106
3 qualified workers	59
4 high school	614
5 advanced diploma	84
6 Bachelor	263
7 Master	39
8 PhD	1
Total declared	1174
Undeclared	2
Total	1176

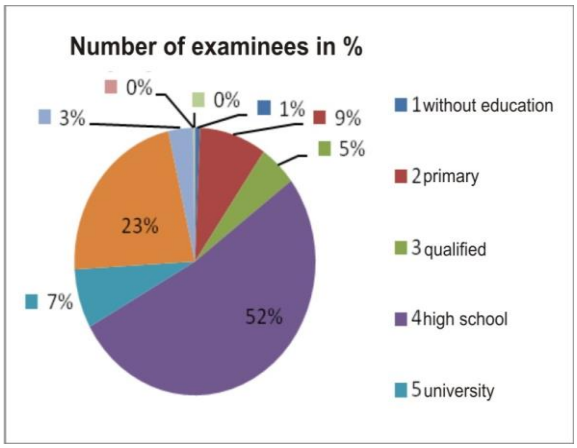
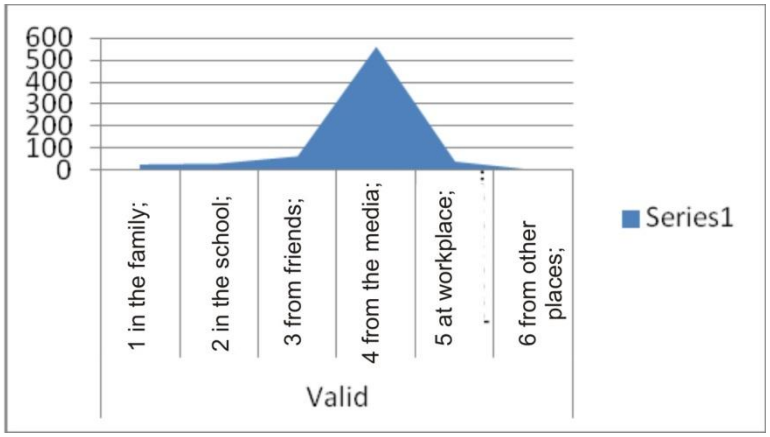


Table 2. Graphic view in percentage of the respondents according their education

Regarding the gained data about the way of informing about corruption, the highest percentage declared that they were informed about corruption through the media.

Table 3. Channel of informing the citizens about corruption

1 in the family;	28
2 at school;	32
3 from friends;	65
4 ofrom medium;	561
5 at work;	41
6 at other place	3

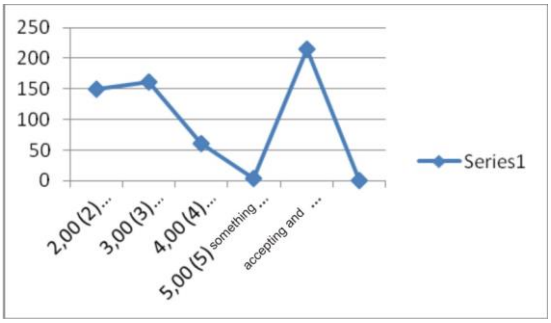


From the analisys shown in the table about the way of informing about corruption, it can be concluded that more than half of the interviewers were informed and learned from the media about corruption. The percentage of information from multiple media is far greater than other types of information such as educational institutions, family, business, work, etc. For that reason, we can pose the question about objectivity of the media and their susceptibility to be influenced by the political parties, individuals, organized groups, etc. If the percentage of media bias is greater, then the possibility to influence corruption by individuals or groups of powers for its perception of corruption in public in a way suitable to the contactors and financiers of articles on corruption which is broadcasted in the media is also greater.

To the question "According to my opinion, how is corruption understood?" (giving bribes, receiving bribes, misuse of authorizations, illegal mediation, etc.) the following results are obtained:

Table.4 Understanding of corruption

1,00 (1) giving bribe	62
2,00 (2) accepting bribe	150
3,00 (3) misuse of authorization;	161
4,00 (4) illegal representation	60
5,00 (5) something else	4
Giving and accepting bribe	215



The biggest number of respondents stated that accepting and giving bribe are the most common forms of corruption, in the steps: giving bribe, accepting bribe and abuse of authorization. The results of the research conducted at the beginning of 2013 showed that among the citizens of the Republic of Macedonia the thought that dominates is that the most abused are the authorizations and that they are source of corruption and corruptive behavior. The indicator that certain institutions do not perform their functions in the area of prevention of corruption entirely is clear. If we add the previously mentioned indicator about the huge influence of the media regarding the corruption, we can understand the reasons for the inadequate efficiency in dealing with corruption and ranking the Republic of Macedonia among the group of countries with the index below 50 (precisely 43) and it is located in the group of countries with yet high corruption. The results obtained on that question are presented in Table 5.

According to your opinion in which of the following situations THE CITIZEN is at highest risk of corruption?

(Rank them like this: 1 - at least, 7 - at most. In each row circle one number. The circled number can be circled only once in each row).

Table 5. The citizen exposure to the risk of corruption

1. in situations when wanted to avoid the consequences of already done misdemeanors (traffic, financial and other)	1	2	3	4	5	6	7
2. in situations when in front of the bodies of public administration want to obtain their legal rights in a short period of time and out of the procedure	1	2	3	4	5	6	7
3. in situations when wanted to gain real estate profit according to the law but with short procedure	1	2	3	4	5	6	7
4. in situations when seek for work (employment) and advancement of work	1	2	3	4	5	6	7
5. in situation when wanted to gain profit (real estate or other), or to accelerate the process out of the procedure.	1	2	3	4	5	6	7
6. in situation when needed to be enrolled in faculty and during the exam	1	2	3	4	5	6	7
7. in situations to gain rights for public health insurance (acceleration of medical interventions)	1	2	3	4	5	6	7

Due to the fact that we have 7 answers for the possibilities of exposure at risk, every possible answer can be evaluated from 1 to 7, which means that the average score is 3,75. From the analysis of the obtained answers, it can be noticed that the highest average score of 4,84 is obtained from the possible answer: “in situations in search of work (employment) and advancement of work”. In the second place of the levels for exposure to risk are the situations when citizens want to gain a profit (real estate or other), or to accelerate the process out of the procedure. In such condition the citizen practices bribing public officials (who on the other hand misuse their authorizations- related to the previous indicator) for realization of the set goal, which is mostly practiced as a possibility by the citizens. In the third

place are the situations when wanted to avoid the consequences of already done misdemeanors (traffic, financial and other).

The results show a high percentage of corruption among the public officials which indicates the existence of institutional organized crime. This type of organized crime has the organizational structure that is more loose, which implicates loose style of commending and discipline in the small but dynamic operative crime group.[6] In this type of institutional organized crime it is not about link or collaboration between organized crime (criminal organization regardless the type) on one hand and the highest representatives of the state (politics) on the other hand, as noted by the most contemporary authors in the world. In this type of organized crime, the organized crime begins and it is organized by the highest representatives of the state (the highest representatives of the institutional hierarchy in state-political structure of the same state). (Labovic, Nikolovski, 2010:81).

When we speak about the institutional organized crime, the results from the Table 6 obtained from the analysis of the answers to the question "According to your opinion in which of the following situations the official is mostly exposed at risk of corruption?" are of particular value. (Rank them like this: 1 - at least, 7 - at most. In each row circle one number. The circled number can be circled only once in each row).

Table 6. In which of the following situations the official is mostly exposed at risk of corruption

1. in administrative procedure, in situations when solving regular administrative obligations;	1	2	3	4
2. in administrative procedure, in situations when solving the administrative disputes;	1	2	3	4
3. in realization of procurement;	1	2	3	4
4. in situations of official action with relatives and friends;	1	2	3	4

The results show that the highest risk in that procedure is ranked with score 2,25 on the scale for scores from 1 (none) to 4 (highest). The further analyses show that the entrepreneur is exposed to risk of corruption mostly in

[6] Organized form of institutional type of organized crime in the Republic of Macedonia suits the most in the core group with elements of criminalized network, according to the research of UN. See more Michel D. Laimn and Gary V. Potter "Organized crime" (2009), Magos, Skopje, page 15 - 16

the situations about paying the state taxes that comes from the activity (paying taxes, tax and similar) with score of 2,07.

When we speak about reducing the level of corruption in the Republic of Macedonia, the emphasis is put on prevention and hence - preventing the execution of criminal acts in the area of corruption.

Among the other questions, it was asked: According to your opinion how can corruption be prevented? (Rank the answer from 1 to 8. With one we mark the answer that has less influence in prevention of corruption while with 8 we mark the answer that influences the most on preventing the corruption). From the analysis of the results, it can be concluded that according to the opinion of the citizens, for successful prevention of the corruption we need adequate application of the law. This is the opinion of 16,2 % of the respondents, followed by applying and implementation of the anticorruption Code, mend for officials and state officials, which participate with 13,7%. This implies to the opinion of the representation of corruption among the officials and state officials, where it can act more as prevention for overcoming of the situation.

Conclusion

Corruption presents a serious threat for the fundamental rights and freedoms of citizens, which is one of the fundamental values of the modern democratic system. From this aspect, as potential danger threatening the fundamental values of a country, we must resist with all forces and means and with the same and greater seriousness.

From the comparative analysis made on the results of the survey by the "Transparency International" on one, and the results of the research based on this study on the other side, the following can be stated:

For the research made by "Transparency International" a methodology that shows the Index of corruption perception ranging 176 countries is used, regarding the level of perception of the corruption in the public sector, calculating the modified methodology presented on a scale 0 - 100. The methodology is not based on concrete measuring but on the simple average results from three sources; therefore, the results from 2012 cannot be compared to those of previous years.

The research made by the Faculty of Security consists of structured interview carried on 1176 respondents from the whole territory of the Republic of Macedonia where the eight regions are equally included, and the participation of all ethnicities according to official data from the State Statistical Office is given in percents.

The results of the research of the public opinion conducted on the citizens of the Republic of Macedonia in January 2013 indicate high level of

corruption, first of all the public officers whose functions are related to crimes of receiving and giving bribes and abuse of official powers. Citizens do not have enough arguments that indicate trust in the ability of the institutions to perform the legal responsibilities and accomplish the respect of the civil rights and freedoms, which are somewhat not compatible with the result of the research made by "Transparency International". Thus, with such a degree of representation of corruption, the endangering the fundamental values of a democratic system is directly affected, where the Republic of Macedonia also stands.

When we talk about successful dealing with corruption, it is not only taking the measures for detection and prosecution of criminal acts of corruption, but also taking measures to prevent corruption by isolation. First of all, it is the increase of public awareness about corruption. The long-term prevention of corruption should affect the general strengthening of the institutions guaranteeing democracy, and strengthening the mechanisms for mutual horizontal control between the institutions of the system (system integrity). The final goal is turning the corruption from low-risk and highly profitable, to low profitable and high-risk activity.

The reforms of the public administration, improving the legislation and control in managing the public finances are crucial for prevention and bigger success in dealing against corruption. To improve the situation and assure greater efficiency against corruption, apart from the other measures, we necessarily need stimulation of the science research and further diagnostic analysis of the causes and effects of corruption, which is the goal of this research.

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USAGE OF COERCION MEANS FOR PROTECTION OF THE PERSONAL SAFETY OF POLICE OFFICERS

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Abstract

In the Republic of Macedonia, the police as a public service direct their basic functioning towards protection of the internal safety through activities such as law enforcement, maintenance of the public order, collection of data on crime rate and plenty of other security aspects. In the successful accomplishment of their activities, the police possess certain powers; one of these powers is the coercion means. The usage of the coercion means is one of the most serious powers which the authorized officials of the Ministry of Internal Affairs conduct in the performance of their professional tasks. Taking into consideration the fact that the different situations in which the coercion means are practiced characterize with a high rate of risk, the successful solving of these unpredicted situations depends on the initially provided protection of personal safety of the police officers.

In order to determine the extent to which the means of coercion are present in the police work, in this paper we will try to analyze official statistic data on utilized coercion means by the police officers in the Republic of Macedonia in the period from 2002 to 2009 (physical force, baton, means of tying - "handcuffs" and fire arms). Based on the results from the analysis, rises a need for taking proper measurements and activities in order to improve the quality of the coercive means in performance of professional assignments. The emphasis is put on the significance of the general and the specific bio-motor competences and the quality level of proficiency over the coercive means, as one of the key factors contributing to raise the level of protection on the personal safety of police members during exercising the coercive means.

Key words: police, protection, coercion means, police powers, bio-motor competence

Introduction

In the Republic of Macedonia, the police as a public service direct their basic function towards protection of the internal safety by activities that imply law enforcement, order maintenance, collection of data on the crime

rate and other security phenomena and service activities[1]. By its function, the police are one of the most significant internal mechanisms for fight against all forms of criminal and deviant behavior, and its primary task is protection of the state and detection and protection of all activities directed towards demolition of the order determined by the Constitution.

During performing their official assignments, the police implement authorization[2], in order to conduct their basic legitimate goals determined by the law. According to the Law on Police[3] (Article 28), the police officers, who have a status of authorized officials in the performance of the professional assignments, have the right and duty to implement a big number of police authorities, among which is the right of coercive means. The stated authority is implemented by police officers as a use of force, baton, means of restrain, fire arms, means of forced ceasing, use of police dogs, chemical means, special types of weapons and explosive means, etc.[4] The use of coercive means is considered serious due to the fact that they affect the constitutional rights and freedoms of the citizens. We would mention that all the other authorities have elements of coercion as well, because they restrain and obstruct the freedom of movement of people. Yet, they cannot provoke such inconveniences and consequences that could be caused by the use of coercive means.

Taking into consideration the fact that the main subject of this work is the coercion by the police, we shall mention only the rights and freedoms that can be obstructed, i.e. temporary deprived by the coercion. It comes to the following freedoms and rights[5]: the right to life, the right to human dignity and privacy, the freedom of movement and residence, the right to confidentiality of the personal data, the right to compensation for material and non-material damage inflicted by the officials with improper and unlawful conduct, and other rights of social, cultural, economic and political background.

Therefore, when the police officers use the means of coercion, they must respect several factors to assure that their actions are lawful, justified, proportional, humane, time-limited at any moment, etc. In this sense, when

[1] Sulejmanov. Z. (2001). Police. Yearbook of the Faculty of Security, Skopje, p. 131

[2] Authorization is a legitimate possibility of the persons authorized by the law (police officers) to implement lawful actions, methods and means for prevention of offences or detection of perpetrators. Source: Stojanovski, T. (1997). Police in a Democratic Society, Skopje: "2 Avgust" Stip, p. 208

[3] Law on Police. "Government Gazette", No. 114/2006

[4] Krstevska, K. (2009). Utilization of Coercion means according to Macedonian regulations. Magazine about Law in theory and practice: "Pravni život" No. 10. Belgrade, pp. 795 - 806

[5] Constitution of the Republic of Macedonia. "Government Gazette", No. 52/91

the police officers conduct their primary duty, it implies strict adherence to the human freedoms and rights and proper implementation of the laws. However, the police officers must also be given the full possibility to protect themselves.

In this context, more situations shall be noted in which the police officers have a legal right and duty to use the means of coercion only in overcoming resistance of a person that disrupts public order and peace, in order to prevent escape of an arrested person or caught in pursuing a crime, in order to prevent an attack on themselves by other person or to prevent an attack on an object that is being protected, due to deportation of a person from a specific place, and also if a person does not respect an order. In all these situations there is a big number of unpredicted behavior and actions, such as: number and characteristics of the persons who take part in the attack, the type of the means which are used in the attack, the speed of the attack, the location of the incident, presence of other people at the location of the incident, etc. Taking into consideration the complexity of the mentioned situations, the successful solution depends on numerous factors (the level of proficiency over the coercive means, general and specific bio-motor competence, professional experience, psychophysical condition, material and technical equipment, tactics, etc.), which have influence of different intensity over the protection of personal security of the police members in performance of the official police assignments.

Subject and Goal of the Research

Subject of the research are the means of coercion (physical force, baton, means of restrain - "handcuffs" and fire arms) which the authorized officials implement in the performance of the official assignments, and have the role of efficient protection of the personal security.

Goal of the research is to present the statistical data that are related to the coercive means, and also, to emphasize the importance and the significance of sustained general and specific bio-motor competence and the quality level of proficiency over the coercive means, that significantly contribute to raise the level of protection of the personal security of the police members during utilization of coercive means.

General Condition of the Used Coercive Means by the Police Officers in the Republic of Macedonia in the Period from 2002 to 2009[6]

For the needs of this research, an analysis shows the official statistic data for used coercive means by the police officers in Republic of Macedonia, in the period from 2002 to 2009. The analysis gives concrete data on the number and the type of used coercive means; data on the legality and the justification of the used coercive means; data on the taken measurements against the police officers due to illegal use of coercive means; data on the number of citizens over whom coercive means are used; data on the age and gender structure of the people over whom coercive means are used; data on the type of the assignments and the location where coercive means are most often used; and data on the areas (sectors) where coercive means are most often used.

Analyzing the data from Table 1, we can note that the total number of utilized coercive means in the period from 2002 to 2009 is rather large and it is 2366. Most often utilized is the physical force - 1511 (63,86%), next are the restraining means - 507 (21,42%), baton - 258 (10,90%) and fire arms - 86 (3,63%). Observed through years, 2009 was a year with most commonly used coercive means, i.e. 592 times, and a year with least used coercive means was 2002, i.e. 142 times.

Table 1. Summary of the number of used coercive means in the period from 2002 to 2009

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
Physical force	92	147	126	190	227	317	205	207	1511
Baton	43	37	41	26	47	27	21	16	258
Means of restrain							142	365	507
Fire arms	7	7	17	22	17	11	2	3	86
Coercive means used	142	191	184	238	291	355	373	592	2366
Legal	142	190	184	238	291	354	373	591	2363
Illegal	0	1			0	1	0	1	3

[6] Annual reports on used coercion means in the Republic of Macedonia for the period from 2002 to 2009. Sector of Analytics and Documentation, No. 0202-200/1, Ministry of Interior - Skopje

This data clearly shows that there is a significant growth in the use of coercive means, which grows every year (exception to this growth is the year of 2004 where a slight decrease was noted, 184 times). From the stated, comes the conclusion that in the everyday working, the police face situations which must be resolved by use of coercive means. From the data in this table, it can also be seen that almost in all cases, i.e. over 99%, the use of coercive means is legal, and only in 3 cases or less than 1% is rated as illegal.

In these cases in which abuse of authority by the officials is noted, 3 police officers face disciplinary as well as criminal charges (Table 2).

Table 2. Taken measurements against police officers due to unlawful use of coercive means

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
Disciplinary action	0	2	0	0	0	0	0	1	3
Criminal charges	0	0	0	0	0	3	0	0	3

From the summary of Table 3, it can be stated that during the use of coercive means the total number of injured persons is 162, of which 129 (79,62%) are with minor corporal injuries, 13 (8,02%) are with serious corporal injuries and 20 (12,34%) are with lethal consequences. In general, from the total number of used means there is a relatively small number of injuries (approximately 7%). However, what concerns is the big number of caused lethal consequences.

Table 3. Number of injured persons during use of coercive means

Year / Consequences	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
Minor corporal injuries	6	5	17	9	30	29	2	31	129
Serious corporal injuries	3	3	1	2	2	1	1	0	13
Lethal consequences	3	2	5	0	3	6	1	0	20
Total	12	10	23	11	35	36	3	31	162

These data show that the actions of the police are not according to the principle of proportionality, because there are no conditions for the official assignments to be done by use of minimal force and by inflicting minimal harmful consequences. Otherwise, this principle allows the police members to use as much physical force or other appropriate means as necessary, in order to achieve the wanted goal.[7]

From the data summary in Table 4 it can be noted that the total number of persons over whom coercive means were used is 2333, and most of them or 1438 (61,63%) are aged over 25. Next is the category from 17 to 25 years or 872 persons (37,37%) and the lowest number is the category under 16 years of age, 24 or (1,02%). In the analyzed period a constant growth of people over whom coercive means are used is evident (exceptions are only 2004 and 2007). The gender structure of the persons over whom the coercive means are used is mostly masculine with almost 99%, and only 1% is feminine.

Table 4. Age and gender structure of the persons over whom the coercive means were used

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
Under 16 years	3	1	3	8	1	3	1	4	24
From 17 to 25 years	69	95	77	83	99	98	111	240	872
Over 25 years	77	102	104	148	200	197	258	352	1438
Male	147	198	180	238	297	294	368	585	2307
Female	2	0	4	1	3	4	2	10	26
Total	149	198	184	239	300	298	370	595	2333

Analyzing the data from Table 5, it is obvious that the members of the police, during their regular assignments, use coercive measures in different situations and circumstances.

[7] Pilipovic, V. (2003). Police and Coercion - legal and ethical principles. Collection of works of international scientific and expert advice: Threats on the safety of the members of police. Belgrade: Police Academy, pp. 247 - 268

Table 5. Assignments in which most often the coercive means are used by the police officers

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
Disrupt public order and peace	102	103	115	152	180	195	257	258	1362
Control and regulation of the traffic	13	27	23	42	43	78	42	132	400
Prevention of escape of persons caught in committing a crime	11	26	18	15	11	29	34	30	174
Other assignments	16	35	28	29	57	53	40	172	430
Total	140	191	179	238	291	355	373	592	2366

The coercive measures are mostly used in cases of disrupt public order and peace, i.e. 1362 times or 57,56%; next are the other assignments (checking of identity, apprehending, restraining, arresting, assistance, helping authorities, etc.) - 430 times or (18,17%); then control and regulation of the traffic - 400 times or (16,90%), and least utilized are in prevention of escape of persons caught in committing a criminal offence - 174 times or (7,35%). In all mentioned assignments, the increase of the number of used means by the police officers is evident almost in the whole analyzed period from 2002 to 2009.

Regarding the location where the coercive means are most often used (Table 6), dominantly stands the open space with 63,69%; next are different places with 25,61% and closed space (catering facilities) with 10,69%.

Table 6. Location (place) where most often the coercive means are used by the police officers

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
The open space	85	127	126	145	179	234	264	347	1507
Closed space (catering facilities)	29	17	22	30	26	41	24	64	253
Different places	28	47	36	63	86	80	85	181	606
Total	142	191	184	238	291	355	373	592	2366

In table 7, the areas (sectors) where the coercive means are most often used during the analyzed period are presented. It comes to the Sectors of internal affairs Skopje, Kumanovo and Ohrid[8]. In these sectors a total number of 1292 coercive means is used, which is 54,60% of the total number of used means. Individually per areas, coercive means which are most often used is the Sector of Internal Affair in Skopje - 478 (37%), then SIA Kumanovo - 452 (35%) and SIA Ohrid - 362 (28%). Also in this table as in the previous, we can note a constant growth of the means which the police officers implement in the performance of the assignment, for the period which is the subject of the analysis.

[8] Besides these sectors, in Article 20 of the Law on Police five more sectors of Internal Affairs are listed. They coexist on the territory of the Republic of Macedonia: SIA Bitola, SIA Veles, SIA Strumica and SIA Shtip. The same article defines that the sectors of Internal Affairs are formed depending on the vastness of the area, the number of the population, the number of the criminal acts and offences, as well as the significance of the roads and the geographic position of the municipalities which belong to the sectors of Internal Affairs.

Table 7. Areas (sectors) where most often the coercive means are used.

Year	2002	2003	2004	2005	2006	2007	2008	2009	Total 2002-09
SIA Skopje	28	29	49	49	82	83	89	69	478
SIA Kumanovo	23	33	24	56	34	52	61	169	452
SIA Ohrid	39	36	37	45	48	36	56	65	362
Total	90	98	110	150	164	171	206	303	1292

In the given analysis of the official statistical data is presented the distribution of the used coercive means on the territory of the Republic of Macedonia in period of eight years, as well as the need of taking proper measurements and activities in direction of improvement of the quality of the coercive means in the performance of the professional assignments.

Given the constant increase of the number of used coercive means, as well as the increase of the number of injured persons and deceased persons, rises a need for better training and preparedness of the police officers for proper and efficient application of the coercive means. Due to this, in the research the emphasis should be put on the importance and the significance of the general and the specific bio-motor competence and quality level of proficiency over the coercive means, as one of the key factors contributing to raise the level of protection of the personal security of the police members in the use of the coercive means.

Basic Features if the System for General and Specific Bio-motor Competence of the Police Members

Regarding the police profession, the general and the specific bio-motor competence presents one of the basic factors which provide conditions of efficient functioning of the police officials during the performance of the assignments, and especially during conducting the most complex police actions. In general, the complexity which appears during the performing of the professional police assignments directly depends on the bio-motor competences of the police officials, the coercive means to be performed and realized with the necessary speed, strength, precision, ability, etc. Therefore, the higher the level of the bio-motor competences and in the same context - the proficiency of the coercive means, the greater is the probability for efficient protection of the personal security of the police

members[9]. According to that, the high level of general and specific bio-motor competence enable (without high risk), to implement coercive means which are a level or two lower than the legally predicted conditions.

The system of general and specific bio-motor competence[10] primary enables the members of the police to increase, and later to maintain its general and specific bio-motor abilities according the demands i.e. according the complexity of the police work.

Therefore, the general bio-motor competence of the police members has a goal, i.e. systematical development of the general bio-motor competences (strength, speed, durability, coordination, precision, balance and flexibility), which in terms of various variants such as running, jumps, insertion, skipping, pulling, pushing, etc. appear in the professional acting, i.e. in the use of coercive means.

The specific bio-motor competence is directed towards systematic development, maintenance and perfection of special and applied defense techniques (martial arts). Certain techniques of falls, kicks, blockades, throws, grips, levers, techniques of self-defense, apprehending techniques, restraining etc. All mentioned techniques in the performance of the professional police assignments have its direct significance and role, because they are used as physical force or some other means of physical compulsion by the police officers.

In the Republic of Macedonia, with special internal rulebooks of the Ministry of Internal Affairs, the system of general and specific bio-motor competence is regulated. The police officers must conduct it in their organizational units (police stations of general character and specialized police units[11]), in order to raise the level of the professional knowledge and skills that are necessary to react in specific situations. Therefore it is necessary, in the regular training for application of the coercive means, to create work duties for the police officers to be in a good psychophysical state. The current system of general and specific bio-motor competence that is being implemented does not provide that, because it is shown as inefficient (especially for the regular police). As main reasons for that we can state the inappropriate and substandard premises for training of the unprofessional staff, the stereotypical manner of training, the excessive amount of

[9] Jakimov, J. (2011). Special Physical Education. Skopje: Faculty of Security, p. 298

[10] Rubesha, D. (1997). Police kinesiology (Science and Practice). Zagreb: Police College, pp. 19 - 20

[11] Ivanovski, J., Janevski, T., Nedev, A. (2010). The value of the physical preparedness in the function of increased security of the special police forces of MoI. Collection of works from the scientific and expert conference: Security, ecologic security and challenges in the Republic of Macedonia. Skopje, pp. 297 - 307

professional obligations, the lack of motivation to visit the classes, the irregular and the inappropriate terms for the classes, etc. In order to overcome these conditions new solutions shall be found, solutions which will provide better quality of the system of the general and specific bio-motor competence, due to higher efficiency in the everyday police acting.

Conclusion

The research based on the analysis brings to significant findings about the condition and the level of representation of the coercive means in the work of the police in the Republic of Macedonia. Regarding the fact that in this work are shown the data for the used coercive means by the police in a longer period of time inevitably raises the need to project the solutions that will serve to achieve better and superior performance of the police assignments, and in that context - more efficient and more rational use of the coercive means. Due to that, the research especially emphasizes the importance and the significance of the system of general and specific bio-motor competence, because it contributes to achieve the wanted effects in the police working, i.e. during the use of the coercive means.

To achieve the wanted level of general and specific bio-motor competence within the police members, the Ministry of Internal Affairs should make efforts to find adequate shapes to organize and run a bio-motor program. Therefore, the lacks of the current manner of education should be detected first, and later programs that will enable to achieve the expected results should be created.

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POVERTY AND THE CONSEQUENCES OF POVERTY

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Abstract

This article discusses the state of poverty through deprivations, risk society and social exclusion, which are the composites of the aspects of society and can be defined especially in the term of security/insecurity. In the causal sense of poverty, the social crisis is the first stadium which arises, and which, by definition, has short-time duration and it is followed by the risk society, then social exclusion, and finally the deprivations. We want to stress that the deprivations can have reversible impact on the state of society, but they can also become the frame for appearance of social insecurity.

Keywords: *poverty, deprivations, risk society, social crises, social exclusion*

Poverty

Anthony Giddens, in his influential course book Sociology, defines poverty, social assistance and social exclusion as multifactor social facts (Giddens & Birdsall, 2007), and the most important aspects are:

1. There are two different ways of understanding poverty. Absolute poverty refers to the absence of basic resources necessary for maintaining health and physical functions. Relative poverty refers to the assessment of gap between life conditions of some groups and those of the majority of population.
2. In many countries poverty is officially measured according to the limit below which it is said people live in poverty. Subjective measuring of poverty is based on personal apprehension of necessities for an acceptable life standard.
3. Inequalities between the rich and poor have dramatically increased as the consequence of state politics, changes in professional structure and unemployment. The poor are a diverse group, but it is more probable that the individuals unprivileged in

other life aspects (e.g. the elder, the ill, children, women and ethnic minorities) are going to be poor.

4. There are two main approaches of explaining poverty. Arguments for culture of poverty and dependence claim that the poor are responsible for their own unprivileged situation. Due to the lack of qualifications or motivation, or moral weakness, the poor are not able to succeed in the society. Some of them become dependent on external help, as the social assistance, instead of helping themselves. The other approach claims that poverty is a consequence of wider social processes that distribute resources unequally and create conditions hard to adapt. Poverty is not a consequence of individual deficiencies; it is a consequence of wider structural inequalities.
5. Poverty is not a permanent state. Many living in poverty may find a way out of it; however it can last only in the short term. Moving in and out of poverty is more dramatic than it seemed before.
6. Subclasses are part of population living in extremely poor conditions, at the margins of society. The concept of subclasses has been used for the first time in the USA for describing the position of poor ethnic minorities in urban areas.
7. Social exclusion is referred to the process in which individuals are not entirely included in the broader society. People, who are socially excluded, due to bad accommodation, deficient schools or limited transportation, can be deprived of self-development opportunities normally available to the most of the society. Homelessness is one of the most extreme forms of social exclusion.
8. Social countries are those in which the government has the central importance in reducing inequalities among citizens by subventions granted for specified goods and services. Social services differ across countries, but often include education, public health, habitation, income allowance, unemployment benefits, disability compensation and pension.
9. In social countries which enable general social care, social assistance in the time of penury is a right granted to everyone, regardless of the income or social status. Conditional social care, in contrast, is a benefit only for some individuals whose "eligibility" is determined based on the income and savings. In most of industrial countries, the future of social services is being discussed. Some believe that these services should be common and well-funded; others emphasize that these services should

serve only as insurance for those that cannot be helped in any other way.

M. Haralambos, in the section "Poverty and social exclusion" of the course book, starts the discussion with differentiating absolute and relative poverty. Absolute poverty is poverty at the margin of survival or existence, whereas relative poverty refers to lack of basic consumer goods in the country, i.e. a person can have a car and be poor at the same time. In many studies, the consequences of poverty are mainly considered to be unemployment, low salaries, old age, illness, death of the bread winner and a large family (Towsend, 1979). The way of measuring poverty is very interesting because it involves a number of everyday symbolic rituals, such as fishing, different hobbies etc. The idea is that the poverty is measured through elements of free time and everyday and to ascertain whether the persons have time and money. Index of deprivation includes the following facts:

1. Last 12 months every weekend spent at home.
2. Adults only: last 4 weeks no relative or friend visits for meal or snack.
3. Adults only: last 4 weeks no visits to friends or relatives for meal or snack.
4. Children only (under the age of 15): last 4 weeks no friend visits.
5. Children only: last birthday not celebrated.
6. Last 2 weeks no afternoon or evening outgoings.
7. Fresh meat not consumed more than 4 times a week (including meals outside)
8. Last 15 days, one or more days no cooked meal.
9. No refrigerator at home.
10. The family usually does not gather together at Sunday lunch.
11. The family does not own a sink or tap with warm water; bath or shower; gas or electric stove.

Culture of poverty

Poverty is culture or way of living which is transferred through generation. Poverty strongly develops feeling of minority, dependence and inferiority, and it is directed to present time and to appeal of temporarily satisfaction. The essence of poverty is in multiplication of incompetence, and probability that incompetence would cause another one. Long lasting poverty contributed to strong feeling of identification with poverty; poverty is not hidden any more, it becomes stereotypical. Population in poverty is highly

appropriate material for political manipulation and it is a field where it is possible to implement tide and partial political determination. Most of the population are in urban poverty, where surviving is mediated by institutions.

The culture of poverty is theoretical term of American anthropologists during the 50's of last century, especially Oscar Lewis. There are two reasons for development of term "culture of poverty". First, it has been noted that most of the people in poverty zones react similar:

- Deep feeling of minority;
- Helplessness;
- Addiction and inferiority;
- Minor organizational stage;
- Strong orientation to present time;
- Incapability of dissatisfaction delay;
- Fatalism;
- In broken families, or dysfunctional families, strong orientation of children to their mothers.

Second, specified characteristics are socially transferable to younger population and they are stigmatic, notwithstanding in some cases direct circumstances of poverty are vanished. The syntagm "culture of poverty" has been used by Oscar Lewis (Lewis, 1959) and popularized by Michael Harrington (Harrington, 1965). Between many, Herbert Gans (Gans, 1968), Walter B. Miller (Miller, 1962) and Lee Rainwater (Rainwater, 1966) discussion about "culture of lower race", represents sources which are referred conceptually to this term. Basic cultural directionality to value of work and consumption and structural assets for that achievement, leads to acquiescence between society and its actors. However, incompatibility between cultural defined values and structural assets for its achievement leads to anomy. Theory opposite of culture of poverty is a theory of situational enforces (Elliot Liebow, "Tally's Corner" according to Haralambos & Holborn, 2002). Theorists of this orientation notice that population in poverty has following characteristic:

- Low paid jobs;
- Jobs which they despise as much as their employers;
- Defect time orientation and absence of capability in making time for better job; That is also a reason for high rate of divorcement, because of incapability to keep spouse and family;
- Their behavior is a product of enforcement and situation defined.

According to Marxian inquires, poverty is the result of society class division and it is a permanent follower of capitalism society, and it can be eliminated by self eliminating of society class structure. Max Weber proves that individual class situation depends on his market situation, and quantity of power that individual has, influencing on market activities for his own benefit. The price is result of his skills and competence which he achieves in competitive market.

Poverty is transferable to alimony population (seniors, patients, invalids), but only for the following reason: Majority of that population has already been dependent to jobs which could not provide almost any founds to recline. Mainly, their poverty is the continuation of poverty which remained from low paid jobs. The impoverish of working class is noticed in legal tendency in majoring proletarianization of population, in suppress, neutralization, disqualification, in working manpower dissocialization, in exploitation and over exploitation, and in working manpower value decreasing, and in spreading of misery through increasing number of society members.

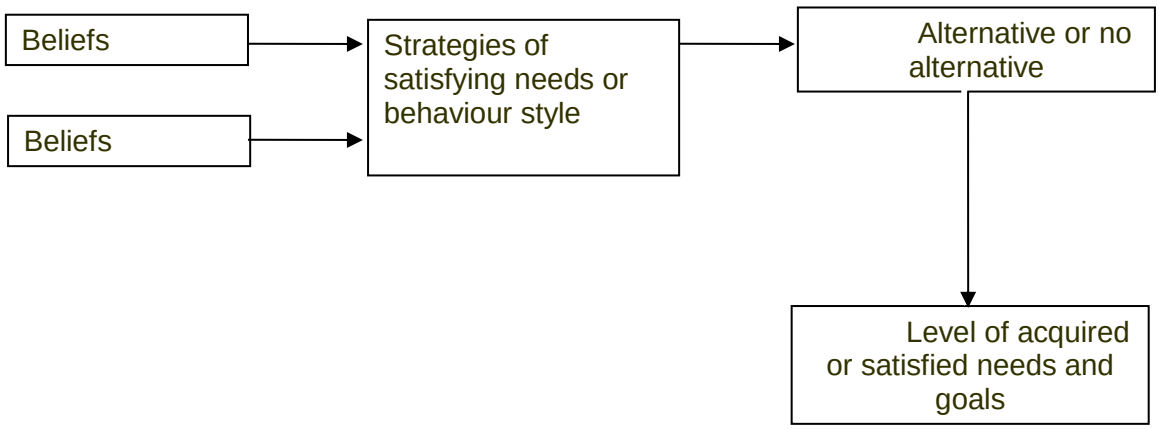
Recent poverty researches suggest that poor working class mainly has week negotiation power, which is also confirming their poverty.

Deprivations

Beside other, significant results of poverty are deprivations, and they might be one of the criteria for society secure/unsecure. Simple, but precise, definition of deprivations is that those are conditions of deficiency, and certain sign of unaccomplished goals and unsatisfied needs of individuals, groups and collectivities.

Deprivations are arising directly from contents which cause impossibility of creating own life destiny, filled by feeling of moral turndown and different types of personality degradation, and potential relationships which individual could create. Deprivations will always arise in case of distraction of common harmony in satisfaction and achieving goals. Presented model suggests that cycle, in which we notice that level of satisfied needs and goals, is the problem.

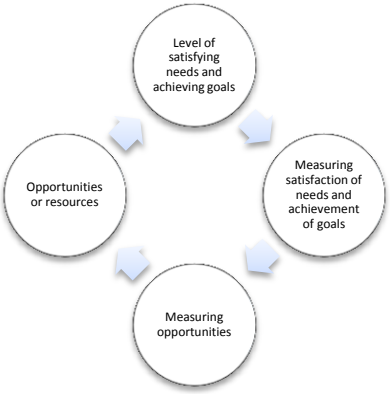
Model of satisfying needs and achieving goals



Connective tissue of this model is behavior, as a function of satisfying needs and goals. Based on beliefs and assessments that some needs can be satisfied and some goals achieved, a type of strategic behavior is formed. If one type of behavior shows to be dysfunctional, alternatives are chosen. In discourse of deprivations in this aspect, often there is no alternative. The assumption is that the type of behavior without alternative tough has its function, known as learned helplessness or multiplied disability. This attitude is connected with the neoclassical theory of economy, coming from Adam Smith.

To note the disparity between defined needs and goals, it is necessary to compare it with another model which measures real resources used for satisfying the same needs and goals. In reality, especially in high risk and poor societies, this disparity is large; defined and formed needs for which there are minimum resources available.

Model of satisfying needs and achieving goals



Deprivations are strongly felt by persons who had settled social and material continuity in working life segments, but they affect almost all subjects in extreme cases. Deprivations, regardless of their presence compared to life standard or as a result of subjective feeling of a deprived person, are generally reflection of feeling anxiety, inability of choice, equability and leveling that disable status differentiation, which in case of most people create the foundation of personality. This is especially present in cultures in which value systems material status represents one of the dominant values. Deprivations come out of situations in which a great number of people are reduced to the same or similar status component, meaning that many status differences under deprivation pressure become irrelevant. In these situations, status of an individual and collectivity, depends mostly upon how efficient and at what cost is the individual ready to defend its dignity.

Behavioral theory of deprivation states that, so called deprivation behavior is possible, directed to those same behaviors, but if extended through time perspective, than it can have aspects of behavior that can be defined as a blockade strategy of any potential deprivations. Deprivations can end steady behavioral sequences that were positively supported by the social environment, resulting in disorientation (e.g. loss of job can result in loss of interest for other persons). Cognitive theory of deprivation recognizes behavior as a result of thinking processes including self-definition, collective memory, performance and expectations.

The most important is the Aaron Beck's theory which includes negative attitude about itself, about the situation and future (Beck, Freeman & Davis, 2003). Persons and collectivities interpret facts in a negative way, focusing on negative situation aspects and leave no hope for the future.

The Martin Seligman's theory states that, when a person is exposed to sudden and unexpected deprivations, he or she does not have the ability to respond qualitative to the deprivation condition (Seligman, 1992). The past,

as the time of no deprivation, becomes the only time dimension in which everything that is important happened. Present and future do not exist. Risk factors contributing deprivations in the long term, and accordingly factors of general uncertainty, are:

- Inherited problems that have not been solved in the past
- Age
- Sex
- Lack of social assistance

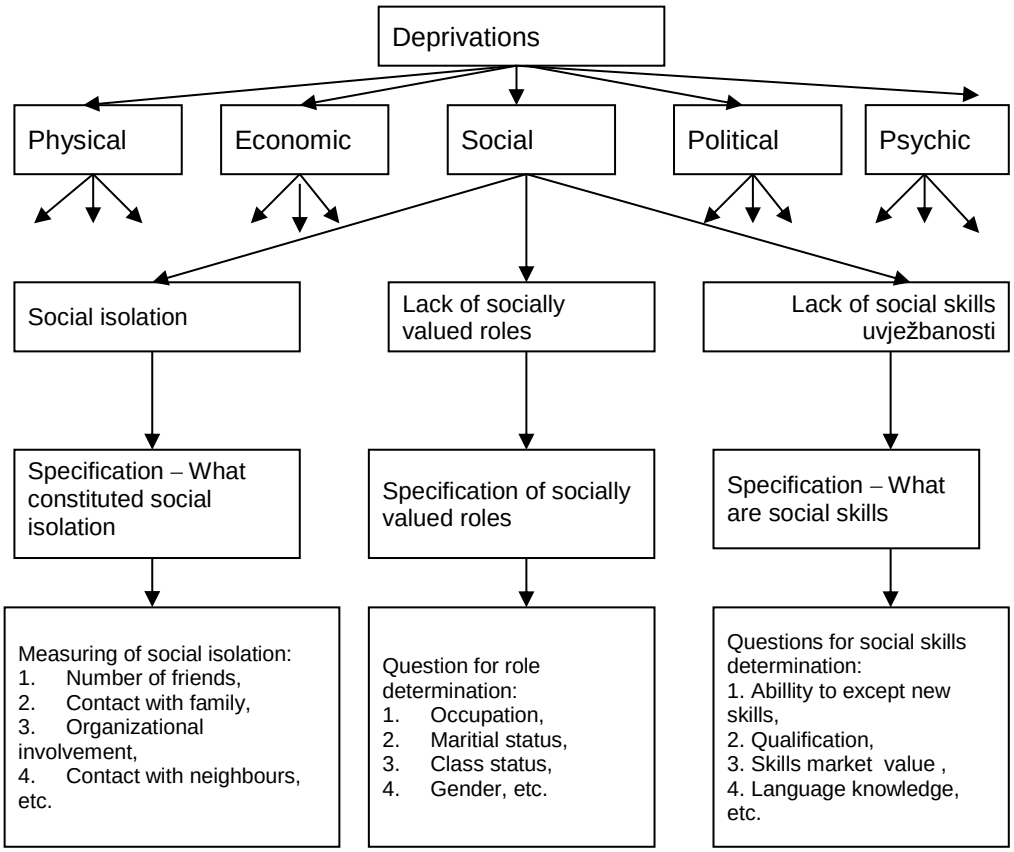
Empirical research can show a range of variations between assigned goals and their realization. Hypothesis is that the larger the range, the greater the uncertainty. Important are the alternative or no-alternative behaviors and strategies. The goals become personalized and move away from the collectivity. The more often these processes happen, the greater the uncertainty. This indicates week social cohesion and deprivation. It can easily be seen from the model that needs satisfaction and goals achievement significantly depend upon real opportunities and resources and that the correlation tends to be very low implicating greater uncertainty.

Poverty can be considered independent variable. Since this is a dynamic model of understanding life situation, dependent, explanatory and intervening variables behave as marks tending to autonomy. That means that deprivations, caused by poverty, tend to behave relatively autonomous in the experience of an individual.

Consider briefly the meaning of a variable. Variable is a measurable aspect of phenomena and the goal is to emphasize the opportunities of its measurement, to explain it and to observe it. Assessment and measurement of a variable starts with the process of recognizing the circumstances in which it occurs and how it manifests. When defining a deprivation, we always assume that it is the reality or a certain reaction in a situation inside of the social reality. Reality of deprivations is that they are the consequences of a series of states of deprivations. Signs of variable are considered to be those elements on the basis of which we state whether and to what measure the variable is real or hypothetic. The strategy of creating the list of variable indicators usually starts with ascertaining broader aspects at which it can be recognizable. Out of the broader components, narrower and more concrete meanings are allocated. Besides the variable indicators, criteria of frequency, quality, quantity, width, strength, velocity and duration indicators are considered (Bukvic, 1982). Determining the frequency degree of these indicators is based on the rule that the variable is more present if the indicator occurs more often. At determining the degree of variable presence, the nature of its quality can be used, meaning that some indicators are more reliable, consistent and real than others. Number of indicators, as a measure

of frequency degree of a variable, is used as a fact indicating its complexity. That effect, indicators point a wide range of variable detection or its main parts, more than some other sign. Variable indicators might be present in high or low quantity, and by that point on its higher or lower presence. Velocity of indicators appearance is considered as criteria of variable detection rate. Meaning, if one consequence has determinate faster, insofar, its variable is more present. Duration of indicators, as criteria, determinate higher or lower variable presence. Term of variable measuring also means its quantification in continuum of reality. Volume or generality of variable, determinate higher or lower diversity and variety of detection aspects, included by variable. Insofar as less variable volume, inasmuch it included less different behavior, and vice versa. Regarding the possibility of determination variable by group of indicators, variable volume has reflected in number of narrow variables, which is number of variables as result of variable dissolution. That is an inducement for variable complexity. Variable universality implies broadening variable in specific collectivity through temporal and spatial perspective. Variable is more universal, if presence in one collectivity is more independent then possible ways of grouping its members. Variable duration is characteristic which has to be noticed in accordance to reliable measuring methods and overview of factors which cause it.

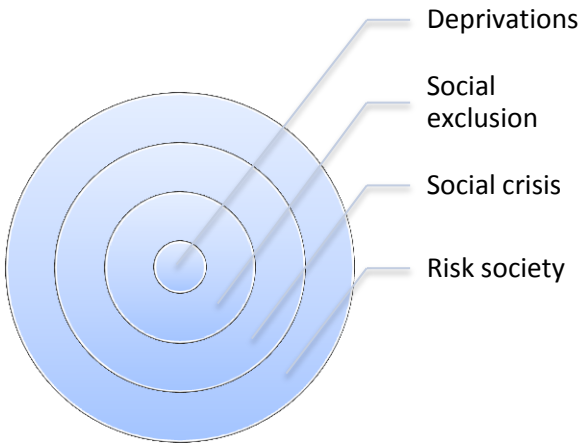
Deprivations in social context are present mostly through individuals, groups and collectivities inability to realize defined needs and goals. Through presented model deprivations analysis, we noticed that variable universe does not deplete by simple state of deprivation, but has larger aspects.



However, deprivations are not an independent social phenomenon. They occur in context of broader social perspectives and conditions, but individuals, groups and collectivities are those that feel them the most. Multiplied mass of individuals in state of deprivation create or implicate significant social risks. Number of states and processes are mutually supporting, revitalizing and confirming itself, but we consider that, after poverty as a generalized factor of reality, social risk as the broadest aspect of reality, social crisis, social exclusion and relatively the narrowest and most concrete consequence of all these states, are deprivations, somehow the beginning and duration of deprivations being a constant in all derived social poverty products.

Here we present the scheme of the structural derivations position in relation to its sources.

Structural derivations position in relation to its sources



Risk society

The paradigm risk society aims to theoretically consider different aspect of risk and to ontologically determine which reality of social risk belongs to which society. Society risk theories occur within theory of modernity and post modernity as a state that cannot be controlled or state that causes unintentional consequences. Modern social reflection highlights the knowledge of risk jointly with the phenomena of uncertainty and absence of opportunities for future states control. The feeling of lack of control over future states brings even more confusion into the complexity of demand for overcoming this society feature, and creating more stable society forms (Miles, 2001).

Since the transitional and post-socialist societies of Balkan (B&H, Serbia, Kosovo, Macedonia etc.) are at risk, referring to explicit poverty and public misery, it would be theoretically very important to research the most significant consequences and autonomous forms of those consequences or social poverty products. It may seem to be also risky societies, besides the deprivations. Namely, social instability, unpredictability and inconsistency altogether produce, create and accumulate new social experiences, fragmenting and violating past experiences which were, for the average population, operationalized in disrupted roles, statuses, identities, security and represents interpretation mainframe for understanding the content of poverty.

Environment of social changes in the named societies favors structuring and dominating poverty, consequently favoring also the risk

society. Perception and definition of an average population is the answer to what is happening in risk society and what are the salient situations, models, categories and meanings of these states. Analysis of these answers gives the answer to question which events, values, attitudes, beliefs and elements of identity are being mobilized in the process of creating adaptive strategies for the given state. Together with this demand, we join the demand for determining strategies of different status groups.

Space distribution of poverty, deprivation and risk are also important, first of all because of the fact that the named states and processes are differently and class distributed in space, because these variables indicate poverty as a general factor of social life. Argument for this discussion is supported by theoretical insights of criminology and urbanology (Bottoms & Wiles, 1992)

Who are the classic poverty victims and how do new victims appear? They usually occur in suddenly impoverished societies with strong deprivations and increasing risks. What is the knowledge diffusion about poverty and what are the main institutions organized for this state and at what rationale they enroll themselves in the everyday practice, are important issues both for the theory and the practice. These insights prove the discourse and manner of configuration for the institutional infrastructure.

Size of the risk depends greatly upon the character of the society, pursuant to that also the size of risk control. Given the lack of opportunities for adequate consumption articulation and employment for the most part of working-capable population, it is possible to claim that the aspect of risk society in mentioned societies for most actually means absence of human freedom aspects.

In risk society, social life is significantly permeated by institutional infrastructure of risk (institutions which are dealing with risk groups), and population they deal with are more massive. Those population become standardized larger, and probably more problematic, so that differences between classical and emerging socially problematic risk groups gradually disappear.

Deprivations and risk society overlap in reality, so that stated situation means also strike to individuality. An individual situation is reflecting through institutional situation. That creates specific destiny for the person in identity with institutions which statistically treat its destiny, e.g. Social Work Center or hospital represent institutional connection between their benefits and society. In case of dysfunctionality of this relationship, it is directly applied to social help benefits, or medical services benefits, in terms of supporting and expected pathology. Thus, an individual totally depends on social and health policy, economic instability and market, so individuality

appears simplified word about himself. Thus, an individual becomes the same as institution, what causes highly politicized possibility of individuality structuring (Furlong & Cartmel, 1997).

Urlich Beck's observation of risk society (Beck 1992) indicates that individual's responsibility for lack of his individuality is based on institutional reality, and, in this context, it is based on dysfunctionality, too. Personal destiny or situation is assigned to institutions, which fund knowledge about risk and manage it. Meaning, an individual is incapable to influent the institutional risk leading, and, as Beck says, it is like subjects are "naturally determined" to incline towards system.

Key aspect of risk society is in uncertainty of survival, expressed in absence of economic or institutional support, and in reproduction of unpredictability. That contributes obvious inequalities, resulted on risk basic, as a potential for further risk (e.g. ethnic elite takeover the role of arranging new social complexities, which are essentially different from conditions in which they affirmed). Risk society significantly converges with criminality as potential answer to that particular condition. We consider that type of research is, not only theoretically significant, but applicative also. Meaning, actions and social movements might be initiated on that basis, making easier to predict and control state of risk. Recent criminology especially emphasizes risk society as reference for criminality development (Ericson & Hagety, 1997).

A.Giddens's risk theory has significant implications for our understanding of risk theory (Giddens, 1991). This author considers that source of risk is composed mostly by unreliability of instruments, frames and resorts for leading settled social life. Simply, if social changes mean only social changes, they resulted by expediency and destruction of commonly social form.

Tautology of social change, and not her mobility, states that the social change is the purpose for itself, it desorganises an individual and his identity, and it significantly forms it in direction of existential anxiety and ontological insecurity. Mass production of those states result in general inability to perform desired social changes and reduce risk in predictable cathegories.

Theory should synthesize those society characteristics that are qualified as risk society caused by poverty and those narratives that will continue defining it, as well as ways at which the phenomena tends to acquire certain autonomy in contrast to other social processes. It is considered that the quantitative-qualitative approach of analyzing phenomena of risk society in its main appearing formations, especially if it properly shows the relation space-place-social change-social risk, is a good

basis for creating practical interventions. Starting with the fact that the theory hasn't declared itself about the problem to the utmost, the term should be distinguished with the aim of griping experience of the actors that are at most included in the social risk. Theory has proved that it makes sense to search for correspondent processes caused by social changes, so it can be understood in this way how tensions representing the main analytical interests, are being created.

Social exclusion

Social exclusion is also a phenomenon in structural relation with the process of deprivation. Social exclusion of an individual and a group can begin with long term unemployment, homelessness, inadequate qualification for labor market, discrimination, sex, age, religion or complex changes caused by new technologies and forms of communication. Some factors can have primary meaning, some secondary, mostly influencing together the process of social exclusion. Exclusion can be understood as "situation which includes several deprivation dimensions: type of poverty constructed inside the society structure and irrelevant to the ruling population" (General for employment, 1993). Term of social exclusion coincided with the observation that the problem is important, obvious and mass, especially for populations located in urban centers.

A relatively long period of time, Peter Townsend's conception of poverty was influential "… that can be understood as relative deprivation – by which we consider absence or lack of type of nutrition, comfort, standard, services and activities that are common and usual in the society" (Townsend 1979).

Townsend alerts the relative poverty nature, meaning that different aspects of poverty express even through a limited approach of participation in common and usual society practices. In basis, this is the so called distributive mainframe of resource allocation.

Europe Commission, inspired by the relation aspects of poverty emphasized in P. Townsend's opinion, came to the following key provisions about the problem and term of poverty and social exclusion:

- changed nature of understanding new poverty and marginalization forms
- social exclusion has a structural nature
- increase of insecurity is related to the economic crisis
- numerous situations of exclusion are derivatives of economic, technical and social changes characteristic for the evolution of industrial changes

- the problem is not only in the systematic disparity of classes (up/down), but between standardized commodities and those at the margin of existence (in/out)

Commission considers the process of social exclusion a dynamical process with emphasis on the consequences and its multidimensionality. That means that understanding isn't exclusively focused on the economic condition. Forms of social exclusion happen in the sphere of exclusion from social changes, practice and social integration rights and identity, habitation, education, general health status and service access. Named weaknesses or inabilities often act cumulative and in perspective not only people get influenced, but also regions. Multidimensional phenomenology of exclusion suggests that it is meaningless to solve one aspect if so many others are left problematic.

In this sense Heinz Steinert considers the process of social exclusion is never unambigous, but that the actors that are excluded are very competitive and can actualize resources available (Steinert, 1988).

The discussion suggests that the universe of variable of poverty depends upon a number of components, and we have focused on deprivations, risk society and social exclusion as consequences of this condition/state. It is obvious that poverty is being extended through time-space perspective and affects mostly, at first exclusion of population parts that are dependent, and then the most qualitative part of population that creates fortune. Since this is a complex variable, it is sensitive to every form of rebalance, risk and social isolation in other life components. Besides that, analysis suggests that it is possible to compose the term of poverty management. These factors that organize, cause and create poverty at the same time compose the level of security/insecurity.

Implications:

- As poverty becomes more massive, more unpredictable and uncontrolled, insecurity in that society gets higher;
- Poverty management is in tide correlation with management of deprivations, risks and social isolation, and ultimately, insecurity, too;
- Poverty and its conditions are powerful instrument in creating social construction of fear, and easily could be misused, as real conditions;

- One way of ruling of individuals, groups and collectivities poverty, is promoting extern and unimportant causes of deprivation.

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SECURITY DILEMMAS AND GEOPOLITICAL TRENDS IN INTERNATIONAL RELATIONS WITH PARTICULAR REFERENCE TO MIDDLE EAST, EASTERN EUROPE AND WESTERN ASIA

GLOBALIZATION AND INTERNATIONAL POLICY

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Abstract

There is no doubt that the rapid growth of globalization (which is considered to have started from the middle of the twentieth century) have caused social changes in all key areas of public life, as well as at the individual level, in all societies of the world of today. However, differences in views among scientists, politicians and analysts are diametrically opposed depending on their philosophical view of the world. According to some, globalization creates new values of the so called "new world order" of postmodern global capitalism and the associated cultural changes. According to others, contemporary globalization has created an increased number of objects, supra-national bodies, non-territorial connections, apparent change in understanding, perception of reality, and "modernization of modernity". On the other hand, it has not even touched the essence of the basic social framework of the capitalist mode of production and the distribution of income, bureaucratic management, individual and collective identity, ontology, epistemology and methodology of science. However, one thing is evident. The concept of globalization is taken too flexibly. Various actors on the political scene have interpreted the concept of globalization in their own needs, actually taking the focus of attention away from their own failures. Many NGOs have set their social activism in the framework of anti-globalism, although many of them are with different ideological and often contradictory understandings of the purpose in their joint fight. Hence, there is the need to contribute to a clearer and more precise definition (which is more than necessary for scientific communication and debate) about what exactly globalization is. What kind of process is it? Is globalization predominantly driven by the objective factors of the rapid technological development of the "third wave" of scientific society, or subjective political elements with diversion of objective factors through conscious action in international politics? What are the primary drivers of the globalization process in the domination of the capital in economic, military, and consequently - political level on the global stage? Are there winners and losers, or all at the same time are both winners and losers of the process? What can the small countries do in the process of contemporary globalization in terms of security at economic, political and cultural level? At all these and many other questions that inevitably arise from a given subject topic, attempts will be made in an original scientific paper to be given some of the possible answers to the questions.

Introduction

In the contemporary world there is no more controversial process than what is today called *globalization*. Namely the contradictories are more immanent to the phenomena and processes. The more complex they are, the more contradictory in their core they become. In fact, the unity of the contradictories is one of the dialect laws of our existence. However, its actual state of the most contradictory and underestimated process originates from the intensity of the tendencies which literally affect our life with the rapid development of the informatics and technology until the subtle unification of the political, economic, and financial systems, legislatures, etc. This has a reflection on the weak parts of the society and the undeveloped countries in transition which usually get "the smaller end" paying the taxes of the underdevelopment and the ignorance of the global movements which comes out of the disorientation and the lack of strategy in the new conditions. For the undeveloped states, the answers to these questions are of an extraordinary and primary importance, because the perception of the essence of the problems, through law trends of long-term geo-strategic interests of the developed countries, is a great step forward in the projection of the real strategy and tactics for overcoming of the general crisis in which we are.

The phenomena seen from a historical or civilization perspective is not new. Namely, the scientists have discovered that all the technical progress cannot stay within the national borders available only for a small circle of the richest individuals. Except in the beginning phase of the exclusive exploitation of the invention and then as a regulation the products become available for mass use. In fact, this is the economical logic of mass (serial) production.

From an aspect of the idea of globalization comprehended as a world's organization which will be managed from one centre, it appeared many centuries ago in the visions of three theological concepts: Judaism, Christianity and Islam. In the aforementioned context, the Canadian professor Richard Falk believes that contemporary globalization is only a secularized form of "Unam Sanctam" promoted by the Pope Inoktentij X, in which the spiritual authority of the Roman Catholic Church should be established over the national territories of the states of that time as trans-national companies seeking territories of the states of today, to submit to the non territorial economic goals.

However, the idea was possibly well known before what is the present process of globalization, which has a strong intensity especially with the fall of the Berlin wall and the deterioration of the Eastern Block. These events coincided with the "informatics' bum" and the enormous productivity of the work, which the real socialistic countries could not follow (except

China). Therefore it is almost impossible to qualify this process as a historical episode. The signs of similarity with the historical ideas are just imaginative comparison, because in reality globalization started from different ideas and political methods, creating changes in several key areas such as: production, management, knowledge, identity and culture, security and democracy. These areas will be properly analyzed in the work below.

Thereby, we are confronted with the question - what kind of process is the globalization? Is it only an objective process which should be equalized with the natural process of the unstopping technologic development or is it a deed of the aware construction, through perfidy infiltration of the general concept of systemic corrupt foreign policy, which is implemented by the governments of the most powerful countries in the world as well as the global institutions. (Labovic, 2011) This concept is perfidiously packaged in the neoliberal ideological "wafers", of the subjective dimension of globalization.

The answers of these few questions will be as simple as it is possibly, but in no way they can be one-sided. Namely, to say that the process of globalization is only an objective process is as wrong as to answer that it is a deed of a conspirator agreement of the different connected secrets and half-secret organizations under the cover of "the invisible world government" and The "Committee - 300" in order to create a "NEW WORLD ORDER" with dark plans and goals.

First, it is far from the logic of the existence of the world that a group, even if it is Committee - 300, has a complete dominion over the world. The effect of the powerful lobby groups of the mega capital is undisputed and it is more or less present in the political governments around the world. In the USA it is even institutionally channeled, although we cannot forget the secret channels of infiltration of "own" people in the most significant institutions in the government, not only in the most developed countries but even in the organizational network in the global multilateral institutions and global non-governmental organizations, in order to accomplish the long term interest of the global capital. However, to believe that this effect is accomplished with complete obedience means a complete negation of the objective tendencies in the leading of politics; it means to admit the contradictorily of the realistic gap between the normatively declared post statement of an ideology and what is happening in the objective reality. This kind of opinion goes even further away from the dialect understanding of Hegel who, despite his opinion that individuals are marionettes in the large play of the common history, and the author of the historical play is an "absolute idea", he sees the historical process as rational.

Second, we cannot refer to people as simple personifications of the economic laws, nor can we refer to history as a scientific process. Namely,

globalization as a controversial and complex multi-process is necessary to be distinguished in its objective and subjective dimension. Objective dimension of the globalization is more than certainly unstoppable and inevitable and as such it is an objective process, from the aspect of its unbreakable (symbiotic) connection to the technological progress of society. For this question each dilemma is apparent and it has to be declared as not scientific. However, we cannot separate the objective dimension of the globalization from the subjective dimension of the process seen in the ideologically-political platform of the actual dominant dogmatization of the neo-liberal social Darwinism which is implemented through the hierarchical structure of a wide range of institutions, of the political managed part of globalization. In the following chapters we will focus on reviewing the most important areas which are under the influence of the globalization, on the theories for explaining the meaning of the term globalization and on the theories for the driving forces of globalization.

Globalization and Production

Certain authors associate globalization with a complete change in the way of production. Others just talk about continuity in development without systemic transformation of the basic tenets of the capitalist mode of production. There is no doubt that the rapid development of the trans-planetary and non territorial ties is due largely to the development of the capitalist mode of production. In fact, capitalism is such a social relationship where the overall economic activity is primarily focused on creating an excess accumulation of capital or profits. Given that competition is the main principle on which capitalism is based, all participants in the process need to generate surplus capital accumulation. It creates various disputes and conflicts within the social structure of capitalism, which can be from visible to latent. Latent, for example, are cases where the poor countries of the South are not aware that most of their small surplus is transferred to capital accounts of the rich countries of the North because of the obligation to repay their debts. Through the history it is proved that capitalism tends to create exploitation and inequalities that in certain stages of societies are corrected with different not liberal measures.

It is believed that capitalism accelerated globalization in four basic ways that are interrelated and arise from one another.

First - the need to expand the markets for production. This tendency was anticipated by Marx and Engels 150 years ago. Today with the third wave of scientific society where productive forces are enormously increased, capitalists have a bigger need of conquering the global market due to the volume of sales or so-called economies of scale. This tendency, among other

things, is caused by the parallel development of the capitalist state as a welfare state in which the worker's rights increased, as well as their living standards and the social protection of the population in the economically developed countries of the world. For these purposes capitalism spurred rapid technological development, especially in telecommunications, transports, and computer technology for data processing. Also, capitalism spurred and supported the development of global organizations and management.

Second, capitalism accelerated globalization in terms of contemporary accounting practice, which provides strategic cunning moves of transfer pricing and the concentration of profits in subsidiaries of companies or their firm-sisters in foreign countries, mostly off-shore (or on-shore, such as Luxembourg or Liechtenstein). These are countries with low tax rates, lack of tax control and the origin of the capital, as well as noncooperation with other international tax institutions.

Thirdly, this tendency is caused by the development of the capitalist country as a country financially secure and Kane's social state, better working and living conditions for the workers and generally bettered social protection for the population of these economically developed countries in the world. In the middle of the 20th century the capitalism procured the social peace and prosperity and defended itself from a wider inter – class collision in the time when socialism had the tendency to grow worldwide. However the consequences from their politics were the trend of decline of the profit, because the tendency of the modern globalization is to provide trans-planetary and border-free mobility of the capital. The capital can achieve its full potential and interests when it has the opportunity to relocate its production capacities where the production costs and the raw material are cheapest.

Fourth is the aspect of enlargement of the purview and comfort of the services and goods. In this way the West has prompted the globalization to unseen proportions, resolving the mobility of the global capital in the trans-planetary spaces and creating new opportunities for accumulation of the surplus capital.

Therefore, the different opinions that the globalization created conditions for the "late capitalism" as a prior to the "post capitalist society" (Jameson, 1991; Drucker, 1993) are far from the truth, if you consider the undisputable empirical facts of the concentration of the capital in very few of the global companies in the West. Namely, three out of ten global companies achieves 60 - 87% of the profit globally in different spheres of service and production (Harvey, 1995; HDR, 1999; ISMA, 1995; FT, 1999). With this it has been proven that through globalization the capitalism not only that it did not change but it strengthened its position in continuity as a worldwide

process. That is why it is impossible to talk of "late capitalism" or "post-capitalistic society". There are many more valid arguments to be made about hyper-capitalism. E.g., I consider Jan Art Sholte's (Jan Art Sholte, 2008) view; contradictory, in one paragraph he says "trough capitalism we understand all the reasons for the globalization", and in another paragraph he claims that "capitalism by itself is not the cause for the modern globalization". Sholte continues with "however, the capitalism was provisioned by the regulations and identity structures which contributed for the appearance of the surplus in the trans-planetary spaces. As an afterthought, the capitalist's way of production at the same time depended on rational knowledge which creates secular, anthropocentric attitude on which the capitalism is based. The eclectic synthesis of Jan Art Sholte will be discussed in detail in the part of the theories for the reasons for globalization. My only argument here is with a counter question "Who brought the regulations? And: Which are the structures of the identity that used the rational and structural knowledge of the science in the modern world? The author's answer is that it was doubtlessly the largest capitalists through the most powerful countries in the world, who created them and made them complete instruments of the global organizations in the function of the long term geo-political, geo-economical and geo-strategic interests of the global capital.

Globalization and Management

The discourse of the globalization will not be complete without the review of the coherent ratio of globalization management. Despite the changes in production, the modern globalization provoked many changes in the globalization management as well. Many authors think that in this modern phase of the globalization the state has lost the prerogatives of the state sovereignty (Camilleri / Falk, 1992; Wriston, 1992; Sassen, 1997). Also many of the authors are tempted to think that the concept of a nation-state is disappearing (Cable, 1995; Schmidt, 1995; Strange, 1996), or others who think that the globalization brought "obsolescence to the term nation-state" and "extinction of the nation-states" (Dunn, 1995; Bauman, 1998; Hudson, 1999; Bamueh, 2000). Namely, the changes that occurred in the capitalists' way of production, among other things the rapid techno-technical development in all spheres of production inevitably brought the changes in the management. The territorial sovereignty of the Westvale's type of state was present more or less in the first half of the 20th century, it can no longer suffice for the new trans-planetary and borderless communications in the spheres, especially in the "most globalized economy and finance" (Kapstein,1994; Pauly, 1997; Helleiner, 1999). The absolute territorial

sovereignty of the state government as an imminent characteristic of the suffered changes; therefore, today we mostly speak of limited sovereignty, divided sovereignty, transferred sovereignty of the state to the supranational bodies (macro-regional and globalized institutions), and the sub-state bodies (national and regional), as well as the non-government organizations from the private and citizen sector. It is obvious that today the authority is multi-layered and dispersed on different levels on a horizontal line, and on the vertical line of the hierarchy. And today instead of speaking of statism we talk of polycentrism (Jan Art Sholte, 2008: 235). Simply said, the volume of the computerized transfer of data, TV and radio broadcasts, remote satellite probes, electronically financial transactions, mobile phone calls, cannot be completely controlled in one state, not even if there is an absolutism of the government. All these new conditions of the modern globalization contributed to the statism even in one of the most powerful countries in the world to be inappropriate for the future development of the globalization.

Considering the above named facts, according to the arguments of the following authors (Jan Art Sholte 2008: 53) the states are no longer the leading places of management. The same author (Jan Art Sholte 2008:234) in contradiction to his first paragraph, rightly presents that the "state governments are still important and essential in the management of globalization. The end of statism certainly does signify the end of the state. In the text bellow, the author again represents contradictory opinions "Management appears in (and through mutual connections) among the regional, national, micro-regional and global level. None level is above the others as it was a case in the domination of the state in relation to the supra-state and sub-state institutions in territorial circumstances. Instead, the management is dispersed and it can originate from more than one source at the same time, and not to be clear which one of these sources is the crucial. With these diametrical opinions Jan Art Sholte presents his opinion as confusing and unclear. In the context of the previous opinions of Sholte there is another group of authors who think that the sovereign rule of the statism is not terminated, only takes a different form in the post statism conditions. Namely, the attitude of the author is that, if the transferred sovereignty, the divided sovereign, or limited sovereign make sense to the weaker countries, it will not be in accord to the modern empirical reality, if we speak about the most powerful countries in the world. It is quite clear that USA remained the super power in the world trough the usage of the global norms and institutions, the global finances and the global military operations that the US Government imposed using almost all of the global institutions. In addition to this claim, I will list few of the many empirical examples: "the most powerful countries of the world used even military force to use the global institutions (as is the case of Iraq, even without the permission of the

approval of the Security Council of the OON) to secure the interests of the global companies, as well as to implement the programs for institutional reforms and in that case the road to a complete globalization will be open. There is no doubt of the part the US Government played in the establishment of OON, the Breton Woods institutions, OECD, GATT, WTO, etc. The important thing here is that the US Government also contributed to the establishment of the macro regional institutions in Europe, North and South America. In cases when these countries were not convinced by diplomatic, political and economical means the US Government used military action to punish these countries and their leaders in order to enforce their direction of the globalization, with the military power (Mosler / Katley, 2000). Although the author agrees with this attitude, he insists on the possible conclusion not to be derived in the context of this thesis which goes with position of political realism, because the author of the paper consider that states are crucial, however they are not the only ones and the most crucial on the global scene. More detailed arguments about this thesis can be found in the part for critical review of the eclectic synthesis of the theories for reasons of the globalization.

Globalization, Identity and Culture

In the scientific literature there are some controversial opinions about the mutual relationship of the globalization towards the identity and culture, and vice versa. Some consider that globalization leads towards one mutual world culture, whose basic value contours are characterized with consumer societies, mass media, westernizing, or to be more precise, Americanizing the English language as the worlds official language. Depending on different people and opinions globalization is either a universal progress or cultural imperialism. The first group is glorifying the undoubtedly positive opportunities for trans-planetary and non border communications that the globalization is offering and considers that in this way the people will be able to continue to nurture their specific cultural differences. At the same time, it produces healthy competition among the nations. The second group considers that globalization contributed that the differences between the nations and cultures are minimal. From here on, we can talk of creating different cultural identities called hybrids. According to a third group of people, followers of Samuel Huntington, the modern globalization is characterized with the clash of the civilizations: Christian, Hindu, Confucius, Orthodox, Jewish (Huntington, 1996). The author of the paper considers that in conditions of modern globalization it is not about clash of civilizations, simply because the western civilization has deep roots in all the other civilizations. The author distinguishes between civilization and culture. The

term civilization is much broader than the term culture and in itself it contains different influences and values caused by spheres outside the meaning of the term culture (such as philosophical concepts, political ideologies, etc.) If we consider the broader meaning of the term culture than we would realize that the terms civilization and culture are the only synonyms. Values as the consuming societies where the success of the person is measured by the material possessions, power and influence and are not based on knowledge or wisdom, but on possessing certain skills and characteristics for human use, as means to achieve their goals and further their interests, are completely accepted and approved in today's modern society of globalization. Luckily, the objective dimension of globalization also created opportunities to meet other cultures, know their values and moral norms and philosophical teachings. Although they are less present than the westernized culture, it is far from true that they are completely abolished. For these reasons, I predict that the further development of globalization will bring a bigger need for practicing the alternative cultural values versus the western civilization, which is considered the most appropriate, permanently and perfidiously stimulating the human lowest passions and wishes. In this sense, the development of globalization brought to the dying of the protestant work ethic which was one of the main reasons for development of the capitalism and represented the "murderous" application of the west to conquer the world. All of that is now slowly dying. All this is happening because of the psychoanalytical theory and the pornographic industry, not only from the aspect of its hard core but also from its softest and most sophisticated artworks. Hence, the question we need to ask is not whether there is clash of civilizations but the cultural differences, the cultural subtle conflicts and gaps, and if the others (for example, over 70 million Chinese have accepted the Protestant religion) maybe did not find whatever the west lost. Is the protestant work ethic through Confucius teaching us to create a new hybrid with Western Protestant ethic, so it will be a new "murderous" application of future development of globalization?

Territorialism - as an imminent characteristic of the previously dominating way of management (statism) - brought with it nationalism as a collective identity. Instead of fixating on the nationalism which ruled until the first half of the 20th century in the modern global world, the tendency for development of the identity is moving towards more hybrid and plural identity (Jan Art Sholte, 2008). Namely, as the termination of statism did not mean end of the state, the end of nationalism would not necessarily mean the end of nationality, as a mark of the individual and collective identity. Some authors make distinctions between the state and the nation, and for others those are the only synonyms. Sometimes, nations can have no state forms. As an example there are the nations in Quebec and Luo, while the sub state

nationalities are considered the Curds and the Buskins. It has been considered that with the rapid development of globalization many national projects today do not have the tendency for an independent state (Jan Art Sholte, 2008). The discussions today are more about micro nations (Flemish and Valencian in Belgium), regional nations (pan-European, pan-Asian, pan-African, etc.), and global nations (Chinese, Indian, Armenian, Jewish, Palestinian, Lebanese). However, from the globalization aspect there is a special interest for non-territorial identities. Certain features of the identity, such as body handicap, age, sex, religion, race, sexual orientation, profession, caste, even the human kind in general, are not connected to territorialism in the sense of nation-state. Yet, it is not a rule that the nationalism passes through as a complexly interwoven dimension with the rest of the identity features. The intense globalization is one of the main reasons for the increased tendency of the multiple hybrid identity, for example: the feeling of multinational identity, or multi sexual orientation, etc. However, hybrids are not a new appearance. They existed before the modern globalization, with the difference that the enormous intensified trans-planetary and non border communications connect people from all parts of the world more efficiently. At the end of this chapter I am willing to conclude that despite the serious development of hybrid non-territorial identities, nationality is still a feature of the collective identities around the world.

Globalization and Science

In the modern scientific discourse of globalization emerges the question of whether globalization caused completely new ontological concepts of the reality, new epistemological concepts of knowledge or new methodological ways of researching and constructing of the knowledge.

Ontology, as part of the philosophy, deals with the questions about the existence of God, the sense of life, society, time and space. Certain authors think that globalization caused some changes in the **ontology**, for example the way the people understand the time and space (Robertson, 1992). In that direction, most of the authors in the context of the globalization have redefined the social geography in post-territorial terms. Namely, the virtual reality created through the electronically mass media and the sophisticated computer technologies, contributed to the fact that people accept them as realistic, although they do not belong to the conventional understanding of the geographical reality. All this contributed that a large number of the population at the beginning of the 21st century mixes the terms of space and geography with the term territory (Jan Art Sholte, 2008). With the speed and volume of the information transfer, transport, etc, globalization

contributed to general rush and increased dynamics in the everyday living to unseen proportions. The exaggerated global time has a high price on the quality of living. Therefore the data, the information and the communications are becoming more important than knowledge and wisdom (Sohail Inayatullah / Ivana Milojevic, 1999).

When it comes to **epistemology**, the rapid growth of global communications contributed to appearance of irrational **epistemologies**, as are the religious revivals, egocentrism and post modernism. However, from the extensive analysis it can be concluded that the rational epistemology is mainly unthreatened and still the leading direction of thinking especially in science. The reflexive rationalism represents corrective of the permanent dominant rational epistemology than its opponent option. Although the reflexive rationalism is based on the basic rational postulates, as are secularism, anthropocentrism, scientism and instrumentalism, however its representatives can see the limits of the rational thinking in the context of the correlations on one side, between the rapid development of the technology and on the other side, the threats and risks of ecological jeopardy of the Earth, endangering the human kind, endangering the flora and fauna, etc. In this context the reflexive rationalists are less skeptical towards alternative knowledge and are more subjected to experimentation of the irrational epistemologies, for example, the alternative medicine.

The reflective rationalism has many similarities with the post modernism. The reflective rationalists sometimes prefer sensibility above knowledge, not always reliable and clear, very much the same as the postmodernists, although it is not always very clear. Same as the postmodernists they see the limits of the human mind which is the driving force, their ego and vanity, and from here the consequences can be dire. However, between the postmodernists and the reflective rationalists there are significant differences. The postmodernists see rationalism as a hopeless option. On the other hand the reflective rationalists believe that even with all the deficiencies the reflective epistemology is still the best concept of knowledge, which should be seriously corrected. In the words of Andre Gorz "we need to rationalize the rationality". (Andre Gorz, 1988)

When it comes to **methodology**, some authors point to globalization as the main reason for abandoning of the disciplinary divisions and the other affirmed academic conventions (Breton / Lambert, 2003; Scholte, 2004). Methodology is a scientific discipline which studies the ways the knowledge was built, or in other words - the ways the questions are asked, as well as the principles and actions of research when those questions are answered. It has been considered that globalization had no influences on the basic methodological problems social research. In this context it is said that the trans-planetary and non border connections did not change the idealists to

become materialists and vice versa. However, the changes that were caused by the globalization, in its objective dimension in the technological development, did not remain unnoticed in the methodology plan. Namely, tendencies for interdisciplinary, multidisciplinary and post disciplinary researches appeared. However, the larger portion of the scientific conferences stayed within the disciplinary domain. Most of the investment projects were through disciplinary channels. In other words, although the opposite tendencies appeared, it did not change the basic conventional scientific discipline.

However, other methodological changes are detected in the teaching and study. These forms had more influence on the form then the basis and the content, but knowing that there is no basis without form, and vice versa, these changes are neither accidental nor naïve. The new technologies created opportunities for long distance systems of teaching, where through already taped lectures or lectures in front of the students, the students have the opportunity to see them in audio-visual effect, even with an inter-active approach with the lecturer although there is a great distance dividing them. The informative technology also enabled us to use electronic books and textbooks mainly from the US, Great Britain and their allies, printed by globally present companies in millions of copies. In this way the global English professors from the Universities in US and Western Europe became global professors who teach students around the world. This characteristic of the global teaching and learning is not necessarily negative, if the professors and authors from a non English speaking countries or economically underdeveloped countries have the same opportunities as the English speaking counterparts and their works will have the same attention as the English speaking professor or author. Further, the quality of their books and papers is considered not belonging to the country they come from). They have equal opportunity to print their books and get the same marketing attention as the English speaking authors.

Globalization and Democracy

Globalization imposed many questions about the democracy. Many authors especially from the neoliberal provenance say that globalization elevated democracy to yet unseen heights (Huntington, 1991; Diamond / Plattner, 1996). It is a fact that after the cold war, the liberal democracy spread all around the world. Many countries from Latin America and Asia changed their military regimes with a liberally-civilian context and democracy. The Berlin wall was demolished, and "all" the obstacles were removed for introducing a new political multi-party system, free democratic elections and promotion of the human rights and freedom, as well as the

concepts for "good management". The countries in Central and South-Eastern Europe made their first step on the thorny road to democracy. From the objective side of the globalization dimension, the apologists stressed that the huge amount and speed of the information flow in the new era, is significantly increasing the opportunities for the people to actively participate in democratic elections, by expressing their opinion of the management structures. In this sense, today's electronic democracy which is used in domestic elections has a tendency to change the rational public debates with irrational momentary decisions of an individual, preoccupied with prejudices, stereotypes, frustrations and inhibitions.

Further analysis by the ideologically - political provenance have a different opinion of the globalized democratic processes and the wave of democracy that took over the world, especially after the dissolution of SSSR and the Warsaw agreement. Certain authors think that globalization is an antithesis of democracy (Gill., 1996; Robinson). 1996; Klein, 200o; Hertz, 2001 Others as Gills and Robertson described democracy as poly-archaic, in which the class elected democratic elites rule and "the globalization as the new world order with a low intensity of democracy" (Gills and others, 1996; Robinson 1996) Regarding the decadently critical authors, the formal liberal democracy with the right to vote on the ballots is nothing more than a farce, and more to the point, behind it a lot of social injustices are hidden. The key questions we should pose and which the apologists of the globalization and formal democracy do not have a valid answer are the following: is it real the citizens right to vote, or is it already imposed by the "brainwash" of the mass media? Or more importantly: Do we have a real choice if our freedom to know what we want is already shortened by choosing the lesser of two evils, distinguished just by few shades? What do we really get even from the acclaimed elections and referendums that we won, if the real questions that are important to the citizens are not pronounced because they cannot get publicity in today's globalized and completely commercialized mass media? The deeply controversial being of democracy is one of the biggest paradoxes of today's society. Throughout the political history, democracy was largely a farce, because in its basic meaning "the rule of the majority of votes" from numerous anthropological, psychological, socially-political and even gnoseological and epistemological reasons cannot be taken in its' base value. Democracy was just a "good bate" for "throwing the golden dust in people's eyes" so they have the feeling of contributing in making the important public decisions. It is true that the globalization, with the rapid development in the informative technology, created conditions in technical aspect. But, for the formal democracy to become essential, however, it did not happen not only because of the deeper contradictions of the social structures of capitalism but also globalization contributed to the weakening of the liberal democracy.

Theories to Explain the Meaning of Globalization

- **Internationalization**

Globalization can also be explained as internationalization. According to this, globalization in fact means intensified and enlarged inter-state exchange and inter-state dependence. This position puts in prospective the international relations, and therefore according to some authors the globalization and internationalization are just synonyms. The tendencies to qualify globalization are directed towards measurement of indicators of the inter-border relations, transactions and differently based processes.

According to Jan Art Scholte (Jan Art Scholte, 2008) the equation of the globalization and internationalization are attractive because they require less intellectual effort and political adjustments, because the global relations could be explored on the same etymological and methodological base, as well as the international relations. The analysis of the globalization as internationalization shows that the rates of the international commerce, direct foreign investments, migrations, etc. were as large as or larger a hundred years ago. Jan Art Scholte (Jan Art Scholte, 2008) thinks that globalization is nothing else but internationalization. Then why do we have a need of a new term? Scholte continues that the idea of globalization as an internationalization can be politically inappropriate. He claims that these opinions are ignoring and marginalizing the facts that the worlds' state relations can be organized not only by their governments and institutions but also from the other models of organizations that are present in the modern global world.

Scholte agrees with the fact the state structures in the modern global relations are more and more involving different kinds of organizational structures of a non-government character. However, it is most important to point out the main global players on today's global scene. Although the argument on this theme will follow in the next chapter I would like to point out the following: 1) on the aspect of the formal organizational structure there is a difference between globalization and internationalization and it is quite obvious that apart from the state institutions there are other institutions outside the state which participate in the global relations. Therefore, the term globalization is not identical to the term internationalization. 2) from the aspect of an extra-institutional approach, which means a deeper knowledge of the socio politicological understanding of the phenomena, processes and relations in the modern globalization, it is possible to see that the whole non-government organizational structure is in fact supported, made and triggered by the most powerful states of the world., in order to create an illusion of

polycentrism, while the most important processes and relations in the contemporary globalization are managed by one center of power. It is evident from all the processes and events that events on the global scene can only be "directed" from one center of power, and can be so well coordinated by the "poly-central", dispersed government or non-government organizations (of course, only those that have influence on the global scene). In the spirit of formal democracy, anti-global, contra-global and alter-global organizations are "free" to act, as a necessary step of the democratic facade, and have previously limited "range" (see scheme no.1 at the end of the paper). All this is in the context of the general concept of the systemic corrupted foreign politics led by the most powerful countries in the world, in order to achieve long-term geo-economical and geo-strategic interests of the biggest global capital in the world (Labovic, 2011). Therefore, to deny the concept of the state and its prerogatives in the contemporary global relations, there is an attempt to mask the truth. In the contemporary world relations, the truth is that from the trans-planetary and trans-territorial relations of the modern globalization, the greatest part of benefit goes to the global capital of the most powerful states in the world and their allies. Hence, the globalization as a term can be accepted, but above all from the aspect of the formal normative-institutional structure of the global society. Nevertheless, we should consider that the term globalization if not carefully considered can represent a "cover" for the main promoters of globalization, which are doing their hardest to create conditions for trans-planetary and trans-territorial connections in all fields with the aim to open the borders to the one and only global market of the world.

- **Liberalization**

As one of the redundant definitions of the globalization - is considered its connection with liberalization. Some experts support this view of globalization in context of neo-liberal macro-economic strategy. Its pillars are: liberalization, deregulation, privatization, and fixed monetary and fiscal politics. According to the conspirators of this strategy, it is considered that in time we will achieve peace, prosperity, freedom and democracy for all. Some authors think that the neo-liberal wave, although playing a key part, is not necessary for the modern globalization. If we paralleled globalization with liberalization, it is gained an impression that the neo-liberal option is the only political strategy that can shape globalization. In addition is the argument that most of the anti-global concepts deny the neo-liberally based globalization then globalization per se. However, some of the relational anti-global approaches deny globalization completely, opting for de-globalization, with independent regional, state and local economies, cultures

and identities. Taking in consideration the alternative concepts of the neo-liberal globalization (alter-global) and some transformative concepts (contra-global) it seems a clever opinion at least in political and normative-perspective sense of the globalization, as a term not to be paralleled with liberalization. Seen from the aspect of the realistic social empire, it can be said that today globalization equals liberalization.

According to Natalija Nikolovska, there is a proof that with the appearance of globalization appeared the process of rapid development of crisis of the profit rate of capital. Namely, with the opening of this process, the national market, which was capable of accumulating capital, today cannot provide that even in the most developed countries such as USA, the members of EU and Japan. Thus, the stop of the tendency of the lowering of profited rate of the home markets can only be done "destruction" of the borders of the national economies and enlarging of the capital relation in the unique world space, in order to keep the trend of growth of the profit rate. (Nikolovska, 2000) With the contrast to 19th century when imperialism was manifested through acquisition of colonies, the present imperialistic capitalism was exterritorial, and the government on the "independent" economies is realized through the global slogan of "development" privatization, liberalization, deregulation and restrictive monetary politics. OECD Project - Multilateral Agreement on Investment (MAI) is a declarative order to promote investment policy, and in fact, it "pushed" the abolition of national legislation in the field of investment, which means deregulation. In that way it tends to equalize national and transnational investment. Project prohibits giving preference to domestic legal and physical entities in privatization. ("Le Monde Diplomatique, February 1998, p. 22). Under the leading mind of the world's working poly-technocrats, the domestic politicians try to convince the public in the rightness of this politics.

Also, through the sophisticated methods of the given economical politics the monetary sphere remains an example in the production in order to stop inflation as a unique way of protection of money and the existing way of production, which provides the exploitation of foreign national treasures and continual cheapness of the foreign work force. In this kind of conditions claims Nikolovska, the stability of the prices and the value of the money become basic strategic goals which are incorporated by the growth of the unemployment and poverty, and from the countries in transition huge capital is deducted so, as it was mentioned on the symposium in Thessalonica, today they are from 30% to 50% poorer than they were at the beginning of the process of transition (1989). The widening of the cultural model of the neo-liberalism - the right of the strongest in the illusion of globalization is lifted on the level of alternative out of which there is no survival. This kind of

model continuously generates enemies from the inside and from the outside (communists, nationalists, pretensions and aspirations), in order to survive. In fact the generation of conflicts on every level is modus vivendi of the system for which a constant alibi is necessary and explanation of the constant economic downfall which happens under the influence of the discipline in the society and the realization of the profit function in the global system of relations". (N. Nikolovska, 2000)

Attitude of the author is that we can not contradict the significance of the direct foreign investment "as wheels of market growth" of the undeveloped countries "accompanying effects of the large presence of direct investments in the countries in transition" to treat them as very significant processes such as: the rise of the credits of the country, the rise of unemployment, social degradation of the layers, degradation of the human conditions, and other retrograde processes, another time to "moan" because of the lack of them or the income of money. Thus, there is a comparison of the author's attitude with the attitude of Nikolovska. (N. Nikolovska, 2000)

- **Universalization**

The next equation of globalization is the universalization. According to the advocates of this view, globalization is spread worldwide. They also consider that the globalization as universalization in fact represents standardization and homogenization by economic, cultural, political and legal connection within global frames. Some economists estimate globalization as universalization to the extent of equalization of the prices of the goods in different countries (Bradford / Lawrence, 2004). Other authors regarding the thesis for the cultural homogenization, which is prescribed to globalization as universalization, are point out that universalization leads towards cultural destruction of the different cultural entities. This thesis is opposing to the other thesis for cultural hybrids and heterogeneity which are characteristic for the modern globalization (previously described). Universalization is an old occurrence in the world history. Klive Gamble develops an interesting thesis that globalization appears for the first time millions of years ago at the same time as the trans-planetary spreading of the human kind. (Klive Gamble, 1994) An example for globalization as universalization is the spreading of the world religions, which are present on different continents for centuries. However, this view of the globalization as universalization is one dimensional, as much as from reality-empirical aspect as from political and normative-perceptive aspect.

- **Westernizing**

The opinion of the globalization as westernizing is widespread. In this context the globalization is explained as a separate type of universalization, where the social structures of the modernism (capitalism, rationalism, urbanism, individualism, etc.) are spread throughout the human kind, and by spreading they destroy the existing cultures, local specifics and autonomies (Jan Art Scholte, 2008). Certain authors consider that globalization is a kind of hegemonic discord, the ideology of the apparent progress concealing the order of the less powerful countries compared to the West (Petrus / Veltmeyer, 2001). Giddens considers that the widespread globalization is a product of modernization and bureaucratic management (Giddens, 1990). Therefore, we presume that modern globalization imposed the standard forms of what is modern, of the western culture, and wider, in every part of the world. Scholte's statement that westernizing sometimes includes violence completely justifies the epitaph empirical (Jan Art Scholte) as quite reasonable. Scholte continues that this statement is supported by the fact that the government institutions, the companies, the mass media, the academic and citizen associations in Western Europe and North America are "pushing" the promotion of the modern globalization. However, he states that although globalization and westernizing have a common ground, they cannot be equated. His arguments supporting this conclusion are that modernism and the western civilization appear in many other forms before globalization. Besides, it is important to stress that from a political aspect, globalization could be redirected towards non western directions as Buddhism, Islamism or post-modernism (Pettman, 2005). Scholte considers that globalization cannot be defined as imperialism, because the modern globalization contains exploitative concepts as well as emancipating social movements. Anyway, the colonization, westernizing and modernism have longer history than the modern globalization. The author considers this to be true, however it seems that Scholte cannot distinguish between the realistic-descriptive function of the science with its normative-prescriptive function. In the sense of the first function, the definition for globalization as westernizing is mostly true, although not complete, because globalization at the same time is internationalization, liberalization and universalization. Certainly the objective dimension of the modern globalization created conditions for influence on other cultures globally, not only in the West. However, all that is insignificant to the influence on the other countries, as Scholte himself states. Considering the subjective dimension of globalization - it is the conscious world's strategy which is directed towards westernized globalization. There are no doubts considering this unavoidable fact. The question of what might happen in a distant future is certainly a

scientific question in the domain of the scientific normative-prescriptive dimension. However, we should distinguish the opinions when defining what is now, and what we want it to be. At the end Scholte concludes that none of the previously given concepts for globalization can portray modern globalization in the real dimension. Therefore, he offers a new, fifth concept, through which he defines globalization as "spreading of trans-planetary and lately non-territorial connections between the people". With globalization, people become more competent (legally, linguistically, culturally and physiologically) to make contacts with other people, wherever they are on the planet. According to Scholte, the fifth concept concerns the changes in the character of societies. At the time of intensified globalization, transformation of societies develops dynamically and influences the social changes (Jan Art Scholte, 2008). The geographical context is also a reason and a consequence in the societies. However, Scholte again does not distinguish between the objective and subjective dimension of globalization. What he in fact talks about when he mentions the fifth concept is nothing else but the objective dimension of globalization of which I spoke at the beginning of my narration. The objective dimension has unambiguous influence over the subjective, consciously led strategy for certain directions during the development of globalization.

Theories for Causes of Globalization

Pedestals of the liberal and neoliberal concepts for the reasons of the globalization

According to the liberal concepts, the moving forces of globalization are the natural human desires for wellbeing and political freedom. The liberals consider that globalization is a consequence of the human urges to avoid poverty and to fulfill their human and political rights. Two important conditions are necessary in order to achieve the fast track of globalization: 1) technological development with all its advantages as a factor for trans-planetary connection and 2) adoption and implementation of the adequate legal and institutional changes to enable commerce development and liberal democracy. The liberal views of the globalization development were widely accepted, especially in the most powerful circles. They were accepted and plotted even under the name of different theory concepts. Liberalism became the leading and official view for globalization. The liberal views for the reasons of globalization truly highlighted the objective dimension of globalization, embodied in the unavoidable technological development, which are the moving forces behind the human urges not only for welfare and political freedom, but also for those human natures that possess natural

talents for research, discovery and development of new fields to further the human knowledge and standards. The thesis that there were global processes before capitalism and liberalism as an ideologically-theoretical basis of the capitalism is not the key reason for the modern globalization. I do not support this thesis, because it is correct that there were liberal processes before capitalism. However, today as in the neo-liberal doctrine we have intensive development of the modern globalization, something that did not happen before.

Except this undoubted advantage, liberalism has few weaknesses:

- The liberal concepts do not enter deeper into the research of the subjective dimension of globalization and do not answer our question about the social forces that are behind the consciously oriented strategy for the kind of development of globalization as we had so far. The statements about the technological innovations and admin-institutional changes are correct. This had to be completed in order to open the way for today's globalization. If not, we would not have the intensive development we have today.
- The other weakness of the liberal concepts is that except for the technological innovations and the administrative-institutional changes, the structures of identity and knowledge and the culturally factors are not treated equally and thus the reasons for the globalization cannot be fully explained.
- The third weakness is that the liberal concepts do not ask about the question of power, or better said, if they ask - the question is not formulated properly. Namely, if we talk of the basic pedestals of liberalism and neo-liberal strategies presented in the Washington consensus, as well as the former Washington consensus, which by the way has double standards, and not to analyze why the profits from the modern globalization are almost entirely for the benefit of few global companies from the most powerful countries and their allies. Therefore, the neo-liberal concepts (the old theory dress-up in the modern processes and the answers to modern needs) adapted perfectly to the new trends and entirely neutralized the powerless reformists and transformative demands. They avoid the question of hierarchy in the power structures, the states, the cultures, the classes, etc. (Steven L. Laimey, 2009, Jan Art Scholte, 2008).

Primary thesis and conceptions of political realism and neo-realism and reasons for globalization

The classical political realism which started in the 40s of the 20th century is still a dominant theoretical paradigm not only in academic circles, but also in the "real world of politicians". The analysis of power which the

liberals have is their greatest disadvantage; the realists and neo-realists are focused on the impact on the reasons of modern globalization. According to the political realists, the battle for political power among the states is the main reason for the modern globalization. They think that the competition between the territorially sovereign states creates conflict of interests for power, and if it cannot be solved by political and diplomatic means, it has to be solved by war. In order to avoid war, according to them, the security challenge can be solved by balancing the power among these states. The balance of power contributes to establishing peace in the international relations. In the way that, it is in the interest of the most powerful countries to keep that balance and cooperate in order to prevent another country to disrupt that balance and become too powerful (Peter Hue, 2009). This conception inclines towards **unipolar multipolarism** in the international relations. As a second concept, within the political realism the theory of hegemonic stability appeared. According to the representatives of this theory the dominant country could bring stability in the international relations by implementing international regulations and institutions by the dominant state. They will represent the interests of that state. At the same time, the dominant state will control the conflicts between the other states (Jan Art Scholte, 2008). This is the theory of **unipolarism** in the international relations. According to the third concept of the political realism, the modern globalization can be explained by strategy for power struggle among few powerful countries in the world. Namely, in the race for power those few countries develop global military capacities, they promote their national currency as global, they support the global expansion of the companies in order to enlarge their power over the other countries and attract immigrants to expand their human resources. (Jan Art Scholte, 2008). This concept inclines towards **multipolarism** of the international relations.

The increased and intensified global connections from the second half of the 20th century and most of all the increased global economic transactions between the countries, redirected the focus of the realists from the questions of political and military power towards economic power. In this way the political realism has transformed into **neorealism,** keeping the primary theoretically-methodological starting point on the main focus of researching the international relations: through the prism of the countries' power. According to the neo realists the countries could become powerful through their economy, as are Japan and Germany (Peter Hue, 2009).

It is doubtless that the concepts of the political realism and neo-realism hugely contribute towards the enlightening of the reasons for globalization. They stressed the importance of asking questions about the power among the countries, which is the main reason for conflicts. The realists stressed that the countries are not equal when it comes to

international relations. Some countries are more or less dominant, and some are powerless. With this statement they filled one of the weaknesses of the liberals who do not speak of hierarchy and the fight for power among the countries.

The concepts of the political realism and neorealism have few weaknesses as well. First, they speak of the hierarchy and the power struggle among the countries and the achievement of state interests. However, the question of power struggle and achievement of interests is too fictive. They do not answer the questions: who fights the power struggle behind the states? Whose interests do they fight for? Is that fight for more power? Second, the concepts of political realism and neorealism are focused only on the international political and economic relations. In the focus of their perception they do not consider the numerous cultural, ecological, psychological and other aspects of the trans-planetary and non-territorial connections that are created by globalization. As the third weakness of their concepts we remark that with the exception of the state governments which provided regulatory provisions for the development of the modern globalization, the sub state institutions have their role, place and meaning, as well as the nongovernmental organizations, the private management, the macro-regional and global organizations. However, considering the authors point of view (explained in the paragraph: globalization as internationalization) he partly accepts the remarks from the critics as a weakness of the realistic and neo-realistic concepts (Jan Art Scholte, 2008).

Most important standpoints of the neo-Marxist's concepts of reasons for globalization

The neo-Marxists' concepts in analyzing the reasons for appearance of the modern globalization are pinpointing the structures of power. Namely, if the political realists stress the hierarchy and the power of the state, the Marxists are interested in the social forces which are behind the state power. In the spirit of the classical Marxism, the neo-Marxists review the questions through a class prism. They think that the class relations are the basis of the social structure and that no other question about the modern globalization should be review before first reviewing the production methods, the social exploitation triggered by unjust distribution, social emancipation and alienation created by the capitalism in the race for more profit, keeping one's job and the insecurity and obscurity of everyday life. The founder of the scientific socialism, Karl Marx, predicted the development of the globalization 150 years ago when he wrote that "the capital in its natural state exceeds every space barrier" in order to turn "the whole country in its place of commerce" (Karl Marx, 1857). According to the neo-Marxists'

theories the globalization takes place because the trans-planetary and non-territorial connection increases the opportunities for profit and accumulation of surplus capital. And in the frames of the neo-Marxists' conceptions there are different views. While some are more concentrated with the traditional Marxist views on the trans-planetary flows through the prism of the class relations, others turn their attention towards the new social movements of the consumers, ecologists, peace activists, women, etc. (Gill, 1993; Mittelman, 2001). Nevertheless, the Marxist concept largely contributed to our understanding of today's reasons for globalization. Opposite to the political realists and liberalists, they succeeded in getting to the core of the social factors which triggered the modern globalization. The neo-Marxist**s**' conceptions for the reason for globalization (except for advantages) they also had their weaknesses:

- According to the author, the technological inventions which enabled the modern globalization were not prompted by the human urges for material (economic) interests, as well as from the human immaterial urges (spiritual, intellectual and moral development), but from the need to accumulate surplus capital as one of the most prominent characteristics of capitalism. These material and immaterial personal interests represent the primary driving force (spiritus movens) in the development of the human society in whole (Hegel). Certainly, the need for accumulating surplus capital is the primary driving force of capitalism. However, it has mutual influences with few other reasons of which some are more deeply based than the need for accumulating capital by and for itself. But, these are questions whose answers are deep within the philosophical view of the world.
- If one of the biggest weaknesses of the realists is their focus on the state hierarchy, than the same goes for the Marxists as well who are fixated on the class hierarchy. The argument that except for the class inequality in the modern globalization there are other structural inequalities based on the country of origin, culture, sex, race, sexual orientation, etc. Marxists could not deny. This is because all the above mentioned structures are influenced by the class relations. However, the class prism is insufficient to explain all the inter-class connections in their struggle for liberation and emancipation.
- The third presumed weakness, according to the critics of the Marxist oriented views of the globalization is that it is too simplistic to reduce the culture and psychology as simple emanation of production and management. I agree with their critic. However, I consider the vulgar materialism as basis for the overall social upgrade. In my opinion this position is inadequate regarding the dialectic materialism that considers the production as the basis, but the influence as not

unidirectional. The immanent characteristic of the dialectic materialism is that all the processes, occurrences and relations are reviewed within their historical connection and interdependence.

- **Pluralism**

Pluralistic views of globalization derived as a reaction to the neorealists' attempts to overcome the deficiencies of the political realism through the aspect of economic power. Neorealists' main thesis was that the states are the main actors in the international relations. The pluralists thought that the neorealist upgrading of the basic realists position, is still a very simplified understanding of the globalized world politics. Namely, the pluralists thought that not only the states but the multilateral organizations as OON and EU became more than favorable allies who grouped the state politics into base interests (Peter Hue, 2009). According to the pluralists the nongovernment organizations and the multinational companies became important players on the global political scene, and they can act separately from their domestic governments. The pluralists' great contribution to the globalization is their success in pushing the "lower" politic questions of the state politics (social, health and domestic politics) to a "higher" level on the political and global scene. In their view of the global political scene the pluralists point out that everything that happens today on the global political scene is not always related to military issues, or to the economic balance of power. However, the pluralists' views do not give us any specific explanations regarding the modern globalization. They remain on the margins of the other theoretical concepts. Many of the other pluralists' views are not recognizably formed as separate theory, but they slip through other theoretical concepts, as specifically modified views of the modern globalization.

The thesis of the social constructivism for the reasons for the globalization

The four concepts that were reviewed so far, although with different theoretical views for the reasons of the globalization, still belong under ontological materialism. The constructivism is a theoretical direction, which starts from the position of idealism. Therefore, according to the constructivists the trans-planetary connection results from the way the people mentally constructed the social world with the help of symbols, language and interpretation. Namely, the ways of production and management are structures of secondary meaning which arises from deeper reasons as the cultural and psychological factors. The constructivism, in fact, researches the ways in which the inter-subjective communication causes common

understanding of reality, of the everyday norms of interaction, and the understanding of the identity of the social groups. The growth of the trans-planetary connection is at the level that people consider themselves citizens of the world, in which world they share the values with people from other continents (Jan Art Scholte, 2008). The biggest weakness of the social constructivism is that it is not reviewed together with the material factors. Constructivism as well as the liberalism completely neglected the structural inequalities of the hierarchies of power, especially between the states and classes. The overemphasized meaning of the ideas as an important factor on the global political scene, on account of interests, represents a naïve reconstruction which badly interpreted the examples of the global political scene. Namely, the example here is the Gorbachov's case of his "betrayal" of SSSR (for an idea, and not for personal gain) or the case of uniting the two Germanys, when it was presumed that the German government - for the idea of united Europe - decided to become part of the EU, instead of using its enlarged power to further its state interests (Peter Hue, 2009).

The postmodernists' conceptions form a wide specter of different approaches, which in the literature are called "post structuralism" and "post colonialism". Despite that, what all these ideological approaches have in common is that they emphasize the power and the meaning of knowledge, ideas, norms and identities. The critics of the constructivism are the same for postmodernism.

Criticism on the Eclectic Synthesis on the Answers of Globalization

Every approach of the previously named theories for the reasons for globalization is highlighting certain factors, and the dynamics of globalization is reduced to two or few basic causalities. Certain authors try to merge through the eclectic synthesis the mechanics of the factors and in this way to explain the reasons for the modern globalization. Namely, the term for interweaving the point of views is considered a primary key. None of the groups of factors separated by the above mentioned theories is considered as the source for the other factors. Every group of factors is considered a reason and consequence for the rest (Jan Art Scholte, 2008).

The author considers that this eclectic (mechanical) merge of the factors is completely relative in the explanation of the reasons for the modern globalization. Namely, the key for understanding the process of globalization is its differentiating of the objective and subjective dimension. This differentiating is only of theoretical and methodological character, because in practice these two dimensions are inseparably connected and inter-dependant. For example, the powerful structures of the hierarchy can

encourage or hinder the techno-technological development, however they cannot stop it. Therefore, it is necessary to answer which are the dominant factors in (conditionally separated) dimensions of the modern globalization. Opposite to the relativism of the eclectic synthesis, the approach which promotes the author, conspires all the factors to be analyzed in their inter-activity and multilayered inter-dependence, but with one important difference: to differentiate the important reasons for the modern globalization. This approach is necessary, especially for the subjective dimension of the globalization, however, to be known where, towards what and which alternative solutions should the political forces be directed, in order to change their choice for political strategy and the directions of the development of the globalization. I see the relativism of the eclectic synthesis as a perfidy attempt or unconscious ignorance to blur the clear picture in the political fight for a better globalization. Therefore, I consider the analytical approach on this question should be structurally set on ontological and epistemological level.

Ontology is part of the philosophy and answers the questions of the existence of things. The objective dimension of the globalization is more susceptible to be explained trough the two parts of the ontology: the ideal and material philosophy. By the way, we should mention that one and same philosophical direction; for example, the determinism can have ideological and material base. The determinism teaches us that the human life and history are determined in advance from forces unrelated to men, and which can't be consciously controlled. This philosophical direction is shared by the vulgar materialism and some idealistically-fatalist teachings of destiny with different explanations for the factors. It is similar with indeterminism. It can have an idealistic base (that everything comes from GOD), and it can be upgraded by the Hindu and Buddhist teachings that the men can literally change himself by the force of his conscience or will, or it can be atheistically based on the psychological teachings of the subconscious power of men. In this sense, the liberalism (basically as materialist concept) and idealistic concepts (constructivism, postmodernism etc.) have their value in explaining of the objective dimension of the globalization. The author is on a stance that the ideas and knowledge of prominent and gifted individuals is the key drive for the human life in the history of the human kind. I'm deeply convinced of this, because first everything comes as an idea, than turns into action and reaction and continuing in its unstoppable dialectic order (Heggel). If there weren't the exceptionally gifted individuals with their ideas and discoveries, if everything that happened in the history was based on the thinking of the majority, our civilization would have stalled on the level of the cave men. My philosophical convictions are simply positioned on objective idealism. Regarding the different philosophical views on life,

which are based on different moral and value positions, as the different intellectual capability for abstract perception, it cannot be argued with arguments on the basis of logical principles of the rational epistemology. That is why this part of the text is philosophically-ontological. Every attempt to come to some optimal height on the reasons for objective dimension of the globalization trough a rational confrontation of the arguments for pros and cons, it will not bare any result or effect.

However, when it come to the subjective dimension of the globalization, or better say, the choice of the political strategy and which direction it will be used, redirected and further encouraged the unstoppable technological development, is a completely different matter. In this dimension the rational epistemology is changeable, and although it is part of the philosophy, it is more susceptible for a scientific, rational confrontation on pro and con arguments, for the purpose of getting an optimal height, seen from the height of the human senses and rationalism as a leading aspect in the modern science. Here, if we use the logical principles for argumentation and the undeniable empirical data, it can be seen, if desirable, which view is closer to the truth for the reasons of the modern globalization?

The development of the socially-historical and economic formations is unambiguously showing to us that the liberally capitalistic doctrine prevailed, which in continuity with changes, is developing the capitalism into hyper capitalism for centuries. The most realistic critic and answer for the reasons of the modern globalization is given by the Marxist theory and concepts which are developed on this basis. They are supplemented with the reasons for the globalization which the concepts of political realism and neo realism are pointing. Of course, the knowledge, ideas and structures of the identity play a big part. Their inter-active and mutual influence is undeniable. For example, the religion, among other things represents valuable form for human conduct. The religion penetrates the human life deeper than anything else, because it is not a short term science. When we speak of religion it is imminent to involve eschatology, receiving long term answers to our questions. However, in the classification of the philosophically-theological concepts of the seven most widespread religions (Buddhism, Islam, Hinduism, Protestantism, Catholicism and Christian Orthodox) according to the degree of their connection to the empirical reality (practice) the Orthodoxy is on the last place, which results in division and lesser influence among the religious. The rigid conscience of the Orthodox dogma for ideal justice and the built fetish for immaterial goods did not produce some spectacular results in the countries where Orthodoxy is the religion of the majority, seen through the prism of the rationalistic epistemology. On the other hand, the protestant cultural form, whose motto for the material, from the reformation period henceforth, raised the

capitalistic development, was elevate by the West to the top civilized paradigm. The influence of the nationalism on capitalism is undeniable.

In the frames of the subjective dimension of the political choice of strategy for the direction of the modern globalization, we should know the dominant factors which hold the globalization in exactly that direction of neo-liberal doctrine. The author does not have any dilemmas that they are definitely for the interest of increasing the profit or accumulation of surplus profit. If this is not correct, should we really dispute the knowledge of the reformists and transformists (socialist, social-democrats, ecologists etc) which can't be rationally denied, and it's in the interest of most of the human kind. However, the powerful circles of the global capital are choosing and firmly standing behind the neo-liberal political strategy, rejecting the other reformist and transformists political options. If we are truthful, we should say that the global capital confronted with the pressures of the more present public, as a consequence of the trans-planetary communications, showed excellent adaptability for the reformists demands, all the while not losing any of the benefits of the neo-liberal dedication of the globalization (post Washington consensus). The neo-liberal strategy which is supported by the largest global capital is implemented trough the state institutions, and after trough a wide specter of sponsored non government organizations, as well as through the global organizations on multilateral level. This whole widespread normatively institutional structure, which is fantastically well coordinated, does all that's necessary for the neo-liberal politic to be accepted with minimum changes in most of the world as an only option without other alternatives. (See chart no. 1 at the end of the work)

Conclusion

Of course, people do not engage in social relations and processes only for gaining material benefit. They do it also for obtaining certain types of intangible benefits, such as acquiring and demonstrating power, reputation, prestige and desire for domination of economic and military plan that builds political power on the global stage. Identity structures of the most powerful people on the planet that have real impact on the global political stage often show who they are and where they belong. They tend to impose forms of cultural behavior according to their values, beliefs, and moral attitudes inspired by their religious and philosophical matrix. The key question raised here is: what are the eschatological purposes of the urge for domination, whether it is economic interests that are achieved through military and political domination, and all these three together present suitable assets of achieving their own interests, such as spreading a dominant religion and culture over territorial spaces of global neo-colonial imperialism. Or, are

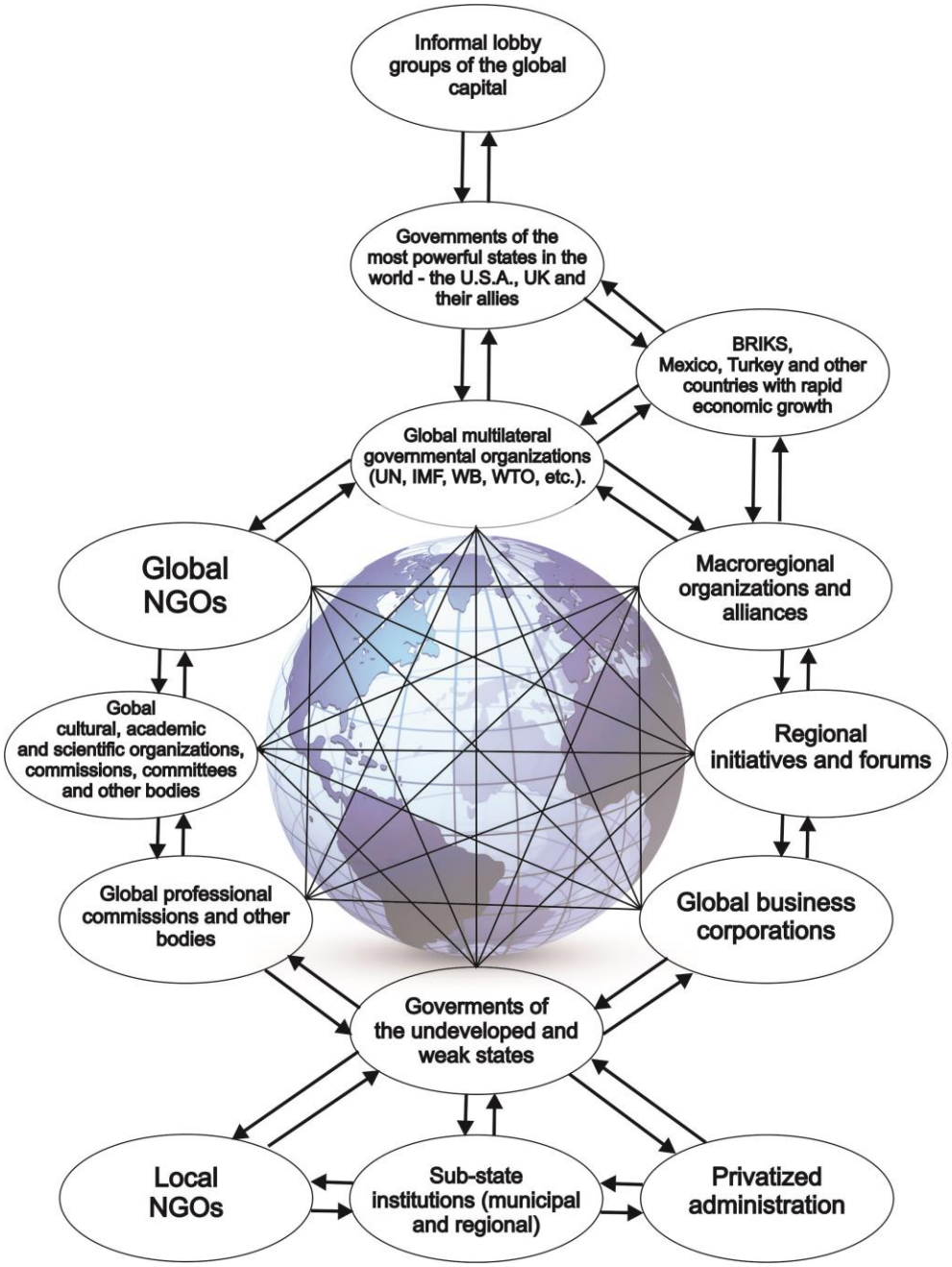
the economic, military and political power the only funds to achieve religious and cultural purposes. Certain intellectual circles have definite answers to these questions and offer most painless answers in the style of eclectic synthesis. The author believes that in ontological and scientific sense many consequences occur. Some of them become causes of retribution and subsequently come in the endless causality of phenomena, processes and relations on the planet, associated with the universe as a fine fraction. However, the author (in epistemological and methodological sense) persists that science is even more successful, and there is even deeper sequence in multilayer and complex causality of a particular phenomenon, process, or relationship which is the subject of the research. The dominant conceptions of globalization and the international relations are the most optimal choice of political strategy for future development of globalization, offering reformism (alter-globalist conceptions) and partly transformism (counter-globalist conceptions) versus neo liberal doctrinal dogmas. Moreover, not excluding other theories in general but starting from the position closest to the reality of contemporary globalization, there are the neo-Marxist and neo-realistic political theories of the causes of globalization. The author as its modest contribution to reshaping the future possible development process of globalization gives the following possible premises:

So that we avoid being misunderstood in the context of anti-capitalist Marxist ideologies, we state that we do not advocate a return to rigid and worn models of one-party autocratic and socialist-realistic modes. However, not eclecticism but a real qualitative synthesis of the advantages of the modern democratic socialism, combined with the positive sides of the pluralistic capitalist "welfare state" or "social-legal state", may be the right direction for essential solving of the challenges of the contemporary global society. Modern capitalism today increasingly becomes a state. It has become all too clear after the outbreak of the global financial crisis (2008) when something happens that is counter immanent to capitalism: state financial intervened and saved from bankruptcy private banks and corporations, and there, where it could not be saved, she nationalized through purchase of joint holdings. However, statist capitalism slowly shows symptoms of humanization "inside" and "outside."

Question that deserves an answer is whether state capitalism is the ultimate achievement of Western political thought, long faced with his inevitable crash. Maybe in the beginning, you should consider, to create a new concept. Unburdened by how you name called, in essence, it is a concept for an open, free and humane society in which, according to the principle of epistemological pluralism and relativism, all real human values can be equal in circulation. Pluralism and relativism of human values can only come to the true expression, when you create the conditions for

existence of truly free, educated, well-informed and economically independent citizens. I think that in this way you can save neoliberal advantages of a market economy, by simultaneous developing of social and legal state, which should offset tendencies towards creating a market society. Just so, you can recover the non-market values: altruism, philanthropy, carefree, not conditional love, friendship and solidarity between the people and the true meaning of family - values that slowly but surely are lost from modern Western society. In terms of intensified globalization because of inevitably rapid technological development, there is a tendency - ultra liberal market values to infect almost all countries in the world, with the virus of market society. So far, the largest empires in history, were not conquered and dilapidated primary outside. They broke up inside. Preserving fundamental human values internally, western civilization as the flagship of the world today, will reflect and humanism externally, which will relax and humanize international political and economic relations. This means that global pressures should not be performed only in the economic sphere, but also in the sphere of social protection, protection of human rights and freedoms, environmental security, cultural security, traditional security from war and other non-military security threats and risks to human in all parts of the globe (Labovic, 2006).

Until now the technological development leads to a global interdependence which created the "global village". Thereby the consequences regardless whether they are positive or negative, will be felt globally, not protecting the most powerful and the most developed states. That is why the objective interconnection must find equality in the interdependence of the ecological, legal, social, political and cultural plan. On the contrary, the contra tendencies of the autarchic tribalism which put us back in the past. Therefore, more than necessary is more pronounced role of the international community in the real implementation of more balanced exchange between labor and capital. That means fully supporting of the market economy, but not and of the market society, in which all values measured through the prism of money.


Informal lobby groups of the global capital
Governments of the most powerful states in the world - the U.S.A., UK and their allies
BRIKS, Mexico, Turkey and other countries with rapid economic growth
Global multilateral governmental organizations (UN, IMF, WB, WTO, etc.).
Global NGOs
Macroregional organizations and alliances
Gobal cultural, academic and scientific organizations, commissions, committees and other bodies
Regional initiatives and forums
Global professional commissions and other bodies
Global business corporations
Goverments of the undeveloped and weak states
Local NGOs
Sub-state institutions (municipal and regional)
Privatized administration

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TWO YEARS AFTER THE ARAB SPRING - ON THE LONG ROAD TO DEMOCRACY

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Abstract

If the science of international relations in the last decade has failed in its main goal, to predict events on the international political scene, it was undoubtedly events that hit the Arab states in the name of democratization, symbolically called Arab Spring. As the Arab awakening was neither planned nor expected by analysts and theorists of international relations again two years after the Arab Spring they do not have a precise answer to the question: what has been achieved by these revolutions? Does the Arab world really need democratization? Or the need for the establishment of national sovereignty ended only with the fall of autocratic regimes and with the establishment of the newborn hybrid systems? Parties winning democratic elections continued in the style of their predecessors and inspiration for building a legal democratic state found in Sharia law. One group of scholars believe that the Arab world has good prospects to democratize by the democratic West and peace loving Arab people who are a majority in Arab states. Another group of authors still stick to the thesis of the clash of civilizations and believes that the prospects for democratization in the Arab world are too small compared to the chances of establishing of theocratic states or systems inspired by the holy rules of Islam. The analysis of these two theses is the basis of this research, and the answer may be the basis for building a thesis on the future of global security. The western democratic world is ready to provide assistance to the Arab states on the road to democracy, but on the other hand, Islamism as the dominant ideology in the Arab world constantly reminds us that post-revolutionary societies of the Middle East are on the long road to democracy.

Keywords: Arab spring, democratization, Islamism, global security

Introduction

During the third wave of democratization, many expected that the whirlwind of democratization will affect Arab countries as well. These expectations do not become true. The next hope appeared after the attacks on Iraq and Afghanistan and the penetration of Western values in the Middle East. But at that time the Arab countries remained relatively peaceful and autocratic regimes reinforce its power. It is interesting that for the period in

which Arab Spring occur there were not any predictions or expectations. It all just happened. Later, many theses appeared concerning the reasons that motivated the Arabs to rebel against authoritarian regimes. The reasons ranged from a desire for democracy, social justice, to implementation of theocratic state and the rule of Sharia. Regardless of that which the real reasons or dominant causes for Arab Spring were, it is more important to predict the ultimate goal of these societies in transition whether there is a single goal or each of the countries affect by Arab Spring is a different story? The ultimate goal is certainly related to international security. If Arab states have the desire and capacity to democratize and if democratic peace theory is correct, then Fukuyama's predictions about victory of liberal democracy will become reality. But if we make a conclusion based on winner parties' political platforms and their ideologies, problems are encountered in post-revolutionary Arab societies and the existence of terrorist organizations is unlikely that one should expect rapid transition to democracy and building a stable civil society.

Which way after the Jasmine Revolution?

To answer the question about the future of post-revolutionary Arab states, we must in briefly explain their political history. After the Second World War and the period of decolonization, a small number of Arab states attempted to introduce democracy as a political system.

The states which contained some form of elective, parliamentary, or quasi-democratic political system were soon found toppled by military coup (Syria, Egypt, Iraq, Sudan) or have found themselves in the throes of civil wars (Lebanon, Sudan). Others independent states turned into authoritarian constitutional monarchies (Jordan, Morocco, Kuwait, Bahrain) and there were those who opted for absolutist monarchies (Saudi Arabia, Oman, Qatar, the United Arab Emirates). In several cases the successful national liberation movements (Algeria, South Yemen), following the example of the socialist state established a one-party system.

In the periods of political transitions of the 1970s, 1980s and 1990s a small number of autocratic states resulted in a true democracy. In many cases, old authoritarianisms recycled themselves as quasi-democracies in hybrid regimes that combined the trappings of pluralism and electoral process with deep-seated centers of authoritarian power that remained beyond the reach of popular control. Nonetheless, the era did mark an important change in modern politics. These kinds of quasi-reforms in the Arab world were typical in the late 80s; like Mubarak and Ben Ali had liberal promises. Jordan organized the first parliamentary elections, and Algeria announced reforms that were supposed to replace the one-party

system. Although this period has attracted a lot of attention - no major changes have occurred.

Ten years later, in the aftermath of September 11th, attention was again focused on the possible democratization of Arab world. Western world expressed interest in promoting democracy in the region. In December 2002, the United States introduced the Middle East Partnership Initiative (a series of programs designed to support the expansion of political opportunities in the Middle East). This initiative should be a part of the strategy for promoting democracy in the Middle East. In June 2004 Group of Eight (G8) adopted a declaration of common interest in the reforms in the Middle East and soon afterwards greater foundations were established for research on this issue.

Arab Spring began very innocent in Tunisia, but soon it spilled in most Arab countries. Although this analysis would be useful to be based on a number of N-cases, however we decided to concentrate on Egypt, Tunisia and Libya as examples in which despots were replaced through resistance and new representatives of the citizens were elected. In the aftermath of the revolutions the world expected serious reforms in the direction of democratization of these societies. And if this was so, this research would not have existed. The problem why those expectations did not materialize first lies in the answer who won power in these societies?

Libya election results from July 2012 showed that the population was completely divided. Victory, however, bore "pro-liberal" National Force Alliance (NFA), which describes itself as a "moderate Islamist movement that recognizes the importance of Islam in the political life and favors Sharia as a source of law (Grant, 2012). In the same course, after the revolution, was the announcement of the Transitional National Council (TNC) that Sharia will be the main source of legislation in the new state. This policy surprised many of domestic and international rebel supporters. In the beginning of the revolutions those same guys were asking for democracy and civil rights (Norris-Trent, 2012). So logically the question that appears is really to the pre-election campaign of NFA: was this campaign really pro-liberal or there are different understandings of democratic liberal values in Western civilization and in the Arab world?

Egyptian election results are related to the elections of 2010. The rigged November 2010 People's Assembly elections in Egypt marked a major political setback for the Islamic Muslim Brotherhood. The group lost all its seats in the parliament and 1,000 of its members were arrested. Left with no access to the political system, the Brotherhood had strong incentives to join the January revolution and support the call for democratization and free elections. This strategic decision indeed paid off for the Muslim Brotherhood (Matesan, 2012:27). Their party Freedom and justice party

(FJP), leader of the coalition Democratic Alliance for Egypt won 213 of 498 parliamentary seats, while the whole coalition won 47.2 percent (228) of the seats in the People's Assembly. Among the Islamists running on elections, the Freedom and Justice Party (FJP), according to the Party Platform, represented the centrist moderate stream. The more conservative Islamists (Salafi ideology) united under the banner of the Islamist block, which comprises *Al-Nour*, *Al-Asala* party, and the Building and Development Party (*Al-Binaa Wal Tanmiyya*). Together they gained 24.7 percent of the seats in the elections. Like the FJP, Al-Nour also shares the view that Islam offers comprehensive guidance across the political, economic, social and cultural spheres, and believes in the supremacy of *Shari'ah*. More radical is Building and Development Party. This party is strongly linked with the radical Islamic group *al-Jama'a al-Islamiyya* whose main goal is to establish an Islamic society and re-establish caliphate.

Similar like in Libya and Egypt, in **Tunisia** the moderate Islamist led by Al-Nahda movement won 37 percent of the vote.

The Islamist victory raised the question: Will Islamist parties try to establish an Islamic state after coming to power? The prominent Islamist intellectual and head of the Tunisian Islamic Nahda party, Rachid Ghannouchi suggested that "until an Islamic shura (consensus) system of government is not established, the second best alternative for Muslims is a secular democratic regime… [that] respects the fundamental rights of all people without discrimination and without commitment to a religious frame of reference. What matters in such a system is that despotism is averted" (Al Ghanouchi, 2002, 123). According to this statement the post-revolutionary societies of those three states are still looking for consensus of the path they should choose. If we make a conclusion from the polls that are done in those societies the majority is in favor of some combination of democracy and state order inspired by Sharia. According to the Pew Global Attitudes survey from 2011 Muslims believe that Islam's influence in politics is positive. These surveys consistently confirm that there is a strong Muslim support for popular sovereignty, Sharia, Islamic values and the public role of religion but without falling into a trap of an Islamic state. The Gallup poll from June 2008 found that 68% of Egyptians believe that Sharia law should be the only source of legislation and 87% said that religion is the most important aspect of their identity, more than anything else in the world (Kerckhove, 2012). Danish-Egyptian Dialogue Institute (DEDI) and the Al-Ahram Center for Political and Strategic Studies (ACPSS) in August 2011 found that 44% of Egyptians want an Islamic state, 46% prefer a secular model and 10% want a strong state even if it is not democratic. Similarly, a March 2011 International Republican Institute (IRI) opinion survey found that 48% of Tunisians want a state based on religion, while 44% prefer a

secular state, and about one-quarter of those on both sides have strong feelings about this issue. So at this point we are coming to the conclusion that even all demonstrations were about call for democratization and free elections after the elections we really do not know about what kind of democratization were all those demands?

How Far are Arabic Societies from Democracy

When we speak about democracy we think about constitutional democracy, separation of powers, pluralism, respect for civil and minorities rights, rule of law and existence of strong civil society or liberal democracy in other words.

So the first question, regarding the post Arab spring states, is how to move from regime breakdown to democratic reform? According to Huntington's framework democratization can be achieved if at least one of the four main approaches takes place: modernization approach, societal equality approach, mass mobilization approach, and the elite pact approach. **Modernization approach** states that urbanization, high literacy rates, freedom of thought and conscious, more transparent and accessible information sources, and technological advancements lead to democratization in societies (Welzel, 2009). Regarding literacy rates all those three states have high level of literate population, above 75%. The urbanization rate is different. Libya is leader with 77.7% urban population and Egypt is on the bottom with 43%. About the freedom of thought in the report done by International human and ethnical union in 2012 it is stated that in all of those three states exist serious problems with discrimination law on the religion base. Regarding the accessibility to information sources, by the United Nation publications, there are some improvement but those societies are still much behind compare to the western societies. So, by those statistics Egypt, Tunisia and Libya are not prepared for democratization, but they have some potential.

By the **social equality** approach the existence of high levels of inequality among various social groups in the country increases the likelihood of democratization (Robinsonand and Acemoglu, 2006). As such, if a dictatorial society has an egalitarian structure, people have no reason to seek democratization. Conversely, the existence of significant inequality among social groups, such as partial distribution of resources, increases the likelihood that democratization will occur at some point. This is the case in those three Arab counties but here the main question is what kind of equality Arab people need?

Equality has always been related to **human rights**. Today the term "human rights" has two incompatible meanings. In the non-Muslim world,

"human rights" refers to the Universal Declaration of Human Rights, which affirms that all people - men and women - are guaranteed individual rights. But when we speak about human rights in Muslim world we must start first with elaboration of Cairo declaration. While most of the Articles are related to the same rights contained in the Universal Declaration many of them are limited and refer to the interpretation of Sharia. Basically Cairo Declaration divides all human beings into two separate legal persons within its defined categories, namely men and women, believers and non-believers.

The most controversial area in the debate on Islamism and human rights is the **rights of women**. In general, neither the MB, al-Nour nor al-Nahda believe in the concept of gender equality as stipulated in international human rights treaties. Members and leaders of the MB have usually been critical of the concept of gender equality arguing that international women's rights corrupt Islamic social values and morals, and on the 57th Commission on the Status of Women when the global agreement for prevent and end violence against women and girls has been reached Egypt and Libya among other Muslim countries vote against the conclusions. Islamists advocate the concept of complementary roles for men and women. This means that not all the rights enjoyed by men are provided to women. The key areas were the women are less equal then the men are the rights on marriage, divorce and political rights.

The second disputable area is the debate about the **rights of religious minorities**. Religious minorities have lately become deeply concerned about their future rights under Islamist rule. Over the last two decades, the MB on numerous occasions stressed its respect for the principle of citizenship and equality between all Egyptians. But the rights of religious minorities in MB thinking remain problematic. The MB's Reform Initiative of 2004 stated that 'religious freedom is guaranteed for the recognized monotheistic religions' (that is, Christians and Jews, also often referred to as the 'people of the book'). A similar restriction can be found in the FJP's platform, which talks about the state's duty to protect only the monotheistic religions. MB leaders have stated that non-Muslim citizens who are not people of the book have the right to live in Egypt, but are not allowed to publicly express their religious beliefs or to build their own places of worship. The platform of al-Nour names Christianity as the only non-Muslim minority in Egypt whose religious freedom is protected.

Speaking about human rights we must not forget on the **rights of sexual determination**. This issue will wait for better times to be open.

Mass **mobilization approach** claims that the majority of society believes that they must carry out democratization and they must bring democratic values to their societies through civil resistance, uprisings or revolutions. According to this theory, the middle class and the **civil society**

play very important role in motivating and organizing the masses against dictatorial regimes. Like many terms in the political science, civil society has many different definitions and interpretations. In Locke explanation civil society precedes the state, both morally and historically. Society creates order and grants the state legitimacy. Hobbes defies civil society as an application of force by the state to uphold contracts. Montesquieu was the first who identify intermediate organizations as crucial components of civil society. In the same line Tocqueville believes that: "voluntary associations fuse personal interest and the common good" and he "hoped that civil society would serve liberty by diluting the influence of any single interest, weakening the majority, and guarding against the excesses of the very democracy that stimulated their appearance". In the modern history Fukuyama defines civil society "as the realm of spontaneously created social structures separate from the state that underlie democratic political institutions. The central debate is whether civil society develops before or after the process of a democratic transition. There are those who argue that civil society develops after transition, but there have been others arguing that civil society frequently developed before the transition to democratic system. However, both camps agree that civil society is one if not the most crucial phenomena that takes shape and becomes influential during processes of democratic transition. By the IREX analyses while the number and diversity of the organizations populating Egypt's CSO sector appears impressive with more than 27,000 registered NGOs, the sector is highly fragmented and most have weak structures and relatively little orientation toward the sustainable development. Many civil society organizations have limited financial resources, weak management skills, an absence of transparency and accountability, a lack of internal democratic governance, and insufficient technical know-how and professional staff capacity. In Tunisia, the country's two single-party regimes between 1956 and 2011 used different tactics to ensure that civil society in Tunisia remained fragmented and impotent, posing no serious opposition to their respective regimes (Hopmann and Zartman, 2012: 116). After the Arab spring, by June 2011, there were at least 20,000 registered NGOs in the country (Hopmann and Zartman, 2012: 120). But most of those NGOs still do not have experience toward sustainable development and there are strong influences by political parties (Deane, 2013).

The issues facing civil society and the transition are very specific to Libya, a country where there has been no constitution, no political system, and no rudiments of civil society. Currently the dominating Libyan organizations are mostly related to the personalities of their founders, while most of the small and youth-led ones are still far from getting enough support and access to CSOs networks and capacity building opportunities.

On the other hand, a large number of organizations stopped their activities mainly because they could not come up with a clear agenda and mandate due to lack of experience, gradually decreasing motivation after the end of the revolution, or because they had to resume their regular occupation.

The **Elite pact** approach asserts that even though no mass support for democratization exists, elites spearhead democratization in their societies for relatively consistent reasons across contexts. These reasons commonly include *enlightened democratization, imposed democratization, and opportunistic democratization*. Elite pact approach is certainly not a case for the Arab spring countries.

By this argumentation we can conclude that those three post-revolutions Arab countries are still far away from democracy. We can confirm that they have some potential but not clear picture for future or at least no consensus. Transition means that we know not only where we come from, but also where we are headed. In this context, can it be said for the countries affected by the Arab Spring?

Another very important question to find out how far away are those countries from democracy is the issue about **rule of law.** It must be noted that there is a huge connection between the rule of law and democracy. The idea that by announcing plural elections in lawless societies is the right path to democracy, usually does not lead to the goal. This claim can prove through historical path to democracy in Western societies. Britain began its way in 1215 with the Magna Charta when newly introduced rights and freedoms defined limits of the Sovereign. This document opened the way to democracy, but it was not a democracy. This was a small example, but the examples are numerous proving that democracy comes after the law, and not vice versa. The rule of law before democracy opens the way to democracy. Democracy before the rule of law is a fraud. This is indeed the problem in the Muslim world. So, to start to build rule of law Arab societies the responsible factors should first start with constitutional and state reforms in the spirit of democracy. But if we take in consideration that majority of the people is in favor of some combination of democracy and state order inspired by Sharia, than we have to find the answer of the next question. Can the Islamic state, governed by a comprehensive Sharia genuinely accommodate democratic principles on the basis of popular sovereignty? Can the secular democratic state accommodate the spirit of religiosity in the public sphere?

From the above elaboration of the problem the answer is more or less known; if we speak about liberal democracy - than the answer is “no”. The principles of liberal democracy are in contradiction to the Sharia law. Thus we should not expect that changes which will take place in these societies will be aimed at building democracies by the example of the Western democracies. Of course it is positive that the former Islamist terrorist groups

are transformed into political parties with moderate agendas, but it cannot be expected that these forces will be the main carriers of democracies changes. The inclusion of Islamist parties and movements within the political mainstream leads to their political moderation as they trade off their ideological rigidity for electoral viability. However, although the Islamist parties that came to power in these societies have removed the word Jihad from their party platforms, they did not fully throw the Islamic ideology. The coming conclusion is the post-revolutionaries Arab societies are in the process of transition to democracy, but so far to democracy in the sense of rule of majority through holding of free and fair elections.

Conclusions

Although neither experts nor theorists have predicted the Arab Spring and in many issues regarding the Arabic future their views, analysis and opinions differ, in one - they all agree. The things in Middle East are certainly different than they were in early 2010 and there is no way back. What happened in several Arab countries starting in 2011 is indeed irreversible process and probably on the end it will lead to democracy. If Europe took almost 6 centuries to build democracy, the Arab countries will certainly take much less, but the question remains: what kind of democracy? There is still a gap between deferent movements and political parties that lead the revolutions in finding concrete and unified program agenda required to shape the post-revolutionary political system. The influence of the Islamic ideology in shaping of the system is and it is going to stay primary. On the other hand the absence of civil society and the rule of law is the most serious problem. Due to that, we claim that in the near future these societies cannot pave the way to democracy as practiced by Western civilization. Military structures and remnants of previous regimes also did not disappear after the revolutions. They remain an important factor of influence. In an effort for their existence, it is not excluded the assumption of a possible internal conflicts (even civil war in Libya), and further destabilizing of the regional and international security. In terms of international security it must be emphasized that the post-conflict societies with a significant Muslim population have become fertile ground for terrorist cells nesting global jihad movement. It happened in the Balkans, in Asia and there is no reason to expect not to happen in the Arab States. The absence of the rule of law, support of Islamic ideology by political parties, as well as their affiliation with terrorist organizations opens the question of the impact of these states on the international security. Legitimacy of the elected moderate Islamist parties in the Arab societies and their connection in the common cause (creating hybrid democracies inspired by Islamic law) certainly will have a

direct negative impact on international security and the Huntington's clash of civilizations thesis may again revive. Finally, the Arab Spring proved that although democracy is not a universal reality with universal understanding it is a universal aspiration in terms of rule (desires) of majority.

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GEOPOLITICAL TRENDS IN THE NORTH-AFRICAN AND MIDDLE-EAST REGION THROUGH THE PRISM OF OIL AND NATURAL GAS

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Abstract

Instability in Tunisia that occurred at the end of 2010, indicated serious destabilizing consequences and geopolitical changes both the countries of North Africa and the Middle East. The period changes of long-term regimes in countries suggested price instability and transport oil and natural gas to end-user state before the countries of the European continent. Europe is a region that is most vulnerable especially the supply of natural gas from North Africa. In the period of unrest in North Africa, the price of natural gas streams from Algeria, the third largest exporting state (that is, after Russia and Norway) to Europe increased by 12%, which the European continent had to intervene with the Russian gas supply to mitigate price shocks. North African countries, together with the countries of the Middle East own about 61% of the world's oil reserves and 45% of natural gas reserves, hence the instability of these regions can significantly influence the supply European countries with these vital energy, creating a climate of instability and uncertainty in the transport of these fuels and the need and dependence on Russian gas stabilizing demand. In the scientific paper will be analyzed the countries of North Africa and Middle Eastern countries, where the focus of the research will be directed to the geopolitical changes after the Arab Spring that is, after several changes modes as well as an analysis of the distribution of oil and natural gas which are vital strategic resources for the European continent.

Key words: North Africa, Middle East, Europe, geopolitics, oil, natural gas

Introduction

Destabilizing processes in Tunisia which occurred at the end of 2010 indicated serious consequences and geopolitical change as the countries of North Africa and the Middle East. The period of long-term changes of regimes in countries suggest instability in pricing and transportation of oil

and natural gas to end-user state before the European continent countries. Europe is a region that is particularly vulnerable to supply natural gas from North Africa. During the unrest in North Africa, the price of natural gas that flows from Algeria, the third largest exporting country (which is after Russia and Norway) to Europe increased by 12%, which the European continent were affected most international energy markets which consequently cause an increase in oil prices. These two regions are the largest producers and exporters of oil and 40% after the second Russian exporters of natural gas by 20%. Regions of the Middle East and North Africa are extremely important to cover the global energy markets. Supply of energy in the global energy market from these regions today is determined by two factors. First, the offer depends on the demand, which tends to increase due to high dependence on the European market of oil and natural gas (especially natural gas). The second factor is political instability in countries constituents of these two regions, which tend in the future to increase upwards of political, local and regional instability. Reply to causes of instability in these regions need to look in several directions and in particular in the following few facts.

First, these regions by increasing and rapid development of the world economy, a vital strategic space in which the interest shown by the great powers for control and influence in the countries of the regions, in order to gain secure distribution of oil and natural gas. There by satisfying the needs of their own economies. Second, one of the causes of future volatility in these regions is growing representation of terrorism and internal confrontations within states, aided by an external factor which represent future security hot spots where you intersect the interests of the most „global players". And the third factor that may cause confrontation in these regions is the control that these states on the geo strategic key points in specific areas such as: Strait of Hormuz (control on the Persian Gulf), Suez Canal (the control of the Red Sea) and Gibraltar (transition to the Mediterranean Sea).

Modern approach in geopolitical discussions

Regarding the geopolitical debates often emphasize that the interaction between economic and political factors for the development of trade in natural gas resources is of extreme importance for the successful management of this energy (Figure 1). Of great strategic importance in the management of natural gas is the perception of the international and regional markets of the countries in which each country plays an important role in the international political and economic system. States may be involved directly or indirectly depending on the geopolitical position he held by the state in the region or on the basis of hierarchical power that holds the international arena. Each „player" (state) has a role in shaping international relations in

terms of trade (business) depending on the position that they have. Today, from a position of power (military and economic) geopolitical maneuvering is a privilege for the few powerful countries such as the U.S., China and Russia, which directly or indirectly have control in the field of management of natural resources in the world. Although, as the main players are above both countries, they are depending on the interests, does not exclude the possibility of a regional union (regional alliances), in addition to the individual's performance on the international stage in the field of human energy. Geo-strategic players may have geopolitical and geo-economic motives when it comes to involvement in the work of the international political system.[1]

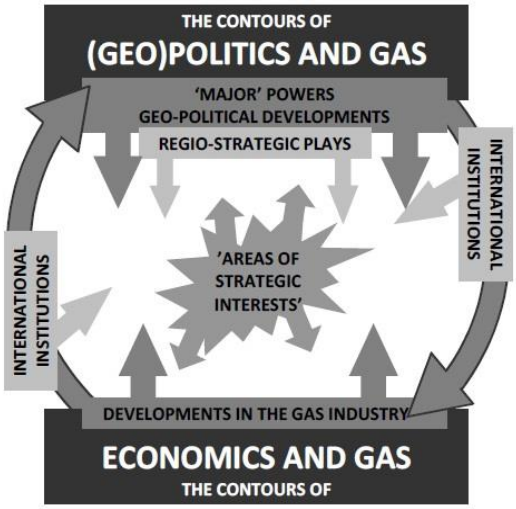

Figure 1: Interaction of Geopolitics and Gas Developments

Energy related to North Africa with Europe

Distribution of oil and natural gas is carried out in different ways, (oil pipelines, gas pipelines, tankers) where Europe is related to North Africa, and Middle East countries. North Africa plays a major role in supporting the European markets, the export of oil and natural gas has regional influence in stabilizing relations of political and economic developments in Europe. According to the projections of the EIA (Energy Information Administration) North African oil exports will be reduced or will be around

[1] M. Y., (2012) Geopolitical and Natural Gas. Retrieved from http://ebookbrowse.com/201206-igu-geopolitics-and-natural-gas-full-draft-report-final-pdf-d364135339

4% in 2020, compared in the period of the 90s of the last century when it was 6%. North Africa is still an important „player" in the world market, which is extremely important for Europe. Destabilizing processes that occurred with the so-called Arab Spring, which aimed to change the regime authorities, has become a real challenge for energy security, security or distribution of oil and gas to Europe.[2]

Algiers has 131 Tcf (trillion cubic feet) of natural gas reserves. Although this is only about 2.5% of global reserves, it means that North Africa is also an important exporter of gas to Europe. The biggest gas field in Algeria is „Hassi R'Mel" with about 85 Tcf. Italy 47% and France with 20% expected to remain the biggest buyers of Algerian gas. The European Commission predicts that after 2020 Algerian exports will not exceed 25% share of the European market for natural gas. In contrast, the other two major suppliers of gas, Norway and Russia are expected to maintain or expand its share of 25% of the market in Europe, where it is evident today, with projections of several pipelines that planned distribution of Russian gas to Europe, especially South Stream pipeline. Algiers has a larger geo-strategic position in regard to Russia in the area of distribution of natural gas to Europe. Has the advantage because the preceding business gas installations are directly connected through the Mediterranean to Europe, while the distribution of Russian gas is confronted with transport by unstable former Soviet states and Eastern states through close. Geostrategic importance of these pipelines could also have great importance in case of any disruption of Russian gas exports to Europe.[3]

The main gas pipeline installation process starting from Algeria and link pipeline to Europe is „Transmed" which one arm go to Italy, that „Hassi R'Mel" field, go to „Mazzara del Vallo" in Sicily and then to Italy with the ultimate goal of Slovenia. While the other arm of the „Hassi R' Mel" goes to the border with Morocco, thus moving in the direction of the Strait of Gibraltar, passing through the Strait of moving towards the Spanish coast Cordoba, linked by the Spanish transmission network, with one arm extended to Portugal.

Reserves of crude oil in Algeria is estimated at 9, 2 MMBD (Million Barrels Per Day), or 0.9% of world reserves. Although official estimates of proven oil reserves in Algeria amounted to 9, 2 MMBD (Million Barrels Per Day), in the future are expected to increase significantly as a result of recent

[2] A. H., & A. A. (2004). The Geopolitics and Security Dimensions of Middle Eastern and North African Energu Exports. Retrieved from http://csis.org/files/media/csis/pubs/geopolitics_security.pdf

[3] A. H. C., (2000). Geopolitics and Energy in the Middle East. Retrieved from http://csis.org/files/media/csis/pubs/geo_energy_me%5B1%5D.pdf

activities that makes Algeria oil discoveries and plans for more research drilling.[4]

Today, about 90% of exports of crude oil from Algeria is distributed in Western Europe or in Italy as the main market as well as in Germany, France, Netherlands, Spain, the UK and other important European markets. Algerian Saharan mix oil with 0.05% sulfur content is among the best in the world. Algerian revenues largely rely on oil and natural gas exports.

Libya has about 46,4 Tcf or 0.9% of world reserves, also owns about 2.8% of global oil reserves and is a major supplier of oil to Western Europe. Almost all (90%) Libyan oil exports are marketed in European countries, such as: Italy, Germany, Spain and Greece. To meet the needs of internal economy, Libya prefers using natural gas, while most of the oil placed on the European markets.

Middle East

As for the countries of the Middle East, one that is common to all countries in this part of the world is that their exports dominate the world and is projected to continue this trend until 2012. It includes about 64% of the world's proven oil reserves and 34% of natural gas. According to the Department of Energy of the United States, the Middle East in 1995 exported an average of 17, 7 MMBD (Million Barrels Per Day). It's actually 47% of the total amount of oil in the world. Department also provides that the Middle East by 2020 will reach exports of 39, 8 MMBD (Million Barrels Per Day). The wars in the past were the main reason for the control of exports of energy but also before and sanctions affect geopolitical constellations applied to some of the key exporters of the region such as Iran and Iraq.[5]

Egypt is the most influential Arab country and the key to solving the Arab Israeli dispute. This country is the only Arab military force that can intervene in the region, which has control over the Suez Canal. However, Egypt has serious problems with Islamic extremists, because this country. The country today faces a crisis internal stability.

Today Egypt, despite the change of government, still present internal tensions and unrest among the population that the future can add a new dimension to the North African and Middle East region in terms of escalation of internal events that would constitute a threat to the movement of oil through the Suez Canal and „SUMED“ pipeline, of which it is also

[4] Ibid.

[5] J. P. C., (2011). The oil and gas producing countries of North Africa and the Middle East. Retrieved from www.ifpenergiesnouvelles.com/.../Panorama2012_05-VA_Oil

vulnerable Europe. Egypt linking the Red Sea and Gulf of Suez Canal to the Mediterranean. Through daily flow channel 3, 5 MMBD (Million Barrels Per Day). The main consumers of this oil in Europe and U.S.

Red Sea is also an arena several conflicts and clashes. The fragility of Sudan's civil war also threatens its entry into the second decade, and the victims of war and hunger are likely to reach a figure of around one million. Yemen is facing greater tensions between the government and tribal groups in the south, and at the same time have not yet been completed and continuing conflict and misunderstanding with Eritrea to control some of the islands in the Red Sea. It can be noted that the Middle East countries suffer from weak economic growth, increased population, as well as serious problems with internal stability. These internal problems, as well as fueling incdenti directed by external factors in the future may pose a threat to the stability of the Red Sea or the security of energy flow that lead to the Suez Canal. Jordan is another country that is the key to Arab-Israeli peace, and which has a major role in the protection of western Saudi Arabia and Iran.

Saudi Arabia is undoubtedly the largest oil producer. According to the forecast of the U.S. Energy Departmend future Saudi Arabia will increase production to some're 20 MMBD (Million Barrels Per Day). [6]

Iran holds 9% of the world's total oil reserves. Most of Iran's oil reserves are located in the region Khuzestan near the border with Iraq. Average production of oil is about 5 MMBD (Million Barrels Per Day), Iraq according to the capacity of the distribution is estimated with Iran or Iraq daily exported 5.5 - 6 MMBD (Million Barrels Per Day).

Arab-Israeli leaders of Egypt, Israel, Jordan, Lebanon and Syria have great geo-strategic position due to the fact that there are two major pools of oil reserves. So far no geopolitical analysis in the region can not ignore the fact that the Arab-Israeli conflict creates tension between the West and the Arab Islamic world.

These problems and risks mean indicate problems in the Middle East, affecting the overall Western interests and the global economy. Energy geopolitics is determined for the most part in the region in the states where they are generated by the largest amount of oil and where it has the biggest oil reserves. While some studies show for the oil wealth of the Middle East, the majority of reserves are concentrated precisely in the Gulf. Middle East may have more than 65% of the world's oil reserves and 40% of its gas reserves, but 90% of them are located in the Gulf. Energy Departemtod Gulf United States calculated that average earned 14.5 million of exports by the end of 2000, ie it is equal to 41% of total world exports. Department of

[6] It is expected that the amount of production of oil needed to achieve by 2020.

Energy also provides that Gulf by 2020 will reach average export earnings of 37.2 million, equivalent to 56% of total world exports. In the bay are also major reserves of natural gas, ie around 33% of world gas reserves, second further state that has the most natural gas reserves of Iran with 16% while all other countries in the region have less than about 3% of world reserves.

According to the EIA (Energy Information Administration), in 2002, it is estimated that 1.9 to 2, 2 MMBD (Million Barrels Per Day) or from 12% to 14% of the oil that is exported from the Persian Gulf was shipped through the installed pipelines, large quantities are shipped through risky „Strait of Hormuz“ For example, much of the oil and natural gas from North Africa and the Middle East is transported through the ports of the Persian Gulf through the Indian and Indonesian Ocean and across the Mediterranean. day) The Port of Janbu, Saudi Arabia through the Red Sea are distributed around 1 MMBD (Million Barrels Per Day), then via pipeline from Kirkuk in Iraq to the Turkish port of Ceyhan is delivered daily from 0, 5-0,8 MMBD (Million Barrels Per Day) and a pipeline through Syria delivers 0,2 MMD mostly in Kurdish areas of northern Iraq, Turkey, Jordan and Iran.

Figure 2: Geostrategic position Strait of Hormuz

Strait of Hormuz is of great geo-strategic importance, Washington and European countries are very wary of this interchange, indicating that if there is a closure of the Strait would almost came to a halt on the world economy. This is why the U.S. cooperates with countries such as Saudi Arabia, Qatar, Bahrain, Kuwait, Oman and the United Arab Emirates in order to distribute the oil through pipelines bypassing the Strait of Hormuz and delivery of oil from these countries directly to the Indian Ocean, Red Sea or Mediterranean Sea. Washington has also been pushing Iraq to seek alternative routes of oil shipments referring to cooperation with Turkey, Jordan and Saudi Arabia in order to avoid the control of the strait by Iran. Also, the pipeline „Hashan-Fujairah“ is encouraged by the United Arab Emirates in order to bypass the maritime transport in the Persian Gulf

through the Strait of Hormuz. Construction of the pipeline began in 2008.[7] This pipeline goes straight from Abu Dhabi to the port of Fujairah on the shore of the Gulf of Oman in the Arabian Sea. In other words, it would allow oil exports from the UAE direct access to the Indian Ocean, ensuring energy security in the distribution of oil, bypassing the Strait of Hormuz and skillfully avoiding Iranian army.[8]

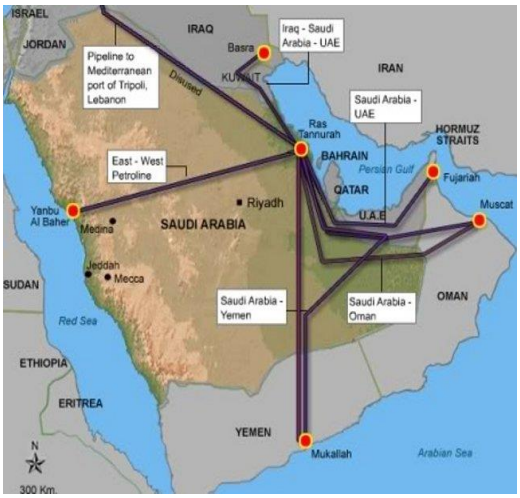

Figure 3: Oil Pipelines Around The Hormuz Chokepoint

Iran has repeatedly stated that it will close Strait of Hormuz in the event of a military attack by the U.S. and Israel, expressing dominance in this part of the bay. Currently 40% of supply in world oil passes through the Strait. A closure of the Strait of Hormuz will almost certainly put the world in collapse, which is expected through the Strait oil shipments by sea transport to increase by 2.5 times by 2025. The seriousness of Iran's intentions can be specified on the realization of the recognized maritime exercise called „Velayat-90“, in December 2011 expressing readiness for closure of the Strait.[9] Despite the fact that it is a vital transit point for global energy resources, identification as a strategic crossing key two additional issues that should be addressed in terms of Strait of Hormuz and its relationship with Iran. The first concerns the geography Strait of Hormuz. The second concerns the role of Iran in co-managing (controlling) the

[7] H. M. K., (2011). Fujairah poised to be become oil export hub. Retrieved from www.gulfnews.com

[8] C.S., (2012). War With Iran: Geopolitics Of The Hormuz Chokepoint. Retrieved from http://www.sikharchives.com/?p=8240

[9] Ibid.

strategic strait in accordance with international law and the sovereign national rights.Iran allows foreign ships to use its territorial waters in good faith and on the basis of the United Nations Convention of the Law for the transit of marine waters, provisions which stipulate that „vessels are free to sail through Strait of Hormuz based fast passage and fully controlled navigation between straits and seas.“ Tehran has signed this international treaty, but never ratified.

Maritime traffic that goes through Strait of Hormuz always has been in contact with Iranian naval forces, which are predominantly composed of the Iranian Regular naval forces of Iran's Revolutionary Guard Navy. Almost all entrances into the Persian Gulf are made through Iranian waters and most exits through Hormuz waters.

U.S. must be ready to act to defend strategic points which although not directly but are vital to ensure domestic supply of oil. Disruption of access and transportation of oil will affect the local economy and would be a threat to national security.[10]

Iran allows foreign ships to use its territorial waters based on the United Nations Convention on the Law of the transit of marine waters, provisions that provide that „vessels are free to sail through the Strait of Hormuz on the basis of rapid transition and full controlled navigation between the Strait and open sea.“ Tehran has signed this international treaty, but never ratified.

The U.S. National Security Strategy of 2010, the U.S. puts further stress on cooperation with Israel but the greatest attention in the strategy towards Iran in the direction of establishing democracy in Iran and reintegration. In the strategy stated that the U.S. must provide seamless access to energy and their continuous transparency to international markets. While attitudes and views towards Iran are focused on the threat of further development of Iran's nuclear program by the possibility of their use.[11] Also in the Russian National Security Strategy to 2020, which was adopted in 2009, pointed out that in the medium term conflicts and instabilities in the Middle East and the conflicts in the South Asian and North African countries, will have a negative impact on international oil ranking which would affect the overall relationship of supply and demand of oil. While the strategy is stated that Russia in the long term will be focused on its own

[10] National Security Strategy (2013). Retrieved from http://www.utexas.edu/lbj/sites/default/files/file/news/National%20Security%20Strategy%202013%20%28Final%20Draft%29.pdf

[11] National Security Strategy (2010). Retrieved from http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf

energy resources and their ranking as towards Europe and towards the eastern countries (China and Japan).[12]

Conclusion

Geostrategic position of these regions, with the highest prevalence rate of deposits of oil and natural gas in the world, the weak and unstable political systems that are present in most of the countries in these regions, hunger, poverty, are only part of the puzzle that rocks express condition of these two regions. Also the presence of terrorism, especially in influential countries (Algeria, Libya, Iran and Iraq), represents a major threat to countries in the Middle East and the threat to Western countries. One reason for the danger of the threat of terrorism to Western countries is proximity to the United States with Israel, that almost all countries in these two regions seen as an enemy and conqueror, along with other Western powers. Especially those who were most vulnerable countries and covered the Arab Spring that began at the end of 2010 where almost the entire area was completely redefinitions as in the inner political order (political change), and the creation of new external policies. In this context, the decision highlights the U.S. National Security Strategy of 2013, which indicates the reliability of U.S. oil-exporting countries of the Middle East in the strategy pointed to U.S. relations with countries in the Middle East in the context of the possibility of reorientation of exports of oil exporting countries of the region to large consumers China and India.

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THE CORRELATION BETWEEN THE ARAB SPRING AND ISLAM AND THE IMPLICATIONS OF THE ARAB SPRING ON THE FOREIGN POLICY OF EU

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Abstract

This paper focuses on the Arab Spring, its correlation with the Islam and its implications on the foreign policy of the European Union. Further on, the paper highlights the roots and the primary catalyst for the Arab Spring, the influence of the Islam on the events, and their evolution in the scope of their effects on the international relations, focusing on the European Union and its response. The Arab Spring is a term referring to a revolutionary wave of protests, demonstrations, upheavals and wars which occurred in the Arab world beginning from December 2010 (in Tunisia) and embracing the majority of the Arab countries of North Africa and the Middle East. These protests and demonstrations have been critical to the governments in their countries and they have ranged from efforts for democratic changes to attempts for bringing down the current political system. There were moments when stability was transformed to chaos, while the means of democracy were losing out to the forces of extremism. Demonstrations in many countries provoked by the Arab Spring have attracted widespread support from the international community, while the insensitive government responses generally reflected disapproval. The foundation of the international implications is frequently related to the European values and principles, especially with the promotion of democracy and human rights. The events of the Arab Spring are viewed as a potential threat to the international stability. Thus, the violent repression of the political disagreement often met a silent acceptance by the European elites. This approach was guided by the wrong belief that the authoritarian regimes and autocratic leaders were the best guaranty of stability in the region. The search for priorities such as democracy and stability led to hesitation on the part of the European Union to force the Arab leaders on the question of human rights and democratic reforms. Such an approach underestimated the adaptive flexibility of the Arab regimes and overestimated the willingness of the Arab leaders to engage in serious dialogue over the issue of reforms. Two years of time are probably not sufficient to give a sustainable judgment of the significance of the events, especially when they are still going on. However, it is indisputable that the Arab Spring has gained momentum and became an internationally recognized situation.

Keywords: Arab Spring, Islam, democratization, European Union, international implications

Introduction

The 'Arab Spring' is a term referring to a wave of popular uprisings which began in Tunisia in December 2010 and expanded across the region of the Middle East and North Africa in the first half of 2011, astonishing many observers, succeeding in the overthrowing of the long-lasting authoritarian rule in Egypt, Tunisia and Libya, and posing a challenge to the undemocratic governments in Syria, Bahrain and many other countries of the region.

The term 'Arab Spring' is considered by some to be misleading and ambiguous, suggesting a pan-Arab movement and presenting positive connotations. The use of the term 'spring' became more problematic as the uprisings and transitions continued and lengthened. For that reason, these observers believe that the term 'Arab awakening' is more appropriate for explaining the uprisings and their aftermath. (House of Commons, 2012, pp. 17 - 18).

When we speak of the Arab Spring, together with it the question of the Islam and Islamism arises. According to Azzam (2012, p. 44) the issue of Islamism has been a prominent feature of the politics of the Middle East and a major international security concern for over three decades. In general, Islamism is a term that has been used to describe two very different trends.

The first trend implies the non-violent quest for an Islamic friendly society based on the 'principles of the Islam' which involve a more liberal application of the Islamic guidelines and traditions, and a more strict interpretation.

According to the second trend, the Islamism is associated to violent extremism-most notably such as of Al-Qaeda in the promotion of terrorism.[1]

Across the Middle East and North Africa, the legacy of the Arab Spring could hardly be more mixed, out of the reason that the creating of a democratic society is not a simple process, and thus, successful revolutions are very rare indeed. But the opening of the societies that came with the Arab Spring has also given to many people in the region a sense of freedom they do not want to surrender (Goldstone at al., 2011, p. 14).

Causes of the Arab Spring

The recent phenomena of the Arab Spring can be found in Iran,[2] when in June 2009 a vast number of citizens, linked by the help of the social

[1] However, it is important to note that the Arab Spring has further demonstrated the marginalisation of al-Qaeda's political and ideological appeal although it still represents a global terrorist threat.

media networks, organized massive protests on the streets of Teheran following the disputed presidential elections in the country (Schattle, 2012, p. 29). In such periods, small groups and their apparently unimportant activities may create unexpected effects. In the present era of globalization, the political "butterfly effect" may become a reality, as it is indicated by the widespread demonstrations and uprisings occuring in a "domino" sequence on a global scale, from the Middle Eastern 'Arab awakening' to the Trans-Atlantic 'Occupy Wall Street' (Ardiç, 2012, p. 9). But, speaking of the grounds of the Arab Spring, there are authors who compare the Arab awakening to the Iranian Revolution in 1978. Apparently, the experience of Iran from 1978 - 1979 highlighted the key factors that could shape the outcome of the political struggles defining the Arab Spring of 2011. According to Eisenstadt (2011, p. 1):

"The recent emergence of popular protest movements […] has revived memories of the Shah and his fall. These developments have again raised questions […] whether the experience of Iran during the Islamic Revolution and afterwards, teaches the proper lessons for the current developments in the Middle East."

The Arab Spring began in December 2010, when a young fruit vendor named Mohammed Bouazizi set himself on fire in the dusty Tunisian town of Sidi Bouzid. The flames that seized his life have spread across the entire Middle East, both figuratively and literally. The demonstrations, protests and upheavals originally inspired by his action, gained a variety of terms - Arab awakening, Arab Spring, Arab uprising - and they have replaced, threatened or at least frightened almost every ruling regime in the region. The terms used to describe this phenomenon clearly indicate to a sharp break from the decades of political stagnation which preceded Bouazizi's desperate act and imply that some momentous transformation has been set in motion (Guzansky & Heller, 2012, p. 7).

The wave of freedom and democracy which spread over much of the world in the 1980s and 1990s was bound to spread to the Arab world in 2011 (*Chicago tribune*, 2013).

According to Yadlin (2012, p. 11), the spirit of Tahrir has changed:

"What started as an 'Arab Spring' has ended as an 'Islamic Year' and this is just the beginning. Today, we understand that the term 'Arab Spring' does not properly describe the phenomenon that shook the Middle East in 2011. We are not witnesses to the flowering of a revolution leading to a liberal,

[2] In many ways the Arab Spring began in Tehran. The protests following the corrupt elections in June, 2009, braved the way for the Arab protests by pioneering the use of social networking and IT technology and grounding actions in the principles of non-violence.

secular, West European-American model of democracy. We are not seeing non-violent changes and we are not observing a rapid 'domino effect' such as we saw in Eastern Europe. We are seeing a phenomenon that is changing and will continue to change to the entire Middle East".

Among the theoreticians it is clear that the protests as a whole were not ideological and they did not seek to impose a particular set of beliefs or order. Instead, they united the desperate citizens across political, economic, class and religious dividing in opposition to their autocratic governments. The protestors were not united by political leaders but by ordinary people who had suffered in the burdens of the authoritarian systems.[3]

The protests were stimulated by a combination of social, economic and political grievances that created grounds for dissent and united disparate groups in opposition to their autocratic regimes. The existence of chronic economic underperformance, youth unemployment, poverty, widening inequality, trends of raising food prices (due to the population growth), increasingly visible corruption and the enrichment of elites, were some of the reasons for protests of the people in the region (House of Commons, 2012, pp. 17 - 18).

Panara (2012, pp. ix-xi) claims that "the Arab world is likely to remain a unique 'political laboratory'. Thus, the events in the region were open to all possible outcomes in the forthcoming years.

Islam, Arab Spring and Democracy

For the Islamist parties in the Middle East, democracy offers not only an opportunity but also a turning point that will test the Islamists' commitment to democracy, as well as their ability to govern.[4] One of the main areas of dispute between the Islamists and the secularists in the transition period in Tunisia and Egypt has been over the issue of holding parliamentary elections before drafting a new Constitution. The fear for many leftists and liberals has been that the Islamists will ultimately shape the new Constitution because they will form the majority in the new Parliament (Azzam, 2011, p. 45).

[3] As previously mentioned, in Tunisia, this figure was Mohammed Bouazizi, a street vendor frustrated by the police harassment and humiliation who set himself on fire in protest on 17 December 2010 and later dies of his injuries. In Egypt, momentum for the protests was nurtured in part by a movement called "We are all Khaled Said", dedicated to a young Egyptian who had died in suspicious circumstances in police custody in June 2010.

[4] Moderate Islamist parties have participated in parliamentary elections in Jordan (the Islamic Action Front) , in Morocco (the Party for Justice and Development), in Yemen (al-Islah), in Kuwait (Islamic Constitution Movement) or as independents in Egypt. Turkey's Justice and Development Party (AKP) offers a leading example of a party with strong Islamist roots that is committed to democracy.

The complex relationship between democracy and Islamism can be described with Morgan's (2012) statement: "Moderate Islamism should be seen as a means of institutionalizing religious conservatism."

Although each of the Arab uprisings in 2011 must be treated on its own merits, for the purposes of studying the prospects of democratization, Dalacoura (2011, p. 53) divided them into three broad types or categories.

In the first category, mass civic revolts led to peaceful overthrow of the powerful dictators (this was the case of Tunisia's Zine el Abidine Ben Ali and Egypt's Hosni Mubarak).

In the second category, uprisings led to violence, internal breakage and even civil war (Libya, Bahrain, Yemen and Syria). In the case of Libya, the revolts provoked foreign military intervention and ended with the overthrow of Muammar Gadhafi. In Bahrain, the uprising was brutally suppressed. In Yemen, there has been political confrontation and a pending crisis. In the case of Syria there has been a popular revolt, but the regime is attempting to suppress it.

The third category includes the Arab states which did not experience major upheavals. The partial exceptions are Morocco and Jordan where the ruling monarchs, facing a degree of popular challenge, tried to prevent it by offering political concessions.

The common causal links embracing all these countries (Egypt, Tunisia, Bahrain, Yemen, Libya and Syria) are well-known: economic difficulties and inequalities, unaddressed political grievances, and longevity of rulers who resisted evolutionary changes. These connections have produced conditions leading to the events of the Arab Spring: development of alternative elites, masses available for mobilization and reasonable opportunities for success (Keiswetter, 2012).

The opportunities for democratization require an insight into two other factors, which will also influence the success or failure of the democratization process.

The first factor is the extent to which the regimes were able to retain the support of the key institutions, most notably the army. In the case of Tunisia and Egypt the army moved against the presidents. That was not a case in Syria, Bahrain and Yemen where the regimes have not fallen. In the case of Libya it took foreign intervention to achieve the expelling of the dictator.

The second factor is the extent to which the regimes were able to retain support of the relevant social groups. In Tunisia and Egypt they were not able to achieve it. In the cases of Libya, Syria, Bahrain and Yemen they were and, as a result, the revolts lacked the overwhelming nature of the Tunisian and Egyptian events (Dalacoura, 2011, pp. 53 - 54).

For more than two-years, the Arab revolutions have been continuing to converge into the issue of whether Islam is compatible with democracy. The afflictive question here is whether the Arab Spring, articulated in the democratic idiom of freedom, liberty and justice, is condemned to a takeover by the Islamists?

The trajectory and finale of the Arab Spring may determine an issue that is always related to the eventual compatibility of Islam with democracy. It is believed that historical and philosophical assumptions of Islam and democracy are incompatible. From the above mentioned it can be concluded that Islamists are likely to be the beneficiaries of the Arab Spring. In different variations and combinations, they are likely to come to power in most Arab Muslim countries. Islamists felt marginalized and repressed. Out of this repression and other factors emerged the al-Qaida phenomenon whose preferred idiom of engagement with the world was that of terrorism.

Cumulatively, as Qazi (2011) believes, all of this may be good news for both democracy and the world of Islam. Good for democracy in the sense that it may constitute the new wave of democracy and validate democracy as the best of governing ideologies. The world of Islam will engage with the world in an idiom that has a positive reflection to a peaceful world order.

But, still remains the question if politics and responsibility will change the Islamists or if the Islamists will change the way political processes are accomplished in the Arab world. Will responsibility lead to moderation and pragmatism or will radical political Islam draw the Arab world onto more problematic courses than those followed by the regimes it is now replacing? (Hamid, 2011, pp. 29 - 37).

In this instance, the question of the compatibility of Islam with democracy will be answered, not in the minds of men, but through the disclosure of the historical processes.

Implications of the Arab Spring

The Arab Spring represented the greatest foreign policy challenge for western governments. The region was vital to the West European commercial, energy and security interests, so the changes shaped by the Arab Spring have enormous implications for their foreign policy (House of Commons, 2012, p. 13).

Consequently, the revolutionary process in the Middle East is creating a new situation with complex consequences on the regional and global levels. Among the main characteristics of this process is the involvement of the major powers, which are working to promote their own strategic interests (Brom, 2012).

Demonstrations affected by the Arab Spring have attracted widespread support from the international community, but in some cases (Syria, Morocco, Bahrain) the international response has been significantly more nuanced. Some critics have accused Western governments of hypocrisy in the way they have reacted to the Arab Spring, some of them for trying to suppress the revolutionary wave and obstruct popular democratization efforts in the Middle East.

Therefore, the occurrence of the consequences of the Arab Spring cannot be understood in isolation, because the uprisings are linked to a range of other major developments unfolding across our increasingly globalised and interconnected world (Andersson & Djeflat, 2013, pp. 3 - 4).

The foundation of the international implications are frequently connected with the European values and principles beyond its borders, especially with European promotion of democracy and respect for human rights as core values shaping the European Union's external action in non-EU countries. Therefore, this part of the paper will focus only on the impacts of the Arab Spring on the European Union and its foreign policy, and the European response to the events in the Arab Spring.

4.1. Arab Spring and the European Union

The European Union (EU) was widely expected to support and engage the democratizing political transformation in the Middle East and North Africa by giving its support for liberal democratic foundations and preference for the use of 'soft power'.

The political, social and economic problems that evoked the Arab Spring offered useful starting points for new EU policy initiatives in the region. The new governments strongly needed external support to avoid political regression and the difficulties inherited from their dictatorial predecessors (Bebler, 2012, p. 106).

EU and its member states had encouraged cooperation with Arab rulers, which was intended to ensure the regular supply of energy, to contain the spread of radical Islam, and to prevent illegal immigration. Their purpose was to promote structural reforms intended to create economic growth and to encourage democratization, political pluralism, and the promotion of human rights. The implementation of the reforms was supposed to contribute to political, economic and social stability and to serve the European need for stability and security. But, the so-called "Jasmine revolution" in Tunisia and the "Lotus revolution" in Egypt both surprised and confused the members of the EU.

The EU allowed the Arab rulers to dictate the agenda while ignoring the arrogant and superior principles it sought to promote. In other words, the

problem was not a mistaken policy, but a lack of determination to implement it. The dramatic events in Tunisia, Egypt, Libya and Syria forced the EU to evaluate the situation and come up with a new strategy. After some delay, a document was formulated with the title "Partnership for Democracy and Shared Prosperity with the Southern Mediterranean".[5] This partnership is intended to develop relations in three dimensions: democratic transformation and institution building, a strong connection with civil society, and aid for economic development.

Beyond the principles that will guide the new partnership in the sphere of values and democracy, the depressing regional economic situation, which has grown much worse in the wake of the Arab Spring, will require the EU to make a greater economic and financial effort than it has made in the past. Unfortunately, the upheavals occurred in the southern Mediterranean at a time when the EU was in the middle of an economic and financial crisis of its own, that was significantly reducing its ability to provide aid.

Aside from assistance in the domain of democratization and economic prosperity and along with the effort to manage the political upheavals, the EU has been forced to confront the violence in Libya resulting from the Libyan leader's refusal to give up power. The EU's continuing difficulty in formulating a common foreign and defense policy was reflected in the complexity in obtaining EU (and NATO) agreement on sanctions; the decision by, in that time, French President Nicolas Sarkozy to recognize the transitional council as a legitimate representative without coordinating with his EU colleagues and his willingness, together with British Prime Minister David Cameron, to undertake military action; and the decision by Germany to abstain on a Security Council Resolution to authorize military action.

According to Stein (2012), it is not clear to what extent the EU will insist on fulfillment of the conditions it set, some of which at least were part of its policy prior to the upheavals. There is no doubt that the standard it has set for its Arab partners is a high one, but given the economic crisis most EU members were experiencing at that time, the EU too, will find it difficult to live up to the high expectations of its partners (Stein, 2012, pp. 25 - 27).

In conclusion, the EU's operating assumption in its relations with the countries of the southern Mediterranean is that there are reciprocal relations

[5] The European Commission and the High Representative of the Union for Foreign and Security Policy on 8th of March 2011, presented a Communication on a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean. It is a Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. COM (2011) 200 final, Brussels, 8 March 2011. Available at:

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between the security and stability of Europe and the situation in the region. Stein (2012, p. 28) declared that:

"[…] the Arab awakening leaves the region in a transition period that will include uncertainty about the direction of developments, which will increase instability and will be felt in Europe as well".

In addition, Joschka Fischer (2013) finishes his column in Social Europe Journal with a statement:

"The whole of the Middle East is in motion, and a new and stable order will take a long time to establish. Until then, the region will remain very dangerous, not only internally, but also for its neighbors (including Europe) and the world".

As part of the lessons learned from its behavior up until the eruption of the awakening, the EU has decided to re-order its future relationship with the region, on the basis of a partnership founded on the assumption that states in the region must choose a socio-political and economic model for themselves with 'new rules of the game' that conform to universal and democratic values.

Conclusion

Since 2010, an extraordinary wave of protests has shaken all of the Arab World. The demonstrations and protests erupted with a different degree of intensity. The 'wind of change' in the Arab world is certainly one of the most momentous events in international politics. The rise of widespread public opposition to governments across the Middle East and North Africa, referred to as an 'Arab Spring', has clearly emerged as one of the significant issues in world politics today.

The impact of the Arab Spring has reached beyond the Arab world. The character of the movement and the way it demonstrated that has given rise to a particular kind of inspiration. Some authors found a clear link to the so-called "Occupy Wall Street" movement in the USA (using different slogans, among which: "The revolution continues worldwide!" and "America needs its own Tahrir!"), that began in September 2011, through which particularly young people have acted in an unprecedented way to protest against huge income inequalities, political influence of the corporate sector and financial company misdeeds. Also, there is a clear connection with Russia where in December 2011 the President Vladimir Putin encountered unpredicted demonstrations following the announcement of fabricated election results, given that the number of declared voters by far surpassed 100% of the population.

The individuals who took action to activate the Arab Spring showed the world what courage can achieve, if it is supported by coordinated action

and determination among the protestors. This socio-political phenomenon known as the 'Arab Spring' entails a demand for freedom and democracy in the Arab world. Arab countries will need to reform themselves and to create more responsible, more liberal and more democratic regimes.

In the Arab Spring, the 'common link' appears more difficult to find. In these uprisings and protests there is no single ideological framework which has been challenged and no two regimes were identical. The Arab Spring has involved seventeen Muslim countries in Middle East and North Africa, with an overall population of approximately 300 million people, which explains the importance of the 'revolutions' and their impact on the international community.

In all of human history, profound change of this kind has never taken place in the course of just a couple of years, and this is only a start of a process that will take a long time, but it should give way to the long-term benefits that human liberty usually brings. It was a historical moment in the politics of the Middle East and North Africa, but its long-term impact remains unpredictable.

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THE STRATEGIC IMPORTANCE OF CENTRAL ASIA: THE NEW GREAT GAME

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Abstract

During the 20 years of independence, security environment in Central Asia has been changing drastically, with changes in strategies and alliances. Undoubtedly Central Asia's strategic importance in international affairs is growing due, among other things, to the situation in Afghanistan, to their natural resources, and their localization among Europe and Asia, Russia and China, India and Iran. Central Asia's strategic importance for Washington, Moscow, and Beijing varies with each nation's perception of its strategic interests. The balance of power, instability and struggle for control over oil and gas reserves mean that the New Great Game has started.

The article deals with the old and new actors of power struggle in Central Asia, and analyses the peculiarities of the New Great Game. In this context, the article makes comparisons to the 'Great Game' which has made its mark on the 19th century. The article analyzes security as well as geostrategic and economic aspects of the power struggle of three major actors, United States, Russia and China, with respect to regional policies and inter-relations of these countries. Russian-Chinese relations, especially on the issue of security, are emphasized, and their attitude towards the West and particularly the United States is analyzed.

Keywords*: Great Game, New Great Game, Central Asia, USA, Russia, China.*

Introduction

The struggle between Russia and Great Britain over Central Asia in the nineteenth century was the original "great game." But in the past quarter century, a new "great game" has emerged, putting America against a newly aggressive Russia and a resource-hungry China, all struggling for influence over the same region, now one of the most volatile areas in the world. Confrontation between the United States and Russian strategies over a significant period and with significant efforts from both sides would mean that a new Great Game has evolved. In this new Great Game, the USA would be the side that wants to establish influence in Central Asia from southern parts of Asia. Since Russian influence was weak in the 1990s, and a sort of security vacuum existed, the USA managed to gain influence, but the real influence was established after the attack on Afghanistan and establishment

of military bases in Central Asia. However, the Russian influence has returned in the meantime, and a new player, China, has entered the game. Iran and Turkey have also entered the game, but their influence and power cannot be compared with the power and influence of the USA, Russia and China.

In this article will be examined the concepts of the Great Game and the New Great Game that although separated in time, focus attention on a region of extreme importance in the international system: Central Asia.

Why this theme? In a context where various commentators of geopolitics tend to frequently resort to the term New Great Game, within the framework of the events that currently take place in Central Asia (specifically, the battle for control of energy sources, by major economic players, states and multinational companies, among others), it is pertinent to reflect on the meaning of the concept. But more than that, it is important to ask to what extent the expression *New Great Game* is correctly used to describe the geopolitical context and atmosphere of competition for access to the black gold in Central Asia, a region that Brzezinski once called 'the Axis of the World'?

The Geographical Definition of Central Asia

The idea of Central Asia as a distinct region of the world was introduced in 1843 by the geographer Alexander von Humboldt. The borders of Central Asia are subject to multiple definitions.

Central Asia is a large geographical region that lies in the heart of Eurasia, and represents a continental, landlocked area. Definitions of this region vary, due to the lack of clear physical geographical borders in the northern part of the region. According to historical criteria and definitions, Central Asia occupies a vast space in the Eurasian heartland – from southern Siberia to northern Pakistan and Iran, and from the Caspian Sea to Inner China, containing all of the former Soviet Central Asia, but also Afghanistan, northern Pakistan (Kashmir), and the Chinese provinces of Xizang (Tibet), Xinjiang (Sinkiang) and Nei Mongol (Inner Mongolia), and the Mongolian Republic as well. That vast space would represent the broadest definition of Central Asia, according to historical definitions of the region called Turkestan.

Fig. 1 Map of Central Asia

Central Asia is the core region of the Asian continent and it is also sometimes referred to as Middle Asia. In modern contexts, all definitions of Central Asia include these five republics of the former Soviet Union: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan[6]. Other areas included are Afghanistan, Northern Iran, Kashmir, northern Pakistan, Mongolia, Xinjiang and Tibet in western China and southern Siberia in Russia.

From the 19th century, up to the end of the 20th century, most of Central Asia has been part of the Russian Empire and the Soviet Union, both being Slavic majority countries. As of 2011, the "stans" are still home to about 7 million Russians and 500 thousand Ukrainians. (http://en.wikipedia.org/wiki/Central_Asia).

The Origins of the Concept

For centuries, Central Asia has been the object of rivalries and machinations by the Great Powers. The Great Game is a British term for what was seen by the British to be strategic rivalry and conflict between the British and the Russian Empire for supremacy in Central Asia. Although Arthur Conolly (an officer from the British East India Company) is considered the father of the Great Game, it was the writer Rudyard Kipling, through his novel *Kim* (1901), who introduced this concept to the masses.

[6] All five countries have names ending with the Persian suffix "- stan", meaning "land of".

The Great Game was a dispute, conducted by two imperial powers, for political dominance, control and security of the territories located between the Russian and British Empires.

During the nineteenth century, Britain feared that another European power might take advantage of Islamic Asia's political decay. It began with France. Then it was Russia. In fact, Britain feared that the 'jewel in the crown', which was then India, would fall into Russian hands. The British believed that Afghanistan would be the next step in Russia's strategy, before it took India over definitively. Due to this concern, Britain declared the First Anglo-Afghan War (1839-1842), one of the first and most important conflicts of the Great Game. The British, failed to establish a regime in Afghanistan favorable to their political interests. However, the country, in the eyes of the British, continued to be a key element in the strategy of containment of Russian expansionism.

The Great Game involved three main phases (Hopkirk, 2002). The first began with the expansion of the Russian Empire in the Caucasus and Central Asia in the late eighteenth and early nineteenth centuries.

During the nineteenth century, the British government sought to engage more intensely in Central Asian issues, transforming the Great Game, until then, private in nature, into an essential element of the defense of the empire, as well as of foreign and colonial policy. The methods that were used encompassed resorting to secret agents, occasionally combined with overt military action. This first phase of the Great Game ended in 1907 with the signing of the Anglo-Russian Convention.

The second phase of the Great Game lasted about ten years - from 1907 to 1917. The methods used were essentially the same as in the previous phase: resorting to secret agents who sought to manipulate local populations and tribes.

The last third phase of the Great Game took place after the Russian Revolution of 1917. This third phase culminated in the consolidation of Bolshevik power over the former tsarist domains. Regardless of the individual goals or fate of the various actors, the main objective - security and power of the two empires - remained unchanged.

The Concept of *New Great Game* /The Origins of the Concept

After the old version of the Great Game entered the annals of history, another one merged: The New Great Game. With the end of the World War II and the beginning of the Cold War, the balance of power in the world has changed in favor of the United States. Namely, USA replaced Great Britain as a world power. Since that time, United States would seek to not only contain the Soviet enemy, but to also assert its influence in the Middle Asia,

coveting the 'black gold', as well as other resources indispensable for the growth and consolidation of a great power. This period is often called by commentators on geopolitics as the New Great Game (Edwards, 2003). It is a term used to "describe the modern geopolitics in Central Asia, which is characterized by a competition between the United States, Britain and other NATO member states against Russia, China and other states of the Shanghai Cooperation Organization (SCO)[7], for influence, power and hegemony in Central Asia and Transcaucasus" (Edwards, 2003: 85). It is a reference to the Great Game which, as already mentioned, was colonial and strategic rivalry between the Russian and the British Empires, in the nineteenth century. However, in the New Great Game, the competition does not focus on the effective control of a geographical area (in this case, Central Asia). The rivalry focuses, rather, in what many analysts call the 'regional policy of oil'.

The "Great Game of today" was re-launched from 1992-1993 by the United States, who took advantage of the fall of the Soviet Union and the weakness of Yeltsin's Russia. The ultimate goal was preventing the rebirth of their great rival. In practice, Washington expected to increase its presence in the states that once formed part of the Soviet Union, as in the former Eastern Europe and in the Balkans. This objective was facilitated as the United States (but also Iran, Turkey, India, Pakistan, China and then Russia) took advantage of the power vacuum that resulted from the collapse of the Soviet Union to push into the region.

Interest at Stake-The Objectives of China, Russia and the USA

Russia, China, and the United States have been competing for investment, particularly access to energy resources. However, they all have common interests in maintaining regional stability, countering narcotics trafficking and terrorism along with improving the overall regional capacity for trade.

China

China is quickly becoming the most significant player in the region, and not just through energy deals. Having built pipelines for the transit of oil with Kazakhstan, and with Uzbekistan and Turkmenistan for the transit of

[7] In 1992, China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan reached a deal in resolving territorial disputes. Known as the "Shanghai Five" then, these five countries with the addition of Uzbekistan, formally established the Shanghai Cooperation Organization in 2001. See more: Chung Chien-Peng, The Shanghai Co-operation Organisation: China's changing influence in Central Asia", *The China Quarterly*, vol. 180, 2004.

Turkmen gas, it has made itself a lucrative alternative market to Russia. China's investment is steadily expanding to other economic sectors. It is becoming the second largest import-export market for Central Asian states, eroding Russian dominance across the region. However, its main source of influence has come from billions of dollars in loans through Chinese state banks to Central Asian states, dwarfing investment and aid from the United States and Western institutions like the World Bank. In time, these loans could drastically change long established industry relationships in the region, which were traditionally with Russia, and shift them towards China, while also removing any incentive for internal reforms. Chinese loans come with no economic or domestic political strings attached, but further promote the steady introduction of Chinese products and labour into the region.

China's interests are not economically alone. It seeks to secure what it sees as a fragile region on its border. Also, China warily observes the large US force presence in Afghanistan since 2001. It has a right to be concerned given the growth of criminal networks, drug trafficking and continued presence of militant groups (like the Islamic Movement of Uzbekistan) in Central Asian states. Occasional outbreaks of ethnic tensions since the 1990s can draw in interventions from other states, which would further destabilize the region or alter existing relationships. Instability in Afghanistan is another serious cause for concern, as is the potential for further volatility in the region once the U.S. military departs. If the ISAF mission in Afghanistan proves unsuccessful, Islamic radicalism, financed by the drug trade, could spread throughout the region.

China's greatest security concern in Central Asia is the spread of extremism, separatism and terrorism - the so-called "Three Evil Forces" by Chinese (Li and Wang, 2009:5). China has always been wary of its own Uighur Muslim minority and the possibility of it becoming radicalized. As other ethnic groups such as the Tajiks, Kazaks and Kyrgyzs have already established their own countries in Central Asia, the Chinese government fears that the Uighurs may seek independence as well (Swansrom, 2005:574). The Shanghai Cooperation Organization is one vehicle through which China seeks to address these issues.

Another non-traditional security challenge facing China in Central Asia is drug trafficking. Drug-related activities are expanding rapidly in Central Asia, heavily affecting China. China, Russia and India have created a security belt in the region in order to crack down drug trafficking (Sweeney, 2008).

While China's policy in the region appears focused and increasingly influential, it is not seeking to dominate the region and is not playing a military role in Afghanistan. China itself is concerned that too much direct political involvement would prompt Russia towards a greater focus on

Central Asia, where it is still a powerful actor. If anything, China is seeking to establish a new status quo that maintains a balance of interests between itself and Russia while allowing Central Asian states to remain independent—and of course, keeps US presence to a minimum.

Russia

Russia holds a long tradition of good relations with the regional states. Namely, they were part of the former Soviet Union for more than seven decades. Therefore, one can understand why the demographic, cultural and economic bonds resisted political independence in 1992. Indeed, the influence of Russian culture is still dominant in the region.

Russia retains strong institutional and cultural connections with both elites and the people. Its role as the primary purchaser and transit country for energy from Turkmenistan and Kazakhstan still gives it considerable influence, as does its security presence in the region. Having demonstrated the will to act militarily in Georgia, and thoughtful restraint in Kyrgyzstan, Russia is still viewed as the predominant regional power when it comes to security. Mindful of China's growing power, Russia has sought to strengthen its ties through regional economic and security unions, including not just the SCO but also the Collective Security Treaty Organization, and to work with China to ensure a measure of stability. This policy may change if the Chinese presence becomes dominant enough to deny Russia access to key energy resources. For now Russia, too, is content with a balance of economic competition and security cooperation. Russia and China do not wish to affect their broader relations by overplaying their hands in Central Asia.

The Russian perspective on the US presence in Central Asia is quite different. Russia has had mixed views on the large US military presence in Afghanistan, and American attempts to establish influence in Central Asian states. It first sought to undermine these efforts, viewing them as yet another American attempt to extend influence into every corner of former Soviet space. Already struggling for decades with terrorism and insurgencies in the North Caucasus, it is equally worried about radicalization spreading through Central Asia and affecting its own growing Muslim population if the NATO mission fails in Afghanistan.

The United States

Since five Central Asian countries became independent from the former Soviet Union in 1991, the United States has shown great interest in the region and continued to boost political, economic and military co-operation there. Communication between the United States and Central Asia

is an exchange of interests, meaning relations depend on how Central Asia plays into international political, trade and military affairs. The United States maintains that Central Asia will affect its national security interests this century.

After the breakup of the Soviet Union, US policy towards Central Asia was mainly oriented toward promoting regional cooperation, and political and economic stability. In its implementation, the USA inclined to multilateral institutions and programs. NATO's Partnership for Peace program included Central Asian countries, so that stability, security and cooperation could be projected into the region (Aydin, 1999). A distant newcomer to Central Asia, the United States had sought to make inroads in developing energy routes towards the Caspian and promoting political reform efforts by building up civil society and pushing the autocratic elite towards democratization. Yet both of these efforts have collided with unexpected realities. Now it is also focused on the fight against terrorism, drugs and human trafficking and illegal arms sales.

United States has not pursued a comprehensive regional policy toward Central Asia. Reflecting the diverse nature of the Central Asian states themselves, the United States has stressed limited instrumental engagement, with a laser focus on logistics for its forces in Afghanistan and a patchwork effort on democratic reform and human rights. To some regional observers, the US approach appears to be single minded, easily constrained by China and Russia, and continues to miss any opportunities to push forward developments in the region that could positively affect the future stability of Afghanistan and conflict resolution. To others, getting Afghanistan right is the key to stability, prosperity and ultimately democratic reform in the region. In many respects, even transactional relationships have been under-resourced by the lack of official and diplomatic engagement.

As a matter of fact, United States has no urgent or vital interests in Central Asia rather than in Afghanistan, and no cultural ties or shared political values exist with governments in the region. It has remained engaged on common interests, particularly security and energy, and it has articulated a vision of commercial corridors that link the resources of Central Asia with the markets and ports of South Asia. Despite a lack of resources and representation, American initiatives and programs designed to improve trade and private sector opportunities have had some success. More importantly, its vision to see Central Asia remain independent, better integrated with the rest of the continent and free from the domination of major regional powers, has largely come to fruition.

The United States can still play an important role, particularly if it chooses to increase engagement with local governments on a regional plan to stabilize and eventually withdraw from Afghanistan. Countries in Central

Asia and South Asia continue to seek reassurance about continued American attention and presence in the region following a prospective withdrawal of American forces from Afghanistan. However, smart policies aimed at working together on common security and economic interests combined with the desire of Central Asian states to remain independent from outside influence could ensure a long term United States role.

Conclusion

Central Asia in the first half of the 1990s was left in a sort of a security vacuum after the Soviet Union broke up. Russian influence was too weak to stabilize the region. The outside influences were too weak to destabilize it, since they would certainly have met with Russian reaction, no matter how weak Russia was then. Russian power and closeness to the region have always been significant enough regarding the relations of Russia and any Central Asian country in particular. Central Asian countries are all weak powers, compared to Russia. Chinese and other influences outside the region were also weak in the 1990s, and they could not jeopardize the position of Russia, whose influence in the region gradually started to rise again, at the end of the 1990s.

In the West, the best way to make Central Asia an area of opportunity and stability was to develop and apply a new strategy of involvement and projection of security to Central Asia, which would take a high position on the level of Western foreign and security policy goals. The region was perceived as an area of vast oil and gas reserves (Brzezinski, 1997). At the same time, the region became open to influences from outside, and because of its strategic importance, these influences started to move in. The political elites of five Central Asian countries are open to outside influences, balancing between them all the time. Their political weakness and legitimacy is completely disproportionate to their openness to outside influence, authoritarianism and undemocratic government. Although some predicted a struggle for influence would evolve in Central Asia between the rival outside powers that did not happen during the 1990s, so the predicted new Great Game failed to be realized (Buzan, Waever, 2003).

When did the new Great Game begin to evolve? Actually, there was no real new Great Game until the USA started to penetrate Central Asia. The new Great Game started to evolve in a different manner after September 11th, and the establishment of military bases of the USA in the region, as well as with the occupation of Afghanistan, which gain became an important geostrategic gain, as a country that ties three strategically important geographical regions – Central Asia, the Middle East and South Asia.

The domino theories are predicting various scenarios of instability and possible conflicts in Central Asia. Besides being an object of strategic rivalry (the geostrategic and geoeconomic importance of the region as a reason for the great powers' struggle for influence and control over energy resources), other security challenges to the regional security of Central Asia exist: economic difficulties, widespread poverty and corruption, almost complete lack of democracy and human rights, environment pollution and degradation, borders that are objects of dispute, a mixture of different ethnic groups and nations, and the rise of radical Islam. However, the region remains relatively stable. Rival strategies that are implemented in the region of Central Asia have the main goal of controlling oil and gas production, and transport and export to the world markets. The USA is trying to gain influence in the region. The global strategy of the USA (in which Central Asia plays the role of an important region) is confronted by Russian and Chinese strategies, which have similar goals: to keep US influence out of the region and to increase their own influence.

Russia and China will struggle for their part of control over the energy resources of Central Asia in the future, and Russia will have problems in its struggle with China's economic power, which generates political power that can no longer be completely contained, since it is already present in the region. But when it comes to the struggle with the USA over the control of Central Asia, Russia and China continue to cooperate and maybe even improve and deepen their relations, as well as relations with the countries of the region. This struggle for influence represents a logical triangular strategic game, in which two weaker sides take common ground against the stronger power, by finding compromise over their own differences and satisfying an acceptable level of their interests. Their common interest in the future would be to contain American influence in Central Asia as much as possible, without generating new instabilities and serious crisis situations. Central Asia can expect the rival geostrategies to confront each other in the future, on its territory. Open conflict is not probable, but the struggle for influence is happening and will continue in the future.

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THE ARAB REPUBLIC OF EGYPT TODAY SECULARISM VS. ISLAMISM

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Abstract

In the title of this paper completely intentionally and consciously are contradicted two concepts which are not homogenous. The meaning and the main point of this determination can be primarily found both in the desire and goal to exactly emphasize the generic difference between these two concepts in an impressive, strong and convincing manner, simply because the broader public which (only) tends to be accepted, recognized and respected both as expert and scientific, is not familiar with this difference. This will be the first page of the thorough and focused framework of this topic, and the second page will be the need and necessity (as well) to exemplify the current constitutional and ideological - political labyrinths and challenges of the Arab Republic of Egypt, exploiting the power of a flagrant illumination and underling the issue, at both expert and scientific levels, maximally loudly and clearly to express, to support with arguments and to document that the Islamic ideological – political positioning and design of the current power in Egypt is not at the same time or by automatism theocratic as well. That is, the constitution of the Arab Republic of Egypt adopted on a referendum does not constitute the state as theocratic. Indeed, it can be very easy to notice that, for example, even the name of the state determined in the new constitution, is not Islamic Republic of Egypt, but the actual name of the state determined by the previous constitution – the Arab Republic of Egypt, is preserved.

The Islamism of the power headed by representatives of the political movement Muslim Brotherhood, that is, headed by the leaders of the political party Freedom and Justice Party established by the Brotherhood, which is the main supporting pillar of the Islamic coalition Democratic Alliance, fundamentally consists of the determination that the Islamic – religious axiology system would be foundation over which the life of the social community is organized and instituted. It should be very strongly and clearly emphasized that the new constitution does not impose the Islamic axiology system on the members of the other religions. Namely, the constitution recognizes two more religions – the Jewish and the Christian religions, wherein the Jewish and the Christian religious – axiology systems are determined as value basis and framework of organization and

institutionalization of the social life of the believers of these two minority religions in Egypt.

It should be very clearly and precisely emphasized that this ideological – political positioning and design of the foundations of the Islamic religious paradigm (its ideologization, its use / misuse for the goals and interests of the political parties) is completely identical, for example, to that of the Demo-Christian and Social Christian political parties.

Key words: Secularism, theocratism, atheism, Islamism, ideological – political antagonism

Introduction

The Arab Republic of Egypt is a particularly significant and inspirational study topic primarily because, looking really and objectively it is the key state for the conceptualization, definition and realization of projects and plans for stabilization of the peace and security in the regions of Near and Middle East. The Camp David Accords, signed on September 17th 1978 by **Anwar El Sadat**, **Menachem Begin** and **Jimmy Carter**, on which grounds is created and executed The Egyptian – Israeli Peace Treaty signed by the same presidents and the same Prime Minister on March 26th 1979, for which El Sadat and Begin were even awarded a Nobel Peace Prize, has clearly shown and confirmed that by such separate treaties grounded on the "Land for peace", complete military and security stabilization of those regions is not possible, first of all, of the region of Near East, burdened with the Palestine / Arab - Israeli conflict, which is a real frozen conflict. The assassination of El Sadat on October 6th 1981 committed by his guardian officers, secret members of the organization ***al - Gama'a al – Islamiyya, obviously being a respond to the viewing and understanding of the peaceful agreement as eclatant and flagrant treason, has clearly shown that the conclusion of such separate treaties, including the treaty made by the politically and military key Arab state – the Arab Republic of Egypt, is still not the mysterious key which opens the door of stabilization of the peace and security of Near and Middle East. The solution of the issue of the Arab Republic of Egypt as a military and security threat, in essence, has opened a broad ideological, political and propaganda space where other players took their part, first of all, the Islamic Republic of Iran, which have had strongly defined positions of accepting neither of the division of the historical territory of Palestine imposed by the UN Security Council in 1948, nor the constitution of the Israeli state on one part of the historical territory of Palestine, as one of the two states, which would also in some future time be established as a neighboring state to Israel. At the same time, it was also a cruel demonstration of the geopolitical fact that***

the peaceful concept and the strategy "Land for peace" function only in the case of the Arab Republic of Egypt and Sinai.

After the death of El Sadat, that is, during the entire period of presidency of Hosni Mubarak (1981 – 2011), the Arab Republic of Egypt has strictly complied with the concluded peaceful treaty. What is most important, the Arab Republic of Egypt is also strictly complying with that agreement now, during the presidency of Mohamed Morsi – it has strongly demonstrated it during the recent military and security crisis in the Gaza Strip as well, when it strictly and successfully controlled its border to Gaza, in that way not allowing larger escalation of the conflict and the military operations.

We elaborate and emphasize all of this as an essentially and thoroughly important focus of this paper's topic. Namely, we must strongly emphasize that the ideological and political result of the "Spring revolution" in Egypt, coming to power through parliamentary and presidential elections both of Freedom and Justice Party, established by Islamic ideologically and politically profiled historical movement Muslim Brotherhood, and Mohamed Morsi, did not bring to essential and thorough change on the side of the Egyptian foreign and security policies. Indeed, that policy gained significant Islamic ideological features, very similar to the Islamic ideological feature of the Turkish foreign and security policy, but those features did not bring the previously established and developed foundations of the policies seriously in question.

However, this paper will not go into details regarding the Islamic ideological feature of the Egyptian foreign and security policy, but it will focus on the clearing up the essentially prime dilemma which was opened by the "Arab Spring" in Egypt. That is the dilemma, strongly reinforced especially after the referendum adoption of the new constitution and which in its own basic definition involves the question whether Egypt and its new constitution is in fact reconstituted as an Islamic theocracy. This dilemma and this question are of a crucial significance because the solving of this dilemma and the answering of this question strongly and directly affect and determine the clearing up of both the foundations on which the Egyptian foreign and security policy is created and shaped as well as the concrete contents and directions of its operation in practice.

Theocratism and Secularism VS Islamism

In medias res: the constitution of the Arab Republic of Egypt is not a theocratic constitution simply because it does not constitute power based on a theocratic structure. The Ulema does not come to power through this constitution, the power in Egypt is still civilian. In Egypt, for example, just

as it is the case in Turkey with the Justice and Development Party (AKP), the Ulema is not the holder of the Islamic ideological – political determinations, that is, of ideas and visions for organization and regulation of the entire social life, including the constitutional solution – whether it would be secular or theocratic. The Ulema in Egypt in no relevant manner is not ideological – political subject and factor, but such holders, subjects and factors are classical political parties, civilian political parties, and not parties of the Ulema. There is no party at all which is established by the Ulema and whose member it is (for secular – theocratic dilemmas in Egypt see also Trager: 2012) .

Here we must strongly and absolutely clearly emphasize that in Egypt, just like in a series of other Muslim states, first of all in the region of Near East, wherein Turkey is paradigmatic example, the Ulema and the Islamic religious community at all as a global social factor, and also as a (daily) political factor, is deeply inferior in regard to the classic political structure, that is, in regard to the political parties as basic organizational – institutional form and content of (daily) political organization, institutionalization and operation, especially as civilian political parties, not like Islamic – religious parties – parties established and leaded by the Ulema (see more on the political Islam in Turkey in Rabasa: 2008). In this paper, when we speak about the Muslim states, we differentiate those states from the Islamic states, wherein we understand the Islamic states as Islamic – theocratic states, and we understand the Muslim states as states where the Muslims are predominant religious majority, which states may, or may not be constituted as an Islamic republic (for example, from geostrategic, geopolitical and military – security aspect the very important Islamic Republic of Pakistan) and which are not theocracies, that is, where the Ulema is not constitutionally on power, and where the Ulema as a total social, including (daily) political subject and factor is not the creator and holder of the Islamic ideological – political organization, institutionalization and action (see more in the part Political Islam, Sasajkovski: 1998). At this moment the sole real and completely constitutionally built state as Islamic – theocratic state is the Islamic Republic of Iran (see more on the Iran Islamic revolution and theocracy, especially placed in the context of the "Arab Spring" in Eisenstadt: 2011) .

The Egyptian political parties as civilian organizations and institutions, ideologically and politically positioned as Islamic, and not the Ulema (organized and institutionalized as religious community and / or political party) are creators and holders of the Islamic ideological – political trends, streams and actions (see more in Paciello: 2011). Indeed, this statement also completely applies in regard to the Demo - Christians, Social - Christians and the majority of the national political parties in the Christian

world. One must know that the ideological – political grounding and acting based on a certain religious axiological system (whether Christian, Islamic, Hindi or any other), that is, the ideologization of any religious axiological system, and while defining the value basis and the value system of a constitutional act and while creating a complex of policies, rationalized exactly through the use / misuse of any religious axiological system do not automatically mean support of the establishment of theocratic state or final constitution of such a state (for relations between the religion, ideology and policy, especially in the Western world, see more in Pettersson: 2004) .

So, we must very precisely, sharply and clearly separate the theocratism from the ideological – political profiling and acting on the grounds of ideologization as a thorough rationalizing frame and structure of a particular religious value system. In that sense one should know that when Egypt is in question, the Muslim Brotherhood, Freedom and Justice Party and Democratic Alliance are not movements, parties and coalitions of parties of the Ulema, that is, of the Egyptian Islamic religious community and that they do neither support nor constitute theocracy, that is, a rule of the Ulema. Just like the AKP in Turkey is not a party of the Ulema, that is, of the Turkish Islamic religious community and it does not support and constitute theocracy, that is, a rule of the Ulema (see more on the ideology and policies of Muslim Brotherhood in Brown: 2012).

Therefore, as an essence and sense of this elaboration we should strongly, precisely and clearly underline that the Islamism which is present throughout the Muslim world as a main and majority ideological – political determination, including in the Near East and the Arab Republic of Egypt, does not mean support and acting for theocratic constitution, it is not based on theocratic conceptual positions, and as such, it does not represent an alternative and a threat for the secular character of the Near East Muslim states, including the Arab Republic of Egypt. We cannot say that there are no theocratic ideological – political organizations and institutionalizations as well, but it is important that they are not placed along the main and majority direction of the ideological – political profiling and acting, and by rule, they are out of the legal political – party order. This is the essential and fundamental answer to the dilemma set forth in the title of this paper; next, we will make an elementary elaboration of the essential determinations, that is, the ontological structure of the new (Islamic) constitution of the Arab Republic of Egypt. Prior to it, we must definitely and elementary on the basis and within the positivistic scientific and theoretical determination, clear up what theocratism is.

Theocratic Phenomenology

Generally speaking, there are two ideal types of concepts and models of theocratism. When we state this, we think of the theocratism which is in fact a constitutional theocratism, that is, theocratism which is established and regulated through a constitutional act, or any of its substitutes. Theocratism as a power of the theocracy practically exists in two variants: the first is when the religious authorities are sat at the same time as state authorities – that is the case with the Vatican City State (see more at Fundamental Law of Vatican City State, 2000), and the second variant is when the religious authorities exist parallel to the civilian state authorities. This second variant is in fact the case and the example of the Islamic republic of Iran. The Iranian constitution is established and built on the basis of the Islamic – Shiite theocratic principle of Velayet – I fakih. The parallelism of the religious and civilian state authorities (president, parliament, government, courts and prosecutor's offices, ministries, army, police etc.) means power of the religious authorities, among other, to derogate the decisions of the civilian authorities and power to confirm and completely annul the existing personnel political appointments of the holders of the state positions. At the same time, this parallelism also contains a parallelism of authorities and institutions. First of all, there is practically unlimited power of both the Fakih / the leader of the Islamic revolution and the Council of the guardians of the revolution (in which the Big Ayatollahs are members), then, the existence of revolutionary committees parallel to the existence of state ministries (for example, revolutionary committee of education and a ministry of education, revolutionary committee of culture and a ministry of culture etc.), then, parallel existence of an army (like some kind of civilian army) and pasdaran (religious – revolutionary army / guard) etc. (see more in Velayet - i fakih, 2010; Votyagov, 2009) .

Besides this, what we call constitutional theocratism, treating it as a real theocratism, in reality can also be found in particular shapes which we would name as political theocratism, which we treat as a kind of a conditional theocratism. We consider this political theocratism as a conditional theocratism because real theocratism, that is our strong theoretical and conceptual position, is in fact only the constitutional theocratism. This is the kind of theocratism which is organized and regulated that is, grounded and built in the constitutional act. This conditional theocratism which in this occasion we determinate theoretically and conceptually as political theocratism, should serve only for analytical purposes, that is, it should serve for pointing out and clearing up the phenomena (socio - historically longer or shorter phenomena, finally, it does not matter) of the religious communities and religious hierarchies, in particular entire

social circumstances, including (daily) political circumstances; primarily those are circumstances which consist of a very high level of historical past in regard to the national and state cause in order to gain and fight for high social, including (daily) political relevancy and in this sense to become real partner of the civilian / state authorities during the decision making, primarily on some important and key national and state topics and issues (see more in Driessen, 2010) .

Speaking more concretely, as more typical cases and examples of such political theocratism we consider to be the cases and examples of the state – church symphony in the predominantly orthodox – Christian societies and states (see more in Bunaciu, 2011) , and the cases and examples of the power and influence of the (Roman) Catholic national bishopric conferences, by rule also grounded and developed through concordat, as an international – legal instrument / instrument of the international public law, of course, those national bishopric conferences, with a status and a role of exponents in Vatican, in predominantly (Roman) Catholic societies and states (Ragazzi, 2009) .

The Essence of the Constitution of the Arab Republic of Egypt

Here we will present exclusively at the elementary level, the basic determinations of the new constitution of the Arab Republic of Egypt, a constitution which, we emphasize once again, is not a theocratic constitution because the constitution in no possible constitutional – legal variant and combination does not establish a power of the theocracy. The constitution explicates the importance of the religious value system as a basic integrative – cohesive substance of the social community and the state constitution. Such an importance of the religious value system comes from the Islamic ideological – political profile of the elected president in general, secret and direct elections and parliamentary majority established on the same elections of that kind. However, we should strongly emphasize that basically and generally this importance is nothing new at all and that, in fact, it represents continuity even since the time of the Arabian socialism of G. A. Nasser (see more at Cleveland, 2000). The President Morsi has signed the constitution on December 26th 2012, after it was previously passed in the Parliament and confirmed on referendum. This constitution replaced the temporary constitution passed in 2011, immediately after the change of the rule of Mubarak.

Article 2 is especially important for the topic of this paper. Namely, this Article defines exactly the relation among the basic principles of the religion / Islam and the legal order and it emphasizes that sunni mezhebi are valid, in fact, first of all, hanefi mezhebi, as a dominant mezhebi in Egypt

and generally in ummah, which is usually seen as "softer" and which is more open for example to the kijas principle (Shirazi, 2008) .

The constitution, which is also of a special importance for the topic of this paper, in Article 43, guarantees a freedom of acting exclusively to the religious communities and the members of the three Abrahamic religions, wherein the value systems of those three religions are the basis and the frame of shaping their social and religious life as religious communities. Those three religions are the Islam, Christianity and Judaism.

Then, by Article 44 the constitution guarantees the inviolability of the honor and the dignity of the Gods and the God's apostles of those three religions. Let us explain it in only one sentence: this determination of the constitution is completely understandable and completely consistent with the nature and the power of monotheism in the Islamic religion, that is, with its tolerant relation toward the other monotheist and Abrahamic religions and with the expressly intolerant relation toward the polytheist and idolatrous forms of belief, sects and cults (for the relation between the Islamic and Christian monotheism see more in Hoover, 2009).

Final Main Point

In Egypt, really and objectively looking and analyzing, there is neither a variant of constitutional theocratism as a real theocratism, nor there is a variant of political theocratism, as a conditional theocratism. On the contrary, the Arab Republic of Egypt, even after the passing of its new constitution, is a secular state. That is due to the following:

- The constitution of the Arab Republic of Egypt does not constitute the theocratic state as a state where a structure of power of the theocracy is constitutionally grounded and built. There is no overlap and linkage between the religious and the secular state authorities in a single structure. There is no power of the theocracy, that is, the religious authorities, to confirm, control and annul the decisions made by the secular, state authorities. There is no parallelism of religious authorities, that is, authorities of organizational – institutional setting and construction of a religious community which would represent specific simulation of classical state authorities, which means that there is neither overlapping and parallelism with the secular state authorities, nor constitutionally organized and regulated power of the religious authorities to control, direct and disavow the secular state authorities.
- In the Arab Republic of Egypt the religious communities, especially the Islamic Religious Community, has no total social power, also including (daily) political power, to be a serious rival and partner to

the political parties and the state secular authorities of power. On the contrary, the secular, state authorities have established an effective and efficient control over the Islamic Religious Community. The political parties in Egypt are holders of the ideological – political processes of islamization, that is, of the ideological – political exploitation of the Islamic axiological system as a basis and a frame for rationalization of their ideological – political profiling and acting. The Ulema has no his own political party, he has neither founded nor joined to a certain political party in which it would ultimately and definitely profile the ideological and political positioning of that party. Freedom and Justice Party, just like the movement of Muslim Brotherhood, just like AKP in Turkey, is not a religious party formed by the Ulema, it is not a party where the Ulema is a member, the party's ideological – political profile is not determined by the Ulema. It is a movement and it is a party formed on civilian basis, with Islamic ideological – political profile, it is a movement and it is a party which neither support nor constitute a theocracy, it is a movement and it is a party which affirm the social role and function of the Islamic axiological system as a social integrative – cohesive substance and they support and run concrete policies set and rationalized on the basis and within that Islamic ideological basis and frame.

- The foreign and security policy of the Arab Republic of Egypt conceptualized and executed by the administration of the President Morsi and the government of Freedom and Justice Party and Democratic Alliance does not seriously and relevantly attack its previously established and developed basic postulates and determinations. Indeed, it is certain that this policy, respecting those postulates and determinations, will also gain a balancing Islamic form and content, just like the Turkish foreign policy gained that balancing Islamic component through the Islamic ideological – political profile of the government of AKP.

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HYBRIDITY AMONG THE NATIONAL COSMOPOLITISM AND GLORIFICATION OF HYBRIDITY

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Abstract

The cultures are a changeable category which is constantly developing and changing. Aware or not, sometimes it depends on us which things we would like to keep as they are, and which we are going to change. After the September 11th 2001 events, the culture got different meaning and classification, to be determined by religion, community, nation, identity, localization and civilization, which brought about different risks and threats to the security. The open economy and the consumption culture, helped by the new technologies and communications undermined the cultural aspects of the national states. Human traffic across borders, migrations, wars and conflicts, the economic influence, the information and communication revolution, have all contributed for cultural diversity, and at the same time a line of negative effects reflecting on the degree of national security have also appeared. Therefore, our target in this paper is elaboration of the two occurrences, nationalism and hybridism, for which we wonder if they lead the society towards peace and stability or a new world security disorder.

Key words: culture, nationality, hybridity, security, peace

Introduction

In the modern terms of globalization, culture should not be understood as something that we close inside ourselves; on the contrary, culture should be understood with open mind towards outside, something like multicultural community, which for many countries which have traditional nationalistic policy is a leading problem in the globalization processes. The economic dimension of globalization does not support nationalism patriotism, but a fight for better life conditionally prefers disconnection from nationalism and taking or assimilating other identities and values from the region or global.

Therefore many think that there is a possibility that the culture is used for foreign political goals, through different forms of interventionism which can undermine the cultural, economical and political aspects of the national countries, and as a result - to lead even to nationalism. Nationalism can

appear in the weak non west countries which are not prepared or are refusing to join the globalization streams. In that direction, Giddens is wondering "how to explain the cases where cultural norms and behavior are changing with purpose"? (Giddens, 2001). Of course, some cultures prefer uniformity and individualism, and others are for more diversity and accomplishment of the common needs.

More countries are free from the nationalistic clamps that occurred as counterweight for creating multicultural societies and varieties. On the other hand, industrialized countries have more cultural varieties or are multicultural as consequences of the cultural mix made from the processes of globalization. Some say that exists "trans-world nations" or "non territorial nations" or "nationalism on distance", and very often in the politicians words we can find statements like "my country exists everywhere where there are countrymen". This leads to creating micro nations or country nations all over the Earth, like China town or Small Italy in almost every country. All of this happens because of the cultural openness, not enclosure.

So everyone on the Earth can experience several identities like consequence of the mix of country nationalities, micro nationalities, regional nationalities and non territorial or transnational nationalities, because globalization tends to create hybrids (Scholte, 2005). The term hybrid can be interpreted as a set or combination of more nationalities. For example - a family that lives in Australia: one parent is Macedonian, the other Canadian, both working in an American company, wealth deposited in euro in a bank in Singapore in the Switzerland office. In this way, globalization permits rippling of the identity, mixed identities or transferring from one identity to another, given the circumstances and happenings (mass mediums, internet etc. (Scholte, 2005, p. 251). Therefore we conclude that the relations sovereignty, territoriality, nationality and status of citizenship are slightly connected one to another and will be real challenge for the upcoming time. From here rises the question of whether the collective identities or the process of hybridization will produce more uncertainties then stability? Will the "doctrine of multiculturalism" fail? To get precise answers to these questions, we will elaborate the ideas and examples for building multicultural societies.

From Cultural Pluralism to Clash of Cultures

Multiculturalism is considered a kind of politics of the identity that highlights the degree of cultural variety based on race, ethnicity of language in the modern society. Many experts agree that multiculturalism goes together with the processes of globalization. Because of that, globalists are accenting the glorification of the multiethnic multicultural and homogenized

community, with consideration that the cultural identities are in a conflict relation. In that direction Beck says that "by tolerance and diversity xenophobia also grows, and these reactions are not leading to multicultural community, but that we and the modern national countries are in the turbulences of the global community", therefore his slogan says **"**cosmopolites from all countries unite**" (**Beck, 1999, p. 55). The author signals on a new civilized orientation that will improve the relations between western and non western societies, religions and cultures. With this a big step will be made, where the west will not have monopole for modernism, because the current cultural hegemony of the west and its intention for creating monoculture leads to a full uniformity and standardization of the life habits, but also elimination on the other different versions of life styles and loosing the identity.

Imposing the western civilization as a universal attempt and an attempt for universalization of their history; history of all nations leads to hatred and intolerance. The formula looks dangerous: *universality + development + modernization = loosing identity, tradition and habits.* From here, the extreme claim of the west contributes to a conflict with the other different civilizations, especially those like the violent jihad, the religious fundamentalism and nationalism on the wide spaces which are strongly tracking conflicts and wars (Pecujlic, 2005). Reasons for opposition between the cultures and the nations are in rejecting acceptance of the western values, technology, integrated market and other modernity. Mostly, the economic and industrial developments are the main culprits for the opponents of the west that contributed for total destruction of their own values and replaced with new cultural values imported from the other civilizations. In that context, the collision of the cultures will be between those that control technological innovations, information and the flow of the financial capital, or simply the leaders of globalization, with the individuals, groups and communities that see globalization as a threat for their identity (Pecujlic, 2005, p. 142). The collision of the local-non global and the global cosmopolitan arrangement system is a major problem for studying the aspects of globalization, because global associates danger from homogenization to the local link for a specific place and authenticity. From here we can state that there is a possibility that the world will face a collision, (different than the Huntington), and between the *civilized and the uncivilized.* The other guided by the so called axis of evil (Iran, Iraq and N. Korea, extended with other countries like Cuba, Venezuela, Libya and Syria) backlogged in the fields of modernism, representing main threat for the west (Murden, 2009, str. 418 - 433). In that context, Galtung says "every one that is against western military establishment and military approach to peace and

security should understand that this fight is on a deep ideological level, a level of cosmology" (Galtung, 1996).

Further on, we think that the global culture is fragmented, pluralistic and hybrid and it is not about the world culture. The term global culture is used in sense of globalization of the culture, intensive contacting and communication between different cultures, and never a word about creating one unique or integrated culture (Nash, 2005). With that, global society does not refer to a territorially fixed, although cultural and social diversity and differences and it does not mean that they are not related to specific location or place. *Robert Robertson* in his globalization studies uses the term glocalization (*glocalization* – borrowed from the Japanese vocabulary in marketing, according to him is "a global perspective adjusted to local terms". Or, the globalization is placed on a location, while the location forms itself in the discourses of the globalization like a specific place. This term (glocalization) actually unites the relations of global and local because homogeneity is produced and reproduced constantly in the processes of globalization, while parallel to that homogeneity is shown from the aspect on differentiation of the locations (Nash, 2005, p. 101). So, the trends of globalization can strengthen the processes of local autonomy and keep national identity and culture. Globalization and localism or just the global culture and the local culture are complementary and interrelated. Their relation is best shown in the slogan *"think globally, act locally"*.

Therefore, Friedman points out that in the time of the Cold War, most common threat came from the slogan that "the olive tree comes from another olive tree". Today, the threat for the olive tree comes from the lexus – from all anonymous transnational, homogenized, standardized market forces and technologies that are weakening the power of the political community which uses this technologies and markets and have a target to keep the olive tree - their own culture and identity.[1] This author suggests through the process of globalization, or the capability of one culture meeting another to absorb only those impacts which overlap and which can enrich their own culture without being defeated, to resist to those different and strange things that are not compatible for the culture (Friedman, 1999).

But, globalization processes that allowed some entities to take with them their own deities and rituals brought further uncertainties within the domiciled population because of the distribution of the religious rites out if the national borders. That is how some saw the religion as a promoter of

[1]Author as an example of mutual struggle of Lexus and the olive tree in *the system of globalization* highlights the failure of the referendum in Norway in 1994 to join the EU. The reason was located in what Norwegians felt that joining the EU might lose their identity and lifestyle. Source: Friedman, T.L., *The Lexus and the olive tree*, Farrar Straus Giroux, New York, 1999.

modern globalization or for it degradation. For example, Christianity as pro western oriented religion defends the globalization, but the Islam, non western religion, is hurting the liberal globalization) (Legevi, 2007). This standardization or distinction by the religions propagates an alternative form of globalization, hybridism that does not go without conflict. Similar like Gering's slogan "when I hear the word culture I reach for my gun" (Guardian, 2007), even for the ones who want to protect their culture from fragmentation, the globalization is "evil".

This is confirmed by the fact of the recent decisions and discussions for wearing veil which showed that the multiculturalism initiates parallel societies that can weaken the "national roots", for which domicile population is against these religious groups, (sub-cultural groups), most of all for security reasons.[2] Revolt is visible in domicile population because of these groups that does not belong to the minority, can be isolated for not accepting to be assimilated according to the values of the culture of the minority. Leading countries in the European Union (Germany, France and Great Britain) undertaking strong measures against Muslim immigrants indicates that the concept of the multiculturalism did not succeed in Europe. For this occurrence some sociologists say that it represents "new racism" based not on the biological differences but cultural differences and values imposed by the culture of minority. This kind of racism can be seen in different ways in certain discriminated groups that can be triggered very easily and cause chaos and disorder (Scholte, 2005).

We are witnesses for the destructive potential and energy taken from the modernity, manifested with aggressiveness and violence from groups with different antirational orientations. For example jihad is by-product of modernization and globalization and therefore will be part of most of the problems of the global society. Terrorists that made the attacks in London, Madrid and Amsterdam lived in a democratic modern society, but felt alienated and neglected. Also, the wars in Afghanistan, Iraq, Bosnia and Herzegovina, Chechnya and the terrible images from Guantanamo and Abu Ghraib were the trigger for reaction from the Muslim population and their solidarity for their societies, identity and their religion. So the global threats became local, especially very dangerous for the multicultural societies (Booth, 2007, p. 358). Therefore, a way must be found how should the

[2] Several Western European countries (Belgium, Italy, Denmark, Austria, Netherlands, Switzerland, United Kingdom, France, etc.) introduced complete bans on covering the face in public. Wearing the burqa in public is considered criminal, but just fined by a few days in prison. The most drastic move taken over France, which in 2011 presented the law against covering the face in public, caused strong reactions and protests in the country. Source: "*France's burqa ban: women are effectively under house arrest*", Guardian, September 19, 2011.

critical masses fit and integrate in the democratic society (Fukuyama, 2006). One of the ways is gaining material profit that promises that this society can have a different approach of the religion aspect, and with that it is expected acceptance on the western values and leaving the traditional radical Islam.

There are other cultural shocks in the multinational developed societies which reflect on national security. Patrick Buchanan, a candidate for the White House from 1990, was for a "cultural war" and making impregnable steal fence along the border between USA and Mexico, allegedly to protect the American workers from "diseases of globalization" (Scholte, 2005). Also, the bloody events in Norway, (Utoya Island and Oslo), are a consequence of the occurrence of xenophobia, nationalism and anti-Islamism, and for that culprits are western ideas and values of the democracy that created modified multicultural societies. There are other examples that show the kinds of the negative effects of the culture when it is reduced to the level of religion. We are talking about publishing cartoons of the prophet Mohamed (in Denmark), ripping and burning pages from the Koran (USA), displaying the movie Innocence of Muslims in the USA, etc. all encourage feelings and stirs passions to the Muslim population and effects on the security in their countries and beyond.[3] These examples are leading to Fukuyama; according to him, "the clash of cultures" (Fukuyama, 1995) is a result of the economical processes of globalization that has oscillating movements, and different modifications that will be a combination of liberal economic and political values with the traditional cultural codes are expected to appear. It remains to be seen whether the mutual interdependence in time will change the individual and collective identities, or it will contribute to their strengthening. This is one of the most important battles that will affect on the national security and stability, but is a strong motive for escaping the apocalyptic thesis of "the clash of civilizations".

[3] The publication of 12 cartoons (caricatures) Mohamed the Prophet in the Danish newspaper Jyllands-Posten in September 2005 sparked a wider international incident and suffered a spate of violent protests around the world that resulted in burning of embassies, churches and terrorist attacks that killed 200 people. Source: *Danish Cartoon Controversy*, New York Times, August 12, 2009. Also, the act of Pastor Terry Jones that the so-called "*Burn a Koran Day*" sparked violent protests and prompted feelings of Afghans in Kabul that led to the further deterioration of the situation in Afghanistan and endangered the lives of American soldiers in the mission ISAF. Source: <http://abcnews.go.com/WN/Afghanistan/burn-quran-day-sparks-protests-afghanistan-petraeus-endanger/story?id= 11574449.>. The movie "*Innocence of Muslims*" in 2012 containing anti-Islamic elements is the reason for the demonstrations and violent protests in Egypt and all other Arab and Muslim countries. In fact the film was the reason for the attacks on the staff of the US Consulate in Benghazi (Libya), and the representatives of other Western European countries.

From here, we can conclude that mixed relations on local, national, regional, transnational, or cosmopolitan level lead to undefined culture, and will be defined according to the developments, or with the movement of the tourists, migrants, constant mobility of the work place, etc. Increased level of interaction allows forming the idea that will lead to mutual frame of norms, responsibilities and regulations. With the internationalization of the norms regarding humanism - military interventions, human rights, arms control, citizenship, or trade, are also regulated the countries that control the other international actors as well, and also leads to increased homogeneity in the world's developments. Actually, it is a developing idea for cosmopolitism that aims for the humanity not just for individuals, groups, nationalities or classes, and in the focus of this idea are the common values of all people as well as solving the problems for the survival of humanity collectively.

Conclusion

Glorification of the national values in times of modern globalization is a risky and dangerous move which contributes to feelings of restlessness and uncertainty in the multicultural societies. Keeping the culture authentic and protecting the local cultures seems to be impossible because of the big pressure of the global trends, regardless of the increasing nationalistic and xenophobic associations and groups that slow down the ideas about homogenization of the cultures and creation of multicultural and cosmopolitan societies. On the other side, we think that "one size fits all" is just a utopia, because of the big differences among the nations and countries with different models of management. Globalizing cultural community like global values can cause contra cultural reactions on local or regional level and will further probably reflect on peace and stability. But, there is a possibility that the small cultures and communities are assimilated in the frame of regional and global reunions.

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EU INTERNAL SECURITY- MUTUAL THREATS AND APPROACH IN COPING WITH THEM

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Abstract

The safety and freedom of the citizens of the EU are top priority for the Union's members and institutions. Despite the reinforced collaboration of the states in an effort to prevent and cope with internal security issues, the manifold opportunities offered by the globalised society are abused by various criminal and other groups, whose aim is to undermine the values and the prosperity of the open society. Consequently, the Internal Security Strategy ought to constantly adapt to the challenges of the global 21st century, challenges which directly affect and endanger the lives of citizens, their well-being, safety and freedom. The creation of a highly secure environment, in which the citizens would feel protected and free, is one of the main tasks of the EU, not only within the Union, but outside its borders as well. The internal security of the EU implies protection of the citizens, the freedom, and the democracy, thereby creating conditions for prosperity and life without fear. On this basis, in the further development of the EU as an association where justice, freedom and security reigns, the EU is undertaking fairly ambitious steps in an effort to identify common threats, decide on a common internal security policy and a European security model, in accordance to the internal security strategy which is a reflection of the common values and priorities of the European Union. Although the member countries of the EU have their own national security policies and strategies for tackling security threats, such efforts are hardly sufficient, as the threats are increasingly becoming transnational, meaning that they concern all countries equally, and that the responsibility and action should be mutual as well. The array of instruments, developed for the furtherance of the cooperation between countries in internal security issues, make a step forward in the area of justice, freedom and security, and represent the basis for a wide and comprehensive approach in its provision. Security is a basic human right, which should be just as respected as the remaining human rights and freedoms, and provided by achieving a high level of security inside and outside the Union. Common threats demand a common approach, common instrument and complete dedication in tackling the causes for the lack of security. The Stockholm Programme, for the period 2010 - 2014, is a solid foundation for the actualization of the given goal, as is also the EU Internal Security Strategy, which joins these activities and sets the principles and directions for the prevention and management of the EU's common internal security threats.

Keywords: EU international Security, threats, challenges, security environment, field of Justice, freedom and security

Introduction

Even in the 21st century, European countries are faced with a number of issues regarding their safety and the safety of their citizens. In an effort to solve its issues with safety, the EU needs to undertake activities and measures to efficiently ensure the security and safety of its member states. The area of freedom, justice and security, in which every member state has an equal access to justice and is equally protected by law, is a new challenge which demands for a close cooperation between the governments of each member state of the EU. If contemporary security challenges, such as terrorism and organised crime, are to be successfully managed, a serious collective effort, i.e. joining of the police forces of every member state is needed. It is necessary that prosecutors, judges and police forces from various countries collaborate. This collaboration could be enabled by the work of such organs as Europol, the European Police Service, Eurojust, which have several active and effective roles. It is their task to advance European security, aiding states in their battle against serious criminal acts and against terrorism, which pose a great security threat to the EU's internal security. Despite the fact that the major threats stem from terrorism, international drug trafficking, money laundering, organised frauds, human trafficking, and forging the euro, new challenges appear in the form of, for instance, cyber-crime. These are lucrative businesses which are quickly adaptable to novel situations and are rather flexible in relation to traditional legal remedies. Given the fact that not a single country in the world can respond to these challenges independently, the chances of success would be greatest if Europe acts collectively, as a Union of European countries.

Internal security integration of the EU as an area of freedom, security and justice

Security is a main priority of the citizens of the European Union. The internal security concept is a quite wide and comprehensive one, and it encompasses more areas in order to deal with the laws influencing the lives, safety and well-being of the citizens, wherein natural and man-made disasters are also included. The cooperation between EU member states with the benefit of increased internal security has its roots in the 1970s. However, in its beginning, this cooperation is informal and outside of the framework of the European Community. The Schengen Agreement of 1985 is a significant advance in the cooperation between Member States in this particular area.

The purpose of this agreement was achieving a complete liberty of movement for the European Union citizens by abolishing all check-points on the internal borders, and adopting certain measures in reference to the check-points on the external borders, adopting the visa policy, and by a closer judicial and police cooperation in criminal cases. Furthermore, technological advance has revolutionised the regime and the speed of communication, resulting not only in opening of borders, but even more in opening of societies. However, the prosperity opportunities of the now open, free and democratic societies have generated abuse risks in the name of those liberties. Moreover, increasing citizens' mobility increases the common responsibility of protecting the rights and freedoms of all citizens. Hence, security has become a crucial factor in both providing a high quality lifestyle in the European community and in the protection of critical infrastructures through prevention and tackle common threats. The Treaty on European Union enacted in Maastricht in 1993 poses a significant step forward in the effort to advance cooperation in the area of internal security of the European Union. This Treaty includes the areas of justice and internal affairs in its institutional framework, establishing them as a third pillar of the Union, and thereby lending a new dimension to the European integration. Justice and internal affairs are the basic functions of the state. Justice entails the use of law for the protection of human liberties and rights, and also envisions the pursuit of individuals' and legal entities' legally guaranteed interests. The function of the area of internal affairs can be described in the broadest sense as a set of governmental activities aiming to achieve efficiency and effectiveness of its internal institutional legal order. Consequently, it is centred on the security function, as an activity aimed at the protection of values, relations, and institutions liable to both harmful criminal behaviours of individuals, and groups, and to other dangerous behaviours. The function of internal security is carried out by police and other bodies, which have the role of guardians of both the constitutional and legal order, and the public law and order, which is a significant prerequisite for social stability and development (Kambovski, 2005:16).

The Amsterdam Treaty signed in 1997, elevates numerous issues related to security and internal affairs to the first pillar, while in the third pillar additional attention is paid on police and judicial cooperation in criminal cases. It is a global goal of this Treaty to create an area of freedom, security and justice. Thus, the new concept of Europe as a unique legal area and area of justice has gained clear properties of an area in which free movement of citizens is ensured alongside external border controls, asylum, immigration and fight against crime. Both the Amsterdam Treaty and the provisions on cross-border police and judicial cooperation mainly place the

emphasis on coordination of the activities of judicial and police services between member states.

The Treaty of Lisbon, which went into effect on 1st December 2009, remedied some of the shortcomings of the previous system, and for the first time, many issues with which European politics dealt with were solved. Furthermore, for the first time, the EU was awarded the status of a 'legal entity', while the formal abolishment of the pillar structure aimed at establishing a common domain in European criminal law where national legal systems and courts could have trust in each other and rely on one another. Mutual trust is an essential prerequisite towards a common recognition of judicial decisions between the Member States of the EU. In order to increase trust, common minimal standards regarding rights to fair trial and victims' rights must be established. The Treaty of Lisbon strengthened the supranational area by integrating justice and internal affairs, thus awarding the European Parliament the right to reach decisions by a majority vote. Article 73 of the Treaty on the functioning of the European Union envisions that countries will cooperate with one another, on their own responsibility, to preserve national security, and keep their right to start initiatives in the legislature. Hence, the supranational character of the decision-making process in the area of freedom, security and justice is debilitated, both due to partial compromising led by national interests, and by the non-involvement of Great Britain, Ireland and Denmark in this further step of integration (TFEU, 2010).

Regarding the new security situation, Article 222 of the Treaty on the functioning of the European Union entails that the member states act in solidarity and should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the Union shall mobilise all available resources, including the available military resources of the Member States. Essential goals of the EU, upon which every member state is acquiescent, are: peace throughout Europe, establishment of common values, economic well-being of all citizens and a guarantee of their safety. All these points add to the initiative of creating greater opportunities for building mechanisms of strengthened cooperation between member states, in an effort to achieve greater internal security. Member states can organise (with one another, on their own responsibility) forms of cooperation and coordination (which they deem are appropriate) between the authorities of their respective administrations responsible for preserving national security (TFEU, 2010: Article 73). The Union, as a unified area of freedom, security and justice, strives to ensure a high security level through introducing measures for combating and preventing crime, racism, xenophobia, measures of coordination and cooperation between police and judicial authorities and other bodies in charge, through joint recognition of verdicts in criminal cases

and the approximation and harmonisation of the criminal legislation. Article 71 of the Treaty on the Functioning of the European Union has established a standing committee within the Council, aiming to ensure a greater operational cooperation in the area of internal security and facilitate coordination of the activities of authorities of the Member States.

Internal security policy of the EU in the Stockholm Programme

Despite the fact that the EU has succeeded in ensuring a solid basis for the strengthening of operational cooperation, a broader consensus for a vision, values and goals to support its internal security was needed. Bearing that aim in mind, the Council adopted a new programme, the 'Stockholm Programme- *An open and secure Europe* serving and protecting the citizens', and the Commission adopted an ambitious plan for its implementation by ascertaining the priorities of the EU in this sphere for the period of 2010-2014. The Stockholm Programme aims to protect citizens by developing more European tools:

- drawing up, monitoring and implementation of the Internal Security Strategy as one of the imperative tasks of the Internal Security Committee (COSI) set up by the Lisbon Treaty. The enactment of the European Internal Security Strategy mirrored the firm determination to carry on progress in the area of justice, freedom and security by implementing the European security model which is faced with numerous challenges. Therefore it is of crucial importance that the Strategy be adaptable to both the citizens' needs and challenges of the dynamic and global 21st century (Draft Internal Security Strategy for the European Union, 2010);
- upgrading the work tools, whereby the European administration would be responsible for technical development and management of information systems of large scale. This Programme envisions the creation of a register of third-country nationals who have been convicted by a Member State's court;
- effective policies which enable Europe to become the focal point for information exchange between Member States, and a platform for law-enforcement services, especially where joint investigation teams are concerned;
- protection against organised crime, whereby new laws are envisioned to combat human trafficking, ensuring greater protection for victims. The post of European coordinator may be created. The Stockholm Programme provides for new legislation on combating sexual abuse, sexual exploitation of children and child pornography, new legal framework in regards to the Unions' cyber-space, information

exchange between financial intelligence services, greater cooperation with regards to the combat against drug trafficking that will also include the work of the civil society, thus intensifying research work;

- combating terrorism, with an emphasis on preventing its radicalisation and cutting funding sources, while ensuring that counter-terrorism techniques comply with human rights;
- comprehensive and efficient disaster management by enhancing response capacity both within the Union and outside its borders. Natural and man-made disasters endanger the safety of the citizens, wherefore it is important to increase the protection against them, using every available mean and resource (including military resources and cooperation with humanitarian organisations during third-country interventions). All the activities of the EU in this sphere are based in the responsibility of Member States to ensure protection for their citizens, and in the solidarity principle specified in the Treaty of Lisbon (Stockholm Programme for the period 2010 - 2014).

Focal points in the Stockholm Programme are the interests and needs of citizens, whereby ensuring their rights, liberties and integrity are respected poses a great challenge. The Programme also lists as priorities: Citizenship and fundamental rights; A Europe of law and justice; A Europe that protects; Access to Europe in a globalised world; A Europe of responsibility, solidarity and partnership in migration and asylum matters; The Role of Europe in a globalised world- the external dimension. In the area of criminal law, the Programme envisions the strengthening of Eurojust's role, setting up a European Public Prosecutor's Office, a more consistent approach towards criminal sanctions, stronger procedural rights and more efficient aid to victims in criminal cases. The following points are pointed out as additional values to the pre-existing systems of criminal legislative of the EU: harmonisation of the Member States' legislative, adopting minimum standards on procedural rights in criminal proceedings, whereby European criminal law will increase the citizens' trust in the Union and the security it provides for them, which is essential for them to exercise their rights to free movement; approximation of legal systems, which increases trust between various Member State's legislatives and facilitates cooperation and mutual recognition of judicial measures, etc. In September 2011, the European Commission published a *Communication, 'Towards an EU criminal policy- Ensuring the effective implementation of EU policies through criminal law', thereby determining the development framework on EU criminal policy, based on proportionality and subsidiarity. Based on the Communication, the Commission has set up an expert group on EU criminal policy, comprising twenty experts, academics and practitioners from 13 different Member States*

with the most long standing legal traditions in the EU. The group should contribute to quality improvement of EU criminal legislative. It has had its first meeting on 19 June 2012.

Common threats and EU Member States' common approach in dealing with them

EU Member States are aware that the quality of democracy in the EU and the public's trust in it depend heavily on their capacity to guarantee security and stability in Europe, and work alongside their neighbouring countries and partners in dealing with the fundamental causes of internal security issues which the Union is faced with. Internal security of the EU implies protection of citizens, values, freedom and democracy, to the effect that every single person can enjoy life unimpeded by fear. Values and priorities in the EU are shared equally by everyone, and consequently, the threats are common as well. The joint vision of the current challenges results in the creation of a common battle frontline, since everyone is well aware that only by common efforts can they be more prepared and more effective in affronting the challenges (Draft Internal Security Strategy of the European Union, 2010). In an effort to join current activities and set principles and directives on future actions, the Internal Security Strategy of the EU was adopted in 2010, designed to prevent and respond to all threats and challenges. The EU Internal Security Strategy ('Towards a European Security Model') is to use any potential synergy that exists in the areas of law-enforcement, integrated border management and criminal justice system, which are inseparable in the European area of justice, freedom and security, complementing each other.

Due to the cross-border influence of the security laws within the EU, the Strategy identifies several common threats as primary challenges to EU internal security: terrorism, organised crime, cyber-crime, cross-border crime, violence, natural and man-made disasters and other common phenomena which pose as security threats, such as traffic accidents.

Due to the global scope, catastrophic consequences, its capacity to recruit by radicalisation and online propaganda, and the various funding sources, terrorism poses a significant security threat. Terrorism is an absolute disrespect for human life and democratic principles, and is constantly on the rise (Draft Internal..., 2010:5). Composed of criminal tactics that disrupt the fundamental principles of democratic societies, terrorism is sometimes difficult to distinguish from criminality. EU Member States are seriously endangered by Islamic, ethno-nationalist, separatist, left-oriented and anarchist terrorism. Considerable sums of money are being transferred from Europe to the conflict areas to fund terrorist groups. There are great concerns

in Europe as to the existence of active young terrorist branches in some of its Member States, which are potential targets for radicalisation and recruitment in terrorist organisations. Islamic terrorism poses the greatest threat to most Member States, since Islamic terrorists are threatening with comprehensive attacks aimed at causing massive damage. According to Article 1 of the framework decision of the Council on Fight against Terrorism, terrorist acts are deliberate deeds which, given their nature, may seriously damage a country or an international organisation, depending on their execution manner, and which aim at:

- serious intimidation of the population;
- excessively compelling a Government or an international organisation to perform or refrain from performing an act;
- seriously destabilising or destroying fundamental political, constitutional, economic or social structures of a country or an international organisation (Council Framework Decision on Combating Terrorism, 2002).

Some Member States indicate that despite the fact that the number of persons arrested under suspicion of terrorism has decreased in the last several years, the threat of terrorist groups and activities remains real and serious. It is also influenced by the security situation outside of the EU, as EU Member States that are militarily present in conflict areas are in the centre of attention for Islamic terrorist groups (TE-SAT 2010- EU Terrorism Situation and Trends Report, EUROPOL). Therefore, the EU has a strategic obligation to combat terrorism on a global scale (simultaneously respecting human rights) and to create a more secure Europe, enabling its citizens to live in a free, secure and just area. The EU Counter-Terrorism Strategy encompasses four strands of work:

- **prevent** radicalisation of terrorism in the EU and recruitment of EU-nationals to meet the needs of terrorist organisations;
- **protect** citizens and infrastructure and diminish the vulnerability to attack;
- **pursue** and investigate terrorists in order to cut off funding and hinder planning of their activities and disrupt support networks;
- **respond** to security threats, in order to minimise the consequences of terrorist attacks by upgrading the capabilities to deal with the aftermath, and meet victims' needs (The EU Counter-Terrorism Strategy, 2005:3).

The Strategy is also complemented by an intricate Action Plan that enables a regular and detailed progress monitoring in the combat against

terrorism by the Committee of Permanent Representatives. Regular reports are to be drawn up by the counter-terrorism coordinator and the European Commission.

Organised crime tends to appear in any place where a substantial financial gain with minimal risk can be had, regardless of borders. In the EU it appears in many different forms: human trafficking, people smuggling, arms trafficking, drug trafficking, sexual exploitation of minors and child pornography, violent criminal acts, economic criminal, money laundering and forging documents, corruption, etc. All forms of crime are a threat to the fundaments of democracy and the rule of law in the EU. Cyber-crime poses a global hidden threat to the information system and an additional challenge for the legislature. Cross-border crime (such as petty or property crime) is often committed by bands and it has a significant impact on people's everyday lives. Violence, especially amongst young people, or hooligan violence at sports events increases damages already caused by criminal acts and can additionally cause harm to societies. Natural and man-made disasters are security threats as well, since the EU suggests cooperation between Member States in an effort to upgrade system efficiency to deal with and protect against them.

In dealing with these threats, EU Member States have developed their own national security policies and strategies. However, such efforts hardly suffice in the combat against transnational threats which demand a wider approach. Therefore, the EU Internal Security Strategy develops tools for the facilitation of cooperation between Member States:

- analysis of future situations and scenarios: threat of danger;
- appropriate liability: planning, programming, and dealing with consequences;
- effectiveness in the area: activities of agencies, institutions and bodies (Europol, Eurojust, Frontex, the Counter-Terrorism Coordinator, etc);
- tools based on mutual recognition, information exchange and facilitation of joint investigations and operations;
- evaluation mechanisms for undertaken activities (Draft Internal... 2010:7 - 8).

Despite the significant progress in the area of justice, freedom and security, EU is advancing the joint efforts of all its Member States in view of increasing security for its citizens. Common instruments built to deal with common threats, and the integrated approach in performing the actions are a primary goal of the EU Internal Strategy. With that aim in mind, a security model is created, based on the principles of:

- respecting fundamental human rights, international protection, rule of law and privacy;
- protecting all citizens, especially the most vulnerable, crime victims and victims of terrorism acts;
- transparency and liability in security policies;
- dialogue as a means to overcoming differences in compliance with the principles of tolerance, respect and freedom to expression;
- integration, social inclusion and fight against discrimination as key elements in the EU internal security;
- solidarity among Member States; and
- mutual trust as a key principle for a successful cooperation (Draft Internal..., 2010:10).

Based on these principles, ten strategic action directives have been specified to guarantee EU internal security:

- wide and comprehensive approach towards internal security;
- ensuring efficient democratic and judicial supervision of security activities (increasing the role of both European and national parliaments in the development of security policies, and their participation in evaluation of justice, freedom and security policies implementation);
- prevention and anticipation of threats, based on a proactive and intelligence approach, and ensuring necessary evidence for the prosecution. Anticipation of the degree of likelihood of any threat provides for a timely discovery, prevention or response, which is why a comprehensive approach and an appropriate strategy are needed;
- development of a comprehensive model for information exchange, based on both mutual trust and principle of information availability. With that aim in mind, mechanisms for building mutual trust must be further developed to ensure that the use of an Information management strategy enables the development of a secure European information exchange model. However, this model needs to fully respect privacy and personal information protection rights;
- operational cooperation between security forces and border authorities, including external borders control and protection, and adequate cooperation in matters of criminal cases. The Standing Committee for operational cooperation for internal security needs to ensure an integrated, coordinated and efficient performance of operations for dealing with threats;
- judicial cooperation in criminal issues, as a closer cooperation of judicial authorities between Member States, which is of crucial

importance to the prevention of cross-border crime. The role of Eurojust is essential in this area. Its mission is to support and strengthen coordination and cooperation between national prosecution bodies, especially in regards to severe criminal acts that influence several Member States or that demand a common prosecution basis, based on information provided by these same bodies and Eurojust;

- integrated border management, which plays a crucial role in maintaining internal security in the EU. The opportunity to create a European border police system, the continuous development of the European border control system, the close cooperation between security forces and border police, the new technology, the cooperation of Frontex with third-world countries are key issues that provide for success in building a much more secure border control;
- dedication to innovations and training in an effort to promote and develop new technologies via common approach, to lower costs, but increase efficiency. Research and development projects within the Centre for Common Research and Development ought to result in technological standards and platforms adapted to meet the Union's security needs. Furthermore, a strategic approach towards professional training of the security forces, the judiciary and the border police, which ought to develop alongside programs for information exchange, based on the Erasmus model and promote the common culture of the EU;
- an Internal Security Ministry or cooperation with third-world countries- the Union's internal security is dependent upon external security, so that security issues must be considered and resolved through an integrated and proactive approach and form mechanisms for greater coordination between security and external policies. EU countries should build solidarity and mutual cooperation with countries outside the Union, especially weaker, less successful countries, to prevent them from becoming centres of organised crime and terrorism. The internal security strategy is closely related to EU security strategy of 2003- the 'European Security and Defence policy'. The cooperation goes in the direction of solving global threats, social, political and economic development of societies and achieving efficient and long-term security;
- flexibility to adapt to future challenges, whereby the emphasis will be placed on each risk and threat that could create security issues (Draft Internal..., 2010:10-17).

Despite the fact that institutions and Member States of the EU have been promoting and ensuring freedom and security, at the same time guaranteeing compliance to the fundamental human rights, the rule of law and solidarity, Europe is still faced with numerous threats which may disrupt its security and stability. By adopting the European Internal Security Strategy and the European security model, the EU is demonstrating a firm determination to persist in the endeavour to advance the area of justice, freedom and security by adapting its security policies to the modern and fairly fickle reality, and by placing the citizens' needs as a top priority. The EU's wide approach to internal security issues has enabled a more consistent and closer cooperation between EU countries in solving, preventing and responding to 21st century threats.

Conclusion

Due to its wide scope and comprehensiveness, the EU Internal Security Concept aims to deal with threats that may place in danger the lives and security of people, as well as their well-being. The Treaty of Lisbon and the Stockholm Programme have enabled the EU to undertake ambitious common steps in the development of Europe as an area of justice, freedom and security. On that basis, the Internal Security Strategy specifies common threats and challenges, the common security policy of the EU, and defines the European security model that consists of common tools and complete dedication to the cooperation and solidarity between EU Member States, as well as between them and the institutions of the EU, and the dedication to inclusion of each sector that has an active role in the protection. Common tools and policies for dealing with common threats use the integrated approach, whereby mutual trust is a key principle enabling a successful cooperation. The strategy should help increase the opportunities for better prevention and prediction of security threats in a proactive intelligence approach, which would enable availability of all needed information. The countries must be focused on information sharing, because information is the most efficient weapon in the combat against terrorism, crime and other modern security threats. In the direction of improving the level of information sharing, mechanisms of building mutual trust must be strengthened between authorities in charge of the EU's internal security, so that both effective information sharing be enabled throughout the entire territory of the EU and a secure European model be developed. In order for operations designed to tackle common threats to be conducted in a manner as coordinated, integrated, and efficient as possible, the cooperation between EU agencies and bodies involved in internal security (Europol, Eurojust, Frontex, Cepol, Sitcen) should be constantly strengthened and improved, not

only within the Standing Committee on Operational Cooperation on Internal Security, the judiciary and border police. These can facilitate the provision of needed information greatly, which is why special attention should also be paid to professional training on information exchange, information analysis, evaluation and application, which should be a further challenge for the European Union in building a high quality basis for tackling common threats. Security policies, especially preventive security policies, should strengthen cooperation (on both national and local level) with other sectors as well, such as educational institutions, civil organisations, the private sector etc, in order to raise public awareness on the need for a combat against security threats of the modern age.

Modern security threats are common for each country in Europe and for each of their citizens. They endanger the democratic societies, the rights and freedoms of the citizens, especially where innocent civilians are suffering. The common efforts and the increased cooperation between EU Member States, as well as their cooperation with third countries and international organisations is the only way to tackle threats. This is the only approach that can yield success by lowering the level of the threats.

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APPLICATION OF THE GAME THEORY IN FUNCTION OF DIPLOMATIC NEGOTIATING MODEL

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Abstract

That the conflict would not escalate into a crisis, it must be resolved as soon as it is noticed. In addition, its solution must be optimal. One way to optimize decisions in terms of social crises and conflicts is the game theory.

Game theory is a mathematical theory of conflict and crises situations. In addition, conflict and crises situations are characterized by two (or more) opposing sides, with antagonistic goals (mutually opposed and irreconcilable), where the result of each action of participant depends on what action the opponent will choose. Due to the antagonism of parties objectives involved in the negotiations, negotiation is particularly suitable for modeling activities by means of the theory of games. Of special interest to the diplomatic service is the diplomatic negotiation. In this context, this paper focuses on the modeling of diplomatic negotiation through the game theory.

There are numerous strategies of conflict and crisis solving. Those strategies are: ignoring, withdrawal, domination, smoothing, compromise and confrontation. If a crisis occurs, it can be resolved (the fight until victory), solve (a compromise), reset (ignoring) or remove (change in the nature or circumstances of the entity). Model "fight to win" means defeat rival parties and can not be a good basis for establishing relations of cooperation as a new quality of relations. "Ignoring" means any failure to take steps to remedy the problem, but it is based on hopes that the crisis will stop by itself. "Changing the nature of the entity" whose relations are in crisis is possible, but it rarely happens, as well as "change of circumstances" the wider social and international context in which the conflict or crisis takes place. It is especially difficult to be implemented at the same both changes, which is most advantageous from the point of eliminating the conflict. It remains to compromise is one of the ways to treat some conflicts and crises - as a sublimation of compromise negotiations.

Key words: conflicts and crises, diplomacy, diplomatic negotiation, game theory, mathematical modeling

Introduction

Game theory is the mathematical theory of conflict situations. In the field of economy, these situations are called competition. Game theory was created in 1928 when von Neumann proved the theorem on minmax. Later it began to be applied in many other branches of science and life - almost every time you need to develop a strategy in the conflict of interest situations. In the book "Theory of games and Economic Behavior" in 1944, this theory was developed by the economist Oskar Morgenstern and the famous mathematician John von Neumann (Neuman J.von, 1953). They noted that in the economic sciences there are no mathematical models good enough to describe situations in which market participants are facing mutual conflict interests.

Therefore, Neumann and Morgenstern described these situations by abstracted games, conceived as a set of rules and conventions that players must follow. At each stage of the game, players pull certain moves by the set of (un) limited decisions making the right choices and choose that decision that seems best to them on the basis of available information. Fundamental contributions to the theory of games were made by John Nash (Nash, 1951).

Game theory is the basis for many theories of negotiation used by police and diplomacy. Strategies, developed in the game theory by appropriate mathematical tool, offer players the instruction set for any situation that may arise during a game, and one of the key aspects for making right decision is to consider the possible moves of rival players. In 1994 "for a pioneering analysis of equilibrium in the non-cooperative games theory" the Nobel Prize in economics received John Nash, John Harnasnhi and Reinhard Zelten. In 2005 for "increasing *our understanding* of *conflict and cooperation through game-theory analysis*" "the Nobel Prize in economics received Robert Auman and Thomas Schelling.

The paper will discuss the theory of games in the function of modeling of police negotiation for resolution of conflicts situations. The police have a role in resolving conflict situations in the field of security. In doing so, it has a duty to protect also the security of holders of threat. Minimization of harmful effects to the life and health of all participants in the conflict requires the application of police methods in the resolving non-compulsory conflict situations. One of these methods is negotiation.

Negotiation is a process of mutual persuasion of opposing sides in the communication in terms of antagonism of their goals. Police (security) negotiation is usually carried out in the cases of kidnapping, hostage situations, severe forms of extortion, riots in prisons, occupation of buildings, street demonstrations, threats of suicide and homicide (murders), threats to the police or third parties by weapons or explosive devices in the

preparation and implementation of police measures, resistance to police measures etc., when it is possible to influence the behavior of perpetrators of conflict situations, with a view to their withdrawal from illegal conducting (Subošić, 2010.).

Due to the complexity of circumstances in which police negotiation is implemented, it is necessary for its modeling, to predict its effects to the greatest possible certainty. Maximization of police negotiation effects is achieved by optimal strategies through which it realizes. Mathematical (exact) method to do this is the application of game theory. This paper questions the right application of game theory in the modeling function of police negotiation

Basic Terms of the Game Theory

Basic terms of the game theory are:

- game
- move
- strategy
- optimal strategy
- pure strategy
- mixed strategy
- low value of matrix game
- high value of matrix game
- saddle point of matrix game
- value of game
- goal of game theory

Game is a model of conflict situation.

Move is a selection of one of the possible alternatives available to participants in the game.

Strategy is a set of rules that uniquely determine the choice of gait of each participant in the game.

Optimal strategy is a kind of strategy that during multiple repeated games provides the participant to achieve the maximum possible medium payoff, i.e., minimum possible medium loss. In the game theory there is already mentioned principle (criterion) of the minimax. It is expressed by the view that a player in the matrix game (conflict situation simulation) chooses his behavior in a way that maximizes his payoff with, for him, the most adverse action of opponent. By this principle the choice of the most cautious strategy for each player is conditioned. At the same time, the minimax is also the basic principle of game theory. Strategies chosen trough this principle are

called minimax strategies (Petrić, 1988). Pure strategies are at least one strategy that both players have at their disposal, which are predicted to be better than all the strategies of opponents.

Mixed strategy is a complex strategy, which consists in applying more pure strategies in a certain respect. This type of strategy can be reached via the selection probability of one pure strategy (p_1) and selection probability of other pure strategy ($p_2 = 1-p_1$). At the same time, the value of p_1 is in the range from 0 to 1.

The low value of matrix game is the maximum payoff between minimum payoffs (α).

The high value of matrix game is the minimal loss between maximal effects (β).

The saddle point of matrix game is that point which is expressed by the maximum in its column and by the minimum in its row (Milovanović, 2004.). It exists in the case when the low and high value of matrix game are of identical values (α = β). If α is not equal to β, there are no saddle. The difference between α and β is "space" in which the participants in the matrix game should demonstrate own abilities, by choice of optimal - mixed strategy.

The value of game (v) is the value between the maximum payoff between minimum payoffs (α) and minimal loss between maximum effects (β). Mathematically expressed, the value of game is the interval: $\alpha \leq \nu \leq \beta$.

The goal of game theory is the determination of optimal strategy for each participant.

Classification of Matrix Games

Games can be divided on various grounds: the number of players, the number of available strategies, as a function of time, the choice of strategy, according to whether the sum is constant or variable.

Division of games according to the number of players

According to the number of players, games are divided into games with two, three, …, players. Games with two players are most often used in the game theory, which is not accidental, given the fact that in everyday life, we most often meet this type of games (such as chess, for example). These games are analyzed in detail in the game theory. The aim is to describe the condition by using a very well known form, i.e. by a game whose characteristics are known in advance and are actually predictable. Games with n players are generalizations of games involving two players. Further in the presentation, the emphasis will be on games involving two players.

Division of games according to the number of available strategies

According to the number of available strategies, games are divided into games with a finite and infinite number of strategies. If at least one player has an infinite set of strategies, then the game with the infinite number of strategies is in question.

Division of games according to the time function

Depending on whether the strategies of the players are in the function of time, we talk about dynamic and static games. If the players make their decisions simultaneously, then we talk about static games. Otherwise, we talk about dynamic games.

Division of games according to the choice of strategy

The choice of strategy in a game can be deterministic or stochastic. Games in which we have a random choice of strategies (for example, when tossing a dice) are called stochastic games.

Games with constant and variable sums

A payoff of each player in the game is the result of the strategy chosen by this player, but also the action of all other participants in the game. According to the final outcome (the total payoff), games can be played with a constant or a variable sum. A zero-sum game is a game in which the gain of one participant is identical to the loss of the other participant.

All games can be presented in three different ways: extensive form games, normal form games and games in a form of a characteristic function. Extensive form games are those presented in a form of a tree. The way in which we present normal form games gives a matrix wherein the rows represents available actions of the first player, while columns show the actions of the second player. Each of the players has a disposable number of strategies. All disposable actions of one player make his strategic set. It has been understood in this presentation that both players are rational, i.e. that they want to maximize their gains.

Matrix game is a game that can be realized by the following rules:

- The game involves two players;
- Each player has a finite set of available strategies;
- The game consists in the fact that each player having no information about the intentions of opponent makes a move (chooses one of the strategies). As a result of the chosen strategy arises payoff or loss in

the game;

- Both payoff and loss in the game are expressed as number;

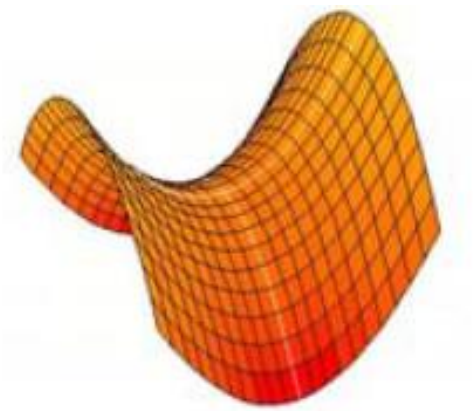
The strategy of player I will be seen as the row of some matrix, and the strategy of player II as the column of some matrix. The situations in the game are presented by boxes at the intersection of rows and columns. Filled boxes – situations – by real numbers that represent the player's I payoff, we give a task in the game. Resulting matrix is the winning matrix of game or game matrix. Taking into account the antagonism of matrix game, the payoff of player II in any situation means the loss of player I and differs only by sign. No additional explanation on the function of winning player II is required. The matrix that has m rows and n columns is called $(m \times n)$ matrix, and game $(m \times n)$.

There are simple and mixed matrix games. They differ in how the simple games have and mixed have not so-called "saddle point". In addition, the simple matrix games correspond to the situations of certainty, while the mixed situations correspond to the situation of uncertainty (Milovanović, 2004.).

Modeling of Police Negotiation through the Matrix Game with Saddle

For the games with a saddle is characteristic that they have clear strategies for both players, which by row and column correspond to the saddle point. The example of the police negotiation (see chart below) means that the police (player no. 1) has at its disposal two strategies[1] (x_1, x_2), while the opposing party (player no. 2) also has at its disposal two strategies (y1, y2). For example, both strategies for both parties are indulgent and unyielding negotiation.

Figure 1. Saddle point



[1] In general case it means that he has at least two strategies

Table 1. Player strategy

Players	Alternatives		
I	x_1	x_2	x_3
II	y_1	y_2	y_3

Let's take a concrete example. Game payoff for the player I , which depends on the choice of possible strategies, is given by the following set of data,

$$v(x_1,y_1) = 4, \quad v(x_1,y_2) = -1, \; v(x_1,y_3) = -4,$$
$$v(x_2,y_1) = 3, \quad v(x_2,y_2) = 2 \quad v(x_2,y_3) = 3, \tag{4.1}$$
$$v(x_3,y_1) = -2, \quad v(x_3,y_2) = 0 \quad v(x_3,y_3) = 8.$$

Find a solution to a game, i.e. determine:

a) optimal strategic pair (x_i, y_j),

b) find the value of matrix game

Resolution: The game defined above can be reduced to the matrix form, as shown in Table 2, where rows correspond to the possible strategies of player I and column to the possible strategies of player II.

Table 2. Game with saddle point

		Player strategy II			Minimum by rows
		y_1	y_2	y_3	
Player strategy I	x_1	4	-1	-4	-4
	x_2	3	2	3	2
	x_3	-2	0	8	-2
Maximum by column		4	2	8	

By analysis of the matrix game price, the player I determines that if he chooses strategy x_1 at least he will get is -4, for strategy x_2 is 2 and if he chooses strategy x_3 minimum payoff is -2. The player I will try to choose such a strategy which corresponds to the maximum among specified minimum payoffs. In our case, it is strategy x_2.

The payoff value, which corresponds to strategy x_2, is called the low value of game and is marked with α. Therefore, we have that

$$\Rightarrow \quad \alpha = \max_i \min_j (a_{ij}) = 2 \tag{4.2}$$

By analysis of the matrix game price, the player II determines that if he chooses strategy y_1 the maximum what he can lose is 4, for the strategy y_2 is 2, and if he chooses strategy y_3 the maximum that he can lose is 8. The player II will try to choose such a strategy corresponding to the minimum of

specified maximum losses in each column. In our case it is strategy y_2. Thus, the value obtained is called the high value of game and is marked with β. Therefore, we have that

⇨ $\beta = min_j\ max_i\ (a_{ij}) = 2$ (4.3)

If the high value of game is equal to the low value of game for such matrix game is said to have a saddle, and solution to the game is in the domain of pure strategies. In other words, if both players find at least one strategy that is the best according to prediction in relation to all the strategies of his opponent it is said that the game has as solution the pure strategies as optimal. This is possible only if the matrix game has a saddle. In this case, the value of game is

⇨ $v = \alpha = \beta$. (4.4)

⇨

⇨ In our case, the matrix game has the saddle and optimal strategies are in the domain of pure strategies, namely:

⇨ I player - strategy x_2,

⇨ II player - strategy y_2,

⇨

⇨ and the low value of game is equal to the high value of game, i.e.

$v = \alpha = \beta = 2$. (4.5)

The element $a_{22} = 2$ in the matrix a_{ij} is called the saddle of matrix game.

If the player I applies any other strategy, not the strategy x_2, and player II remains at the optimal strategy, the payoff of the player I will be reduced. Also, if the player II tries any other strategy and not y_2, and the player I maintains its optimal strategy, the loss of player II will be increased (Petrić, 1988.).

Police Negotiation Modeling through Mixed Matrix Game

Mixed matrix games are divided into: matrix game (2×2), matrix game $(n\times 2)$, matrix game $(2\times m)$ and $(n\times m)$. Solving the matrix games $(n\times 2)$ and $(2\times m)$ is conducted by reducing them to the matrix game (2×2). Solving the matrix games *n* x *m* can be done by reducing the price matrix and linear programming. Finally, in addition to the above, there are also mixed tasks.

Mixed matrix games (2×2) are the matrix games types characterized by existence of two pure strategies of each participant (police negotiator and police opponent), and there is no" saddle", which is why their solution lies in

the field of mixed strategies. Solving the matrix game is shown in the following example.

While the party I (police) calls a dangerous criminal whose arrest is in progress, to surrender, the party II (dangerous criminal) refuses to surrender. In order to minimize harmful effects to the life or health in this conflicting situation, there comes to negotiation. The task is: find the low and high value of matrix game (α and β), determine the optimal strategies of participants and the value of game *(P, Q, v).* The probabilities for all combinations of opposing parties' strategies are given in the following table.

Table 3. The probabilities for all combinations of opposing parties strategies

	y_1	y_2	Minimum by row
x_1	0,4	0,2	$\alpha = 0,2$
x_2	0,2	0,6	0,2
Maximum by column	$\beta = 0,4$	0,6	

The high and low value of matrix game has no identical values ($\alpha \neq \beta$), so that the matrix game does not have: "saddle" It also means that the matrix game has an optimal strategy in the mixed strategies domains.

When the payment matrix has no saddle point, then it is somehow more difficult to determine the optimal strategies of players and the value of matrix games. Thus the Player I does not have a clear strategy that would provide a guaranteed minimum gain, along with the rational behavior of the other player. By analogy, the Player II does not have a strategy that would provide the upper limit of his payments. Therefore, the players introduce the element of randomness in the selection of particular strategies. They no longer choose one strategy, but opt for various strategies. Each strategy appears with certain likelihood. By using the von Neumann theorem, optimal strategies can be determined in all zero-sum games (Subosic, Stevanovic, Jacimovski, 2013).

Game Theory in the Function of Negotiations

This paper deals with the game theory that is used for the analysis of interactions that involve negotiations.

We use the term "negotiations" to describe a situation in which:

individuals (players) have the possibility of reaching an agreement,

there is a conflict of interests around which an agreement is to be achieved,

- it is not possible to impose an agreement to which either party has not given its consent.

A negotiation theory represents the examination of relationships between the outcome of negotiations and the circumstances. We assume that the players are rational and have equal negotiation skills, that both parties (or as many as they are) have clearly defined priorities for each possible outcome and should the player make a choice, he will choose the alternative that will lead him to the best possible outcome. We shall try to impose a certain negotiation structure and study the outcomes that are covered by the notion of a perfect equilibrium. The structure that we are going to impose makes the players be maximally symmetrical. Player I comes with the offer that Player II can either accept or reject. In case of rejection, Player II gives his offer that Player I can either accept or reject, etc. Almost all the models have a sequential structure: the players must make decisions one after the other, according to a pre-determined order. This order reflects the progress of negotiations and the process of trade. The time needed for reaching an agreement is also of importance to the negotiators. Such a structure is flexible and allows us to solve a wide range of issues.

Two rational individuals, I and II, voluntarily enter into negotiations. They know all the possible outcomes of the negotiations, to which they have attributed various benefits (based on their preferences). Negotiations can be completed with different outcomes, and a set of all results that individuals can achieve represents a so called accessible area of D (Figure 2), (Pavlicic, 2000).

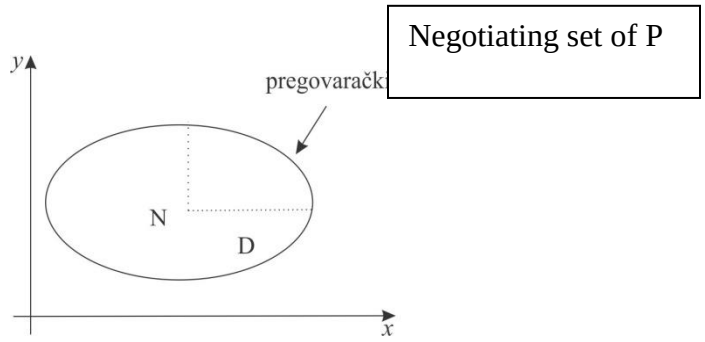


Figure 2. Accessible area

Accessible area contains the point of failure (status quo, the point of misunderstanding), which shows the downturn of the agreement. The benefits of the negotiators at the point of failure are marked with N = (n_1, n_2). Other points in the accessible area represent possible agreements that are acceptable in different ways for both individuals. Since they are perfectly rational, negotiators will not observe all the possible solutions, but only those that are Pareto optimal[1] (in which both negotiators achieve better outcomes compared to inefficient solutions). The set of all Pareto optimal points makes a so called negotiating set of P (shown in the figure by a subset of limit points of the accessible areas). Points of the negotiating set are shown by using utility pairs *(x, y)*. It is clear that individuals prefer any point in the set of P in relation to the point of failure, so there is a mutual desire to reach an agreement. In case of an agreement, they make gains that are equal to: (x - n_1) for the first and (y- n_2) for the second individual. If the set of P contains only one point, the problem becomes trivial and the agreement will be concluded immediately. Therefore, we assume that the set of P contains at least two points that individuals prefer in a different manner, which again raises the problem of how to predict the point of their agreement *(x*, y*).*

Nash has set the following conditions that any solution of the negotiations should satisfy (Mucibabic, 2006):

- efficiency of a solution with regard to Pareto,
- symmetry,
- invariance in relation to the linear transformation of the utility function, and
- independence from irrelevant alternatives.

Starting from the mentioned four assumptions, Nash has proved the following theorem:

If the conditions 1-4 have been met, then the point of agreement *(x*, y*)* represents the solution of the function

$$\max (x-n_1)(y-n_2)$$

within the negotiating set, on condition that there are such points that make valid the functions $x>n_1$ and $y>n_2$.

The obtained solution is called Nash equilibrium and it is the only solution that satisfies all four conditions.

A geometric illustration of Nash solution is shown in the figure 3 (Mucibabic, 2006):

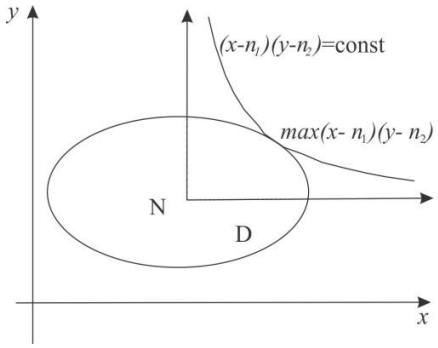


Figure 3. Geometric illustration of Nash solution

Antagonistic and Cooperative Games

Main properties of antagonistic games are the following ones (Danilov, 2002):

- It is not appropriate for the player to inform the opponents about the strategy (pure or mixed) that he intends to implement. Of course, if a player intends to put the optimal strategy in place, his gain will not be reduced by simply informing the opponent about it. However, he will have no additional gain.
- Players are not interested in communication before the game starts, nor in the cooperation in terms of a joint action.

The theory of antagonistic games is applicable only in cases where we can determine a general effectiveness criterion of opposed sides, of which one is interested in increasing, and the other one in decreasing of that criterion (zero-sum games). Situations in which the interests of players do not coincide, but are not necessarily opposed (non-zero sum games) are more often encountered. Sometimes situations corresponding to both players can happen, so it makes sense to establish a cooperation of players in order to increase the gains of both players. Cooperative mixed games understand strategies that can be implemented by means of a mediator before the game starts. Also, it is possible to encounter the situation in which the cooperation between players is not permitted by the game rules (Moulin, 1988.).

When there is a case of a non-zero sum game, with two players, then we talk about the bimatrix game. A bimatrix game is a final, non-coalition game with two players. This is because the profit function can be shown in the form of two matrices:

.

$$A=\begin{bmatrix} a_{11} & ... & a_{1n} \\ . & . & . \\ a_{m1} & ... & a_{mn} \end{bmatrix} \quad B=\begin{bmatrix} b_{11} & ... & b_{1n} \\ . & . & . \\ b_{m1} & ... & _{mn} \end{bmatrix}$$

(7.1)

where *1, 2,...n, and 1,2,...m*, are the numbers of pure strategies of the first and second player. Moreover, the elements a_{ij} and b_{ij} represent the gains of players I and II respectively. The bimatrix game with *A* and *B* matrices can often be shown by the matrix (*A,B*) in which each element makes a pair (a_{ij} , b_{ij}). If $x^T=(x_1,...,x_m)$ is a mixed strategy of the first player (made of sets of pure strategies x_i), and $y^T=(y_1,...,y_n)$ is a mixed strategy of the second player, then the mean gains of the first and second players are given as follows (Krushevky, 1977.):

$$E_1(A,x,y)=\sum_{i=1}^{m}\sum_{j=1}^{n}a_{ij}x_iy_j=x^TAy$$

(7.2)

$$E_2(B,x,y)=\sum_{i=1}^{m}\sum_{j=1}^{n}b_{ij}x_iy_j=x^TBy$$

(7.3)

The equilibrium situation for the bimatrix game is made by the pair (x,y), of such mixed strategies of the first and second player that fulfill the inequations:

$$\sum_{j=1}^{n}a_{ij}y_j\le\sum_{i=1}^{m}\sum_{j=1}^{n}a_{ij}x_iy_j \qquad (7.4)$$

$$\sum_{i=1}^{m}b_{ij}x_j\le\sum_{i=1}^{m}\sum_{j=1}^{n}b_{ij}x_iy_j \qquad (7.5)$$

The system of inequations (7.4-7.5) must be solved in order to determine the equilibrium, under the following condition

$$\sum_{i=1}^{m} x_i = 1; \quad \sum_{j=1}^{n} y_j = 1; \quad x_i \geq 0; \quad y_j \geq 0$$

(7.6)

Nash theorem of bimatrix games: Each bimatrix game has at least one possible equilibrium situation in mixed strategies.

The equilibrium situation for bimatrix games is a set of mixed strategies (x^*, y^*) that satisfy the following inequations:

$$Ay^* \leq (x^{*T} Ay^*)(u)_{m\times 1} = E_A(u)_{m\times 1} \tag{7.7}$$

$$B^T x^* \leq (x^{*T} By^*)(u)_{n\times 1} = E_B(u)_{n\times 1} \tag{7.8}$$

If a game has an equilibrium point in mixed strategies, then it is unique and is calculated by means of the formulas

$$x = \frac{u\, B^{-1}}{u\, B^{-1}\, u}; \quad y = \frac{u\, A^{-1}}{u\, A^{-1}\, u} \tag{7.9}$$

where $u = (1,1,...,1)$ is a vector whose components are figures of 1 and which has dimensions of the matrix (Petrosyan, 1998.).

An example of a bimatrix game of negotiations with mixed strategies is the game „A family dispute“ (Petrosyan, 1998.). The game with the following matrix has been observed:

$$(A,B) = \begin{array}{c} \\ a_1 \\ a_2 \end{array} \begin{array}{c} \begin{array}{cc} b_1 & b_2 \end{array} \\ \begin{bmatrix} (4,1) & (0,0) \\ (0,0) & (1.4) \end{bmatrix} \end{array} \tag{7.10}$$

A husband (Player I) and his wife (Player II) can choose one out of two evening outings: going to a football match (a_1, b_1) or going to a theatre (a_2, b_2). If they have different wishes (a_1, b_2) or (a_2, b_1) then they stay at home. The husband prefers going to the football match, while the wife prefers going to the theatre and these are their pure strategies. However, it is more important for both of them to spend the evening together than to go separately either to the match or to the theatre. It is possible to make an exchange only if both sides agree to it voluntarily. If there is no exchange, both sides keep their status quo positions. Only if there has been an agreement made, there will also be a distribution of „excess“. If there is no

agreement made, each player gains as much as he/she would gain separately. Based on initial conditions, a set of all possible exchanges of S can be effected. Each point within this set represents distribution to individual members.

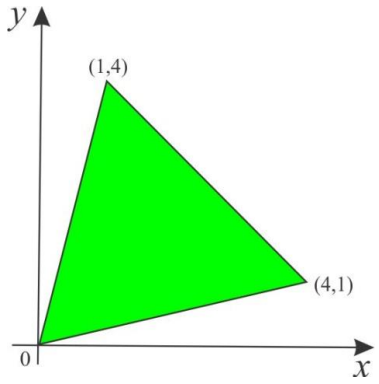


Figure 4. A set of possible exchanges

If pure strategies are used, there are two equilibrium situations in this particular situation, and these are points (4,1) and (1,4). However, these equilibria are not equivalent. Regardless of the occurrence of two equilibrium situations in pure strategies, they are not the „solution“ to the game and the outcome of the game is hard to predict. By using mixed strategies, the equilibrium of points (1/5,4/5) and (4/5,1/5) can be achieved. A gain vector in the *maxmin* strategy is $(x^*,y^*) = (4/5,4/5)$. The set of points that correspond to all the gains in mixed strategies is given in the figure 5.

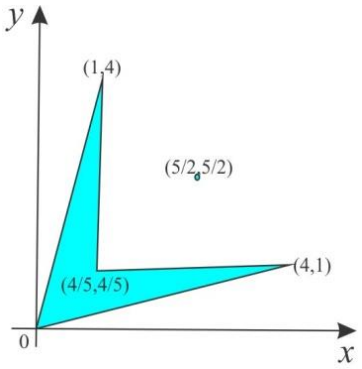


Figure 5. Points of equilibrium in pure and mixed strategies

Equilibrium situations in pure strategies are Pareto optimal. If the game is repeated many times, it makes sense that players with a ½ probability choose the arbitrary equilibrium strategy, out of two such

strategies. In that case, the average gain is (5/2, 5/2). However, the point corresponding to a given situation does not lie within the set of points that are determined by the rules of a non-coalition bimatrix game, i.e. it can not be exercised if the players choose their strategies independently of each other. Cooperative mixed strategy is a mixed strategy to which both players have agreed. By acting together, players can execute the arbitrary gain in the mixed strategy, within the area of R. However, this does not mean that they can agree on any outcome of the game. Thus, for example, the most acceptable point for the Player I is the point (4.1), and for the Player II – the point (1.4). None of the players will agree with the negotiations results unless his gain is less than the maxmin value (4/5, 4/5), given that he can achieve these smaller values by himself. The set of S that enables negotiations is limited by the points *a, b, c, d, e* and is called the negotiating game set. Acting in cooperation, players can agree to select a point on the segment *ab* as this is the most suitable solution (segment *ab* is Pareto optimal).

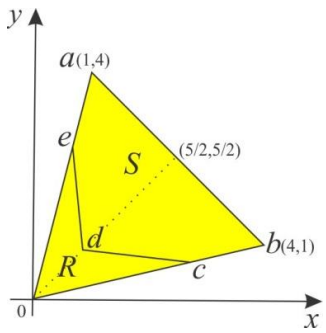


Figure 6. Set of R of mixed strategies and a negotiation set of S

The choice of strategy of each player remains accidental, however we have a completely coordinated action (husband and wife stay together) that has an equilibrium character, but where if one player decides to stick to this rule, the other player finds it optimal to stick to the agreement, too. This is the example of the correlated equilibrium (cooperative equilibrium), introduced into game theory by Robert Aumann.

Implementation of Game Theory in Diplomatic Negotiations

In this section, we will present an example of implementation of game theory in negotiations, given by Professor Robert Aumann. He was explaining the negotiations of the state of Israel with the Arab countries

(Feiglin, 2010). The analyzed game is called “The Blackmailer’s Paradox”. The game is the following one: players *A* and *B* have been invited to a hotel room, in which there is a suitcase with $100,000. The owner of the suitcase gives them the following proposal: “I will give you the money from the suitcase, under one condition – to negotiate over money sharing, which is the only condition for you to get the money”. The rational player *A* proposes to player *B* to split the money in half, and to leave the room with $50,000 each. To his surprise, the player *B* replies to him quite seriously that he has no intention of leaving the room with a sum smaller than $90,000. “If you want, you will accept it, if not, I will leave and both of us will have nothing”, player *B*’s attitude is. Player A does not believe his own ears and asks himself why he should get 10% of the total sum, while player *B* gets 90%? Then he tries to influence the player *B*. If we think about it logically – we are both in the same position and both want to take the money. Sharing it equally, we both win. However, player *B* replies – we have nothing to talk about. Either 90% : 10% or nothing. This is my last offer. Then player *A* realizes how player *B* is tough in his claims and that he will leave the room with any such money only if he accepts this blackmail.

This game is called “The Blackmailer’s Paradox" as the rational player *A* is forced to behave extremely irrationally in order to make the most of the situation. The logic of this extremely odd result is that the player *B* has created an impression in the eyes of the player *A* about reliability and security of his megalomaniacal requirements and thus persuaded him to agree to the blackmail and achieve the best possible result for him, which is 10% of the sum. Similar to this game are the negotiations between the state of Israel and Arab countries that are being underway. Arab countries take hard and unacceptable initial positions in these negotiations. They create the impression of conviction and foundation of their requirements in trying to explain to Israel that they will never give up their claims. In order to reach the peace, Israel, as a rule, accepts the blackmail, starting from the concept that they will “leave the room without anything”.

According to the game theory, Professor Aumann believes that the attitudes of the state of Israel in the negotiations must undergo some conceptual changes so that Israel could improve its position in the negotiations with the Arab countries and win in this long-term struggle. These changes are as follows:

- Willingness to drop out of the agreement: Israeli political concept, based on the assumption that an agreement must be made at any cost, is not sustainable. In the game “The Blackmailer’s Paradox”, the behavior of the player *A* is based on a concept according to which Israel must leave the room with any sum (even the smallest one). The absence of psychological preparedness of the player *A* to consider the

possibility of leaving the room empty-handed leads him to the acceptance of the blackmail. Therefore, the state of Israel must negotiate in such a way that it is psychologically prepared to reject the proposals that do not fit in its interests.

- They must take into account the results of the „repetitive games“: according to the game theory, a single round game strategy is different from the strategy of repetitive games. In games that are repeated over time, there is a strategic equilibrium that leads to cooperation of opposing parties, in a paradoxal way. Such interaction occurs when opposing sides realize that the game is repeated several times and that the impact of the current moves cause fear from loss in the future, which is actually the equilibrium factor in the negotiations. If the player *A* said to the player *B* that he did not accept the blackmail and left the room without money, then, should they find themselves again in the same situation, he would had a better negotiating position and reach the compromise more easily.
- The confidence in one's own position: the additional element that creates „The Blackmailer's Paradox“. A decisive conviction of one side of its own position (which is in this case the player *B)*, creates the impression in the eyes of the opponent that his position is correct. Direct result in this case is that the player *A* then wants a compromise and gives up his starting positions.
- Mediators in negotiations of this kind are not helping either side, but are led by their own interests.

Conclusion

The study tested and confirmed the applicability of game theory, especially antagonistic and cooperative games in the function of diplomatic negotiation modeling. In doing so, the diplomatic negotiation is modeled by the simple and mixed matrix games with zero-sum. The importance of obtained knowledge in this work is evident in yet untapped possibilities for the optimization of diplomatic negotiation in the terms of choice of negotiators' optimal strategy.

The application of game theory during diplomatic negotiation allows the maximization of diplomatic negotiation effects from one and minimization of counteracts to the diplomatic service or organization, on the other hand. Thus, as the negotiation is very uncertain diplomatic activity, which may cause serious consequences in solving the most complex political or diplomatic activities, it becomes more effective and efficient, primarily due to the optimization and predictability. Therefore, the development of diplomatic negotiation may be partly ensured by application of game theory, by development of proper databases on complex political situations and by training of diplomatic negotiators for their mathematical modeling.The game

theory analyzes behavior strategies of opposing sides in cooperative games, but does not analyze the issues of general and ethical values. Therefore, no country should ignore the basic principles of the game theory. If a state knew how to use these principles, it would enhance significantly its status in the negotiations, and, as a rule, improve its defensive position.

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INTERNATIONAL POLICE MISSIONS AND OPERATIONS OF EU

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Abstract

In 1992, the European Union assigned the "Petersberg tasks" foreseeing the possibility in engaging humanitarian missions such as peacekeeping and crisis management. Following the Kosovo war in 1999, the European Council agreed that "the Union must have the capacity for autonomous action, backed by credible military and police forces, the means to decide to use them and the readiness to do so, in order to respond to international crises without prejudice to actions by NATO. The creation of an EU capacity for crisis management has been set by the European Councils of Nice and Göteborg in order to be capable of covering a full range of police missions from training, advisory and monitoring missions to executive missions. To meet these EU goals at the Police Capabilities Commitment Conference in 2001 the Member States of the Union undertook responsibility to provide 5000 police officers by 2003, out of which 1400 police officers could be deployed within thirty days. Thus from 2003 EU's ESDP began to function effectively by conducting its first military and police missions in the European concretely the Balkans, and at international level beyond the European continent, such as middle east and Africa. The ongoing police missions EU Police mission in Congo (EUPOL RD CONGO) and European Union Monitoring Mission in Georgia (EUMM) present test of EU police capabilities. They were established for monitoring, mentoring and advising the two countries' police thus helping to fight organized crime as well as promoting European policing standards.

In this context the research paper aims to show the positive and negative experiences of the EU Police mission in Congo (EUPOL RD CONGO) and European Union Monitoring Mission in Georgia, thus serving to point out the perspectives for future developments and improvements in conducting police missions at the international scene by the European Union.

Keywords: police missions, European Union, crisis management operations, European policing standards

Introduction

The world is changing and Europe faces an increasingly complex and uncertain security environment. As the world's largest trading and economic bloc, there is a growing demand for the European Union to become more capable, more coherent and more strategic as a global actor. In 1992 with the Maastricht Treaty, European Political Cooperation was renamed as the Common Foreign and Security Policy (CFSP). The aims of the Common Foreign and Security Policy are to promote both the EU's own interests and those of the international community as a whole, including the furtherance of international co-operation, respect for human rights, democracy, and the rule of law. Concerning the security policy of the European Union, it does not have one unified military. The predecessors of the European Union were not devised as a strong military alliance because NATO was largely seen as appropriate and sufficient for defense purposes and right after the Second World War the Europeans did not trust each other to create mutual army (especially Germany) (Klod, 2006).[1] There was also the Western European Union (WEU), which was a European security organization related to the EU. In 1992, the WEU's relationship with the EU was defined, when the EU assigned it the "Petersburg tasks" (humanitarian missions such as peacekeeping and crisis management). These tasks were later transferred from the WEU to the EU by the Amsterdam Treaty; they formed part of the new CFSP and the Common Security and Defense Policy. From the very beginning of the creation of the European Security and Defense Policy (ESDP) as part of the Common Foreign and Security Policy (CFSP) of the European Union (EU), there have never been stressed that there will be military component that in any way would be parallel the that of United States and would jeopardize its global ambitions (Михта, 2009).[2] Following the Kosovo war in 1999, the European Council agreed that "the Union must have the capacity for autonomous action, backed by credible military forces, the means to decide to use them, and the readiness to do so, in order to respond to international crises without prejudice to actions by NATO.

Summits in Nice and Gothenburg

On 7th December 2000, right before the summit in Nice, the French President Chirac declared that European defense will be coordinated with the NATO Atlantic Alliance, however as far as its preparation and execution, it

[1] Jean Clod, Gotron European Law, Congress Service Centre, Skopje 2006

[2] Andrew A. Mihta, The borders of the Alliance -USA, NATO and EU in North and Central Europe, |Ars Lamina, 2009 Skopje

must be independent in relation to the command of NATO. The British Prime Minister Toni Blair responded that it would be absolutely wrong if anyone thinks that the European Union have security capacity independent from NATO. For the United Kingdom there is nor decision neither desire to have a separate military capacity and any significant operation would require funds from NATO and any such operation would be planned in NATO from Planning Committee. This underlines the goal of EU to develop strategic partnership with NATO. Amongst the most important decisions made on the summit of Nice in the area of the European Security and Defense Policy (ESDP) was the formal and final creation of temporary war committees, established on temporary basis as legally foreseen in article 25 from Treaty of the European Union amended with Treaty of Amsterdam in 1997 (Treaty Of Amsterdam Official Journal C 340, 1997). [3] As regulated in Article 25 Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the responsibility of the Presidency and the Commission. Within the scope of this title, this Committee shall exercise, under the responsibility of the Council, political control and strategic direction of crisis management operations. The Committee may be authorize by the Council, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant decisions concerning the political control and strategic direction of the operation.[4] With the creation of the three bodies Political and Security Committee, the Military Committee and Military Headquarters, EU was complete with infrastructure so that it can implement the ESDP. A key role of the three bodies in relation to the dialogue with NATO had Political and Security Committee, while the Military Committee ensured coherence in planning operations with the bodies of NATO. The implementation and the formation of these bodies greatly reflected the experience of from the previously institutionalized contacts between NATO and Western European Union (i.e. of certain EU Member States through the WEU). In relation to the participation of third countries that are not members of the EU in ESDP operations. (Such as Turkey), the Summit envisaged a pre-operational phase of the crisis for conduction of dialogue and the consultations at all levels with third countries to ensure that the countries that will potentially contribute to such an operation are informed of the EU intentions,

[3] Treaty Of Amsterdam Amending The Treaty On European Union, Official Journal C 340, 10 November 1997

[4] Ibid, Article 25.

particularly in relation to the military implications. Moreover, such consultation will be intensify when planning of operations which need the use of NATO capabilities and assets and are made before the Council makes a decision to launch the operation. In the Annexes of the Presidency Conclusions detailed procedures and ad hoc joint meetings with NATO were foreseen, which would be attended by Political and Security Committee, Military Committees of both organizations and the NATO's Political-Military Group. Such mutual consultations and meetings would further be in use shortly before the outbreak of international or regional crises, in which the Union would want to intervene. In operations where the Union uses the funds of NATO, the Alliance will be regularly informed about the use of its assets. The political decisions concerning the security operations would be made only by the EU member states, where as the operational decisions would be subject to decision of all the countries that provide significant forces and which are members of the so-called "Committee of the contributors". In operations where the EU uses NATO assets (and it would in the beginning performed mostly such operations, that are necessary for extensive operations), the relationship between the EU and NATO would be based on the client relationship as predicted in the Berlin Plus agreement, while at the political level the Union would be autonomous from NATO. In a preliminary phase consultations will take place with NATO members who are not EU members like Norway and Iceland, but also the third countries - primarily Canada, Russia, Ukraine, etc. In terms of these "signals" by the EU, at the NATO's Ministerial meeting held in Brussels, for the most part NATO agreed with the conclusions of the EU Summit. However, it have gave particular importance of participation in EU operations and the issue of non-discrimination of the states that are members of the Alliance, but are not members of the Union, (such as Turkey) as well as the need for a permanent arrangement with the Union regard of this questions. According to NATO Ministers all questions must be resolved in a package, that either all questions will be solved together or there will be nothing from the EU – NATO Agreement. By all means, it is not possible some questions to be inserted in a permanent agreement and other questions to stay out of it and continue to be negotiated indefinitely. It is a well-known formula: "Nothing is agreed until it is all agreed". This attitude of the Alliance is largely owed to the attention of the importance of strengthened European military capabilities in regards to Petersberg tasks where the Alliance as a whole is not involved and possible creation of European army.

A significant step forward made in Gothenburg Summit was the precise definition of the Union's military capabilities and the possibility of their early involvement in dealing with crisis situations (European Council

16 of June 2001).[5] The Presidency concluded that the harmonized arrangements for consultation and cooperation with NATO were operational and functional including the with non-EU countries which are members of NATO such as Turkey and those countries aspiring for EU membership. This was demonstrated by the successful coordination relating the crisis in the Western Balkans, but at the same time calling for quick adoption of agreement allowing EU access to NATO capabilities and assets. Furthermore, a goal was verified that till year 2003, the EU should be able for quickly deployable and sustain forces capable of implementing a full range of Petersburg tasks, including the most demanding. For that reason, the Summit approved policy and program of security exercises, which identified the needs of the EU exercises and categories of security exercises, including joint exercises with NATO from 2001 till 2006. The goal of all activities EU and its authorities, to deal with crisis situations to be found quickly became operating by the next summit in Laeken in December of the same year. The European Council in Gothenburg also backed the EU program for the prevention of violent conflict, which was aimed to enhance the capacity for conflict prevention, analysis and action. The capacity for conflict prevention according to the report should be incorporated into all aspects of the Union's Foreign Relations, including the ESDP, as well as the development cooperation and trade, because it is "one of the main objectives of the Union's external relations." Along with the military capacity, the Union also has developed a capacity for civilian crisis management in the field of police, justice, civil protection and civil administration. This reasoning can be easily seen from the following missions in Congo and Georgia, where the EU has a broad and integrated approach to security, encompassing all its dimensions (political, socio-economic, demographic, cultural and military).

Georgia Independence and Civil War in 1991 and 2008

Georgia is sovereign state located in the Caucasus region at the crossroads of Western Asia and Eastern Europe, bounded to the west by the Black Sea, to the north by Russia, to the south by Turkey and Armenia and have population of almost 4.7 million mainly orthodox Christians. On April 9, 1991, shortly before the collapse of the Soviet Union, Georgia declared independence and Zviad Gamsakhurdia was elected as a first President of independent Georgia. Gamsakhurdia encouraged Georgian nationalism and promised to assert Tbilisi's authority over regions such as Abkhazia and South Ossetia that had been classified as autonomous regions under the

[5] European Council In Goteborg, Presidency conclusion on ESDP in 16 of June 2001.

Soviet Union. Zviad Gamsakhurdia was soon deposed in a bloody coup d'état, from December 22, 1991, to January 6, 1992. The coup was initiated by part of the National Guards and a paramilitary organization called "Mkhedrioni" or "horsemen". From this point the country became entrapped in a bitter civil war which lasted almost until 1995. In 1995, the leaders of the coup Eduard Shevardnadze was officially elected as president of Georgia. At the same time, boiling disputes within two regions of Georgia, Abkhazia and South Ossetia, between local separatists and the majority Georgian populations, erupted into widespread inter-ethnic violence and wars. Supported by Russia, Abkhazia, and South Ossetia, achieved de facto independence from Georgia. After the Rose Revolution in 2003, where new government introduced democratic and economic reforms, there was growing U.S. and European Union influence in Georgia, notably through proposed EU and NATO membership, the U.S. Train and Equip military assistance program and the construction of the Baku-Tbilisi-Ceyhan pipeline, have frequently tense Tbilisi's relations with Moscow. From its independence and Rose Revolution in 2003, Georgia is working to become a full member of NATO. In August 2004, the Individual Partnership Action Plan of Georgia was submitted officially to NATO. On October 29, 2004, the North Atlantic Council of NATO approved the Individual Partnership Action Plan (IPAP) of Georgia and Georgia moved on to the second stage of Euro-Atlantic Integration. These events, along with accusations of Georgian involvement in the Second Chechen War, resulted in a severe deterioration of relations with Russia, fuelled also by Russia's open assistance and support to the two secessionist areas. In 2008, a military conflict between Georgia and a grouping of Russia, South Ossetia, and Abkhazia was started by the bombing of Georgian towns around South Ossetia and months-long attacks on Georgian police and peacekeepers, supposedly by South Ossetian militias. This was followed by Georgian forces began shelling the South Ossetian capital, Tskhinvali, an advance of Georgian Army infantry into South Ossetia and retreat of Russian peacekeepers and South Ossetian forces. However, after a Russian peacekeepers' base was shelled and personnel killed, units of the Russian 58th Army, supported by irregular forces, entered South Ossetia through the Roki Tunnel, thus leading to a three-day battle which left the city of Tskhinvali in ruins. Georgian forces were subsequently forced to retreat and the Russian Air Force began launching airstrikes against Georgian forces in South Ossetia, and multiple targets inside Georgia territory. A second front was opened when the separatist Republic of Abkhazia, with Russian support, launched an offensive against Georgian troops. On August 12, 2008, President Medvedev announced a halt to further Russian military operations in Georgia and ordered a gradual withdrawal from certain Georgian territories. However, Russian forces remained in

South Ossetia and Abkhazia, the independence of which it soon recognized. In both territories large numbers of people had been given Russian passports, some through a process of forced passportisation by Russian authorities. This was used as a justification for Russian invasion of Georgia during the 2008 South Ossetia war after which Russia recognized the region's independence. The independence is denied by Georgia, which considers the regions as occupied by Russia. Both republics have received minimal international recognition (similar to Kosovo).

European Union Monitoring Mission in Georgia

Already conducted missions of the European Union can be divided into three types, namely: military, police and missions for the rule of law. The mission for the Rule of Law in Georgia called EUJUST THEMIS is the first of its kind that Union launched outside Europe, which has largely civilian character and belongs to the missions of civilian management. It aims to strengthen the protection of civilians, strengthening civilian administration and the rule of law (Joint action 2004/523/CSDP, Official Journal L228/21).[6] One year later, in 2005 the Union launched a similar mission in Iraq (Joint action 2005/190/ CSDP 2005 Official Journal L62/37).[7] It is important to note that in Georgia and Iraq the global key players U.S. and Russia have major interests, so the Union missions are mainly with civilian character less with military or police engagement. For this reason, the mission is mainly aimed at providing guidelines for drafting a new Code of Criminal Procedure, for which representatives of the Union are located in Union delegation in the capital Tbilisi, as well as relevant institutions, ministries, courts and prosecutors. The main tasks here are judicial and anti-corruption reform. Several programs preceded the mission such as TACIS program for technical assistance since 1991 and the Agreement on Partnership and Cooperation between the EU and Georgia in 1999 to promote the rule of law. In 2000 the overall legal aid is governed by the Regulation of the European Council and the Commission Strategy Paper adopted in 2003(Council Regulation 99/2000/CSDP Official Journal L12 /1).[8] On 15 September 2008, the Council decided to establish a new autonomous civilian monitoring mission in Georgia (Council Joint Action

[6] Council Joint Action 2004/523/CFSP of 28 June 2004 on the European Union Rule of Law Mission in Georgia, EUJUST THEMIS, Official Journal L228/21

[7] Council Joint Action 2005/190/CFSP of 7 March 2005 on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX, Official Journal L62/37

[8] Council Regulation (EC, EURATOM) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia, Official Journal L12 /1

2008/736/CFSP, Official Journal L 248/2).[9] The mission was deployed on 1 October 2008 beginning with oversight of the withdrawal of Russian armed forces from the areas next to South Ossetia and Abkhazia, in accordance with the arrangements set out in the Agreement of 8 September 2008 and the mandate of the mission which every year was subsequently extended for another five years until 14 September 2013, with certain possibility for further extension (Council Decision 2012/503/CFSP , Official Journal L249/13).[10] Over 200 civilian monitors were sent by EU Member States to contribute to the stabilization of the situation on the ground following the August 2008 conflict. All 27 EU Member States contribute personnel, both women and men, from a variety of civilian, police and military backgrounds. This mixture of professional skills and experiences has been vital to ensure a balanced and effective approach to a complex environment. They monitor compliance by all sides with the EU intermediate Six-Point Agreement of 12 August 2008, signed by both Georgia and Russia, and the Agreement on Implementing Measures of 8th of September the next month (Six point agreement of 12 August 2008 between Russia and Georgia). [11] Ever since, the mission has been patrolling day and night, particularly in the areas adjacent to the South Ossetian and Abkhazian Administrative Boundary Lines. The Mission's efforts have been primarily directed at observing the situation on the ground, reporting on incidents, and, generally, through its presence in the relevant areas, contributing to improving the security situation. EUMM is mandated to cover the whole territory of Georgia, within the country's internationally recognized borders, but the de facto authorities in Abkhazia and South Ossetia have so far denied access to territories under their control. The EU Monitoring Mission in Georgia (EUMM) is an unarmed civilian autonomous monitoring mission led by the EU under the Union's Common security and defense policy (CSDP). Given the termination of the UN and OSCE monitoring missions, EUMM is now the sole international monitoring mission in Georgia which has increased the significance of EUMM activities. The Mission also monitors the normalization of the situation after the 2008 war, including, inter alia, the restoration of the rule of law in the areas directly affected by the 2008 conflict and the return of normal living conditions for Internally Displaced

[9] Council Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia, EUMM Georgia, Official Journal L 248/2.

[10] Council Decision 2012/503/CFSP of 13 September 2012 amending Decision 2010/452/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia, Official Journal L249/13.

[11] Six point agreement of 12 August 2008 between Russia and Georgia ogether with representatives of the European Union and OSCE, ttp://ncafp.org/cms/wp-content/uploads/2011/08/Implementation-Review-Russia-and-Georgia-Aug20111.pdf

Persons (both from the 1991 – 1993 and the 2008 wars) and local residents in areas adjacent to the Administrative Boundary Lines with Abkhazia and South Ossetia. Thanks to its extensive presence on the ground, the Mission has the capacity to gather regular and timely information on the situation and then passed on to the relevant local, national and international bodies responsible to provide concrete assistance. Its objectives are to contribute to stability all over Georgia and the surrounding region. In the short term, to contribute for the stabilization of the crises situation, in accordance with the Agreement and the subsequent implementing measures. Its main tasks include: Confidence Building in the areas next to the Abkhazian and South Ossetian Administrative Boundary Lines; monitoring and analyzing the situation pertaining to the stabilization process, centered on full compliance of the six-point Agreement; monitoring and analyzing the situation as regards normalization building, the return of internally displaced persons and refugees, and contributing to the reduction of tensions through liaison, facilitation of contacts between parties and other confidence-building measures. Under an agreement reached at the Geneva Discussions in February 2009, regular meetings between all the parties to the conflict were to take place to discuss and resolve specific incidents and issues, with the aim of developing greater confidence and co-operation between the parties. This forum, called the Incident Prevention and Response Mechanism, has held a series of meetings with participants from EUMM, UN, OSCE, Georgia, Russia, Abkhazia and South Ossetia. Attached to the Mechanism is a "hotline" telephone system working in both theatres. The hotline has proven very useful for participants to effectively establish a common understanding of events surrounding specific incidents and it has repeatedly helped to de-escalate arising tensions. EUMM also has working contacts with the security forces of the Russian Federation present in the two theatres. On 26 April 2010, the Council welcomed the continued efforts of the EUMM in implementing its mandate. The EUMM has made and continues to make significant contributions in the area of stabilization and normalization of the situation in Georgia. Mainly through its monitoring activities and by promoting communication between the parties via the Incident Prevention and Response Mechanisms (IPRM). By the Georgian Government EUMM is perceived as an indispensable element to ensure security and stability in the areas adjacent to the regions of Abkhazia and South Ossetia.

Independence and Civil War in DR of CONGO

The Democratic Republic of the Congo (formerly known as Zaire) is the second largest Francophone Christian country in Africa by area with a population of over 71 million. In May 1960, a growing nationalist

movement, led by Patrice Lumumba, won the parliamentary elections and the Belgian Congo achieved independence on 30 June 1960 under the name "Republic of the Congo". Lumumba had previously appointed Joseph Mobutu chief of staff of the new Congo army who got financial support from the United States and Belgium by which the western powers aimed to restraining the communism and leftist ideology influenced. After Mobutu's coup in 1965 a constitutional referendum resulted in the country's official name being changed to the "Democratic Republic of the Congo- DRC ", which in 1971 it was changed again to "Republic of Zaire." The new president had the support of the United States because of his firm opposition to Communism. Western powers appeared to believe that president Mobutu would make a barrier to Communist schemes in Africa. However, as Mobutu and his associates misused government funds from 1971 till 1997 Zaire was known as "kleptocracy" Following the Rwandan Civil War and genocide and the rise of a Tutsi-led government in 1996, Rwandan Hutu militia forces fled to eastern Zaire and began refugee camps as a basis for incursion against Rwanda. These forces allied with the Zairian armed forces to launch a campaign against Congolese ethnic Tutsis in eastern Zaire. In return a coalition of Rwandan and Ugandan armies then invaded Zaire to overthrow the government of Mobutu, and ultimately control the mineral resources of Zaire, launching the First Congo War. This new expanded coalition of two foreign armies allied with some longtime opposition figures inside Zair, led by Laurent-Désiré Kabila. In 1997, Mobutu fled the country and Kabila marched into Kinshasa, naming himself president and reverting the name of the country to the Democratic Republic of the Congo. In 1998 Rwandan and Ugandan troops, started the Second Congo War by attacking the DR Congo army where Angola, Zimbabwe and Namibia became involved militarily on the side of Congo. This was the beginning of the second Congo War referred as the "African world war", involving nine African nations resolving with death over 5.4 million people making it the deadliest conflict since World War II. Later, Laurent Kabila asked foreign military forces to return to their countries because he was concerned that the Rwandan officers running his army were plotting a coup in order to give the presidency to a Tutsi leader who would report directly to the Rwandan president. Kabila was assassinated in 2001 and was succeeded by his son Joseph Kabila, who called for multilateral peace talks to end the war. UN peacekeepers, MONUC, now known as MONUSCO, arrived in April 2001. Talks led to the signing of a peace accord in 2003 in which Kabila would share power with former rebels and all foreign armies except those of Rwanda had pulled out of Congo. A constitution was approved by voters, and on 30 July 2006 DRC held its first multi-party elections. An election result dispute between Kabila and Jean-Pierre Bemba turned into an all-out battle between their supporters

in the streets of Kinshasa. MONUC took control of the city. A new election was held in October 2006, which Kabila won with 70% of the vote.

European Union Missions in CONGO

In 2002 the European Security and Defense Policy was declared operational for the first time in the history of the existence of the European Union (and Communities) and had made preparations to undertake its first autonomous military and police operations. As a result in 2003 the Union undertook two police and two military ongoing operations from United Nations and NATO (operations for crisis management) in Bosnia, R. Macedonia and Congo. The first military mission of the European Union staged outside Europe and without help from NATO's was the mission called ARTEMIS launched 2003 in Congo (Council Joint Action 2003/423/CFSP, Official Journal L 143/50).[12] Similar to the previous missions in Bosnia and Republic of Macedonia the mission replaced the existing peacekeeping mission MONUC from United Nations which was called on the field since 1999 under Resolution 1484 which appeared just at a time when Union built its security capabilities (Security Council Resolution 1484 United Nations, OJ S/RES/1484, 2003).[13] The purpose of the mission was the protection of refugee camps, aid workers and United Nations personnel, and stabilizing the security situation in towns Bunia and Ituri. It was intended to protect civilians and chemistry in Bunia attacked by Lendu militiamen. The mission was initiated at the request of the Secretary-General of the United Nations Kofi Annan in which the High Representative for CFSP Javier Solana reacted immediately by presenting the idea of the Member States after two weeks of June 12, 2003 the mission is launched. Lead military force was the 1700 French troops out of the 2000s. Command chain consisted of the French generals while operating headquarters was located near Paris in Center planning and conducting operations with regional headquarters in Uganda and operational office in Congo. In this case France was supporting (framework) nation that initially showed interest and provided military and command facilities.

In 2005 the military mission was replaced with a new mission called EUPOL-KINSHASA as the first EU police mission in Africa with main objective as international assistance efforts in securing the elections (Council

[12] Council Joint Action 2003/423/CFSP of 5 June 2003 on the European Union military operation in the Democratic Republic of Congo, Official Journal L 143/50.

[13] **Security Council Resolution 1484 United Nations. S/RES/1484 (2003)**

Joint Action 2004/847/CFSP, Official Journal L 367/3).[14] Later in July 2007 the previous mission was succeeded by new police mission called European police mission in the Democratic Republic of Congo - EUPOL RD CONGO (Council Joint Action 2007/405/CFSP, Official Journal OJ L 151).[15] EUPOL RD CONGO is a mission support, coaching, support and advice to the Congolese authorities for the sector reform in the field of police and its interaction with justice. The mission is also involved in cross-cutting areas of the police reform including Human Rights, Gender, child protection in armed conflicts and in the field of sexual violence and has neither competence nor intended to replace the Congolese police in their duties and responsibilities. EUPOL RD CONGO's mandate was extended for another year until 30 September 2012. It is composed of 49 international staff specialized in police and civilian technical expertise in the areas of police, justice, civil criminal of human rights, the rights of children in armed conflict and gender / women and since October 2009, expertise in the field of the fight against sexual violence and impunity. The headquarters of the EUPOL RD Congo is Kinshasa and also has a branch in Goma (North Kivu), in order to contribute to the stabilization process in the east of the country, mainly in parts "police", "human rights", "child protection" and "gender / women" and the fight against sexual violence. With this mission, the EU has demonstrated its commitment to support the process of sustainable stabilization of the DR of Congo, through political action, aid missions and military and police with a all-inclusive and long term approach. On 26 April 2010, the Council welcomed the work of EUPOL RD Congo in supporting the reform of the Congolese national police and its interaction with the justice sector, in particular the positive results, such as the submission of the draft Organic Law for the Police to the Congolese National Assembly. The Council noted other significant materials such as the Police Action Plan and the significant coordination work conducted by the Monitoring Committee of the Police Reform (CSRP).

[14] Council Joint Action 2004/847/CFSP of 9 December 2004 on the European Union Police Mission in Kinshasa (DRC) regarding the Integrated Police Unit (EUPOL 'Kinshasa') , Official Journal L 367/3.

[15] Council Joint Action 2007/405/CFSP of 12 June 2007 on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo) Official Journal OJ L 151 .

Conclusion

With the development of the ESDP, the Union's capacity to contribute to international peace security in accordance with the principles of the Charter of the United Nations was established. Along with the military capacity, which should serve as a last resort if other instruments fail, the Union also has developed a capacity for civilian crisis management in the field of police, justice, civil protection and civil administration. The reason for this is that unlike other organizations such as NATO, that rely on "hard power" in resolving security crises, the EU has a broad and integrated approach to security, encompassing all its dimensions (political, socio-economic, demographic, cultural , and military). This approach of the Union was also due to the fact that September 11 and the U.S. response then shown that military intervention as a means cannot absolutely guarantee the security of any of the world's most powerful state. It could immediately impose a solution, but could not eradicate the causes of security threats. \

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SECURITY DILEMMAS AND GEOPOLITICAL TRENDS AFTER THE ARAB SPRING AND POSITION OF THE POWER COUNTRIES IN THE MIDDLE EAST

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Abstract

The beginning of the second decade of the new millennium was marked by events in the Middle East and the MAGREB countries known as the "Arab Spring." Certain theoretical assumptions, based on these events conditionally called "revolutions", suffered a crash, and others have confirmed their liberal democratic existentiality in modern conditions. However, despite all events occurred in these countries once again "the rule" that there are no eternal friendships but there are eternal interests of the powerful and strong have been proved. This was shown also by the "Arab's spring" and the change of the longstanding autocratic secular regimes in these countries by the new Islamic-oriented political elites led by the "Muslim Brotherhood". These changes, besides the existing security dilemmas and long years' unsolved issues throw on the surface new security dilemmas, whose solving is a challenge for the next period. Unsolved issues and security dilemmas associated by the achievement of a lasting peace in the Middle East, stopping Iran's nuclear ambitions, growing Islamic radical fundamentalism, the demand for energy resources and other, remains a major challenge around which there is a "fight" for domination in the Region. The development of events by the use of political, economic and military mechanisms, by the great powers, actualize dilemmas in the Middle East, or there is a redefinition of strategic interests between the U.S. and the West on the one hand and Russia and China on the other hand. Is the United States going to fail to deter Iran from its nuclear ambitions? Is the replacement of the longstanding and proven allied autocratic secular regimes by new pro-Islamic-minded leaders of the Muslim Brothers organization going to bring peace, democracy and respect for human rights in this region or not? Is the bloody civil war in Syria actually a reflection of the political and economic struggle between the U.S. and the West on the one hand and Russia, China, India, on the other hand to control oil and gas reserves? Is this the U.S. struggle to maintain their dominant position as global power, especially in the control of production and distribution of crude oil and gas? Is this one of the United States mechanisms to slow down the political, economic and military growth of China as well as increasing Russia's growing political and

economic power? Development of events and the high price of crude oil and gas are in favor of Russia, as the largest producer and exporter of these energy resources, and for China oil resources of Iran are more than necessary to extend its economic and political expansion. Those are longtime actual dilemmas, not only on regional basis, but also in the world, and these events caused by Arab spring get a new dimension which clearance is yet to come.

Keywords: security dilemmas, interests, Arab spring, energy resources

Introduction

After the collapse of the bipolar system in the last decade of the 20th century, new rules were introduced in international organizations - NATO, EU and UN. Changes have taken place under the strong influence of economic developed countries, and regarding the manner of making and functioning of these international organizations, especially in applying political and economic sanctions and military interventions primarily against a particular country. In this period, the tendency of the United States as a global player was to exploit the weakness of his own ideological and political rival and was promote as the flagship of globalization and to keep the leading position in front of their opponents, Europe, China and above Russia, as long they can do that. That position would allow nearly two decades domination of the U.S. and Western allies on the global political, economic and military scene.

However, in this "vacuum period", other great countries with powerful natural resources turned to fix the situation at home and consolidate their political, economic and military potential. After nearly two decades of consolidation of these (old new) centers of power, with the signing of The Collective Security Organization Treaty and Shanghai Cooperation Organization by Russia, China, India and Brazil, multipolarism was formed as counterweight to globalization led by U.S. through its mega project European Union.

Being in this situation, Washington strengthened political, economic and military cooperation with the EU through NATO and other allies in order to keep and to maintain its dominance. On the last NATO summit in Chicago in 2012, was established the policy of building closer relations with the United States and among its allies and partners through closer political, economic and especially military cooperation.

In addition, the policy of the "open door" for admission of new members into the zone of "free democracies" was emphasizing. U.S. is aware that without a good logistical and other support from European countries will not be able fully to realize their interests in the Middle East

and Central Asia, and thus will not be able to maintain the primacy of global power (Chicago Summit Declaration, 2012). This strengthening of cooperation between the U.S. and these countries should contribute to the alleviation of the political, economic and military influence of Russia, slowing the rapid economic growth of China and establish full control and dominance over energy resources in the Middle East.

In this region, all involved parties have their own interests. Every country calculates how to come as a winner. In this situation, the biggest losers are the Arab countries.

The situation in the countries of the Middle East after the Arab Spring

The beginning of 2011 was mark by mass protests of the population against long autocratic rule in the Arab countries and the Maghreb countries. Social and political movements of thousands of residents of Arab countries are not even close to an end. They brought some changes in Egypt, Tunisia and Libya and began to shake the internal stability of Yemen and to assuage a different extent and authoritarian regimes in Syria, Bahrain, Jordan, and Algeria, some from Iraq, Kuwait and Morocco.

The changes that occurred in the Arab Spring led to the replacement of the dominant Arab national identity with intensive Islamic identity. However, the main issue is that these countries took and lost by a violent change of yearlong autocratic regimes. The practice demonstrated that it is easier to break down autocratic regimes than to establish western democratic values.

The background of the events lies in the past of these countries, mismanaging demographic policy, bad economics set, the lack of animal resources, the large impact of the security structures on politics, lack of democracy and the like. Namely, during the fifties of the 20th century nationalism emerged as the dominant political philosophy in the Arab countries after the withdrawal of European colonial powers. At that time, the Arabs through the Arab nationalism failed to strengthen their identity.

After a humiliating defeat by Israel in the Arab - Israeli war of 1967, the public began to turn against the Arab national movement. Their approach and philosophy were more attractive, and autocratic regimes have further complicated the situation. The new governments in the Middle East today are less Arabic, national and secular and Islamic oriented. All suffer from the consequences.

The lessons learned and the experience from Iraq show that Christians and other minorities lived better under Saddam Hussein' regime

than today. In Lebanon and Egypt, strong national identity suppresses the tendency of people to identify themselves as Muslims. In Libya, after the overthrow of the Gaddafi regime, this state does not function as a unified country, it is in a civil war and gradually breaks down into parts as Somalia.

The most dramatic is the situation in Syria where nearly two years there is a bloody civil war between pro-government forces and various opposition clans. According to Thierry Meyssan (2012), "discord and division of the various Syrian opposition factions reflect the clash between different countries who want change in Syria." Especially famous is "National Council" (NC) known as "Istanbul council" funded by Qatar, which is in a tight coupling of the French intelligence service Direction Générale de la Sécurité Extérieure.

Syrian Local Coordination Committee is comprised of local residents who opted for armed struggle. While most populous Free Syrian Army that includes the brigades of Al Qaeda was influence by Turkey. This situation was not in the favor of the United States. U.S. through the Arab League tried to liquidate NC and other factions and placed them under the protection of The National Coalition for Syrian Revolutionary and Opposition Forces (NCSROF), which were affecting by the U.S. (Meyssan 2012).

For that purpose, Obama appointed Robert S. Ford as ambassador to Syria, who is considered, as one of the best experts on the Middle East with extensive experience in conducting and playing the "secret diplomatic games" of Iraq and Honduras. For the leader of NCSROF in 2012, the U.S. put Sheikh Ahmad Moaz al-Khatib, aimed to be able to negotiate for the future of Syrian gas.

With these moves of the U.S., the biggest loser on the distribution of Syrian resources was again the French Total and France (Filip Balunović, 2012). However, the development of the events in Syria led to a situation that Ahmad Moaz al-Khatib can't negotiate about the resources in Syria and in March 2013, Ahmad Moaz al-Khatib resigned under the excuse that "the destruction of infrastructure in Syria, the unlawful detention of thousands, forced escape of thousands and other forms of suffering of Syrians were not enough for the international community to allow the Syrians to defend themselves against the government forces" (Ahmed A, & Elwazer S., 24 March 2013). Thus, the U.S. plans were not realized completely.

Despite these events in the countries on the Persian Gulf and North Africa, Arab Spring brought very different perception of the countries of the MAGREB and the Middle East, because the Western opinion on these Islamic countries was that the replacement of longtime rulers would be according the "monarchical principle". However, suddenly the traditional conception of these countries complicated and changed with the emergence of "civil

movements" in these countries, demanding more democracy and freedoms from the European countries and the United States.

According to the director of the Center for International Studies and Research in Paris, Luis Martinez (2012), "The problem with the countries on the Persian Gulf is that they are (in the mind of Americans) strategic partners of the USA", but Washington doesn't share the same opinion. The events in these countries were "strategic surprise" for the EU, but not for the U.S.

The main dilemma that arises with the Arab Spring was whether to support autocratic regimes or support requirements change. U.S. and EU surprisingly "sacrificed" their long-term secular allies and widely opened the door for the Islamists, led by the Muslim Brotherhood. With this decision, Saudi Arabia was most surprised, because the Muslim Brotherhood has opposite views with the Wahabists of Saudi Arabia.

The role of great powers in the struggle of interests and resources in the Middle East after the Arab Spring

Oil and gas are central topic of positioning of the U.S. in the Middle East. Currently, the U.S. military is present or almost all countries of the Persian Gulf are under influence of the U.S., with the exception of Iran and Syria to a certain degree. This means that the natural resources in these countries are under U.S. control. In addition, the exploitation of their oil giants is in charge of the United States and Europe. The only country where the U.S. has no control over natural resources is Iran, and while U.S. along with Israel seek for a solution how to establish control over these resources, not leaving the opportunity to use military force.

However, what still deters military action by these two countries is highly developed nuclear program of Iran (which unofficially is among the nuclear powers) and intensive influence of Russia and China. According to the U.S. Ambassador to the UN Susan Rice, "U.S. haven't decided on military intervention against Iran because Obama is trying with peaceful means to deter Iran's intention to develop nuclear weapons ... and the most difficult decision for a president is to plunge the country into war "(Susanne Rice, personal communication, September 16, 2012).

At this moment the U.S., do not want to confront Russia, because an eventual confrontation would have catastrophic consequences for the multinational force led by the U.S. and NATO in Afghanistan. Therefore, U.S. is looking for other methods to change the regime in Iran, and the media campaign against Tehran lasts for several years. Opposition demonstrations against President Ahmadinejad, according the Iranian authorities are well supported from outside, so it is possible to "cause internal instability", similar to the operation "AJAX" (IRAN 1953, Hrvatski vojnik, vol. 234

issued in April 2009) in the early fifties of the 20th century when the elected president of Iran, Mohammad Mosadik, was rightfully overthrown.

The way to resolve the issue with Iran cause silent conflict between the United States and Israel, which resulted in open announcements of Netanyahu that "Israel alone will shoot Iran's nuclear facilities if the U.S. continue with set-backs regarding this issue." Further on this the Israeli Prime Minister added, "With each passing day, Iran is very close (about 90%) to create a nuclear bomb ... and for that we need to pass the red line before them, before it's too late" (Benjamin Netanyahu, personal communication, September 16, 2012). Such Netanyahu's announcements remained declarative. President Obama, in the midst of the election campaign in the United States was not prepared to risk a new long war against Iran. However, this question remains open and for the U.S. and Israel, Russia and China. It is highly unlikely that Russia and China will allow new diversions of the UN Security Council when Iran is in question.

Another dilemma arises in the case of Iran - who gets and who loses from the current position and whether the U.S. really want to start a new long and uncertain war in the Persian Gulf? So far, Iran has half of its energy exported to Japan, about one-third to China and one fifth to the EU. With the potential crisis in Iran, the price of oil and gas on the world market will grow enormously, and Japan, China and the EU have to buy such expensive oil from somewhere. According to the analysis of experts, the U.S. intervention against Tehran automatically means extra profits for new Russian giant Gazprom and means reducing the competitiveness of Chinese manufacturers.

U.S. in the Middle East, in Central Asia and in Africa face even a bigger security dilemma which can significantly disrupt their plans for control of energy resources in these regions, and that is the growing economic, political and military power of China and its stronger impact on the third world. If the U.S. wants to prevent further strengthening and influence of China as a new superpower, with complex political, economic and military power, now is the time to take steps in that direction.

The Chinese authorities quickly and efficiently crushed attempts to internal destabilization of China stimulated under the banner of human rights in the eighties of the last century. We can hardly think for the foreign destabilization of China. There is no country from its neighbors (with the exception of Russia and to some extent India) powerful enough to afford this luxury as it was thirty years ago.

On the other hand, today, no one wants to confront China, nor politically, nor military, at least economically. The conflict between Japan and China in 2012 over disputed islands in the Pacific tossed to light the fact that large and powerful economies such as Japan are too sensitive to any

conflict with geopolitical interests with China. An attempt to demonstrate the political and military power by Japan, in this case caused a double-digit decline in Japan's trade with China and a decline in industrial production, especially in the automotive industry. The smaller economies in the region are almost entirely dependent on the Chinese market and investments.

If we compare the economic power of China 30 years ago and today, we will see a drastic difference in that regard. Today, economic growth has made China the center of world production of consumer goods and the world's first exporter of the same. Back in 1994, Lee Kwan Yu, who was more than 30 years prime minister of Singapore, as a prediction noted that "the size of the Chinese moving the world is such that the world must find a new balance. It is impossible to pretend that China is just another great player. It is the greatest player in the human history". However, China is not still a politically and military super power. China depends on Iranian and Russian oil and gas. The last ten years, the Chinese economy is a generator of military, political and diplomatic strengthening of China in the world.

The role and influence of the EU in the events related to the Arab Spring is not very evident, because the EU is not yet a political compactly and not even military power, as it is economically. It has burden still with many internal problems and lack of foreign - political objectives and independent military forces and is politically weak to pose itself as a country, which should put balance among other forces. However, its economic primate as superpower is a challenge that should be an answer in the future, especially when some of the biggest EU economies were brought to the brink of collapse because of the economic crisis three years ago.

In this period reality showed that the healthiest economy of all EU member states Germany has, which carries the largest burden of the financial assistance package to rescue the Euro zone. On the other hand, Germany pitted like hard opponent in further positioning the U.S. in Europe. Washington has long faced the challenge of how to reconcile the geopolitical interests of Germany, on the other hand shows disagreement about the support and funding of military operations led by the United States in which does not directly participate. It brings Germany to build closer partnership with Russia by which is energetically dependent and required other strong and independent partners that will allow political power to resist the impact of intensified influence of the U.S.

The Arab Spring was strongly supported by the EU without a deep analysis of new problems for the EU that emerged from it. The hope of EU leaders was that these countries will implement democratic and fair elections according the western template and previously broken systems will begin to function without any problems. However, there is always a difference between the predictions and preferences vs. realities and possibilities.

During the Arab Spring, and after, EU embraced strong wave of illegal migrants (Italy, France, Spain, and Greece). These illegal migrants on the one hand make it easier to overcome the economic crisis, but on the other hand refuse to replace their traditional values and customs with the country - recipient. It was a challenge that was not foreseen by the EU. It is necessary as soon as possible to resolve it before it has not become deeper.

After the events in the Middle East and Central Asia, and the issue of global security, Russia and the United States are recommended to cooperation. Russia has long developed relationships with the countries of these regions and has more than successful political, economic and military-technical cooperation with India and China. In the economic field, it is a member of multilaterals - BRIC (Brazil, Russia, India and China), which brings together four economies with the most potential and has a special partnership status with the EU.

The bilateral agreement on military-technical cooperation with Iran and energy-economic cooperation with Turkey is defined framework for peaceful coexistence and cooperation with the two largest Muslim countries in the region, and significantly restored the positions and interests of Russian influence in Serbia, Greece, Armenia, Syria, Uzbekistan and Azerbaijan (Oliver Bakreski, B. Avramoska and Z. Nikoloski, 2012).

When it is clear that other countries need to cooperate with Russia, the question is what the need of Russia's cooperation with others is. At this point, it seems that Moscow will pay more attention to domestic policy and that will continue for at least another ten years. On the one hand, it is understandable. Economic re-building of the country, reconstruction of the huge infrastructure, solving the problems of population outflow and negative demographic trends, especially in the eastern parts of the country, are preferential problems that the current administration should deal with. However, on the other hand, the question is when Russia will again be in a situation like today, to decide how the world's future will look like, because tomorrow that opportunity can disappear.

Obviously, Russia is looking for one or more partners who can most effectively help on the field of modernization of production capacity and diversification of the national economy, which would be less dependent on the exploitation of natural resources and the production of more consumer goods. Perhaps the choice of partners depends on things with political character that will happen in the future.

Conclusion

After the events of the Arab Spring, more effort is put in studying countries like Saudi Arabia, Kuwait, and Qatar, not to repeat the mistakes

that led to the Arab Spring. In countries affected by the Arab Spring, "new era of compromise of values" is coming where Islam is a fundamental value, while the government is under the control of political institutions.

Which way take to, U.S. meet Russia and China, and it is more than clear Washington to "reset the relationship" with Moscow and set up a new way. The question is whether it is in the interests of Moscow, what Moscow gets and loses. In addition, unless Moscow supports future U.S. action in Iran, and energy, economic and military environment of China and the isolation of Germany, Washington must choose:

- together with voluntary and involuntary collected partners will be able to go in realizing the geopolitical plans which probably would be turned into "raping solution" as the military occupation of Iraq:
- the establishment of civil administration in Afghanistan, or
- to accept the fact that the phase of global domination ends and that the world is entering into a new period of multiple centers of economic, political and military power.

The open issues in the future will be settled by negotiation, and in such circumstances, potential conflicts can arise only at the local level. In that case, of course, a dilemma will be opened, which country is eligible to be a regional power and how many of such powers may exist in the world, but the system to be functional. Yet for a long time regional and global powers will be countries with powerful resources, strong economies and strong political influence of the military instrument of coercion of the "disobedient".

In a world like that, the U.S. would remain militarily dominant, China would be the first world economic power and the largest manufacturer of goods in the world, India would be the largest provider of services, and Europe may focus on the development of innovation and technology. However, only Russia and its position can play a role of balancer and thus does the total balance in international relations.

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SECURITY ISSUES AND RISKS OF THE EUROPEAN NEIGHBOURHOOD: EASTERN PARTNERSHIP (EAP)

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Abstract

If we exclude the area of SE Europe (Western Balkans), the European Neighbourhood in the East includes new neighbors - Russia, Belarus, Ukraine, Moldova, Georgia, Armenia and Azerbaijan. The process of EU enlargement to Central and Eastern Europe showed that the former Soviet Republics are very important as the main objective of European foreign policy of the stability and prosperity in its neighborhood. Because of the importance of their geo-strategic position, there has been a need for more systematic inclusion of these countries in the project of European foreign and security policy.

Parallel with the development of security and defense policy, the EU has developed a different policy towards its neighbors in order to strengthen stability and security beyond the EU and to impose itself as a regional and global player in the stabilization of European and international issues. In this paper, the emphasis is on the Eastern Partnership (EaP), the policy that EU is developing towards its neighbors in the Eastern Europe and South Caucasus.

The main goal is to set out the key security challenges of the Eastern neighborhood and to determine how the Eastern Partnership helps stabilize the security of Eastern Europe and South Caucasus.

Keywords: Security Issues, European Neighbourhood, Eastern Partnership, East Europe, South Caucasus

Introduction

Interest for Security Cooperation of EU Member States has been present from the very beginnings of European integration. Specifically, the idea of common security and defense policy is several decades old.[1] Nevertheless, during nearly 40 years of European construction, the term" common foreign policy" hasn't found its place in the contracts.[2]

However, the stronger political unity comes with the major geopolitical and geostrategic changes in the international community

[1] There is a rejected plan from 1952. of the creation of the European Defense Community.

[2] Yet, since 1970. Member States of the European Communities have worked together at an intergovernmental level in the framework of European Political Cooperation – that policy has been the forerunner of the Common Foreign and Security Policy

(1990s). The end of the Cold War and the disintegration of the Soviet Union caused radical changes on whole international arena. On the one hand there is the emergence of new challenges to the European stability and security and on the other hand, that situation has provided that the European Union has become an independent entity in dealing with European and global political and security problems.

Since signing the Treaty of Maastricht, the EU has expressed its position on armed conflicts, human rights and other issues that are important for the preservation of international security.

Parallel with the development of security and defense policy, the EU has developed a different policy towards its neighbors in order to strengthen stability and security beyond the EU and to impose itself as a regional and global player in the stabilization of European and international issues.

With the fifth EU enlargement of 2004 and 2007 twelve new Member States joined, increasing the number of Member States to twenty-seven. The EU significantly extended its borders farther East, creating new neighbors in addition to bringing it much closer to Russia. New neighbours on the east are Russia, Belarus, Moldova, Ukraine and the South Caucasus States (Armenia, Georgia and Azerbaijan). When Malta and Cyprus became members of the EU, southern Mediterranean countries also entered the group of new neighbours.

Being aware of the danger that can come out of neglecting cooperation with direct neighbours, as well as the fact that it needs stable and developed neighbourhood, the EU formed a strategy named European Neighbourhood Policy (ENP).

In order to improve its security situation, European Union also formed specific policies and instruments towards its southern and eastern neighbourhood. Euro-Mediterranean Partnership (EMP) was launched in 1995, Union for the Mediterranean (UfM) was created in 2008, as a relaunched EMP, while the concept of the Eastern Partnership (EaP) was launched 2009. The Union for the Mediterranean is the southern regional cooperation branch of the European Neighbourhood Policy. Its eastern counterpart is the Eastern Partnership. The purpose of this paper is to explain the policies of the European Union towards the Eastern Europe and South Caucasus and to set out the key security challenges of the Eastern neighbourhood.

European Neighborhood Policy (ENP) and EU's eastern neighbours

The EU's Eastern neighbourhood is a region in transition. If we exclude the area of South-East Europe (Western Balkans), the European

Neighbourhood in the East includes new neighbors - Russia, Belarus, Ukraine, Moldova, Georgia, Armenia and Azerbaijan.

Successive EU enlargements have brought these countries closer to the EU and their security, stability and prosperity increasing impacts on the EU. Diverging foreign policy orientations, frozen conflicts, and a very low level of inter-state cooperation further fragment and polarise the region and it is difficult for the EU to respond adequately to the challenges emanating from the Eastern neighbourhood.

However, the relations between the European Union and the Soviet successor states, have been taking shape from early 1990s parallel with the development of the Common Foreign and Security Policy. After the collapse of the Soviet Union, the EU offered the Newly Independent States (NIS)[3] a new instrument of Partnership and Cooperation Agreements (PCA). The PCAs were to replace the 1989 agreement regulating trade with the Soviet Union. Until mid of 1990s, relations between the EU and countries in the eastern neighborhood were limited to economic cooperation and technical assistance, and there was no unified political strategy of the European Union towards the region.

The process of EU enlargement to Central and Eastern Europe showed that the former Soviet republics are very important as the main objective of European foreign policy of the stability and prosperity in its neighborhood. Because of the importance of their geo-strategic position, there has been a need for more systematic inclusion of these countries in the project of European foreign and security policy.

Within the European Union, a new wiev prevailed on the necessity of establishing unified and comprehensive policy towards the Eastern Neighbourhood.

Even before the enlargement of 2004 the European Commission was bracing itself for a Wider Europe knowing that its borders could not be expanded indefinitely and that it would take time to adjust to the enlargement (European Commission, 2003). The first strands of the European Neighbourhood policy began to take shape in the early 2000s in response to the growing awareness among member states, spurred on in particular by the governments of the acceding countries, of the need for a "new" approach to the neighbours that would appear on the EU's borders in the wake of enlargement to Central and Eastern Europe.

Therefore, the European Neighbourhood Policy (ENP) was developed in 2004, with the objective of avoiding the emergence of new

[3] The term includes countries that until 1991 were constituent republics of the USSR, including Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

dividing lines between the enlarged EU and its neighbours. The policy applies to EU's direct neighbours to the south - Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority, Syria and Tunisia, and to the east – Armenia, Azerbaijan, Belarus,

Georgia, Moldova and Ukraine. Russia however has not accepted, for prestige reasons, the ENP framework, but rather a so-called Strategic Partnership that in practice amounts more or less to the same. Countries in the Wider Europe program have been offered the prospect of full participation in the EU's market and its four fundamental freedoms - mobility of goods, capital, services, and eventually, people - provided they adhere to certain core values and show concrete progress in political, economic, and institutional reforms (Alnutt, 2010).

However, the ENP offered political association and deeper economic integration but remains distinct from the process of enlargement. With the creation of the ENP in 2004, the EU was preparing itself for the upcoming changes. The ENP covered the EU's political, economic, and cultural relations with sixteen countries and aimed to establish a common area of peace, security, respect for human rights, democracy, and the rule of law (European Commission, 2004). It relies on bilateral cooperation through European institutions, Country Reports, and Action Plans to measure progress regarding set goals and reforms. The most important instrument of the ENP are the bilateral Action Plans between the EU and each ENP partner. Action plans are political and economic reforms with short and medium-term priorities of 3 to 5 years.

Since the promise of membership could not be used to promote stability along its borders as in the past, the EU wanted to use this alternative mechanism to offer other incentives and opportunities for cooperation and engagement. The purpose and goal was first and foremost security. The idea and hope was to create a ring of friends around Europe, increasing cooperation in areas such as border controls, energy, and immigration. The evolving European Neighborhood Policy has also been considered a geostrategic plan, as the EU was eyeing alternative energy sources and routes to Europe bypassing Russia.

The ENP has met with criticism for not offering a membership perspective and thus limiting the incentives for the partner countries to quickly implement the Action Plans. According to Chilosi, despite the ENP's efforts at enlargement lite there was increasing consensus that it was not as effective as offering the prospect of membership. In terms of financial assistance and benefits, the economic advantages of membership were still far greater than what ENP had to offer in the form of market access and other accrued benefits. On the issue of aid and of market access the promise has not been fulfilled, and possibly could never be, at least to a degree that would

be equivalent, even if only in perspective, to membership (Chilosi, 2006). In its report, European Commission (2008) also concluded that after three years of practical implementation the ENP could be considered a broadly successful initiative though it did acknowledge limited progress, particularly as concerns the resolution of conflicts in the Eastern neighbourhood.

However, it was hard to differentiate between those countries that wanted closer ties to the EU and those who happened to be close to Europe. The ENP included Mediterranean countries with no chance of membership, in addition to countries in Eastern Europe who did have at least somewhat of a chance of joining in the future.

From this review it is clear that the European Neighbourhood Policy has not met everybody's expectations. The New Member States were eager to focus more EU attention and resources on the bordering neighbors, since they knew the hard structural adjustments required to meet EU standards and regulations were unlikely to occur without more incentives. On the other hand, France has proposed a further implementation of the Mediterranean Union project with a special emphasis on EU's southern flank. Poland and Sweden stand on a position that if the European Union is going to strengthen its co-operation and support within the southern dimension, there will be a strong need to balance these steps by emphasizing also the eastern dimension. Different expectations and perceptions of the ENP by the participating states led to a situation where more and more politicians and experts started to call for a more diversified policy that would distinguish the southern and eastern dimensions of the EU's co-operation with its neighbours. That is why the French president Nicolas Sarkozy proposed the Mediterranean Union, and the Polish and Swedish ministers of foreign affairs Radosław Sikorski and Carl Bildt offered the Eastern Partnership Initiative. Both options, could be seen as a beginning of the end of European Neighbourhood Policy in its current shape.

Eastern Partnership (EaP)

The Eastern Partnership Initiative (EaP) was officially presented for the first time on May 26, 2008 by the Polish and Swedish ministers of foreign affairs Radosław Sikorski and Carl Bildt at the EU General Affairs and External Relations Council (GAERC) in Brussels. By setting up the Eastern Partnership, Poland and Sweden tabled a joint proposal to strengthen EU's relations with countries in the Eastern neighbourhood. The idea of launching the Eastern Partnership was a logical move that the continental EU countries sought to strengthen its own position in Europe, but also help the development of their eastern neighbors.

However, a number of criticisms to the initiative were raised, such as EaP risked duplicating, or even diluting, existing policy processes (the ENP), overlapping with existing regional cooperation initiatives (the Black Sea Economic Cooperation and the EU's Black Sea Synergy).[4] It should me mentioned that the Eastern Partnership Initiative is not the first initiative launched by the European Union that directly involves the EU's eastern neighbours. So far, the Black Sea Synergy[5] from 2007 has been a tool complementary to the European Neighbourhood Policy involving countries of the Black Sea region, and the Northern Dimension from 1997 was aimed to help, the Baltic States and Poland (which were not EU members at the time), but also Russia in launching necessary reforms and programmes aimed at stability and peace in the Baltic Sea region.

Just as the proposal for the EaP seemed to be forgotten, Russia entered Georgian territory in 2008 to defend the break-away republics of South Ossetia and Abkhazia and their quest for independence. The war in Georgia made clear the strategic importance of the Caucasian republics and the vulnerable position of eastern European countries lying between the Russian Federation and the EU and speeded up the policy process in the EU. However, the Eastern Partnership (EaP) was officially launched in 2009 as a European Union (EU) policy framework to enhance relations with six countries in Eastern Europe and the Southern Caucasus. The EaP countries include Ukraine and Moldova in eastern Europe and Georgia, Azerbaijan and Armenia in southern Caucasus. Formally Belarus is also counted among the EaP countries but relations with the EU are conducted on expert level as political ties remain complicated as long as the country is ruled by the authoritarian president, Alexander Lukashenko. All countries are participants in the EU's Neighbourhood Policy although Belarus is not fully covered by the policy.[6]

The main goal of the Eastern Partnership is to create the necessary conditions to accelerate political association and further economic integration between the European Union and interested partner countries. Specifically, bilateral co-operation with these countries would include:

[4] There is opinion that the EaP is duplicating already existing mechanisms, such as trade agreements, energy deals, and assistance for civil society or student exchanges. I

[5] The Black Sea Synergy involves Armenia, Azerbaijan, (Bulgaria), Georgia, Moldova, Russia, Turkey and

Ukraine and was aimed to develop concrete initiatives in transport, energy, environment, fishery, migration or organised crimes.

[6] Partnership and Cooperation agreement with the EU was completed in 1995 but was not ratified and remains frozen since 1997.

- co-operation on migration issues with the possibility to introduce a visa-free regime in a long-term perspective and easier visa-facilitating process in a short-term perspective;
- creation of a Free Trade Area based on free-trade agreements with participating countries and the EU;
- providing EU support for sector reforms, intensifying students' exchange, promoting civil society, local and regional co-operation etc.;
- drafting and signing a new generation of Action Plans with each country that could include "clear benchmarks and linkage to the alignment towards the EU legislation, standards and norms".
- ensuring a distribution of assistance funds to the partner countries in a way that would reflect the progress in implementing reforms and according to the principle of differentiation (Łapczynski, 2009, p. 147).

According to this, unlike previous EU initiatives to the neighbours, Eastern Partnership is more focussed on convergence with EU legislation and standards, and therefore has to operate on a "more for more" principle.

Key Issues and Risks in the eastern neighborhood

The most critical conflict zones in the eastern neighborhood are the areas in the South Caucasus and situation in Moldova and Belarus. The Caucasus is already crowded by the presence of the UN, the OSCE, and other major powers. This leaves little room to claim, and complicates thinking about a reinforced EU role. In addition, the region's problems are complex. International organisations and European states have sought for a decade to assuage them. Since 2003, a number of factors have pushed the EU to expand its role. With the development of ENP, the European Security Strategy and EaP the South Caucasus has moved to the forefront from being a backwater of EU policy

Potential threats to European security in the eastern neighborhoods is a combination of political, economic, security and social problems:

Ethnic relations and ethnic conflicts

Three unresolved conflicts are frozen along cease-fire lines: between Armenia and Azerbaijan over Nagorno Karabakh and those in Georgia between the central government on the one side and the secessionist territories of Abkhazia and South Ossetia on the other side.

Nagorno Karabakh is a predominantly Armenian-populated region in the west of Azerbaijan. The conflict over the area dating back to the first period of independence of Armenia and Azerbaijan in 1918 - 20, and the conflict was driven to escalation in 1988 and 1989 with anti-Armenian riots and a two-way ethnic cleansing campaign in the two republics with over 300,000 Armenians leaving Azerbaijan and 200,000 Azeris leaving Armenia (Cornell, 1999).

Abkhazia and South Osetia - are two self-declared republics in the Caucasus. Georgia and the vast majority of other countries of the world do not recognize their independence and officially consider them as sovereign territory of the Georgian state. In 1991-1992, South Ossetian and Abkhazian armed groups fought to break away from Georgia. Over the years, sporadic clashes have continued and the achievement of a comprehensive political settlement, including a settlement on the future political status of Abkhazia and South Ossetia and the return of refugees and displaced persons[7] remained impossible. South Ossetia remains one of the most heavily armed regions of Georgia. In 2008 hostilities broke out between Georgia and South Ossetia, which led to a major Russian military intervention. In the most important documents (European Neighbourhood Policy and Eastern Partnership) the European Union has repeatedly emphasized that, with the Nagorno Karabakh, the biggest challenge for the security of the region is a situation in the two Georgian provinces. The outbreak of armed conflict in South Ossetia, the Russian intervention, and the mediation of the European Union and other international actors are evidence of the constant tension that at any moment can erupt into a new armed conflict.

Conflict settlement in Moldova - at the broadest level, Moldova poses a number of challenges for the EU. It is a divided country, with a separatist and internationally unrecognised state the self-proclaimed Transdniestrian Moldovan Republic (TMR, or Transnistria). This unresolved conflict has in itself created a brake on serious reform. The conflict has also kept Moldova from developing a fully united front of identity and future orientation, finding itself caught between the former Soviet Union, Eastern Europe and the Balkans. In practical terms, Moldova poses a number of precise security challenges, which will become more salient with Romanian accession to the EU. Acording to Lynch (2005) these problems range from illegal migration originating from Moldova itself or transiting through Moldova, organised criminal structures exploiting Moldova's weakness, especially in Transnistria, manifested in the trafficking of illicit goods and

[7] Ethnic cleansing of about 240,000 Georgians living in the southern Abkhazia; also the armed conflict between Georgians and Ossetians between 1989-1992 led to hundreds of casualties and thousands of refugees on both sides.

humans, to the presence of dangerous arms and military equipment stocks in Transnistria, which have been sold illegally and pose a local threat. Separatist Transnistria exacerbates these challenges, as it presents a zone for illicit trade and smuggling from the Black Sea and beyond into Europe (Lynch, 2005, p. 37).

Political situation in Belarus

Although Belarus was offered access to ENP and EaP, including high-level political and ministerial contacts, travel facilitation for Belarussian citizens and more people-to-people contacts, parliamentary elections from 2004 onwards were not free or fair, confirming Belarus' fate as Europe' s last authoritarian state. According to Lynch the challenge Belarus poses to the EU is three-fold. First, the logic of politics and economics in Belarus is contrary to EU standards, values and practices. Second, Belarus raises a number of security challenges in the present and in the future for the EU, its neighbours and member states in terms of soft security. It cannot be ruled out that Belarus may become a more direct challenge in the future, through upheaval or collapse. Finally, despite some difficulties, Moscow maintains close ties with Minsk and the legal structures exist for a future union. This prospect complicates EU policy and thinking and raises the likelihood of a real problem in the future should the union be implemented -what would the EU response be? (Lynch, 2005, p. 40). The EU finds itself caught in the demarche trap, which lies between action and non-action. It is necessary to launch a full assessment of EU policy and to consider new ways to approach this neighbour - either through further isolation, greater containment or engagement.

Geopolitical competition of regional powers

The South Caucasus for example has become one of the most attractive areas for great power competition in the post-cold war era. The region's location and its own energy resources have contributed to this competition. The main forces that are part of the Caucasian security complex are: Russia, Iran, Turkey, USA and recently the European Union. Caucasus is a key region for Europe because it has oil and gas, which allows diversification of supplies and it connects two seas – black and Caspian.

Weak state structure

Eastern parnership countries are young, carry the heavy burden of a Soviet heritage and have been unable to build efficient and functioning institutions that can fulfill normal state functions. The 'Soviet mentality' is a

major problem that impedes these countries' development. Also, the economic and democratic weakness caused the need for support and patronage of various external actors.

Terrorism

In a situation of persisting economic and political instability in the region, combined with the inability of South Caucasian and Moldova governments to gain control over all their territory, transnational crime is likely to remain a considerable threat well into the future. As long as there is a risk of revival of ethnic conflict, some parts of the eastern neighborhood represent the ideal base for the activities of various criminal and terrorist organizations, especially given the strategic location of the region.

Taking into account the above mentioned security threats, with EaP the EU must follow through on the recognition of its interdependence with its neighbours. Yet, supporting their transformation without resorting to its most successful tool of conditionality will be a tough task. Certainly, EU political and security engagement is the clearest possible signal of commitment. Apart from the specific suggestions made above, the EU should consider using the EaP framework to support security sector reform in neighbours. A healthy, efficient and modern security sector is a vital and primary attribute of stability.

The European Security Concept pledges the creation of a ring of wellgoverned countries on the Union's borders. Healthy security sector governance is key to achieving this objective. The EU should make security sector governance a major plank of its promotion of security and stability on its borders. EaP is the logical framework for moving forward in this vital policy area.

Conclusion

The relations between the European Union and the Soviet successor states have been taking shape from early 1990s parallel with the development of the Common Foreign and Security Policy. Successive EU enlargements have brought these countries closer to the EU and their security, stability and prosperity increasing impacts on the EU. With the biggest enlargement in 2004 (2007) considered a success in helping secure the transition of the post-communist democracies, the EU once again faced the issue of security outside its borders.

The process of EU enlargement to Central and Eastern Europe also showed that the former Soviet republics are very important as the main objective of European foreign policy of the stability and prosperity in its neighborhood. Because of the importance of their geo-strategic position,

there has been a need for more systematic inclusion of these countries in the project of European foreign and security policy.

Parallel with the development of security and defense policy, the EU has developed a different policy towards its neighbors in order to strengthen stability and security beyond the EU and to impose itself as a regional and global player in the stabilization of European and international issues. So the EU formed a strategy named European Neighbourhood Policy (ENP), but ENP has not met everybody's expectations.

With time, within the European Union a new wiev prevailed on the necessity of establishing unified and comprehensive policy towards the Eastern Neighbourhood. It was realized in 2009 by launching the Eastern Partnership aiming progressive liberalization of visa regime and improvement of legal integration and cooperation in energy security. EaP is not new policy initiative in the true sense. It is more of upgrading the existing mechanisms of the EU - European Neighbourhood Policy and Black See Synergy, a previous initiatives that have not met their expectations.

As a response to the French proposal, the Polish - Swedish initiative of Eastern partnership was a deliberate attempt to push relations with non EU eastern European countries further up the EU's agenda in order to hold up their position in the competition for the attention of the Brussels bureaucracy, the Union's financial resources and political support.

However, The EU's Eastern Partnership with the Ukraine, Moldova, Georgia, Armenia, Belarus and Azerbaijan has now been in place for four years. But the EU is not looking eastwards much these days – it is looking inwards to tackle the aftermath of the financial crisis, and south to the Arab Spring. At the same time, the enthusiasm of the Eastern partners seems to be fading.

The Eastern Partnership Initiative could become a great success of the European Union as a whole. The project is important both for the member states and the eastern neighbours of the EU. But to prevent the initiative from becoming another failure the "new" member states should work closely to ensure a high level of political consensus among all EU member states when it comes to the EU eastern neighbourhood. It is important that EU should stress that the EaP initiative is not directed against Russia and stress that partner countries need to maintain good relations with this country as well. Finnallly, the EU should continue its efforts in finding solutions to the frozen conflicts in Transnistria, Abkhazia, South Ossetia, and Nagorno-Karabakh.

Building stability and prosperity in the immediate neighborhood should remain one of the strategic objectives of the European Union. EU should encourage and help build a stable democracy and effective national

security system of its neighbors who will be able to face the old and new contemporary security threats. Strengthening relations with the EU will depend on the implementation of economic and political reforms, and political will to implement the agreed reforms. The EU can only assist with its capacity.

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NATIONAL SECURITY OF THE STATE IN THE PROCESS OF GLOBALIZATION[1]

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Abstract

The protection of national security is one of the most important tasks of each state. As a consequence of creating global society, the state of national security and its protection are impossible to be considered without taking into consideration its affectedness by the flame of globalization. Although it started as a process designed to integrate national economies in order to maximize their profits, it quickly spread to all the spheres of society and started to affect all state functions, including security. Unlike traditional Westphalian state era, when the national security was being protected only by the mechanisms of the sovereign state, the dominant role of the state in protecting national security is considerably weakened nowadays. Globalization is considered to be the main cause of the erosion of sovereignty and the internationalization of security threats, which relativized the power of the state and made it vulnerable to threats coming from both inside and outside the state. For that reason, states are becoming to some lesser or greater extent increasingly relied on non-state actors in their struggle against security threats, and in some weak and failing states where the state mechanisms are dysfunctional they are becoming an indispensable security factor. State and non-state actors are faced with many problems of national security since its conservation, protection and enhancement is determined by circumstances on the international and global level. The aim of this paper is to highlight the problems that states face due to unpredictable and unstoppable flow of globalization, as well as the specific benefits of globalization that can be useful for the states in protection of their vital values. In addition, the paper talks about the differences between powerful and weak states in relation to the protection of vital national interests and values, which is among other things more or less manifested by the

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presence of non-state actors in the security sector, which now apparently is no longer exclusivity of the state. Finally, as a synthesis of individual conclusions, this paper will try to present the potential directions in which the national security of the state might move towards in the future as galloping globalization continues to progress.

Key words: national security, globalization, the state, non-state actors, security threats

Introduction

Protection, conservation and enhancement of national security are among the most important tasks of the contemporary state. Apprehension of national security is considerably extended compared to the period of history when the protection of the sovereignty and territorial integrity of the state was the biggest concern. Consequently, the state's obligation to protect the vital values from all the threats that endanger national security is a complex task and requires a very responsible approach nowadays. A great contribution to the complexity of the security environment has been given by the process of globalization and by the changes which were brought on both the international and global, and at the level of each country.

The process of globalization has been intensified after the Cold War, and it certainly has affected all aspects of the state functioning, especially its security issues. Innovations that globalization brought have positive and negative sides, and they inevitably caused changes in national security policies the the past few decades. Many theorists consider that globalization does not affect all the states and their security at the same manner and the effects of globalization vary depending on how far the state is powerful and prepared to contemporary challenges, risks and threats. Unpreparedness of some states to new security issues and thus an inability to respond adequately to them due to financial, organizational and personnel deficiencies, has led to the expansion of the impact of non-state actors in the security sector of those states. Increscent influence of non-state actors in policies that were exclusivity of the state, and the need for other states' help in solving complex security issues due to the internationalization of security problems has brought into question the significance of one of the most important traditional state values - the sovereignty. Unequal position of the states under the onslaught of the storm called globalization has shown us that they are facing quite diverse and heterogeneous security problems in such conditions, so the ways of responding to them are also quite diverse.

Therefore, the issues of national security have lost uniformity when it comes to vital values that should be protected, when it comes to threats to these values, and finally, when it comes to response mechanisms to these

threats. Before focusing to the advantages and disadvantages of globalization of national security, we will briefly review the concept and causes of globalization, as it is the most controversial phenomena of nowadays.

Globalisation - Concept and Clauses

All the changes that have occurred in the area of security challenges, risks and threats are somehow related to globalization. Political, legal, security, and overall social discourse is overwhelmed with the terms "globalization" and "global". Authors who are dealing with the problem of globalization have different views about the way it influenced the contemporary social, economic and political life. The so-called *transformationalists* consider globalization as a powerful transformational and driving force that causes rapid changes in society, politics and economy and that is not inevitable, but socially-constructed process, and that is perceived differently in different contexts (See: Stoker, Marsh, 2005: 33).

Looking back at its roots, it is hard to say exactly when it started. It is considered that the first forms of globalization have existed since the early 15th century to the present day, namely, globalization has occurred in three waves. The first, from 1450-1850, during the European colonial conquest, the second, from 1850-1945, during the expansion and strengthening of European empires and the third, a period of contemporary globalization, which begins at 60-ies, and is linked to the modern scientific and technological achievements (See: McGrew, 2008: 22). Globalization is getting its subforms, and the usual one is regionalization, given that cultural and other differences of certain regions of the world, however, pose an obstacle to globalization in the fullest sense. Events after September, 11th 2000. gave a new dimension to the process of globalization, and that is globalization of the fight against terrorism which is considered a common threat to the international community.[2]

Anyhow, it should distinguish between two periods of globalization, as the extent, quality and performations of globalization in the 19th century can not be compared with the "rapid increase of the intense transplanetary connectedness that took place from the mid-twentieth century“ (Scholte, 2009: 20).

[2] In addition to disparity of legal definitions of terrorism in different states, one of the biggest obstacles to the effective struggle against terrorism at the global level is the fact that certain terrorist activities are directly supported and funded by some states. More about terrorism sponsored by states see in: Popović, Marija (2012). State-sponsored terrorism in the contemporary security environment, in: *Countering the contemporary organized crime and terrorism* (pp. 321-333), Belgrade: Academy of Criminalistic and Police Studies.

In the broadest sense, globalization refers to expanding, deepening and acceleration of global interconnectedness (McGrew, 2008: 16) Without going deeper into its various aspects because is such a complex process, globalization is defined as the process of unification of humanity. This term indicates the creation of a unique economic and political space with many contradictions, and its content and consequences tend to be more precisely determined by various aspects: economic, political, environmental, civilizational and sociological (Marković, 2003: 409). The central features of globalization are the rapidly growing and uneven cross-border flows of goods, services, people, money, technology, information, ideas, culture, crime, and weapons (Flanagan, Frost & Kugler, 2001: 8).

It is often considered that the most important aspect of globalization is economic aspect, because the governments are motivated to be united when it contributes to the overall progress, leads to the growth of capital and the improvement of the material conditions of life. Such progress is certainly difficult when states are closed into the national borders, expressing distrust towards the other states. The need for cooperation, except in an economic sense, is certainly also intended as a way to minimize inter-state conflicts by uniting the interests of the states.

Despite all the benefits that unification of humanity involves (unification as a product of the social consciousness of unity, equality and the need for effective resolution of all emerging threats by joing efforts) it also has its negative sides. Unification of the states in order to exchange goods, services, capital, information and to enable free movement of people, has also brought internationalization of those negative phenomena that had been locked till recently in the cages of every society and the state. Thus, globalization is a problem that the contemporary society has been thrown in, and the causes of globalization are complex and multifaceted as the process itself. Certainly, a great contribution to globalization made a development of science and technology that led to the easier and faster transportation and communication. This has opened the way for the expansion of markets and the search for economic prosperity.

Following the Cold War, globalization was induced by those who had an interest to make division of the states in certain blocks so uninviting and unpopular by offering them peaceful cooperation established around common interests.

Finally, there is conventional wisdom that globalization began to gain momentum parallely with the revival of neocolonial and imperialist policy of the USA after the Second World War, and it was therefore considered to be just one of the instruments of that policy. The economic and political superiority in that time put them into position to advocate and promote their own ideas like removing borders, liberalization of markets, the spreading of

democracy. Contemporary capital is incontinently expanding the scope for diversified presence and influence of, not only economic and political, but also military factors, which endangers the independence and sovereignty of many states, and thus endangers their safety in some way (Milašinović, 1996: 8).

Besides traditional concerns about state sovereignty and territorial integrity, the introduction of a new aspect of national security concern (its human component) opens the era of globalization of national security giving the possibility to the international community to interfere in the internal affairs of the state in case when the human rights guaranted by the national and international law are violated.

Globalisation of the National Security

The issue of national security came out of one state's borders and is increasingly becoming a transnational problem. Security threats easily cross national borders, which requires association of the states at the international level in order to resolve them. Going national security issues beyond the narrow territorial borders of a state is a phenomenon of contemporary world with tendency of connecting the states in common economic, military and other types of alliances. Creating a global society with even stronger cultural, linguistic and interest interconnectedness creates an atmosphere in which there is almost no question that can be retained as an exclusively national issue.

Generally, there has been the internationalization and globalization problems of individual, social and national security, and is considered to be several reasons for this situation. There is an apparent internationalization of activities of security threat holders, and also the nature of some security problems is an obstacle for keepeng those problems inside the national boundaries, which means they can not be prevented and repressed in traditional way - by police and military means. Besides, there has been an evident internationalization of destructive effects of some informal social groups (masonic lodge, destructive religious cults, associations of the rich and "powerful" businessmen, associations of former politicians and other secret societies), and their interests are often opposed to the interests of humanity (Mijalković, 2011: 81-82).

Jonathan Kirshner finds that globalization influences traditional security concerns in three principal ways: it affects state capacity and autonomy vis-à-vis nonstate actors, social forces, and market pressures; it also affects the balance of power between states in the hypermedia environment; finally, the forces of globalization can recast the nature of armed conflict by creating new sources of conflict between states and by

reshaping the costs and benefits of both warfare and conquest (Kirshner, 2006: 6-7).

One of the most striking implications of globalization is the erosion of traditional state's system of values, which indicates to the problem of erosion of national borders and, ultimately, brings into question the future of the state as the highest existing form of territorial and political organization of society. In such changed circumstances, the states have largely to adjust their own interest to global interests and values, and the globalization of national security has been considered in the context of the potential decline of the impact of the state in the international community. As Boutros Boutros-Ghali, former Secretary General of the UN noted, national boundaries are overshadowed by advanced communications, global trade and by the decisions of the states to transfer some sovereign prerogatives to some higher common political institutions. Of course, this is not the case with the most powerful nations, which made these organizations to be their instruments. On the other hand, again, we have a retrieval of problems connected with nationalism and sovereignty, and the cohesion of the state is threatened by brutal ethnic, religious, social, cultural and linguistic conflicts and disagreements.[3]

When it comes to the impact of globalization on the state of the national security of each country, the position is that the states confront quite different with the process of globalization and its various manifestation. In this regard, the distinction should be made between strong and weak, ie. extremely weak or failing states. States are considered weak when often unable to provide the basic security for its citizens against external and domestic threats; where free and open political participation is limited or absent because the control of political power is in the hands of an oligarchy or multiple centers, such as warlords; there is little money available for infrastructure development and maintenance, and other expenditures on public goods such as public health and education (Ripsman & Paul, 2010: 137). Therefore the globalization of the issues that are of a great importance for national security is a destiny of mainly those countries that are unabled to preserve national security issues within own national borders and without interference of external factors.

African states are represented as the weakest, among other things because they firstly became the prey of the power states. The reason for that is the large amount of mining, mineral and energy wealth that African continent lies on, and the struggle for them is still ongoing. After the Cold

[3] See more in: Report of the UN Secretary-General, pursuant to the Statement adopted at the Summit of the UN Security Council, January, 31th, 1992, entitled "An Agenda for Peace, Preventive Diplomacy, establishment and maintenance of peace", Retrieved from http://www.unrol.org/files/A_47_277.pdf, March, 16th, 2013.

War ended the transfer of weapons to this region increased , especially through illegal channels, which fomented a large number of armed conflicts on the economic or ethnic grounds. This was the basis for humanitarian intervention and peacekeeping operations which often ended up with even more chaos and with extremely large number of human life and material losses. The overture of many security problems in such countries paralyzes the national security system, and requires intervention of various non-governmental humanitarian organizations that take part of the national burden by taking care of the basic needs of people in that area. The weakened states are enforced to entrust their people to local or foreign non-government organizations as the result of extreme necessity, which was often proved to be misused. Namely, the fact that the richest and the most powerful states, as well as multinational and transnational corporations, are the sources of their financing is blurring their humanitarian motive turning them into the instruments for establishing dominance and so for the realization of profiteeristic goals. The biggest reprecussion of course makes an expressed concern that the NGOs are often misused, ie. used as an aid in coming up to new soldiers, who are forcibly recruited from the refugee camps (Ripsman & Paul, 2010: 155).

Thus, it is evident that the role of the state, compared to the traditional period of exclusivity of the state in resolving internal issues, has significantly changed, and the question of the importance of the state and its authorities in relation to non-state structures in the future is still very vivid in scientific community.

The Role and Significance of the State in the Protection of National Security

Before we put the question about the role of the contemporary state in protecting national security, it is important to point out that for a long time, there have been fears that the change in the nature of sovereignty, porous borders and the emergence of non-state actors can threaten the state as an institution, and thus weaken its capacity to confront threatening phenomena in an organized and planned manner. Since the end of Cold War to the present day theorists and practitioners have been discussing the consequences of weakening the state on the security conditions of the state and its citizens. Although there is a lot of concern that the national security will face the major challenges if states lose theirs sovereignty or disappear, theorists are convinced in the immutability of the state, because they find no institution that would protect national security more comprehensively and effectively than the state does.

Anne-Marie Slaughter also finds that no institution, inter-governmental or non-governmental organizations have such a concentration of power as a state. Therefore, the transfer of power to the part of other actors is not zero sum, so the acquisition of power by non-state actors do not necessarily have to turn into a loss of state power. Transnationalism in fact even less can hurt the state, because the people need the government to be responsible for transnational activities, but also for domestic issues (See: Slauther, 1997: 184, 186).

Traditional state had the exclusive right to protect its own security against external and internal threats, and that was one of its most important tasks. However, it is clear that globalizing flows has some influence on the position of the state in all areas, especially in the domain of protection of national security. It is evident, therefore, that the question of the survival of the state is not a key issue, but whether states can or should ignore the complexity of security environment and necessity for involving the non-state actors just for the sake of preserving that exclusivity.

There are opinions that the exclusivity of independent solving complex security issues is a privilege only of the powerful, influential and economically developed states. That is why a group of American scholars, intellectuals and politicians called "new sovereigntists" is quite distrustful with the system of global governance considering it undemocratic because it undermines sovereignty. Despite the recognition that countries are facing with severe challenges as a result of globalization, and the appreciation of the need for international cooperation, they believe that the United States should not submit to international law, international courts nor intergovernmental organizations' decisions should be obligatory for them, because it "contravenes constitutional government" (Goodhart & Bondanella Taninchev, 2011: 1047, 1049). Moreover, the necessity of the state as an institution that can take care of security in an organized and comprehensive manner is an indispensable option for now, especially because other entities (eg, intergovernmental and non-governmental organizations, multinational corporations) would be engaged in the protection of only those aspects of security that are in the domain of their interests. Simply, the collaboration of state and non-state actors is a necessity of the contemporary world and it is meaningless to talk about the elimination of any of these actors when upcoming problems are even greater and bring us more and more uncertainty every day. The state should not disappear, but it is evident it has experienced some metamorphosis. This metamorphosis means that it can no longer make the exceptional claims and demands that it once did. It is becoming, once more and as in the past, just one source of authority among several, with limited powers and resources (Strange, 1996: 73).

Speaking of the role of the state in protection of its own security, Paul and Ripsman also indicate uneven impact that globalization makes on the ability of individual states to protect their own national security (See more in: Ripsman & Paul, 2010: 5). In this sense, the states in stable regions have their institutions well prepared to meet the challenges of globalization, while powerful states influence on globalization adjusting it to their own interests rather than playing by its rules. Poor, institutionally unprepared states struggle against the challenges of globalization and contemporary security threats by involving non-state actors, sometimes even asking other states for help, which brings into question their sovereignty. These countries are exposed and vulnerable to pressure from the international community, and are often the focus of civil wars, humanitarian interventions, and other phenomena of endangering state security and its citizens.

Therefore, powerful and influential states insist on the state form when talking about the entity which is supposed to be the most influential subject and provider of national security, because it is unacceptable for them to surrender this role to another entity. However, this does not solve security problems and survival question of the less powerful countries or declining states. It is necessary (and taking into account the minimum of security needs in these states) to introduce the other factors that would mitigate the weakness of state mechanisms and help their citizens to be better prepared to face the emerging security problems.

The Role and Significance of the Non-State Actors in the Protection of National Security

Internationalization of many security problems extended the role of non-state actors in achieving, protecting and improving security. Eventually becoming a serious competitor to the state, and its biggest ally at the same time in overcoming the challenges of contemporary world, the presence of non-state sector has caused numerous controversies. An important role of intergovernmental organizations in maintaining peace and security at the international level is more than evident, but it is the non-governmental (private) security sector that is directly present and directly involved in specific activities in protection of certain important values for the state and its citizens.

NGO's activities are often considered with scepticism, but certainly not without reason. In fact, much of the work that non-profit (charity) organizations do in order to assist state is often funded from unknown sources. For those engaged in profit-making activities (such as investigation services, provision of military services, services of physical and technical security) the biggest problem is how to be put under state's control. They are

usually registered offshore and can easily move from state to state. There has been a trend that these international companies form joint ventures with local companies, avoiding legal action of each country.

Particularly sensitive is the issue of engagement of the former, and often active members of the national security system, primarily police and army officers. Possession of professional knowledge and skills, psycho-physical abilities and informations make officers specifically advisable for engagement in this sector. They ofte play a role of a mediator or a courier transporting drugs, weapons, smuggled migrants, cigarettes, oil, etc., or they are in charge to give security services of physical protection to "mafia bosses". Thus, national security guards act that way against national and social interests (Mijalković, 2011: 174).

Finally, Shearer finds that the biggest problem of this activities is their camouflageness by provision of protection services, while actually being engaged in violent military operations (Shearer, 2011: 359). Acknowledging the need for their presence when crime is escalating, the states are expected the higher degree of responsibility when it comes to specific regulations necessary for the legally and efficiently functioning of this sector.

Even though exist a possibility that these non-state actors can be abused and be put under the control of the powerful states, it does not diminish their importance and help that states may have of them. The emergence of non-state, especially charity organizations, coincidence with advent of the discourse on human security and human rights. They play an extremely important role in proposing the measures and indicating requirements before the government and the international community on how to prioritize and how to make the most serious consequences of globalization easier for the most vulnerable societies. They are providing assistance in the development of urban and rural communities and in education and health care in many countries, when faltering governments can no longer manage these areas (Mathews, 1997: 53).

Charter of the United Nations is the first document which established a system of cooperation between non-governmental organizations and a global inter-governmental organization that is reflected in the possibility of concluding agreements between the Economic and Social Council of the United Nations and non-governmental organizations dealing with matters that fall within its jurisdiction (Small Political Encyclopedia, 1966: 735, 736).

The globalization of financial markets which creates an amount of opportunities for profit maximization was a great motive for the states to permit international financial institutions to penetrate in the internal affairs of the state. However, the fear of losing sovereignty still paralyzes the states to

finally permit the intervention of the non-state or inter-state actors in the field of a security policy, what is considered a high politics.

However, globalized crime is a security threat that neither police nor the military - the state's traditional responses - can meet. Controlling it will require states to pool their efforts and to establish unprecedented cooperation with the private sector, thereby compromising two cherished sovereign roles. If states fail, if criminal groups can continue to take advantage of porous borders and transnational financial spaces while governments are limited to acting within their own territory, crime will have the winning edge (Mathews, 1997: 58).

Finally, the synergy of public and private sector is the only acceptable solution for facing the unpredictable nature of contemporary furious globalization movements.

Conclusion

Globalization is not a phenomenon or an event that marked or will mark just one period in history. Globalization is an ongoing process that has been changing and reshaping over time, but it will not stop because people will always tend to cope with the distances due to the positive sides of the world's unification. That is why states got to be prepared to it. The only positive way is that states adjust their policies to upcoming global changes and the problems they provoke as much as they are able to, because the boundaries between the global and the local are diminishing.

The reality shows that the cosmopolitan idea of world's unification and peaceful cooperation with the aim of cultural and economic progress did not overpower the idea of preservation the borders, sovereignty and military power. Of course, with the exception of those small, weak states, which now, as well as at any time in history, had no choice but to evolve the way it was in the interest of those who ruled over them. Unfortunately, the division between masters and slaves still counts, and it is evident in the example of the state of national security of many states that are not able to take care of their own security and exist under the lash of the great and powerful master. Nowadays we must be aware that we live in the age of uncertainty, turmoil and fear because the number of security challenges and threats is growing daily and they are so unpredictable that sometimes leave even the most powerful and prearranged states stucked in surprise. Necessity for collective response to a wide range of contemporary security threats will make states much closer, though there is no big chance that it will contribute to their equality, nor is likely that the strongest one will allow to lose even part of the hard power given by the state just for the sake of the benefits of the mankind.

In this "liquid times" it is hard to define national security in a unique way. Each state is facing various security phenomena which threaten more or less its values and interests, and the interests and values of its citizens. The situation is even more complex if we count dependence of national security on international and global security, and again, the dependence of these security levels on all traditional and contemporary threats with human,natural or technological origin. The question of further directions of development of the national security is complex so the reliable answer to it requires a visionary view on the circumstances that may directly or indirectly lead to insecurity in global, international, and consequently, the national level.

It is the fact that all security levels are interlinked and interdependent, and it is likely that this phenomenon will adversely reflect on the state of national security in the future. However, states are still interested to cooperate, not to interfere, because conflicts can be detrimental to their own security. Cooperation of the states has been intensified due to the need to protect humanity from the various acts of "man's violence" over the nature that is causing damage equaly to all the states. The interest to struggle against the growing number of "common enemies" should unite the states in order to raise the level of protection of vital state and social values within each of them. It is now more important than ever, because the national security is facing great challenges, impeded by the greediness of the power holders, opposite interests and by the more and more obvious and frighteningly vast disregard for human beings and their lives.

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NEGOTIATING ENVIRONMENTAL CONCERNS

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Abstract

The question that arises before explanation of any global environmental issues is the question of whether a man is the master of nature, or how much love and respect for other living creatures on this planet is required in order to obtain balance? Using knowledge, methods, techiques, skills (mental, physical, technical and technological), the man has become "independent" of the nature as well as her "master". Is this true? The Environmental protection requires developed cross-border cooperation and also an increasingly important position in the international negotiations at all levels. International negotiations are still primarily concerned with seeking peaceful solutions for disputes and conflicts in general. On international level related to Environmental protection, the issue of compensation is one of the top issues.

This paper makes a theoretical elaboration of the negotiation as an essential tool of the diplomacy especially in the context of achieving environmental compliance issues. It also explains the development and manifestation of negotiations in the past, related to Environmental issues.

The paper also detects entities appearing as the parties of interest, those who advocate positions. Empirical dimension of this paper are the case studies of the negotiations in Rio in 1992, Kyoto in 1997 and Rio+20 in 2012. The paper consists of five parts as follows: 1. Defining the Negotiations; 2. Specifics of the negotiations related to Environmental issues; 3. Objectives of Negotiations; 4. Levels of Endangering the Environment; 5. Case studies.

Key words: negotiations; environment; RIO; RIO+20;

Introduction

In recent decades, the problem of environmental pollution is found at the center of the public attention. Part of this changes are result of the

evolution process of the planet, but large part of the changes that take place in recent decades are result of the artificial changes that have been made by the people. The people exelarate the natural procceses thousands of times faster than it would happened in the nature itself. These curcuimstances make the man going inevitably to destruction, and, in many ways, this behavior endangers the survival of all forms of life on the planet, including the planet itself.

The UN Report "Our Common Future" was a turning point in the perception of environmental issues and of the role of man as a factor of the changes happening in the same environment as a result. This report also introduces on a large scale the concept of Sustainable development. Nowadays, series of global movements of internationl governmental and non-governmental level have risen resulting in establishing a new rotation center in the international communication. In this manner, all the relevant actors accepted by aclamation that the Environmental issue certainly requires global engagement. Global engagement can only be achieved through intensive international activity in diplomacy and international communication in general.

Benedict enumerates five factors that make the Environmental diplomacy stand as a separate issue: 1. Nature of the object (the environment as such); 2. The role of science and scientists; 3. The complexity of the negotiations; 4. Uniqueness of the issues involved; and 5. Outmoded measures and approaches. (Benedict 1998)

Undoubtedly, all human activities are associated with consumption and production, making that this fact reflects on the procces of production, especially with utilization of the natural resources on one hand, and the environmental pollution on the other hand. The consequences of unsustainable human consumption are becoming increasingly evident through regional and global environmental problems such as climate change, depletion of stratospheric ozone, acidification, loss of biological diversity, environmental accidents, increase of the concentration of ozone in the troposphere, pollution of the fresh water, forest and soil degradation, problems of coastal areas, introduction of genetically modified organisms, creation of larger quantities of waste, and so on.

It is necessary to address all of these problems, in order to reduce or eliminate the consequences completely or at least the most of them. First of all, we need to learn more in order to understand better the existing and future problems related to the environment, i.e. their mechanisms of action, causes, sources and consequences, as well as measures and actions needed to mitigate or eliminate the consequences.

Observing the relationship between the environment and the human activities, and vice versa, it is concluded that environmental degradation

could and is having serious implications on human health, the poverty, economic development, and even on the national security. Historically, at first, the problems of pollution and Environmental degradation were primarily seen as local, relatively distinct and dependent on technology. However, the process of globalization in the past decade has pointed to the increasing interdependence of the world economy and environment for certainty.

The problems related to the Environment and its degradation do not only affect the local population and area, but the consequences from them are felt globally. Therefore, in looking for solutions related to the Environmental issues, they must be viewed from a global perspective, but at the same time on the local level, guided by the principle "think globally, act locally". Environmental issues managment must be based on always new, creative methods and machanisms that are going to enable and facilitate collaboration on national, regional and global level.

The question that arises before any explanation of global environmental issues is the question of whether a man is the master of nature, or he is required to balance love and respect for other life forms living on this planet? Using their skills (mental, physical, technical and technological) Man has become "independent" of nature and he feels as her "master". Does not he?

Environmental Protection for certainty requires a developed cross-border cooperation, and significantly increased importance of the position on this matter in the ongoing and future international negotiations at all levels. In world politics on International global level the International negotiations are still primarily concerned with seeking peaceful solutions for the disputes and conflicts among the countries. But it is also a fact that the subjects of International Relations are becoming more and more related to the realm of risk and responsibility for the losses and damages, regarding the issue of Compensation.

Defining the Negotiations

Theoretically, there are various separation methods for resolving disputes, including the psychological impact on the opposing side. One of the ways to resolve the conflict by psychological help involves negotiation as a way of directly influence on an individual or group of people. Resolving disputes throughout negotiations is achieved with sending a messages to the opposing side, which leads to a change in its attitudes and behavior, resulting with reorientation in their positions and demands and becoming in line with the interests of the negotiators. The basic condition for negotiations is having direct communication between the opposing sides. The outcome of the

negotiation is a compromise that could come faster or slower, harder or easier, as a result and depending on many factors. Factors that influence the negotiations are: the nature and intensity of the conflict, the possibility and the prospect of understanding, features participants in the conflict, etc. The negotiations involve the existence of the free will of all participants in order to be involved in the negotiation process. Successful negotiation enables all participants to be winners. Therefore, in circumstances where the need is mutual consent, when the outcome is uncertain, as it is the only way to get what we want, when the stakes justify our time and efforts to negotiate access. Negotiation is a basic tool of diplomacy and other means for peaceful settlement of conflicts and crises. Broadly speaking, the negotiation is a process of communication, applicable in a number of formal and informal occasions, mainly used to improve the relationship between the parties involved in the negotiation process. The negotiation is usually announcing end of certain conflict and beginning of certain form of cooperation if possible. They typically represent the first interactivity between the parties in the conflict, and their first contact after the conflict. Negotiation is a process that removes or at least alleviates antagonism.

Its features include holders confrontation of opposing tendencies. For many people, negotiation represents only a technique which contributes to achievement of a higher quality of relationships between people. Even so, when we conceive or reduce the negotiation to skills, either way - it deserves the full attention of the researchers. Only through negotiations can the situation of mutual interest be achieved. In society, every person or a group has the legitimate right to achieve their own interests. As a result of this process it is inevitable that the individual interests are often in conflict.

A negotiated resolution of the conflict, as a result of negotiations, leads to a successful business, qualitatievely better intergroup relations, favorable international relations etc. The negotiation process represents activity in which people give something in order to gain something in return. That is the process of resolving conflicts between two or more parties involved where both or all the parties adjust their demands in order to come to a mutually acceptable compromise. Negotiation means having a two-way communication that aimes to reach on agreement between the parties that are having shared interests or who are in conflict (Mojsilovic, 2009). It is in fact a process of joint decision-making based on agreement, and it is used in the families, businesses, in local or national communities, in international relations and other aspects of human society. The core, the basic prerequisite for the existence of negotiation - is communication. Negotiation is defined as a process of communication between two or more parties which try to establish a new relationship with each other, or entities whose interests they represent, in a peaceful manner (Z. and D. 2006). In terms of police, it is

considered as a series of negotiation tactics which follow previously defined methodology, consisting a message to the opposite side whose goal is bringing a change of the initial thoughts and behaviours of the opposing sides in accordance with the interests of the parties that are negotiating (Mojsilovic, "Negotiations as a phase in contra-terrorist operations of release of hostages", 2005). By analyzing different definitions of negotiation we can come to conclusion that the negotiation process represents a process of communication between two or more individuals or organizations whose goal is to solve the conflict peacefully and without using force during the process. Nowadays, the negotiation skills are being developed simultaneously in several areas. In the areas with frequent conflicts they are most developed, such as: international relations, business relations and situations which require police involvement. Therefore, the purpose of this paper, is to necessarily examine these areas and use the best methods and techniques that can be used in negotiations on issues related to the environment.

The term threats to international security, especially after the Cold War spread on issues such as migration, organized crime, corruption, smuggling drugs and people, and certainly environmental degradation. Threats to peace, arms control and armed conflicts are not the only Security issue. These so-called new risks during the time of great tensions between the blocks were of a secondary importance. The first major international organized effort in this area was the United Nations Conference on the Environment, held in Stockholm 1972. However, virtually to the fall of the Berlin Wall and the end of the Cold War confrontation, the negotiations on the environment had a low priority and stayed in "diplomatic score."

In the changed international climate regarding the Environmental protection, developed cross-border cooperation and increasingly important position in international negotiations at all levels is required. International negotiations are still primarily concerned with seeking peaceful solutions to disputes and conflicts, but more and more into the realm of risk and responsibility for the losses and damages related to the issue of Compensation.

Specifics of the Environmental Negotiations

In the threats to the environment problems related to a large number of factors at the level of the neighborhood, the region, the continent and the globe, these negotiations often involve a large number of governments, regional and universal organizations.

Negotiation parties:

- Many of these negotiations take place within or under the umbrellas of the competent international organizations and specialized agencies of the United Nations, acting as convener, discussion forums, a catalyst in the process of negotiations and implementations of security mechanisms and controls for adopted agreements.
- Science and scientists are a special group that has become a key factor in negotiating environmental issues. Science reveals the threats of certain danger, defines the problem dimensions, proposes solutions and facilitates the control of the execution of the commitments as a result of certain agreement.
- Non-governmental organizations that represent the interests of the "green" or any business can also play an important role in these negotiations. They are trying, with their activity, to influence the government decisions, arguing certain countermeasures or acting against them.
- The media also has a significant and direct role in negotiating the environmental issues, being very important because they are able to alarm the local and global community. At the same time, the local and the global community are very sensitive to these events, threats and risks of environmental degradation, especially in the recent two decades. The NGOs in fact perform their influence issuing the media on local and global level.

Factors Influencing Negotiation

Apart from a large number of actors, negotiating Environmental issues is characterized by some other factors in this area that have considerable meaning, impact and dimensions.

- **Time;** There is a duality and conflict timeframe. Short-term costs must be compared to the long-term gain. In the long run, it could be unrealistic to expect significant benefits, especially for future generations, but in the short term loads are very large and unevenly distributed.
- **Vulnerability;** The differences of risks in some regions (differences in vulnerability).
- **The liability for implementing the adopted measures;** The international allocation of the high cost of protective measures is a subject of many disputes related to justice and fair treatment. Poor countries, underdeveloped, or developing countries, often find that high environmental protection has an impact on restriction on their economic development. At the same time they realize that

Environmental degradation is a result of the production and in the developed countries (such as the case of the ozone layer depletion and the global warming).

- **The complexity and continuousness of the negotiation;** Environmental negotiation is a step-by-step process (Framework Agreement, then protocols for its implementation and periodically issued amandmands on the original agreement). In this way, usually there is no end in negotiating certain risks - being a process of continuous adjustments and refinements of countermeasures.
- **The sovereignty and state borders;** Since the problems in this area are having cross-border nature, the traditional concepts of sovereignty and borders must be abandoned in favor of solidarity and common commitment.
- **Acquired interest;** Economic interests are in close relation with the issue of business competitiveness in the World markets. In the most cases the proposed measures make the competitiveness vulnerable, but at the same time they can bring some advantages over the competition by supporting restrictions on the production of dangerous goods before others or the development of new "clean" technologies. EU leads in this process. It could be the reason that EU is the most favourable and very constructive negotiating Environmental issues.
- **The urgency of the Environmental issues;** This principle represents an imperative in this particular field. There is an immediate need to minimize the time distance between early warning and early action, in order to avoid escalation or at least mitigate the negative consequences.
- **New international principles and standards;** Through negotiation in this area some new principles and standards are being crystallized such as "good neighborly relations", "do not harm no one", "who pollutes, pays" principle, "justifying use of the common resources", "duty of cooperation, exchange of information and consultation." (Kovacevic, 2010).

Goals of negotiation

Negotiations related to environmental issues should prevent damage and / or conflict. First, the environmental disasters can cause serious damage, regardless of the location of the zone or source of pollution. In general, the national borders do not represent limits of the particular danger. At the same time, this accidents could jeopardize the so-called “global property goods”, such as the ozone layer, or the global climate of sea and oceans. Secondly, these incidents must be prevented. Otherwise having the cross-border nature

of these accidents they could cause inter-state conflicts or jeopardize their cooperation. This usually happens when a country is considered to be a victim of environmental aggression by some other state (such as the Iraq - Kuwait conflict), or believes that is in danger as a result of the pollution in some other states (such as the Danube pollution dangerous negligence factory in Romania). Therefore, the negotiation related to environment could have two goals: in the event of conflict it is the traditional goal of maintaining or restoring peace on one hand, and in case of damage, the negotiations are less political, less concerned with the rivalry between blocks, or large regional powers and political opponents on the other hand. The damage is usually crossing the borders and the *negotiation* is usually on regional or global level. This does not mean that sometimes the Environmental issue does not have national dimension.

Highly developed countries contribute much more, for example, damaging the ozone layer because they produce, export and consume significantly more substances that affect the ozone layer. Some countries on the other hand are disproportionately much more dangerous for the global warming. This is due to the fact that they are emitting more carbon dioxide into the atmosphere than the other states and at the same time they absorb even less. The result is the global warming due to the greenhouse effect by this emissions. On the other hand, countries whose energy needs are based on nuclear energy are significantly less harmful to the environment than those who do it with the use of coal and oil.

The International law requires that the perpetrator of the damage, usually the state agent, is the state-sanctioned victim compensated for the loss of goods or persons on its territory. This is the traditional concept if some state causes damage to another. However, if the damage is done to the environment, the question is whether it is possible to recover the damages, given the scope and nature of damages to the Environment. Damage done to the ozone layer cannot be expressed commercially! In such cases, the International action is directed towards negotiations in determining the causes of the damage, not the possibility for compensation, guided by the principle: prevention is better than cure. (Kovacevic, 2010).

Levels of compromising of the environment

Environmental degradation across national borders can be analysed at three levels:

- **Local level** Ecological problems can threaten the environment of neighboring countries and cause interstate conflicts. Trans-boundary pollution can harm all countries in the river basin or in the coastal areas. Examples: a chemical accident that took place in Basel in the

1986 threatened all the countries through which it flows to Rhine River, and the repeated spills of hazardous substances into the Danube in Hungary and Romania have led to massive fish kill and threatened to the water quality in the downstream countries, especially those closest to the source of pollution.

- **Regional Level** There are much more difficult and complex phenomena of endangering the environment and these consequences could affect a wider region. Emissions of sulfur dioxide can travel across multiple borders, encompassing broad areas - from Central Europe to Scandinavia. Also the acid rains can make a lot of damage on forests and rivers over long distances. The accident in the Chernobyl nuclear power plant caused great concern in Europe, and especially emphasized the problem of early warning and timely notification when an accident happens (because the Soviet government were for a while hiding the full truth regarding the accident).
- **Global Level** Finally, there are threats to the environment that have a global character, which imposes the need for cooperation and negotiation in the broadest international community. The most typical examples of the broader international action on global level are the most needed joined approach related to the Climate change and the ozone layer. The outcome of negotiations on global issues (where tasks related to Common goods are the subject of negotiating) are usually defined by their nature, such as: the Environment, Future generations and, ultimately - humanity and mankind. Losers are more specific: some chemical industries and producers and / or consumers of certain energy sources. A particular problem with the negotiations concerning global goods is that so vividly Vinfird Lang said, that: “the global goods have no place at the negotiating table because no one has the right to act on their behalf." Therefore, it is very difficult to provide a consensus of all affected in their endangerment, and significant costs to protect their demands. (Kovacevic, 2010).

Climate Change Negotiations during the Last Two Decades

Climate change is a global problem and represents a serious potential threat to the Environment. One of the most negative impacts on the world around us is certainly the "greenhouse effect". The greenhouse effect occurs in a similar way as in the greenhouse, where the sun rays are visible and ultraviolet part of the spectrum penetrate the glass and warm the soil under the glass. The ground then emits infrared radiation that can pass through glass, is retained in the soil and remains heated. The result was that the

greenhouses are much hotter than outside them. In the same way, the Earth behaves if there are any substance that will act as a glass roof. GHG emissions (carbon dioxide - CO2, methane - CH4, halogenated gases, 2 ozone - O3 and water vapor) when released from the factoris, chimneys and car exhausts lead to formation of some kind that prevents the arch, which should not be happening. In addition, the ultra red radiation is lost in the space. In this way the surface of the Earth becomes warmer and from year to year, temperatures are rising. Reasons for causing the greenhouse effect, however, are different from those in the greenhouse. In the greenhouse the warming is caused by reduced air circulation and by mixing of combustion air and the greenhouse effect is due to the absorption of the solar radiation. However, the greenhouse effect is used in order to explain the greenhouse effect. Few ecological problems caused so much controversy as the debate about the global warming. Although scientists have long put forward the hypothesis of emissions of greenhouse gases, thus creating a "thick blanket," not to leave the heat to the atmosphere, it was only in 1990, that an official report of the international (Intergovernmenatal Panel on Climate Change - IPCC) confirmed this theory. The report indicated that the emissions from the cars, the refrigerators, and the air conditioners can provoke very harmful climate change if their emissions are not stopped. The panel predicted that by 2100 the global temperature will rise by 1-3.5 C, with potentially significant effects on water levels, food availability and survival of species. These warnings were a continuation of the dramatic discovery of a huge hole in the ozone layer over the Antarctic in 1985.

Summit in Rio de Janeiro, 1992

Joint international action commenced with the Earth Summit held in 1992 in Rio de Janeiro, where 152 countries and the European Union adopted a Framework Convention on Climate Change. Summit participants agreed to send regular reports on "hothouse" emissions, share information on strategies in relation to climate change and work towards creating a common strategy and joint funding of new technologies to combat climate change. They also adopted a non-binding commitment to undertake measures aimed to return, by 2000, the level of emissions from the 1990. It was this provision, which some considered being to ambitious and others quite insufficient, that caused most problems in the new rounds of negotiations.

In Rio, the Conference of the Parties was established, which held its first session three years later in Berlin. The so-called Berlin Mandate that resulted from this session, surprised many with its commitment to radical measures. This document made the point that developed countries need to do much more than generally accepted in Rio: stabilization of emissions from

1990 was not an adequate response to the threats. The document was especially significant because it legitimized the differentiated treatment of developed and developing countries, something that the countries of the southern hemisphere persistently advocated. The Berlin Mandate was also encouraged to fight percentages among developed countries, which will be a major stumbling block to future negotiations.

Conference in Kyoto

In December 1997 the famous conference in Kyoto was held. The main objective was for the Parties of the Framework Convention on Climate Change in 1992 to agree on the binding provisions by sighing a protocol which is going to determine the objectives for each of the countries and the time periods in which to reduce the emissions that create the "greenhouse effect." The Conference in Kyoto was supposed to be the crown of the decade of negotiations on climate change. But this did not happen. The main criticism of the Convention is focused on its casualness and lack of referral of the States Parties to the specific action that would change the situation. Negotiations lasted eleven days and they were quite heavy, and occasionally dramatic.

The conference brought together some 2,200 official delegates from 159 countries. There were five major negotiating groups: European Union countries, other developed countries (the U.S., Japan, Switzerland, Canada, Australia, Norway and New Zealand), countries in transition, Group 77 (China, India, and 130 other developing countries) and alliance of Small Island states - AOSIS (42 mostly Caribbean and Pacific island states).

True intentions of the different groups were within the range of real desire to negotiate and to negotiate something serious only to buy time. Undisputed leader of the second group were the United States. Particular influence on the outcome of the negotiations and the work was visible in the lack of strong constructive international leadership by the United States. The U.S. delegation had a problem with the label's largest polluters simultaneously impeding the adoption of relevant international documents, especially as the US Congress repeatedly questioned the need for any international action and expressed reluctance to pay its implementation.

Americans have pointed to the large developing countries (India, Brazil, etc.) and at the same time trying to cover up the unpleasant fact that Europe does not support their bargaining position. After sharply being criticized, the Bush administration (Senior) as the Rio proposed to stabilize US emissions of carbon dioxide only until 2000, the Clinton-Gore came to much worse position after five years of residence in the White House: stimulus economy and the popularity of the large recreational vehicles has

moved the ambitious goal for the 2008-2012 period. The Japanese have basically suggested the same - stabilization of emissions by 2012 year.

Finally: ineffectual compromise. However, there was not enough political will for a serious breakthrough in this area. "The main objective in Kyoto, even untypical observer would probably have to admit, seems to had been how to meet 'green' at home and at the same time ensure that the interests of business and industry are not affected by international regulation. It attempts to deal since there are enough "holes" through which you can get through to the practice said there will be a known international environmental group Greenpeace that is stated at the end of the conference: "We appreciate that the agreement, when we take into account all the 'holes' which contain will make a real reduction in emissions compared to 1990." (Environmental News Network, 1997).

As the tenth day of the conference was approaching, as determined to be the final day, the nervousness was growing because no compromise was in sight. Then the Conference extended for one more day (which caused many logistical problems - airline reservations, hotels, interpreters, etc.). This intensified the drama of the moment. No one wanted to take responsibility for the fiasco of such a great, noisy and media blitz followed intense negotiations together. Then the Conference President Raul Estrada from Argentina took the stage, and suggested a compromise: that the United States should withdraw from the requirements for participation in the distribution of the burden of developing countries, and that in turn the American proposals on flexibility and common implementations should be accepted, which would be a subject to further negotiation and trade between the Parties. Perhaps even that would not be enough to reach the agreement if Estrada had not used a procedural provision which authorized the Chair to determine if a compromise was reached. He simply read his proposal and blow hammer announced the end of the presidential debate. Nobody dared to bring this gesture in question.

Thirty-eight industrial countries have signed the treaty, which pledged to reduce emissions of "greenhouse gases" by an average of 5.2% compared to 1990 levels until the period 2008 - 2012. The Kyoto Protocol is a typical negotiation compromise in which neither side has gone very wrong in relation to their starting positions, but the impact of the agreement on the solution was small. The most difficult questions are still left for future negotiations.

The United States signed the Protocol and the Congress did not ratify it by the end of 2003. Russia announced the ratification, but prorogates it still. If, however, ratified, as announced, the Protocol will finally, after at least six years of signing, come into effect, although without the participation of the United States, the biggest polluter in the world (36% of emissions in

1990) the impact of the treaty is relativised. In 2008, China (Ex. Macau and Hong Kong) according to the UN estimations emit 23.5% of the total emissions in the world. USA in 2008 estimated on 18.27%. (Millennium Development Goals Indicators, 2013).

Copenghhagen Sammit

The Kyoto Protocol that we discussed so far was not ratified; the United States and Canada withdrew their signature in 2011. Russia and Japan also found attitudes that they will not participate in further obligations in terms of reducing greenhouse gases that cause the greenhouse effect. Apart from the United States and Canada, protocol has not been signed and ratified by Andorra and South Sudan. Ironic, but true. Given that the Protocol entered into force in 2005 and had set goals of action and the first period 2008 - 2012. On Decembrer 8th 2012 in Doha, Qatar, the amanmand of the protocol refering to the period 2013 – 2020 was sighed (Protocol, 2012).

The deadline of the Kyoto Protocol imposed new and additional solutions. The Copenhagen Agreement drafted by, on one hand, the United States and on the other, in a united position the BASIC countries (China, India, South Africa, and Brazil), is not legally binding and does not commit countries to agree to a binding successor to the Kyoto Protocol, whose present round ends in 2012. (Wynn, 2009) The Copenhagen Summit in 2009 has explicitly manifested the severity of the negotiations when it comes to environmental issues. The questions are about who should pay the price for the current situation?: The Developing countries or the developed countries undoubtedly contribute for a large and deep "gap" between the parties, based on common sense and logical thinking of course. There are arguments on both sides, and no one wants to sacrifice great national strategic interests that would affect the power and influence the states. United States are yet the planet's biggest polluter per capita. One of the conclusions of this conference says that: „What was more interesting than the outcome of the negotiations was the abject failure of EU diplomacy throughout. The final Accord was hammered out by the US, China India, Brazil and South Africa, and presented as “take it or leave it” to the rest of the Parties, including the EU. “(Curtin n.d.) Practically, Kopnehagen, United States and China agreed not to agree for any obligations! The moral dimension of international relations as a scientific lawfulness undoubtedly has confirmed. EUROPEAN UNION spent their entire credibility trying to represent the interests of those who would be most vulnerable (African and island states) . Without result. Can not help but notice the nondiplomatic and underestamting tone in the conclusions to the raw scientific facts, in terms of: Leaving this aside, in point 1 of the Accord itself, the parties “recognise” the scientific view that

the increase in global temperatures should be below two degrees Celsius. In point 2, however, in the seemingly stronger acknowledgment it is given that:

"…deep cuts in global emissions are required according to science, and as documented by the IPCC Fourth Assessment Report with a view to reduce global emissions so as to hold the increase in global temperature below 2 Degrees Celcius, and to take action to meet this objective consistent with the science and on the basis of equality". (Curtin, n.d.)

Conference on Sustainable Development "Rio + 20"

With significance which is set out in the Brutladn commission's report the conference in Rio in 2012 is the last conference that has great importance and also took place recently. With the motto "The future that we want" conference was held from 20 - 22 June 2012 and tried to find answers to many questions related to the concept of sustainable development.

Environment as one of the pillars of this concept that is closely associated with the other pillars of the concept of sustainable development perhaps requires biggest moral conduct constancy of the states. This behavior could mean opposite behavior than the one which requires realization of their own objectives at any cost and at any time, but as soon as possible, preferably immediately! The increase population, the strategic trends of poli-centralism in international economic and political relations, the intensive increase of the number of middle class popullation, especially in the southern states are challenges in the medium and long term that will undoubtedly seek answers. Being announced as a meeting which should "secure renewed political commitment for sustainable development, assess the progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development, and address new and emerging challenges."

But almost at the same level of disappointment as the Kopenhagen Sammit, the RIO + 20 is rated by many as a non successful summit. Ban Ki-Mun announced the conference with the words: "Let me be frank. Our efforts have not lived up to the measure of the challenge." I was disappointed that we did not go further," said Nick Clegg, the deputy British Prime Minister. French President François Hollande echoed the sentiment, saying "disappointment, yes, there's always a bit of disappointment." (Hawley 2012)

Unlike the Rio summit in 1992, 20 years later evaluations of scientists and politicians describe the summit as much more form than content. Of course this conclusion is a result of numerous statements from

them. Reticence of China and Brazil as one of the most called for contribution in terms of achieving the objectives is a fact that is strong.

The event featured representatives was attended by 192 countries. The absence of the US president Barack Obama as well as the German Chancellor Angela Merkel, did not stay unnoticed. Given the intensity of the US presidential election campaign this meaning that the environmental issue is not very popular in the United States. Given that the Democratic Party has nominated Al Gore for president in 2004, this was a major step backwards. Activism of Gore and Albright are one of the crucial on global level for entering the debates for the environment and sustainable development in general in the public debates and policies in the United States and the world starting intensively since the end of the '80s.

The summit in Rio 2012 organized more than 500 events on the spot, more that 800 people present on different courses on various topics during the two days. (Nations, 2012)

Conclusion

The ecological crisis is manifested through a variety of global issues such as pollution, danger, destruction, representing the essential problem of civilization. While the more developed part of the planet faced with the problem of pollution and the exhaustion of resources, expansion of mental disorders, declining quality of life on one, the underdeveloped part of the world is facing serious problems, the demographic boom, poverty, pollution and poor living conditions on the other hand

The questions which surpass the national borders of the states must be addressed on the basis of constructive consideration of the interests of all parties, and having respect for the general purposes - protecting the planet.

Also we must address that the Issues that are vital to the survival of the world have no national boundaries. Political boundaries are limitations established by people wanting to rule the country. Therefore the narrow national interests cannot be the basis on which the countries should base their negotiating positions when it comes to vital issues. Environment is a vital issue. That is not negotiable.

The practice and what we are seeing as a report from the conferences dedicated to the Environmental protection has not been encouraging. The form is provided. Conferences are regularly attended by almost all the countries in the world, most of them on the highest level. They are regularly opened by the UN Secretary General. However, practical contractual obligations and compliance with those obligations are missing. It follows that these conferences do not have the desirable content. Of course, when it comes to Environmental protection.

In general we can conclude that when it comes for the negotiation on issues related to the environment there are certain specifics in respect of the content of the negotiations. Also, the high moral dimension of the issue is not characteristic on every negotiation. It can be concluded that when it comes to negotiations regardless of the issue which is the subject of negotiation, the principles laid down from the Tukudid are the same. The moral dimension is not present.

The scientific facts, not the philosophical speculative methods are also characteristic of the negotiations related to the environment. As we well know - before the arguments the gods are also silent. But apparently not the politicians. In this regard the empirically-based policies must become an essential tool for political leaders. Especially when they have to decide on a particular question.

It remains the hope that the United States, China, Brazil, India, Australia, Russia will change the way of the negotiation and the initial negotiating positions. EU and Japan are obviously those that apply constructive manner on this issue.

For this reason it is necessary that all scientific disciplines give their maximum in order to contribute to the preservation and improvement of the environment.

Natural and Social Sciences should help the man to find optimal solutions to the problem that is more than obvious. These are problems of survival and healthy living.

Therefore, the study of the natural and social environment should contribute in finding the right solutions for the preservation of life on the planet, not just for today, for us, but also for the future time and future generations.

And all this can only be achieved jointly and through open negotiations with all the problems in the world and arriving at the best possible solutions for all countries as well as individuals and their lives.

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SECURITY IN THE ERA OF SMART TECHNOLOGY

IMPLEMENTATION OF LOGISTIC REGRESSION IN THE RESEARCH OF SECURITY PHENOMENA

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Abstract

Subject of analysis of this work is the application of the methods of multivariate analyses which are adapted in the modern scientific research. Here, the application of the simultaneous interdependence among the numerous variables will also be actualized. Although the multivariate analysis is actualized in many different ways, the term implies to a set of statistical methods which simultaneously analyze several multidimensional measurements obtained from each of the units of observation. The results are obtained from the total sum of the objects being studied, and this is especially characteristic for the complex phenomena such as the security.

Logistic regression is a type of regression analysis in which the results of the independent variables (predicators) of the same dependent variable are linked. This variable predicts the probability of the event. The final result of this analysis is to determine which of the predictor variables are "important" to predict the value of the dependent variable. Namely, on the grounds of the distribution of the values of the independent variables, the value of the dependent variable is finally determined. The final value estimates the effects of the interaction and determines the impact of the controlling intervals on the independent variable.

Logistic regression has been applied by many researchers. One of them is Wofford, who studied the continuous violence in the family. Namely, on the basis of this analysis, twenty-six forms of family violence were defined. Further on, it sets the degree of family violence, with the help of the theory of transformation of compatibility of occupation as well as productiveness at a given moment. For that reason, in this paper we will discuss the application of this analysis model, using multiple research results.

Key words: multivariate analysis, logistic regression, security phenomenon, measurement of effects, models of regression.

Introduction

The research of security phenomena is determined by the characteristics of the subject, especially its theoretical foundation and the

language of security sciences. Moreover, the possibility for researching is conditioned by the methodology of security sciences, then by human resources i.e. researchers, the general attitude towards the research, available funds for researching, etc. However, studies, special methods, and in particular the specific research methods, are primarily dependent on other constituents of the security sciences. The methodological theory insists on the unity of the subject and the method of research. Epistemological features of the object determine the method (Mojanoski 2010b, p. 15 - 16). This means that the method of asphaliology*) (security science) is particularly related to the method of other sciences as the security phenomena are specific as a research subject in terms of reality that is explored by other sciences. It is indisputable that the security phenomena features have the same implications of the method and, hence, of the possibility of research in asphaliology (security sciences) (Mojanoski 2010a, p. 12).

The actions of people (members of the security bodies) in relations with other people are not, nor can strictly be programmed, but are dependent on the personal emotions, the ability, knowledge and values (Spaseski, 2005, p. 33). The procedures are specified with legal norms for safety. They are based on the qualitative values of people, and emphasize the following principles: activity, initiative, humanity, consistency etc., which sometimes do not comply with "technique" systems. Security structures are enclosed not only because of the nature of the work, but also the specificity of their activity. They are wrapped with secrecy. Such a position provides the assumptions of their subjective weakness and ignorance to be covered with the principle of confidentiality. Therefore, especially in terms of satisfying the principle of verifiability and availability of data, it is not possible to have the opportunity to study or research the activities of the security bodies (Miloshević, Milojević, 2001, p. 34). That is why exact results of many researches cannot be expected. However, the subjective nature of the activity of the security organs conditions such (inexact, probable) results of research to the complex methodical framework, even by using methods which will indirectly help in learning the processes and the content of the work (Spaseski 2010, p. 3-4).

The possibility of scientific research on the security phenomena is conditioned by the theoretical fund and the language of security sciences (Miloshević, Milojević, 2001, p. 35). Here it should be emphasized that the new scientific knowledge for the security phenomena is significantly dependent on the quantity and quality of existing theoretical fund of the security sciences. Fact is that the security sciences have not built a single

*) The author of this paper believes that the naming of security science should be with the term asphaliology (Greek: asfalia = security and logia = science);

theory, yet; it is often a set of remote parts theories about the narrower parts of the subject of security sciences. Some are primarily theoretical, and others are implemented. Each one has the character of a doctrine and / or a legal regulation; they are created from a range of views, guidelines and principles. There are not enough correct definitions and scientific laws that have a capital role in the research of security phenomena. Consequently researches are particularly complex and uncertain, and results are conditional and hypothetical (Miloshević, Milojević, 2001, p. 35).

Research Method

Here, an issue that attracts attention is whether and which methods and multivariate procedures can be applied in researching of the security phenomena. The answer is neither simple nor one way. The further analysis will retain the logistic regression as an analytical tool on multivariate analysis and its application in the research on the security phenomena. At the very beginning, we will give a few basic notes about the term multivariate analysis.

Multivariate analysis is used in the process on inducting the assessment of the degree on interdependence on the variables by testing their statistical significance. Finally, it should be noted that some of the analytical tools on multivariate analysis are of research character, which is presumably not used to test a priori the defined hypotheses, but to generate or construct them.

Proceedings of multivariate analysis are classified on procedures that determine the dependence and interdependence (Kovacic, 2011, p. 145). Procedures that determine the dependence are: a) multivariate regression, b) canoness correlation analysis c) discrimination analysis, d) multivariate analysis of the variance (MANOVA), and e) logit analysis.

Multivariate regression is the best known procedure of multivariate analysis. In the naming of the procedure a multivariate is used to make a distinction from the cases: (a) a multistage and b) multivariate regression. In the first case the dependence of one variable (dependent variable) is analyzed with another variable (independent variable). This procedure for analysis is better known under the name multistage regression. The procedure in which the sum of the dependent variables contains more than one article is called multivariate regression.

Canoness correlation analysis is a generalization of the multistage regression analysis. It establishes a linear relationship between the sum of independent and the sum of dependent variables.

Discrimination analysis deals with the problem of decoupling of the groups and the allocation of the observations i.e. noting of changes in previously defined groups.

Multivariate analysis of the variance (MANOVA) is a generalization of the single dimension analysis of the variance (ANOVA). It is especially useful in implementing a controlled experiment (through the use of several treatments). The main objective is testing the hypothesis that relates on the variance effects to the group of two or more dependent variables (Kovačić, 2011, p. 145 - 146).

Logit analysis applies when in the regression model the dependent variable is of dichotomous type (for example, variable sex with modality: male-female). That model is called the regression model with qualitative dependent variable. In this model the dependent variable is actually logit function, logarithm of quotients of the probabilities that the dichotomous dependent variable will have one or another value. The models of this type of analysis are also called models of the logistic regression analysis.

Procedure that simultaneously analyzes two variables, one of which is accepted as an independent and the other is considered a dependent, is called the regression analysis. The term "regression" originates from Francis Galton, who in 1886 in the Courrier of the anthropological institute in London published a paper in which conditionality between the heights of the children of average height parents is reviewed (Kovacic, 2011, p. 146).

Logistic regression is a form of regression analysis in which a dependent (criteria) variable which can have two results (0 or 1) and one or more independent variables (predictors) are linked. It predicts the probability of the event. The goal of the logistic regression is based on criteria variables to calculate the probability. As a final result, is that with its help is determined which predictors variables are "significant" to predict the value of the "criteria" variable, and therefore, based on the distribution of the values of these criteria variables, is predicted the value of the dependent variable. The goal of a good logistic model is the same as when it comes to linear regression, which are variables to explain larger variance of the criteria variable.

Generally, regression is an analytical procedure that enables the prediction and evaluation of a variable based on the values of another variable. Logistic regression can be used to predict the dependent variable based on the independent variables and a certain percentage of the variance in the dependent variable that is defined on the basis of independent variables. It ranks the data of the independent variables according to the relative importance. It estimates the effect of the interaction and captures the impact of interval controlling on the independent variable (Simeunović, Milosavljević; p. 100 - 103).

It applies in researches of natural and social phenomena. Thus, Wofford on the sample of young people aged 18 to 27 years studied the continuing violence in the family. Based on the analysis of the literature, he found twentieth-six forms of violence in the household. Further on, he conducted two measurements in 1984 and 1987 on persons who claimed to be victims or perpetrators of domestic violence. Using logistic regression, he determined the extent of domestic violence. The logistic curve played a significant role in sociological researches of George Land, who in the theory of transformation for estimation of suitability of an occupation at different stages of technological development used the concept of the S-curve. White, Pearson and Wilson, with the help of logistic regression models, also examined the achievement of manufacturing practice at a given moment.

Logistic regression is used in (Gvozdić, p. 12):

prediction of the dependent variable based on the values of the independent variables;

ranking of independent variables according to the importance, and

assessment of the effects of interaction.

Logistic regression applies the maximum probability estimation after the change on the dependent variable in the logistic variable. In this way, assessment is made for the possibility for occurrence of the event, based on the probability for occurrence of a particular case. So, logistic regression, opposed by linear, calculates the change in the logarithm on the probability of the dependent variables, and not the changes in the dependent variables (Eye, Mair, ey Mun, 2010, p. 65 - 66).

The dependent variable in the logistic regression model is binary, while the independent variable may be numeric, ordinal, categorical, or a combination. Due to the nature of the dependent variable, logistic regression model is also known as binary logistic regression model (Binary Logistic Regression Model). Logistic regression or logistic model or logit model is used to predict the likelihood of events or developments by adjusting the data of the logistic curve. Logistic regression is a type of regression analysis in which the dependent (criteria) variable is dichotomous or binary and is encoded with 0 or 1 and at least one independent (predictors) variable (Logisticka; p. 7). Statistical modeling for binary response variables measure the choice for each subject - it can be presented with "yes" and "no", "successful" or "unsuccessful", etc. Binary data is the most frequent form of categorical data. Depending on the measurement scale of the dependent variable, we usually talk about a nominal that is ordinal logistic regression models. (Myers, Well, 2003, p. 201). The independent variable may be categorical or a combination of categorical and continuous, and in logistic regression there are no assumptions for the distribution of these variables. Dependent variable shall be marked with Y, while the independent is marked

with x. The logistic regression is a model for calculation of binary data, i.e. criteria variable has only two values (David, Stanley; 2000, p. 67).

For instance, if the dependent variable is a minor: whether he is socialized or not, whether one attitude is positive or negative, whether the action is successful or unsuccessful etc. As we can see, the dependent variable takes into account only two values i.e. it is dichotomous. The answers are coded with 0 and 1, where 0 indicates "failure" or lack a feature, and 1 indicates "success" or existence of a feature.

Results and Discussion

Within statistical techniques should be considered the size and nature of the sample if the intention is to use logistic regression. One of the issues is the number of cases in the sample in relation to the number of predictors (independent variables) that is intended to be included in the model. The analysis becomes problematic (even numeric diverge) when the sample is small, and you intend to include many predictors. This is a problem especially for categorical predictor with a limited number of cases in each category. Always for each predictor is activated the procedure Descriptive Statistics, and if the number of cases (observations) in certain categories is too small, it is necessary for them to be classified in other categories or removed from the analysis.

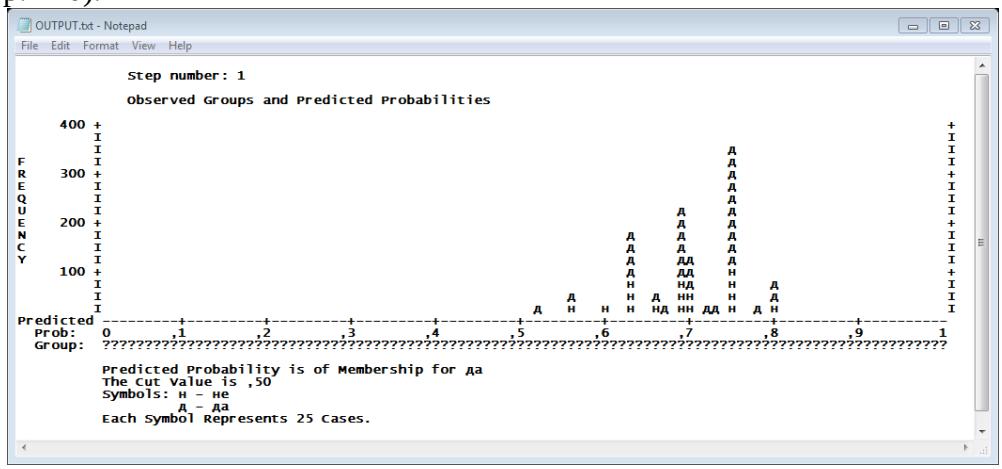
Table No. 1. Descriptive Statistics - Coefficientsa

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
	B	Std. Error	Beta			Tolerance	VIF
(Constant)	,658	,041		15,909	,000		
2. Sex:	-,061)	,029	-,066)	-2,132)	,033	,847	1,181
Age in two groups	-,065)	,027	-,070)	-2,455)	,014	,994	1,006
2.Nationality in two groups	,029	,036	,023	,809	,419	,990	1,010
27. Are you a driver?	,122	,030	,127	4,092	,000	,850	1,176

a. Dependent Variable: 32.1 If you witness a traffic offense would you testify in court?

Multi co-linearity refers to checking whether there are strong correlations between the predictor (independent) variable. It is ideal, predictors to be variable which are strongly related to the dependent variable, but not interconnected. In the procedure of logistic regression SPSS do not have formally the test for multi co-linearity, so the procedure should be performed by the model for the calculation of multistage (linear) regression namely in Statistics submenu to be activated Co-linearity diagnostics. The remaining results should be disregarded on the basis of Coefficients table and its column with chapter Co-linearity Statistics. Especially minor values of the indicators Tolerance (less than 0.1) indicate that the variables have a higher correlation of 0.1. If the model generated values smaller than 0.1 in that case, the sum of variables that are expected to compile a model of it should be changed and that variable - removed, which indicates the degree of strongly correlated variable.

In applying the model, it should be checked whether there are untypical points (Eng. outliers), i.e. cases that the model does not explain well. In the language of logistic regression, the model seamlessly provides specific case in one category, which in reality is in another category. Atypical cases are recognized in the diagram of the residuals (Pallant; 2009 p. 170).



Graph 1 Diagram of residuals

Logistic regression is illustrated with the example of data obtained in a survey on a sample of 1309 respondents conducted from 8th to 17th January 2010 on the territory of the Republic of Macedonia. The subject of interest is to determine whether willingness to testify in court (survey question: “If you witness a traffic offense would you testify in court?”) regarding the gender, affiliation of ethnic community, or age, sex and those that are drivers (whether you are a driver?)? (In this case they are marked

with signs pr40a, pr4a, pr2a and pr4dve and pr126a). The answers are “yes” or “no”. They, in this analysis are dependent variable. The sum of the predictors (independent variable) includes gender and age.

On the original values of each of these variables are given new passwords (codes) to ensure their suitability for this analysis. And for categorical variable the code is changed, and it also is 0 = no 1 = yes.

In order to understand the results of logistic regression, it is needed that the encoding of responses are carefully prepared for each variable. For dichotomous dependent variable, responses need to be encrypted with 0 and 1 (or to re-encrypt existing values in SPSS using the procedure Recode). The value 0 should be assigned to each response that does not contain the insignia of interest. In this example, the number 1 is encrypted to answer "yes", and 0 to answer "no". Similarly, the independent variables are preceded and encrypted for continuous independent variable.

For example, we explored the question: what factors predict the probability that the respondent will answer that in some offered situations to help the policeman in the detection of a committed crime or an offense.

To perform the calculation, in the analysis is required one nominal (categorical - dichotomous, for example, that sex is encrypted 0 for men and 1 for women), dependent variable (to testify in court if the witness is a traffic offense: encrypted with no / yes, i.e. 0 / 1), and two or more continuous or nominal predictors (independent) variables. Dichotomous variables are encrypted with 0 and 1 (a member of the Macedonian people with 1 or another ethnic group with 0, then by age up to 40 years old with 1 and over 41 with 0). Continuous variables are measured in the way that bigger numbers indicate stronger fulfillment of the features of interest (e.g., by gender, nationality, age, etc.) (Pallant, 2009, p. 160).

It can be concluded that the logistic regression is used for assessment of how much the sum of predictor variables is explained well or predicted the categorical (nominal or dependent) variable. It is obtained indication of the adequacy of the model (the sum of predictor variables) i.e. quality assessment of the anticipated results. It is actually indication of the relative importance of each predictor variable or importance of the interaction between them. A set of indicators for the accuracy of the classification of cases based on the model is obtained, providing calculation of the sensitivity and determination (specificity) of the model and its positive and negative predictive values.

Logistic regression is not based on the assumptions for allocation of the results for measuring predictor variables. It is sensitive to high correlations between predictor variables (multi co-linearity), and that is important to assess whether and how atypical points affect the results of the logistic regression.

Prior to begin the following procedure, we should open the Edit menu and in the option Options, Output - we should choose and check the field No scientific notation for small numbers in tables.

The procedure for calculation of logistic regression in SPSS software package is as follows: open Analyze, select the option Regression, and then Binary Logistic. Then, it is loading in the box Dependent the nominal (categorical) dependent variable (e.g.: pr40a), in the box Covariates, continues with loading predictor variables (pr4dve, pr126a and pr2a). In the Method section we should activate the function Enter. Here, we should point out that in the calculation of data, if there is categorical predictor, are included under the options Categorical. All categorical variables are chosen (pr4dve, pr126a and pr2a) and transmitted in the box Categorical covariates. Each categorical variable is individually selected, and it is activated the option First in the section Change contrast. When activated the option Change, behind the selected variable is displayed outs first. In that way is given the task of the group that will be used as a reference to be shown first. This is repeatedly for all categorical variables. Then the orders are performed (Pallant, 2009, p. 170).

In the submenu Options, the tasks Classification plots, Hosmer-Lemeshow goodness of fit, Casewise listing of residuals and CI for Exp (B) are activated. Then the command is run. After the performance of the commands, the following result is obtained.

The calculation of logistic regression in SPSS gives significant number of results, so here are mentioned only the key aspects.

Usually, at the beginning we take a look at the details of the sample size, given in the table Case Processing Summary. The number of the analyzed cases should be equal to what is expected. In this case it is 1210 or 92.4% of respondents, while 99 or 7.6% were excluded from processing because they do not satisfy the criteria i.e. they are incomplete or blank.

Table N. 2 Sample Size - Case Processing Summary

Unweighted Casesa		N	Percent
Selected Cases	Included in Analysis	1210	92,4
	Missing Cases	99	7,6
	Total	1309	100,0
Unselected Cases		0	,0
Total		1309	100,0

a. If weight is in effect, see classification table for the total number of cases.

The following table, Dependent Variable Encoding, provides information how SPSS acted with the codes of the dependent variable (in this case, with answers to the question whether the respondents would help the police officers when they are in a situation) (J. Pallant, 2009, p. 171).

From the data, it is obtained the information that variables are coded 0 and 1. If this is not the case, then programmatic solution will do re-encryption (e.g. if passwords are 1 and 2, the calculator will decode into 1 and 0).

Table N. 3 Dependent Variable Encoding

Original Value	Internal Value
no	0
yes	1

The statistical package gives the possibility with help of the procedure Recode to re-encrypt original responses (1 = yes, 0 = no) with a format which is necessary to calculate the logistic regression, i.e. 1 = yes, 0 = no. Such an encryption (when a positive response shall be marked with 1 and negative with 0) makes easier the interpretation of the results.

Table N. 4 Categorical Variables Codings

		Frequency	Parameter coding (1)
27. Are you a driver?	no	435	,000
	yes	775	1,000
4. Age into two groups	over the age of 41	547	,000
	from 18-40 years of age	663	1,000
2. Sex:	women	550	,000
	men	660	1,000
2. Nationality into two groups	minority	201	,000
	majority	1009	1,000

In the following table Categorical Variables Codings we should look at the encryption of independent (predictor) variables. Also, in the column with title Frequency is checked the number of cases in each category. Here, we should not take into account groups that have little cases. In the next section labeled Block 0, are the results of the analysis without displaying any independent variable which consist the model. Later they are used to compare the results of the model that covers predictor variable. In a column in Parameter coding encodings of the issues and frequencies are given.

In the table Classification we can read that in the right way are classified 69.1% of the cases. In this example, SPSS classified those who are unwilling or with no problems would have been in court, of course if they are witnesses to a traffic offense, and specified number of 30.9% answered with “no”.

Table N. 5 Block 0: Beginning Block - Classification Tablea,b

	Observed		Predicted		
			32.1 If you witness a traffic offense would you testify in court?		Percentage Correct
			no	yes	
Step 0	32.1 If you witness a traffic offense would you testify in court?	no	0	374	,0
		yes	0	836	100,0
	Overall Percentage				69,1

a. Constant is included in the model.
b. The cut value is ,500

It can be concluded that less than a third of the respondents would not testify in court although they witnessed traffic offense, which is an indicator that analysis should continue to vary with other research findings, in accordance with the theoretical concept of the research. Later, when groups of predictor variables will be brought, it can be expected to improve the accuracy of these predictions.

Further analysis focuses on the distributions presented in the next section, Block 1: Method = Enter. Here, the results of testing the model (group of predictor variables) are presented.

Table N. 6 Block 1: Method = Enter - Iteration Historya,b,c,d

Iteration		-2 Log likelihood	Coefficients				
			Constant	Pr4a(1)	pr3dve(1)	pr2a(1)	pr126a(1)
Step 1	1	1474,674	,632	,115	-,261)	-,245)	,488
	2	1473,466	,677	,130	-,309)	-,292)	,567
	3	1473,466	,678	,130	-,310)	-,293)	,569
	4	1473,466	,678	,130	-,310)	-,293)	,569

a. Method: Enter
b. Constant is included in the model.
c. Initial -2 Log Likelihood: 1496,459
d. Estimation terminated at iteration number 4 because parameter estimates changed by less than ,001.

In the table Omnibus Tests of Model Coefficients are given summary indicators of the model performance which is the difference in terms of results obtained for Block 0, when in the model any predictor variable was not inserted.

Table N. 7 Block 0: Beginning Block- Iteration Historya,b,c

Iteration		-2 Log likelihood	Coefficients Constant
Step 0	1	1496,890	,764
	2	1496,459	,804
	3	1496,459	,804

a. Constant is included in the model.
b. Initial -2 Log Likelihood: 1496,459
c. Estimation terminated at iteration number 3 because parameter estimates changed by less than ,001.

This test is named goodness of fit, i.e. how well that model predicted the results. This set of the results are especially significant (size Sig. should be less than 0.05). In this case, the significance is 0.000 (what means p <0,000). Therefore we declare it a model (with our groups changing as predictors) envisions better than SPSS originally setup of the displayed in the department Block 0, derived from the assumption according to which if one is witness to the traffic offense will testify in court.

The indicator is χ2-squared and equals 22.993 with 4 degrees of freedom is high, it is higher than 0.05 and it should be stated in the report (J. Pallant, 2009, p. 171).

Table N. 8 Block 1: Method = Omnibus Tests of Model Coefficients

		Chi-square	df	Sig.
Step 1	Step	22,993	4	,000
	Block	22,993	4	,000
	Model	22,993	4	,000

And the results shown in the table Hosmer and Lemeshow Test support the assertion that the model is good. It is claimed that this is the safest test quality of predication model in SPSS. It is interpreted differently than the previously reviewed omnibus test.

Table N. 9 Contingency Table for Hosmer and Lemeshow Test

		32.1 If you witness a traffic offense would you testify in court? =no		32.1 If you witness a traffic offense would you testify in court? =yes		
		Observed	Expected	Observed	Expected	Total
Step 1	1	44	46,758	62	59,242	106
	2	50	49,919	82	82,081	132
	3	48	43,627	75	79,373	123
	4	70	71,663	157	155,337	227
	5	45	41,015	88	91,985	133
	6	45	48,526	140	136,474	185
	7	57	53,583	155	158,417	212
	8	15	18,908	77	73,092	92

In the Hosmer-Lemeshow Goodness of Fit Test, indicators whose value is less than 0.05 are considered weaker to predict, i.e. it is considered the model if these values are more than 0.05. If you look at the values in the table it can be concluded that the model is supported because the values are greater than 0.05.

In our example, the indicator $\chi 2$-quart - the test for the Hosmer-Lemeshow test was 3.242 with significance of 0.778. It is more than 0.05, what means that it supports the model (Pallant, 2009, p. 171).

Table N. 10 Hosmer and Lemeshow Test

Step	Chi-square	df	Sig.
1	3,242	6	,778

Logistic regression was conducted to evaluate how likely is the respondents to answer positively, i.e. are willing to testify in court when they witness traffic offense. The model contains four independent variables (gender, age, driving status, belonging to a majority community). The entire model (with all predictors) was statistically significant, $\chi 2$ (4, N = 836) = 3.242, p <0.778, meaning that the model shows that differs the respondents that answered or not that they eye-witnessed and are ready to witness in court.

Table N. 11 Model Summary

Step	-2 Log likelihood	Cox & Snell R Square	Nagelkerke R Square
1	1473,466a	,019	,027

a. Estimation terminated at iteration number 4 because parameter estimates changed by less than ,001.

The model as a whole explains that between (0.019 and 0.027) 1.9% (r squared Cox & Snell R Square) and 2,7% (r squared Nagelkerke R Square) are variances of those answers that are willing to testify in court and accurately classifies 69.1% of cases. As summarized in the table Classification Table, two independent variables made a unique statistically significant contribution to the model (solidarity with police through patronizing attitude to testify) (Pallant, 2009, p. 180). Model Summary table indicates one more thing about the usefulness of the model. Values Soh & Snell R Square and Nagelkerke R Square show how much of the variance in the dependent variable explains the model (the minimum is 0 and the maximum is approximately 1). That is the so called pseudo indicators of the value of r2 (r squared), and not its actual amounts, which can be seen in the results of multistage regression. In this example, these two indicators are 0.019 and 0.027, which means that it is given a sum of variables (model) explained in between 1.9% and 2.7% of the estimated variance.

In the table Classification are shown indicators of how accurately the model predicts the direction of the category (if one eyewitness traffic offense, how much is or is not ready to testify in court) for each examined case. It can be compared to the eponymous table in Block 0 and seen if there is an improvement which should be a result of the inclusion of predictor variables in the model. That model accurately classifies 69.1% of all cases (Eng. percentage accuracy in classification, PAC), which is better same value specified in the Block 0.

Table N. 13 Block 1: Method = Enter- Classification Tablea

	Observed		Predicted		
			32.1 If you witness a traffic offense would you testify in court?		Percentage Correct
			no	yes	
Step 1	32.1 If you witness a traffic offense would you testify in court?	no	0	374	,0
		yes	0	836	100,0
	Overall Percentage				69,1

The cut value is ,500

The results shown in this table, depending on the subject of research or the specifics of the case study problem can be used for the case study and other statistical indicators (J. Pallant, 2009, p. 180).

Subject to further analysis of the data is the sensitivity of the model. Under the sensitivity of the model is implied the percentage share of the tested group characteristics (e.g. problem with the willingness to testify in court) which is the model correctly recognized (are really positive). In this example, the model correctly classified 69,1 percent of those who are willing to testify. But it accurately determined (Eng. specificity-determination of model) and the percentage share of the group that has not determined feature "willingness to testify in court". In this table values and the ability of the model to identify and determine the direction of the responses are given (determines which the real negative responses are). In this example, the determination to respond positively is 69.1 percent, i.e. 30.9% who answered negatively. In other calculations, other redistribution of the specified is possible (Eng. specificity), which according to the subject of the research are carried out interpretations of the same data.

Further analysis is not interested in what is the percentage of those who are actually willing to testify in court. This can be achieved with positive predictor value. It however, is the percentage share of cases which the model classifies to have the tested characteristic. To calculate the positive predictor value in the previous table, we need the values of the fields

"predicated = yes" and "observed = yes" to collect (374 +836 = 1210), then data from "observed = yes" (836) to divide with this sum [(836/1210 * 100) = 69.09]. So, positive predictor value in this model is exactly determined at 69.1% of the respondents, if they witnesses a committed traffic offense and are prepared to testify in court. Here the negative predictor value can be determined and together with it shall be marked the indicator that determines the percentage share of cases which the model classifies as they do not have a feature, and that cannot be noticed in the group subject of the analysis. In this example, their value is 0.0 which means that the model does not recognize them.

Subject to further analysis is the contribution of each predictor variable on how many and what the willingness of those respondents who are witnesses to traffic offense is, to testify in court. Information about them is provided in the tables titled Variables in the Equation.

We remember that in the table Variables in the Equation data of the contribution or the importance of each predictor variable are shown. It means that it comes to Wald's test of significance. Namely, the name indicates that the test was constructed by Wald. In the calculations of logistic regression, the values of the indicators are given in whole for the model, before the action and for each predictor separately. They are listed in the table, in the column by chapter Wald. To determine the value of Wald's coefficient, we need to observe the value of the threshold of significance listed in the column Sig. whether there are values of less than 0.05. Namely, the value of the coefficient Wald before the action of the variable for degree of certainty of p <0,05 (Sig.0, 000) is 167.189.

Table N.14 Block 0- Variables in the Equation

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 0	Constant	,804	,062	167,189	1	,000	2,235

Table N. 15 Block 0- Variables not in the Equation

			Score	df	Sig.
Step 0	Variables	Pr4a(1)	1,320	1	,251
		pr3dve(1)	5,103	1	,024
		pr2a(1)	,390	1	,532
		pr126a(1)	11,843	1	,001
	Overall Statistics		23,041	4	,000

But subject of analysis is the behavior of these values after the calculation with inclusion of the variables. These are the variables that significantly contribute to the predictive capabilities of the model. (Pr4a p = 0,435, pr3dve p = 0,015, p = pr2a 0, 035 and pr126a p = 0,000). In this

example, three variables have a lower threshold of significance of p = 0,05 (nationality pr3dve p = 0,015, then sex pr2a p = 0,035 and driving status pr126a p = 0,000) and concluded that had a significant contribution to the predictor features of the model. In it, a variable has value over 0.05. This means that it does not contribute significantly to the predicate opportunities of the model.

Table N. 16 Block 1- Variables in the Equation

		B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B) Lower	Upper
Step 1a	Pr4a(1)	,130	,166	,611	1	,435	1,139	,822	1,578
	pr3dve(1)	-,310)	,128	5,926	1	,015	,733	,571	,941
	pr2a(1)	-,293)	,139	4,466	1	,035	,746	,569	,979
	pr126a(1)	,569	,141	16,380	1	,000	1,767	1,341	2,328
	Constant	,678	,194	12,218	1	,000	1,969		

Variable(s) entered on step 1: Pr4a, pr3dve, pr2a, pr126a.

Legend: pr126a. 27. Are you a driver? Pr3dve. 3.Age in two groups; pr2a. 2. Sex; pr4a.4.Nationality in two groups

β0= 0,678; β1=0,130; p=0,435; OR=1,139;

From the data it can be concluded that the main factors that influence the respondents in Macedonia when a driver would have opted to testify in court if he is witness of a committed traffic offense, in a considerable number will respond positively. Next are the respondents according to the age and sex, i.e. the young men do not show willingness to testify in court. It can be observed that in these two variables, the contribution for the predictor features of the model is smaller.

B coefficients in the second column are equivalent to the coefficients β obtained in the analysis of the multistage regression. These indexes are created in the equation for calculating the probability that the observed case belongs to a certain category. Namely, we can read the following values: pr4a (1) = 0,130; pr3dve (1) = -0,310; pr2a (1) = -0,293); pr126a (1) = 0.569. From the result can be concluded that the coefficients sex (pr2a (1) = -0.231) and age pr3dve (1) = -0.310 are negative. This means that the number of respondents aged up to 40 years in men eyewitnesses to traffic offense reduce the probability to testify, i.e. more certain is that they will respond negatively. It means, when β result has positive or negative coefficients, attention should be paid in the analysis. They indicate to the direction of the link (which factors increase the chance of answers "yes", and which decrease). If all dependent and independent categorical variables are well encrypted (with 0 = no or no existence of feature; 1 = yes or existence of feature), the negative value of the coefficient β shows that the increase in the value of the independent variable has as a consequence reducing of the likelihood that the respondent answers with 1 in the dependent variable (in

this case to testify in court). In this example, the variable that measures the overall willingness (β0) to testify in court, if is the witness of traffic offense is positive and β1 is highest among those who identify themselves as drivers and is pr126a (1) = 0.569; next are those who responded that were Macedonians of national determination pr4a (1) = 0.138, while the reluctance occurs in the young pr3dve (1) = -0.310 and men pr2a (1) = -0.296. So we can conclude that positively responded those who are drivers with a coefficient of 0.568, i.e. those who declared to belong to Macedonian people with coefficient 0.136. The other B indicators are negative. This leads to the conclusion that the greater the danger to the individual to expose at risk, the greater the willingness to appear in court to testify about the event that had been witnessed. That means the respondents as a whole, are yet willing to testify in court that can be determined from the constant coefficient which is positive (B constant=(β0) 0,678) and shows the degree of willingness to testify in court. Why certain categories of respondents, especially those up to 40 years of age and men are not willing to testify in court, the answer should be sought in the theoretical concept or in some reasons that are the result of time, the relations or cultural pattern of the respondents. For these assumptions the analysis should proceed with the subsequent measurements.

In the column Exp (B) in the Table Variables in the Equation other useful information is also given. It can be observed that indications of the probability quotients (Eng. odds ratios) for each independent variable are given. When it comes to the likelihood ratio (KV) is determined the degree of probability that a specific predictor increases by one unit of measurement (BG Tabachnick, LSFidell, p. 461). In our example, the probability that the respondent will answer "yes" when asked if he or she would testify in court if they were witnesses of a traffic offense is highest among those who have declared that they are drivers: pr126a (1) = 1,767, then those who belong to Macedonian people pr4a (1) = 1.139. According to the degree of probability come those aged up to 40 years pr3dve (1) = 0.733 and in the end is probability of respondents men with coefficient pr2a (1) = 0.746. The total coefficient of probability that respondents under the mentioned features is significant and is β0 (Constant = 1,969), i.e. totals 1.97, nearly twice.

The significance of a predictor is the willingness to testify in court if he or she was a witness of traffic offense, which among drivers is less than Sig. is 0.000, in youth Sig. is 0.015, for men Sig. is 0.035 and for Macedonians Sig. is 0.435. In our example, the respondent who is driver when asked if he or she is willing to testify in court the probability to be expected to answer "yes" is about 1,787 times higher than other. However, the ratio of the probability of the variable sex amounts 0.746, and of age up to 40 years 0,733 is less than 1. That means the following: the higher the risk

is, it is less likely that the respondent, a man and aged up to 40, will positively respond if he witnessed a traffic offense and testifies in court. Indirectly, it can be concluded that when the respondent is a woman and over the age of 41, it is probably more likely to answer that question positively.

It should be taken in account that our predictor is a continuous variable; that is a reason to talk about increase (or decrease, if KV e lesser of 1) of the probability for each unit of increase in the predictor variable. When the predictor variable is categorical, the probabilities of those two categories are compared. For categorical variables with more than two categories, each category is compared to the referent group (usually a group whose code is lowest number). These calculations are performed only in cases where it is given First the section Contrast within the dialog Define Categorical Variables.

Analysis of data is the column Exp (B) in the table Variables in the Equation. Namely, in it the quantities of probability are presented. Thus, we should evaluated how many of the quotients of the probability are smaller than 1. Therefore, to simplify the interpretation of the data, we should calculate and specify their reciprocal value, i.e. 1 to divide by that value. Only for example, in this case with 1 is divided by 0.746 and is equal to 1.34. This information can be commented in a way that how much the risk is smaller, the probability that respondents will respond positively grows for 1.34. If there is a need to decide and specify the reciprocal values of quotients of the probability, then the reciprocal value of the confidence interval should be given. For every quotient of probability in the shown column Exp(B) tabele Variables in the Equation belongs 95 percent confidence interval (95,0% CI for EHR(V)), its lower and upper limit. These data must be listed in the results. Simply stated, i.e. the scale for which with 95-percent certainty is claimed that covers the real value of the probability quotient is given that willingness to testify in court if the witness committed a traffic offense ranges among the Macedonians from 0,822 to 1,578, in adults up to 40 years from 0,571 to 0,941. Then follow the spreads for men who range from 0.569 to 0.979 and for the drivers between 1,341 and 2,328. We should not forget that the number referred to as the quotient of the probability is only an estimation of the true value based on the data from the sample. The trust is based on the claim that it is exact value (for the whole population) vary depending on the size of the sample. The small sample means that the confidence interval around the estimated probability quotient is particularly wide. The interval is significantly reducing with increasing of the sample. So, although it is stated that the calculated ratios KV = 16,758, with 95% confidence can say that the true value of KV to the whole population lies between the 1,341 and 2,328, which is particularly wide range of numbers.

The range of trust is the widest in the answers related to willingness to testify in court among respondents drivers, and the lowest among those aged up to 40 years. Confidence interval in the cases when does not contain the number 1 (because the result is p <0,05), is statistically significant. When the confidence interval contains the number 1, the probability quotient is not statistically significant, because the possibility that is a real probability the quotient of 1, indicating to equal probability of the two answers (yes / no) cannot be excluded (J. Pallant, 2009, p. 172). It means that we should not exclude the probability that a person who is a driver will respond positively and will testify in court. Respectively, it should be assumed that a man up to age of 40 is more willing and ready to testify in court.

The last table of the results, Casewise List, is about the cases in the sample whose model does not predict a well. In this calculation it is empty.

Table N. 17 Casewise Lista

a. The casewise plot is not produced because no outliers were found.

It can be concluded that in this sample there are no cases that would be beyond the model, and all are well provided, which means that the results obtained using the logit regression are particularly significant.

Conclusion

From the previous debate we can conclude that security phenomena are complex, dynamic and hierarchical and contain factors that are studied by various sciences. Researching in security sciences are interdisciplinary because they have to rely on the findings of numerous scientific disciplines and use the same methods as those disciplines. Of course, such researching is complex and long lasting, and the results depend on the level of the theory and on the method of the scientific disciplines that are being studied.

Due to the fact that some security phenomena are occasional, researches are losing their stable (permanent) empirical ground. Instead of the real phenomena (e.g. civil unrest, terrorist acts, criminal act etc.), imitation and the models become an empirical field. Therefore, some researches in security sciences are modal. That has significant implications on the possibility of cognition. Namely, the models cannot be identical, nor similar to their own originals. If both are similar in space, time, physical strength and activities, they cannot be identical according to the qualitative values of the people, nor by the results (e.g. losses); these values cannot be validly modeled, neither validly studied. Hence, the results can be only conditionally safe.

Because the security phenomena are occasional and occur in specific forms and content, researches are hardly verifiable. If the actual views of the security science are performed inductively from the previous experience (as a criterion of verification) they can be truthful and operational as much as that experience; with the experience they become outdated, lose strength of the facts and become hypothetical views. Therefore, they should be re-checked so that in reality they can be used as facts. In addition, we should always keep in mind that the views of the many qualitative factors - people - members of the security bodies are difficult to be checked empirically and measured beyond the real activity of the security system. If the paragraphs are verified theoretically, by determining consent of the most general views with those of the security science or even the normative views (deductive), there is a risk of positivism and vulgarization, because all attitudes that are verified must be compliant with the views of the theories used to verify them. They are completely reliable cases in this type of verification so the theory confirms the accuracy of the attitude that in this theory is contradictory. The theory is commonly accepted positivist as a priori true.

It is obvious that the inductive and deductive methods of verification separately are not sufficient and neither reliable for the research of the security phenomena. Each one has certain advantages and disadvantages, so it is considered that verification may be correct only if derived with dialectical inductively-deductive method.

The previous debate has shown that the application of analytical procedures in research of security phenomena provides specified results. Of particular importance is the debate about the application of empirical research models in the research of the security phenomena.

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CYBERCRIME IN POLAND

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Abstract

The first part of the paper presents some Polish legislation on cybercrime. In the second part, the author describes an example of phishing observed in Poland. This part shows that cybercrime is closely linked to the money and organized crime.

Introduction

Cybercrime in Poland is criminalized in many acts. Historically, the first was Copyright and Related Rights Act (1994) - level of piracy (software producers' loss in 1994 was over 90%). The most important role in the fight against cybercrime in Poland is the Penal Code (1997). In many of its articles provisions for actions referring to cybercrime can be found.

Cybercrime Regulations

According to the Polish Copyright and Related Rights Act, illegal distribution and publication of legally protected computer programs are prosecuted. Prosecution is carried out on private accusation and in cases when a given crime becomes a permanent source of income or when a perpetrator organizes or runs criminal activity - prosecution is on indictment. Criminal responsibility for violation of the act is enclosed in the chapter 14, and says:

- misappropriation of authorship, falsification, labeling with trade mark of one's product are prohibited. Moreover, it is illegal to shorten, adapt and change the code of program against the will of the author (Art. 115 – penalty of up to 2 years' imprisonment, restriction of liberty, or pecuniary penalty),
- it is forbidden to make any changes against the license, in the way of using software, e.g. one–position installation in the net or on a few workstations. It is forbidden to make protected software for copying in the net or BBS accessible (Art. 116 - penalty of up to two years' imprisonment, restriction of liberty, or pecuniary penalty),
- making extra illegal copies, reinstallations of protected software on hard disc are prohibited (Art. 117 - penalty of up to two years' imprisonment, restriction of liberty, or pecuniary penalty),

- it is forbidden to purchase, accept or help with selling or hiding software carriers in order to gain material profit, called receiving of stolen property (Art. 118 - penalty of up to two years' imprisonment, restriction of liberty, or pecuniary penalty),
- it is illegal to make exercising the right to control the process of operating a program difficult or impossible (Art. 119).

The new Penal Code, which has had a binding effect since 1st September 1998, has introduced new possibilities of fighting computer piracy. Illegal obtainment of computer program (copying, duplication of a carrier, taking a carrier without authorized person's permission) – theft of other person's program aimed at gaining material profit (disposal of a copy on the computer stock market) has been considered a theft of a movable property (Art. 278 §2 of the penal code). A computer program is not a movable property; however, it may become the subject of copyright property. Article 278 §2 of the penal code allows more radical prosecution of computer piracy, since it imposes penalty of imprisonment for 3 months to 5 years. Moreover, classified form of crimes under the Articles 117 and 118 of the law on copyright imposes penalty of up to 3 years' imprisonment, if the crime becomes a permanent source of income, or when a perpetrator organizes or runs crime activities related to computer piracy. If illegal obtainment of computer programs concerns the property of great value (more than 200 000 denominated in Polish zloty), according to the Article 294 §1 of the penal code, a perpetrator commits classified crime and he or she can be sentenced to up to 10 years. A computer program can became an intentional or unintentional receiving of stolen property (A|rt. 291 §1 and 291 §2 of the penal code). It is illegal to help with selling, receiving or hiding pirate copy in order to gain material profit. This regulation provides for penalty of imprisonment for 3 months to 5 years. In a less serious case a perpetrator can be fined or he or she is liable to the restriction of liberty up to one year. What is meant by a less serious case is that a perpetrator did not want to gain any material profit and installed a program only in his or her own computer or helped with receiving or hiding a program by means of computer network. Unintentional receiving of stolen property – when perpetrator should or may assume that a program either purchased, sold or hidden has been stolen, he or she is liable to the penalty of restriction of liberty, or the penalty of up to 2 years' imprisonment. It is worth noticing that receiving of stolen property under the Article 293 §1 of the penal code is prosecuted on indictment, and under the Article 118 point 1 – on the wronged person's motion.

Owning to various activities the estimated level of computer piracy

went down to 53% in 2011[1], but Poland is still in the top five in the ranking of software piracy in the EU.

It can be stated that computer piracy has become one of a few areas of computer crime where the police are effective. So far, I have not come across any evidence of applying regulations of tax law as far as collected and unrecorded software in the register is concerned.

As far as hacking is concerned, within a few years hackers have **broken into servers** and replaced WWW pages belonging to the Prime Minister and Government. Unfortunately, the perpetrators have not been captured. Even if they had been captured there would have been plenty of problems with qualification of the offence. For the first time in 1998, people could watch on TV how a burglary to the server of the Central Bureau for Statistics was performed. In a talk-show programme an invited computer scientist broke security measures and gained access to the resources of the Central Bureau for Statistics. Heaving had a binding effect since 1st August 1998 the new penal code under XXXIII chapter – crime against the protection of information – penalized such deeds. Unlawful entry to a computer system through violation of security measures and receiving protected information (also obtaining access without authority to all or part of the computer system) is liable to the penalty of fine restriction of liberty, or penalty of up to the 2 years' imprisonment. According to the regulation mentioned above, it is illegal to receive information by an unauthorized person. What is valid, however, is whether it was an electronic, magnetic, or any specific entry. It does not matter what kind of security measure was disabled to break. Attempted hacking - checking the quality of security measures and possibilities of breaking them - is not prosecuted. It is also forbidden to alter, damage, or erase any recorded information or in any way hinder an authorized person from accessing it. It is also prohibited the acquisition, sale or sharing with others a hardware or software adapted to commit these crimes, as well as computer passwords, access codes or other data enabling access to information stored on computer system or communications network (Art. 269b).

Computer frauds such as interfering with the input data, program or output are often a black number. Afraid of having their reputation undermined, banks, offices and companies often fail to inform the police and the public about them. One of the most frequent computer frauds is tampering with output devices with credit cards. The present penal code defines computer fraud as an activity involving the obtaining of material profit or causing other harm by exerting influence on gathering, processing and transmitting information. The criminal activity can take various forms,

[1] http://globalstudy.bsa.org/2011/ - 30.06.2011.

such as alteration, erasure or input of new data into the computer information carrier (Art. 286 §1 of the penal code). This regulation refers to a classic fraud where, with the intent of procuring a lawful economic gain, the offender makes other person administer his own or her own or other person's property by inducing him or her into error or by taking advantage of his or her error or inability to undertake the right action. Thus, Art. 287 §1 of the code forbids any computer data interference aiming at causing economic loss of another person property.

Computer fraud is punishable by three months up to five years in prison. In less serious cases (Art. 287 §2 of the code) the penalty is a fine, restriction of liberty or prison sentence for up to one year.

Computer forgery - another cybercrime - can be divided into two cases:

- a computer with its programs and input-output devices is a tool used to forge typical documents or legal tenders. It is not difficult to provide evidence of this act having been committed, and this sort of crime is recognised as forgery of documents (Art. 270 §1 of the code) or of money (Art. 310, 313, 314 §1 of the code).
- documents in the form of electromagnetic record are counterfeited or forged. Under Article 115 §14 of the penal code, a document is any object or recording on a computer information carrier bearing a definite title, or which due to its contents is a proof of law, legal relationship or circumstances of legal significance. With this understanding of a document, a person forging a record on a magnetic card or other computer information carrier is also liable to penalty under Art. 270 §1 of the penal code.

In both cases forgery is liable to a fine, restriction of liberty or prison sentence of three months to five years.

One of few cases of computer blackmail for which documentary evidence has been supplied involves planting a logic bomb in software by a dismissed computer operator. The planting of the bomb was related to the operator's demand to be paid for programs he was the author of. As a result of undertaken actions, no computer data or programs were damaged.

Any tampering with computer entries with the intent to illegally alter, erase or suppress important computer data or to hinder or prevent an authorized person from getting access to the data (Art. 268 §2 of the code) is punishable by prison sentence for up to three years. It does not make any difference how the information was damaged. The damage can be done to data-base, in the course of information processing, by putting a virus into information, program or computer network, entering a password or changing it, blocking connections in a network, or any other hindrance to accessing

data by an authorized person. Alteration of computer data or programs is also punishable. The latter differs from the former in that the perpetrator unlawfully interferes with data, e.g. by entering new data or changing the existing record to break the protection system. Therefore, it is forbidden to enter any changes in important information stored in a computer system, as it breaks the integrity of data and infringes interests of the owner or other authorized person. It is related to the right for undisturbed possession of data or the right on privacy. If the violator damages information, whereby causing grave pecuniary loss, he is liable to a prison sentence of 3 months to 5 years under art.268 §3 of the penal code. This is a qualified form of damaging information - a crime prosecuted on the wronged person's motion. If the above mentioned acts cause damage to information of particular importance for the state's defensive system or security, citizens' safety, or local government, then the offender is liable to a prison sentence of 6 months to 8 years. It should be added that besides computer sabotage, the legislator distinguishes activity with the intent to hinder or prevent automatic data acquisition or transmission.

Computer sabotage can also involve damaging or replacing the information carrier, destroying or damaging devices for automatic processing, acquiring or transferring of data (Art. 269 §2 of the code). Those acts are also liable to a prison sentence for up to 8 years. Since 2004, also unintentional sabotage, e.g. in case of unintentional putting of virus into the computer system or data on the carrier is liable to a prison sentence to 5 years (Art. 269a).

Unauthorized interception of information - computer tapping

This crime involves obtaining information by using a tapping or visual device or other special device. Thus, it does not matter what kind of device it is, it can also be a telecommunication device plugged into a tele-transmission network. Neither is it important why the person enters the computer network or system. Penal sanctions for these crimes are the same as for hacking. The main purpose of security measures is to ensure the confidentiality of data transmitted or transferred with the use of technical devices, and to guarantee that every person's privacy is protected against various forms of surveillance in tele-transmission networks.

Other forms of computer crime and possibilities of prosecuting them in Poland are as follows:

Telecommunication fraud - phreaking

(Art. 285 §1 of the code). It is illegal to get connected to a telecommunication device and obtain phone impulses at somebody else's expense. The offender is liable to a prison sentence for up to 3 years.

Computer espionage or computer intelligence

(Art. 130 §3 of the code). This crime consists of entering a computer network with the aim of gaining information which is either a state or official secret, and which - if given to another country's intelligence service - may do harm to the Polish Republic. The statutory penalty for this crime is a prison sentence for the period of 3 years or more. If an offender enters a computer network and gathers or stores the collected information, or intends to gain it for a foreign intelligence service against Poland but has not yet transferred it, then under Article 130 §3 of the penal code he or she is liable to a prison sentence of 6 months to 8 years. Computer espionage of that type can also be prosecuted under hacking or computer tapping regulations, or under state or official secret protection. Liable to penalty is also an act harmful for an allied state, provided that the state ensures mutuality in this respect (art.138 §2 of the code).

Bringing about danger to the lives or health of many people or to property of great value

(Art. 165 §1 of the code, point 4). This crime consists in hampering, preventing or influencing automatic processing, acquisition or transmission of data, and is liable to a prison sentence of six months to eight years. A person can be prosecuted under the same regulation for jeopardizing safety connected with the functioning of an airport, railway station, water, gas or energy supply system, monitoring of data in an intensive medical care ward, guarded bank, military or other facilities, e.g. by putting a virus into a computer program controlling the above mentioned activities.

If a person causes somebody's death or grievous bodily harm to many people, he or she can be sentenced to a prison sentence of 2 to 12 years.

Unintentional disturbance of automatic data processing resulting in bringing about public danger

(Art. 165 §2 of the code). This crime carries a prison sentence for up to three years. However, if somebody's death or grievous bodily harm done

to many people is involved, the penalty is 6 months to 8 years in prison.

Terrorist attempt on a ship or an airplane

(Art. 167 §2 of the code). If a terrorist destroys, damages, or disables navigational equipment used for processing indispensable data, or makes it impossible to operate with it, he or she is liable to a prison sentence of 3 months to 5 years.

Cyber stalking

(Art. 190a §1 of the code, since 2011). It is prohibited to persistent harassment (e.g. by the Internet, phone) to another, which gives rise to the circumstances justified sense of danger or significantly affect its privacy. The penalty is up to 3 years.

Cyber stalking, phishing

(Art. 190a §2 of the code, since 2011). It is prohibited to impersonate another person, the use of his or her image or his or her personal data in order to cause the property or personal damages. The penalty is also up to 3 years.

Offence to somebody's religious beliefs

(Art. 196 of the code). This crime consists in insulting an object of religious worship or a place used for public performance of religious rituals, e.g. by disseminating information of this nature in computer networks.

Grooming

(Art. 200a §1 of the code, since 2011). If someone contacts via the Internet with a minor under the age of 15 with an intention to meet with him or her, by placing him or her in error, exploiting error or inability to properly understanding the situation or using unlawful threat, he or she is liable to a prison sentence of 3 years.

Disseminating pornography, pedophilia, sodomy

(Art. 202 of the code). Making arrangements for sexual contacts including pedophiliac or distributing pornographic materials. Since May

2004 possessing in the system or on the computer carrier pornographic materials with children under 15 is liable to a prison sentence of 3 months to 5 years.

Praising fascism in public

(Art. 256 of the code). Propagating fascism, communism or other totalitarian ideologies, also selling, sharing symbols of them with the use of computer network (imprisonment up to 2 years).

Insulting, deriding or humiliating people in public

(Art. 262 of the code). Publicizing or spreading information glorifying violence, racism, nazism, anti-Semitism, etc.

The above list of computer crimes shows explicitly that these crimes are closely linked with economic activity and pose a serious threat on communication and transportation. They can jeopardize lives, health, property and safety of citizens.

Police statistics of selected cybercrime cases reported in Poland in 2011 - 2012 is following:

Selected art. numbers of the Polish Penal Code	**Police investigations (2011/2012)**				
	initiated	completed	offences committed	offences detected	Remarks
267	**1194/1656**	**1154/1636**	**1102/1513**	**679/764**	§1-3 (hacking)
269b	**38/21**	**30/33**	**29/27**	**12/7**	access codes, credit card data sharing
270§ 1-2	**2442/2435**	**2795/2586**	**2805/2670**	**2435/2302**	altered data on the card (forgery of document)
278§5	**8207/7662**	**8493/7975**	**8239/7697**	**1117/990**	credit card theft
287§ 1-2	**998/1279**	**850/1074**	**1361/1341**	**848/626**	computer fraud
310§ 1	**2980/3370**	**3323/3761**	**3279/3696**	**262/384**	forgery other means of payment
310§ 2	**3423/3517**	**3577/3538**	**2859/2775**	**398/367**	bringing into circulation false other means of payment

Source: Polish Police Headquarters, System TEMIDA

An Example of Phishing in "Polish Style"

The term "phishing" entered the Polish language a few years ago. Phishing (password harvesting fishing) indicates a criminal activity involving fraudulent collection of personal information such as logins, passwords, and details of a bank or credit card account, through impersonating a trustworthy person or institution that urgently needs the information to operate normally and effectively. Although phishing requires the application of computer technologies, it constitutes a kind of attack which is mainly based on social engineering.

People who use phishing deceive their victims into sharing critical data in a way that makes them unaware of the danger. There is also a more advanced form of phishing called pharming, which means that even experienced and watchful victims can make a mistake and make their data available to others. In both cases, criminals effectively use botnets to send spams.

Classical phishing (Fig. 1) involves making copies of a website, information from which is needed, then, adapting the website for the seizure of data, placing the website on the server, and finally, sending the information referring users to the website in question (e.g. by spam, SMS, communicators, websites).

A typical outline of an operation can be presented in the five following points:

- e-mail sent by a financial institution reaches an addressee. The e-mail includes a request for verification or provision of one's data (account and card numbers, logins, password, etc.).
- unaware client clicks on the link included in the e-mail and connects with a false financial institution service.
- client logs in a false service and transfers their data.
- the client's data is sent to a phisher's data collecting computer.
- the phisher logs in the real financial institution service and obtains financial resources under false pretences, unauthorized transaction, purchase, etc.

Sent via e-mail spam, encouraging or redirecting to enter a false banking page, should be reliable with regards to its content and form (Fig. 2 - in the middle of this picture is a link to the false bank website). It should be free of spelling and stylistic errors. Characteristic for the Polish language are the letters ą,ę,ć,ł,ń,ó,ś,ź,ż. Criminals often forget to encode them properly, which does not threaten potential victims. Used for phishing, malicious software (malware) can be passive (key-loggers - sample operation Fig. 3) or

active (pop-ups, inserted dialogue filling forms). These are characteristic features of malware applied in phishing:

- Self-defense - malware deactivates anti-viruses (mainly updates function), changes firewall principles, becomes invisible due to root kits;
- Remote management - installs backdoors, installs http, and socks proxy;
- Theft of identification - capturing passwords included in the protected area, identifiers, e-mail addresses, certificates (SSL), use of Browser Help Object to seize http transaction, installment of man-in-the-middle functionality.

A false banking page used for phishing contains all graphic elements characteristic for the original page (Fig. 4). What is more, in order to make the page credible, there appear contextual suggestions and explanations of more difficult terms (for example on Fig. 4, what it is, where it can (CVV2) be found on a credit card). The obtained information is immediately used, within two or three days of it having been revealed. A typical use of information is the transfer of money from a victim's to a money mule's own account, whose role is to transfer the money, reduced by their commission, to the Western Union in Ukraine. In the Ukrainian Western Union institutions the money is collected by people using false Russian or Ukrainian passports.

Much evidence indicates that Polish phishers operate in two groups. Group 1 members are involved in spam, malware, and phishing (Fig. 5), and group 2 members in money laundering (Fig. 6). Each group is assigned its own tasks and their members may have no knowledge about the other group's existence and activities, which guarantees greater safety for phishers. Such a division of roles may also result from different punishment imposed in various countries.

Phishing poses a serious problem in Poland. The number of such crimes is going up together with the amount of money deposited in our nationals' bank accounts. A growing interest in phishing results from the two following elements:

a) Easy and huge profits

- Low cost of generating a huge number of phishing mails (spam)
- Attack with the use of socio-techniques is easy to carry out and does not require any advanced technical knowledge
- Easy registration and development of a phishing website
- Even low effectiveness (3%) generates high profits

b) Low risk

- Phishing mails are usually sent via disgraced "zombie" stations or "open relay" servers - it is difficult to identify the real physical sender
- Phishing websites are often switched into other IP physical addresses – they are all difficult to be blocked
- It is difficult to arrest a person taking money (from an account) – thousands of Ukrainian Western Union institutions.

Moreover, criminals take advantage of the weak and slow exchange of information among various foreign police forces, as well as between police and financial institutions.

Conclusions

Cybercrime should be treated as a criminological phenomenon (not necessarily regulated in separate chapters of the code) prosecuted under an adequate article depending on the act (e.g. appropriation, devastation of, or damage to property, revealing a state or official secret). The existing Polish law regulations, despite not entirely consistent with the Council's of Europe Convention on cybercrime from 2001 (ETS-185), allow Police effectively to fight cybercrime in a democratic state. It seems worth noticing that criminals are making the most of the latest developments in information technology. It is worth remembering about strong relationships between cybercrime and organized crime.

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6. Polish Penal Code (1997)

7. www.bsa.org\globalstudy [2013.06.30]

Figure 1. Classical phishing

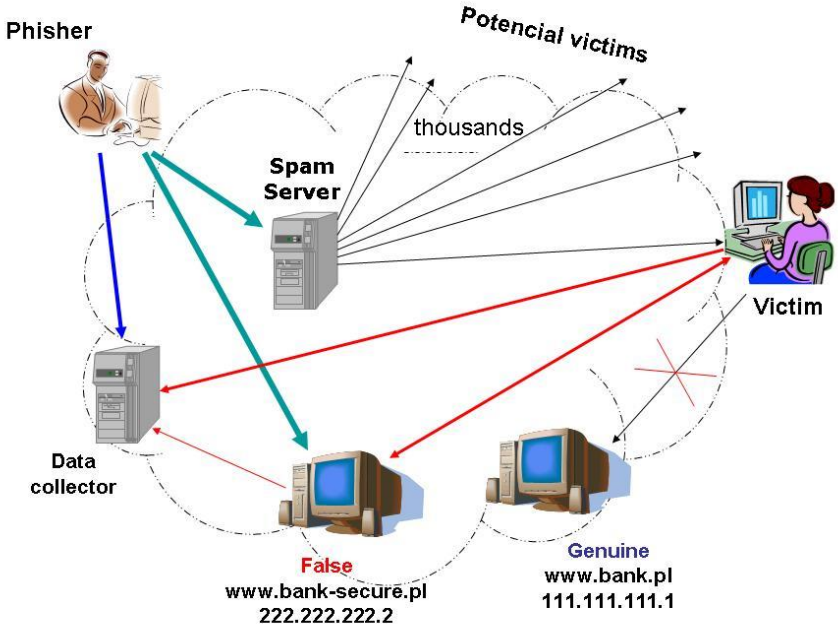


Figure 2. A sample phishing spam.

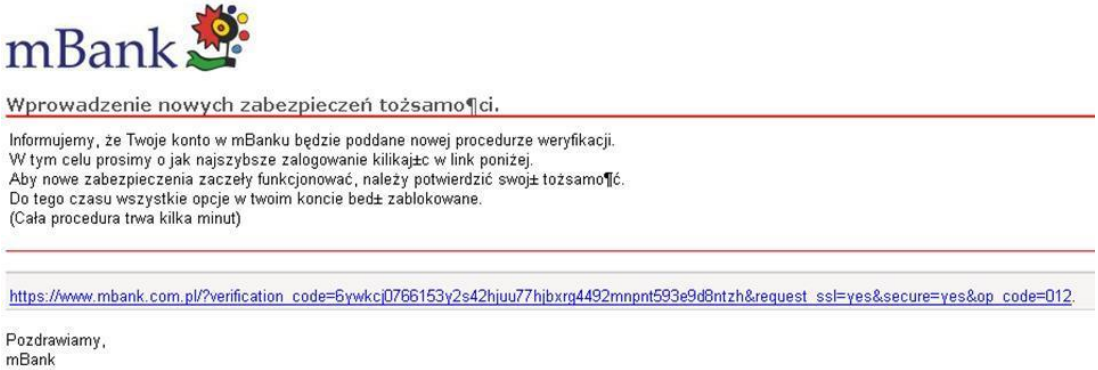


Figure 3. Keyloger effects.

IP 83.30.96.167 [dnv] https://www.pkointeligo.pl/ikd
post
sd(ffield_hidden):
1e1GVEJ53esBjNi9xR:PUnhcxDXU3yZTCtFfUGSFCz74QOL:feP3J76qiT

eZHjGu5:0VVVbxBeOxp5BgC2ID54ttFuTasQWqt7sC59nxPxqn6yRkY1ux
xHUoT4V38O5ur6jZA9YfcSS:aIBANOTQWvweYaxlmc5Tfnd28XcKeLJ
mdyNfxbFygQ==

client.id(ffield_hidden): 380xxxx6
password(ffield_hidden): a236yyyy1
button(ffield_hidden): ok
menu(ffield_hidden):
btn.ok.x(ffield_hidden): 68
btn.ok.y(ffield_hidden): 19
nashehaslo1num(ffield_text): 1
nashehaslo1(ffield_password): 683011
nashehaslo2num(ffield_text): 2
nashehaslo2(ffield_password): 005231
nashehaslo4num(ffield_text): 3
nashehaslo4(ffield_password): 869989
nashehaslo5num(ffield_text): 4
nashehaslo5(ffield_password): 814198
nashehaslo3num(ffield_text): 5
nashehaslo3(ffield_password): 941347
button(ffield_hidden): ok
menu(ffield_hidden):

Figure 4. A sample phishing website.

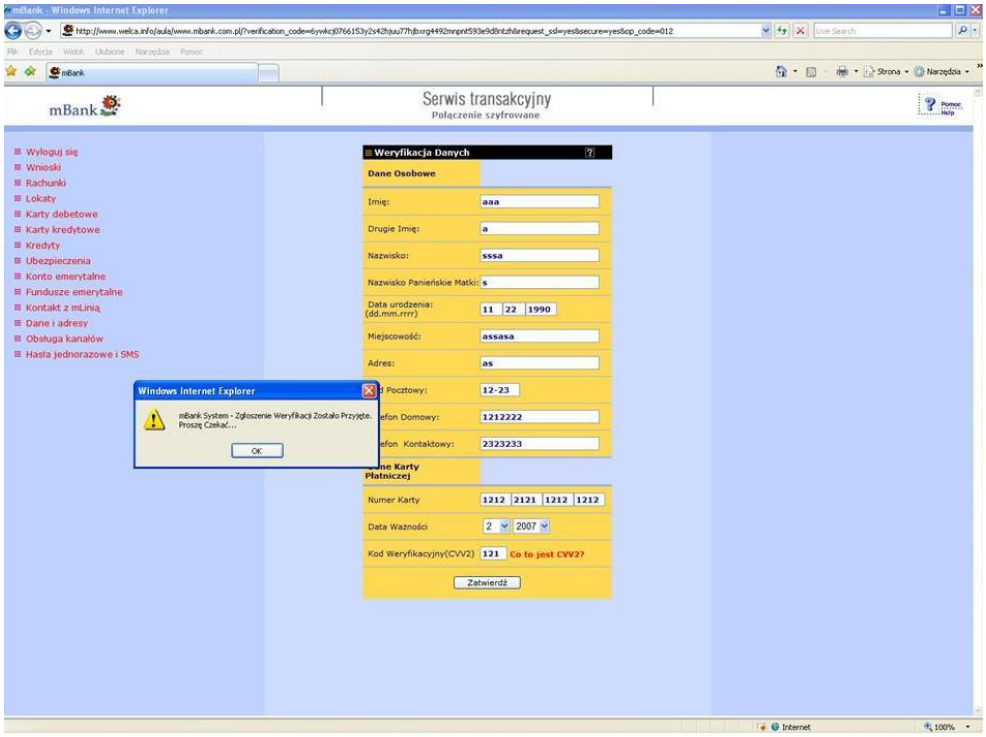


Figure 5. Phishing group activities – group 1.

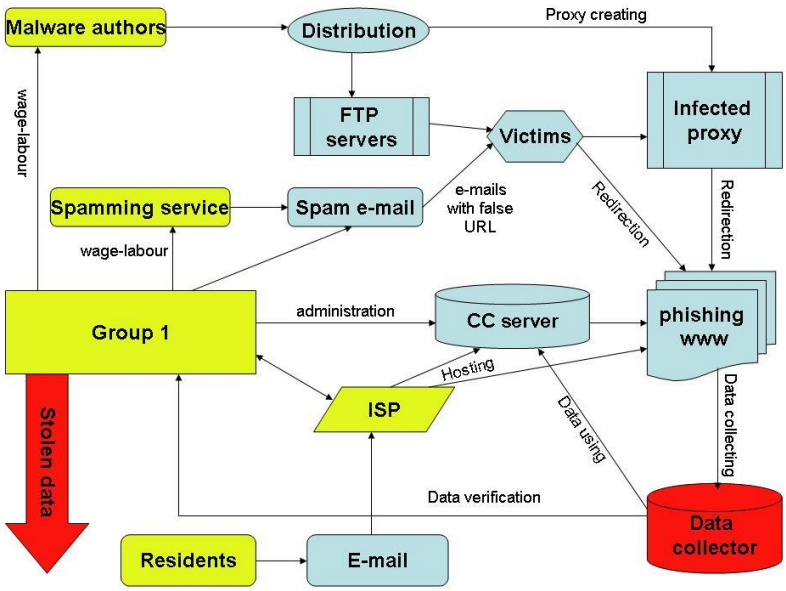
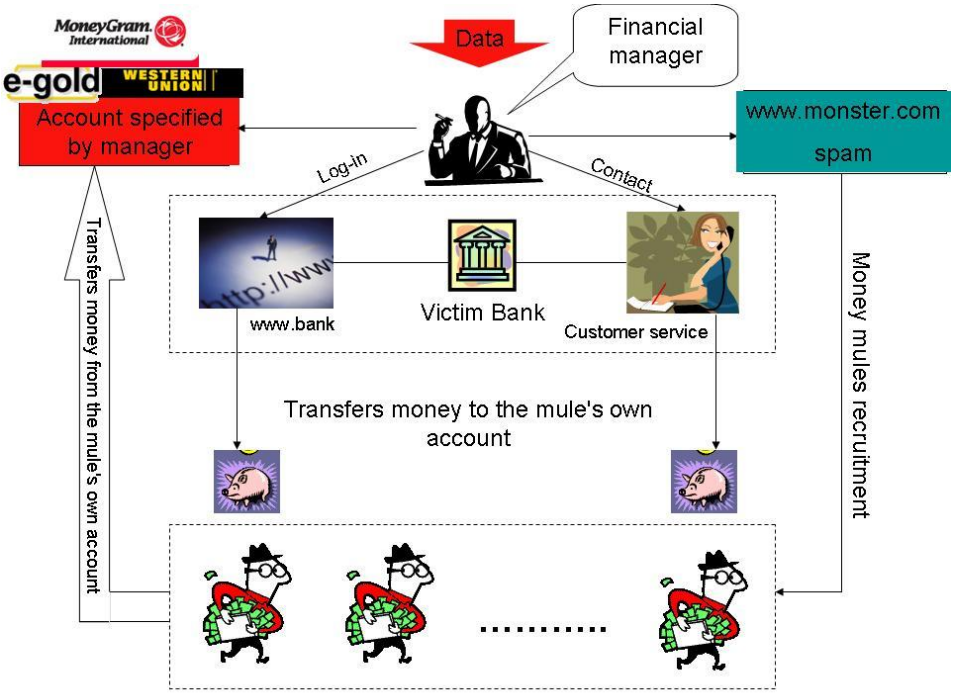


Figure 6. Phishing group activities – group 2.


MoneyGram International
e-gold
WESTERN UNION
Account specified by manager
Data
Financial manager
www.monster.com
spam
Log-in
Contact
Transfers money from the mule's own account
www.bank
Victim Bank
Customer service
Transfers money to the mule's own account
Money mules recruitment

TERRORIST AND CRIMINAL NETWORKS: SMART ENEMIES IN A NEW SECURITY ENVIRONMENT

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Abstract

The purpose of this paper is to explicate the potential of introducing technology rapidly into transnational crime groups and terrorist organizations due to the latest organizational evolution and variation. Intelligence and analysis helped ensure the crucial security of operations with admission to the most sophisticated information technology. High-tech technologies are exceptionally beneficial for terrorist and criminal networks enabling dispersed organizational actors to communicate and coordinate their responsibilities.

Research question is how will national security policy be affected by terrorist and criminal networks exploitation of smart technology? The organizational benefits for networked terrorists are that they may have a diminished need for state sponsorship, enables dispersed activities with reasonable secrecy, anonymity, improve terrorist intelligence collection and analysis and helps sustain a loose and flexible network.

The supremacy of and changes brought about by technology will have profound effects on crime in the future, mostly the potential for its increased speed and scale and it will provide easier access to systems, premises, commodities, and information; and also is removing geographical obstacles to crime.

In order to answer the research question, the paper will examine how transnational actors use smart technologies to further their interests, with special emphasis on their organizational changes in order to support their campaigns of violence, and further their political objectives.

Due to multifarious technological advances and innovations in use and adaptation of technology by criminals and terrorists, one distinctive concern is that there will be more successful fusions and/or collaboration among organized criminal and terrorists networks in the information technology area.

These principles underline contemporary threats posed by emerging forms of transnational crime and terrorism networks that defy traditional methods criminal justice and security measures for preventing and controlling crime.

Key words: terrorist networks, criminal networks, technology, security environment

Introduction: Information Revolution as Advantage of Network Design

Non-state threats and actors have become key factors in contemporary security environment. The information revolution is altering the nature of conflict across the spectrum. We call attention to two developments in particular.

First, this revolution is favouring and strengthening network forms of organization, often giving them an advantage over hierarchical forms. The rise of networks means that power is migrating to non-state actors, because they are able to organize into sprawling multi-organizational networks (especially "all-channel" networks, in which every node is connected to every other node) more readily than can traditional, hierarchical, state actors. It also means that whoever masters the network form stands to gain the advantage.

Second, as the information revolution deepens, the conduct and outcome of conflicts increasingly depend on information and communications. More than ever before, conflicts revolve around "knowledge" and the use of "soft power" (Arquilla & Ronfeldt, 2001).

The information age is affecting not only the types of targets and weapons terrorists choose, but also the ways in which such groups operate and structure their organizations. Several of the most dangerous terrorist organizations are using information technology (IT) - such as computers, software, telecommunication devices, and the Internet - to better organize and coordinate dispersed activities. Like the large numbers of private corporations that have embraced IT to operate more efficiently and with greater flexibility, terrorists are harnessing the power of IT to enable new operational doctrines and forms of organization. And just as companies in the private sector are forming alliance networks to provide complex services to customers, so too are terrorist groups "disaggregating" from hierarchical bureaucracies and moving to flatter, more decentralized, and often changing webs of groups united by a common goal (Zanini & Edwards, 2001).

This includes familiar adversaries who are modifying their structures and strategies to take advantage of networked designs - e.g., transnational terrorist groups, black-market proliferators of weapons of mass destruction (WMD), drug and other crime syndicates, fundamentalist and ethno nationalist movements, intellectual-property pirates, and immigration and refugee smugglers (Arquilla & Ronfeldt, 2001).

New Technologies - Facilitators for Establishment of Terrorist and Criminal Networks

Terrorist, violent extremist actors and transnational criminal groups readily make use of Internet communication channels to exchange information they perceive as safe, secure and inconspicuous, and because

they have no access to mainstream media. Consequently, for years the Internet has been firmly established as a facilitating factor for both terrorist and violent extremist organisations, and its use is growing as Internet availability extends worldwide. Online social media sites attract high numbers of users. Internet forums are an effective means to address targeted audiences, including supporters who have no off-line links to terrorist organisations. Most forums restrict access, wholly or partially, to vetted members who need to prove their credentials and loyalty, or be recommended by established members before admission. Forum members are strongly advised by their moderators to use encryption software for direct communication.

To realize its potential, a fully interconnected network requires a capacity for constant, dense information and communications flows, more so than do other forms of organization (e.g., hierarchies). This capacity is afforded by the latest information and communication technologies—cellular telephones, fax machines, electronic mail (email), web sites, and computer conferencing (Arquilla & Ronfeldt, 2001).

Such technologies are highly advantageous for terrorist and criminal networks whose constituents are geo-graphically dispersed.

Lateral coordination mechanisms facilitate the operations of net-worked groups. In turn, such coordination mechanisms are enabled by advances in information technology - including increases in the speed of communication, reductions in the costs of communication, increases in bandwidth, vastly expanded connectivity, and the integration of communication and computing technologies (Heydebrand, 1989). More specifically, new communication and computing technologies allow the establishment of networks in three critical ways (Monge & Fulk, 1999).

First, new technologies have greatly reduced transmission time, enabling dispersed organizational actors to communicate and coordinate their tasks. This phenomenon is not new - in the early 20th century, the introduction of the telephone made it possible for large corporations to decentralize their operations through local branches.

Second, new technologies have significantly reduced the cost of communication, allowing information-intensive organizational designs such as networks to become viable. Organizations sought to reduce coordination and communications costs by those activities that are inherently more coordination-intensive. With the lowering of coordination costs, it is becoming increasingly possible to further disaggregate organizations through decentralization and autonomy.

Third, new technologies have substantially increased the scope and complexity of the information that can be shared, through the integration of computing with communications. Such innovations as telex and computer

conferencing, groupware, Internet chat, and web sites allow participants to have "horizontal" and rich exchanges with-out requiring them to be located in close proximity.

Thus, information-age technologies are highly advantageous for a netwar group whose constituents are geographically dispersed or carry out distinct but complementary activities. (This is not to say that hierarchical terrorist groups will not also adopt information technologies to improve support functions and internal command, control, and communications. Aum Shinrikyo was highly centralized around the figure of Shoko Asahara and its structure was cohesive and extremely hierarchical; yet the use the IT was widespread within the group).

Information technologies can be used to plan, coordinate, and execute operations. Using the Internet for communication can increase speed of mobilization and allow more dialogue between members, which enhances the organization's flexibility, since tactics can be adjusted more frequently. Individuals with a common agenda and goals can form subgroups, meet at a target location, conduct terrorist operations, and then readily terminate their relationships and redisperse.

The latest communications technologies are thus enabling terrorists to operate from almost any country in the world, provided they have access to the necessary IT infrastructure; and this affects the ways in which groups rely on different forms of sponsorship. Some analysts have argued that networked terrorists may have a reduced need for state support—indeed; governmental protection may become less necessary if technologies such as encryption allow a terrorist group to operate with a greater degree of stealth and safety (Hoo, Goodman, & Greenberg, 1997). Others point to the possibility that groups will increasingly attempt to raise money on the web, as in the case of Pakistan's Lashkar-e-Taiba ("Army of the Pure"). Lashkar and its parent organization, Markaz-e-Dawa wal Irshad (Center for Islamic Invitation and Guidance), have raised so much money, mostly from sympathetic Wahhabist in Saudi Arabia, that they are reportedly planning to open their own bank (Stern, 2000).

In addition to enabling networked forms of organization, IT can also improve terrorist intelligence collection and analysis, as well as offensive information operations (IO). For example, information technologies improve intelligence collection because potential targets can be researched on the Internet. Satellite photos can be used to identify security vulnerabilities in large targets like nuclear reactors.

The acquisition by terrorist groups of an offensive IO capability could represent a significant threat as the world becomes more dependent on information and communications flows. We argue that information-age technology can help terrorists conduct three broad types of offensive

information operations. First, it can aid them in their perception management and propaganda activities. Next, such technology can be used to attack virtual targets for disruptive purposes. Finally, information technology can be used to cause physical destruction.

Apart from its use as a communication tool, the Internet offers new and additional possibilities to carry out terrorist attacks, such as electronic attacks on the operating systems of critical infrastructure in EU Member States, such as energy production facilities and transport. Attacks could create power outages, disrupt traffic or even destroy entire systems by taking over controls remotely. The sophisticated computer virus called Stuxnet, supposedly designed to specifically target the Natanz uranium enrichment plant in Iran, discovered in 2011, illustrates the high potential of the use of the Internet with malicious intent. Leading members of al-Qaeda have already encouraged "electronic jihad" against critical infrastructure in Western countries. The potential threat of such terrorist action seems moderate or even high (TE-SAT 2012).

In the context of electronic attacks, therefore, the distinction between organised crime and terrorism and/ or violent extremism is increasingly blurred. The use of the same tools and methods for a range of criminal and political ends highlights the need not only for a continuing holistic response to electronic attacks, whatever their motivation, but also for greater collaboration between law enforcement and those responsible for protecting critical infrastructure to develop effective counter-measures.

Future scenarios, based on such technological advances as the expansion of broadband Internet, 3G/4G mobile phones, multimedia messaging, wireless technology, will only exacerbate the existing race between terrorists and law enforcement officials. On the one hand, the more the global economy becomes dependent on information technologies, the more it becomes vulnerable. On the other hand, further technological advances may also result in progress in the surveillance and detection capacity of intelligence and law enforcement agencies.

The terrorist networks have remarked quickly that in order to avoid detection in the developed countries they must adopt some of the qualities of virtual networks, which are more efficient in countries with powerful anti-terrorism institutions. Thus, the new terrorism is self-organized, having the ability to adapt easier against attacks, to correlate, to collect new members from similar cells and to self-reproduce, being fundamental elements of these cells. Elements of self-organization produce a complex network of cells which seek spontaneously opportunities to spread and adapt in the face of diversity and to every new form having a more virulent character than the previous. In the terrorist cells the innovation comes from the people rather from one single leading person.

International terrorists and organized criminal groups both use information technologies advances, such as encryption or anonymizer features on computers, and hire highly qualified hacking specialists of these systems who conduct their transnational operations without fear of detection. Terrorist groups often conduct additional criminal activities of their own, such as money laundering, trafficking in drugs or human beings, credit card fraud, and selling counterfeit goods, in order to fund their organizations. Just like multinational corporations, terrorist groups capitalize on the advantages of Western societies (openness, IT development) and those of developing countries (legislative loopholes, weak law enforcement, corruption, and cheap labour (Shelley, 2003). They use the Internet to produce forged identity documents for themselves, their operatives, or the people they smuggle into Western countries. They enjoy the flexibility of electronic fund transfers and covert banking. The challenge for governments is to increase the legal and technical obstacles standing in the way of those activities in order to make law enforcement more effective.

Terrorist Use of Smart Technology - New National Security Problem

The intelligence community regularly monitors trends in technology to identify which of them may become either a threat or an asset to national security operations. What frequently gets missed by observers is the issue of convergence and adaptation. New threats often emerge not just from the development of one new technology, but rather from a combination of new technologies or an adaptation of new methods and uses for existing technologies.

While there are many examples of convergence, the following is an explanatory example of one set of four trends that are already converging to create new national security problems. These four trends are:

The uncontrolled spread of information and improved technologies to build better home made weapons;

The dropper costs of technology and materiel acquisition;

The increased availability of raw materials to build weapons; and

The trend towards self-directed and self-funded terrorist attacks by locally formed terrorist groups using do-it-yourself (DIY) technologies (Quiggin, 2007).

In the loose network structure, group members are organized into cells that have little or no contact with other cells or with a central control or headquarters. Leaders do not issue orders to the cells but rather distribute information via the media, Web sites, and e-mails that can be distributed and

accessed anonymously. The advantage of this operational structure is that surveillance, penetration, or capture of operatives does not lead the intelligence agency to other cells or to the central control structure (Weimann, 2004).

Although terrorists have not yet resorted to cyber terrorism, terrorist groups are not unfamiliar with the concept of cyber attacks. Already terrorist groups such as the Tamil Tigers of Sri Lanka and Aum Shinrikyo, based in Japan, have used simulated cyber attacks against their own governments. Al - Qaeda, responsible for the 9/11 terror attacks, uses the Internet and high - tech computer systems in their organization. The United States Government believes that al - Qaeda is training its members in cyber terrorism tactics. It has seized computers from this Afghanistan - based group, and has found information about major American infrastructures contained in the computers' databases (Parker, 2009). Other terrorist groups, including Hezbollah, Hamas, Revolutionary Armed Forces of Columbia (FARC), Tamil Tigers (LTTE), the Irish Republican Army (IRA) (prior to their ceasefire), and Abu Nidal are incorporating the use of cyber tactics into their organizations for recruitment, fund - raising, training and planning future terror attacks (Kramarenko, 2004).

The skills, tools, and techniques are the same, but information warfare is conducted between military combatants; cyber terrorism targets civilians. Cyber terrorists indiscriminately will attack the nation's critical infrastructure and civilians—the innocent. Thus, the context and targets, not the technological tools or frequency of attacks, are the more appropriate delimiters that distinguish cyber terror from information warfare.

Internet and other new communication technologies are key foundations for current terrorist organizations, including al Qaeda. Not only do such media allow for the dissemination of propaganda, they also allow planning of operations. The information revolution has contributed to the ability of like-minded terrorist groups to form transnational networks that can aid in disseminating propaganda, fund-raising, and recruitment. Such information infrastructure also helps terrorists plan and execute attacks across international borders more easily. Consequently, the ability to use computers effectively is increasingly becoming a job requirement for contemporary terrorists. In Southeast Asia, "authorities . . . routinely find computers and diskettes on raids on terrorist hideouts across Asia, from Ramzi Yousef's Manila lair to LTTE [Liberation Tigers of Tamil Eelam] hideouts and JI [Jemaah Islamiyah] cells in Singapore" (Tekwani, 2004).

For example, over the last several decades, terrorists have adapted to increasingly stringent airline security precautions, including airport x-ray machines and metal detectors, background checks of ground crews, and matching bags to boarded passengers, allowing them to carry out devastating

flight attacks irrespective of the new practices and technologies (Enders & Sandler, 1993). Hoffman refers to this phenomenon as the "technological treadmill," whereby fanatical groups develop increasingly sophisticated weapons and operations to counterterrorist enforcement programs (Hoffman, 1998).

How such networked organizations may benefit cyber terrorist groups remains to be seen. One may argue that it is the technology-savvy groups that have brought about such a revolution to the structure of terrorist organizations in the first place. Given their track record and credentials for violence, these may be the groups that are most likely to build a cyber terrorism capability that they are prepared to use. Conversely, cyber terrorism requires a high level of expertise.

For a cyber terrorist group to operate effectively, it will likely need to centralize its computer experts and equipment. Some organizations may incorporate both features, with a networked structure to support the "traditional" terrorist activities, and a cyber terrorist wing where cyber attack capabilities are developed and implemented. Such a dual structure is difficult to deceive.

High-tech Nature of Cyber - Criminal Networks

As a communication tool, information source, marketplace, recruiting ground and financial service the Internet facilitates all types of offline organised criminality, including illicit drug extraction, synthesis and trafficking, trafficking in human beings (THB) for sexual exploitation, illegal immigration, Mass Marketing Fraud (MMF), MTIC (VAT) fraud, euro counterfeiting and the trade in prohibited firearms. In particular, the perceived anonymity afforded by communications technologies such as email, instant messaging and Internet telephony (VoIP) has led to them being used increasingly by organised crime groups as a countermeasure to law enforcement detection and surveillance. Even groups regarded as more closely knit than technologically aware, such as Albanian speaking groups; have recognised the value of platforms such as Skype. Social sites like Facebook, meanwhile, are being used by organized criminal groups for networking and communication, and by synthetic drug distributors to contact customers.

The high-tech nature of cybercriminal activity results in a demographic profile not traditionally associated with transnational organised crime – namely, young, highly skilled individuals who are often recruited from universities.

These features find analogies in hacker culture more generally, where absence of hierarchy, celebration of technical proficiency and comparative

youth are prevailing characteristics. Moreover, it is possible that the recent economic crisis has resulted in a surplus of young people with advanced technical skills who are vulnerable to involvement in criminal activity. Since the legitimate employment market is likely to be constrained for some years to come, and taking into consideration the example of the Former Soviet Union, it is entirely plausible that an increasing number of unemployed EU citizens will engage in cybercrime or facilitate organised crime on the Internet in the coming years (OCTA, 2011).

Criminal groups are continually exploring new ways to hack into technologies such as credit cards, automated teller machines (ATMs), and Radio Frequency Identification Devices (RFID). According to the 2011 Norton Cybercrime Report, the yearly global cost of cyber crime is about USD 388 billion, approaching the value of all global drug trafficking estimated at USD 411 billion (Labrie et al, 2011). These vulnerabilities extend to new technologies such as smart mobile phones, compounding the ways in which individuals can be targeted. For example in September 2010, a virus was able to infect over a million smart phones in China – accessing the phone's SIM (Subscriber Identity Module) Card and sending spam text messages to all contacts listed in the address book (Kolesnikov-Jessop, 2011).

There is a wide range of individuals and groups who may be interested in using cyber space for questionable objectives. While there is a tendency to focus on specific groups such as organized crime seeking financial gain and terrorists who might utilize the web to communicate and spread their ideologies, there are other profiles of individuals who could threaten cyber security. These include organizations and groups interested in accessing sensitive information from government sources or international organizations. International organizations such as the European Union (EU) and the Organization for Economic Cooperation and Development (OECD) have been targeted in the past. In the case of the OECD, hackers were able to gain access to sensitive information on money laundering, high-level corruption, and tax evasion (Rettman, 2010).

The information technology (IT) revolution that the world has been experiencing over the last two decades has had a significant impact not only on the world economy but also on global security, and in particular on international terrorism. Indeed, IT advances have allowed terrorists to gain easy access to sensitive information, spread their ideology, recruit supporters or operatives, plan and carry out their operations, and conduct criminal activities. IT networks can also offer targets for terrorists who aim to disrupt or destroy critical infrastructure by launching cyber-attacks. Also, the Internet has facilitated creating complex networks between terrorist groups due to the fact that it is a fast, inexpensive and relatively anonymous method

of communications which favours loose complex networks, harder to identify and monitor.

Governments that want to defend against net war may have to adopt organizational designs and strategies like those of their adversaries. This does not mean mirroring the adversary, but rather learning to draw on the same design principles that he has already learned about the rise of network forms in the in-formation age. These principles depend to some extent on technological innovation, but mainly on a willingness to innovate organization-ally and doctrinally, perhaps especially by building new mechanisms for interagency and multijurisdictional cooperation (Arquilla & Ronfeldt, 2001).

Conclusion

Several cyber security challenges may impact national security. It is important to identify that cyber space itself may possibly raise security concerns as specific groups –such as terrorist and criminal organizations – might use it to communicate, fundraise, and recruit.

Intelligence and analysis by the terrorist cells helped ensure the crucial security of operations with admission to the most sophisticated information technology.

The potential of introducing technology rapidly into transnational crime groups and terrorist organizations exists because the latest transnational organized crime groups and terrorist cells are structured as networks.

It takes networks to fight networks. Nonetheless, governments tend to be so inhibited by hierarchical practices and institutional interests that it may take some sharp reverses before a eagerness to experiment more seriously with networking emerges. Hierarchical organizations can never be as resilient as complex networks because their power lies not in leadership but in the ability to spontaneously adapt to the environmental changes. The expenditure and risks related with failing to engage in institutional redesign are expected to be high - and may grow ever higher over time. In the most complex areas - crime and terrorism, steps to improve intra and international networking are moving in the right direction. Although far more remains to be done, as criminal and terrorist networks constantly remodel themselves into ever more complicated targets. One distinctive concern is that there will be more successful fusions and / or collaboration among organized criminal and terrorists in the information technology area.

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IMPLICATIONS OF TECHNOLOGICAL CHANGES ON POLICE AND STRATEGY OF DEFENSE AND SECURITY

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Abstract

Technological changes do affected the rise of mankind since the usage of arms and primitive weapons. Misusage of technology has been quite often since the civilizations beginning. Its context has almost always been the same - fight with hunger i.e. continuity of wars as determinant of the history of civilization. Precisely the war was (and still is) the impulse for and of technological changes in both, conventional and non-conventional warfare methods. Technological changes have changed the systems and manners of defense and security of cities, city-states, nation-states, blocks and military alliances. This paper observes NATO as a case study. Uniqueness of respective politically-military-economic alliance represents adequate observation territory. It shows changes of policies and strategies of defense and security caused by technological challenges and changes. Based on the idea that technology has been developed either as war or war danger cause this paper's contributions will be: (i) identification and definition of hybrid threats of the 21st century; (ii) identification of positive correlation between threat sources and technological changes; (iii) identification of positive correlation between technological changes and (re)shaped and (re)shaping policies and strategy of defense and security. The core idea of this paper is that respective correlation - of technological changes and security and defense - has created dynamic interdependent process.

Key words: technology, cyber, challenges, policies, strategy, security, defense

JEL: O33, F51, F52, F53, H56, N40, N70

Introduction

History of civilization is history of continuous wars (Botul) i.e. fight with hunger (Vukotic). Simultaneously, technological changes - from arm over Internet to space technology - shaped, shaping and will shape the rise of the mankind. Technological changes also have changed concepts of security and defense but also brought advantage to the innovators. The existence of correlation between technological changes and defense has created dynamic process of interdependence. In the same time, all concepts of security and

defense were framed by economic power of the system (tribe, city, nation-states and transnational alliances). Economic power of the respective systems was a predecessor of more efficient concepts of defense and security. And here are numerous historical examples of technology's impact on security and defense.

Security and defense policies used to be run by city-states, empires, their alliances, dominant single polar forces of 19th century while bi-polar defining of those policies has been characteristic of the 20th century. It seems that in the 21st century multi-polar context of respective policies defining will be dominant. Nevertheless, within the same one or more alliances will partly dominate. Such existence of more power and decision-making centers alongside increasing number of states (political and economic actors precisely) on the global map leads to decrease of traditional nation-states significance (Vukotic). Perhaps the key reasons for that are technological changes that shaped policies of security and defense - from searching the answers to usage of battle chariots over creation of police services to nuclear deterrence policy.

Technological changes in shape of platforms such are Internet, mobile devices, speed and form of data transferring are definite civilization's advancement.[1] Internet - also created with military mission and goal - faced transition into individual, social and global asymmetric ownership. Interdependence of technology and economy has created eight (invisible) continent - of non-imagined opportunities. However, technology has created certain imperfections and challenges in the security and defense area. First negative consequence of technology is exceptional dependence of economy but also critical infrastructure from Internet and technology. The same represents basis of vulnerability of both elements. Second negative consequence is dynamic evolution of Internet and inability to follow changes and inability of adequate answer(s). Finally, quite important aspect of aforementioned transition is disappearance or insignificance of the nation-state due to the success of Internet's globalization.

If aforementioned is correct than it can be considered that technology and its usage reshapes defense and security policies and strategy. In the same time, it can be shown that the very same policies and strategy are being changed at the level of strategic global alliances.

Hybrid threats as security - defense challenges

Nature of threats has not been changed while Internet and dependence from it changed delivery mechanisms of threats as Kenneth

[1] It enabled liberation of nation-state's chains, enabled and increased freedom of choice, changed communication, business and travel methods and enabled return of nomads

Geers considers.[2] Internet has increased speed, power and coverage of threats. It seems that aforementioned confirms core paper's hypothesis. Cyber threats and incidents are (re)shaping the world we are living in. Consequentially, it (re)shapes policies and strategy of security and defense. Having in mind technological impact on society until now it is also expected to influence security and defense concept. Concentration of inhabitants on the eight continents led to concentration of potential misuses. Moreover, reshaping of other sectors and areas was a predecessor of the beginning of crime and terrorism reshaping. Beginning of changes in security and strategy concepts are their consequence. As innovation has been the key engine of initial changes it is possible to expect its (further) contribution to strengthening of security-defense in the context of cyber challenges.

It seems that even security and defense concept must pass the transition phases. Conventionally (national) security comprehended absence of fear from attack, interests jeopardizing or other state(s) threat.[3] Notion of (national) security in the context of cyber challenges is quite unclear or at least not comprehensive. For example, certain authors define security as lack of threats.[4] It is not possible to define security as absence of threats in complexity of asymmetric world as the same cannot be known or projected ex ante. Complexity of the cyber world and consequentially cyber security is certainly best described by Geers as polymorphic, complicated, dynamic and evolutional system. Exactly dynamism and evolutional nature excludes potential acceptance of cyber security as condition with absence of threats.

Current evolution and transformation of security and defense challenges can be observed in two directions: (i) evolution of overall international security framework (decentralization and diversification of challenges alongside crossing of the national boundaries and presence of the new players) and (ii) occurrence and promotion of non-traditional hybrid threats.[5] Cyber attacks/incidents are part of wide spectrum of hybrid threats. Hybrid threats are considered as security and defense challenges that can simultaneously use conventional and conventional weapons.[6] According to the MCCHT hybrid threats include adversaries which may apply such combination of activities in surroundings with increasing unlimited options in order to achieve own goal.[7] By combination of activities are considered those that are potentially directed towards military targets as well as those

[2] Geers (2012)
[3] Tatalovic, Grizold, Cvtila (2008)
[4] Tikk(2011)
[5] ISIS Europe (2012)
[6] Integrating Cyber Security and Defense in NATO's Security Policy Acquis; MCCHT, p. 2
[7] MCCHT

that may target civilian infrastructure. Assessment of the hybrid threats - as challenges whose elements are quite relevant for successful defense - is important. Even dough they are not purely military per se, military aspect may significantly contribute to numerous aspects of their prevention, solution and/or consequences/recovery management.[8]

Defining the hybrid threats has been scope of research and analysis of the NATO as well.[9] According to it they comprehend: (i) cyber war; (ii) asymmetric low intensity conflicts; (iii) global terrorism; (iv) modern piracy; (v) transnational organized crime; (vi) demographic challenges; (vii) security of resources; (viii) gateway from/of globalization and (ix) proliferation of weapons for mass destruction; (x). The others divide cyber conflicts to: (i) violation of internal rights and policies; (ii) legal norms violation; (iii) crime; (iv) threatening to the nation-states (forcing them to pursue certain politics) and (v) cyber war i.e. armed attack.

Hybrid threats are divergent. They comprehend cyber attacks, global terrorism, organized crime (which is also globalized for a long time), espionage, economic challenges (economic and financial crisis, resource security, economic cybercrime), non-state actors (organized groups and systems that prevails nation-state boundaries and acquire power), demography (public finance pressure is in the most cases due to non-reformed pension systems; increase of population whereas resources provision will be important priority; simultaneously respective correlation may cause security-defense problems); proliferation of weapons for mass destruction (higher availability of them comparing the Cold War period due to the existence of non-state actors), so called failed states (their role may increase due to the usage of those states as for conventional as for cyber attack basis) and chemical-biological-radioactive-nuclear weapon (not the least important challenge that becomes available to numerous state and non-state actors; still, in lesser amount than some other aforementioned challenges).[10]

Defining and distinction of cyber incidents are quite important in order to successfully define policies and strategy but also for analysis of such threats and their economic consequences.

According to Geers there are three cyber attack i.e. incidents types. He founds his distinction on attacks' target and in accordance to that comprehends: (i) data confidentiality; (ii) information integrity; (iii) computers availability and/or information as resources. Information domination can be explained with the fact that those are the first and the

[8] Ibid.
[9] BI-SC Input for MCCHT;
[10] Jovetic (2013)

most common forms of incidents. Information collection operations are probably as old as warfare/defensive operations. According to the CERT there are three cyber war levels.[11] First, simple adjunct to traditional military operations is related to information supremacy. However, it is possible to add also usage of the same supremacy (Syrian anti-air defense case). Second is being related to limited cyber warfare. It is being implied within this level that civilian infrastructure and some civilian enterprises become part of military combat. Third "unlimited" cyber warfare connotes an attempt of achieving maximal possible infrastructure damages (flight control, water supply, electrical energy transport, crisis management system and etc.).

The crucial issue is to make distinction among various forms of cyber incidents. Moreover, that also seems necessary in the context of: (i) deeper understanding of defense-security policies and strategy; (ii) economic consequences of individual acts and (iii) the level of defense and economic (re)shaping of answer. The basic elements of cyber incidents demarcations should be: (i) motive; (ii) means and (iii) targets and effects.[12] There are essential and executive differences of the different incident forms motives. Attacks in form of denial of service can be actuated by different (sometimes with trivial Estonian syndrome) motives. Cyber espionage as usual and common motive has information supremacy which is being indirectly effectuated in various fields. Cybercrime is frequently happening due to illegal wealth acquisition motive. Common forms of respective activity are credit card frauds and identity theft. Cyber terrorism as well as conventional terrorism has psychological supremacy as its motive and target. Additional motive is usage of violent tactics for achievement of political-economic-criminal goals.[13] Finally, cyber warfare is "continuation of political goals" directed to the both dimensions individually (adjunct to conventional warfare and cyber war directed towards critical infrastructure) but also combination of both dimensions. Resources used in aforementioned situations are essentially, qualitatively and quantitatively divergent. Significantly higher financial resources, significantly more knowledge and significantly higher degree of sophistication are required for execution of cyber terrorist act comparing to cyber espionage for example.[14] Therefore numerous authors are right when claiming that still the most dangerous actors are nation-states

[11] Computer Emergency Response Team (Carnegie Mellon University); Geers (2012).

[12] Tikk is completely is right. Respective division is also being based on those researches. However, it adds goals to the effects as the third demarcation level.

[13] Financing as well as overlapping of terrorism and crime are already a quite old emersion. See: Jovetic (2012):

[14] The emphasis here is on higher complexity of cyber terrorist acts.

whose power slowly is losing peak.[15] Besides them global stage is being "enriched" for so called non-state actors which acquire resources precisely through the crime and terrorism nexus. Cyber incidents have also been determined by their effects. Data collection and intelligence, financial frauds and violations and/or denial of access are lower degree incidents comparing with the disruption of critical infrastructure functioning. Precisely the later can help in distinction between terrorism and war. In the simplest form and performance terrorist act on critical infrastructure would be one-time based, partially directed towards civilians and with limited effects.[16] On the other hand, war would imply continuous activity and fully directed towards civilians that would comprehend destruction of economic power, infrastructure and system's demoralization. It is connoted that cyber war includes activities directed towards military targets. Perhaps examples of Estonia and Georgia can be used as examples of distinction between cyber terrorism and cyber warfare. Estonian example was short-term disruption of critical financial infrastructure with causing significant economic damage. Thereat intention was to achieve own ideological and political aims. On the other side, Georgian case represented cyber adjunction to the conventional warfare in order to achieve military and political aims. However, as in conventional case demarcation line between terrorism and war is thin. And maybe any terrorism is form of war.

Real cyber attacks and reshaping of the system

Activities directed towards NATO communication systems during intervention in Yugoslavia i.e. Kosovo in 1999 are being considered as the first cyber actions (affected communications, caused disorders and tried to disable mission in that way) emphasizing communication disorder. Even that happened there has not been recognition of cyber threats as security-defense challenge in 6th NATO's Strategic Concept.

Cyber attack to Estonia in April 2007 can be considered as the turning point. There are few reasons for such consideration: (i) politically and nationalistically motives; (ii) level of caused economic damage; (iii) reaction of Estonia and (iv) NATO reaction. First, it has been showed that any motive can find application in cyber space. Even dough reaction inducement can be considered as trivial, incident happened and caused real problems. Second, having in mind e-sophistication of Estonia it is not difficult to imagine attack's effects. According to estimations damage was

[15] They still have the most resources and power and knowledge to undertake respective operations.

[16] They are limited in duration of the act.

between 19 and 26 billion of Euros.[17] Third, Estonia immediately requested NAC (North Atlantic Council) meeting in order to examine considerations according the Article 4 of the Washington Treaty. Fourth, NATO has adopted in 2008 its Cyber Defense Policy. Based on aforementioned crucial elements were defined: (i) motive and source of cyber attack are politically and nationalistically motivated; (ii) it was about endangerment of critical infrastructure i.e. economic and social consequences; (iii) nation-state regardless to the e-sophistication level cannot solely solve such problem; (iv) technological cause had its political-strategic-economic consequence at the supranational institution level; (v) imbalance between attack's expenditures and caused economic damage and (vi) due to the sophistication increase of attacks and viruses it is necessary to have exponential increase of investments in cyber infrastructure, exercises and recovery mechanisms.

After Estonian turning point, numerous identified cyber incidents followed.[18] More than 22 extensive incidents have happened. The most important out of them are (i) 2007 - usage of cyber weapons as predecessor of Israel's air strike to Syria; (ii) 2008 - simultaneous cyber warfare alongside conventional warfare in the second Russian-Georgian war; (iii) 2010 - Stuxnet (iv) 2011 - Duqu; (v) 2012 - Flame; (vi) 2012 - Gauss; (vii) 2012 - miniFlame and (viii) 2013 - Red October.[19]

Conclusion is that lower sophistication cyber attacks are quite active.[20] Until now they have been mainly used for the cyber espionage/propaganda needs. However, it may be considered that first cyber war has already happened: (i) Russian-Georgian war with confirmed usage of cyber attacks alongside conventional ones and (ii) Stuxnet because it had

[17] NATO CCD CoE

[18] As demarcation line is still quite fluid here are stated the most important incidents/attacks of different levels.

[19] Stuxnet-unofficially US-Israeli virus used as cyber weapon during the attack on Iranian nuclear facilities;

Duqu- with the assignment to collect information for next attack;

Flame-also predicted for cyber espionage with possibility of close are conversations taping. Until now it was the most complex found virus;

Gauss-made for surveillance of financial transactions, social networks activities and e-mails. It can "hold" until cyber attacks start.

miniFlame or SPE designed for data theft/intelligence and operational systems control during cyber attacks. It was discovered that it is inter-operational weapon which can function independently or as adjunct to Flame and Gauss;

Rocra or Red October is virus that secretly collected classified and sensitive high level information form governments. Virus has been discovered by Kaspersky Lab in October 2012 and after five years since starting being operational.

See in Jovetic (2013).

[20] The lower level here is being considered due to the impact level on economy and critical infrastructure.

military infrastructure as its aim what qualifies it as such. In addition, it can be concluded that lower level cyber attacks are less sophisticated, cheaper and have relatively smaller economic consequences (except case of Estonia). Besides that sophisticated viruses such are Stuxnet, Duqu and Flame require financial resources for creation and especially for counter-defense from them. Precisely those viruses that can cause cyber war(s) are highly sophisticated what emphasizes danger from them as well as necessity of efficient reaction.

Real causes have been leading to reshaping of the system i.e. primarily defense and security policies. Cyber attack occurrence has led to: (i) defining NATO Cyber Defense Policy in 2008 and (ii) redefining of it in 2011. Redefined NATO Cyber Defense Policy defines and emphasizes: (i) NATO's communication systems protection; (ii) assistance to member states in the case of attack and (iii) assistance to the international cooperation in this area. Prior to that, NATO has defined cyber attacks as one out of three biggest security challenges in Strategic Concept 2010. Subsequently came to inclusion of the cyber attacks in NDPP (NATO Defense Planning Policy). Knowing that Strategic Concept is alongside the Washington Treaty NATO's key document impact of real changes becomes clearer. Strategic Concept defines these serious challenges as well as response to them. NATO has with so called Military Contribution Capstone to fight against Hybrid Threats (MCCHT) defined broad spectrum of hybrid threats. Besides threats defining respective concepts' sense is creation of comprehensive conceptual framework for hybrid threats identification and analysis as well as for potential reaction of NATO and partners. Concept defines the reasons due to which NATO must adapt its own strategy, structure and capabilities to the new 21st century challenges. In addition, it defines the framework of efficient reaction. Prior to MCCHT NATO's Allied Command Transformation (ACT) has created Multiple Futures Project - Navigating towards 2030 as framework for defining of security-defense challenges (MFP). Respective report as one out of four key perceptions and correlated consequences defines available advanced technology as mechanism with which adversaries can attack NATO's weaknesses on unexpected and innovative manners. Moreover, it deals with adjustment of military structures, policies, frameworks and strategy to hybrid threats in the military response context.

The new institutions, parts of institutions and new assignments for existing institutions have been created within the NATO: (i) ESC division-Emerging Security Challenges, (ii) NCIRC-NATO Computer Incident Response Capability, (iii) CTA-Cyber Awareness Threat Cell, (iv) NCIA-NATO Communication and Information Agency, (v) IST-Information System Technology Panel, (vi) NSG-NATO Modeling Simulation Group,

(vii) CDEB-Capability Development Executive Board, (viii) CCD CoE-Cooperative Cyber Defense Centre of Excellence, (ix) CDMB-NATO Cyber Defense Management Board, (x) NC3-NATO Consultation, Control and Command Board, (xi) RRT-Rapid Reaction Teams, (xii) Annual Cyber Coalition Exercise.

NATO represents a military alliance with remarkable degree of interdependence. It has been developing own military doctrines due to the interoperability needs. Allied Joint Doctrine represents Alliance's crown doctrine for operation's planning, execution and support. Allied Joint Doctrine for Operations is instrument for realization of different operations. Having in mind their complexity respective doctrines define operational aspects and guidelines of joint actions execution. In its last 2011 edition it has also defined a fifth realm of operations - information including cyber space. Exactly this is confirmation that military doctrines also have changed due to the technological changes. NATO besides this doctrine has Joint Allied Electronic Warfare Doctrine which additionally confirms impact of technology on policies, strategy and doctrines. However, it seems that explicit doctrine directed towards new challenges and defined as cyber warfare and terrorism doctrine is necessary. Even dough it would be based on majority of aforementioned doctrines it is certain that it would define complex and divergently evolutional cyber world in more details.

The importance of certain challenges is being confirmed by exercises subjected and directed to them.[21] Respective exercises that simulate real surrounding have been created parallel with identification of new security-defense challenges. Exercises substance is related to: (i) education, (ii) competitive-training process and preparation and (iii) creation of prospective security-defense strategies based on simulated experience. Derived from real changes of institutions, policies and overall defense system certain conclusion can be made: real challenges have had direct impact on changes within security and defense system of NATO as security community.

Defense and Security Strategy

The 20th century marked by Cold War and technological impact of nuclear and later chemical weapons has definitely been defined by the two dominant strategies: deterrence and armaments control. Their common denominator for both strategies was symmetry of challenges as well as known (potential) actors.

Internet and virtual continent completely changed 20th century strategy's key element. Then known actors have been replaced with

[21] CDX-Cyber Defense Exercises

anonymous actors i.e. actors whose attacks as well as themselves can remain unspotted. New challenges can be clearly seen on the example of former strategies. Firstly, deterrence strategy is not efficient as actors can remain unknown. The main enemies of deterrence strategy's application are: (i) anonymity and (ii) asymmetry. Second, armaments control strategy is also impossible. It is not known with whom even try to agree armaments control. Potentially usable weapons are impossible to identify at the nation-state and/or supranational systems borders. Present in the virtual world it demands that world's resources for identification, prevention and reaction. Furthermore, its enemy is also asymmetry. Simultaneously, asymmetry creates a "panel discuss" regarding Washington Treaty's article 5 activation. In respective domain the problem is not definition of territory or war but the problem is present asymmetry. In other words, to whom eventual reaction should be directed towards? Assuming that individuals are still insufficiently powerful for such substantive action it is important to include non-state actors and so called failed states within potential responses coverage. Aforementioned should be the basis for the 21st century strategy. The key question regarding respective strategies has to be how and which mechanisms of detection, prevention and reaction should be incorporated into the counter hybrid threats strategy.

Conclusion

Technological processes have had impacts on changes of defense and security concepts. Armaments development enabled tactical and strategic changes. The new policies and strategies have been product of inability of existing ones to respond to the incoming challenges. And exactly the choice of adequate policies and strategies based on challenges perception has defined form and outcome of interference. Internet has created non imaginable mechanism for creation, innovation and prosperity enhancement. Destructive potential of virtual space and Internet is being observed in opportunities of endangerment of security and defense.

Technological changes have impacted process of NATO evolution and caused another NATO transformation. Beginning of new evolutional development of NATO due to the complexity of 21st century's security challenges has confirmed the thesis about incapability of nation-states to deal alone with them.[22] Policies, institutions, training-educational-experience based experiments, widening the jurisdictions coverage, structural revolutions of its institutions and defining of military contributions and

[22] Deutsch, W. K cited by Injac (2012). Deutsch conclusion is especially sustainable in the cyber challenges context.

doctrines have been the consequence of current NATO's transformation or transition. Revolutionary NATO framework of security and defense should comprises new institutions, new strategies, new approach to education (civilian and military), new policies as well as new approach and attitude towards limited economic resources.

The framework has been created towards efficient prevention, reaction and recovery from cyber attacks. Process of active execution of exercises is being started and consequentially that should increase capabilities through simulations. However, strengthening of the education process in the cyber context is lacking currently. Creation of early warning system (as exists in air realm of war) has not still been undertaken. Existence of certain form of CyEWS would be crucially important for detection capacities development.[23] In addition, reaction capacities should be strengthened through education and mechanisms system. Besides, economic context is being also neglected. Joint procurement, resource sharing, smart defense and similar concepts are barely at the idea level. And the same are not yet positioned in the context of cyber security and defense.

It seems that currently NATO lacks strategy which should include: (i) definition of ratio and activities in respect to challenges, (ii) action plans (due to known challenges), (iii) CyEWS, (iv) economic challenges of the public debt crisis, (v) smart defense application, (vi) sharing the limited resources, (vii) detailed anticipation of sharing activities, (viii) supranational cyber security-defense reshaping, (ix) cyber defense capacities strengthening and (x) articles 4, 5 and 7 ratio towards cyber attacks. The later may represent the basis for efficient security and defense strategy against hybrid threats and may contributes to the (r) evolution of the 21st century's strategy.

Cyber security-defense concept has specific importance. It seem that the common denominator of security and defense should be protection of physical survival, values, institutions, critical infrastructure, free market and etc.[24] The aim of defense-security policies and strategies defining should be how to ensure protection of basic and durable needs of primarily individuals and then evolutionally created systems.

Global changes led to emergence of new security concept both in theory and practical policy.[25] Individual's security as new security concept

[23] Jovetic (2013)

[24] Injac (2012): physical survival, values and institutions.

[25] Human Security Concept - is result of multidisciplinary approach (Tatalovic, Grizold, Cvtila 2008)

Authors' note: it seems that economic framework of security and defense creation is being unjustifiably exempt. As adjunct to the note is opinion (Injac, 2012) that contemporary security provision is complex activity which connotes quest for the most

emphasized not nation-state's security but security of individuals and their way of life.

Respective concept due to the global changes can be practically achieved only through security communities.[26] Creation of NATO has been practical attempt of that. Nevertheless, NATO still has to develop: (i) cyber security-defense capacities and (ii) security-defense interest networks. Capacity development is crucial element of prospective NATO active strategy and mechanisms of detection-prevention-reaction-recovery. Development of security-defense interest networks also connotes inclusion of interested partners beyond framework of security-defense community. Challenges complexity demands multidimensional approach in the context of disciplines, institutions and actors.[27]

Vanishing of the nation-state's power and NATO's capability to respond to new security-defense challenges should be understood as why i.e. as essence of respective transition. Simultaneously as how i.e. as manner and response mechanism we should understand: (i) threats estimations and projections, (ii) efficient resource sharing and detection-prevention-reaction models, (iii) comprehensive strategies of the security community as well as (iv) active relations towards hybrid threats.

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adequate model that has not been related to the security policy but includes other dimensions (political, economic, social, cultural etc).

[26] Security communities concept has been initiated by Karl Deutsch (cited from Injac 2012). As she emphasizes practical application of respective model is being connected to the development of NATO and the EU.

[27] Inclusion of critical infrastructure private owners is essential.

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SAFETY AND THE INTERNET

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Abstract

The ubiquitous and incorporative character of the Internet to everyday life of individual and comunity has deffintely reflected on the safety aspect of the Internet. Within that, it is understandable that Internet can be taken as safety violation aspect, but also as a factor of safety establishment. In order to establish safety, state and supranational authorities, but also global safety subjects, many activities of safety, normative, technical-technological and educational character to prevent safety incidents on Internet, or trough Internet are overtaken. This also implies to activities to remediate consequences of manifested safety incidents. In the phenomenological sense, safety and the Internet, respetively the Internet safety violation can be observed trough the Internet violation from the technical-technological side, partialized Internet safety violation observed trough some segments of the Internet service, then trough internet threatening (implying primary, but not the only, privacy violation) through relations between the Internet and other subjects made through the Internet. Considering the Internet and real environment coherency, it is understandable that violated safety within the Internet environment also has an affect on real environment, which means that all the Internet safety incidents are being concretized by consequence it the real environment, due to which Internet safety cannot be observed separately.

Keywords: Internet, internet environment, privacy, safety incidents

Introduction

Qualitative and quantitative human communications conglomerate of modern telecommunication and other technological innovations, supported by the phenomenon of globalization of the world and human existence, has caused the creation of the Internet.

Although the idea of the Internet is, among other things, the ability to connect people of common interest in order to promote their own ideas, attitudes and knowledge, and the concentration of all human knowledge in order to concretize it, to make it become free to use by all entities for bypassing many previously existing barriers (administrative, cultural, locational, formal, factual, technical, etc.), with certain reservations we can say that the Internet, on one hand became a surrogate of just mentioned (initial) idea that eventually became utopian (of course, not denying that it succeeded to promote and encourage a certain elitistic, information, communication and resource concentration), while, on the other hand, which is perhaps more important, noted the "dark side" of technological and civilizational progress in general, which is reflected in the numerous safety violations, no matter how it looks (personal, collective, global, national, technical, etc.) Of course, Internet users are the only ones that suffer the consequences and, indirectly, the entire population of humanity, as well as other subjects whose safety, as well as a series of rights and freedoms have been compromised.[1]

The concept of the Internet belongs to one of those concepts that are generally accepted and in everyday speech often used. It is presumed that most (young) users know what that term means, but it is very difficult to differentiate its concept and define its essence. It is difficult do determine what the Internet is, first of all,because of the fact that the Internet is not only a global network of information (multimedia information highway), communicational creation not observed (only) as a medium, but it is far more in the life of every modern humans; this can be observed from different aspects: the Internet as an information and communication, the Internet as the medium, then the defendological aspects of the Internet (the Internet as a factor in personal, national and global security), the Internet as an economic category, its effects on the society, pedagogical and andragogical aspects of the Internet, Internet observed from technical and technological point of view, etc.

[1] Of course, conclusion should not be drawn from what is said above, that is more and more imposed by regressive (and could be destructive) social subjects - that the Internet itself has brought more harm than good because of which its work should be stopped. It is clear that the Internet is the result of scientific and technological, civilization progress that aims to improve the existence of mankind, which it undoubtedly succeeds. However, as all the other great scientific discoveries (gunpowder, dynamite, cars, computers, nuclear, etc.) seen throughout history, have a "gray" or even "dark side", the Internet is not able to break this historical sequence of technological, civilization and progressive "darkness". Of course, in addition, it should be positively seen as very useful, by its many advantages of which users are usually not even aware, they take their own existence as an independent category, especially in the developed countries, without understanding the causality of the very Internet.

According to one of the most general definitions, the Internet is a global communication system of interconnected computer networks designed for exchange of different types of data.[2] Certainly one of the most important factors, especially from defendological aspect is observing the internet as a safety factor. The Internet can be seen as a factor of safety violation, but also as a factor in establishing and consolidating violated safety. The internet today is used as a powerful tool for terrorists, as well as committing crimes, as an instrument for spreading propaganda, immoral content, the various nationalist, degrading and other socially unacceptable ideas, while, on the other hand, the Internet serves as an instrument for finding criminals, as well as an instrument for combating crime, as a way of eliminating the possibilities to perform certain terrorist acts, or similar.

By analyzing numerous safety incidents, risks and dangers of using the Internet and considering the implications that the Internet has on the environment, not implying only the congregation but even synergistic incorporation of the Internet and the real world, they can be classified into two groups. The first group can be considered as the manifestation of criminal activity in the Internet environment, for which the Internet crime would be considered as a specific (sui generis) form of manifestation of the traditional (and modern) forms of crimes in another environment, while under the second group security incidents in the Internet environment or initiated, conditional or otherwise related incidents to the Internet can observe many forms of users privacy-violation, and population of humanity that does not necessarily have to be the Internet users.

Internet Crime as a Form of Internet (Users) Safety Violation

When it comes to crime connected to the Internet (and indirectly to computers), it refers to the crime for which, as synonyms in the Serbian language, we use concepts of computer crime, hi-tech crime, Internet crime, cyber(netic) crime, etc.[3] These terms indicate the totality of socially negative

[2] Ozren Dzigurski, Informatics, Faculty of Civil Defense, Belgrade, 2002, page 117

[3] Terminologically and materially speaking, these terms are not synonymous, especially high-tech and cyber crime, and should not be equated to computer crime. Computer crime, as the name suggests, means that crime is done by using a computer or is aimed at PCs and computers connected into computer systems. For realization of these crimes, good, or even excellent knowledge of computer technology is necessary. On the other hand, Internet crime is realized "on the Internet" or through certain services to the Internet, and for its implementation generally it is not necessary (although it is "desirable") certain knowledge in the field of information and communication technologies, but certainly not computer programming knowledge. Of course, given that the largest range of Internet crime is realized with the help of computers connected to the internet, dependence, and connection of these two manifestations of crime is visible. However, if certain criminal

phenomena and activities of many people on the internet, computer networks and computer use in order to perform certain prohibited or harmful activity. Simply presented, Internet crime is referred to criminal activities which are carried on the Internet, through the Internet (services) or some other forms of exploiting the Internet. Also, the Internet crime could be viewed as individual stages of criminal activities that are carried on the Internet, through the services on the Internet with the help of the internet, no matter what the primary focus of activity is not performed on the Internet or using the Internet.

Unlike computer crimes, as already noted, the commission of crimes from the range of the Internet crime, is not necessary to possess enviable programming or IT knowledge (which is not redundant), but is most often enough to have solid knowledge of the Internet and the Internet environment, especially in certain internet services with criminological aspects. Also, the Internet crime does not need to be implemented with the help of computers, it is possible to use other devices connected to the Internet, while, on the other hand, it is possible, which is usual, that only part of the activities is carried out through the Internet, while larger or smaller part of the remaining criminal activities at done in the „classic“ way. This form of internet crime expression (with the help of computers and computer networks) is often referred to as the network of crime (net crime). In fact,

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activity is carried out through a computer that is not on the Internet, but an internal computer network, we cannot talk about internet crime. Also, if certain crime is implemented by using Internet resources and capabilities without using a computer, we can talk about computer crime. Of course, these cases are rare in practice. It is necessary to emphasize the fact that computer crime is mainly an "attack" on a computer or computer system, and the Internet criminal activity is focused toward individual or the user. When it comes to cyber crime term, it is necessary to point out the terminological definition of the term "cyber". Specifically, this term denotes the "space" and the fifth dimension (if three of them are "standard", and the fourth is cosmic dimension) of human life as a result of information and communication technology expansion and makes its concretization regardless of the imagination and virtually of the "space". Considering the emergence and development of the concept of cyber and bringing it into connection with criminality, it is understandable that it is not equal to the computer crime, because crime in cyberspace includes computer crime. The cyber crime is rather internet crime than computer crime. However, if we observe the term cyberspace in its original meaning, cyber crime should involve a crime which is concretized in cyberspace, without any (physical) events in the real world. Specifically, the stated would include so-called virtual crime, which means that in content, cyber crime is just part of the Internet crime. Also, terminologically and materially speaking about the high technology, the fact is that computer crime is included in this concept, but it involves a high-tech crime and forms of certain crimes that are not made with the help of computers but the use of other modern high-tech methods, means or device (using "dirty" bombs, unethical medical experiments, weapons of mass destruction, etc.). On the other hand, not all forms of expression of computer crime should be high-tech crime, but only those that are based on the latest achievements of computer technology.

considering that the majority of criminal activities on the Internet are performed with the help of computers, it is understandable that computer and internet crime are connected (whose symbiosis and synergy represents network crime), but we should not neglect the fact that internet crime can also be realized without the help of computers.

From criminalistic, but also the criminal (criminal process and criminal material) law point of view, there are a number of similarities between the Internet Crime and the classical forms of criminality manifestation, especially with certain forms of computer crime expression.

It is stated that all the classic elements of crime are applicable to the crimes and their perpetrators who use the Internet for media. The performers, by giving specific commands to the computer, make certain crimes which meets the requirement that the crime must be performed by the man. So, computers and the Internet are just a tool in the hands of the skilled criminal. Social risk is reflected in the above examples, while illegality and definiteness in the law are the subject of many discussion forums. Examples that come to us from the prosecutorial and judicial praxis shows that through the application of existing legal norms, certain results to special and general criminal prevention can be achieved. Finally, the guilty of the performer of these crimes can be considered on the basis of previous experience, through direct and indirect intent, given that the execution of these crimes needs specific knowledge of the circumstances deliberately used in order to achieve a specified unlawful purpose, and a strong will to achieve it.[4]

However, there are a number of criminal and especially process law specifics, but also problems with identification, detection and investigation of these crimes, especially in identification, location and capturing of the perpetrators of these crimes and their successful prosecution in court, that are being neglected.[5] These problems are numerous and often in practice, which gives them a special significance. In the literature, as the most difficult and the most common, but of course not the only problems with the prosecution of these crimes are mentioned: the transnational character of these crimes, the relativity of ignorantia juris non excusat principle, (sub)specialization of the authorities acting in criminal proceedings (police, prosecutors, judge) problem, possibility of compromising of other people's computers from which a criminal activity is performed, difficulties in crime scene activities

[4] Branko Stamenkovic, Criminality in the Information Technologies in Serbia Today: From Discovery to Conviction, Internet development center, Belgrade, 2004

[5] For these specifics, read more: Miralem Porobic, Mirsad Bajraktarevic, Cyber crime, money laundry and financial investigations, High Judicial and Prosecutorial Council BiH, Sarajevo, 2012.

proving the crime, international cooperation, preventive level, the normative domain, etc.[6]

The Internet crime is viewed through a phenomenological aspect of the manifestation of the classic (and computer) crimes on the internet or with the help of the Internet, which neglects the specific manifestation of criminal activity on the Internet or gives them minimal importance, which negates the constitutional element of this type of crime. By eliminating internet crime specificities and reducing them to the internet as a "space" where these activities are concretized or partitioned, however possible criminal repressive, especially crime-preventive activities in this area are restricted and even degraded.

There is an interesting understanding by which the internet crime is not viewed (only) phenomenological, but trough the expression of specific security incidents on the user (technical and technological) architecture on which the Internet itself exists, particularly by the online services. In this case, the security of the service may be violated in a variety of ways, where the security incident is related to specific services of the Internet. Violation of the Internet safety or services on the Internet is viewed from the practical (user) side, regardless of whether they are the users of certain services (e.g., members of social networks in compromising profiles) or subjects that have a public, business, political, technological, personal or other interests (e.g., specific institutions official web site hacking) are damaged or threatened. Forms of manifestation of security incidents on the Internet, or some services of it are numerous. As the most common are listed:

On the web - "hacking" of personal, official or commercial presentations, and other sites, then partially or completely changing the content of these pages and the denial of access to compromised pages.

By e-mail, the most common security incidents related to spamming (spam) and account theft (compromising).

In social networks as a special problem there is an identity theft, then various forms of non-physical violence (verbal, sexual), piracy, pornography, etc.

Dissemination of religious, ethnic and racial hatred and intolerance, and invitations to commit criminal act and the various forms of antisocial action against the state are extremely popular in the forums.

[6] Read more in: Group of authors, Suppression of Crime of High Technologies, The Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, Belgrade, 2010, page 135; and also: Uroš Pena, Dragan Mitrovic, Meaning of Digital Proofs in Criminal Procedure Proceedings "Suppression of Crime and European Integration with Reference to Crime of the High Technologies", Police college Banja Luka and Hans Seidel Foundation, Laktasi, 2012, page 93

E-business is compromised by a variety of abuses in the field of electronic banking (phishing) and in the field of electronic commerce (piracy).7

From phenomenological aspect, different forms of manifestation of criminality on the internet or with the help of the Internet, the most massive and the most dangerous forms of criminal activity are occurring in Internet fraud, hacking, identity theft, internet sabotage, terrorism, internet, internet piracy, pornography and pedophilia on the Internet, hate speech, dissemination prohibited content or ideas, compromising with e-business, particularly with electronic payments, privacy violation, etc.

User Privacy Violations as Forms of the Internet Security Violations

Considering that the Internet is changing almost every aspect of human life (family, economic, cultural, political, social), where the changes are sometimes marginal, but mostly radical and unpredictable, and often latent, Internet encroaches into the essence of the human community - the interpersonal communication, which is how it completely transforms the individual and society, encroaching into the fundamental rights and freedoms, and the right of the free information flow, freedom of expression and the privacy right.8

One of the first contexts (which could not be said to be a definition) privacy is seen as the right of the individual to be left alone, which is considered as a negative definition. Although it was met with much criticism, especially in recent times, perhaps this definition of "negative freedom" in the simplest, albeit in the broadest and abstract describes the individual's right to privacy. Similar to this negative definition, privacy is also something private, not public. However, two problems are immediately crystallized: on the one hand, it is difficult to differentiate what content is not for public, especially in certain specific circumstances or to certain subjects. On the other hand, different cultures and different periods of civilization, differently perceive public and privacy. Enormity of this work does not allow a more detailed account, but it is important to note fatalistic-voluntary conception of privacy in which "there is no privacy", only the illusion of privacy "imposed" by the repressive (state) entities, to the much milder attitude that "privacy is dead, and we should get over it". This fatalistic-

[7] Radomir Milasinovic, Sasa Mijalković, Goran Amidzic, Security and the Internet, Proceedings "Fighting crime and European integration, with emphasis on high-tech crime", Police college in Banja Luka and Hans Seidel Foundation, Laktašsi, 2012, page 31.

[8] Sasha Madacki, New information-communicational Technologies and Human Rights – Internet, Centre for Human Rights, Sarajevo, page 313.; available at: www.hrc.unsa.ba/.

voluntary attitude binds to privacy in the Internet environment and the Internet (cyber, digital) privacy. Although the right to privacy is one of the achievements of the American legal system that had established itself throughout the previous century, it seems that the problem of privacy is more seriously perceived at the end of the past and especially at the beginning of this century, with the expansion of modern technology, primarily the Internet. Although the technological innovations of the twentieth century certainly enabled certain quantitative and qualitative violation of the citizens' privacy (devices for sound and video recording, remote monitoring, video localization, shooting in public places, etc.), it seems that this problem culminated with the invention of the Internet, because internet capabilities, seen through the many services on the internet that Internet users used, provide unprecedented possibilities of privacy violation. If we bear in mind: the possibility of violations by both state authorities and other individuals and subjects; the fact that this violation can be performed consciously and unconsciously; the incorporation of real and internet environment - it is understandable that it is necessary to revise the concept of privacy observed in classical notion, given that the privacy of the Internet users has definitely outgrown the classical notion of privacy of citizens and individuals in the community. Therefore, privacy in the Internet environment and user privacy are often viewed as a qualitative upgrading of conventional notions of privacy, both in terms of threats, as well as in terms of prevention and rehabilitation of potentially violated privacy. In other words, privacy of the Internet users can not be regarded as a straightforward quantitative culmination of the classical concept of privacy, given that it supersedes, and qualitatively grows into a phenomenon peculiar to itself, which has its roots and certain elements of the classical notions of privacy, and many other specific elements that determine it in his own unique and original (sui generis) concept of privacy.

The problem of privacy in the Internet is very different from the classical concept of privacy. Even with a superficial understanding of how information and communication technologies underlie the Internet work, it is clear that the existence and interaction in internet environment is based on the information and transmission of information. Due to this, privacy of the Internet users has diametrically different position in relation to privacy in the real environment: while in the real environment, the subject is trying to keep information about themselves in the Internet environment users give that information (sometimes unconsciously, but often consciously), due to which they deliberately victimize themselves. However, the above importantly differentiates privacy on the Internet. Given the nature of this environment, it is understandable that Internet users must provide certain information about themselves (bearing in mind that this is a prerequisite for their access to the

internet), and is also true that they victimize themselves by doing that, but the disturbance of their privacy is not considered in the above, but in further data collection, analysis, processing and storage of data, especially in the use of such processed (profiled) data.

In the broadest sense, the privacy of particular person should imply his or her ability (and right) to use the "public" environment and numerous opportunities in the public and public communication with other individuals and entities, knowing that his or her interactions, as well as the very presence will not be harmed in any way. "Public environment" is not to be understood only as a public place, because privacy covers this term certainly more widely incorporating the Internet environment, which is especially important because of the many opportunities for violation of the privacy in the Internet environment. Also, this abuse should not be viewed in a normative or social context, but in a way that the user perceives it, how the specific user perceives the misuse of his or her personal details (and violating their privacy) does not have to be taken as abuse in the community within which the user lives. Due to the aforesaid, the right to privacy in the Internet environment includes the right to use the minimum of the personal data in the Internet environment, by previous voluntary and unforced giving, as well as the recoverability of the data in each moment, without any compensation, and the possibility of retroactive use of such information. In this aspect we should include the right to use this data only for essential purposes without the possibility of profiling, even if the user is aware of the opportunities and benefits of the profiling. In short, privacy should include the right to communicate (observing communication in the broadest sense) and other forms of interaction in the environment in which users decide with whom and how to communicate, the content of communication as well as the frequency of communication, which leaves him the possibility to, for any reason suspend, extend, postpone or terminate the communication, without a chance for other users to see it without their explicit permission. Although online privacy is primarily affected by users, we should not draw a conclusion that the Internet non-users are protected from the potential compromise of their privacy on the Internet. On the contrary, due to the many links and causal relationships between the real and the internet environment, the invasion of privacy on the Internet does not spare even people who do not use the internet, but, of course, users are certainly more vulnerable. One of the most rapid violation of user privacy, which is not limited to users but also includes those who do not use the internet, supported by incorporation of modern devices in real Internet resources is the violation of privacy by Google Street View.

From the phenomenological point of view, user privacy can be seen through the various segments in various forms, but the most common and

easiest way to display it - is the privacy of the users of certain services through the Internet and the potential violation of their privacy by using these services. Therefore, the user privacy should be viewed through the following segments: while browsing the Web, privacy in electronic communications, privacy in electronic transactions, privacy issue when browsing, and privacy in social networks.[9]

Conclusion

With the advent of the Internet, especially its expansion among the "common" population, there was a need for a kind of regulating the relationship between the users themselves, the relationship between users and providers of Internet services, formalizing netiquette, sanctioning the entities violating the rules, etc. This is intensified by many antiestablishment, criminal, illegal, unsocial, and activities that flooded the Internet, given the numerous opportunities for anonymous action in this environment. However, any attempt to regulate of the Internet has led to disagreement within the population and number of entities that are in some way connected to the Internet.

In fact, it seems that the whole population of internet users does not look favorably on the regulation of the Internet and the Internet environment, regardless of the number of constant, continuous, qualitative and quantitative expansion of the problem. The above is the most likely result of (utopian) observing of "the Internet as a last bastion of freedom", due to which any regulation (especially by the authority of the state or supra-state entities) is seen as a negation or denial or attempt to control or limit their freedom. In a broader context, the involvement of these entities in the Internet environment, and especially certain formal (governmental) activities in this area (which is traditionally considered to be a place of unlimited freedom, even if it is their own freedom, even if it threatens the rights of other people's rights and freedoms, which is not uncommon) will inevitably be understood as attempted censorship of the Internet and the internet communication, internet activities, web content and other aspects of the internet and what it represents.

Of course, it is worth mentioning that the application of the regulation of the Internet is not only the result of state authorities, but also a number of entities that have some connection to the Internet, but wish to improve their own (co-) existence of precisely regulating the Internet.

[9] Read more in: Aleksandar Miladinovic, Vitomir Petricevic, Criminological Aspect of the Social Networks, Proceedings "Fighting crime and European integration, with emphasis on the high-tech crime", Police college in Banja Luka and Hans Seidel Foundation, Laktasi, 2012, page 237.

Accordingly, the traditional concepts of Internet regulation can be considered as diametrically opposed: on one hand there are (over)state authorities who strived to regulate the internet and put it on "control" (as claimed by the opponents of these extremes) while, on the other hand, subjects who strived to keep the Internet in its original form, as a "space of uncensored and totally unrestricted freedom" (even when that freedom threatens other subjects). Until the beginning of the second millennium, we can consider the formal and informal struggle between two opposing groups of subjects, which at the beginning of the second millennium, however, get new contours, although we cannot say that neither of the two groups of subjects did not win or lose in the decades-long struggle for precedence over the internet according to their own aspirations. Although the current level of relations between the opposing groups can be considered a compromise, with the maintenance of the status quo (regardless of the number of the everyday, and sometimes extreme attempts to change the situation), it is certainly an expression of a need for practical necessity of regulating the Internet, at least in some rudimentary form, while, on the other hand, allows a certain freedom for users and other interested parties, trying to not limit the freedom or endanger the rights of others. Therefore, the current level of regulation of the relations on the Internet and the Internet itself is seen as a tacit compromise and quantitative superstructure, after decades of dispute over the regulation and the control of the Internet.

However, the current concerns on the Internet show its qualitative side, because of scientific, technical and technological expansion of many stakeholders, certainly find numerous mechanisms (legal, and technical and factual) to protect their own interests on the internet right into a state that is characterized in hibernation of the pre-mentioned conflict. In this context, the authorities try to prevent from unlawful conduct on the Internet, as well as the improvement and application of technical capabilities, and strive to anticipate the appropriate answers to a number of security incidents in the Internet environment. On the other hand, a number of subjects, thanks to the "loopholes" and their own knowledge and skills, deftly avoid restrictive rules of "control" of the Internet, making it the freest utopian space.

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FORENSIC ANALYSIS OF LASER PRINTER CARTRIDGES

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Abstract

At the present time, all the offenses of forgery and fraud, especially the works of intellectual-property rights protection and the perpetrators of these acts are very mildly sanctioned. In this paper, it is given the procedure for forensic analysis to identify counterfeit toner cartridges for laser-printer brands "HP", based on suspicion that it is a forgery or that the tested toner cartridges are not original. By methods of comparative microscopy, infrared spectrometry Fourier transformation (FT-IR) and Scanning electron microscopy (SEM / EDS) which were applied to the tested samples, it was determined that it was a forgery laser printer toner brands "HP". Exposed to forensic analysis, it is a small contribution to the development of forensic science, but great in the field of crime prevention.

Keywords: forensic analysis, forgery, toners, analytical methods

Introduction

Nowadays, crimes like forgery and frauds are present everywhere, especially in the field of protection of the right to intellectual property. [1] In this elaboration, we will show the procedure of forensic analysis in proving the originality of the toner for laser printers. In that direction, on the base of random choice examples were taken and the questionable material was examined - its toner and it was compared to the unquestionable material. The protective hologram label were observed visually and stereomicroscopic and it was noticed difference in the thinness of both examples, as well as the fact that within the questionable example, it is easily torn when we try to open the box with the toner, while in the original, it stays in one peace. Further, their holograms differently change with a change of the corner of observation. Significant difference was stated in the chemical and the micro elementary composition of the examples, i.e. the material which is used as a working substance - the charger.

Description of the Example

The questionable example is a box with a cartridge (cassette) for laser printers with the following marks: "HP LaserJet 35A CB435A" (Picture 2 and 3), where there is the protective label with hologram and the mark: B9EA5521700 and the code 8 82780 90522 1;

P. 1: Questionable box with cartridge, UZS

P. 2: Back cover UZS

P. 3: Unquestionable box with cartridge, UZN

P. 4: Back cover UZN

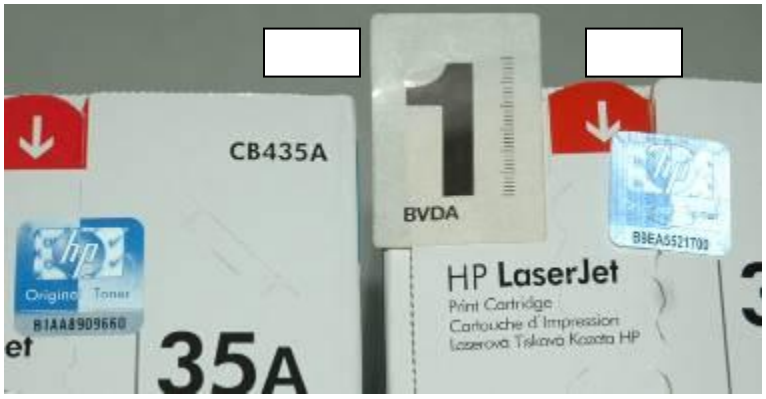
Visual and Microscopic Examination

A visually and stereomicroscopic observation with continuous zooming of 100 times was done on the protective label, where it was noticed:

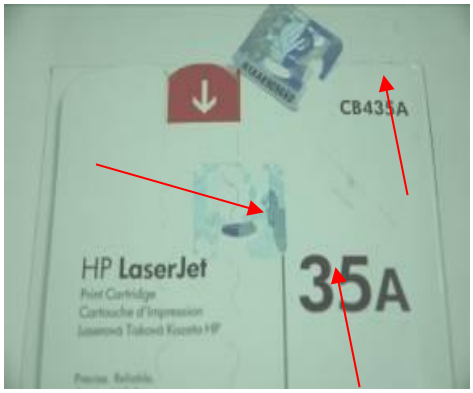
The label of the questionable example (UZN) is always torn when we try to open the box. In the case of the questionable example UZS the

protective label is very easily removed when we open the box, and it goes away without any damages (P. 5 - 8):

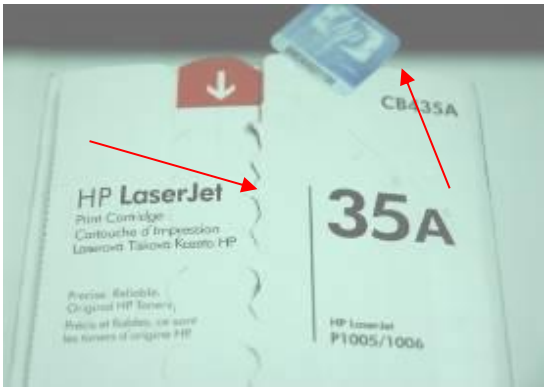
P. 5: Unquestionable (UZN, left) and questionable (UZS, right) example



P. 6: Closer look on the unquestionable example



P. 7: Unquestionable example of the protective label, UZN, marks of tearing are noticed

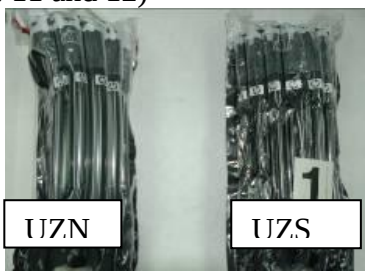


Sl. 8: Questionable example of the protective label, UZS, stays the same

By measuring of the thickness of the label, it is evident that the thickness of UZN: d = 0,1 mm, while the thickness of UZS: d = 0,2 mm.

By visual comparison of the hologram inscriptions of the labels, a significant difference is evident. Namely, in the case of the example UZN while moving the label along the vertical direction, the hologram record "OK" and the tick mark „√" move in opposite directions rotating around the central "hp", while in the case of the example UZS nothing happens. Moving the label along the horizontal direction, the marks move in direction from left to right, "entering and exiting from the inscription "hp", while in the case of the example UZS - marks move in the vertical direction, which means they move in the opposite direction one from another.

Further, observing the protective plastic bag in which the cartridges are, we also notice differences. Namely, in the example UZN the air bubbles are full with compressed air, but that is not the case in the example of UZS (Pictures 9 and 10). Also, difference in the quality of the inscription "hp" is noticed: in the case of UZN inscription "hp" is not easily mechanically damaged, while in the example of UZS record "hp" it is easily damaged - e.g. scratched with a finger nail and thus the white layer is easily removed. (P. 11 and 12)



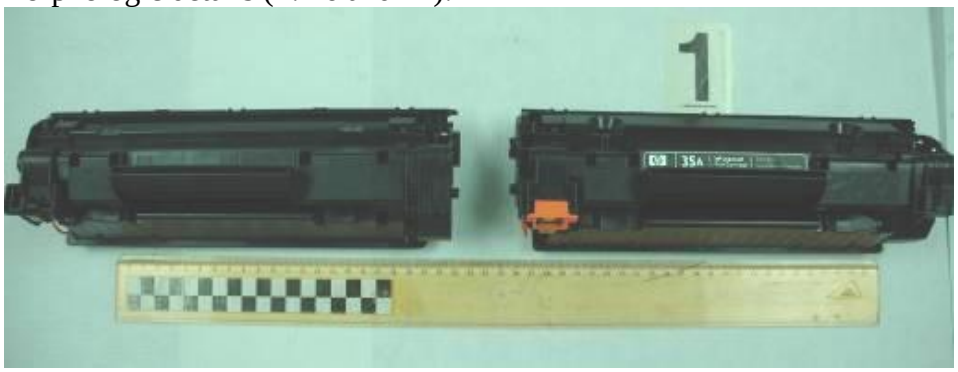
P. 9: Protective bag UZN and UZS

P. 10: Closer look of the protective bag

P.11: Difference of the quality of the inscription "hp"

P.12: Closer look of the inscription "hp"

On the very cassette of the cartridge we can also notice differences, in terms of the quality of the inscription (P. 13 - 15), and in the different morphologic details (P. 16 and 17):



P. 13: Bodies of the Cartridge, examples UZN and UZS

P. 14: Inscription of the example UZN

P. 15: Inscription of the example UZS

P. 16: Place of contact in the example UZN

P. 17: Place of contact in the example UZS

By observing the content of the powder substance from the body of the cartridge, in the example UZN this was not facile because the cassette is strongly closed, while in the example of UZS the powder substance fell off itself, which points to the difference in the granulation of the very content.

In direction of comparative analysis, the material of the protective label, protective plastic bag with the inscription "hp", the very plastic content of the body of the cartridge and the powder substance from the body of the cartridge were all examined in adequate laboratory analyses.

Physical and Chemical Analysis

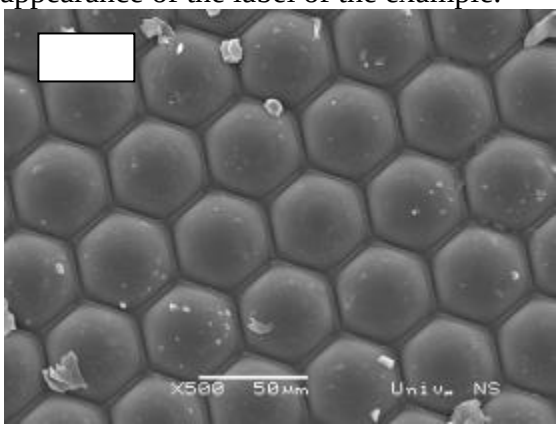
For the needs of the physical and chemical analysis, the method of infrared spectrophotometer with the Furi transformation (FT-IR), which is done on the instrument of the type "Thermo Electron Corporation, Nexus 670", ATR (Attenuation Total Reflection) by the technique [2].

For the micro elementary analysis, the method of scanning the electronic microscopy with electro-dispersive spectrometer of the X-rays was used (SEM / EDS). This was performed on the laboratory instrument of the type "Joel - Tokyo", tip "LV 6460" in the University Centre for electronic microscopy located in Novi Sad (in collaboration with Professor Milosh Bokorov) [3].

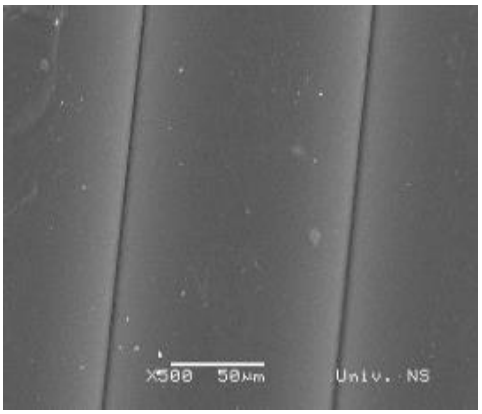
By the analysis of the obtained FT-IR spectrograms, we can state that the examples of the protective label, protective bag with the inscription "hp" and the plastic content of the body of the cartridge do not show important declining in the position of the spectral tape, i.e. their functional groups have approximately the same wave numbers as well as within the unquestionable example.

By the analysis of the obtained histogram after the application of the method SEM/EDS, significant differences are seen in the part which shows declination from the micro elementary content of the unquestionable example from the comparative examples [4].

In the Pictures 18 and 19 is the difference of the morphological appearance of the label of the example.

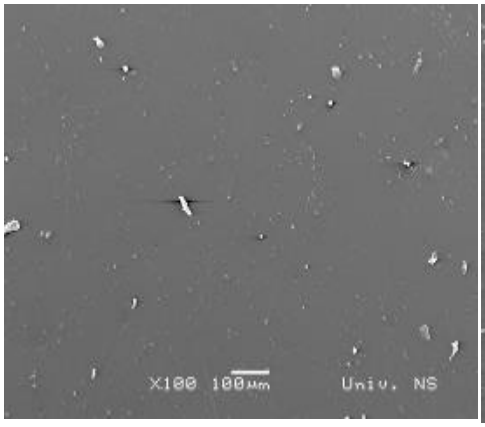


P. 18: Label of UZN, in zooming of 500X

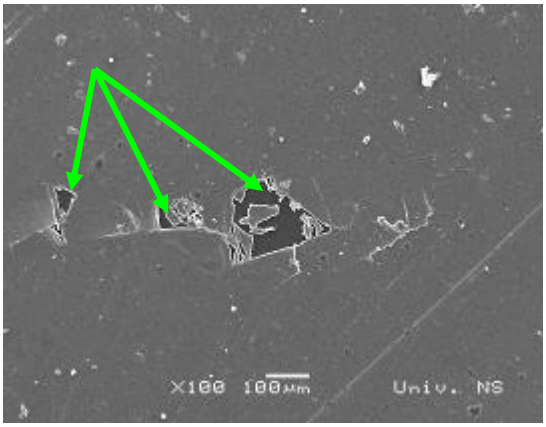


P. 19: Label of UZS, in zooming of 500X

On the pictures 20 and 21, a difference of the morphological appearance of the "hp" on the protective bag in the examples of UZN and UZS is evident:

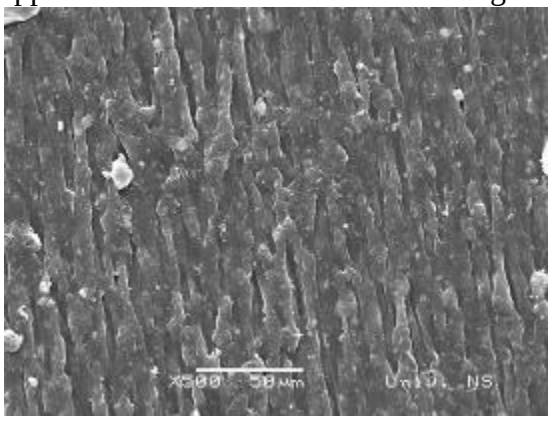


P. 20: Inscription "hp" on the protective bag UZN

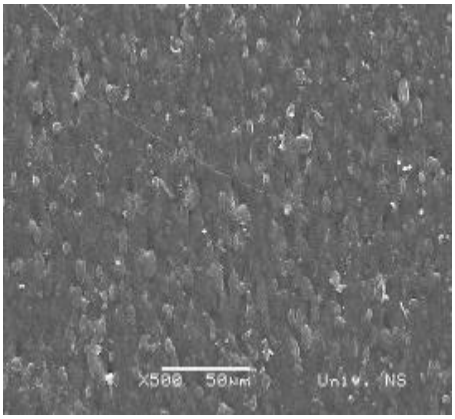


P. 21: Inscription "hp" on the protective bag UZS

On Picture 22 and 23 we notice the differences of the morphological appearance of the bodies of the cartridge:

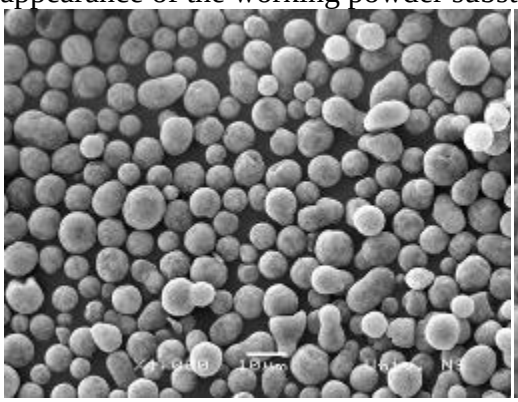


P. 22: Morphology of the plastic cassette, UZN

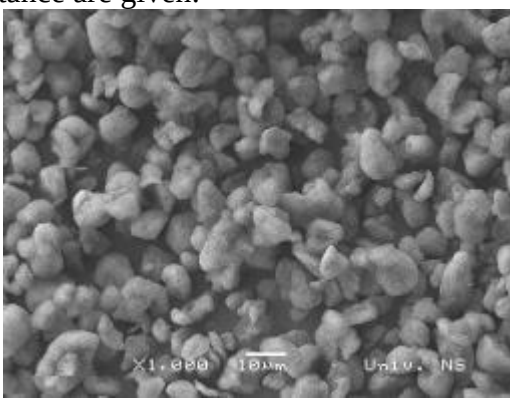


P. 23: Morphology of the plastic cassette, UZS

On the pictures 24 and 25, the differences of the morphological appearance of the working powder substance are given:



Sl. 24: Appearance of the powder content in UZN



Sl. 25: Appearance of the powder content in UZS

After the stating of the important morphological differences of the compared examples UZN and UZS, in the following tables it was shown the difference of the micro elementary (ME) composition:

Table 1: ME composition of the powder substance of the cartridge of the example UZN:

Spectrum	In stats.	C	O	Si	Mn	Fe	Cu	Total
Spectrum 1	Yes	54.90	18.94			25.71	0.45	100.00
Spectrum 2	Yes	56.50	18.28			24.73	0.48	100.00
Spectrum 3	Yes	48.54	18.91	0.63	0.30	31.11	0.51	100.00

Table 2: ME composition of the powder substance of the cartridge of the example UZS:

Spectrum	In stats.	C	O	Si	Cl	Fe	Co	Cu	Total
Spectrum 1	Yes	54.39	19.84	1.04		24.72			100.00
Spectrum 2	Yes	59.02	18.05	0.80	0.13	21.99			100.00
Spectrum 3	Yes	47.25	23.40	1.17		27.49	0.30	0.38	100.00
Spectrum 4	Yes	55.61	10.58	0.98		32.12		0.70	100.00
Spectrum 5	Yes	57.60	13.09	0.88		27.98		0.45	100.00

Comparing of the results given in the tables 1 and 2, we can notice existence of different chemical elements Mn, Cl and Co.

Table 3: ME composition of the plastic content of the cartridge in the example UZN:

Spectrum	In stats.	C	O	Br	Sb	Total
Spectrum 1	Yes	94.16	0.00	4.95	0.89	100.00
Mean		94.16	0.00	4.95	0.89	100.00

Table 4: ME composition of the plastic content of the cartridge in the example UZS:

Spectrum	In stats.	C	O	Total
Spectrum 1	Yes	94.95	5.05	100.00
Mean		94.95	5.05	100.00

Comparing of the results given in the tables 3 and 4, we can notice existence of different chemical elements Br and Sb.

Table 5: ME composition of the inscription “hp” of the protective bag of the cartridge of UZN:

Spectrum	In stats.	C	O	Cu	Total
Spectrum 1	Yes	93.74	5.95	0.31	100.00
Mean		93.74	5.95	0.31	100.00

Table 6: ME composition of the inscription “hp” of the protective bag of the cartridge of UZS:

Spectrum	In stats.	C	O	Al	Si	Cl	Ti	Cu	Total
Spectrum 1	Yes	54.49	21.35	0.77	1.39	0.83	20.75	0.43	100.00
Spectrum 2	Yes	82.27	17.35					0.38	100.00

Comparing of the results given in the tables 5 and 6, we can notice existence of different chemical elements Al, Si, Cl and Ti. [5]

Conclusion

By comparative laboratory analyses and interpretation of the obtained results, we came to conclusion that there are significant differences in the examined examples and we can state them in the following:

It was stated that the package of the questionable toner / cartridge with the label “hp” does not match with the original package of the producer “hp”, i.e. the thickness of the protective label differs, the hologram inscriptions behave differently with the change of the corner of their observation, and also there is declination in the morphological appearance of the hologram inscriptions.

The very protective plastic bag of the package in the unquestionable cartridge differs in the labels “hp”, then in the mechanical features, and the micro elementary composition. Namely, the unquestionable cartridge does not contain the chemical elements aluminium (Al), silicon (Si), chlorine (Cl), and titan (Ti), which were noticed in the questionable cartridge;

The plastic cassette of the unquestionable cartridge has absolutely different morphological appearance from the questionable cartridge. Further, the plastic cassette of the unquestionable cartridge contains the chemical elements bromine (Br) and antimony (Sb) which were not found in the questionable cartridge;

The powder content by which the cartridge is recharged in the unquestionable cartridge is of a totally different morphological appearance and micro elementary content than in the questionable cartridge. Namely, the unquestionable cartridge contains the chemical element manganese (Mn) which was not found in the questionable cartridge, while the questionable

cartridge contains the chemical elements chlorine (Cl) and cobalt (Co) which were not found in the unquestionable.

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METHODOLOGY OF CRISIS COMMUNICATION AND THE POWER OF NEW TECHNOLOGIES

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Abstract

Every epoch and society creates historically specific amalgam of politics, economics and security. After the fall of the Berlin Wall, the combination of American imperial power, neo-liberalism and humanitarianism, transformed the conflict paradigm, while the significant fraction of the struggle was moved into the online space. Secrets of certain entities (states, movements, companies, parties or individuals) became, even more, the focus of the enemies' intelligence interests, as the development of new technologies created a number of new channels for gathering intelligence information. Hence, the focus of this work was to analyze cyber conflicts and the methodology of new forms of communications in crisis situations, primarily through the range of modern propaganda techniques, methods and skills. Internet, social networks and satellite communications altered the classical forms of espionage, allowing the security environment to be transformed within it. Hackers became more dangerous than terrorists, the cyber weapons arsenal enriched while great nations protected their own order by creating specialized cyber struggle units. This means that it was necessary to create mobile and educated special teams within our safety services and facilities, by adopting the informative dominance from the surroundings, in order to identify, create and direct the problem to the public. Advanced material-technical and information technology kit, together with highly educated, trained and specialized personnel are required for superior security action today!

Keywords: conflict, new technologies, hackers, information, methods, security.

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The world's No. 1 conflict communications the White House director Dan Pfeiffer, through the social network "Twitter" first hinted what later became common knowledge – the most wanted terrorist in the planet, Osama bin Laden, is dead.[1] Social networks again demonstrated their power, as a top secret was revealed on "Twitter" and other sites before the official media announcements. At 10:25 p.m., while President Obama was still writing his speech, Keith Urbahn, the chief of the cabinet of the former Minister of Defense, Donald Rumsfeld, twitted: "I was told by the person with a reputation that Osama bin Laden was killed. Damn it!" TV stations ABC, CBS and NBC interrupted regular broadcasting at 22:45 p.m., announcing the news of the death of the leader of Al Qaeda.[2] However, long before the first man of United States officially confirmed the this, the information has already slid social networks with more than ten "posts" in a second, including the word "Bin Laden!"

Therefore, the world of communications confirmed the reshaping of the world of security, but new techniques of communication control were barely recognized within the security paradigm that still slave the clichés of moderate and hierarchically centralized information. Terrorism became a political message, armed activity that symbolically mobilizes the public, which means that by monitoring strategy which eliminates it, we develop the tactics to control and minimize its exposure. Transnational organized crime threats fast action and wide procedures seek the international cooperation and efficiency, which means that operative services act actively and worthy to neutralize the possible consequences of conflict situations, such as arresting the crime perpetrators. Intensity, precision and speed of action execution come first, while the reliable information contributes to the situation understanding.[3] Experience and communication skills are stressed first, because any delay and waiting for approval from the superiors mean the possibility of losing the initiative. The government as well as the security services in accordance, with the law, must maintain the confidentiality of the data that determine the efficiency of actions taken, but at the same time taking care of the curiosity of the media, that otherwise fend for themselves. New technologies reduce the lines of control, so that the image on the important security events can easily turn to sensationalism or speculativeness, endangering further support of the public. Therefore it can

[1] "POTUS (President of the United States) will address the nation tonight at 10:30 p.m.", he wrote in 9:45 p.m. on "Twitter"

[2] NBC Journalists at 9:50 p.m. have received e-mail with just three words - "Get to work"

[3] "Every human thought, an idea, a word, a movement, a gesture, a mental or physical act is an act of communication that disappears, transforming into a collective energy which liberation can produce social explosion." (Jevtovic, 2003:96)

be said that the media space has never been more vulnerable, since the access of the communication channels allows the promotion of the terrorists themselves, psychological acts, propaganda glorifying, data collection, fundraising, recruitment and mobilization of new supporters, networking and connectivity, as well as planning and coordination.[4] The aim of this paper is to highlight the scope and structure of the changes in the communication area since the control over publicity provides the stability of security activities. The system of security operations today revolutionary transforms: with no media, no permanent stable communication exists between the security actors themselves or between actors and the public. [5]

The emergence of social networks

History of social networks goes back to the 1971, when the first e-mail message was sent. Two computers for the e-mail exchange were next to each other. Seven years later BBS - Bulletin Board System, has enabled the exchange of information over telephone lines to other users. The same 1978, over Usenet, the first Internet search engines have been distributed.

In 1994 one of the first social networking sites – Geocities was launched. A year later "theglobe.com" gave freedom to users to personalize their online experience as users were enabled to publishing their own content and interact with others who have similar interests. Most popular social networks have emerged in the period between 2002 and 2006[6], and their precursor was the "Classmates.com" network from 1995. They have become the key evidence for changes in communication in general, and especially on the Internet. In 2004 teenagers join MySpace, connecting with their favorite bands, but Facebook took the lead in 2005. Twitter is the "youngest" of these sites, but the number of users is increasing rapidly.

Social networks can change the character of our social life, at the interpersonal level and at the community level. At the interpersonal level, information of identity included in the public profile are used to reduce the barriers of social interaction thus allowing the individuals connecting that otherwise would not occurred. At the community level, these sites make the

[4] Welman Gabriel: "How Modern Terrorism Uses the Internet", Special report. In the United States Institute of Peace, Washington, 2004.

[5] "In a society in which all things are initiated by communication, nothing can be achieved without the strategic use of public attention" (Münch 1991:17)

[6] In the world: My space 2002, Facebook 2004, Twitter 2006; in Serbia in 2006 the first social network Bleja (bleja.com), and in 2007 the expansion of other services arises. There are also many local networks that will not be considered in this paper.

connections with people who share the same interests or interests easier but differ in other areas. Each of these processes has the potential to make a positive impact on society, because it encourages a variety of individuals to connect, communicate and take action (Ruggiero, 2000:6). For this work, it is important to note that the revolution brought by the social media communications in the field of security, changing the way of information and programs distribution and to what extent. Instead of the traditional methods, the network communications have transformed the crisis into a dialogue in which the public and not just the security agencies have the power over the message. Theorists note that social media is a revolutionary communication tool that has rapidly changed the way of public relations practice, and became an integral part of many security communications of many companies, offering the public relations practitioners new options for every aspect of corporative communication process (Matthews 2010).

Cyber polygons of new conflicts

Security management of conflicts planners expect quick and coordinated response of all participants, where the preventive and repressive phase insists on electronic surveillance of communication flows. This is especially important, given the expansion aspect of human rights, together with the right to privacy and civil liberties.[7] Every democratic community insists on effective terrorism prevention, corruption and violence on the one hand, and respect of human rights, on the other hand, meaning that technologically redesigned methods and approaches to information management in crisis situations should be developed. The architecture of the security environment is dramatically reconfigured, the nature of security challenges and crises is changed, and the power of collection, design, control and sharing of information is seen as a new form of intelligence dominance.[8] Cyber world becomes dominant polygon of information conflicts, but has little impact to the academic sphere as a new paradigm carriers are reluctant to talk about their activities since the results (and knowledge) then had to be shared with others.

[7] See: "Terrorism, control communications and human rights," Sokolovic Ranko, Official Gazette, Belgrade, 2012.

[8] Some of the developed models of strategic planning activities of police services in emergency situations are: SARA (Scanning, Analysis, Response and Assessment), Capri (Chents, Asquiring and Analyzing Information, Partnerships, Response and Assessment for Continuous Improvement) and SWOT (Strength, Weaknesses, Opportunity and Threat). More in: Michael Palmiotto, Community Policing, A Policing Strategy for the 21st Century, Maryland, 2000.

For example, is less well-known operation of the system "DCS 1000" developed by U.S. intelligence officials in order to monitor the routes of the organized crime and terrorism, which allows absolute control of e-mailing and chatting. Semi Corporation "ICANN" that was established by the U.S. government in 1998 by hiring retired officers of IT security agency manages the contents of more than half a million e-mail addresses worldwide. Under the guise of preventive action to combat terrorism, the supervision of electronic communications around the globe is legitimized, so that the e-mails, messages, and any kind of activity on social networks is intelligently recorded, monitored and eliminated. Modern intelligence and security concept is based on the Intelligence Collection, Production and Information Management, including the creation of special information-analytical teams and volunteers whose knowledge is demonstrated by their actions in cyberspace. After all, the U.S. National Security Strategy[9] draws particular attention to the need of new communication service potential adjustment, since the way of collecting and distributing information is radically changed. The equipped IT service hidden location allows the breakage into the security archive, documentation or top secrets of other countries, companies, political parties or extremist-minded individuals, misinformation peddling or injecting viruses into enemy systems in order to retard, control or destroy it. A recent exchange of diplomatic notes with China, that claimed that hackers from this country several times undertook attacks on U.S. security systems confirmed that beneath the placid surface a cyber war is taking place, but also that the official information about its character and the participants are still missing! However, the fact that the Pentagon's Cyber Command prepares 13 offensive teams, as well as 23 defense (surveillance and prevention) teams.

Conflictology, as a young academic discipline, in its structure increasingly involves mass-media techniques, methods and strategies of information management, since in an age of information dependences the crisis communications, especially in emergency situations or political revolutions dictates the overall safety of the community. The shape and style of terrorist acts are also changing; the violence turns into a media spectacle,

[9] Predicting the upcoming threats, the strategic programmed and political document highlights several segments: 1) the fight against violent extremist activity; 2) counter the proliferation of weapons of mass destruction; 3) the implementation of strategic intelligence work and warning intelligence mission; 4) integration of national counterintelligence resources; 5) improvement of cyber security (underlined by authors); 6) support current operations, 7) strengthening the cooperation with partners and building of joint management capacity; 8) the exchange of intelligence information, and (9) the development of science and technology (National Intelligence Strategy of the United States of America, Office of the Director of National Intelligence, Washington D.C. October 2010; Internet 22/09/2010; http;//www.dni.gov/reports/2009-NIS.pdf.)

while the cyber world builds the closeness between people associated the same or similar ideas or interests. The concept of crisis is developing with civilization that has evolved, with a multi-dimensional revolution in technology that accelerates the development of the crisis and its new forms. Theorists noticed that within this complex process "inventions, discoveries, concepts, hypotheses and terminology that is created and designed for a specific area undergoes the other areas, while changing the meanings, perceptions and interpretations"[10], which means that the key to crisis management lies in the surveillance and strategic information direction. Chinese authorities admitted that they created a team of about 30,000 people trained to monitor Internet communications, but not to be targets outside of this country! Each ideologically unacceptable content was immediately punished, even though it was contrary to the Convention on Human Rights of the United Nations (August, 2003), according to which mass media multinational companies must ensure the safety of all participants in public communication.[11]

In the new order among the big countries the information conflict is widely active, but the lack of knowledge is present due to its specificity.[12] The security of computer systems in all areas is at risk: business, government institutions, the military, the police, nuclear facilities, electrical supplying, traffic ... everywhere. Since 2011, the public is aware of the action of "Stuxnet" virus programmed in order to sabotage the equipment in Iran's nuclear facilities. A year later, the public was informed about the "flame", a virus that is intended for informational espionage. Six megabytes software could switch on the computer microphones that have been infected talking about the content of everything that is typed on the keyboard, or recorded on the screen, including the ability to transfer phone calls to mobile phones equipped with so-called Bluetooth technology.[13] In this way, computers of the Iranian officials are monitored; particularly employees in the intelligence services and the nuclear sector and significant intelligence data were obtained. Unlike similar predecessor, the virus "Stuxnet" and "Duqu" which

[10] Milašinović, S., Kešetović, Ž., Crisis Management, The Academy of Criminalistics and Police Studies, Belgrade, 2009.

[11] "Microsoft" sold the network surveillance program to Chinese government, so simultaneous control over more than 80 million people in this country is possible!

[12] "Washington Post", 12th February 2013 published part of the report (60 pages) from U.S. company "Mondiant", which identified as hackers the Chinese special military "Unit 61398", based in Shanghai, also mentioned the address of the building from which the cyber attacks to the United States was executed. The methods that stole "hundreds of terabytes of data from at least 141 organizations, ranging from 2006" are presented.

[13] "Washington Post" 20th June 2012 announced that has unofficial confirmation that the virus spied Iranian computer systems, and that was made as the United States and Israel co-production.

were tasked to sabotage the Iranian plant, "flame" was modular which means that it could be upgraded remotely. Thanks to this it was revealed: a typical malicious "malware" is less than a megabyte and is a work of criminals who want to install it as soon as possible, steal it, immediately switch it to another network and, as soon as possible, do the job, while the "flame", in size and sophistication, pointed out to some government support.[14] The spread of the virus through computer cyber attacks can instantly paralyze the functioning of the entire countries,[15] giving devastating consequences, which were proven during the conflict between North and South Korea in March 2013.[16] Technological superiority creates a computer system dependency, so that the attacks on the operating system destroy or interrupt the chain of internal communication. The Internet is increasingly congested by the dangerous "worms" and "Trojan horses" that, masked in the "attachments", penetrate security protection, affecting the coordination and timing of information exchange, producing high financial damages.[17] However, the problem is not in viruses, but in those who control and distribute them to the others!

The Pentagon has already elaborated the "Plan X", [18] as a new phase in U.S. efforts to increase its offensive and IT potentials and the digital battlefield. One of the goals is to map the entire cyber space (with billions of connected computers), which means recording the locating of each computer connected to the Internet. The task is to locate the origin of digital attacks on America in a fraction of a microsecond, but also to enable preprogramming, i.e. automatic response. The Defense Advanced Research Projects Agency

[14] Vitaliy Kamlyuk, "Kaspersky" laboratory engineer, was one of the members of the team that identified the new virus. The headquarters of this institution is located in Moscow, has more than 30 offices around the world, and as employees say "do not work for the Russian government"?

[15] James Clapper, director of the U.S. National Intelligence, by testifying in front of the Senate Intelligence Committee, in March 2013 warned that a major cyber attack could cripple the country's economy and infrastructure, putting such a danger, putting for the first time since 11th September 2001, ahead of the one that represents the international terrorism. He also mentioned that the intelligence services have raided the systems of government agencies, Wall Street and private companies.

[16] Computer networks of major banks and TV broadcasters of South Korea have fallen simultaneously, so that the customer accounts have been blocked, and the screens have become obscured. Lim Jong-in, dean of the College of Information Security said that he believed that North Korea had formed a special unit for Internet warfare.

[17] According to the official FBI data, cyber crime causes financial damage to the U.S. of about $450 million a year, while in Brazil the government disclosed that the damage is even more, in excess of $500 million.

[18] It is a research program with a budget of over 110 million dollars that over the next five years in the cooperation with the private sector and universities and even with companies specialized for programming of computer games defines new technologies for cyber warfare.

(DARPA), founded in the 1958 in Fort Meade, has a total budget of three and a half billion dollars, of which 1.54 billion is earmarked to cyber war.[19] General Keith Alexander, the commander of the U.S. Cyber Staff prioritize the formation of IT special teams, which will be all day long dedicated to cyber activities.

Concluding Remarks

Instead of terrorism, nuclear challenges and transnational crime, the top of the agenda of global threats increasingly focuses to the cyber conflicts that with their intensity, range, depth, and the number of penetration cause serious damages to the other parties. No country, company, political party, security institution, the military center or individual is excluded as a target of a new form of security or intelligence pressure, while high quality IT education and media literacy represent the functional and adequate defense. By analyzing several typical examples from the United States, authors observed the importance of preventive institutional actions, as well as the need for formation of special teams trained for activities in cyberspace. These conflicts are technologically and financially more demanding than the previous ones in the history of civilization, and involve a high level of training and creativity of cyber teams, while, on the other hand, maximize the utility of floppy international law that has not precisely defined the legal qualifications. Large countries have already become involved in such conflicts, but it is illusory to expect that they are willing to share their experience and knowledge to the others. This means that small countries urgently need to redefine security concepts, bearing the strategic thinking about cyber incursions as illegitimated, but expected information impacts, planning how to predict, prevent and possibly perform a counterstrike! New conflicts are more challenging than any other known, since everyone can lead an invisible battle with everyone.

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THE USE OF CYBERSPACE FOR TERRORIST PURPOSES - WITH SPECIAL REFERENCE TO THE FINANCING OF TERRORISM

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The evolution of war and the impact on the development of terrorism

If we do a retrospective of the evolution of war, the establishment of military power has always been dependent on economic resources. If in the feudal the land was a resource for the creation of military power and the creation of large empires, in the industrialism economic power were created through investment in industrial and military production, and fought for the acquisition of additional resources that would be necessary to increase industrial production, and through the increase and strengthening of the economic power. But today the world becomes increasingly dependent on natural resources such as water, oil and food. Information about the location of these natural resources comes to the forefront and becomes more significant compared to the capital. Hence, global production is based on warfare for supremacy on the information and place in the information space or in the world known as "Information Warfare".

The emergence of the Internet in the late eighties led to a new form of information warfare "Netwar", but also to a new form of terrorism in this space, or better known as information terrorism, that "Cyberterrorism".

The entering the world of globalization creates the right proportional process in which benefits have for anyone. For the ordinary man a boon for terrorists open space boundless projection of their reach and impact. The process of transition and the traditional way of running a war where the battlefield has been replaced by cyberspace, and military operations have been replaced by cyber operations and all this within the cyber war, asking the question, to what limit, or where it will end that process?

This paper in the form of a thesis will explain the scientific basis for the access conditions and the use of cyberspace by terrorists in the realization of all its cyclic activity. With special emphasis will address the use of cyberspace in the collection, transfer and use of funds by terrorists. Here is a

need to make a distinction between the concepts of cyber crime and cyber terrorism. At the same time, we will turn to the paradox that bears his development of the technique and technology and its use in criminal or terrorist activities in the area of financing.[1]

Concept and process of cyberterrorism

In order to get to the main topic in this paper will first explain the term "Cyberterrorism" and its basic elements.

Starting from the principle that there is no unified definition of terrorism, and every researcher, every expert, every organization gives his own view and interpretation thereby defining terrorism from its own point of view, and there is no single definition of "Cyberterrorism".

Terrorism abounds with emergent forms and shapes as preparing and choosing the means of enforcement and objectives of the terrorist attack on senior state officials, organized attack or gruesome murders by political motives to action on computer systems of government bodies, security services or vital structures in order inflicting material consequences, innocent casualties but and sowing fear and panic. More and more are developing capabilities to carry out terrorist acts using computer techniques, but also and attacks over computer systems over vital goals (airports, rail stations, shopping centers, etc.).

There are three basic ways in which terrorists can use computers for coordinating, planning and carrying out their activities in achieving their goals:[2]

First base is using the computer as a tool or means of enforcement. Terrorist groups use the Internet to spread their ideas through web sites and collect funds, usually in the form of donations, and collecting and sharing intelligence.

The second basis is that terrorists can use computers to plan and organize their work programs. These computers have their financial books, terrorist plans, potential targets, surveillance logs, attack plans, lists of associated conspirators etc.

The third basis is that the cyber-terrorists may use computers for unauthorized access to government and private information systems aiming to cause very serious, even catastrophic consequences.

[1] "The use of the Internet for terrorist purposes" - UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna, UNITED NATIONS, New York, 2012, p.3-12.

[2] Petrovic S. Police Informatics, Criminalistics and Police Academy, Belgrade, 2007, p. 110

Cyber terrorism is a kind of adaptation of terrorism whose goals are computers resources, and thus causing the victim fear can be caused even more tangible effects, but and human sacrifices. Attacks on computer systems on vital facilities or computer systems are used to manage most terrorist attacks where the main purpose computer systems, thereby are causing effects characteristic of a terrorist act. There are no classic attacks with weapons or explosives, but the attack on the computer system cause the same, even dangerous defects. For example attack on computer system of airport will make a huge impact on management flights, even with the consequences of improper landing giving commands, and it causes a plane crash and great material and human victims. More terrorist attacks in the future will have the nature of cyber terrorism, because the terrorists are increasingly using technical capacity as a target of the attack, but the facilities are vital, and that will draw attention of the public and it is the aim of the terrorists, despite direct attacks and to infusing fear of future attacks.

The term cyber terrorism is somehow coined of eighties years of Barry Colin who has studied the dynamic terrorism that happens in the world of computers networks or so-called virtual world or in some way is a terrorist act as convergence of reality (the physical world) and virtual world (cyberspace). Center for Strategic and International Studies defines this term as the "use of computer network tools to attack or destroy national infrastructures (e.g. energy, transport or government facilities) or to coerce or intimidate a government or civilian population". I.e. the cyber terrorism is defined as "intimidation of civilian structures through the use of high technology with the political, religious, ideological or religious motives, or actions that result in disabling the operation of specific computer networks by deleting or destroying the information infrastructure." Or one of their definitions is cyber terrorism is a criminal act committed against computer and it caused violence, death and / or destruction, creating terror because of persuasion on Government to change policy. As an illustration, are cite destruction of data files on vital information systems and infrastructure facilities. Destruction of data bases affect on quality of life, and in certain situations are causing loss of human lives and causing of enormous material damage, but what is most sensitive is causing or applying feelings of fear and in some cases distrust of governments and the ruling structures, which is a political motive for cyber terrorism.[3]

Cyberterrorism means unlawful attacks and threats of attack against computers, networks and the information stored in them. This is done in order to intimidate or of some way to blackmail government officials to

[3]http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/november-2011/cyber-terror, taken, 10.04.2013.

make certain political concessions for a particular group that with threats of terrorist acts, wishes to acquire certain rights in state policies. For a terrorist act to qualify as cyber terrorism should be attack against computer system of vital economic and national authorities and institutions or significant traffic facilities or facilities that provide water, electricity, gas for normal life of citizens. But, as cyber terrorism are considered and actions of providing computer data for vital facilities that may be targets of terrorist attack, providing a means by invitation from terrorist groups - think of the financial resources that are necessary for the entire process of any terrorist act, but it is believed that cyber terrorism is one of the more expensive terrorist acts.

Still not fully clarified what exactly is meant by cyber terrorism. Often this term selling their cases of computers or online scams, such as hacking activities, the spread of viruses and other wide range of on line computer incidents that inflict minimal harm or minimal difficulties in the functioning of the computer. Have occurred in the past computer incidents in which are involved and terrorist organizations, but they are not causing harm. Some of the criteria that should be met to be a computer attacks (cyber attack), to qualify as cyber terrorism is the identity of the perpetrator who planned or carried out the attack, the perspective from which the attack is carried out or performed and the damage caused by the attack. Cyber terrorism is done with premeditation, political motivated attacks by national groups or clandestine agents, or individuals against information and computer systems, computer programs and data which cause violence against civilians.[4] Mark Polit states that cyber terrorism is a premeditated, politically motivated attack against information, computer systems and computer programs which cause violence and fear among the civilian population. Renowned expert on cyber terrorism Dorothy Denning defines cyber terrorism as "illegal attack or threat of attack against computers, computer networks or stored computer data in order to intimidate the government or its citizens in order to achieve certain political or other purposes".

Cyber terrorism should be differed and t. q. Information warfare, which is the manipulation with computers networks in the context of inter-state armed conflicts. While the information war is being waged with the offensive and defensive activities of state structures and international conflicts, terrorism applied tactics of intimidation within the asymmetric conflict based on ideology. The above two forms of action can overlap in terms of the use of certain techniques in the destruction of computer networks, but that does not mean that it is the same phenomenon. Cyber terrorism can not be considered as any hacking activities that involve entry into computer networks in order to disruption of their normal work, without

[4] http://sr.wikipedia.org/wiki/Sajber_terorizam, taken 10.04.2013.

intending to cause major damage, the spread of ideological and political propaganda or causing deadly consequences. Terrorists can also use hacker techniques for getting the attention of the existence of unauthorized data collection, but none of these activities is a structural terrorist operation or attack, and therefore can not be subsumed under cyber terrorism. They are yet another indicator that says that information technology, as well as any other advanced technology that can be used in an illegal way. Cyber terrorism is not occasionally bypass legal rules of use with computer equipment and the Internet by terrorists, nor under that, the term refers to other forms of criminal use of information technology. With one sentence defined as premeditated and ideologically motivated attack on computer systems, applications and databases that are executed with the help of information technology and has as consequence have causing fear, violence and causing major damage to non-combat objectives and order to influence the general populace and political processes. Simpler, cyber terrorism is the use of high-tech tools against high tech purposes.[5] Some experts believe that the term cyber terrorism is comely, because computer attacks can simply produce discomfort, but not terror, as it would render the bomb, or other chemical, biological, radiological or nuclear explosive device. However, other experts believe that the effects of the spread of attacks on computer networks can be unpredictable and cause major economic disruptions, fear and civilian casualties and it qualifies as terrorism.

Cyberspace "Cyber space" is the term used for the presentation of computer space. That area covers not only computer components and networks, but is a much broader concept. Cyberspace represents the entire space between the computers in which information exists. Covers all the communications cable, satellite, including the space in which they feel vibration of information.

Cyberterrorism in the broadest sense, present an attack and a threat directed against computers, computer networks and IT equipment for data storage in order to intimidate and influence the structures and the public in the political and social life.

Macedonian lawmaker predicted in more crimes to being provided crimes that can be covered by the term cyber terrorism or classic terrorist acts which, if committed with the use of information technology or against computer systems and networks will be qualified as cyber terrorism and procedure of providing evidence are differs from the classical way of providing evidence, because despite the evidence and traces of effect (traces of blood, material traces, etc.) should provide electronics traces, and it

[5] http://www.hrvatski-vojnik.hr/hrvatski-vojnik/1892008/cyber.asp, taken 10.04.2013.

implies clarification of using a computer technique log, code or password, or from where it is attacked a computer system and which computer techniques used.

Basic elements to have a process of "Cyberterrorism" are: methods of attack; tools; motivation and goals of the attack.

Methods of attack

Based on the way of perform we can divide:

Physical attack - an attack against computer facilities and / or transmission lines. Can be achieved with the use of conventional weapons to destroy or damage their computers or terminals

Electronic Attack - Attack which is achieved by the use of electromagnetic high energy or electromagnetic impulses when it comes to overload a circuit of computer or microwaves radio transmission.

Attack of computer networks. Is achieved by the use of codes that would used the weaknesses of the software.

Tools attack

As tools used by the terrorists in carrying cyber attacks are as follows:

Identity Theft;
Entering viruses;
Use of malicious software
Destruction or manipulation of data.

Motivation for Attack

For a crime define as terrorism, must determine the motives for its execution. Motives of cyber terrorists are the same or similar to terrorists or and other perpetrators of crimes against state security and stability, which are: political change, social change, economic change, gaining more rights in the state (privileged jobs, rights to celebrate holidays other nationalities, rights of rallies along ethnic and national lines, right or amnesty, etc.) A cyber terrorists as targets of attack usually choose computer networks and systems of vital state organs and other vital infrastructure facilities etc. For the qualify the crimes like a cyber terrorism must to have are the following motives: political; economic and social.

Targets of attack

Starting from the old Chinese proverb "Kill one deterred thousand", the goal of the terrorist attack is a critical infrastructure which for its feature is a soft target.

Critical infrastructure are represents all compositions, networks and facilities of vital national importance, whose interruption of operation or interruption of the delivery of goods or services can cause serious consequences to the national security, health and life of citizens, property and the environment, safety and economic stability and smooth functioning of the government.

It is these objects represent an easy and soft target for terrorists to operate from the point of view that are not 100% secured.

When it comes to Cyberterrorism and Cyberattact, terrorists can carry out an attack on the computer systems of hydro-electric dams, an attack on computer systems for air traffic control, vehicle traffic, etc., through encryption "Scramble" can act upon programs in large financial institutions and exchanges, intrusion and changing formulas in factories for the production of medicines and etc.

Anonymity that enables and ensures through computers in Internet cafes or computer services, allows interaction of criminal structures of various parts of the world. Establishing the identity of the computer user or determining its location is particularly difficult. When we add the continuous changing IP addresses, monitoring and detecting messages becomes impossible.

Use of cyberspace for terrorist activities

Before I explain for which purpose to use cyberspace in the realization of terrorist activities must define the stages through which a terrorist process takes place.

According to the expert research in the field of terrorism, it is generally established that terrorism consists of several stages. But you always have to pass all these stages to perform a terrorist act. And often, these phases apply to collective terrorism, while individual terrorism mostly avoided the first phase, which is the spread of the ideology.[6]

[6] Ivona Pastor Perisa, "Organizational Forms of Modern Terrorist Organization", Polemos 15 (2012.) 2: 139-156.

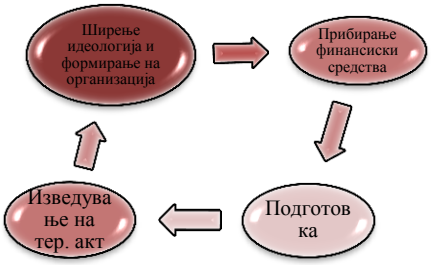

Figure 1. Phases of terrorism

Knowing the phases through which passes a terrorist process, we can create a strategy for action against terrorism. Are you going to apply preventive strategy by which you will apply the measures and activities to prevent terrorism or military action is used depends on each case. But states should have the necessary capacities for action in both cases.

Determining the stages through which takes place one terrorist cycle and if it add capacity which offers cyberspace, we can conclude the following:

Cyberspace can be used for the realization of the following activities:
Call ideology
Recruitment
Networking
Communication
Collection of financial funds
Method of transferring of financial funds
Use of financial funds
Education and training
Organizing and conducting terrorist and cyber attacks.

Terrorist organizations are increasingly using cyber space to carry out their terrorist attacks. Terrorists use the Internet and World Wide Web communication network with each other, in order to recruit members, gather intelligence, raise money legally or illegally, to organize and coordinate their activities, provide travel documents and illegally distribute propaganda materials. For example: some of the Afghan terrorists as Osama Bin Laden reportedly he owned computers, communications equipment, and drives to store vast amounts of data about their operations. Mideast terrorist organization Hamas used the Internet messenger (chat) and email for planning and coordinating operations in Gaza, the West Bank and Lebanon. Hezbollah second mideast group managed with several websites for

propaganda purposes, to describe attacks against Israel and the notification of news and information.[7]

For performing cyber terrorist attacks requires knowledge attackers to have great information, but as each developer is not a hacker, so any hacker need not have knowledge of computer programming. Most developers made the computer worms that later planning are pushing in a specific objective which should meet the characteristics of a terrorist attack, to qualify as a cyber terrorist act. In 2003 computer worm (Slammer) is inserted and caused slowdown in control of the energy system in the U.S. The result was that in eight U.S. states and two Canadian provinces and around 50 million people remained without electricity. And in August 2006, one of four e-mails NATO was exposed to a series of DoS attacks by a device which is detected by monitoring devices and the attack is blocked and the server is executed reconfiguration.[8]

The case that caused a global panic occurred in late 2008 when a group of hackers called "Greek Security Team", broke into the computers of CERN - the European Centre for Nuclear Research (European Centre for Nuclear Research) so deep not found very close to take control of one of the LHC detectors - the largest accelerator of particles. The hackers in the system broke already after the first day of the experiment and set up a fake page on the site of CERN, smiling to the experts responsible for computer system, calling the set of students. CERN representatives reported that it is not caused any damage, but the uncomfortable is knowledge that detectors and overall equipment are susceptible electronic threat.

Mass media and terrorism

Terrorist organizations in particular are adept at manipulation of television by posting shots. Moreover, any terrorist organization has its own website through which carries out recruitment of new members and spread bloodshed messages. These mass media broadcast a powerful propaganda in favor of violence, suicide bombings and killing of innocent civilians, which is the direct threat to international stability.[9]

[7] „John Rollins & Clay Wilson, Terrorist Capabilities for Cyberattack: Overview and Policy Issues (CRS Report RL33123).

[8] Centre of Excellence Defence Against Terrorism, p. 124.

[9] Ethan Bueno de Mesquita and Eric S. Dickson, "The Propaganda of the Deed: Terrorism, Counterterrorism, and Mobilization", American Journal of Political Science, vol. 51, no. 2, April 2007, pp. 364-381;

With the publication of proclamations[10] terrorist organizations have the opportunity to publish sense of no explanatory violence, without pressure from the people who'd interviewed. This way, terrorists commonly use to represent the ideals of terrorist groups and the justification of their attacks to the broader population.[11]

Post modern terrorists use the benefits of globalization and modern technology in order to easily perform the planning, coordination and execution of terrorist attacks. Viewed from a global perspective, terrorist organizations are not geographically restricted within certain regions or countries, nor politically or financially dependent on specific countries - sponsors, but rely on modern communication facilities including the net.[12]

The main advantages of the Internet are:

Easy access;

Broad product access (language, e-mail, social networks, blogs, forums, pictures, sounds, etc.);

Inconstancy and absence of censorship;

Potential audiences worldwide;

Anonymity of communication;

Fast flow of information;

Low cost;

Wide range of weapons (viruses, worms, backdoor bombs).

Through these web pages terrorist organizations seek to show the basic goals and mission of the organization, history, arguments for the moral justification of the activities of the organization which practically would ensure support and consensus in public opinion. Special attention is given to presentations that contain audio and visual effects, as well as the primary logo and emblem of the organization, while those more sophisticated sites often contain speeches, poetry and music through which strives to convey some message.[13]

In terms of recruitment of new ideological followers of the terrorist ideology, terrorist organizations through its cells in charge of media

[10] Pamphlets or proclamations are printed by the groups or movements as a unified whole is not revealing data and information of possible attitude, motivation or the attack. Personal documents, on the other hand may disclose this information. Personal documents of terrorists almost entirely are written in the form of a memoir, and sometimes in the form of an autobiography;

[11] Richard Latter, "Terrorism and the Media: Ethical and Practical Dillemas for Government, Journalists and Public", Wilton Park Papers I, 1988, p. 7;

[12] According to experts, the creation of the Internet, there has been one of the main goals of Islam - is created called "umma" - which means the world community of believers.

[13] TE – SAT 2009 – European Terrorism Situation and Trend Reports, European Police Office -Hague, 2009, p.14.

production, broadcast and video training materials that serve potential terrorists. Usually shows videos with explaining how to make explosives and bombs, videos through which purports to show the vulnerability of the enemy, various speeches that are commonly coded to make confusion with the opponent, as well as photographs that show the victims, that are killed by the enemy.

As reasons why terrorist organizations choose the Internet to deliver part of its activities are as follows:

Lack of appropriate legislation (imprecision, vagueness and delays in the adoption of appropriate laws by seeking to define the crime, ways of prove, prosecute and punish);

Risk of incorrectly identifying the actual creators of the websites of terrorist organizations.

Internet as a new global media is not only weapons terrorists him and their weak side to some extent. Access to all the information placed of the terrorist organizations will be of particular benefit of the security forces in order to obtain knowledge about the belief, values, plans, actions and behavior of terrorist organizations. From this information the pros analysts can predict the call, time, place and manner of conducting terrorist attack.

As indicators and early warning signals of possible terrorist attacks:

Increased frequency of sending messages;

Increased traffic information through the Internet sites of terrorist organizations that are close to the center and the main terrorist organization;

Call for the collection of financial funds;

Call for recruiting new members and so on.

Use of cyberspace funding of terrorist activities

The processes of financing terrorist activities are conducted through three separate phases:

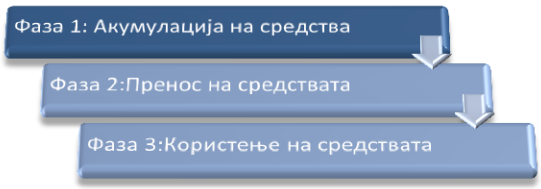

Figure 2: Phases of financing of terrorist activities

Each phase is implemented through different ways and mechanisms that can be vulnerable of systems to prevent the financing of terrorist activities undertaken by institutions in the states.

Accumulation of assets in cyberspace

The first stage is the stage of collection or accumulation of funds from various sources that would help in the realization of terrorist activities.

In general, the source and manner of which provided funds for implementation of activities in all phases of terrorism can be legal and illegal.

According to legal sources, the funds are provided mostly through donations from various nonprofit organizations, businesses, corporations and even guided of terrorist organizations themselves or their supporters, and also by donations from individuals, supporters of the ideology of the terrorist organization. Donations are the easiest way of providing funds and that in countries where the control over the cash is not very rigorous.[14]

This includes and the phenomenon called "black - washing" (dirty of money), under which funds from legal sources, such as funds that are provided by various welfare projects, state subsidies are not used for that purpose, but they are redirected towards financing terrorist activities in all phases.

Furthermore, terrorist organizations using the legal way to come up with funds, often open business, hotels, cafes, restaurants, taxi companies, auto schools and so on. These business activities are especially useful for terrorist organizations, from the point of view that purportedly make legal activities they provides financial resources for the realization of its goals.

After much pressure and more secure mechanism for the prevention and fight against terrorism taken by the international community, the financial support that terrorist organizations have received from state sponsors is entirely reduced with the intention of disappearing.

From this aspect, terrorist organizations are forced to seek alternative sources of finding funds to finance its activities towards the realization of the set goals. In this respect, terrorist organizations perform a variety of criminal activities such as smuggling of weapons, money extorted from hostages, racketeering, drug trafficking, etc. or they are in connection with organized groups that carry out activities in the field of organized crime and he thus providing a means of supporting terrorist organizations.

[14] Doc. dr. sc. Saša Šegvić: Antiterorizam u kontekstu borbe protiv organiziranog kriminala Zbornik radova Pravnog fakulteta u Splitu, god. 46, 4/2009., str. 667.-685.

Confirming the traditional sources from which accumulate funds for terrorist activities, the question is, what is the benefit for terrorists of cyberspace in the collection of funds.

The following text will bring up several typologies commonly used collection in the way of funds by terrorists or their supporters:

Theft of cash from credit cards;

Donating funds through open calls published on the websites of the various organizations;

Internet "gambling";

"Paypall" raising funds through transfers effected by mobile phone;

Hacker incursions into bank accounts and cash funds;

Fundraising by selling items on the internet shops.

Transfer of funds

Circulation of cash from the source to the terrorist organization is a very important process, in the sense that it should remain undistinguished by law enforcement. How the funds will be transferred depends on many factors. But generally, there are three main methods that terrorists use to transfer money or values from the source of their acquisition until the moment of transfer to terrorist organization, such as:

Using the financial system

Physical transportation of money or values (courier system) and

Using informal funds transfer system.

Furthermore, terrorist organizations abusing non-profit organizations or other entities to cover the three methods for the transfer of funds. Commonly mentioned alternative way, and according to research, most negligible, is the so-called "Hawalla" system for transfer of funds.

Globalization, development and technology and great organizational structure of terrorist organizations make it difficult to identify the most commonly used method of transmission of funds.

Knowing the legislation and systems for surveillance and monitoring the transfer of funds by the competent authorities, terrorists most often use false identities for open bank accounts through which will transfer funds, or used accounts of fake organizations or firms to transfer of assets is not observable.

This range of methods using transfer funds by terrorist organizations, with the right lead us to think and to conclude that terrorists use all possible ways to transfer funds from the source to the organization.

It is an additional difficulty in detecting and distinguishing everyday financial activities to funds used to finance terrorist activities.

Identification and prevention of financing of terrorism is difficult and when the authorities are faced with the "informal" networks for support that do not function as part of a well-structured organization with clear roles and responsibilities.

Products that have been launched as result of the development of techniques and technology were of particular benefit to terrorists and terrorist organizations in the implementation of their activities. Internet banking (e-banking), Paypall - payment and funds transfer via cell phone, credit cards are just some of the products that had a strong influence on the development and ways of transfer of funds from source to terrorists or terrorist organizations.

Anonymity that enables and ensures via computers in internet cafes, computer services and mobile phones, allows interaction of criminal structures of various parts of the world. The identification of the user's computer or mobile phone and determining its location is particularly difficult. When we add the continuous changing IP addresses, monitoring and detecting money become more difficult and practically impossible. Extracting cash in many cases are realized through ATMs.

If we know the strict rules that the have established an expert group of FATF for identify the client, the intermediary and the end user, in these cases it is the exception, ie is difficult to identify from the point of view that there is no visual contact between the client, the intermediary and end user with financial officers responsible for their identification. This further complicates the creation of the risk profile of the client and determining the specific typology determined by different transactions.

It is actually a kind of paradox that technique and technology have offered to citizens but and terrorists and their supporters.

Use of funds

Knowing the financial needs of the contemporary terrorist groups is the first step in creating a strategy for detection and prevention of terrorist financing operations, with the ultimate goal to obtain preventing the execution of the final terrorist act. Necessary costs for development and maintenance of terrorist operations, as well as the actual execution of the terrorist attack are of great importance.

Specifying the mode of action of a particular terrorist organization, funds that are needed, before opening to promote the ideology of terrorist cells in multiple states, their electronic connectivity, recruiting new members, their training, forging the documents, cost of living(clothing, food, organization of trips, phones, Internet, literature, etc..), financial support for their families, purchase weapons, and organization of the final assault. All

this should not remain unnoticed by the prosecuting authorities to finalize their order through execution of terrorist attack.

Need of funding terrorists can be reduced in two main areas:

Organizational costs for development and maintenance of infrastructure for organizational support and promote the ideology of a particular terrorist organization;

Costs to finance terrorist operations.

Or shown visually that looks as follows:

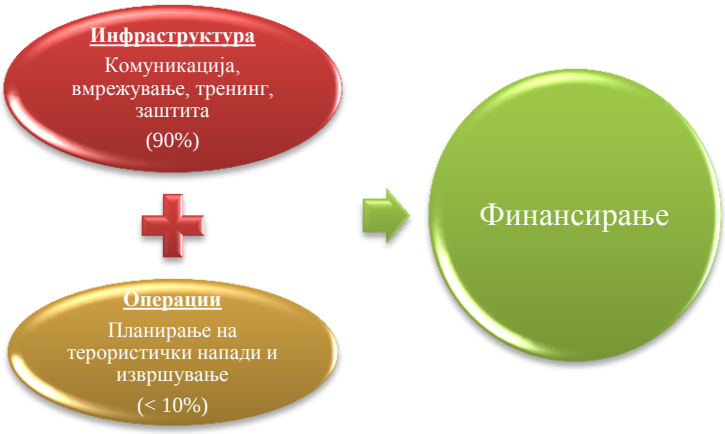

Figure 3: Need for funding terrorist activities

Taking into consideration the services that are offered in cyberspace or Internet on-line shops, through which anyone can buy any product, because there is still no legislation as how can be prevented. At the same time, knowing that terrorists can shop online the chemical and biological assets without ban and to make improvised explosive devices made precisely from those funds, it becomes clear that the limit that has got terrorists and their supporters becomes infinite. If we take into account the new payment method "Paypall", are complicates the situation drastically.

Common conclusion for all three stages of the financing of terrorism is that beside strict rules for customer identification, proxies and end users established by the international community, identifying as the first step in detecting terrorist financing becomes pointless and impossible.

Conclusion

With analyzing the above facts, we can conclude that there is no way such actions to prevent, ie that defeated the paradox of development of technique and technology, all aimed at the development of terrorists and

terrorist organizations. And all this is true, and no one has the right to say that is not so.

Paradigm of the "new" terrorism within the Information Age, includes changes of terrorist organizations that had on organizational and technological levels, their doctrine and strategy. Also here you can mention a range of threats and ways of conducting hostilities. Information revolution has led to the creation and strengthening of network forms of organization, beside hierarchy forms, with the members, ie groups acting widespread, but for the same complementary target. The trend is moving in that direction, and in the future hierarchy forms will tend to network form, because their proliferation and camouflage makes them to can not be eradicated.

But there are ways how it limit. The fact is that the development of techniques and technology makes cyberspace without limit, but knowing the evolution of terrorism and terrorist organizations, their ways and methods of action through the use of technological products in cyberspace, you can create a legislative framework that will guide and filter certain activities that should be banned.

Counterterrorism activities should be directed towards identifying the flow of information, money and their termination in order to disable the functioning and coordination of their activities and the ultimate goal to protect critical infrastructure.

Shortening of the financial flow to the financial funds of terrorist organizations is essential in the fight against terrorism. What is essential to know and remember is that the shortening of the financial funds of terrorist organizations will strongly affect their potential, reducing the power and ability to perform the planned terrorist attacks. On the other hand, it will lead to a confused and panic situation in the internal structure of the terrorist organization, fear that they will not realize their plan. Shortening of financial funds will lead to increased operating costs seeking alternative ways of finding funds, thus further entered risk, insecurity and uncertainty in their operating activities, which in terms of tactical point of view can be very effectively contributing to:

Weakening of the moral legitimacy and hierarchy within the terrorist organization.

Streamlining the terrorist organization to reveal its shield and reach out for activities that normally would never have made.

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USB FLASH DRIVES - SECURITY RISKS AND PROTECTION

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Abstract

Information has great importance for organizations in general, especially for the security organizations, and should be adequately protected. Information exists in various forms: paper, electronic information transmitted by telegraph, telephone, shown on film, etc. No matter in what form the information occur, it should be adequately protected in every moment because information that is well protected minimizes the damage that may occur.

Physical security is considered an integral part of the information systems security. The idea that small devices pose a security threat for enterprises is well established. On the other hand, consented and supervised access to USB ports via USB flash drives is sometimes allowed. The large storage capacity of USB flash drives related to their small size and low cost means that using them for data storage without adequate operational and logical controls can pose a serious threat to the information confidentiality, integrity, and availability.

Using USB flash drives can increase the risk of data loss (when a physical device is lost), data exposure (when sensitive data is exposed to the public or a third party without consent), and increased exposure to network-based attacks to and from any system the device is connected to (both directly and via networks over the internet).

In the past years, 70% of businesses have traced the loss of sensitive or confidential information to USB flash memory sticks. While such losses can obviously occur when the devices get lost or stolen, 55% of those incidents are likely related to malware-infected devices that introduced malicious code onto corporate networks.

This paper will highlight the security risks associated with the use of USB flash drives. It will briefly explain some common types of attacks, and common necessary measures to mitigate or at least reduced. As existing products evolve and new ones enter the market, you must use them with caution, always considering their security features, possible vulnerabilities, and ways they could be targeted by malicious attackers.

Key words: USB device, crime, risks, protection, security

Introduction

After nearly 15 years of development, USB storage devices come in just about every conceivable shape and size, from 1 gigabyte (GB) thumb drives up to standard external drives with capacities up to 6 terabytes (TB). Once a mere novelty peripheral, these devices are now as common as the mouse and keyboard. Analysts say that in 2010 the market has shipped over 2.8 billion USB-enabled devices.

Unfortunately, even as USB devices have evolved into useful storage media, they have also turned into a security nightmare for organizations. The development of USB technology has always been about ease of use, connectivity, low cost and performance – with little if any thought to security. It is not only corporate users who enjoy the benefits of today's USB devices. The cyber-criminal and data thieves are increasingly using removable media to introduce malware and steal information from computers. One only need read the news regularly to see that USB devices are involved time and time again in today's highest profile data breaches, either through the loading of breach-causing malware into the backend corporate network, by facilitating intentional covert removal of copied data, or simply by enabling data loss through the misplacement of an unencrypted device. (According to University of Maryland Department of Criminology and Criminal Justice Fall, 2004)

Computer information systems are vulnerable to physical attacks, electronic hacking, and natural disasters. With computer information systems serving as the vital life blood of many organizations, managers must be aware of the both the risks and the opportunities to minimize the risks to information systems. Discussion is divided into types of computer crime, information systems and technology vulnerabilities, and ways to manage the risks. (According to Computer Crime, Vulnerabilities of Information Systems, and Managing Risks of Technology Vulnerabilities and Portable Panic, The Evolution of USB Insecurity)

Types of Computer Crime

Typically, computer crime can be categorized by the type of activity which occurs. Four basic categories are utilized in describing computer crime. These are: theft, fraud, copyright infringement, and attacks.

Theft

Theft in computer crime may refer to either unauthorized removal of physical items such as hardware, or unauthorized removal or copying of data

or information. It is well known that laptop computers are targeted at airports and restaurants. The prize garnered with theft of a laptop is usually the data or information such as passwords for corporate systems contained on the laptops rather than the hardware.

For example, in the UK, a laptop with data of some 2 000 people with individual savings accounts (ISAs) was stolen from a HM Revenue & Customs employee; HM Revenue & Customs lost personal details of 6 500 private pension holders; nine NHS trusts lost patient records kept on disk; details of 1 500 students were lost in the post; details of three million British learner drivers were lost in the United States, a USB drive was stolen with names, grades and social security numbers of 6 500 former students, USB flash drives with US Army classified military information were up for sale at a bazaar outside Bagram, Afghanistan. (According to The Times (February 2008), John Swarts. (June 2006). Watson, Los Angeles Times. (April 2006)).

Fraud

Fraud on the Internet may run the gamut from credit card offers which are utilized only to capture personal information, to investor postings which promote a stock or investment offer to encourage investment which will benefit the person posting the information, to medical and pharmaceutical related sites which purport to provide correct medical advice or sell altered medications.

Copyright infringement

The Internet has provided a unique opportunity and environment for copyright infringement. This type of computer crime encompasses use of software, music, etc which is not appropriately acquired (purchased). Software piracy occurs more easily with the ability to post files for downloading all over the world. However, another more costly copyright infringement occurs when trademarks and logos of corporations are posted on non-authorized web sites. Some criminals utilize the trademarks and logos to appear to be a legitimate site to perpetrate fraud. Many corporations have employees or consulting contractors who constantly crawl on the web to sniff out illegal usage of trademarks and logos.

Attacks on organizations and individuals

Attacks on organizational information systems may be either physical or logical. There are several instances of web sites, products, and individuals being libeled or attacked by individuals or groups. One of the classic examples was the attack on Propter and Gamble as an occult organization,

AOL and other ISPs cooperate fully with criminal justice systems to reveal identities of those deploying web sites of question.

Denial of Service Attacks (DoS) target specific web sites and associated servers. Some of the newsworthy examples of DoS during 2000 - 2001 have occurred at Microsoft.com, eBay.com, and Amazon.com. Web servers and connections can only handle so much traffic so Denial of Service (DoS) usually takes the form of one of two ways:

Coordinated attack (typically from unsuspecting desktops) to a particular IP address or URL requesting a page - overwhelms server and DoS occurs;

Attack sends incomplete packets so that traffic gets jammed with requests for re-send. (According to University of Maryland Department of Criminology and Criminal Justice Fall, 2004);

Use Risks - USB Flash Drivers

Let's examine three of the top risks, and some of the hacker tools and techniques that factor into these risks.

Malware Propagation

Security companies are reporting an increase in malware that propagates via USB devices and other removable media. In fact, it was just such a worm outbreak that led the US Army to ban the use of USB devices in late-2008. Malware, such as the SillyFDC worm that plagued the Army, copy themselves to all drives connected to infected machines. Any USB device connected to an infected machine would then become infected and later when it is connected to yet another machine, that machine too also begins infecting other USB devices plugged into it. This “worm like” malware propagation method copies itself to all available drives, shares, removable media and peer-to-peer software application file folders. The most popular methods currently in use are:

Simple file copy method which relies on social engineering to entice the user to click on an application icon to launch the application which then copies itself to all available drives.

AutoRun.inf modification method which modifies or creates an AutoRun.inf file on all available drives, shares and removable media. When an infected USB drive is later inserted into another computer, the malicious software automatically executes with no user intervention.

Data Loss

The widespread use of USB devices within an organization can open it up to data loss on two major fronts: data stolen by copying onto a device, and data stolen by copying from a device.

In the former case, Pod-Slurp was one of the first programs to highlight the insecurity issues of USB devices. Simply plugging a USB device loaded with Slurp into a victim's computer would automatically start the scripts copying each and every document from the host PC's My Documents directory on to the USB stick. One could modify the script to target spreadsheets, PowerPoint files or any specific file type of one's choice. Further, it could easily be modified to send files via email or FTP instead of copying them to the USB device.

As for the second scenario, this can be particularly dangerous if a user has innocently loaded sensitive material onto a USB drive and decides to use it on public, unsecured computers, such as systems at airport business centers, Kinko's locations, hotels and libraries.

In a 2005 demonstration at a closed security conference, the author demonstrated a program he wrote called "USB-Puke" that simply silently created a "dd" image (bit-bit copy) of any USB drive that was inserted into the author's laptop. The use of "dd" allowed the author to not only capture copies of all existing files on the users USB drive but to also recover unallocated space containing previously deleted files on the users USB key that remained as remnants on the drive's unallocated space. The demonstration was eye-opening to attendees and was seen as a good tool for raising awareness. However, because of abuse considerations the author never released program publicly. Since then, innumerable other tools have cropped up in the wild with similar attributes and even more advanced features.

For example, HTTP RAT automatically opens a back channel over HTTP to the Public Internet that allows a remote person to simply connect to a compromised PC via Firefox. The remote user can then browse through all connected or available network drives to pick and choose which files to steal remotely over the HTTP connection. And USB Switch Blade extracts all password hashes using pwdump from the target machine for later use in password cracking. Simply walk up to the victim's machine, plug in the USB device for only 60 seconds or less, and walk away with all password hashes. Other variations include the ability to also grab browser history for later mining of user financial site credentials, MSN messenger user credentials and more.

Hacking

An extremely useful feature of USB drives is their ability to act as a "PC on a stick" through the use of certain platform and virtualization utilities such as BartPE/PeToUSB, UBCD4, UNetBootin and Mo-joPac. It also makes it possible for malicious users to replicate their entire Windows hacking lab with a USB device and run it on virtually any PC with an available USB port. When the malicious user is done, she simply removes the USB device and leaves without a trace.

Similarly, terrorist organizations have adopted the use of encrypted communications software on a USB stick. A terrorist can anonymously walk into any cyber cafe, plug in a USB device containing software such as Mujahedeen Secrets 2, send email, files or have chat communications using military-grade encryption, and then simply unplug the device - leaving no trace of its use on the cyber cafe PC. (According to Lomas, N. 2006. The A to Z of Security, and Portable Panic, The Evolution of USB Insecurity,

Best Practices for USB Security

Secure USB drives are the best way to stop the proliferation of data security breaches that have plagued corporations and government agencies ever since unsecured flash drives became available. Some vendors implement security by encrypting data behind passwords. Some provide security by including a biometric fingerprint scanner on the device. Some vendors manufacture both types.

Seven steps to secure personal storage drives

Every organization can take the seven steps to secure personal storage drives, to optimally secure personal storage drives, both on and off the network.

Always define and publicize your organization’s policy for personal storage devices;

Institute the use of company-issued personal storage devices;

Make sure devices are fully encrypted;

Make sure users cannot circumvent security measures;

Maintain an audit trail of data stored on devices;

Be able to recover data residing on personal storage devices;

Make sure your enterprise solution comprehensively provides the ability to control the use of all removable devices, inside and out-side the corporate environment, and to centrally manage com pan issued USB drives;

The value of portable storage devices in today’s business environment is clear. Equally clear is the initiative organizations must take to

integrate these devices with their storage and security policies. Today's enterprises can take steps to secure and monitor their data with technological solutions, develop robust policies to comply with regulations, and ensure the use of enterprise-ready personal storage devices. (According to Nimrod Reichenberg, Seven Steps to Secure USB Drives).

USB security solution attributes

Centralized and policy-based – automated rules that dictate the state of a USB port depending on the user's location and role within the organization – should be the cornerstone of an effective USB security solution. Once granular policies are established, they can be centrally managed and pushed out to individual endpoint devices. A centralized, policy-based approach relies on automation to apply different rules to different users and devices, freeing IT staff to focus on possible breaches rather than administration.

Location-aware – A policy-based solution should allow different rules to be applied to USB ports depending on location. When a laptop or other computing device is in a riskier environment like an airport, polices can be set to restrict all USB connections. When the device is inside the company's walls, read-write access might be permitted. In other locations, like the user's home, read-only access might be applied.

Self-defending – The solution should make it impossible for the end user to defeat the security policy by turning off the policy-enforcement engine. Avoid systems that use prompts to allow users to assign security on their own endpoint devices.

File-system-level operations – Ideally, the removable storage-device security solution should operate at the file-system level to ensure control of all devices (external hard drives, CD/DVD-ROM, other forms of removable storage, etc.) that act as a file system. Meanwhile, the solution should not disable devices like a USB mouse that do not pose a threat.

Auditable and track able – The USB security solution should keep track of policy enforcement actions as well as attempted USB activities and suspected attacks. This kind of tracking is critical for not only tightening up defenses but also complying with data-control and privacy provisions contained in regulations like Sarbanes-Oxley and HIPAA (Healthcare Insurance Portability and Accountability Act). Audit information – such as who transferred information to removable media, how much data was transferred, what files were transferred and what types of devices the information was transferred to – should be accessible to the administrator.

Commonly Used Countermeasures

Disable USB Flash Drives (BIOS)

It is easy to lock or disable USB Flash Drives in the bios. Many times when you try to disable USB – it disables it entirely. This can be a real pain on newer laptops or systems that do not even have a PS2 interface for the mouse or keyboard.

There is a simple registry change that will keep the USB storage drivers from starting when the system boots. Keeps people from walking up to a PC and copying data off with a USB key, but allows you to keep your scanner, keyboard, and mouse working.

As always – back your system up before messing around in the registry.

Just open reedit and browse to this key:

HKEY_LOCAL_MACHINE\SYSTEM\CurrentControlSet\Services\ UsbStor

Notice the value 'Start'

Switch this value to 4, and USB storage devices are disabled.

Switch this value to 3, and USB storage devices are enabled. (Steve Wiseman, April 2006)

Block writing to USB Removable Disks

To block your computer's ability to use USB Removable Disks follow these steps:

Open Registry Editor.

In Registry Editor, navigate to the following registry key:

HKEY_LOCAL_MACHINE\SYSTEM\CurrentControlSet\Control\S torageDevicePolicie

Create the following value (DWORD):

Write Protect and give it a value of 1.

Note: As always, before making changes to your registry you should always make sure you have a valid backup. In cases where you are supposed to delete or modify keys or values from the registry it is possible to first export that key or value(s) to a .REG file before performing the changes.

Close Registry Editor. You do not need to reboot the computer for changes to apply.

Users trying to write to any USB Removable Disk will now get an Access Denied message. To return to the default configuration and enable your computer's ability to use USB Removable Disks follow these steps:

Go to the registry path found above.

Locate the following value.

Write Protect and give it a value of 0. (Senforce Technologies, January 2007).

Enable / Disable Autorun for a Drive (using Registry)

There are two registry values that can be used to persistently disable AutoRun: NoDriveAutoRun and NoDriveTypeAutoRun. The first value disables AutoRun for specified drive letters and the second disables AutoRun for a class of drives. If either of these values is set to disable AutoRun for a particular device, it will be disabled.

The NoDriveAutoRun value disables AutoRun for specified drive letters. It is a REG_DWORD data value, found under the following key:

HKEY_CURRENT_USER
  Software
    Microsoft
      Windows
        CurrentVersion
          Policies
            Explorer

The first bit of the value corresponds to drive A:, the second to B:, and so on. To disable AutoRun for one or more drive letters, set the corresponding bits. For example, to disable the A: and C: drives, set NoDriveAutoRun to 0x00000005.

The NoDriveTypeAutoRun value disables AutoRun for a class of drives. It is a REG_DWORD or 4-byte REG_BINARY data value, found under the same key.

HKEY_CURRENT_USER
  Software
    Microsoft
      Windows
        CurrentVersion
          Policies
            Explorer

By setting the bits of this value's first byte, different drives can be excluded from working with AutoRun. Windows must be restarted before the changes take effect. (According to Petri IT Knowledgebase, 2009).

Password protect USB Drive without using software

There are many third party types of software to password protect your USB Drive but here I am going to show how to password protect USB without using any software.

Many people like to protect their USB Drive from others i.e. they would not like to share their personal files and data to others. For this they will protect their USB Drive by using some third party software's to password protect their USB Drive. Although this software is available free they require money to use full version of the software so if you are using windows you do not need any software to protect your USB Drive you just follow this simple ways listed below.

Steps on how to password protect USB Drive without using software:

First Insert your USB Drive into the Computer

Click Start –> Control panel –> System and Security –> Bit locker Drive Encryption

Click "Bit locker Drive Encryption" now the application will be launchedbitlocker2

Then search your "USB Drive" and Click "Turn on Bit locker"

Now Windows will ask you to "set the password"bitlocker3

Set your password in combination of special characters and symbols

After Setting up your Password click "Next"

Now a window will appear asks you to "store the recovery key"

Click "Save the recovery key to a file" and save the file to your desired location

Then Click "Next" –> "Start Encrypting"

The Encryption process may took some time depending on size of your USB Drive

Done…! From now your USB Drive is protected by password. If someone wants to assess your USB Drive the Windows asks you to enter the "password".

For Removing the Password just follow this steps:

Follow first-3 steps

On third step Click "Turn off Bit locker"

Now The USB Drive will be Decrypted

Done..! From now the windows will never asks you to enter the password (According to Techmirchi, 2013).

Manually save files with a password:

As mentioned above, you cannot safely password protect your entire USB stick without using encryption. However, if you shy away from the time consuming encryption process of entire folders and need a really quick

way to only protect a few selected files, maybe you can simply save those with a USB password.

Many programs, including Word and Excel, allow you to save files with a password. For example in Word, while the document is open, go to > Tools > Options and switch to the Security tab. Now enter a Password to open, click OK, re-enter the password when asked, and finally save your document and don't forget the password.

Conclusion

The purpose of this paper is to raise awareness of the risks posed by the use of USB flash devices, and thus show a few easy ways to protected from this kind of crime.

The creators of malicious scripts always look to do maximum damage with minimal effort, this USB devices are a primary target for abuse.

Although there is increasing awareness of the risks and costs related to the insecure usage of USB flash drives, there is still a significant amount of work to do. It is therefore crucial that IT asset managers prepare themselves and their organisations to regulate, manage and audit the use of USB flash drives as ensuring the ability to secure information on the network and the opportunity to manage data which enter and leave the company environment is key for any organisation regardless of its size and maturity.

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CYBER ATTACKS AND THEIR REAL THREATS TO THE MODERN WORLD

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Abstract

In the modern world of electronic communications and exchange of information, new technologies are not immune to the criminal activities of modern criminals. The safety and protection of computer databases, programs and systems, being the main problem of the future after the computer attacks, are becoming more real danger at the moment, especially with harmful consequences arising from them to the national and global security.

The main object of the scientific-theoretical analysis in this paper are the dangers and threats that computer attacks carry in all forms of modern life safety (personal safety, industrial safety, national security). To this end, the paper gives a conceptual definition of the modern electronic crime, its perpetrators, motives, and emergent forms around the world, the purpose of the attack and inflicted damage as an inevitable consequence. The paper will present an analysis of some significant computer attacks by foreign hackers in the country and vice versa, computer attacks of the Macedonian hackers abroad. Special emphasis at the end of the paper will be placed on strengthening the security response to such attacks, the possible protection and security online as preventive measures of protection, which is the main objective of the paper. The scientific value of the paper consists in raising awareness about the damage and the danger of computer attacks during the digitization of all areas of society, strengthening of the existing and of the new methods of taking measures and actions for effective and optimal level of security and protection.

Key words: cyber attacks, computer crime, internet, protection

Introduction

In today's modern society, all walks of life are affected by digitization and depend on the information technology. Its advantages are enormous and help to a high degree in the progress of the mankind. On the other hand, computerization shifted the overall living and working processes with the online technology; it also has its downsides. Computer attack and cyber crime has become more topical and threatens the future to take a high place in the overall crime.

One should know that there are many different types of cyber criminals to penetrate computer systems, some sent by or within an email containing a virus which, when activated, perform special commands without our knowledge and allow hackers virtually to enter freely into our system. In other cases, the attackers appear or contact via IM clients, email or phone by presenting themselves as someone else to obtain the desired information. This kind of attack is popularly called social engineering.

The reliability of computers depends firstly on the procedures undertaken in certain situations. To act properly, one needs to be well informed and have an interest in developments in the digital world. Human behaviour is inherently established for the user to be able to easily convince someone about someone else for something so important and to be careful with whom and what information is being exchanged.

Tremendous achievement and development of high technology and sophisticated computer systems have opened a new "cyber space", which constantly destroys old traditional forms of organization, behaviour and belief. Cyber information led to the cyber revolution and the emergence of information society, in which the race for information and communication technologies was dominant, along with the global liberalization and free circulation of people, goods and ideas. Today, thirty years after the introduction of the term concept of cybernetics, it inevitably became a primary component of many important terms: cyber society, cyber policy, cyber economy, cyber war, cyber terrorism, cyber crime, which essentially the most precious crown, represents cyber information.

The development and dissemination of information technique and technology in the world, despite its advantages, however, has certain disadvantages: it opens the door to antisocial and criminal behavior in a way that was impossible before. The computer systems are new and highly sophisticated opportunities for breaking the law and creating the potential to commit traditional types of crime in non-traditional ways. However, despite the economic consequences of cyber crime, society relies on computer systems for almost everything in life, by air, rail and bus traffic control to coordination of medical services and national security. If there is a small

error in the operation of these systems a lot of lives will be put in danger. Rapid expansion of large computer networks and the ability to access many systems through regular telephone line increases the vulnerability of these systems and open up the possibility for abuse and criminal activity. Consequences of cyber crime can contribute to serious economic crises, and violation of national and global security.

Hackers and their Classification

A hacker is a person who finds out weaknesses in the computer and exploits them. Hacking actually means finding weaknesses in a computer system and their exploitation. Hackers may be motivated by several reasons such as profit, protest or challenge (Sterling, 1993:6). The subculture that develops around hackers is often referred to as the computer underground and is now an open community (Blomquist, 1999). There are other uses of the word hacker not related to computer security; they are rarely used in mainstream context. They are subject to long-standing hacker definition controversy about the true meaning of the term hacker. In this controversy, the term hacker is a reclamation of computer programmers who think that someone who is breaking into computers is better called a cracker (Raymond, 2010), not making a difference between computer criminals (black hats) and computer security experts (white hats, ethical hacker). Some ethical hackers claim that they also deserve the title hacker, and that only black hats should be called crackers.

Several subgroups of the computer underground with different attitudes and aims use different terms to demarcate each other or try to exclude some groups with which they disagree. Eric S. Raymond (author of the new vocabulary of hackers) advocates that members of the computer underground are to be called crackers. Yet, those people see themselves as hackers and even include the position of Raymond in what they see as one wider hacker culture, attitude and severely rejected by Raymond. Instead of division hacker / cracker, they put more attention to the spectrum of different categories, such as white hat, gray hat, black hat and script kiddie (kiddie). In contrast to Raymond, they usually reserve the term cracker. Under (Clifford R.D. 2006), cracker or cracking is to "gain unauthorized access to a computer in order to commit another crime such as destroying information contained in that system" (Clifford, 2006). These subgroups may also be defined by the legal status of their activities. (Wilhelm, 2010:503)

White Hat

The term "white hat" in the Internet slang refers to an ethical hacker. This classification also includes individuals who perform testing and evaluation of vulnerability within the contract. Often, this type of hackers "white hat" is called an ethical hacker. International Council of Electronic Commerce Consultants, also known as the EC Council has developed certifications, courseware, classes, and online training covering the diverse arenas of Ethical Hacking. White hat (ethical hacker) attacks the security for non-malicious reasons, for instance testing their own security system.

Black Hat

Black hat hacker is the one who "violates computer security for little reason beyond maliciousness or for personal gain. Black Hat Hackers are "the epitome of all public fears in a computer criminal". They penetrate into secure networks to destroy data or make the network unusable for those who are authorized to use the network. The way in which this is done is that the Black Hat Hackers choose the network that they are going to break into by a process which can be divided into two parts." (Moore, 2006).

Part 1 Targeting

Targeting is when the hacker determines which network he will break. The purpose may be of particular interest to the hacker, or to determine whether the network is vulnerable to attacks. Plug-in is defined as "an opening through which the computer receives data via the network". Open doors allow the hacker to access the system.

Part 2 Research and information gathering

At this stage the hacker will visit or contact the target in some way in hopes of finding vital information that will help him access the system. The main way that hackers come to the desired results from this stage is from Social Engineering. Regardless of the hacker social engineering, a technique called dumpster diving is being used (Dumpster Diving is when a hacker will literally dive into a container in hopes to find documents that users have thrown that may contain information that hackers can use it directly or indirectly, to obtain access to the network).

Gray Hat

Gray hat hacker is a combination of black hat hackers and white hat hacker. Gray hat hacker surfs the Internet and illegally enters a computer

system for the sole purpose of notifying the administrator that their system is attacked. Then they may offer to repair the system for a small fee.

Elite hacker

The social status 'elite' among hackers is used to describe the most skilled ones. Newly discovered exploits will circulate among these hackers. Elite groups such as Masters of Deception have a kind of credibility among their members.

Script kiddie

Script kiddie (or skiddie) is a non-expert who breaks into computer systems by using pre-packaged, automated tools written by others, usually with little understanding of basic concepts used hence the term script (i.e. sidekick plan or set of activities) kiddie (i.e. kid, child - an individual lacking knowledge and experience, immature).

Neophyte

Neophyte, "n00b", or "Beginner" is someone who is new to hacking or phreaking or has almost no knowledge or experience in working with technology, and hacking.

Blue Hat

Blue hat hacker is someone outside the computer security consulting firms who is used to test the system for errors before being put into operation, looking to exploit so they can be closed. Microsoft also uses the term blue hat to represent a series of security briefing events.

Haktivist

Haktivist is a hacker who uses technology to publish social, ideological, religious or political message. In general, haktivism includes distortion of websites or DoS attacks.

Some Significant Computer Attacks in Macedonia and the Surrounding

Modern lifestyles can no longer be imagined without the Internet communication. Although rapid and easy accesses to information, e-mail,

search of data and information to make the Internet indispensable, yet it has its downsides. Besides the great advantages offered by the Internet, there is also a dark side, such as "criminal hackers." They attack through the web - sites, often stealing personal data, passwords, and credit card numbers. Local observers in Macedonia believe that the security on the Macedonian security is very low. Experts say that as the number of web pages in Macedonia is growing, the so-called malicious attacks against them are more increased. Lately, quite interesting computer attacks on websites of governmental and non-governmental organizations by hacker groups for political purposes and motives were noted. The Balkans are in a so called Internet war between the hacking groups, which has been going on for a longer period in this region, and in recent times the number of the attacked government websites is increasing.

Thus, for example, Kosovo and Albanian hackers often attack government sites in Serbia and Macedonia. In some of the attacks they represent Kosovo as network security, as before, together with Albanian hackers, present them as part of the Kosovo Hackers Group and have repeatedly attacked the site of the President of Serbia, Boris Tadic, as well as the site of the former President Crvenkovski. Macedonian hacker groups as an act of revenge immediately hacked the websites of state institutions in Albania and Kosovo. In the same way, the online war is conducted between Greek and Macedonian hacker groups.

The following is a chronological review of some of the important computer (hacker) attacks in Macedonia and the neighbouring countries in recent years.

On 20th January 2007, a Bulgarian hacker attacked the official website of the President of Macedonia, Branko Crvenkovski, setting text with the coat of arms of Bulgaria. The message written in Bulgarian language sent by an unknown hacker under the alias "Re" is the title of the Bulgarian national motto "In union there is strength." The message was: "Dear neighbours, we are amazed by the wishes and efforts that are made to rein the misunderstanding between us. You say you aim to join the EU, and simultaneously serve with some stupid lies. Remember that unity makes us stronger. Do not make us remind you of this in the future".

Two weeks after this event Macedonian hackers attacked the official website of the Bulgarian President Georgi Parvanov, in retaliation. The text published on the website set up by Macedonian forces united states: "We have a strong evidence that the attack on the President was a plan, commissioned and paid for by the Bulgarian government, and was conducted by the hackers group TEAM LZO. Money transfers were made through "First Caribbean Bank," and the final destination of the money is in Los Angeles".

On 02nd August 2008, with the launching of the official site of the Parliament of Montenegro, instead of a cover, darkened site appeared that had the central two-headed eagle, or the coat of arms of Albania in blue. Above and below of the coat of arms with white and blue letters was written that the site is attacked by hackers group "Ulqini hackers Group" and Albanian Forum "Zerokul".

Greek hackers on 07th November 2008 broke into three websites of non-governmental organizations: Scout Squad Veles - Dimitar Vlahov, a Veles-based site for entertainment and site of a Kumanovo company. At all of these three websites appeared content with text written in Greek alphabet. Hackers are signed as Islamic team. Previously was hacked the website of the news agency Net-Press. New attack of the Veles websites coincides with the recent case of 900 sole proprietors of Veles; tax solutions were written in Greek alphabet, and the IRS is a doubt for the intrusion into their computer system.

On 03rd May 2009 there was an intrusion on the server of the Macedonian Telecommunications to serve the Internet site of the President Crvenkovski of Macedonia. The group calling itself Albania & Kosova Hackers Group did not change anything from the contents of the website of the head of state, but only set their logo. Probably in order to demonstrate their hacking abilities and poor protection of the site, the hackers left a message and Low security. At the same time, the site of the President was the site of our city.

On 01st March 2010, the Serbian hackers entered the official website of the Kosovo President Fatmir Sejdiu. They left a message "Kosovo is Serbia" and put Serbian state symbols on the front page.

On 03rd March 2010, a group of hackers from Kosovo Pristina collapsed the site of the President of Serbia, Boris Tadic. On the website of the President of Serbia, the hackers left a message in English: "We have the best president in the world, Fatmir Sejdiu" and also there were offensive messages for Tadic. Hackers were signed as a Kosovo hacker group.

On 29th July 2011 the website of the political party VMRO-DPMNE (at that time the governing party in Macedonia) was hacked where the following text was left behind, written in broken English: Do not mess with Kosovo, because you will burn! - We are from Kosovo! Wondering why I've been on this site? To show you who stays here, you or us.

On 31st August 2011 the "Macedonian security crew" and "Emagare" succeeded in hacking the website of the Ministry of Foreign Affairs of Greece, as well as the municipal site http://www.dimosbyrona.gov.gr after another three Greek sites were hacked by placing the symbol of the Vergina Sun. Their actions, these teams represented as a sign of revenge attack

because of abuses against Macedonian sites, in order to prevent such occurrences from happening further on.

On 04th September 2011 the Greek government site was hacked by the province they call Ditiki Makedonija. The Macedonian hacker teams called Emagare and MSC have as their target the Greek sites, which as they claim, abuse the name of our country. The Greek http://www.ditikimakedonia.gov.gr/ site published photos of the national flag of the Republic of Macedonia and photos with the Vergina Sun.

On 29th December 2011, the official website of the President of Montenegro was attacked by hackers who raised the Albanian flag, Albanian music and messages "ethnic Albania" and "Albanians are not terrorists but victims" and requested that the small town of Tuzi becomes a municipality, because as the attackers claimed, it is their right.

On 03rd February 2012 the website of the Greek royal family was attacked. The Macedonian Security Crew took the entire user base, but the site itself set photos of Macedonian symbols.

On 26th May 2012, the website of the Ministry of Interior Affairs of the Republic of Macedonia was attacked. The hackers wrote: "Enough with the insults and pressure on Albanians, no more silence, the end of our patience has been reached, love our country." "Mitrovica / Presevo / Bujanovac / Gostivar, we want our country back to the ethnic Albanians."

On 05th July 2012, the Macedonian hacker group Macedonian Security Crew hacked the official website of the Albanian President Topi. Macedonian hackers on the site of Topi set the Macedonian flag which read Macedonian Security Crew and United Macedonia.

On 23rd October 2012, the Macedonian hackers known as Macedonian Security Crew and Macedonian Dark Security committed a hacker attack on the Albanian government site, placing the ethnic map of Macedonia of several Albanian sites. In their messages they remind that Macedonia belongs to Macedonians. The messages, they mention, are written in pure Macedonian; further on, they remind the Albanian nationalists that it is time to stop spitting against Macedonia in the cases like burning the Macedonian flag, because every Macedonian is ready to defend Macedonia and its historical and territorial gains. Hackers attacked the Albanian government and military websites in response to the burning of the Macedonian flag by some Albanians (this can be seen in the YouTube video which shows the burning of the Macedonian flag in Tirana before the football match between Albania and Slovenia). The person who posted that video says that it was "Albanian fans that burn the flag of FYROM".

On 23rd October 2012 a hacker attack was made on the website of the State Education Inspectorate of which offensive messages about the Macedonians and the Prime Minister Nikola Gruevski were written. Hackers

who present themselves under the pseudonym PAOK call the Macedonians FIROM bastards "and they suggest that the Albanians will be wiped out from the world map," and there are slogans that Macedonia is Greek. The hacking attempt was enriched with some clips from the film Alexander the Great.

The website of the Macedonian President George Ivanov on the 27th October 2012 was attacked by hackers from Kosovo. The hackers left a message on the site of the President that the attack is on the behalf of the Albanian people. On the site the following message was left: "On behalf of the Albanian people. Don't you think that Macedonia is under the control of the anti-Muslims. Macedonians name themselves Macedonians, but the country is Albania. We are strong enough to destroy all anti-Muslims. In the name of God! God is one ". Hours after the attack, the site was put into operation, and messages from the Kosovo hackers were removed.

After the hackers' group "Kosova Network Security" hacked the website of the Macedonian President Ivanov, reprisals immediately followed by the Macedonian hackers. Macedonian hackers hit back by hacking the official website of the Albanian President Bujar Nishani. "Ancient pirates" is the name of the Macedonian hacker group who on the website of the Albanian President set the most recognizable symbols of the Macedonian history: a gun, a knife, the gospel and a symbol of the Vergina Sun. For a short time after the installation, the symbols were removed from the site.

On 19th December 2012, nineteen Croatian sites were attacked by members of the hackers group Macedonian Black Security (MBS). The message that was set is as follows: Our fight is against the Internet thievery and naivety of our history. Our goal is not just hacking websites and leaving warnings! Our goal is hacking to stop stealing and naivety of our history. Our name is Macedonia! Therefore we ask you not to abuse it, because there will be consequences".

On 17th February 2013, the hackers from Serbia who represent as "Tesla team" again attacked a website in Croatia, and their target was the Episcopal Conference. Hackers from Serbia left the message "Hacked by the Tesla team" on the cover of the Croatian Episcopal Conference and under that heading "Jasenovac must not fall into oblivion" and an additional message that attacks will continue on.

Cyber Terrorism as a Special Dangerous Form of Cyber Attacks

In security and legal sense, cyber terrorism is a deliberate misuse of digital information system, network or components that wrap or complete terrorist struggle and activity. Result from the misuse of the system will be a direct violence against people (excluding crashes, chaos in hospitals etc.), which can cause fear, increase the world crime with the fastest pace, the

greatest strategic vulnerability of all vital social functions, enormous human suffering and casualties as "collateral damage". In this context, even more frightening is the fact that these subtle effects can initiate cyber war or "set" certain countries to launch a classic war in response to cyber actions "taken by the other side". According to certain considerations of the US, it is only a matter of time before the US can experience the "cyber Pearl Harbour" that would have devastating results, the theft of electronic funds data that would support the terrorist information, forwarding, redirection of shipments of weapons, etc. But, probably the most dangerous is the ultimate simulation of "the cyber Chernobyl" accident.

There are many forms of terrorism on the Internet. Some are not dangerous enough to be deemed a simple spread of information instead of terrorism. They are a simple show of skill and are harmless. Acts of cyber-crimes may involve stealing of money, company secrets, or attacking the country's infrastructure and causing real damage.

Extensive planning and pre-operational surveillance by hackers are important characteristics that precede a cyber attack directed toward an organization. Some experts estimate that advanced or structured cyber attacks against multiple systems and networks, including target surveillance and testing of sophisticated new hacker tools, might require from two to four years of preparation, while a complex coordinated cyber attack causing mass disruption against integrated, heterogeneous systems may require 6 to 10 years of preparation. This characteristic, where hackers devote much time to detailed and extensive planning before launching a cyber attack, has also been described as a "hallmark" of previous physical terrorist attacks and bombings launched by Al Qaeda. (Wilson, 2005:17)

A difference should be made between terrorists who make use of available technology and the pure "cyber terrorist". Traditional terrorists may increase their arsenal of more conservative methods, such as bombings, hijackings, and murders, with new methods such as computer viruses, Radio Frequency Weapons, , and "denial of service" attacks. However, the pure cyber-terrorist may also exist.

This variety of terrorists may be perceived without the conventional approach to terrorism, such that exploiting computer technology - put into effect demands, gain ransoms, or generally cause destruction upon the world population. Additionally, the cyber-terrorist can achieve these objectives without exposing himself to actual harm. Although the pure cyber-terrorist has not appeared in the news yet, current hacker and denial of service attacks may provide a peek as to what the pure cyber-terrorist can accomplish.

The largest threat associated with cyber terrorism (and the biggest advantage to the pure cyber-terrorist) is the "detached" sort of attacks. Borders are not crossed, bombs are not smuggled and placed, hostages are

not captured, and terrorists do not surrender their lives. Openly stated, “the terrorist of the future may be able to do more with a keyboard than with a bomb”.

Cyber terrorism is an impending threat to the United States, or any other technologically advanced country. Even nations with more primitive technology can be negatively affected by the “ripple effect”. With the excess of technology increasing at a tremendous rate, the threat of cyber terrorism will only get worse. (Saint-Claire, 2011:85 - 86)

In societies of the third technological revolution there are two basic methods by which terrorists may commit terrorist attacks.

The first method is when the information technology represents a target of terrorist attacks. By performing certain sabotage (electronic and physical) on the information system, they will try to kill or to commit an interruption in the functioning of the information system and information infrastructure, depending on the particular purpose.

The second method is when information attack represents a mean-step implementation of a larger operation. This act implies that terrorists will make efforts to manipulation and exploitation of the information system, theft of information as an alternative or forcing - "programming" of the system to perform the function for which they are intended.

The definition of computer attack includes any actions directed against computer systems to disrupt equipment operations, change processing control, or corrupt stored data. Different attack methods target different vulnerabilities and involve different types of weapons. Several of these methods may be within the current capabilities of some terrorist groups. (Rodriguez, 2006) Three different methods of attack are identified, based on the effects of the weapons used. However, as technology evolves, distinctions between these methods may begin to blur. These methods are the following:

A physical attack involves conventional weapons directed against a computer facility or its transmission lines;

An electronic attack (EA) involves use of the power of electromagnetic energy as a weapon, more commonly as an electromagnetic pulse (EMP) to overload computer circuitry, but also in a less violent form, to insert a stream of malicious digital code directly into an enemy microwave radio transmission; and

A computer network attack (CNA) usually involves malicious code used as a weapon to infect enemy computers to exploit a weakness in software, in the system configuration, or in the computer security practices of an organization or computer user. However, CNA may also occur when an attacker uses stolen information to enter restricted computer systems.

Attack with help of the information technology is easily feasible, using cheap tools that are easy to hide and are virtually intangible. If it is known that terrorists are "crazy" about their media promotion, if it is known that the preferred target of terrorists is the media, then we can conclude that the possibilities of terrorists for intrusion into sensitive information technology enormously increase the possibilities of "information warfare". It is just a perfect weapon in the rich arsenal of weapons of terrorists who tirelessly follow all the modern trends in this important area.

Today, there are an enormous number of objective and subjective obstacles to start a cyber war of larger scale (e.g. international economic dependence, escalation and response from the other side in a military conflict, lack of technological readiness, etc.). But, for the new "cyber terrorists" there are neither obstacles nor the "red line" for launching cyber terrorism in a global scale.

The invisible enemy “armed” only with a laptop computer connected to the global computer network, “armed” with great human knowledge transformed into a digital code that determines an enormous destructive power and fiery desire to achieve their dark goals, sails into attack with severe recognizable direction, but with the sole objective: electronic attack on national information network of great strategic importance for the smooth functioning of all vital social functions.

We are talking about the bad image of cyber the terrorists and cyber terrorism, the dangerous threat to the national security in certain states, or the fatal threat to the global security in the future. This kind of danger is close to an atomic bomb. The invasion of cyberspace continues with tremendous speed, the speed of development of a powerful offensive computer technology. The world again is facing another new and very dangerous security challenge of the greatest evil - terrorism.

Cyber terrorism is an attractive option for modern terrorists for several reasons (Weimann, 2004:6):

First, it is cheaper than the traditional terrorist methods. All that the terrorist needs is a personal computer and an online connection. Terrorists do not need to buy weapons such as guns and explosives; instead, they can create and deliver computer viruses through a telephone line, a cable, or a wireless connection.

Second, cyber terrorism is more anonymous than the traditional terrorist methods. Like many Internet surfers, terrorists use online nicknames - ”screen names” - or log on to a website as an unidentified “guest user,” making it very hard for security agencies and police forces to track down the terrorists’ real identity. And in cyberspace there are no physical barriers such as checkpoints to navigate, no borders to cross, and no customs agents to outsmart.

Third, the variety and number of targets are enormous. The cyber terrorist could target the computers and computer networks of governments, individuals, public utilities, private airlines, and so on. The sheer number and complexity of potential targets guarantee that terrorists can find weaknesses and vulnerabilities to exploit. Several studies have shown that critical infrastructures, such as electric power grids and emergency services, are vulnerable to a cyber terrorist attack because the infrastructures and the computer systems that run them are highly complex, making it effectively impossible to eliminate all weaknesses.

Fourth, cyber terrorism can be conducted remotely, a feature that is especially appealing to terrorists. Cyber terrorism requires less physical training, psychological investment, risk of mortality and travel than the conventional forms of terrorism, making it easier for terrorist organizations to recruit and retain followers.

Fifth, as the I LOVE YOU virus showed, cyber terrorism has the potential to affect directly larger number of people than the traditional terrorist methods, and hence generate greater media coverage, which is ultimately what terrorists want to achieve.

Conclusion and Recommendations for Computer Protection

In the past few years many developments have proven that there is not and there has never been 100% reliable or protected computer in the world. Facts that supported this claim faced huge losses from cyber crime companies that spend millions on the security of their systems, such as Microsoft, Google, Yahoo!, eBay, etc. These and many other large companies suffer a large amount of attacks from which they cannot simply defend.

Whether you use Microsoft Windows, Apple Macintosh, Linux or any other operating system, you should know that they all face problems of computer attacks (some more because of its popularity, and others less) and whether they consistently turn out the new versions that are always safer and better, the danger is always present.

The security of the computer systems depends on many factors, and to provide effective protection - a great knowledge and experience is required. The basic things that every user should know are:

Installation and usage of anti-virus programs
Upgrading of Software
Addressing reading e-mails and opening files
Using a firewall (firewall)
Making backups of important files
Use good passwords

Cautions when you install or download programs

These few things need to be remembered and carried out by any computer user. We should also bear in mind that from the moment we first access the Internet, we and all the other users become a potential victim of the cyber crime.

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CONCEPT AND PRACTICE OF 'CYBER HATE SPEECH' IN INTERNATIONAL AND DOMESTIC LAW

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Abstract

An issue which is gaining increasing attention is the diffusion of hate on the Internet. The importance of the Internet as a tool for communication, networking and social interaction has dramatically increased over the recent years. At the same time, the Internet has become a tool for dissemination of messages of hatred as well as a platform for bloggers and organized groups to recruit, control their members, organize attacks, and intimidate and harass their opponents. Although it is often difficult to prove the connection between manifestations of hate on the Internet and hate crimes in the real world, there is evidence that the psychological influence of material available on the Internet is quite high, especially on youth.

The aim of this paper is to clarify the concept of cyber hate speech and how this concept is dealt with under the international law and domestic legislation. This paper is also intended to present the contemporary challenges and dilemmas surrounding cyber hate speech, and aims to provide an overview of the criteria followed by the European Court of Human Rights in its case law relating to the right to freedom of expression and its restrictions. Furthermore, the practice involving hate speech on the Internet that have occurred in the country in the past years will be analyzed.

Key words: Hate speech, Internet, legislation

Introduction

With the advancement of new technologies and the Internet, governments are increasingly confronted with the challenge of seeking an appropriate balance between the universal right to freedom of expression and the prohibition of hateful online content. The Internet content regulation remains a major problem as the different approaches of national authorities constitute an obstacle to harmonization efforts at the international level. As a consequence, there are no clear guidelines as to what is acceptable and what is not in terms of the Internet contents. International 'soft law' instruments dealing with cyber hate speech have been adopted. Such instruments sometimes call on States to criminalize hate speech, including hate expressed

through computer systems, and provide guidance as to which acts should be criminalized. States parties, however, are free to adopt such legislation and measures as they deem necessary to establish those acts as criminal offences under their domestic laws.

The Concept of Cyber Hate Speech

Differing views of the limits to freedom of expression have produced different legal responses to the hate speech phenomenon. Due to this, there is no universally accepted definition of the term "hate speech". According to the Council of Europe Recommendation (97) 20, hate speech represents all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin. For the same reason, there is no universally accepted definition of the term "cyber hate speech". The Anti-Defamation League (ADL) defines the Cyber Hate as any use of electronic communications technology to spread anti-Semitic, racist, bigoted, extremist or terrorist messages or information (Anti-Defamation League, 2010, p. 6). These electronic communications technologies include the Internet (i.e. Websites, social networking sites, "Web 2.0" user-generated content, dating sites, blogs, on-line games, instant messages, and e-mail) as well as other computer and cell phone-based information technologies such as text messages and mobile phones.

Challenges in Tackling Cyber Hate Speech

Most governments and international organizations agree that racism and manifestations of hate through the Internet should be prohibited. However, efforts to tackle cyber hate speech have come up against a series of difficulties. One of these is the fact that with over one and a half billion users, i.e. 23,8% of the world's population, the Internet is nowadays the prime means of communication in the world. The Internet's unprecedented global reach and scope combined with the difficulty in monitoring and tracing communications make it the preferred means of communication for extremist groups. Even with laws in place, it is difficult to control a global medium such as the Internet. In April 1995, the first extremist website went online and today we have more than 10.000 hate websites, blogs, hate games and other internet postings (Simon Wiesenthal Center, 2009). Practice shows that this user-generated material increases the 'viral' spread of cyber hate

speech and aids in increasing the social acceptability of hate in mainstream discourse.

With the widespread availability of the Internet and the increasing number of users, online content regulation has become an important focus of governments and supranational bodies across the globe (OSCE Representative on Freedom of the Media Report, 2010, p. 4). The specific character of the Internet poses however serious challenges to any attempts to regulate its contents. Due to the lack of consensus on the concept of hate speech on the Internet there are no laws on the international level applicable to hate on the Internet, which results in the absence of clear guidelines as to what is acceptable and what is not in terms of contents.

The Internet Service Providers (ISPs) can use and promote Industry codes of conduct, ethical guidelines and principles as a tool for addressing cyber hateful content. Based on such internal standards, ISPs can look at content without making value judgments about a particular type of speech. A good example is offered by Facebook[1]. However, it should not be left to the Internet industry alone and at the sole discretion to decide what is acceptable and what is not in terms of Internet content. The Industry needs clear guidelines based on national and international law (ODIHR Report, 2010, p. 3).

Due to differing approaches to hate-inciting content on the Internet and the diverse criteria among the States for defining the threshold between freedom of expression and criminal behaviour, the impact of criminal legislation and its implementation is limited. Content is often hosted or distributed from outside the jurisdiction in which it is considered illegal, while the extraterritorial enforcement of laws related to Internet content is very difficult and often ineffective. Laws are not necessarily harmonized at the European level, let alone on a wider scale. Furthermore, unlike traditional media, it is often very difficult to establish the identity of authors of the content available online. Material which originates in one country is copied, edited, and shared across national borders, and can be hosted in different countries, subject to different legislation.

International Legal Standards

Various international legal instruments punish hate speech. However, the specific nature of the Internet calls for the adoption of specific

[1] According to part 3 (Safety) point 7 from the Terms of service the user "will not post content that: is hate speech, threatening incites violence…" Furthermore, according to part 5 (Protecting Other People's Rights) point 1 the user "will not post content or take any action on Facebook that infringes or violates someone else's rights or otherwise violates the law".

instruments to combat hate speech promoting racism and violence, which is widely and swiftly disseminated on the web. Although the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), in particular Article 10 that deals with the freedom of expression, remains the main source of reference regarding hate speech, other legal instruments have been adopted by the United Nations, Council of Europe, and European Union in relation to online hate speech.

United Nations

At universal level, Article 19, paragraph 3 of the UN International Covenant on Civil and Political Rights states that the freedom of expression is not absolute rights and it may therefore be subject to certain permissible restrictions, but these shall only be such as are provided by law and are (ICCPR, 1976). As it specifically concerns online hate speech, the Human Rights Committee's General Comment No.34 on Article 19, paragraph 3 refers to the protection of all forms of expression and the means of their dissemination, including audio-visual as well as electronic and Internet-based modes of expression (Paragraph 12). According to the Comment, "any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3. It is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government." (Paragraph 43)

On 1st June 2011, the UN signed together with the OSCE, the Organization of American States and the African Commission on Human and Peoples' Rights the Declaration on Freedom of Expression and the Internet (the "Declaration"). In its General Principles, the Declaration states as follows: a). Freedom of expression is applied to the Internet, as it does to all means of communication. Restrictions on freedom of expression on the Internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognized under international law (the 'three-part' test); b). When assessing the proportionality of a restriction on freedom of expression on the Internet, the impact of that restriction on the ability of the Internet to deliver positive freedom of expression outcomes must be weighed against its benefits in terms of protecting other interests; …

d). Greater attention should be given to developing alternative, tailored approaches, which are adapted to the unique characteristics of the Internet, for responding to illegal content, while recognizing that no special content restrictions should be established for material disseminated over the Internet."

Council of Europe

The Additional Protocol to the Cyber-Crime Convention (2001) concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed through Computer Systems, adopted on 28th January 2003 and entered into force on 1st March 2006, is of particular relevance to the dissemination of messages of hatred through the Internet. According to Article 2, Paragraph 1 of the Protocol, it is defined that "racist and xenophobic material" and stresses that in order to address this phenomenon, the States parties are required to adopt such legislative and other measures as may be necessary to establish as criminal offences under their domestic law, when committed intentionally and without right, a specified set of acts committed through a computer system.

The Council of Europe's Recommendation (2008) 6 on Measures to Promote Respect for Freedom of Expression and Information with Regard to Internet Filters acknowledges the ways in which Internet filters can impact on freedom of expression and information. The recommendation calls on member states to take measures with regard to the Internet filters, in line with a set of guidelines promoting user notification, awareness and control of Internet filters and accountability of the private and public parties involved.

The General Policy Recommendation No. 6 of the European Commission against Racism and Intolerance (ECRI) recommends that the member states "ensure that relevant national legislation applies also to racist, xenophobic and anti-Semitic offences committed via the Internet and prosecute those responsible for this kind of offences". Furthermore, the recommendation stresses the need to: (i) train the law enforcement authorities in relation to the dissemination of racist, xenophobic and anti-Semitic material via the Internet; (ii) support existing anti-racist initiatives on the Internet; (iii) support the self-regulatory measures taken by the Internet industry to combat racism, xenophobia and anti-Semitism on the Internet; and (iv) increase public awareness of the problem of the dissemination of racist, xenophobic and anti-Semitic material via the Internet while paying special attention to awareness-raising among young Internet-users.

European Union

EU Directive on Electronic Commerce (2000) places specific obligations on Internet service providers in regards to the content access. The Directive requires member states to guarantee "safe havens", or limitations of criminal or civil liability, for ISPs, hosting services and other service providers, provided (a) that they do not have "actual knowledge of illegal activity or information" and (b) once notified of such illegalities, they act "expeditiously" to remove or to disable access to the information, known as the "notice and takedown" procedure. The Directive does not regulate the procedural aspects of notice and takedown, which is left to the discretion of member states.

Measures Aimed at Combating Cyber Hate Speech

While the intention of the states to combat illegal activity over the Internet and to protect their citizens from harmful content is legitimate, there are also significant legal and policy developments which sometimes have an unintended negative impact on freedom of expression and the free flow of information. Recent laws and certain legal measures currently under development have provoked much controversy over the past few years. These include access-blocking, filtering and content removal. Before analyzing in detail each of these measures, as explained above, any speech and content related restriction must meet strict criteria under the international law, i.e. 'the three-part test'. The first and most important requirement is that any interference by a public authority with the exercise of the freedom of expression should be lawful. If the interference is "prescribed by law", the aim of the restriction should be legitimate and concern limitations in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health of morals or for the protection of the rights and freedoms of others. Furthermore, any restrictions need to be necessary in a democratic society and the state interference should correspond to a "pressing social need". The state response and the limitations provided by law should be "proportionate to the legitimate aim pursued". Therefore, the necessity of the content-based restrictions must be convincingly established by the state.

Access-blocking measures. Due to the limited effectiveness of criminal laws and lack of harmonization at the international level, a number of states have started to block access to websites and social media platforms allegedly containing illegal content which are located outside their jurisdiction. Blocking access to content seems to be faster, easier and a more convenient solution. Practice shows that access-blocking measures are not

always provided by law nor are always subject to due process principles. Furthermore, blocking decisions are not necessarily taken by the courts and often administrative bodies or the Internet hotlines run by the private sector single-handedly decide which content, website or platform should be blocked. Blocking policies often lack transparency and administrative bodies lack accountability. Appeal procedures are either not in place or they are often not efficient. Therefore, increasingly, the compatibility of blocking with the fundamental right of freedom of expression must be questioned.

The Committee of Ministers of the Council of Europe has urged that "prior control of communications on the Internet, regardless of frontiers, should remain an exception" and that member states "should not, through general blocking or filtering measures, deny access by the public to information and other communication on the Internet, regardless of frontiers" (Committee of Ministers Declaration, 2003, Principle 3). Removal or blocking of access to "clearly identifiable" Internet content is permissible only if "the competent national authorities" have taken "a provisional or final decision on its illegality", provided that all the safeguards of Article 10, paragraph 2 of the ECHR are respected.

It has been argued that under European law and practice, injunctions and orders blocking access to websites should be treated as a method of "prior restraint", and as such should be subject to "the most careful scrutiny." (Open Society Justice Initiative, 2011, p. 3). To be consistent with Article 10, prior restraint regimes must be subject to a particularly strict legal framework, ensuring both tight control over the scope of the bans and effective judicial review to prevent abuse.

Internet blocking orders must be strictly necessary and capable of protecting a compelling social interest. The need for such measures must be convincingly established, and they should be adopted only as measures of last resort. Domestic laws should provide robust and prompt remedies against blocking orders in order to safeguard against unnecessary and disproportionate interferences. European laws generally require pre-blocking notification of ISPs and content providers. It is technically possible to block solely the offending website. Blocking orders that indiscriminately prevent access to an entire group of websites amount to "collateral censorship" should be avoided as unnecessary and disproportionate. The lack of any instances of collateral blocking of large proportions such as of entire web platforms, in the judicial practice testifies to their truly exceptional nature.

Many of the issues described above have been raised in front of the ECtHR in the case Yildirim v. Turkey[2] and Akdeniz v. Turkey. The decision

[2] Namely, a court in Turkey issued an injunction blocking access for all Turkish-based users to the entire Google Sites domain, supposedly to make unavailable a single

of the court will certainly help clarify a number of issues in the area of Internet and freedom of expression, including that of blocking access to websites, and will thus have serious implications for the state parties to the Convention.

Filtering measures. There are various forms of Internet filtering and these may be employed in different contexts. For instance, Internet filtering can take place through URL-based filtering, IP address-based filtering, protocol-based filtering, key-word blocking, filtering on the basis of labeling or rating by the content author or a third party. Internet filters can be applied in the workplace, in public libraries, and schools or at the ISP level. The users' awareness, understanding of, and ability to effectively use Internet filters are key factors which enable them to fully exercise and enjoy their human rights and fundamental freedoms, in particular the right to freedom of expression and information, and to participate actively in democratic processes.

Content-removal measures. In some countries total suspension of communications services, including the Internet access related services is possible in times of war, states of emergency, as well as imminent threats to national security. Legal provisions may allow the authorities to switch off completely all forms of communications, including the Internet communications, under certain circumstances. Research shows that in several States the legal remedy provided for allegedly illegal content is removal or deletion.

Liability of Internet Service Providers (ISPs)

Persons cannot be held criminally liable for any of the offences in the Additional Protocol to the Cyber-Crime Convention 2001, if they do not possess the required intent (Akdeniz, 2008, p. 27 - 29). It is not sufficient, for example, for a service provider to be held criminally liable if such a provider served as a conduit for, or hosted a website or newsroom containing such material, without the required intent under domestic law in the particular case. Moreover, a service provider is not required to monitor conduct to avoid criminal liability.

website which included content deemed offensive to the memory of Mustafa Kemal Ataturk, the founder of the Turkish Republic. There is no indication of any attempt by the Turkish authorities to contact or serve notice on Google Inc., the US based owner and operator of Google Sites, prior to issuing the blocking order. A challenge was brought to the ECtHR by the owner of an unrelated academic website that was also blocked by the order, arguing that such an interference with the free flow of information online amounts to "collateral censorship."

The Council of Europe Declaration on the Freedom of Communication on the Internet adopted by the Committee of Ministers on 28th May 2003 provides that member states should not impose on service providers an obligation to monitor content on the Internet to which they give access, that they transmit or store, nor the obligation of actively seeking facts or circumstances indicating illegal activity. Service providers should not be held liable for content on the Internet when their function is limited to transmitting information or providing access to the Internet. However, in cases where the functions of service providers are wider and they store content emanating from other parties, member states may hold them co-responsible if they do not act expeditiously to remove or disable access to information or services as soon as they become aware of their illegal nature. What is important to highlight is that when defining under national law the obligations of service providers, due care must be taken to respect the freedom of expression of those who made the information available, as well as the corresponding right of users to the information.

Although EU member states are prevented from imposing a monitoring obligation on service providers with respect to obligations of a general nature under the EU Directive on Electronic Commerce, this "does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation." (Paragraphs 47 and 48 of the Preamble and Article 15). In most instances liability will only be imposed upon ISPs if there is "knowledge and control" over the information which is transmitted or stored by a service provider. For example, the EU Directive on Electronic Commerce suggests that "it is in the interest of all parties involved in the provision of information society services to adopt and implement procedures" to remove and disable access to illegal information. Therefore, the service providers based in the European Union are not immune from prosecution and liability, and they are required to act expeditiously "upon obtaining actual knowledge" of illegal activity or content, and "remove or disable access to the information concerned" (Paragraph 46).

Although the knowledge and control theory ensures that the information which is transmitted or stored by a service provider is not subject to prior restraint (through monitoring obligations), nonetheless the system is not immune from criticism as studies have shown that, in order not to incur liabilities, ISPs based in Europe tend to remove and take-down content without challenging the notices they receive, which can be problematic and can amount to ex-post censorship (Nas, 2004; Ahlert, Marsden, and Yung, 2003). This concern is also relevant to the Republic of Macedonia where Facebook administrator always acts upon request of the Directorate for Personal Data Protection.

Domestic Legislation

In addition to the general provisions related to hate speech such as Article 417, Paragraph 3[3] and Article 319[4], the Criminal Code of the host country contains provisions addressing hate speech made through a computer system. For example, Article 394-d of the Criminal Code states: "(1) Whosoever via an information system spreads in the public racist and xenophobic written material, photos or other representation of an idea or theory helping, promoting or stimulating hatred, discrimination or violence, regardless against which person or group, based on race, skin color, national or ethnic background, as well as religious belief, shall be sentenced to imprisonment of one to five years." Another provision incriminating online hate speech is Article 173, Paragraph 2: "Whosoever exposes another to a public mockery, by means of an information system, because of his belonging to a group different in its race, skin color, national or ethnic background, or exposes the group of persons characterized with one of these features to mockery, shall be fined or sentenced to imprisonment of up to one year."[5]

According to the Law on Personal Data Protection (Articles 37 and 41), the Directorate for Personal Data Protection has competences to act both as an inspection and a misdemeanour body, and may act on the basis of complaints or on its own motion (ex officio). As an inspection body the Directorate has responsibility over the misuse of personal data.[6] Once the internal procedure is carried out, the Directorate submits a request to the

[3] "Whosoever spreads ideas about the superiority of one race over another, or who advocates racial hate, or instigates racial discrimination, shall be sentenced to imprisonment of six months to three years."

[4] "(1) Whosoever by use of force, maltreatment, endangering the security, mocking of the national, ethnic or religious symbols, by damaging other people's objects, by desecration of monuments, graves, or in some other manner causes or excites national, racial or religious hate, discord or intolerance, shall be sentenced to imprisonment of one to five years. (2) Whosoever commits the crime referred to in paragraph 1 by abusing his position or authorization, or if because of these crimes, riots and violence were caused against the people, or property damage to a great extent was caused, shall be sentenced to imprisonment of one to ten years."

[5] Please note that the exposure to mockery through a computer system, as an action of committing the more serious type of insult, consists of crude slight, mockery or inciting contempt for a group or one of its members, precisely because of his or her capacity, by using verbal (oral, written) or real actions (gestures, showing insulting symbols, pictures etc.).

[6] In the course of 2011, the Directorate received 363 complaints (127 of which related to abuse of personal data on the social networks, among which 87 concern fake profiles) related to cases where an account has been compromised. Some of the cases were transferred from the Ministry of Internal Affairs.

administrator of the social network (which in the case of Facebook Europe is located in Dublin) to remove the misused account from the social network. In practice, Facebook administrator always acts upon the Directorate's request. This can lead to arbitrary practice from the national institutions as Facebook administrator is not making value judgments about a particular type of content as being or not "hateful". They are accepting the opinion of the national institutions and are proceeding with deleting a certain user.

While the mandate of the Directorate to act upon individual complaints is straightforward, its authority to act ex officio in case of abuse of social networks to express hate speech is unclear. The modalities through which the Directorate implements this competence are not specified. Although it has been observed that the Directorate co-operates with the Cyber Crime Unit of the Ministry of Internal Affairs in regards to the closure of social networks profiles inciting ethnic and racial hatred, there are no Standard Operating Procedures regulating the form and modalities of such cooperation. This raises serious concern as to whether the practice of access-blocking measures in the host country is in accordance with the law and subject to the principle of due process.

Conclusion

In the past three years, the number of incidents of ethnic and religious intolerance involving hate speech on the Internet has increased in the host country. Although the usage of Facebook and other social networks as a means to express hate speech is to be stigmatised, closure, removal or blocking of social networks accounts, websites, blogs, search engines or any other internet-based, electronic or similar form of communication represents a serious restriction of the right to freedom of expression. Such restrictions on freedom of expression on the Internet are only acceptable if they comply with international standards.

The assessment of the national legislations shows no clear division in the competences between the relevant authorities such as the Ministry of Internal Affairs and the Directorate for personal data protection, as regards removal of Facebook groups or blocking access to websites, blogs and social networks. Further improvement in this area should be a priority.

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LEGAL INSTRUMENTS IN R. MACEDONIA REFERRING TO PROCESSION, CLASSIFICATION AND SAFETY OF DATA AND INFORMATION IN THE INTEREST OF THE STATE AND THE INDIVIDUAL

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Introduction

The information revolution resulting from the connection of computer techniques and telecommunications has led to multimedia and the lightning development of the Internet, pointing to the appearance of the information highways. This has contributed to the globalization and virtualization of society. The question of new information technologies has usually been considered principally from the point of view of development of communications, electronic commerce and the free flow of information. These developments have led however to concerns about security and respect of fundamental rights and, in particular, privacy. The keeping of records on individuals for various purposes and the risks of infringement of privacy, by both public and private sectors, have never been easier than today, through the use of new technologies.

The last few decades have seen a significant increase in the use of technology for the discovery of personal information. Examples include video and audio surveillance, heat, light, motion, sound and olfactory sensors, night vision goggles, electronic tagging, biometric access devices, drug testing, DNA analysis, computer monitoring including email and web usage, matching and profiling, data mining, mapping, network analysis and simulation.

In the contemporary world, privacy will not primarily mean preventing government and other organizations and people from knowing about us. Instead, it will be founded on securing principles about what shall and, crucially, shall not be done with those data. Privacy cannot be an absolute right, but will remain a centrally important value. Privacy can best be understood as a protection against certain kinds of risks – risks of injustice through such things as unfair inference, risks of loss of control over personal information, and risks of indignity through exposure and embarrassment.

Personal information is defined from different positions and aspects, but for the purpose of this text we accept definition which is consisting of:

Those facts, communications, or opinions which relate to the individual, and which it would be reasonable to expect him to regard as intimate or sensitive and therefore to want to withhold or at least to restrict their collection, use or circulation[1].

Keywords: privacy, personal data protection, classified information

International legal instruments for personal data protection

The obligation of states for protecting personal data comes as a consequence of the fundamental human right for respect of an individual's private and family life, which is stipulated in the provisions of Article 12 of the UN Universal Declaration of Human Rights and Article 8 of the European Convention on Human Rights.

The most important international acts establishing the standards in the area of personal data protection are as follows: Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe, 108, 1981) and the Additional Protocol thereto, Recommendation No. (87) 15 of the Committee of Ministers of the Council of Europe which regulates the use of personal data in the police sector, European Union Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1995), Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (2008). The same rules have been incorporated or are under an adoption procedure in our legislation, including the Law on Personal Data Protection (LPDP).

We are to take into consideration the various instruments adopted by the member states with regards to the activities covering the third pillar of the European Union legislation, among which are the Schengen Convention, the documents on the establishment of the European Police Office (the Europol Convention), the Convention on the use of information technology for customs purposes and the European Union Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime.

All of the afore-stated regulations contain special provisions referring to the personal data protection. These can be classified in two groups: those referring to the principles according to which the personal data protection will be governed and are in relation with the operations for personal data processing which are carried out as a result of the adoption of the

[1] Raymond Wacks, Personal information: privacy and the law, Oxford University Press, 1989, Oxford, p.26

Agreement, the Convention or Decision (the record-keeping systems of Europol and Eurojust, the Schengen Information Systems – SIS – and the Customs Information Systems – CIS); as well as the ones required by the bodies of the signatory state, so that they can obtain access to the contents of the afore-stated record-keeping systems.

There are several data-protection principles which are the main cog of the legislative act. The first principle prohibits the collection of data unless they are collected for a lawful purpose directly related to a function or activity of the data user who is to use the data, and that are adequate but not excessive in relation to that purpose. Personal data may be collected only by lawful and fair means. The second principle requires data users to ensure that the data held are accurate and up to date. The third principle provides that without the prescribed consent of the data subject, personal data may not be used for any purpose other than the purpose for which the data were to be used at the time of their collection. Fourth, data users are obliged to take appropriate security measures to protect personal data. The fifth principle relates to the publicity a data user is required to give to the kind of personal data it holds, and its policies and practices in respect of the handling of personal data. The final important principle relates to the data subject's right to obtain access to personal data about him or her and to request a copy of such personal data held by that data user.

In contemporary practice privacy protection has identified several different models for safeguarding personal data. In order to protect personal data, states use general comprehensive laws, sector-specific laws, self-regulation by companies and/or privacy enhancing technologies.

An excellent example of General laws that have a wide-ranging scope and include standards on data protection is the 1981 Council of Europe (hereafter: CoE) Convention for the protection of individuals with regard to automatic processing of personal data. The instrument's scope encompasses all automatic processing of all types of personal data gathered in the public as well as the private sector, including, for example, commercial, financial, criminal, medical or educational matters. It covers standards on personal data as such, standards on the collection, use and dissemination of data, transborder data flows and rules on mutual assistance between states and is thus a typical comprehensive data protection instrument[2].

Laws on data protection that are applicable to specific sectors have the advantage of including custom-made provisions that have been adjusted to fit the special needs of data processing in a certain sector. Regulation (EC)

[2] D. Banisar & S. Davies, 'Global trends in privacy protection: an international survey of privacy, data protection and surveillance laws and developments', 1999 J. Marshall J. Computer & Info. L. 18, no. 1, p.14.

45/2001 creates a set of data protection rules that have been tailored to the processing of personal data by Community institutions and could thus be labeled as a sector-specific instrument[3]. Still, the regulation needs to comply with the general standards that have been laid down in the mother Convention of 1981 which covers all automatic processing of data. The Regulation however broadened its scope to also include partly automatic and non-automatic means of processing.

The third data protection model for industry self-regulation takes one step further in the tailor-made approach and allows companies to develop their own data protection systems in the shape of codes of practice. This system is flexible, inexpensive but weak in enforcement. Privacy technologies finally enable the internet user to safeguard his or hers own data processing by applying certain programs and systems such as encryption[4].

Many states – like R. Macedonia – use a combination of several models. Our country applies a combination of comprehensive legislation and sectorial laws like in the police sector.

The consideration of internationally relevant documents referring to personal data protection provides us with the largely accepted definitions of certain terms, therefore: information is any datum, part of a datum, data group (personal or other) referring to constitutive elements of general criminal acts, and which are in function of investigations and crime prevention, as well as processing and punishment of committed acts; information system is any usage of databases and networks through which information is processed and transmitted by means of communication channels for purposes of international police cooperation; criminal analysis is the identification and unification of rules and procedures for the clarification of internal links between data and information referring to the crime or the relation between crime data and other potentially relevant data on crime from a police, prosecution and court practice perspective.

Personal data protection and classified information in R. Macedonia

Personal data are a special category of information. In R. Macedonia they are protected by force of the Constitution itself and the law[5]. Pursuant to the Law on Personal Data Protection[6], a personal datum is only such piece of

[3] Regulation (EC) no. 45/2001, OJ L 8, 12.1.2001, p. 1-22.

[4] W.J. Long & M.P. Quek, 'Personal data privacy protection in an age of globalization: the US-EU safe harbor compromise', 2002 Journal of European Public Policy 9, no. 3, p.330.

[5] Article 25 of the Constitution of Macedonia.

[6] Official gazette of R.M. N.7/2005 and N.103/08.

information which refers to an identified natural person or a natural person identifiable on the basis of a personal registration number or specific marks (physical, mental, cultural, societal, and economic). Hence, all information included in this definition is automatically protected. All entities disposing of information considered as personal data are obliged to provide protection imposed by the law.

The availability of information to the public is a principle legal assumption. Such assumption arises from Article 16 paragraph 3 of the Constitution of the Macedonia which guarantees the right to access information owned by the public authorities. Hence, the public, i.e. the public's access to information, may be limited solely by means of law or a decision adopted on the basis of authorization given by law[7].

The international standards provide for exceptions from the principle of public availability of information for the purpose of protecting certain legitimate aims. Personal data, national security, public safety, crime prevention, health protection, etc. are to be found among such legitimate aims.

The Freedom of Information Act is one of the most important pieces of legislation in ensuring that the information is available to the public. It has two principal functions. First, it requires that government agencies publish information about their activities. Second, it gives a legal right to any person to request information from federal government agencies. The low sets a presumption that all persons have a right to know information about what the government is doing and the government has a legal obligation to tell them, subject to a few limited exemptions.

Unlike personal data, the so-called classified information may refer to various areas. In accordance with the Law of the R.M., any information may be subject to classification, in particular should it refer to public safety; defense; foreign affairs; security, intelligence and counter-intelligence activities of the bodies of the state authority of the Republic of Macedonia; systems; devices; projects and plans of importance for the public safety, defense, foreign affairs, scientific research and technological, economic and financial affairs of significance for the Republic of Macedonia. The legitimate aim to be protected by means of classification of this information is not always identical, being, for instance, national security or national economy.

[7] President Woodrow Wilson said in 1913, "Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety. So, our honest politicians and our honorable corporation heads owe it to their reputations to bring their activities out into the open." Woodrow Wilson, The New Freedom: A Call For the Emancipation of the Generous Energies of a People, New York, PAGE &COMPANY 1913, 30.

The different nature of personal data on one hand, and classified information on the other, indisputably requires different solutions in the legal regulation. Not inadvertently has the legislator decided on two separate laws, precisely due to the different rights at the disposal of the entities and methods of treatment when determining and protecting personal data as opposed to classified information.

The regime of classified information does not provide for exclusion of an entire category of information from the principle of public availability of the information. On the contrary, each separate piece of information or a group of information connected into one whole is evaluated in terms of the risk from incurring damage to the protected good in case such information is available to the public. The evaluation also refers to the intensity of necessary protection, hence the Law provides for various levels of classification of information: state secret; strictly confidential; confidential; internal, and for limited usage. Evaluation of the level of State Secret is performed by the persons defined in the Law, whereas all other levels of classification are performed by the creator of the information itself. While personal data are protected by the Law itself, for the protection of that information whose leakage would be a threat from incurring damage to the legitimate interests stipulated by the Law, a separate decision must be adopted, i.e. the information must be classified as one of the levels of confidentiality proscribed by the Law on Classification of Information.

The protection of classified information is temporary, whereas the personal data protection is permanent.

The classification of the information shall cease on the date stated on the document; by the occurrence of a certain event stated in the document; upon expiry of the period stated on the document and by declassification. The declassification is performed by the creator of the information. The period in which the information creator reviews and assesses the need for further retention of the classification is between 2 to 10 years, depending on the confidentiality level of the information.

Due to the permanence of their protection, the personal data are not subject to declassification or reclassification, provided for by the Law on Classification of Information.

The differences discussed herein arise from the aims to be achieved with the protection of information. Protecting the personal data helps protect the privacy of people, which represents a basic human right, whereas classifying the information helps protect the interests of the state or community. The different legal regime of the entities' right to access personal data and classified information derives thereof.

The entity, i.e. the person to which the personal data refer is entitled to access and correction so as to assure the right to privacy. The access to data is performed upon addressing a request in writing of the entity.

The person who believes their right from the LPDP has been violated may submit a request for the protection of their right to the Commission of the Directorate for Personal Data Protection. An appeal may be filed against the Commission to the Director of the Directorate and an administrative dispute may be initiated against their decision.

The Law stipulates that in addition to the entity to which the personal data refer, access may also be granted to recipients. A recipient is a person to whom data are disclosed for the purpose of performing regular activities in accordance with the Law, i.e. within their legal competences. The recipient is to submit a request in writing containing reasons, a legal basis for the use of the personal data and the category of personal data thus requested.

As far as classified information is concerned, the access thereto is regulated in a completely different manner. The only instrument for access to classified information is the security certificate. At the same time, the LCI does not recognize the possibility to quash the decisions for classification or other type of protection from possible breach of a certain right, other than the right to appeal against the decision for refusal of the request to issue a security certificate.

A security certificate is issued for a relevant level of classified information, for which a request in writing is submitted to the Directorate. A security certificate is issued on the basis of a previously carried out security check. As an exception, certain persons, for the purpose of performing a function, receive a security certificate for access and use of classified information from all levels, without prior security check (the President of the Republic of Macedonia, the Prime Minister of the Republic of Macedonia, the Vice Prime Minister of the Republic of Macedonia, the President of the Constitutional Court of the Republic of Macedonia and the President of the Supreme Court of the Republic of Macedonia).

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Personal data protection and classified information in the police sector

In the policy area that deals with security, prevention of crime, counter-terrorism a new ideas and proposals intending to allow public authorities to gather, store, process and exchange an increasing amount of personal data are being brought forward in high numbers and with increasing frequency. On the other side processing of personal data is indispensable in the course of the performance of tasks under the competency of the police authorities for purposes of prevention and detection of criminal acts and maintenance of the public order.

Processing of personal data in the police offices can be performed automatically and in the form of manual (paper-based or individual) files. We would like to stress here that the rules and procedures referring to automated police files, data categories kept and operations performed therein must also be applied to the manual files, to be more exact, the processing of manual files must not be performed if it is done for the purpose of avoiding the legal obligations referring to the use of personal data in automatic processing.

Police services mostly develop three types of databases: central and specialized bases on crime and analytical files as working files for the purposes of crime analysis. For the provisioning of viability of said databases, they are to be conditionally independent subsystems of the single information system for police support operating to manage information and guide various users (on local, regional and national level) to the necessary and required data and information and to enable the elaboration of analyses.

A police record means any structured and organized handling of personal data by the Police for the purpose of meeting the obligations for prevention of criminal acts and maintenance of public order. Such definition of the police records in European law enables the Police to collect

information referring to an identified or identifiable person. From a personal data protection perspective, it is important to delimit the police records by different types because the control and security to be applied in the personal data protection contained in various types of records shall depend thereon.

In general, the police records are divided into permanent and ad hoc (temporary). The obligation of the controller to report them to the supervisory body applies for both types of records. In the legal regulation and by-laws, each state is to build clear criteria for delimiting the police permanent and ad hoc records. The permanent records are created for committed or reported crimes, whereas the ad hoc records are created during a certain investigation, which can be understood as working records and analytical records

In the European law, the creation of temporary police records is justified to some extent when it comes to terrorism, serious and organized crime, hooligan act and violence, organization of political rallies of high international significance, as well as for a series of criminal acts. The justifiability of the ad hoc records for specific criminal acts is seen in the need to avoid the risk of excluding necessary data for the successful conduct of criminal.

Both types of police records may contain criminal intelligence data (soft data) which are actually unverified data, i.e. unconfirmed indications and suspicion for the inclusion of a person in one or more criminal acts. The criminal intelligence data are a special problem from a personal data protection perspective and precisely determined criteria are to apply on their method of usage, storage and destruction. The ad hoc (temporary) records are basically created for the discovery and documentation of the already committed criminal act, as well as for receiving information on criminal phenomena and for the determination whether the society is occupied with certain types of criminal phenomena and whether it is affected thereof. These are the so-called analytical records containing large number of data intended for purposes of determining the threats, risk and damage from the criminality in the specific state or separate parts thereof.

The Law on Police (2006) of our country has many positive aspects. It is a very good and worthy attempt to regulate police work in a respectful way with human rights. It thorough and detailed and looks for the setting up of clear standards and for the establishment of comprehensive guidelines to avoid ambiguities. All of these characteristics of the Law on Police clearly show the will to align the law with the most recent international standards in the field.

Nevertheless, and without entering into the detailed comments, the data protection and privacy regime remains unclear in the current law. The interaction between the Law on Protection of Personal Data and the Law on

Police is, in principle, not existent, but some articles do not provide an adequate level of data protection to the Macedonian citizens when it comes to the processing of their personal data by the police. In some very important fields, the regulation exists but it is too vague or restrictive to be considered in line with international standards.

A clear example of this is the shortcoming to regulate the obligation of the Ministry of Interior as a controller processing personal data to publicly provide the register of processing operations or series of data processing operations and to build clear distinction among personal data for the following:

Person for whom there is bases for suspicion that has committed a crime

Person under suspicion that has committed a crime

Person for who there is reasonable basis to believe that is planning or preparing to commit a crime

Person who may be called to testify

Person who has been the victim of a crime, and the like

Connecting with this each database must be classified regardless of the classification of the data it contains. Such clear distinction and implementation of security measures for unauthorized access prevention, safety measures throughout transfer and further usage in the networks, imposition of rules to the users and base administrators (security certificates) and other security measures, as well as provisioning of information system stability in case of unauthorized attack or damage incurred due to objective situations (earthquakes, floods, etc.) so as it can be restored into its operational state without churn or data destruction.

Conclusion

Personal data and classified information should be processed according to the legal regulations that would prevent the personal data protection to be the reason for the ban on access to information of public interest. Also, when classified information pursuant to legal proceedings can be made available to the public, must be treated in terms of the law on personal data protection, or at least to make them anonymous.

As far as sensitive personal data are concerned, their processing in police sector in any form or medium may be allowed should it be relevant or indispensable, however, only for a certain criminal event of high importance and if it objectively regards or entails to prior data on a certain person without the information containing comments discrediting or referring to the opinions formed on the concerned person in advance resulting from prejudice or irrelevant to the crime.

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OPPORTUNITIES FOR ABUSAGE OF DATA IN THE NEW TECHNOLOGIES

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Introduction

The protection of privacy and data users, as a basic human right, becomes bigger challenge to new technologies which are already available to the consumers and institutions such as: wireless connection to the global network, Cloud computing services, exchange and sharing data, cellular networks, etc. All these technologies have great potential to monitoring the activities of users as well as abuse of the data they own. There are a number of tools that protect networks, but in order to respond adequately to these challenges, a new approach is required as well as a new way of educating consumers.

Web technologies track users activities mostly through the different types of cookies whose main goal is to offer more services to users by monitoring the activities which makes the user in terms of product selection, content review for the product number and quantity selected products, and propensity for selection of certain products. Through these websites user data are received, such as: personal data in terms of user name, password and other personal data specific to the user, the user's propensity for certain products or services, monitoring the user's actions in the course of one or more sessions during visit of particular site and tracking information for the user. This is done in order to identify the user and authorization to make access to certain services, to keep statistics on the number of users and their preferences, as well as time spent in viewing a specific content. Risk of violation of privacy occurs if the data being misused to monitor the activities of users as well as abuse of their personal data.

Various web applications use different types of cookies and some applications have their own type: Flash cookies or super cookies Microsoft - user Data where the amount of data stored on one side is 512 KB, and for a particular domain it can be stored up to 10 MV data. A large majority of users do not know that by visiting the websites they leave their data and do not know that their actions are monitored and create a history of using the services. For these reasons, you can leave data that can be critical in violation of user privacy or abuse of personal data. Although European legislation has passed legislation several times when it comes to a cookie, there is no general legislation that will control or limit the use of data taken from users, as well as record keeping electronic diaries on how to use services from websites. There are solutions for limitation of the data that are placed on web pages by users, but also a way of protecting the computers in the internal local area network isolated from the possible follow - up work from the "outside world".

Many authors made research about the possibilities of computer protection on the net, but there are not many papers about abuses of user work done via the so called "new technologies". In the paper of G. Thomas and P. Jonardanan, we found review towards improving of the user protection in cloud computing and blocking intrusions in the cloud, as well as possibilities of denial of services given by the cloud computers. It is a challenge because the cloud computers should give possibilities of sharing data and resources among users on the one side, and at the same time it should protect its privacy and possibilities of data loss and data contamination.

In the paper of Promila and R. Chillar we found review on work of the net by using proxy server and following the recommendations of Chad Perrin for the work with wireless networks.

Rodica Tirtea, Claude Castelluccia, and Demosthenes Ikonomou have made research on the work of the cookies as a code which gives opportunity for following user activities on the net, their behavior, as well as possibilities of abuses and changes of the European legislative towards user protection and privacy, and awareness of violation of privacy which can occur by regular net browsing.

In the paper of Renata H., Akos K., Security Evolution of the Webkit Browser Engine, we found the analysis of development of webkit Browser Engine as a base for development of many web browsers like Google Chrome and Apple Safari. By the undertaken research, we can see that the number of changes made on this application grows during the years (2007 - 2012) and most of the changes are related to servicing of security vulnerabilities.

In many books and papers dedicated to cybercrime we can find claims that cybercrime is attractive for the criminals for many reasons like fast criminal activities lot of resources on the net, and one of the reason is possibilities of anonymous work on the net. Is it like that? In this paper we give the review of the possibilities of anonymous work on the net, work of the different types of cookies and data that are transferred by the cookies. At the end we give the recommendations about intrusion protection of local network and protection of the identity of the users In the frames of the local network. Some of the recommendations are based on our experience on protection of local servers at the Faculty of Tourism - Ohrid.

Tracking Web Activities of the Users (Cookies)

Cookies are data that are stored on the user's computer. They are stored for the information of the web server to track the activities of the users. Ordinary cookie can be controlled by the users. They can be deleted and modified. User can even prohibit the creation of the cookies, but special types of cookies cannot be easily changed or deleted. For different type of cookies (Rodica Tirtea, Claude Castelluccia, and Demosthenes Ikonomou) we need to have a special software. Even in the cases when the standard cookies are deleted from the user computer, they can be restored by the super cookies which cannot be accessed or deleted. Many web applications, as base for development use Adobe Flash for access control and services by the web servers. Such an example is the e-mail server at our university – St. Kliment Ohridski – Bitola (mail uklo.edu.mk – Figure 1.), which does not use the protected protocol for login. Access on login data when we do not use the protected protocol (TSL or SSL) can be very simple. This server is not protected by brutal force attack. It gives good possibilities for hackers to get the access to many accounts on the server. For every attempt for login, client sends command Post and it also sends data for user name and password of the user. If the server does not use the protected protocol, those data are sent as plain text. By using techniques of sniffing someone can intercept data on the nodes of the net, and later they can be used for false introduction on the server. More than a year ago users could use many applications like Firesheep, Wireshark that give the possibilities of reading packets of data and intercept of unprotected data that are sent over the nodes of the network.

Another possible abuse is the intercept of cookies, cutting off the connection of the computer which has started the connection with some server and using the cookie to continue the session by other computer. This procedure of abusement of the communication is known as masquerade.

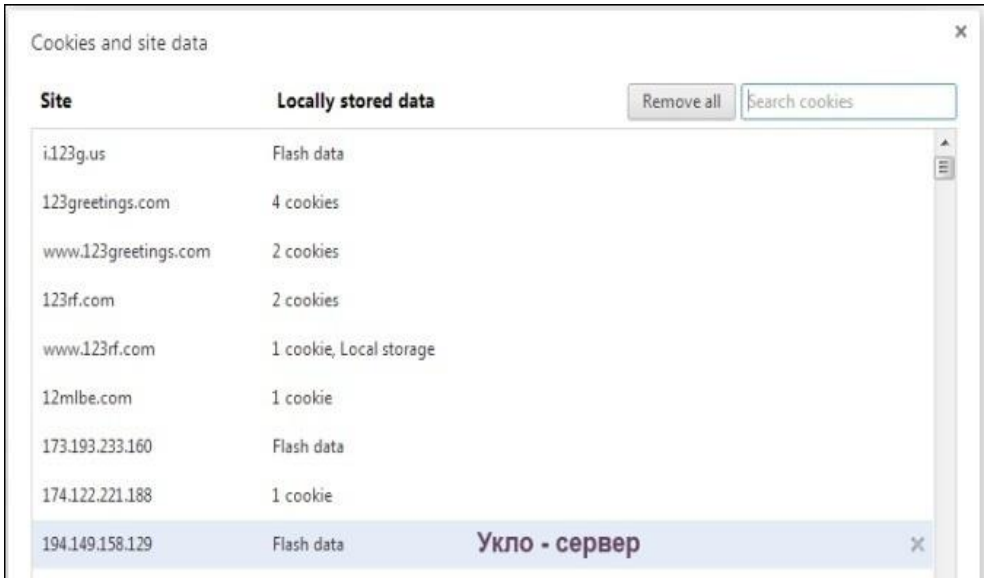

Figure 1: Cookie of the e-mail server of the University St. Kliment Ohridski – Bitola, given by the Chrome browser

In cases when the user is aware of the cookies and the data they send over the network, it is expected to use only selected services on the network for login, collecting information, getting storage space or data processing. But, the new generation of the commercial web sites includes adds on the pages like search engine from third party, adds of some social network, adds with some reviews of products, comments, advertises which connect the site to some other site. Those ads use the so called third party cookie (Katherine M.) which gives opportunity to these additional services to follow the work of the users and to make logs of the interests of the users, and all the other data connected with their interests. Specially, the services of social networks have the opportunity to connect users with their data that are sent via cookies and to track the work and interests of some real person, not only the data generated by the servers stored in the cookies. Some research (B. Krishnamurthy and C. Wills. Privacy diffusion on the web: a longitudinal perspective), shows that every year there are more and more ads that are part of many commercial websites and they get access to third party cookies and to the data sent by the cookies. They have the opportunity to make logs for the interest of the users and the behavior of the users. As the popularity of some social networks rises (Facebook, Twiter, MySpace etc.) and the imported contents of some other popular services (YouTube, Picassa, Google Ads), the amount of cookies that are sent to these services increases, all of them makes log files and the possibility of abuse of the data also increases.

The work of the cookies is also regulated by the directives of the European Union. In the framework of the European Union, according to directive 2002/ 58/ EC which is concerned about processing of personal data and protection of privacy on the network by sending personal data, the creator of the web service should give the announce to the users that the service uses cookies, and the user should decide if it will continue to use the service of that website or not.

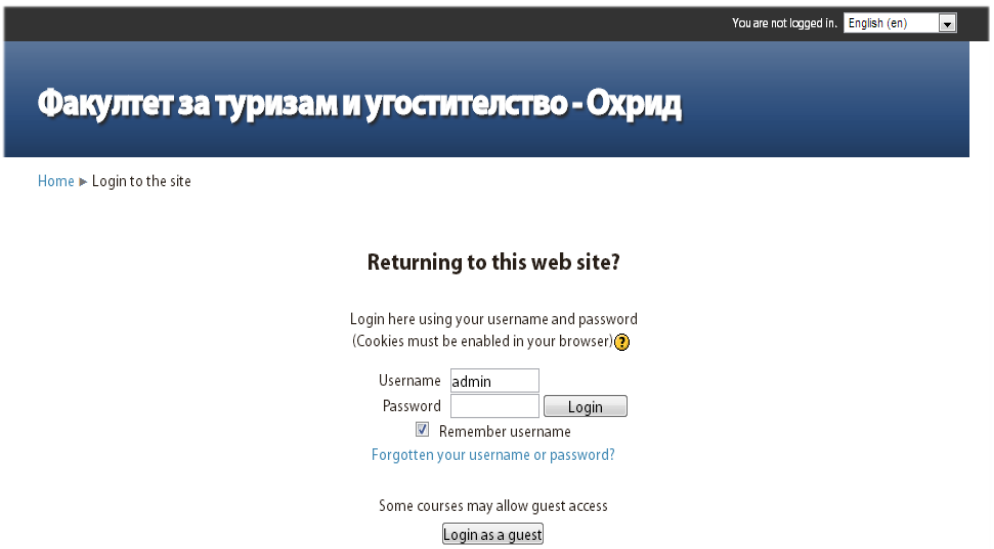

Figure 2. Moodle web site of the Faculty of Tourism and hospitality with announcement for use of cookies

Many new web applications give the announcement for use of cookies. On Figure 2 we can see the login screen of the Moodle application (application for learning management system) with announcement for use of cookies.

We could not find appropriate solution at our (Macedonian) law for electronic communication, neither in the law for use of personal data.

Proxy server and possibilities for data protection

Proxy servers have many characteristics, but two of them are basic: control of the access on some network and making cache for the most frequent data demand from the global network. By creating cache of data,

proxy server speeds up the process of browsing and getting data to the end user.

The other characteristic of the proxy servers is the protection of local network from possible intrusion from the global network. Despite the router that has the capabilities of traffic diversion, there is a control of packets of data, their origin and destination; proxy servers have the capabilities of controlling the communication up to application layer. Cookies are created and used on application layer.

Communication on lower layer (physical, transportation etc..) is controlled by the routers. We can make adjustments on router parameters which can increase the safety of the local network, and we can make it more resistant by the attempts of intrusion. For every server within local network adjustments can be made on the ports of the IP protocol. The router should forward only specific ports to some router, important for the communication of that specific server. For instance, if we have dedicated web server, it is probably enough to forward only ports 80 (http) and 21 (ftp) to enable functionality for this server, and at the same time to disable all the other ports to be redirected to that server. By this adjustment we can protect our server from the port scanning. At the other hand we can hide the actual IP address of the router. When the users demands web service, they use the IP address of the router, not IP of the server, the router redirects all the packets of data to the server that gives services on that specific port. The same port forwarding can be used for any other server on the local network. Every server should have its own specific pool of IP addresses.

All users on the network, can search the Internet network through services that are offered by the proxy server and all the cookies to save and transmit only of the proxy server. Thus, the personal data of users will be protected, and all users will be able to use shared resources of a proxy server. Proxy server can be configured to approve or not approve access certain web services, and even to control access to websites supplements, in order to limit the exchange of data that is stored in the cookies.

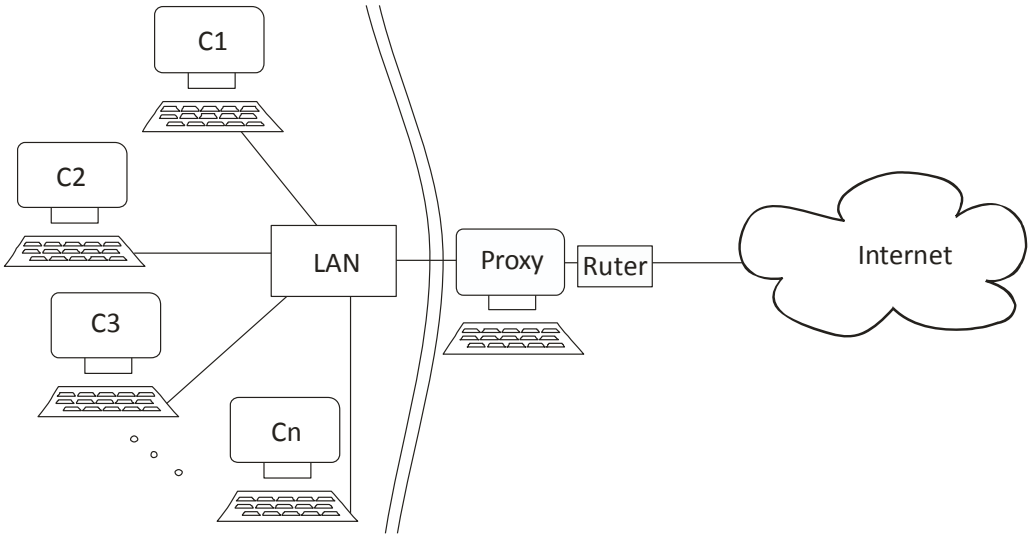

Figure 3. Connecting to a local area network through a proxy server

Within the local network, you can use multiple wireless routers that will give users the ability to connect wirelessly, but the access to the external network will again be controlled by the proxy server and the router.

Some Web services offer the same services that can be created in a private network for individuals. Such is the example of web service www.startpage.com. Besides the ability to search the contents of the Internet network without having to follow the activities of the user, this web service offers the ability to proxy search or web services sends a request in turn, through its own Internet address other than the address of the user, and the resulting content forwards it to the user. Thus, this web service offers complete privacy and anonymity in the search. The only drawback in terms of classic search is the slower getting of the content, because they are requested from the server first, and once got, they are delivered to the user. Like a help in searching the data as an external service, this website uses the search results of Google's online service. This website developed by Ixquick is created according to the European regulations on data security and privacy.

This web service has received the award First European Privacy Seal Awarded.

Moreover, this web service provides and secures communication between the computer and service using Secure Socket Layer (SSL), a security protocol for communication. This security protocol for communication can be used with any system search engine on the web.

In terms of the cookie, the option URL generator is especially important, which allows overcoming of the need to create a cookie on the user's computer. For each user separately, this web service allows setup parameters through which the mode of operation of computer and service is determined, as well as activation of certain features of the service as using secure protocol activation URL generator, search method, etc.

Unlike the traditional proxy server, for this global service it is harder to do caching of most frequently searched sites because this is a global service, and it is needed to make a huge database which should be regularly updated in order to meet all requirements users from all over the world. However, the part of protection of the privacy of users' access is guaranteed and in this part, it can be used for individual search. Within this website it is not stated what happens to the communication between the user and due to the security of the server itself where this web application is placed, any logging of this site should be recorded, and each sending data too. But those data remain on that website, and the other parties that are searched have no access to them. Due to the use of fast search service online content such as Google, but using its own search engine, the use of this site according to the speed of query data is not lagging far behind other browsers, and security of the communication is guaranteed, especially if it is used a security protocol when communicating the website in the part of job logs or log files.

Conclusion

Although in the part of literature it is known that one of the reasons for increasing the number of offenses committed in the area of cybercrime is the possible anonymity of criminals, in reality it is not that simple (on the contrary, it is almost impossible a user of Internet services network to stay in anonymity. This refers especially to users who had previously used the services of a service through a previously used computer and communicates equipment. Servers make records of users' access by multiple parameters, one of which is their current IP address, which often determines the person or persons who had access to that address. If the IP address is common for multiple users (e.g. address of a company that uses shared access for employees to the global network), there are additional data on the server from the company in which you can see which person in which period used which services. The situation is similar to the use of services from an ISP that offers dynamic Internet addresses. Although at every network login the internet address is changed, the ISP is obliged to keep records for granting the internet address at any subsequent logging system. However, sometimes it is important that the user stays anonymous, i.e. does not leave personal information or data of company's for that works. In such a case, one of the

possibilities is using a proxy server, which allows representation of the group of users before certain services, without having to be submitted data on the actual Internet addresses that they have used in a certain period. Of course, if you need a check for their work, data from the proxy server to show who worked what, are always available.

Using proxy servers as Internet service is also possible for individual needs. Website offers such a service start page. By using this website to search for content on the Internet, users allow anonymous access to the information on the Internet, as well as avoiding the process of making cookies that monitor the behavior of Internet users. Besides the search data, there are proxy services that allow opening other web pages and display their content through their service. In that case, the real Internet address of the user does not get to the page whose content is opened at all. However, some web pages that require user registration can not be opened through these proxy servers (http://zendproxy.com).

Nowadays, most of the users of the internet network are not aware of the existence and the work of the cookie - you. Although most of them are used for the needs of users, the data that is transmitted through them may be subject to misuse of the personal data.

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"PRIVATE SECURITY COMPANIES AND THE WESTERN BALKANS-THE CASE OF BOSNIA AND HERZEGOVINA"

Obstacles, Challenges, Recommendations

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Abstract

With Law about protection of people and goods in Federation of Bosnia and Herzegovina, and Law about protection of people and goods and private detectives of Republic of Srpska in force a new history of a new security agency sector started. Law about social self-protection of Socialist Republic of Bosnia and Herzegovina from 1986 partially deals with this private security sector. As a part of a whole security mechanism in a community private policing appears. Its activity primarily is focused at the protection of people and goods done by physical, technical or combined (integrated) protection.

Due to the fact that Bosnia and Herzegovina lacks the tradition in this area, it was necessesary to provide full legal framework for this complex area of security service. With new laws at force finally, we have complete split of the competencies of private security services with other state organs, which up to this time had the competences in this security area.

Newly formed agencies rise as a grants of supplementary overview of the criminality in precise area in which they have the competencies that are provided by that Law.

With this article author will analyze actual lay out in the area of private policing sector in Bosnia and Herzegovina, with special emphasis at the obstacles and recommendations for dealing with some challenges of actual legal framework in the field that has been in force for full decade.

Keywords: *Privatization of Security Sector, Private Policing, Private Detective Work*

Introduction

The fact that in 2005 world-wide private sector security market is valued at US$ 85 billion and has an annual growth rate of 6-8% speaks for its self, today's figures, even in time of recession, are growing (Abrahamsen & Williams, 2005). Considering the fact that in the USA private sector possesses and protects 85% of national infrastructure, the private security plays an important role in its protection. In the USA there are more than 10.000 private companies with 2 million employees (Marabito & Greenberg, 2005). It is estimated that in the European Union there are 20.000 private security companies with 1.100.000 employees (CoESS & Uni-Europe, 2003) after the latest EU enlargements in 2004 and 2007. In post-socialist countries, the development of private security is a natural outcome of transitional economy, which resulted in the increase of private police. Social changes led to the change of police nature and its adjustment to the market economy (Mesko, Nala, Soltar, 2004)

The private security sector in Bosnia and Herzegovina (hereafter BiH) is a new and the youngest sector in a security system, which is important not only in security but in social and economic sense as well. The analysis of this problem is important for many reasons; some of them relate to BiH as a post-conflict area and transitional society, where the whole security sector is going through a transformation from authoritarian and war to democratic model, and now it has a completely new role than it used to. However, the private security sector in BiH has not been sufficiently researched or discussed in the public sphere – although there are certain exceptions *(Ahić, Masleša, Muratbegović, 2005, Centre for Security Studies (CSS) (Bosnia and Herzegovina) & Safer world (UK) 2006, Vejnovic, Sikman 2007)*. The European Union (hereafter EU) has developed standards in the private security sector which constitutes a fundamental condition to guarantee the necessary minimum of professionalism and quality in the private security sector. The necessity to harmonize the situation in the private security sector is not only important to EU member countries but to candidate countries as well in order to avoid possible political, economical and social consequences, which it can encounter upon admission to EU due to different social and regulatory environment (CoESS, 1999). Moreover, the importance of this matter is that EU institutions are devoting their attention to it, considering the role it has in general security debate.

1. Bosnia and Herzegovina and its regional challenges

Bosnia and Herzegovina developments in public life and social activity, which have taken place in recent years, have also changed the system of subject in charge of security and order. As a rational human being, human being exists in technical and social ambient, that ambient provides sources of its endanger in a shape of process which, by its existence, threaten social order, material goods and ecologic systems in general. If the man is not capable to protect itself, he becomes a victim even in the lowest intensity of endanger. Because of all previously said man seeks for quality protection, because the life itself will be much safer.

Private policing activity primarily is focused at the protection of people and goods done by physical, technical or integrated protection. Private security system (private policing) rises with industrial revolution, so this fact often is used as etiological base of this profession. Continuity of disproportion between security of some individuals and groups in society, provided by state, produce new trends and appearances in so called "privatization of the security sector". With this trends police work is narrowed, and private policing takes over one segment of security, with what the monopoly of the state is reduced.

Notion or terminology of "system of private security", "private policing" is not legislative one, but in a practice term is used for all work and all protection mechanism in protection of people and goods out of state organs. In literature of South Slavic people we find different terms for private policing (special protection, body protection, special security, etc).

Process itself defines certain rules and in some hand it's beginning of establishment of private security sector market in Bosnia and Herzegovina. In first, during nineties of the 20th century this work focused only at physical protection of people and goods. In many cases this legally unregulated work has been misused in work like defraud, racket and similar. After this period of the settlement, Bosnia and Herzegovina faced war and aggression period.

After the war (1992-95) private policing "blooms" trough out prism of the needs in market economy. The legal framework in Bosnia and Herzegovina hasn't followed great need of the market. As a product of this situation, which lasted for seven years, many opportunities for misuse rose up.

Impossibility of the control in full meaning of this word, people/material or organizational resources, brought up the situation that some agencies deteriorated and get out of the control.

Theoretically and generally speaking social existence of the agencies slowly became its opposition. Complex situation in politic-security management in whole state additionally is complicated with new subsidiary security agencies in private ownership for which legal framework didn't exist. Because of all that it was necessary to legalize this profession.

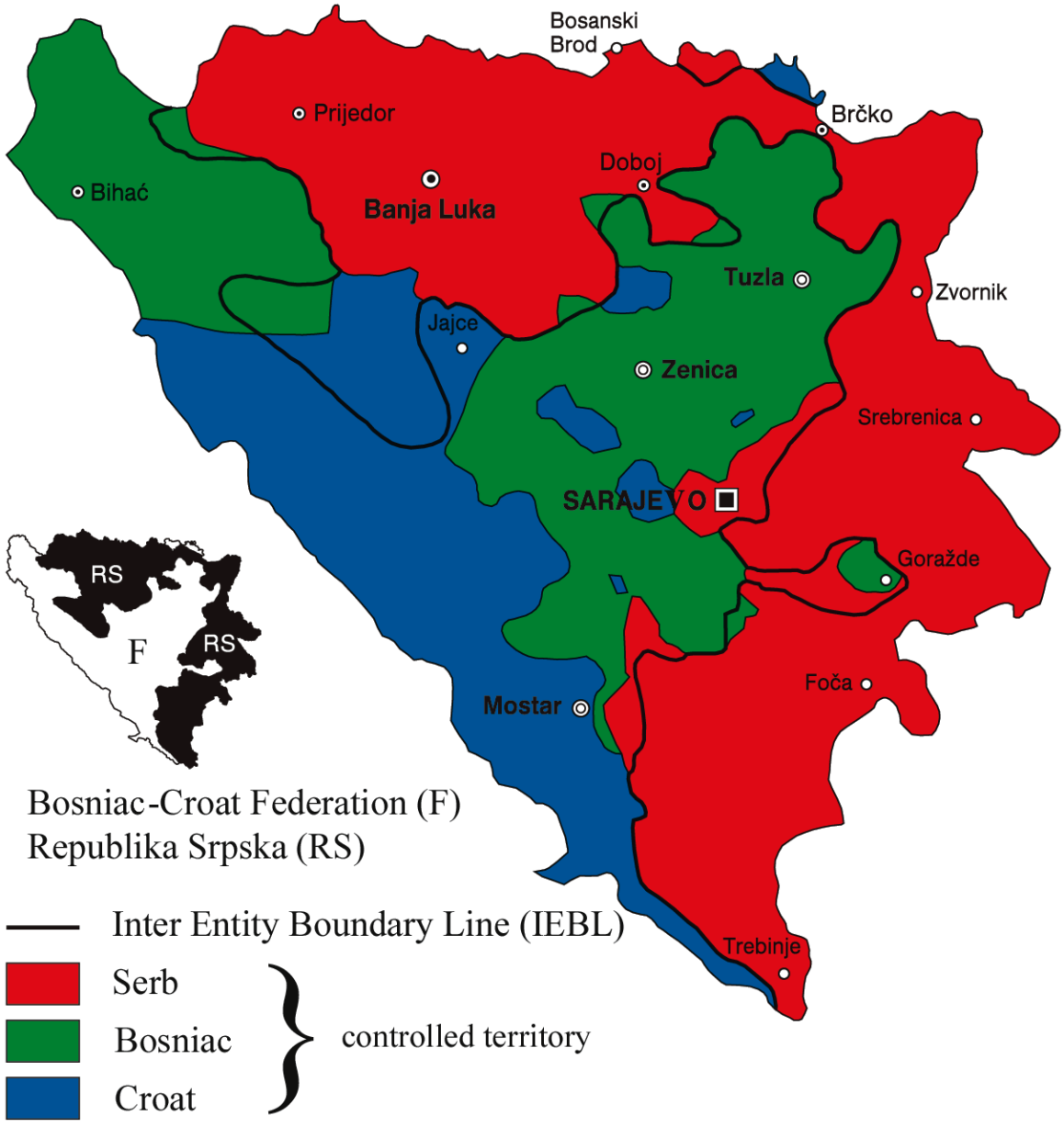
These pointed remarks are opening up question: In which way complicated politic-security situation in Bosnia and Herzegovina affects the quality and functional implementation of the security sector reform, and does the private security sector represent the problem too?

1.2 Political and Security System of Bosnia and Herzegovina

Dayton Agreement[1] stopped the war in Bosnia and Herzegovina, and all BiH politic-security position entered, *from this point of view*, in one long term and complex process of stabilization and functionality too. With Dayton agreement BiH is structured like no state in this world, it is the state with two/three political administrative parts, two entities: Federation of BiH and Republic of Srpska, and Brcko as a district.

[1] Agreed and signed (under great pressure of USA and international community) by Western Balkan leaders in Dayton, Ohio, USA and verified on 21st November 1995 in Paris, France.

Bosnia and Herzegovina under the Dayton Peace Agreement
and the front lines at the end of 1995



◆ Federation of BiH

Political structure decentralized (cantonal entities)
Police structure decentralized (cantonal level)
Military structure
(Federal Army BiH:
-Army of BiH

◆ Republika Srpska

Political structure centralized
Police structure centralized

Military structure
centralized

-Croatian Defense Ministry)[1]

Up to this time reform in security sector is "almost" finished, but it's very far away from functional implentation at the field. Under great pressure from international community (represented by the Office of High Representitive/OHR) Bosnia and Herzegovina established at the state level: *Ministry of Security, Ministry of Defence, State Border Service, Intelligence Agency, Agency for Investigation and Protection.* All efforts for establishment of Ministry of Interior of BiH have failed.

In this very complex and disorded politic and security situation, which has undoubtly served for the rise of the criminality, a new private security sector without legal framework refered to conclusion that Bosnia and Herzegovina desperatly need the law(s) that would regulate relations in this area and completly legalize this profession[2]. In this sense structural, but not detailed, analyze of legal framework is needed.

[1] From 1995 till today, from this security structures seen in the table, only military reform has finished. Police reform, or its restructuring, is still the biggest obstacle in security sector in BiH.

[2] Although the laws that govern the private security sector in BiH are different, those differences are not substantial in term of licensing of private security companies, legal powers of private security personnel, and supervision over the private security sector. The key difference refers to private detective vocation. In accordance with the law of the Republika of Srpska and Brčko District, detective vocation is a component of the private security sector what is not case in the Federation of BiH.

2. Private Security Sector of Bosnia and Herzegovina

2.1 Federation of BiH

As we already said, with the *Law of the basics of social selfprotection from 1986* some of the problematic from private security sector has been treated, but those solutions are not good for modern security trends and market. Law about protection of people and goods in Federation of BiH[3] has regulated basic conditions for establishment of the agency for protection of people and goods (like its profession, conditions for certification, way of running a business, interior protection agencies, evidences, competencies and other important questions in this field)[4].

By adopting this Federal law, we have even formal disolution of the work of security services and other bodies of the state authorities for which they have competences, from so called private security profession (which by this law is completely privatized).

Federal law regulated all segments from physical protection, technical protection, evidences, certification, training and program of training and all others material needs (uniforms, cars, armoured vehicles, fire arms etc.)[5]

2.2 Republic of Srpska and Brcko district

Approximately in the same time when Federation other entity Republic of Srpska adopted almost the same law. Brcko district did that in 2004[6], and their law is the same like one in Republic of Srpska (Table 1).

Main difference between this two/three laws is that the Republic Srpska law together with private protection (physical, technical, integrated) regulated private detective profession. The differences in the part of private protection are almost inevitable. As we said it is the first time in history that security system of Bosnia and Herzegovina deals with institute of private detective work. Under this law Private detective activity is collection and processing of

[3] Official Gazette of Federation of BiH, year IX, no.50, 14 October 2002.

[4] Articles 1.to 7, Law about agencies for physical and technical protection of people and goods of Federation of Bosnia and Herzegovina, Official Gazette of Federation of BiH, year IX, no.50, 14 October 2002.

[5] *See:* Table 1.

[6] Official Gazette of Brčko District, no. 20:4, 2004.

the information and material evidences. One need to point out that this law has regulated wide spectra of relations in this field. Precisely address who, and under which terms can be or become private detective. All other conditions for running a detective business, from those technical to educational, can be evaluated as very good.

	Federation B&H	Republika Srpska	Brčko District
Regulated sectors of private policing by Law	Physical protection Tehnical protection	Physical protection Tehnical protection Detective Profession	Physical protection Tehnical protection Detective Profession
Jurisdiction for certification	Cantonal Ministry of Interior with accordance to residence	Center of public safety with accordance to residence	Center of public safety Brčko District
Certification and training	Certtificate gets person who passes training and passes exams.Training is appointed by Minister of Interior and it is implemented by Faculty of criminal justice and Police Academy.	Certificate gets person who passes training and passes exams. In front of comission of Ministry of Ineriror. Implementation of training is not mentioned in the Law.	Certificate of Federal Ministry of Interior Certificate of Ministry of Interior RS
Fire arms and means of compulsion	Agency can have small arm weapons for 1/5 of the staff. Use of physical power and fire arms is regulated in accordance with Criminal Law.	Agency can have small arm weapons for 50% of the staff. Use of physical power and fire arms is regulated in accordance with the Criminal Law	Agency can have small arm weapons for 1/5 of the staff. Use of physical power and fire arms is regulated in accordance with the

			Criminal Law.
Interior protection agency	Regulated by Law	Not regulated by Law	Not regulated by Law
Penalty mesaures	Penalty for agencies from 5.000 to 50.000 KM. Penalty for legal persons from 4.000 to 30.000 KM.	Penalty for agencies from 1.000 to 10.000 KM. Penalty for legal persons from 500 to 8.000 KM.	Penalty for agencies from 2.000 to 8.000 KM. Penalty for legal persons from 500 to 8.000 KM.
Registrated Agencies	39	26	5
Certificated persons (approximate)	2.000	1.000	80

Table 1: Comparative overview of the implementation of laws in sector of private security in Bosnia and Herzegovina

3.Obstacles-Chalenges-Recomendations

3.1. Obstacles

First obstacle, which arises, is necessity of the harmonization and standardization of the present system of private security in *real* legal and political/administrative framework. Some already conducted research (Krzalic 2007, Ahic 2008) pointed some crucial things that need to be done in overcoming the obstacles:

- First, BiH need to make State level law in the private security with strong sector oversight and standardization as first precondition for this profession.

- Second, real partner relation in the field between public and private law enforcement agencies based at precisely delegated authorities.
- Third, use of private security sector in daily political matters should be eliminated.
- Forth, involvement of international community actors needs to be seen as a positive one.
- Fifth, administrative discrimination should be finally closed chapter.

In the context of overcoming these obstacles in future period some of necessary things to be done:

- State level Law about private security,
- If we fail with State Law, than we have to harmonize this existing three,
- Forming of Private Security Union as professional association,
- Strict and hard checking for candidates in private security training,
- Restructuring of curriculum for education and training in private security,
- Using of the quality equipment and instruments for protection and writing done standards for equipment in work,
- Professionalism,
- Serious surveillance and oversight of the Agencies.

3.2 Challenges and Recommendation

If we want quality regulated private security in accordance with European standards-The State of BiH has to fulfill certain preconditions:

- Create the system of licensing with clear standards and contracts and laws for private "military" agencies, together with the system of licensing of persons working for these companies,
- Define allowed activities and clearly regulate all allowed work,
- Define minimal conditions for transparency and responsibility of the agencies, in process of preparing, training, and work of agencies and its staff,
- Create system of surveillance of private military agencies,
- Establish parliamentary oversight,
- Bring laws at the base of healthy competition, fair and opened for public and society,
- Finance all the measures and mechanisms needed for the regulation of the work of agencies.

At the bases of exact analyses of normative framework of private security, I have tried to enlighten the necessity of scientific and expert approach in creating new concept of work in private security in Bosnia and Herzegovina.

Analyze showed us that if we want to build adequate or efficient model of private security, we have check up to date activity and results of work of private security agencies with critical attitude to mistakes (especially criminal acts of classical criminality, because they are directly connected to the private security). Mistakes are numerous and various, but we could put them in two basic groups: from *objective* and *subjective* nature.

In the objective group we encounter negativities of the existent Laws of private security and private detective activity (Law in FBiH, RS and Brcko district BiH) and insufficiency of the procedures like those in dealing with the money and values. Like we elaborated, resembling Laws in this area in its beginning defined making of the agencies, work, education, firearms etc. Like the pioneers Laws have quality resolved very important question of private security, but some areas have been left opened for finalization. Process of education is not suitable together with time period of education for private security officer. Six day program is not enough for quality educated and fit private security guard. Up today experience shows that some of the guards have in past, and in present, in direct or indirect link with criminal offenders. Analytical research (Krzalic 2007, Ahic 2008) showed that we had very high percentage of robberies where investigation process showed some kind of connection between guards and criminals.

Subjective factor is not to underestimate; in opposite it is highly important. One can get a feeling that owners of agencies give the priority to profit in race with security, because state allowed forming of agencies with a goal of raising the level of security.

To speak, elaborate and write about private security, for example about robberies, and miss to mention the role and responsibility of private agencies would be incorrect towards the police.

From political, legal or security standpoint, especially for prevention and repression of criminality, private security area will always be very actual. Generally speaking condition and measuring of criminality is the picture of security in one state.
Classical criminality acts, like robberies, are easy to conduct and they are very fast, they are part of our contemporary life. It is because robbery brings cash without much to handle. In the 2004 and 2005, 23 banks have been robbed in

the Federation of BiH, with 2.6 millions missing. In 2006 we had 29 from which 5 large bank robberies, with 10 millions missing, that shows that these criminal acts are in rapid growth. In the 2007 we had 34 bank robberies, and in 2008 we had 52[7]. This is alarming for the private security and state organs and society.

Conclusion

Today Federation of Bosnia and Herzegovina have 39 registrated agencies for protection of people and goods with around 2000 certificated private protection professionals, Republic of Srpska 26 agencies with 1000 certificated private protection professionals and Brcko district with 5 agencies with 80 certificated professionals.

To sum up, in Bosnia and Herzegovina there are 70 registrated agencies with approximately 3000 certificated professionals[8].

Figures in the field represent a realistic and reliable picture and clearly reflect the position of employees in the private security that one could characterize as very disturbing. These facts lead to the conclusion that in Bosnia and Herzegovina, when it comes to the business of private protection agencies still has significant problems in this very sensitive "security" area.

Comprehensive overview of the private protection agency market in Bosnia and Herzegovina since its establishment in which some periods were totally unregulated and faced with many problems, some of which are seen today and proven to be really dangerous for security sector, can be found in this paper. In fact, one can conclude that the ruling structures and management in almost all private agencies for the protection of people and property their business do not implement or harmonize with applicable laws and regulations on the work, because they will not have any sanctions. It is more than necessary, and urgent, involvement of Parliament and the relevant authorities in relation to the issue of control and legality of private security agencies. However, at the present time, this responsibility is delegated to the local authorities or the police (and the Federal Ministry of Interior of the Cantonal authorities in the Federation, Centers for Public Security in the smaller entity and Brcko District Police).

[7] *Source*: Federal Ministry of Interior of Federation BiH, Crime Rate Statistics, Official Reports 2004-2012.

[8] These figures, numbers of agencies and certified professionals differ because of dynamics of the market.

These are just some of the obstacles that prevent expansion, prosperity and professional development of private security that we urge for in this paper. There are also other problems, weaknesses, ambiguities and shortcomings of private security Bosnian society and we need to expand horizons because present situation in this field is considered outside the norm of EU criteria framework. In fact, until BiH doesn't get the law at the state level and then harmonization of laws with EU regulation of private security, to eliminate some obvious problems there will be significant problems. In addition, it would certainly be one of the steps leading to the transformation of the private security system in BiH, if we could raise the position of all employees in the sector to a higher level by establishing a central registry of private security business base. The creation of an independent professional, independent, voluntary bodies - the trade unions, which will take care of the rights of the employees of a private security agency, which will operate on the principles of democratic representation, transparency, independence, organization of work, functioning, promote social labor rights and with full respect for fundamental human and trade union rights and freedoms is the main goal to achieve. The syndicate union is one of the rational and possible solutions because it is obvious that the security workers alone with their activity in the exercising of their rights they can't win individually. However, this is only the initial step in the process of professionalization of this activity, on what needs to be state and its relevant institutions commenting on better control and sanctioning conscious or unconscious omission that real management and owners of private security agencies while the rest only in the hands of the governing structure private agencies. Therefore, we have to address the issue of cooperation between the private and public security systems today on very low level and is certainly not satisfactory.

The need for cooperation between the private and the public security system in BiH society occurred in the past, but today's need is greater than ever. So, if we want to talk about the construction of an adequate and modern system of private security, or efficient ways in which to avoid the existing problems, the emphasis should be placed on advancing the cooperation between the two sectors-particularly in joint engagement in the exercise of establishing optimum conditions of safety. Recommended model of cooperation between the private and public security system initiated by the needs of fighting against all forms of illegal behavior should include all forms of cooperation from the collection and exchange of information, coordination of activities, systemic joint analysis of security threats at events sporting character, the possibility of exchanges of equipment and material - technical assistance, giving the jurisdiction and powers of a higher rank than those who have private agencies at the entity level, as well as to carry out the harmonization of the laws of the

Member States of the European Union, because they are treated with more details matter private - state cooperation in basic and specialized training, and other important issues. In our experience, any attempt to establish such a form of cooperation with the public security department, as well as the regulation of private security system in Bosnia and Herzegovina at the state level is impossible because of "status quo" situation both for the government and share holders and owners of the agencies (only interested side are protection workers in the field). We also believe that in perspective, in the next decade of existence and work must evolve in BiH private system of national security. There is skepticism that the current readiness of the state actors and entire management of security sector in relation to the issue of management and treatment of human resource, mismatches of the entity laws, as well as all forms of the irregularities, failures, problems and shortcomings of private security Bosnian society, will block development in the area. All mentioned doesn't mean that there is no modern private security in BiH, and what is more important, we have to realize that improvement or implementation of an optimal model of private security system in our country can be achieved only than -when we all sides in area have minimum interest to back it up.

As we can see Bosnia and Herzegovina, because of its political and security complexity, together with unpreparedness of private security market, still doesn't have harmonized laws and legal framework in private security (Table 1). It is true that Bosnia and Herzegovina has a law that in full capacity regulates private security- but it is at entity level law (Republika Srpska i Brčko distrikt). Regulation in Federation BiH is without private detective activity, and Bosnia and Herzegovina still doesn't have a law, regulation or coordination body at the state level for harmonization or standardization of this sector which represent one of the preconditions for accession to European Union.

General meaning and preventive aspect of these "Private Security Law's" shouldn't be specially emphasized. Pure fact that large number of employed staff in mentioned agencies, before this laws were in force, abandonment from formal selection because of the checks in criminal evidences speak for itself, and for importance of these projects. Private security sector is a future of the development of BiH society. Rising up the security culture level of the citizens of BiH is surely one of the next steps in front of Bosnia and Herzegovina. This small step represent pioneer attempt of regulation of one dangerous sphere that easily can get out of the control of official state organs.

In future, after this laws and new appointments in Criminal Procedure Law and Criminal Law in Bosnia and Herzegovina, Federation of Bosnia and

Herzegovina should make Law about detective profession as one quality sensitive profession, which is step forward toward European integrations in security field. This also can serve as a base for future project of law about private security at state level (Law about private security of BiH).

It is worth to mention a fact that in period to come one can expect establishment of Association of the agencies in private security sector in BiH. This, from one side unquestionable need, has its limiting factors that are before everything shown in divergent economic interests of different agencies generated by economic factors. Along period of time agencies worked at the market without legal framework in which foreign capital and investors make some arrangements that they try to keep. This fact produce certain entrusts in interaction of the agencies at the BH market. Keeping this in mind the first phase of "change" is establishment of "BH Security Manager Society" which will in future take over the role of the BH National Private Security Association.

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SECURITY AND PROTECTION MEASURES IN THE REPUBLIC OF SRPSKA JUVENAL CRIMINAL LAW

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Abstract: *According to the Republic of Srpska Law on* Protection and Treatment of Children and Juveniles in Criminal Proceedings, *the system of alternative measures and criminal sanctions consists of two alternative measures – police warning and educational recommendations, and three groups of criminal sanctions – educational measures, juvenile imprisonment and security measures. On the other hand, the Republic of Srpska minor offence legislation, next to the fine, warning measures and educational measure, also foresees three protection measures. Article 24, paragraph 1 of the Republic of Srpska Law on Minor Offences, which defines those protection measures as confiscation of items, prohibition of performing occupation, activity or duty, complete or partial ban on driving a motor vehicle, and compulsory outpatient medical treatment of addiction, states that they can be pronounced only to older juvenile offenders (while younger juvenile offender are subjected to educational measures). Therefore, the security measures of juvenile criminal law, and protection measures of minor offence law of Republic of Srpska are the notions that will be tackled in this paper.*

Key words: *juveniles, security measures, protection measures, criminal offence, minor offence.*

1. General overview of security and protection measures

Pursuant to the provisions of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings[3], a juvenile offender may be imposed, under the conditions provided by the law, one or

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[3] Republic of Srpska Official Gazette no 13/2010.

more security measures such as: mandatory psychiatric treatment, mandatory treatment of addiction, mandatory outpatient treatment at liberty, complete or partial ban on driving a motor vehicle and confiscation of items, as well as supplementary or additional criminal sanctions, imposed alongside with some other criminal sanction or with one of the educational measures or juvenile imprisonment[4]. With respect to the imposition of security measures, the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings has provided for one another limitation which states that, whenever possible, the priority should be given to the treatment of a juvenile offender at liberty over their admission to a health facility for imposition of some of the medical, curative measures of institutional character and, that is, measures of mandatory psychiatric treatment and mandatory treatment of addiction.

Protective measures are defined by the provisions of the Law on Minor Offences of the Republic of Srpska[5]. It is definitely a special category of sanctions which eliminate the circumstance or condition that enable the offender to continue the future misdemeanors. Besides the protective measures provided for in the aforementioned statutory provisions, there are also measured such as seizure, confiscation of items, prohibition of performing occupation, activity or duty, complete or partial ban on driving a motor vehicle, and compulsory outpatient medical treatment of addiction, while some other minor offence legal regulations may specify additional or other protective measures.[6]

2. Security measures in the juvenile criminal law of the Republic of Srpska

According to the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings juvenile offender may be imposed the following security measures:

1) mandatory psychiatric treatment,
2) mandatory treatment of addiction,
3) mandatory outpatient treatment at liberty
4) ban on driving a motor vehicle and
5) confiscation of items[7].

[4] Article 62 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

[5] Republic of Srpska Official Gazette, no. 34/2006; 1/2009; 29/2010 i 109/2011.

[6] Article 16 paragraph 2 of the Republic of Srpska Minor Offence Law.

[7] Article 61 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

Certain security measures[8]

a) Mandatory psychiatric treatment

Mandatory psychiatric treatment is a medical or curative security measure that is imposed by the court in the situations when it is determined that a juvenile committed the offence in the state of considerably diminished mental capacity, and when it is affirmed, based on the findings and opinions of the physician specialized in the forensic-psychiatric area, with regard to the committed criminal offense and the state of mental derangement of a juvenile offender, that there is a danger that the causes of such a state may continue to affect a juvenile offender.

Conditions for imposing this security measures are defined in the provisions of the Criminal Code of the Republic of Srpska[9], and those are:

1) the juvenile offender has committed a criminal offense in the state of considerably diminished mental capacity,
2) there is a risk that the perpetrator might commit new criminal offense
3) the treatment and custody in a suitable medical institution is necessary for the sake of averting that danger.

The purpose[10] of this security measures is double-natured and is reflected in the following:

1) the treatment of a juvenile offender is imposed with the purpose to reduce or eliminate the state of his mental disorder and
2) a juvenile offender is held in a medical institution and thus isolated from the society with the purpose to protect the very society, that is, social goods and values that can be endangered by further criminal activity.

The security measure of mandatory psychiatric treatment may be imposed to a juvenile offender only alongside with an educational measure and juvenile imprisonment.

The duration of this security measure is provided for in a specific way by the Republic of Srpska Law on Protection and Treatment of Children and

[8] B. Petrović, D. Jovašević, Krivično (kazneno) pravo Bosne i Hercegovine, Opći dio, Faculty of Law of the Sarajevo University, 2005, p. 345-354.

[9] Article 58. of the Republic of Srpska Criminal Code, Republic of Srpska Official Gazette, no. 49/2003; 108/2004; 37/2006; 70/2006; 73/2010 i 1/2012.

[10] D. Jovašević, *Mera bezbednosti obaveznog psihijatrijskog lečenja i čuvanja u zdravstvenoj ustanovi u praktičnoj primeni,* Branič, Belgrade, no 3-4/99, p. 13–25; Z. Tomić, *Mere bezbednosti medicinskog karaktera*, Jugoslovenska revija za kriminologiju i krivično pravo, Belgrade, no 3/89, p. 51–70; M. Bisić, *Mjere bezbjednosti sa posebnim osvrtom o mjerama bezbjednosti obaveznog psihijatrijskog liječenja i čuvanja u zdravstvenoj ustanovi*, Pravna misao, Sarajevo, no. 9-10/1991, p. 73–80.

Juveniles in Criminal Proceedings. Specifically, in accordance with the paragraph 1 Article 63 of the Law, a juvenile offender can be ordered this security measure as long as the reasons for its imposition cease to exist, but certainly no longer than the duration of an educational measure or juvenile imprisonment or no longer than the postponed execution of juvenile imprisonment or a parole from the medical or other institution.

Furthermore, under the provisions of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings, the court is authorized, based on the findings and opinions of the physician, to impose an educational measure of sending a juvenile offender to a special institution for treatment or security measure of compulsory outpatient treatment at liberty instead of compulsory psychiatric treatment, provided that in such a way it is possible to provide a treatment and achieve the purpose of that security measures that is being imposed instead of[11].

b) Mandatory treatment of addiction

The security measure of mandatory treatment of addiction is another one medical measure in the system of the security measures in the Republic of Srpska which is compulsory to be imposed to a juvenile offender who has committed a criminal offense under the significant influence of addiction to alcohol or drugs, and if there is a danger that a juvenile offender will continue with criminal activity due to their addiction[12].

Therefore, pursuant to the provisions of the Criminal Code of the Republic of Srpska, this security measure is imposed by the court if three following conditions are met[13]:

1) the juvenile offender has committed a criminal offense under the influence of the state of addiction to alcohol or drugs,
2) there is a danger that due to this addiction the juvenile offender might continue committing criminal offenses in the future. The court makes this kind of decision on the basis of general personality assessment of a juvenile offender and on the basis of the findings and opinions of the physician specialized in the forensic-psychiatric area and
3) the measure of mandatory treatment of addiction has a supplementary character. The security measure of mandatory

[11] Article 63 paragraph 2 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

[12] Article 59 paragraph 1 of the Republic of Srpska Criminal Code

[13] D. Jovašević, *Primena mere bezbednosti obaveznog psihijatrijskog lečenja i čuvanja u zdravstvenoj ustanovi kao faktor prevencije kriminaliteta*, "Defektološki dani", Belgrade, 1998, p. 184–202.

treatment of addiction is imposed on a juvenile offender only alongside with the educational measure or juvenile imprisonment, provided that in no case it can be imposed alongside with the educational measure of a court reprimand or educational measure of specific obligations.[14]

The duration of this security measure is not provided for by the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings. However, since this measure is not time-limited, this measure lasts as long as the reasons for its imposition cease to exist, but certainly no longer than the duration of an educational measure or juvenile imprisonment or no longer than the postponed execution of juvenile imprisonment or a parole from the medical or other institution.

According to by the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings, a juvenile offender may be imposed, based on the findings and opinions of the physicians, a security measure of compulsory outpatient treatment at liberty instead of compulsory treatment of addiction if there is a risk that the juvenile, due to their addiction to the use of alcohol or drugs, will continue to do criminal acts, and their outpatient treatment at liberty appears sufficient for elimination of that danger.[15]

c) Mandatory outpatient treatment at liberty

In accordance with the provisions of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings[16] a juvenile offender may be imposed on another curative security measures. It is a measure of mandatory outpatient treatment at liberty. The security measure of mandatory outpatient treatment at liberty may be imposed instead of security measures of mandatory psychiatric treatment and mandatory treatment of addiction if the requirements for imposing them are met, and when the court, on the basis of findings and opinions of the psychiatrist-experts, determines that it is not necessary to retain and treat a juvenile offender in a medical institution, but rather just to have their outpatient treatment at liberty.

The security measure of mandatory outpatient treatment at liberty may be imposed to a juvenile offender only alongside with an educational measure or juvenile imprisonment, so it has a supplementary or complementary nature. The duration of this security measure is also not provided for by the Republic of

[14] Article 59 paragraph 1 of the Republic of Srpska Criminal Code.

[15] Article 64 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

[16] Article 65 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings. However, given the fact that the duration of these security measures is not limited, this measure lasts as long as the reasons for its imposition cease to exist, but certainly no longer than the duration of an educational measure or juvenile imprisonment or no longer than the postponed execution of juvenile imprisonment or a parole from the medical or other institution.

d) Ban on driving a motor vehicle

The security measure entitled: "Ban on Driving Motor Vehicle" entails a prohibition for a juvenile offender to operate a motor vehicle of a certain type or category, or all types or categories for a certain court-imposed period of time[17]. Conditions for imposing this security measures are as they follow:

1) the juvenile offender has committed a criminal act that endangers public traffic,
2) the juvenile offender was imposed an educational measure or juvenile imprisonment
3) that the court believes that in this case there is a risk that a juvenile criminal offender operating a motor vehicle of a certain type or category will repeat a criminal offence.

When imposing a security measures of a ban on driving a motor vehicle, court also determines its duration which can range from a minimum of three months to five years from the effective date of the decision imposing, but the time spent in jail or a health institution for care and treatment is not included in the duration of this security measure[18]. If the measure is imposed to a juvenile who has a foreign license to operate the vehicle, then the ban on driving a motor vehicle can only refer to the ban of driving a motor vehicle on the territory of the Republic of Srpska.[19]

According to the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings the court imposes the security measure of ban on driving a motor vehicle to a juvenile offender in accordance with the conditions provided by the Criminal Code of the Republic

[17] Article 61 of the Republic of Srpska Criminal Code.D. Jovašević, *Mera bezbednosti zabrane upravljanja motornim vozilom kao faktor prevencije saobraćajnog kriminaliteta*, Zbornik radova, Prevencija saobraćajnih nezgoda na putevima, Novi Sad, 1998, p. 395-400.

[18] D. Jovašević, *Zabrana upravljanja motornim vozilom kao mera bezbednosti i kao zaštitna mjera – sličnosti i razlike*, Sudska praksa, Belgrade, no 7-8/1998, p. 74-78.

[19] D. Jovašević, *Mera bezbednosti zabrane upravljanja motornim vozilom kao faktor prevencije saobraćajnog kriminaliteta*, op. cit., p. 395-400.

of Srpska alongside with the an educational measure or juvenile imprisonment.[20] If a juvenile offender banned to operate a motor vehicle does not comply with the ban, this security measure is replaced with one or more specific obligations (such as certain types of educational measures of warning and guidance), or parole from one of the imposed criminal sanctions can be revoked.

e) Confiscation of items

The security measure called the "Confiscation of items" is a property-related security measure in the system of security measures of the Republic of Srpska that entails confiscation of the objects used or destined for use in the commission of a criminal offense as well as those which have resulted from the commission of a criminal offense, and in circumstances when there is danger that they may be used again for the commission of a crime or in situations when their confiscation seems necessary in order to protect public safety or due to moral reasons, and are owned by the juvenile offender.[21]

Confiscated may be objects owned by a juvenile perpetrator, but also those owned by a third party if it is in the interest of public safety or preservation of morality (e.g. explosives, poisons, pornographic materials, etc.), provided that such confiscation does not affect the rights of third parties to obtain damage compensation from the perpetrator.[22]

Confiscation of items is a security measure that can be imposed whenever there are conditions for such, regardless of which criminal sanctions is imposed on a juvenile offender[23].

3. Protection measures in the Republic of Srpska minor offence law

Protection measures represent a special category of sanctions used to eliminate circumstance or condition which could enable the juvenile offender to

[20] Article 66 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

[21] Article 62 of the Republic of Srpska Criminal Code. Case law notes that certain items were confiscated by application of this measure: narcotic drugs and means for its preparation (decision of the Supreme Court of the Federation of Bosnia and Herzegovina, no. K-61/2000 of 24 January 2001), four hand grenades, automatic rifles and 120 rounds (decision of the Cantonal Court in Sarajevo, K-113/2000 of March 7, 2001), a vehicle used in an attempted murder (decision of the Supreme Court of Serbia, no. 563/83), currency (decision of the Supreme Court of Serbia, no. 1278/84 of 25 January 1985), hunting rifle used to violate security (decision of the Federal Court, CCS. 14/75 of 18 November 1975).

[22] Z. Tomić, *O pravnoj prirodi mjere oduzimanja predmeta u našem krivičnom pravu*, Godišnjak Pravnog fakulteta u Sarajevu, Sarajevo, 1991, p. 201-220.

[23] Article 67 of the Republic of Srpska Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings.

continue to conduct violations in the future. This particular preventive purpose of the protection measures is achieved through elimination of the states (primarily psychological, such as, for example, dependence on alcohol or drugs) or conditions (primarily objective) which are suitable for commission of criminal offences.[24]

Law on Minor Offences of the Republic of Srpska provides for the following types of protective measures:

1) the confiscation of items,
2) prohibition to carry out a certain occupation, activity or duty,
3) a complete or partial ban on driving a motor vehicle and
4) outpatient treatment of addiction[25].

In addition to these protective measures, there are specific laws that may also be eligible for additional, or some other type of protective measures.[26] For example, the Law on Protection against Domestic Violence in the Republic of Srpska[27] prescribed a number of additional protective measures, such as removal from the apartment, house or other dwelling; a restraining order; prohibition from harassment and stalking; mandatory psycho-social treatment; mandatory rehabilitation; work in benefit of humanitarian organization or local community.[28] As it is anticipated by the Law on Minor Offences of the Republic of Srpska, each protection measure that is not subject to direct enforcement by the authorities is conditioned by a voluntary consent to such a protective measure by the defendant.[29]

Protective measures are prescribed only by law, whereas they can be imposed in mandatory (obligatory) or optional manner. If it is prescribed that a certain protection measure is mandatory imposed, that measure in each case must be imposed alongside with a prescribed fine. Thus, for example, it is anticipated the mandatory imposition of protection measure of confiscation of weapons, ammunition and snipers in cases of failure to report to the competent authority of the discovered weapons.[30] Optional protective measures may be imposed alongside with a fine, if the court finds that it would be necessary in certain case (for example, protection measure of ban to drive a motor vehicle for

[24] Lj. Jovanović, M. Jelačić, *Prekršaji i privredni prestupi*, Policijska akademija, Belgrade, 2007, p. 83-88.

[25] Article 16 paragraph 2 of the Republic of Srpska Criminal Code.

[26] Lj. Mitrović, *Zaštitne mjere iz Zakona o zaštiti od nasilja u porodici*, Pravna riječ, Banja Luka, 2011, p. 369-385.

[27] Republic of Srpska Official Gazette, no. 118/2005 and 17/2008.

[28] Article 9 of the Law on Protection against Family Violence in the Republic of Srpska.

[29] Article 16 paragraph 3 of the Republic of Srpska Minor Offence Law

[30] Article 35 paragraph 1 Law on Weapons and Ammunition of the Republic of Srpska, RS Official Gazette no. 70/2007; 24/2009; 118/2009 and 40/2011.

some, easier traffic offenses, but it is mandatory that this protection measure is imposed for more severe traffic violations).

Protective measures, when compared to the fine, are characterized by a special purpose: they are supposed to eliminate the causes or conditions that are favorable for the commission of the offense and which would continue to affect juvenile offender to keep committing crimes in the future.[31] Hence, the court, by issuing a minor offence decision to a juvenile offender, may impose one or more protective measures, if there are legal requirements for their imposition. However, since protection measures have specifically preventive effect, they can be revoked once the reasons for their imposition have ceased to exist.

The duration of certain protective measures in each concrete case is determined by the court which keeps in mind the shortest period of time that is required to prevent juvenile offender to make a similar or the same offense. In addition, the court shall consider all relevant circumstances of the case, some of which are stated in the law: the severity of the minor offence and its consequences, the degree of culpability of a juvenile, the juvenile's prior convictions (which is determined on the basis of the infringements), financial situation of a juvenile, as well as the fact that the juvenile offender expressed remorse for the offence.

Unlike the Court, with a minor offence warrant the authorized authority may impose the following:

1) a protective measure imposed even for the shortest period of time (this is a protective measure of total or partial ban on driving a motor vehicle, Article 20 of the Law on Minor Offences of the Republic of Srpska) and
2) the protective measure of confiscation of objects.[32] In terms of the authority to the impose a protection measure of confiscation of objects, the authorized body that issues a minor offence order, in the manner the court shall issues a minor offence decision, determines, in accordance with special regulations, whether the confiscated items will be destroyed, sold or delivered to the appropriate designated authority.[33] Proceeds from the sale of seized items fall into the appointed budget.

[31] Article 17 of the Republic of Srpska Minor Offence Law.

[32] Article 17 paragraph 3 of the Republic of Srpska Minor Offence Law.

[33] D. Erdelić, *Primjena odredaba Krivičnog zakona i Zakona o krivičnom postupku u prekršajnom postupku (član 8. Zakona o prekršajima Republike Srpske) i zaštitne mjere*, Pravo i pravda, Sarajevo, 2011, p. 443-486.

Certain protective measures

a) Confiscation of items

The protection measure of confiscation of items prescribes the confiscation of items used for or intended to be used for the commission of a minor offence (*instrumenta sceleris*), or items created through the commission of a minor offence (*producta sceleris*)[34]. The items confiscated are those owned by a juvenile offender. There is also an exception to this rule when it is allowable to confiscate items that are not owned by a juvenile offender, but only if there are law-prescribed reasons for that. Those reasons are: the interests of public safety; the preservation of human life and health; the security of the exchange of goods; the reasons of public morality, as well as other cases foreseen by the law.

The protection measure of confiscation of items is imposed alongside with a fine. However, if it is in the interest of public safety or morals, as in other cases provided for by a special law, the protection measure of confiscation of items can be determined by the court eve if a juvenile offender is not liable for the offense. In these situations, the protection measure of confiscation of items is ordered as a stand-alone sanction, and is imposed by a court's special decision.

In the case that a protection measure of confiscation of items whose owner is not a juvenile offender is imposed in a minor offence proceeding, the owner of that item has the right to seek compensation from the juvenile offender.

The court that issued the minor offence decision thus punishing the juvenile offender, or the authorized body which issued the minor offence warrant determines, in accordance with specific regulations, on how to proceed with the previously seized items (destruction, sale or delivery to an interested authority or organization), provided that the proceeds of sale fall into appointed budgets.

b) Prohibition of performing occupation, activity or duty

Prohibition of performing occupation, activity or duty is a type of protective measures in provided for in the protective measures system of the Republic of Srpska primarily in relation to adult individuals or legal entities. Law on Minor Offences of the Republic of Srpska does not exclude the application of this protective measures in relation to minors, despite the significant impugnment and its application when this category of offenders in question. This protective measure imposed by the court entails the temporary

[34] Article 18 of the Republic of Srpska Minor Offence Law.

prohibition of performing occupation, activity or duty for up to six months of accused natural or legal entity.[35] The content of this protection measure is different with respect to the category of the offender, whether it is a physical or legal person. Thus, the protection measure of prohibition to carry out occupation or duty may be imposed to the offender who is a natural person or entrepreneur under the following cumulative set conditions:

1) the offender misused his position or duty for the commission of an offense and
2) the court finds that allowing or enabling the defendant to continue to perform such position or duty could lead to the execution of a new offense in the future.

The pronounced court order of the prohibition of performing occupation, activity or duty shall commence from the effective date of the decision.

c) Total or partial ban on driving a motor vehicle

Total or partial ban on driving a motor vehicle is a special type of protective measures and related to the driving a motor vehicle. Measures are imposed by the courts and the authorized bodies to the offenders solely for violations committed in public traffic. The protective measures of total or partial ban on driving a motor vehicle entails temporary, total or partial ban of the offender to operate a motor vehicle. Both in cases of total and partial ban, the protective measure may be imposed to last from thirty days up to one year.[36]

In the case of imposing a complete ban on driving a motor vehicle, the court or an authorized authority may specify:

- prohibition of juvenile offenders to operate all types and categories of motor vehicles or
- prohibition of juvenile offenders operate certain types or categories of motor vehicles.[37]

The execution of the protective measures of prohibition to operate a motor vehicle (but also security measures of prohibiting the offender to operate a motor vehicle imposed in criminal proceedings whose duration can range from a minimum of three months to five years from the effective date of the decision)

[35] Article 19 of the Republic of Srpska Minor Offence Law.

[36] Article 20 of the Republic of Srpska Minor Offence Law.

[37] The fact that the defendant is a driver by profession can be considered as mitigating in the sense of imposing protective measures. This is so because the defendant is a professional driver, who by virtue of their profession thus acquire income for life, and the imposition of protective measures of ban to drive category B vehicle would deprive the defendant ability to perform their job and earn their living, which is not the meaning of these protective measures (see: the decision of the District Court in Banja Luka, number Pžp-1018/2008 December 12, 2008.).

is under the authority of the body that in accordance with the Law on the Basis of Road Safety in Bosnia and Herzegovina keeps the record of the driver or driving instructor who has been imposed one of these measures.[38] This means that when some of these measures are pronounced, the competent authority shall take and disposal of a driver's license as long as the prohibition lasts. Duration of the protective measures of ban to drive a motor vehicle is estimated from the date of the deposit of a driver's license with the competent organizational unit of the Ministry of Internal Affairs of the Republic of Srpska. In case the driver, upon being summoned to submit the driving license for the purpose of executing the protection measure of the ban to drive a motor vehicle, fails to appear, the competent authority shall make a decision on compulsory withdrawal of a driver license.

On the other hand, according to the Law on Minor Offences of the Republic of Srpska, the court may decide to impose so-called partial ban on driving a motor vehicle instead of a complete one, which entails certain restrictions towards the driver - the offender in terms of vehicle operating.[39] These restrictions may include:

- prohibition to drive a vehicle at night ,
- prohibition to drive a vehicle further than a prescribed distance from home,
- limitation to drive a vehicle only to and from work and
- limitation to drive a vehicle for the purposes of job/work.

In these cases, i.e, when the court imposes a protective measure of partial ban on driving a motor vehicle, the measure may last from thirty days to one year.

Except for the protection measure of ban of driving a motor vehicle that is imposed as a sanction for the violations occurred in traffic, the Law on Minor Offences of the Republic of Srpska does not specify other special conditions that the offender must meet in order for the court to impose a partial ban on driving a motor vehicle in certain cases. However, the court would impose such a partial ban if the circumstances under which the offense was committed or previous violations of traffic rules by the offender indicate that it would be dangerous for him to keep operating a motor vehicle in the future (for example, health reasons could opt the court to impose the measures of restriction on driving to and from work).[40]

[38]Bosnia and Herzegovina Official Gazette no. 6/2006; 75/2006; 44/2007; 84/2009 and 48/2010.

[39] Article 20 paragraph 2 of the Republic of Srpska Minor Offence Law.

[40] D. Vasiljević, *Osnovi prekršajnog prava sa zaštitom javnog reda i mira*, VŠUP Belgrade, 1998, p.28-29.

This protective measure is usually imposed in relation to a motor vehicle used in road transport. However, the same protective measure is ordered by the court when prohibiting the operation of vessels in sea transport or aircrafts in air transport.[41]

d) Outpatient treatment of addiction

Compared to other types of protective measures, the measure of outpatient treatment for addiction[42] is defined in the minor offence legislation of the Republic of Srpska in a special way and with regard to special conditions which juvenile accepts so that he would be sentenced to probation or mild minor offence sanction. The protective measure of outpatient treatment for addiction can be imposed to a juvenile offender if two conditions are fulfilled:

1) that a juvenile has committed an offense under the decisive influence of alcohol or drugs.[43] The fact that the juvenile was under the decisive influence of alcohol or drugs means that he has relatively long period of time or continuously used alcohol or drugs, and as a result of such addiction has committed an offense and
2) the juvenile offender agrees to undergo outpatient treatment of alcohol or drugs. The treatment of juveniles can last for a specified period or until it is established that there is no need for his further treatment. Given the fact that it is not possible to determine with certainty the necessary duration of treatment of addiction in all specific situations, it has been prescribed the maximum duration of this preventive measure and that the treatment of a juvenile offender in any case does not exceed one year.

The need for outpatient treatment of juvenile dependency is estimated based on the opinions of experts in charge of specialized treatment of the minors. On the other hand, only if the juvenile offender agrees to undergo outpatient treatment of addiction, he can be imposed this conditional minor offence sanction. Given that success of outpatient treatment of juveniles (i.e. outpatient treatment or treatment at liberty) depends largely on the willingness of the minor to undergo outpatient treatment of addiction and to accept all the necessary limitations, in the case the juvenile offender does not undergo a

[41] Ban to operete motor vehicle can be also imposed in the water transport (decision of the Supreme Court of Serbia, Kz. 154/1987 of 17 April 1987.).

[42] We think that much more appropriate title for this protective measure would be: Compulsory treatment of alcoholics and drug addicts as provided for in the Law on Minor Offences of the Republic of Srpska in Article 53. The reason for this decision is certainly in full clarity and precision of certain definition, because the current name of this protective measure is totally inaccurate (for example, the addiction can be not only to alcohol and drugs, but also to cigarettes, coffee etc.).

[43] Article 21 of the Republic of Srpska Minor Offence Law.

certain outpatient treatment of addiction, the court shall revoke a suspended minor offence sanction. Therefore, revocation of suspended or mitigated sanctions is possible when a juvenile, in spite of the accepted obligation, refuses to undergo or leave the outpatient treatment of addiction without good reason.

CONCLUSION:

Security measures, that is, protection measures are a special category of criminal or minor offence sanctions of recent times that appeared at late XIX and early XX century. In fact, this is the time when the idea that the use of punishment is not always effective starts to penetrate into the correctional legislation, especially in those situations where the offense was committed due to the effects of various social factors such as poverty or growing up in the crime-oriented surroundings or psychological factors such as reduced intelligence of the offender or his addiction to alcohol, drugs or other psychotropic substances. In such cases there is a need to implement special measures against the perpetrator of the crime, with the aim of eliminating the causes and conditions that led to the commission of a criminal act, and which may make the offender to continue in the future with such behavior. These special measures are of special preventive character and are called security measures in the criminal law, or protective measures in minor offence law. These specific sanctions have their widespread use in relation to juvenile offenders and offenses.

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