ТЕМЕ

ЧАСОПИС ЗА ДРУШТВЕНЕ НАУКЕ

UDK 1+3

4

2019

ISSN 0353-7919

ТМ Г. XLIII Бр. 4, стр. 931–1264, Ниш, октобар–децембар 2019.

TEME 4/2019

Издаје
УНИВЕРЗИТЕТ У НИШУ

Часопис излази тромесечно
Тираж: 150 примерака
Часопис је доступан преко Index Copernicusa,
„Онлајн библиотеке централне и источне Европе”
(CEEOL), EBSCO базе и Српског цитатног индекса
Реферисан у DOAJ

Published by
UNIVERSITY OF NIŠ

Адреса редакције
Универзитетски трг 2, 18000 Ниш
Тел. (018) 257-095
Штампа „UNIGRAF-X-COPY”, Ниш


УНИВЕРЗИТЕТ
У НИШУ

CIP - Каталогизација у публикацији
Народна библиотека Србије, Београд

3

TEME : часопис за друштвене науке / главни и одговорни уредник Сузана Ђукић. - Год. 13, бр. 1/2 (1990)- . - Ниш : Универзитет у Нишу, 1990- (Ниш : Unigraf-x-copy). - 24 cm

Tromesečno. - Je nastavak: Marksističke teme (Niš) = ISSN 0351-1685
ISSN 0353-7919 = Teme (Niš)
COBISS.SR-ID 559631

Публиковање часописа TEME суфинансира Министарство просвете, науке и технолошког развоја Републике Србије.

TEME

ЧАСОПИС ЗА ДРУШТВЕНЕ НАУКЕ

TEME, г. XLIII, бр. 4, октобар–децембар 2019, стр. 931–1264

UDK: 1+3 ISSN 0353-7919

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TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 931–956

Оригинални научни рад https://doi.org/10.22190/TEME190918056S
Примљено: 18. 9. 2019. UDK 343.1:343.9.02(497.6)"2015/2018"
Ревидирана верзија: 18. 9. 2019.
Одобрено за штампу: 1. 12. 2019.

ADEQUACY OF PENAL POLICY IN CRIMINAL CASES OF ORGANIZED CRIME

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Abstract

Organized crime is a serious form of crime, whether it is viewed in the criminological sense or as the criminal justice response to this phenomenon. In this regard, the penal policy of the legislator should be proportionate to the gravity of organized crime. However, the penal policy of the courts does not reflect the stated intentions, which is primarily reflected in relatively mild criminal penalties for criminal offenses of organized crime. Although the case law does not contravene the law, i.e. *contra legem*, because it moves within the boundaries prescribed by the law, it is obvious that the issue is about imbalance of punishment for these criminal offenses, even when it comes to mitigating of the sentence of imprisonment. This paper will provide an analysis of the criminal law framework of organized crime prescribed by the Criminal Code of Bosnia and Herzegovina (CC BiH), as well as an analysis (statistical and descriptive) of the jurisprudence in the criminal cases of organized crime before the Court of Bosnia and Herzegovina (Court of BiH) for the period 2015-2018. As it is not justified and desirable for the legislator's criminal policy and court case jurisprudence to have a different approach in relation to these criminal offenses (different valuation and grading of severity of organized crimes), we will also make certain proposals for *de lege ferenda*. The paper is a continuation of earlier researches of this problem and is based on the analysis of court judgments in organized crime cases.

Key words: organized crime, court case law, penal policy, judgment, analysis.

АДЕКВАТНОСТ КАЗНЕНЕ ПОЛИТИКЕ У КРИВИЧНИМ ПРЕДМЕТИМА ОРГАНИЗОВАНОГ КРИМИНАЛИТЕТА

Апстракт

Организовани криминалитет спада у тешке облике криминалитета, било да се посматра у криминолошком смислу или да се говори о кривичноправном реаговању на овај криминални феномен. У том смислу, требало би да казнена политика

законодавца одговара тежини кривичних дјела организованог криминалитета. С друге стране, казнена политика судова не одражава наведене интенције, што се прије свега огледа у релативно благим кривичним санкцијама за кривична дјела организованог криминалитета. Иако судска пракса не поступа супротно закону, тј. *contra legem*, јер се креће у границама које су њиме прописане, па чак и кад се ради о ублажавању казне затвора, очигледно је да се ради о дисбалансу кажњавања за ова кривична дјела. У раду ће бити дата анализа кривичноправног оквира организованог криминалитета прописаног Кривичним законом Босне и Херцеговине [КЗ БиХ], као и анализа (статистичка и дескриптивна) судске праксе у кривичним предметима организованог криминалтитета пред Судом Босне и Херцеговине [Суд БиХ] за период 2015–2018. године. Будући да није оправдано и пожељно да казнена политика законодавца и судска пракса имају различит приступ по питању ових кривичних дјела (различито вредновање и степеновање тежине инкриминација организованог криминалитета), даћемо и одређене приједлоге *de lege ferenda*. Рад представља наставак ранијих истраживања ове проблематике и заснован је на анализи судских пресуда у предметима организованог криминалитета.

Кључне ријечи: организовани криминалитет, судска пракса, казнена политика, пресуда, анализа.

INTRODUCTION

As the primary purpose of criminal law is to exercise a protective function by prescribing criminal offenses and criminal sanctions for these offenses (Stojanović, 2009, p. 3), through the Criminal Code (Criminal Code of Bosnia and Herzegovina, 2003, 2004, 2005, 2006, 2010, 2014, 2015, 2018 (CC BiH)), the logical sequence is their application, which is established in criminal proceedings in which a criminal sanction is imposed for the committed criminal offense (Stojanović, 2009, p 3). Therefore, in order to achieve the purpose of punishment (CC BiH, Article 39), it is necessary to prescribe appropriate criminal sanctions (type and range of criminal sanctions) based on its proportionality to the severity of threat to personal freedoms and human rights, and other basic values (CC BiH, Article 2, paragraph 2), as well as their adequate application in criminal proceedings. In this manner, the criminal-political commitment of punishment for certain types of behavior is expressed; that is, the principle of the limiting of criminal coercion is confirmed, thus ensuring its legitimacy[1].

Organized crime, as a serious form of crime[2], is present in various forms in Bosnia and Herzegovina (BiH). This is supported by the

[1] This principle requires the enforcement of criminal justice protection to the minimum necessary, as well as the use of other adequate means and measures to prevent behaviors that attack the most valuable goods of man and society (Stojanović, 2018, p. 40).

[2] As organized crime understands those forms of criminal offenses that are qualified by more serious circumstances (acts of multiple persons mutually connected, use of violence, etc.) for which a more serious criminal sanction is envisaged (the lowest sentence of certain duration), including sentence of imprisonment and sentence of

assessments of state authorities that characterize organized crime as „a contemporary borderless security threat that threatens the present stage of civilization's development and its achievements and an obstacle to further progress“ (Council of Ministers, 2016, p. 4). In addition to that, violent murders related to organized crime have occured in BiH, including the so-called „ordered murders“ as a result of the conflicts between organized criminal groups[3]; there has been an increase in the participation of BiH citizens in international chains of smuggling and trafficking of narcotic drugs; robberies that resulted in the seizure of multi-million property gain[4] have been recorded; but also, human trafficking, both for sexual and labor exploitation; and, finally, substantial material damage as a consequence of commission of criminal offense of organized crime in economy and finance (Šikman, 2019, p. 370). Also, there is extensive case law on organized crime in BiH since criminal proceedings have been conducted for these criminal offenses before courts of all levels and jurisdictions from 2003.

However, these issues are not sufficiently clarified in their general sense, and bringing them into connection with particular forms of crime, such as organized crime, further deepens this issue. If we add to this the concept of adequacy that has to be applicable, socially rational and fair in terms of the system of criminal law norms, in order to serve a function of criminal policy (Bejatović, 2012, p. 24), then we have a complex issue whose assessment requires an analysis of the organized crime legislative framework and an analysis of court jurisprudence when it comes to these criminal offenses. The aforementioned is the subject of this paper, the aim of which is to observe the adequacy of criminal law incriminations of organized crime, on the one hand, and the adequacy of criminal penalties imposed, on the other.

That is why we are talking about the legislator's penal policy and the penal policy of the courts when it comes to organized crime. The paper is a continuation of earlier researches of authors on this topic[5], in which the

long-term imprisonment, it is quite justified to understand it as serious form of crime (Simović, Šikman, 2017, p. 206; Stojanović, Kolarić, 2014, p. 106).

[3] Thus, in one case, criminal groups confronted with each other, with several persons deprived of their lives using firearms and explosive materials (S1 2 K 006087 14 Kžk of 22.05.2017), while in the other case more serious murders were done within one criminal group (S1 2 K 006087 14 Kžk of 16.04.2015). These events had a great impact on the public, and they also received a court epilogue.

[4] One of the most notorious cases is the robbery of a money transport in 2010 in Dužice, near Široki Brijeg, when between 7 and 10 million KM were taken and the perpetrators have not been discovered to date (Vukić, 2010).

[5] The first part of the research was presented at the conference "Penal Policy and Crime Prevention", held in April 2019 in Trebinje, organized by the Serbian Association for Legal Theory and Practice. The paper entitled "Organized Crime – Criminology and Court Case Law in Bosnia and Herzegovina" was published in the Book of Papers from the conference (369-392).

subject of research was criminal and court case law in criminal cases of organized crime in BiH. As stated: „taking into account the scope of work and limitations in this regard, the analysis of criminal sanctions for criminal offenses of organized crime is a subject of a separate paper, which will present more detailed results of research" (Šikman, 2019, p. 371). In support of the need for this type of research the authors point out that other researches in BiH[6] have not been realized so far[7], while research into related issues, such as corruption and terrorism[8], has been carried out.

PENAL POLICY IN RELATION TO ORGANIZED CRIME

Although some of these issues are a matter of debate among lawyers[9], penal policy[10] in relation to organized crime is viewed as a policy of prescription pertaining to these criminal offenses and criminal sanctions (including other criminal justice institutions depending on the specificity of the criminal sanction in a particular criminal matter), as well as the policy pertaining to the imposition of criminal sanctions (compare Bejatović, 2019, p. 222). The first part of this approach should not be disputable, since the legislator implements the state's criminal-political orientation in relation to the fight against crime by prescribing criminal offenses and criminal

[6] Similar research has been done in Serbia (Fight against Organized Crime in Serbia - Legislation and Practice, 2008) and Montenegro (Analysis of Judgments for Criminal Offenses with Organized Crime Elements: Prevention or Encouragement of Organized Crime).

[7] In 2014, the Center for Security Studies published the "Study on Organized Crime in Bosnia and Herzegovina" which aims to: "identify areas of real threats, from the civil society perspective, that should be taken into account when making strategic national strategies with recommendations for specific operational plans for the fight against organized crime" (Center for Security Studies, 2014, p. 6).

[8] One research was prepared by the Court of BiH in 2017, entitled "Prosecution of Corruption and Terrorism Cases before the Court of Bosnia and Herzegovina" (see: Court of BiH, 2017), while the other that may be cited is USAID's Judiciary Project in Bosnia and Herzegovina within which in 2017 presented "Analysis of Prosecution of Criminal Offenses of Corruption in Bosnia and Herzegovina through a Case Study Selection" (see: USAID, 2017). Also, we can mention researches conducted by the OSCE Mission to BiH entitled "Assessing the Needs of the Judiciary in Prosecution of Corruption through Monitoring the Work on Criminal Cases", which published two assessments in 2018, "Monitoring the prosecution of corruption cases in BiH: first assessment" (see: OSCE Mission to BiH, 2018) and 2019 "Monitoring the prosecution of corruption cases in BiH: second assessment (see: OSCE Mission to BiH, 2019).

[9] The concept of penal policy is quite differentiated in the sense of criminal law science and can be regarded both in the widest sense as policy in general (Jakulin, 2012, p. 129), or in narrower either as penal policy of the legislation or as penal policy of the courts.

[10] The concept of penal policy in the science of criminal law is quite differentiated and can be observed from the broadest sense as a policy in general (Jakulin, 2012, p. 129) to narrower understandings, either as penal policy of the legislator or penal policy of the courts.

sanctions[11]. The second part, although containing the word 'policy', is also not disputable because the courts, as well as other bodies of formal social control, make decisions within their jurisdictions that form part of the prosecution policy (Ignjatović, 2012, p. 103). In fact, it should be taken into account that the provisions of criminal law related to sentencing (CC BiH, Article 48) are, by their nature, such that they leave enough room for court sentencing (Risimović, Kolarić, 2016, p. 2). Due to the fact that there is a low degree of attachment to the law, that the law establishes only some general and very broad legal frameworks, it can be said that these frameworks enables the courts to conduct only certain penal policy (Stojanović, 2012, p. 8).

When it comes to the prescribing of criminal offenses of organized crime, this is one of the most complex issues because the very concept of organized crime[12] is quite disputable and subject to discussions of different nature (scientific, practical, etc.) (Simović, Šikman, 2017, p. 210). The key question is how and in which way to incriminate the already wide range of behaviors that constitute organized crime, so that such a norm is adequate and consistent with the international legal framework in this field. Therefore, the general concept of organized crime, as stated by Škulić (2015): „is not solely based on the norms of positive legislation, but rather refers to the defining of the entirety of this form of crime and basically explains those most typical ones, and also the most serious forms of organized crime actions, which means that it does not cover all criminal offenses committed by organized criminal groups as defined by our positive criminal legislation, nor by the members of such criminal group" (p. 56).

In this sense, these criminal offenses are prescribed by all criminal laws in BiH[13] (Criminal Code of BiH, Criminal Code of the Federation of BiH[14], Criminal Code of the Republika Srpska[15] and Criminal Code of

[11] As these are the most serious crimes, there is no dispute about the necessity to prescribe these behaviors as criminal offenses. What can be discussed here is the way they are prescribed.

[12] Before all, organized crime is a concept of criminology nature, whilst, from the position of criminal and substantive law, it includes numerous different criminal offenses (Stojanović, Kolarić, 2014, p. 105, 106).

[13] In BiH, when it comes to criminal law, there are four criminal laws that are established on the principles of parallel and divided jurisdiction, according to the constitutional order of BiH. Thus, there are the Criminal Code of BiH, the Criminal Code of the Federation of BiH, the Criminal Code of the Republika Srpska and the Criminal Code of the Brčko District of BiH.

[14] Chapter XXIX (Criminal Offenses Against Judiciary) of the Criminal Code of the Federation of BiH defines that these are the following offenses: Arrangement for Committing Criminal Offenses Article 338, Preparation of Criminal Offenses, Article 339, Association for the Purpose of Commission of Criminal Offenses, Article 340, Participation in Criminal Offense Group, Article 341, Criminal Organization, Article 342 (Criminal Code of FBiH, Official Gazette of FBiH, 2003, 2004, 2005, 2010, 2011, 2014, 2016).

Brčko District of Bosnia and Herzegovina[16]). The legal basis for these incriminations are international law documents, but primarily, it is the United Nations Convention against Transnational Organized Crime (2000), adopted by the United Nations in 2000 (the so-called Palermo Convention), and its three additional Protocols[17], and the Framework Decision of the European Union on the Fight against Organized Crime from 2008 (Council Framework Decision 2008/841/JHA) which incriminate criminal offenses related to the involvement in a criminal organization. Therefore, the concept of organized crime includes the joint commission of criminal offenses by members of criminal association, leaving the possibility to associate to commit a wide range of criminal offenses (Stojanović, Kolarić, 2014, p. 106). Thus, in a separate section of the CC of BiH, the legislator devoted a chapter XXII – Conspiring, Preparation, Association and Organized Crime - that prescribes criminal offenses of conspiring to commit criminal offenses (Article 247), the preparation of a criminal offense (Article 248), association for committing criminal offenses (Article 249) and organized crime (Article 250), which emphasizes a high degree of danger of these criminal offenses that justifies their incrimination (Бабић, М. ет ал., 2005, p. 794). By criminal offenses prescribed under this Chapter, criminal organizations aimed at the continuous commission of criminal offenses which have the characteristics of organized crime and which are provided for by the said Law, can be organized. It is noted that this Criminal Code contains a criminal offense called Organized crime (Article 250), which is not common[18] since this offense understands the commission of any criminal offense prescribed under BiH law by a

[15] In Chapter XXVIII (Criminal Offenses against Public Order and Peace) of the Criminal Code of the Republika Srpska, these criminal offenses are systematized, and they include: Arrangement for the commission of criminal offense, Art. 364, Association for the Purpose of Committing of Criminal Offenses, Art. 365, Commission of a criminal offense within the criminal association, Art. 366, Participation in a Group that Commits Criminal Offense, Art. 367 (Criminal Code of the Republika Srpska, 2017, 2018).

[16] In the Criminal Code of Brčko District of BiH, these are Criminal offenses against judiciary: Arrangement for the commission of criminal offenses, Art. 332, Crime preparation, Art. 333, Association for the purpose of committing of criminal offenses, Art. 334, Participation in a group that commits criminal offense, Art. 335, Criminal organization, Art. 336 (Criminal Code of Brčko District of BiH, 2013, 2016).

[17] These are the three protocols regulating transnational organized crime in specific areas: the Protocol to Prevent, Fight and Punish Trafficking in Human Beings, Especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000) and the Protocol against Illicit Production and Trade in Firearms, Their Parts and Ammunition (2003).

[18] Comparative criminal legislation avoids naming a criminal offense in this way, as Stojanović and Kolarić (2014) state: "such a provision would have to be extremely broad, to cover a large number of behaviors that could be included into that concept, which would be in direct opposition to the principle of legality and its segment of *lex certa*, which emphasizes that the criminal law must specify as precisely as possible a certain conducts constituting criminal offense and the punishment for it" (p. 106).

person being a member of organized crime group[19] (paragraph 1); a criminal offense for which the sentence of three years of imprisonment or more severe sentence may be prescribed (paragraph 2), as more serious form; organizing or otherwise managing an organized crime group (paragraph 3), as an even more serious form; or if a person becomes a member of an organized crime group (paragraph 4) which commits or attempts to committ a criminal offense prescribed under BiH law by joint action, unless a more severe sentence is prescribed for an individual offense (Simović, Šikman, 2017, p. 251).

Quite severe penalties are prescribed for the aforementioned criminal offense of organized crime. Thus, a sentence of imprisonment for at least three years is prescribed for a basic form of criminal offense, and at least five years for its more severe form; a sentence of imprisonment of at least ten years or long-term imprisonment for organizing or managing a group, while the prescribed sentence of imprisonment of at least one year is prescribed for an admission to an organized crime group. It is also prescribed that a member of an organized crime group, including the organizer who discloses the group, may be released without punishment (CC BiH, Article 250, paragraph 5). Therefore, the criminal law framework, viewed through the provisions of substantive criminal law[20], taking into account the aforementioned objections, can be considered as adequate. Criminal offenses by which a criminal group for organized crime may be formed, as well as appropriate penalties for such behaviors have been prescribed.

Case law in organized crime cases is about the application of legal provisions and decision-making in accordance with these provisions. When the legislator has adopted a system of relatively specific penalties, when penalties for criminal offenses for organized crime are prescribed for a wide range of behaviors, determining the penalty is of great importance[21]. The determining of penalty can be within the scope of a

[19] Organized crime group is a group of three or more persons, existing at a certain period of time and acting by agreement with the aim of committing one or more criminal offenses for which a sentence of imprisonment of more than three years or more severe punishment may be imposed under the law, for a purpose of acquiring of material benefit (CC BiH, Article 1 paragraph 22). In addition to this term, there is a related term of organized group in the CC BiH, which is a group of people formed for direct commission of criminal offense, and which does not have to have formally defined roles of its members, continuity of membership, or a developed structure (CC BiH, Article 1, paragraph 21) to make a distinction in relation to organized crime group.

[20] The criminal law framework against organized crime also includes the provisions of criminal procedural legislation. Before all, they concern the introduction and application of special investigative actions in detecting and proving of these criminal offenses (see more in Simović, Šikman, 2017).

[21] In literature, when it comes to determining a penalty in general, it is widely accepted that only court's penalty is a penalty in the true sense of the word, while legal determination of penalty is in principle *in abstracto* (Stojanović, 2009, p. 268).

penalty for a specific criminal offense, a penalty less aggravating than the prescribed penalty (penalty mitigation) or a penalty more aggravating than the prescribed penalty (sentence enhancement) (Stojanović, 2009, p. 268). However, case law cannot only be a mere decision-making process, since even this process involves the conscious involvement of judges, which includes interpretation and judgment, etc., but every court decision reveals the sociological situation and its relationship with the legal system (Rašović, 2017, p. 121). Thus, the case law should answer two questions on different sides. The first one concerns the equal and harmonized application of rights, which ensure the generality of the law, equality before the law and legal certainty[22]. The starting point is that the purpose of the court decision is not only to resolve the dispute in question by providing legal certainty to the parties, but often to establish case law that can prevent occurence of other disputes and provide social harmony (Consultative Council of European Judges (CCJE), 2008). The answer to the second question strives to understand that the court should adapt the penalty in each individual case to the perpetrator of the criminal offense because it is only in this manner that the purpose of punishment can be achieved (Risimović, Kolarić, 2016, p. 2). Regardless of the fact that the issue of individualization of penalty, i.e. determination of personality-oriented penalty, is justifiably criticized[23], it still occupies an important place in the decision-making process of the courts.

Finally, the assessment of the adequacy of penal policy in cases of organized crime can be seen as a useful question. The term adequacy of criminal legislation and penal policy could be used as an answer to this question, and according to Bejatović (2018) this term implies: "the policy of prescribing criminal justice measures and other instruments for the necessary degree of state's opposition to criminal activities of any kind and for the policy of imposing criminal sanctions and application of other criminal measures against the perpetrators of criminal offenses" (p. 9). Thus, the general aim would be to enable the application of a substantive criminal law to a particular case, i.e. to determine by a court decision whether a criminal offense was committed, whether it was committed by the accused, whether a criminal sanction can be imposed on the accused

[22] Namely, according to Opinion no. 20 of the Consultative Council of European Judges (2017), in the country of the rule of law, each citizen reasonably expects to be treated like others, and to be able to rely on previous decisions in comparable cases and thus foresee the legal consequences of his actions or omissions (Consultative Council of European Judges (CCJE), 2017, pp. 5 and 6).

[23] As Stojanovic (2009) notes: "not only that orientation to treatment and re-socialization as a pillar of the criminal law have been abandoned, but also determination of personality-oriented penalty is an illusion leading to an enormously wide scope of free choice to decide when determining the penalty, and thus to arbitrariness and even abuse" (p. 268).

(Simović, Simović, 2016, p. 35), while the specific aims concern the individual phases and stages of the procedure, which fit into the general objective (Simović, Simović, 2016, p. 35). In this sense, a quality court decision and impartial consideration of all issues (factual and legal) are integral parts of such perceived efficiency (Fillipović, 2017, p. 6). Of course, it is understood that this decision was reached in the optimal time period, i.e. the time that was objectively necessary to resolve the criminal case without undue delay, with full respect for the lawfulness of its conduct (Bejatović, 2015, p. 28).

METHODOLOGY APPLIED IN THE PAPER

In order to determine the adequacy of penal policy in organized crime cases, an analysis of the content of court judgments in these cases was made. The data was collected from court decisions in selected organized cases of organized crime in the period between 2015 and 2018 that were conducted before the Court of BiH. The data was collected through the web page of the Court of BiH[24], by selecting in the section Case law of BiH year: 2018, 2017, 2016, 2015, Section: Section II, Type of judgment: the first instance judgment. By selecting the appropriate parameters, one can find necessary information, including: information on the accused, information on the case (indictment, course of the case, etc.), press releases related to the case, as well as the Court documentation, i.e. judgments, rulings, decisions and others. For the analysis in question, the authors selected criminal offenses which are typical for the activities of organized crime groups. The analysis included 21 judgments convicting 44 persons according to the following types of criminal offenses: organized crime in relation to the criminal offense of illicit trafficking of narcotics - 6 judgments; organized crime related to the criminal offense of human trafficking - 4 judgments, two of which referred to cases where the indictment was altered to criminal offense of international incitement to prostitution; organized crime related to criminal offense of robbery, murder and other crimes - 4 judgments; organized crime related to document forgery - 3 judgments; and one judgment for each criminal offense of organized crime related to: illicit trafficking of arms, military equipment and dual-use products; criminal offense of organized crime in relation to tax evasion or fraud; and the criminal offense of organized crime in relation to abuse of position and smuggling (compare: Šikman, 2019).

After collecting the data, their systematic, accurate and objective analysis was started by using the methods of analysis (of content) of the documents[25]. In this sense, both qualitative analysis (extraction of specific

[24] According to: Court of Bosnia and Herzegovina, web page: *http://www.sudbih.gov.ba/*

[25] According to the results of methodological researches and theoretical-empirical analyzes, according to Milan Miljević (2007), it follows that "document analysis is an

observations) and quantitative content analysis[26] (numerical presentation of analyzed contents) were applied. Thus, the analysis identified and analyzed the following categories[27]: the type and duration of imposed criminal sanction for criminal offense of organized crime, general rules for determining the penalty (aggravating and mitigating circumstances), and the use of plea agreements as a separate institute of simplified form of actions in criminal proceedings. Of course, this research recognizes its shortcomings and they are primarily related to the sample. Therefore, these results can be used to draw partial conclusions, which need to be brought into connection with other aspects of the problem.

SURVEY OF RESEARCH RESULTS WITH DISCUSSION

The results of the survey are presented in three categories: *the first*, type and amount of imposed penalty for criminal offenses of organized crime; *the second*, the general rules for determining the penalty (aggravating and mitigating circumstances), and *the third*, the use of plea agreement.

The Type and Amount of Criminal Sanction

The analyzed decisions of the Court of Bosnia and Herzegovina impose penalties, warning measures and security measures on the accused persons.

Among penalties, the most frequent was the sentence of imprisonment, which was pronounced in 85.71% of cases, while 14.28% of cases were concluded with probation[28]. In one case, long-term imprisonment was imposed, and in the other, a maximum term of 20 years of imprisonment. Thus, in one of the most important criminal proceedings in cases of organized crime, conducted from 2010 to 2015, which included a

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irreplaceable, pervasive and reliable operational method of collecting and treating data on past, present and future phenomena, on territorially and temporally close but also very distant occurrences. A direct object of research through the analysis of documents can be any factor, part or whole phenomenon, its quantitative or qualitative characteristic, etc., if it is in any way recorded" (p. 235).

[26] Using both approaches in the same research is a way to overcome the shortcomings of quantitative and qualitative content analysis individually, that is, to take advantage of the application of both of them, which enables to obtain better results (Manić, 2014, p. 56).

[27] Here, we emphasize that, due to the incomplete content of the available data, these categories were not precisely defined in advance, but were established on the basis of the experiential material itself (compare: Manić, 2014, p. 50).

[28] With a suspended sentence, the court determines the sentence to the perpetrator of the criminal offense and at the same time determines that it will not be executed if the convicted person does not commit a new criminal offense during the period determined by the court, which cannot be less than one year or more than five years (probation time) (CCBiH, Article 59 paragraph 1).

criminal organization[29] characterized by extreme cruelty, brutality and malice in its actions[30], the organizer and one member of the group were sentenced to long-term imprisonment (40 and 35 years), and others to sentences of imprisonment (Judgment of the Court of BiH, Case No. S1 2 K 006087 14 Kžk of 16 April 2015 [1S1 2 K 006087 14 Kžk of 16 April 2015]). In another case, conducted from 2013 to 2016 against 32 persons accused of being members of one of the largest organized crime groups[31], not only in BiH, but also in the region, were charged with organized crime in relation to multiple killings and aggravated murders, robberies (of banks and multi-million dollar money transports), money laundering and other serious criminal offenses, and adequately sentenced to imprisonment, including one for a maximum term of 20 years (S1 2 K 015384 14 K of 14 September 2016). In the same criminal case, the Appellate Panel's decision upheld the appeal by the Prosecutor's Office of BiH and altered the first instance judgment in terms of the sentence, increasing the sentence of imprisonment from 13 to 15 years (S1 2 K 013756 15 Kž 3 of 10 March 2016), and this can be cited as an example of adequacy.

In addition to that, in the second case of organized crime in relation to the criminal offense of illicit drug trafficking, the court pronounced sentences of imprisonment in term of five and seven years, respectively (S1 2 K 017901 15 K of 05 May 2017). Similarly, in the third criminal case, in addition to the sentence of imprisonment (in this case, six years of imprisonment), the second defendant was fined as secondary penalty (in the amount of KM 50,000), and the property gained was seized from both defendants (S 1 2 K 020632 16 K dated 16 June 2017). On the other hand, there may be cases where penalties are imposed at the lower minimum of the

[29] The aforementioned organized crime group operated from the beginning of 2005 to September 2010, and was aimed at the illicit drug trafficking (heroin and cocaine). Also, this group by its joint actions organized, committed a criminal offense of aggravated murder (in a cruel and treacherous manner), attempted murder, and the caused a general threat to life and property of greater scope with an explosion (S1 2 K 006087 14 Kžk of 16 April 2015).

[30] Namely, as it follows for presented evidence, murders in question were committed by fraud in term of accessing the victim, since murdered persons were not able to notice actions before the murder, did not expect it and could not provide any resistance. The accused persons relied on trust between murdered persons on the one hand, and the accused on the other, since it was a long term acquaintance and persons worked together (S1 2 K 006087 11 K of 29 November 2013).

[31] Indictment of the Prosecutor's Office of BiH No. T20 0 KT 002654 12 of 28 August 2013; which was upheld by the Court of BiH on 04 September 2013, initiated the criminal proceedings in the case under number S1 2 K 013756 13 Ko. On 9 May 2014 the main trial was initiated before this Court against the aforementioned accused persons, which was concluded on 14 September 2016 by the first instance judgment, that is on 22 May 2017 when the second instance judgment was passed (S1 2 K 015384 14 K of 14 September 2016 and S1 2 K 006087 14 Kžk of 22 May 2017).

sentence prescribed for the criminal offense. Although the Court moved within the limits prescribed by law, in some cases it was evident that only mitigating circumstances (e.g. confessing to a crime and proper attitude before the Court) were taken into account, but not the aggravating circumstances, although, for example, in the reasoning of the particular judgment it is stated that the accused took advantage of the victims' difficult financial situation (S 1 2 K 014792 14 K of 7 March 2017). However, we may consider it is correct standing to take as mitigating circumstances the fact that the accused was prepared to testify against the organized crime group whose member he was (S1 2 K 026155 17 K of 11. September 2017; S1 2 K 024459 17 K of 28 February 2017; S1 2 K 026064 17 K of 24 August 2017), which is certainly in accordance to the criminal-political orientation to impose less severe sentences on those members of the group willing to contribute to criminal proceedings in this way[32]. These criminal sanctions may be considered adequate given that they are imposed within the limits of the penalties prescribed for a specific criminal offense.

Furthermore, in certain cases, penalties were imposed below the prescribed minimum. Namely, in some cases of organized crime, mitigation of the sanction prescribed under the law was also recorded (see Articles 49 and 50 of the CC BiH), which raises the question of adequacy of punishment for such serious criminal offenses[33]. Even the fact that the accused did not obtain personal gain from criminal acts committed, but acted for the organizers of the group (S1 2 K 026684 17 Ko of 20 November 2017) or expressed his willingness to repay the amount of illicitly obtained property gain (S1 2 K 025168 17 Ko of 12 May 2017), that is, the existence of other particularly mitigating circumstances, raises the question of whether reaching the purpose of punishment is possible by mitigating the punishment. Especially considering that in the other case the same Court allowed as mitigating circumstance the statement that the accused acted

[32] In this case, it is a kind of procedural "hybrid", that is, an entity in which procedural characteristics of the accused and the witness are "mixed" (Škulić, 2015, p. 406). According to Škulić (2015), *ratio legis* of enabling of such procedural transformation (accused into witness) is based on two basic assumptions: "on one hand, on the awareness that without persons who were actively involved in the activities of certain criminal organizations (the so-called insiders) it is practically almost impossible to obtain necessary evidential information, and on the other hand, on noting that it is better for a society to have a number of less dangerous perpetrators of criminal offenses, who were not dominant generators of criminal activities of a particular organization, consciously does not cover criminal justice repression but, under necessary conditions, that they have crucially contributed to the success in proving, by their cooperation in criminal proceedings against much more dangerous perpetrators of criminal offenses," (p. 408).

[33] In one criminal case, the total illegal property gain was determined in the amount of KM 348,902.00, which can be considered as qualified circumstance (S1 2 K 026684 17 Ko of 20 November 2017).

only on the request of his brother, which in no case could exclude or diminish criminal liability of the accused (S 1 2 K 020632 16 K of 16 June 2017). Moreover, in some cases the Court found the existence of aggravating circumstances (e.g. S1 2 K 023109 16 K of 10 March 2017 and other judgments), but did not regard them as a decisive fact to mitigate the sentence. We need to emphasize on the fact that the Court mitigated the penalties for criminal offenses of organized crime related to narcotics[34] (S1 2 K 019332 15 K of 27 August 2015), robberies[35] (S1 2 K 021292 16 K of 04 April 2016), abuse of office[36] (S1 2 K 023617 16 Ko of 08 November 2016), etc., and this gives sufficient reason for concern. The position of the Court in other criminal cases should also be added to the aforementioned, and that is that: „aggravating circumstance may be considered to be commission of criminal offenses as part of an organized crime group, given that organized crime is the most dangerous form of crime today“ (S 1 2 K 020632 16 K of 16 June 2017). However, a differentiation should also be made regarding the amount of mitigated sentence, as in some cases severe sentences of imprisonment were imposed, even when they were mitigated, e.g. more than five years of imprisonment (S1 2 K 019373 15 K of 10 January 2017), while in other cases penalties were maximally mitigated (S1 2 K 021292 16 K of 04 April 2016).

We also feel obligated to mention such cases where probation for criminal offenses of organized crime was granted (S1 2 K 027624 18 K of 25 January 2018; S1 2 K 025666 17 K of 10 July 2017; S1 2 K 021401 16 K of 11 April 2016). The question arises as to whether sending a warning with the threat of punishment can achieve the purpose of punishment in cases of serious criminal offenses such as organized crime. If the accused discloses the organized crime group, as well as the organizer, the structure, positions and roles of the members (S1 2 K 025666 17 K of 10 July 2017), for which he may be released from punishment according to the Criminal Code of BiH (Article 250 paragraph 5), then the imposition of a suspended sentence is justified. On the other hand, by taking the contradictory position that the accused „played a minor role, but which was essential for the commission of the crime“ (S1 2 K 027624 18 K of 25 January 2018), and taking into account other mitigating circumstances (the frivolity of the accused, age, difficult financial situation, family circumstances), with the striking absence

[34] Especially when it comes to the protective good, which is the health of the people, as well as subjective element of the perpetrator, which is the desire and awareness of participation in the said criminal offenses.

[35] Especially when taking into account the manner in which this criminal offense was committed, the use of firearms, the threat to the life and limb of the injured parties (S1 2 K 021292 16 K of 04 April 2016).

[36] In this case, a property gain in the amount of KM 50,000 was obtained, which is considered to be a serious criminal offense (S1 2 K 023617 16 Ko of 08 November 2016).

of aggravating circumstances in specific criminal cases, brings into question the achievement of purpose of criminal sanctions in such a way as to influence the accused not to commit criminal offenses in the future (special prevention), and to prevent others from committing criminal offenses (general prevention).

In addition to the penalties, in the analyzed court cases, the accused persons were also ordered security measures, which were intended to remedy the state or condition that may have impact on the perpetrator to commit criminal offenses in the future (CC BiH, Article 68). Thus, in 13 cases or 61.9% of cases, a security measure of confiscation of objects was pronounced, and in one case a ban on calls, activities or duties (S1 2 K 026684 17 Ko of 20 November 2017). Namely, the CC of BiH in Article 74 prescribes that objects which, in any way, in whole or in part, were used or intended to be used for the commission of the criminal offense or which were created by the commission of the criminal offense shall be confiscated if they are the property of the perpetrator (paragraph 1), or shall also be confiscated if they are not the property of the perpetrator, but if this does not affect the rights of third parties to compensate damage from the perpetrators (paragraph 2). Various items are confiscated, mostly passenger vehicles, mobile phones with their SIM card, narcotic drugs, but also immovable property[37], and other items used in the commission of the criminal offense[38].

Finally, although not a criminal sanction but a *sui generis* measure (Stojanović, 2009, p. 315), in a certain number of analyzed cases where a court decision established the commission of a criminal offense property gained in the commission of the offense was confiscated. The basis for its application is in the principle that no one can retain the property gain, income, profit or other gain obtained by criminal offense (CC BiH, Article 110), therefore, *ratio legis* of this provision is to prevent persons from "enjoying the results" of the criminal offense. Thus, in one case the defendant's property gain obtained by criminal offense in the amount of EUR 7,100.00 (seven thousand one hundred) was confiscated (S1 2 K 019373 15 K of 10 January 2017), in the other EUR 85,000.00 (eighty-five thousand) (S 1 2 K 020632 16 K of 16 June 2017), while in the third, the right of ownership (of real estate and company) was taken away (S1 2 K 006087 11 K of 28 November 2013), as well as smaller amounts in other cases.

[37] In one case, a garage of 18.68 m2 (S 1 2 K 020632 16 K of 16 June 2017) was seized from the accused.

[38] For example, a VF transmitter – GSM signal jammer was confiscated in one proceedings (C1 2 K 006087 11 K of 28 November 2013.).

General Rules for Determining the Penalty

Determining of penalty is a very important part of criminal law (Babić, Marković 2008, p. 162) because its correct application achieves the purpose of punishment and, consequently, the penal policy. As the basic criterion for the determining of penalty is the limit of the prescribed penalty, its achievement of the purpose of punishment is not disputable, because it is determined by the law as such. In this sense, the penalty imposed by the court in the regular determination of penalty must range between the specific minimum and the specific maximum. The important criteria are the aggravating and mitigating circumstances, which serve to reach a specific penalty within prescribed ones, taking into account the purpose of the penalty (Stojanović, 2009, p. 271).

In relation to circumstances prescribed under the law that are taken into account when determining the penalty (the degree of guilt, the motive for commission of the offense, the severity of the threat to or violation of protected good, circumstances under which the criminal offense was committed, earlier life of the perpetrator, his personal circumstances and his attitude after commission of the criminal offense, as well as other circumstances pertaining to the perpetrator's personality) (CC BiH, Article 48 paragraph 1), it is evident in the analyzed court decisions that the Court took into account only certain aforementioned categories. That is, what was taken into consideration and regarded as mitigating circumstances were the attitude of the offender after the commission of the criminal offense, and in particular, the admission of guilt for the crime in question, the expression of sincere remorse, the readiness of the accused to return property gain obtained by criminal offense, the correct attitude before the Court. In some cases, the Court assessed the accused's promised cooperation with the Prosecution as particularly mitigating circumstances in terms of the accused agreeing to testify against other defendants from the specific Indictment and to present everything he knew about the criminal offense, which could contribute to the more economic and efficient criminal proceedings (S1 2 K 019332 15 K of 27 August 2015; S1 2 K 024459 17 K of 28 February 2017; S1 2 K 021292 16 K of 04 April 2016). Also, in one case, the Court regarded as aggravating the fact that the accused had been on the run for a relatively long period of time (S 1 2 K 020632 16 K of 16 June 2017). On the side of personal circumstances, in many cases the Court established family circumstances[39], such as poor financial situation, poor health condition which is regarded as a mitigating circumstance. It is interesting

[39] In one case the Court took into account the fact that the accused: "has his family to which he wishes to contribute maximally after serving the sentence" (C1 2 K 026064 17 K of 24 August 2017.), while in other case: "it is a younger age person, living together with his mother and sick sister" (C1 2 K 023109 16 K of 10 March 2017.).

that the Court did not consider these circumstances in another context, as for example in one case where the Court, as mitigating circumstances of the accused, assessed the fact that he was „the father of two children" (S1 2 K 017901 15 K of 05 May 2017) and in the other one that the accused were „family people" (S1 2 K 023545 17 Ko of 30 November 2017), without taking into account the fact that in both cases the father and the son/s participated together in the execution of criminal offense and were sentenced to imprisonment by the same judgment.

Interesting are also the findings of the Court in relation to the previous life of perpetrators, when criminal history of the perpetrator is concerned. Thus, not having prior convictions was taken as mitigating circumstance, while the fact that the accused had previously been convicted was usually treated as aggravating. However, in some cases the Court did not consider earlier conviction as an aggravating circumstance, since it was not a conviction for the same or similar offense (S1 2 K 023109 16 K of 10 March 2017) or even if it was a criminal offense „twice the same criminal offense", the Court took into account that this was not a decisive fact (S1 2 K 023109 16 K of 10 March 2017) or that a significant period of time had passed since previous convictions (S1 2 K 026064 17 K of 24 August 2017; S1 2 K 024459 17 K of 28 February 2017).

On the other hand, there have been a few cases where the Court considered the circumstances affecting the determination of the degree of guilt, the motives for which the offense was committed, the severity of the threat or violation of protected good and the circumstances under which the offense was committed. It is clear that these circumstances in organized crime cases are aggravating circumstances, since the intent of the perpetrator to commit the said criminal offenses, the manner and means of its commission, the consequences of these criminal offenses, indicates precisely that[40]. Thus, the degree of guilt, which is reflected in: „long, systematic planning of individual killings, cruelty of killings, with consequences that are extremely serious and the number of persons killed and committed criminal offenses", persistence in commission of criminal offenses, the severity of violation of protected good, that is, the consequences of criminal offenses, which are reflected in one case in the death of five persons and one unborn child, expressed cruelty in the commission of murder (in the specific case it was established that killed persons got "signature headshot") (S1 2 K 006087 11 K of 28 November 2013), were taken as aggravating circumstances.

Also, the fact that: „the accused have shown particular persistence, especially when one appreciates the time continuity and organization of

[40] It is therefore surprising to see the Court's position in some cases that: "in determining the penalty to the accused the Court found no elements which could be characterized as aggravating circumstances" (S 1 2 K 014792 14 K of 07 March 2017; S 1 2 K 023838 16 K of 29 December 2016, S1 2 K 025168 17 Ko of 12 May 2017).

activities in this group, all related to the intensity of the desire of the accused persons and harmful consequences, as well as the role the accused persons had in the said group and the chain of execution of prepared actions“ was regarded as an aggravating circumstance (S 1 2 K 020632 16 K of 16 June 2017). Furthermore, as aggravating circumstances in the particular case, the Court assessed: ”first of all, the position held by the accused at the time of commission of the offense, that is, that during the whole period he was a high-ranking police officer and that he committed certain criminal offenses by using his official position“ (S1 2 K 015384 14 K of 14 September 2016). Similarly, the accused's family circumstances (father of an underage child) were not considered by the Court as mitigating circumstances in the particular case because the specific nature of the committed crime did not have the greater good in mind, included an utter disregard for human health and there certainly had to exist a will and awareness for the participation or commission of such criminal offense. (S 1 2 K 020632 16 K of 16 June 2017). However, the fact that the accused took advantage of the victim's bad financial situation[41] (S 1 2 K 014792 14 K of 7 March 2017) was not considered as aggravating circumstance, and neither was the manner in which the criminal offense was committed, which was reflected in the use of firearms, a threat to the life and limb of the injured persons (S1 2 K 021292 16 K of 04 April 2016).

It follows from the aforementioned that in the analyzed court judgments the Court in several cases reduced the penalties below the legally prescribed minimum, using this immediate basis for determining the penalty. It is evident that in these cases the circumstances having the character of mitigating circumstances were taken into account, while the aggravating circumstances were not considered decisive in the specific criminal cases. The stated cannot be completely justified considering the fact that persons charged with these criminal offenses of organized crime had motive for criminal offense, and awareness of the severity of the violation or the endangering of protected goods, as well as other facts that ascertain the character of aggravating circumstances.

[41] Thus, the reasoning of the judgment states: “As it appears from the statements of the injured parties, in the majority of cases, they were women from the territory of the Republic of Serbia, who were affected by the difficult material situation to agree to an offer to come to Bosnia and Herzegovina, i.e. Busovača. In their statements, the victims described in detail the manner in which they consented to provide sexual services, they cited the persons who explained them what their engagement was, and described all persons who participated in any way in their arrival, their consent to work at the facility “AS”, and their stay at the said facility” (S 1 2 K 014792 14 K of 07 March 2017).

The Guilty Plea Agreement

The guilty plea agreement[42] is an institute that has had its full application in criminal cases of organized crime. In the analyzed court proceedings, it is evident that the largest number of cases, 76.19% of them, were concluded through a guilty plea agreement. This has affected the efficiency and cost-effectiveness of specific criminal proceedings. Thus, for a better view, from the moment the indictment was confirmed (06 January 2015) to the guilty plea agreement in one criminal case, about six months (15 June 2015) have elapsed, while the proceedings for the other accused have been completed within more than three years (13 April 2018) (S1 2 K 017901 17 Kžk of 13 April 2018). In the second criminal case, two days have elapsed between the moment of the confirmation of the indictment and the first instance judgment (S1 2 K 025168 17 Ko of 12 May 2017) (Šikman, 2019).

What is characteristic about this type of the proceedings, in these cases, is that they involved several members of an organized crime group. The proceedings are usually separate from those of the accused ones for whom the court has accepted a guilty plea agreement, while for the others criminal proceedings are conducted[43] in a regular manner. However, it is clear that the main motive of the accused for entering into a plea agreement is the duration of the sentence, which usually goes below the statutory minimum. Thus, in many of the cases analyzed, the Court applied the provisions of Art. 39, 42 and 48 of the CC of BiH, and by applying the rules on mitigation of sentence from Art. 49 and Art. 50th c. 1. t. b) The BiH Criminal Code, for the criminal offense in question, imposed penalties below the statutory minimum (Simović, Šikman, 2018). In these proceedings, the Prosecution uses the possibility to propose the imposition of a sentence below the legally prescribed minimum of sentence of imprisonment for that criminal offense, that is, a lighter sanction for a suspect or accused in accordance with the criminal law, which the Court accepts in most cases, citing particularly mitigating circumstances and the position that the sentence imposed is proportional with the gravity of the offense and the degree of guilt of the accused, while aggravating circumstances are not found or, in more flagrant cases, they are assessed as irrelevant. The „sufficient evidence“

[42] The suspect, i.e. the accused and his defense attorney, before the conclusion of the main hearing, i.e. hearing before the Appellate Panel, may negotiate with the prosecutor on the conditions for guilty plea for the offense for which the suspect, i.e. the accused is charged with (Criminal Procedure Code of BiH 2003, 2004, 2005, 2006, 2007, 58/2008, 2009, 2013 and 2018, Article 321 paragraph 1).

[43] For example, in one criminal case, nine out of 12 defendants, including the group organizer, entered into plea agreements with the Prosecution, which were subsequently confirmed by the Court. One person was unavailable to the Court and the other two were convicted in the proceedings (S1 2 K 026064 17 K of 24 August 2017).

standard, which the legislator prescribes as a requirement for accepting the agreement, was determined by the Court in analyzed cases on the basis of the confession of the accused and the evidence listed in the indictment in question to which the defense had no objection.

Therefore, a balanced position should be taken between the efficiency of criminal proceedings (primarily in terms of its duration) and the imposed penalties, because the imposed penalty below minimum prescribed for serious crimes under the law, which organized crime is, is certainly not the most adequate solution in terms of general or special prevention, and certainly not in terms of the achieving of the purpose of punishment. Also, the analyzed judgments show that sufficient evidence was gathered on the basis of which the Court could form an adequate decision, with great certainty, in the regular course of the proceedings. This is also supported by the fact that these are professional perpetrators of criminal offenses, often convicted of the same criminal offenses in the past[44].

CONCLUSION

Based on the analysis of the legal framework and chosen court decisions, certain conclusions can be drawn regarding the adequacy of criminal policy in criminal cases of organized crime in BiH. The first part deals with the criminal policy of the legislator, which is reflected in the prescribing of criminal offenses of organized crime. Although some solutions are not fully harmonized with international legal acts (for example, the prescribed minimum penalty for these criminal offenses), it may be considered that the legal framework against organized crime is adequate. In support of this, organized crime group was defined, and a clear distinction was made in relation to the organized group. Taking into account the objections to its name, the criminal offense of organized crime has been introduced into CCBiH in 2003, including all the essential elements of incrimination of such behaviors (commission of criminal offense within the organized crime group, organizing or managing such a group, joining the group, as well as the possibility of a less severe punishment for those perpetrators who contribute to the detection and proving of these criminal offenses by their testimony).

The second part of the answer to the question about the adequacy of penal policy in criminal cases of organized crime was observed through

[44] In one case, during the course of criminal proceedings, while the accused was waiting for scheduled hearing, which considered his guilty plea agreement, he was, meanwhile, deprived of liberty by another prosecution for the same criminal offense. Although the Prosecution had the information in its possession, it did not abandon the proposed agreement and the Court accepted it despite the stated facts and he was determined a penalty below minimum prescribed under the law (Faktor.ba, 2015).

case law. Therefore, when it comes to the imposed criminal sanctions for criminal offenses pertaining to organized crime, on the basis of the analysis of court judgments in these criminal cases, we can conclude that the judicial outcomes vary (Šikman, 2019). Although we have taken into account the individualization of criminal sanction and the purpose of punishment, there is still a discrepancy in criminal policy of the Court since even the same criminal offenses show quite different criminal sanctions. On the one hand, the most severe criminal sanctions were imposed and these were sentences of long term imprisonment (up to 40 years), as well as sentences of imprisonment in maximum duration (20 years). In certain cases, more severe sentences of imprisonment in the second instance (15 instead of 13 years of imprisonment) were imposed, as well as fines as ancillary sentences.

On the other hand, relatively mild sentences of imprisonment have been imposed in most cases, very often mitigated below the legal minimum, including suspended sentences and even acquittals (Šikman, 2019). In the analyzed court decisions, when it comes to determination of penalty, it seems that the Court does not pay sufficient importance to the determining of aggravating circumstances on the part of the accused persons, while, at the same time, overestimates the mitigating circumstances (for example, personal circumstances of the perpetrator or behavior after the crime was committed). The very fact that these are serious criminal offenses, which, among other things, are expressed through persistence and perseverance in criminal activity, indicates that aggravating circumstances are not adequately assessed. This affects the fact that the penalty imposed on the accused is not sufficiently proportional to the gravity of the criminal offense, especially when having in mind the manner of commission of criminal offense, the amount of material gain obtained, and the harm caused to the injured parties. Finally, it should be noted that, in addition to the imposed penalties, the accused persons were also ordered security measures of confiscation of items and prohibition to perform calls, activities and duties, as well as the confiscation of property gain obtained by criminal offense, as well as an obligation of convicted persons to jointly compensate the injured party in the determined monetary amount. On the part of the guilty plea agreement and the conclusion of criminal proceedings in this way, we can conclude that this institute had its full application. Although the justification for acting in this way is indisputable (the efficiency and cost-effectiveness of criminal proceedings), it should be taken in account that the motives of the parties to the agreement are clear: on the side of the accused it is sentence reduction, and on the side of the Prosecution it is the conclusion of the criminal matter. The above stated is certainly legitimate, but is not criminally justified in all cases, given the purpose of punishment for these criminal offenses.

If the two answers to the raised question about the adequacy of penal policy in criminal cases of organized crime are linked, then it can be concluded that it is not fully harmonized. There is a clear discrepancy

between penal policies of the legislator and the Court on this issue. Although the legislator has set a relatively "harsh" penal policy on organized crime, it does not have its full application in the case law, which, on the other hand, is reflected in relatively "mild" penalties for the perpetrators of these criminal offenses. Therefore, it is necessary to move in two directions: *the first*, the harmonization of court case law with penal policy of the legislator, and *the second*, setting more realistic expectations by the legislator when incriminating these behaviors, taking into account both the court case law and the need for the harmonization of criminal legislation. The first part of this proposal can be achieved by more accurate determining of penalties by taking into account all the circumstances under which the criminal offense was committed, including the aggravating circumstances. Also, it would be important to take a clear standing as to what is to be considered as organized crime, since it is evident from the analyzed cases that all of stated behaviors did not have the elements of this criminal offense. The second part of the proposal refers to the legislator, who should certainly take into account the current court case law and consider the possibility to prescribe behavior, which is considered to be organized crime, even more precisely, for which it should certainly maintain a strict penal policy.

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АДЕКВАТНОСТ КАЗНЕНЕ ПОЛИТИКЕ У КРИВИЧНИМ ПРЕДМЕТИМА ОРГАНИЗОВАНОГ КРИМИНАЛИТЕТА

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Резиме

Основна сврха кривичног права је обављање заштитне функције прописивањем кривичних дјела и кривичних санкција за та дјела путем кривичног закона. Његова примјена, која се утврђује у кривичном поступку, доводи до изрицања кривичних санкција због учињеног кривичног дјела. Да би се остварила сврха кажњавања, кривичне санкције морају бити засноване на сразмјерности јачини опасности за личне слободе и права човјека, те друге основне вриједности, као и њихова адекватна примјена у кривичном поступку.

Организовани криминалитет спада у тешке облике криминалитета. Због тога су инкриминисана она понашања која се тичу криминалног удруживања за вршење кривичних дјела која су типична за ову врсту криминалне дјелатности. Организовани криминалитет је присутан у различитим облицима испољавања у Босни и Херцеговини. Такође, о организованом криминалитету у БиХ постоји обимна судска пракса с обзиром на то да се од 2003. године воде кривични поступци за ова кривична дјела, пред судским инстанцама свих нивоа и надлежности.

Ова питања нису довољно разјашњена и да би адекватност казнене политике у кривичним предметима организованог криминалитета била примјењива, постоји сложено питање анализе законодавног оквира организованог криминалитета и анализе судске праксе када су у питању ова кривична дјела. Циљ овог рада је сагледавање адекватности кривичноправних инкриминација организованог криминалитета, с једне стране, и адекватности изречених кривичноправних санкција, с друге стране. Због тога се и говори о казненој политици законодавца и казненој политици судова када је у питању организовани криминалитет.

Када је ријеч о прописивању кривичних дјела организованог криминалитета, ово је и једно од најсложенијих питања. Како се ради о најтежим кривичним дјелима, не постоји спор око неопходности прописивања ових понашања као кривичних дјела. Оно о чему се може дискутовати јесте начин њиховог прописивања.

Када је у питању судска пракса у предметима организованог криминалитета, она представља примјену законских прописа и доношења одлука у складу са

прописима. Како је законодавац усвојио систем релативно одређених казни, гдје су казне за кривична дјела организованог криминалитета прописане у веома широком распону, од великог значаја је судско одмјеравање казне. Квалитетна судска одлука и непристрасно разматрање свих питања (чињеничних и правних) саставни су дијелови адекватности казнене политике у предметима организованог криминалитета.

У овом раду је извршена анализа садржаја судских пресуда у кривичним предметима организованог криминалитета. Подаци су прикупљени из судских одлука у одабраним предметима организованог криминалитета у периоду 2015–2018. године који су вођени пред Судом БиХ. Предметном анализом изабрана су она кривична дјела која су типична за дјеловање организованих криминалних група.

Након прикупљања података, приступило се њиховој анализи. Тако су анализом утврђене и анализиране сљедеће категорије: врста и висина изречене кривичне санкције за кривична дјела организованог криминалитета, општа правила одмјеравања казне (отежавајуће и олакшавајуће околности), те коришћење споразума о признању кривице, као посебног института поједностављене форме поступања у кривичном поступку.

Када сагледамо све одговоре на постављено питање о адекватности казнене политике у кривичним предметима организованог криминалитета, онда можемо закључити да она није у потпуности усаглашена. Очигледан је несклад између казнене политике законодавца и казнене политике Суда БиХ о овом питању. Због тога је потребно усагласити судску праксу са казненом политиком законодавца и поставити реалнија очекивања од стране законодавца приликом инкриминације наведених понашања. Потребно је адекватније одмјеравање казни тако што би све околности под којима је учињено кривично дјело биле узете у обзир у њиховој укупности, укључујући и отежавајуће околности, као и заузимање јасног става шта се сматра организованим криминалитетом. Требало би да законодавац узме у разматрање актуелну судску праксу, те размотри могућност још прецизнијег прописивања понашања која се сматрају организованим криминалитетом, за која би свакако требало задржати строгу казнену политику.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 957–980

Прегледни рад https://doi.org/10.22190/TEME191007057T
Примљено: 7. 10. 2019. UDK 314.15:343.126.1
Ревидирана верзија: 14. 10. 2019. 341.24
Одобрено за штампу: 1. 12. 2019.

MIGRANTS IN DETENTION: THE APPROACH OF THE EUROPEAN COURT OF HUMAN RIGHTS

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Abstract

The Mediterranean migrant crisis is not calming down and in the last six decades the nature and character of these migrations has changed. The authors deal with one of the aspects of their position – detention. This work is divided into several parts. In the first part, the authors explore the problem of the migration crisis. After that, they explain in detail the Article 5 of the European Convention on Human Rights and Fundamental Freedoms. The main part of this work is devoted to the jurisprudence of the European Court of Human Rights related to the migrants" detention.

Key words: migrants, detention, adults, European Court of Human Rights, European Convention on Human Rights and Fundamental Freedoms.

ЛИШЕЊЕ СЛОБОДЕ МИГРАНАТА: ПРИСТУП ЕВРОПСКОГ СУДА ЗА ЉУДСКА ПРАВА

Апстракт

Аутори у раду разматрају питање положаја миграната према ставовима Европског суда за људска права. Узевши у обзир последњу деценију, могли бисмо рећи да је иста превасходно обележена таласима миграција са истока, које не јењавају, него се само трансформишу у зависности од отворених рута. Један од путева миграната ка Западној Европи представља Медитеран, а држава која је највише изложена овом таласу је Италија, при чему не заостају ни Грчка и Малта. Стога аутори у раду анализирају досадашње ставове Европског суда за људска права, у погледу лишавања слободе миграната, кроз многобројне пресуде у којима је овај суд дао смернице за однос према мигрантима.

Кључне речи: мигранти, лишење слободе, пунолетни мигранти, Европски суд за људска права, Европска конвенција за заштиту људских права и основних слобода.

INTRODUCTION

The contemporary development of civilization is characterized by numerous legal issues. Some of them belong to the sphere of development or change of a country's legal system, such as discussions on euthanasia (Banović & Turanjanin, 2014; Banović, Turanjanin, & Miloradović, 2017; Banović, Turanjanin, & Ćorović, 2018; Banović, Turanjanin, & Ćorović, 2018; Turanjanin, Banović, & Ćorović, 2018) or changes to the Criminal Code and the Criminal Procedure Code (Soković, Ĉvorović, & Turanjanin, 2016; Soković, Turanjanin & Ĉvorović, 2017; Soković, Turanjanin, & Kolaković-Bojović, 2018; (Soković, Turanjanin, & Ĉvorović, 2017), while others are imposed by changes in society, such as waves of migration. A key element of the EU's evolution is the abolition of internal borders and the establishment of the freedom of movement, which, however, is not accompanied by a single legal system (Mitsilegas, 2014, p. 182). The foundations of the modern system of migrant protection were laid after the Second World War (Betts, 2013, p. 10). The last decade, however, has been marked by two different approaches to the migrant issue, and on the one hand we have increased militarization and border control, with the raising of fence;, and, on the other, the strengthening of human rights and freedoms of migrants (Aas and Gundhus, 2015, p. 1). The economic crisis and political change in certain regions of Africa and Asia inevitably cause challenges for Europe (Ĉerniĉ, 2016, p. 237) that are in this context primarily emigrational. International organizations around the world look at how human rights can protect migrants' rights (Cantor, 2014, p. 79), and the debate on the link between human rights and migrant rights is deeply relevant (Harvey, 2014, p. 44; McConnachie, 2017, p. 191). It is an important issue and a matter of the political discourse (Meçe, 2018, p. 45), and thereby, the biggest discussion on migrant control pertains to the legality of the activities of repression (*push-backs*) (Markard, 2016, p. 591-592). Immigration control systems are today characterized by "extraterritoriality" strategies (Ryan, 2010, p. 3), which primarily include interception measures on ships at sea or in territorial waters of third countries and the appointment of immigration officers to prevent migrants from embarking on flights to a third country (Klug and Howe, 2010, p. 69-70). EU Member States use a range of means to control their borders, extending beyond their territories (Costello, 2012, p. 290). While, on the one hand, we have states' activities to address migrant issues, the problem has arisen pertaining to the extent to which the Convention is a means of extraterritorial immigration control, especially after the judgment of *Banković and Others v. Belgium and Others* further stirred the sea (Brouwer, 2010, p. 213). Both figuratively and literally.

The Mediterranean migrant crisis is not calming down. Between 1950 and 2010 however, the nature and character of these migrations changed (Haas, 2011, p. 60). Italy has, for many years, faced an influx of illegal migrants by sea, often organized by criminal groups (Pascale, 2010,

p. 283). However, according to the proceedings pending and/or ended before the European Court of Human Rights ("the Court"), Greece and Malta do not lag behind Italy. With less success, migrants file complaints against other countries, such as countries in the region. Such voyages are fraught with life-threatening hazards, ships often carry far more migrants than a ship can dock, do not have standard equipment, and captains often are not professional sailors (Klug, 2014, p. 49). Migrants are in a difficult position in both developed and developing countries (Ogg, 2016, p. 385). It is a case of mixed migration, and while this concept is still evolving, it encompasses migrants of different nationalities, motives, etc. (Sharpe, 2018). However, the pressure of migration cannot relieve states of their human rights obligations (Moreno-Lax, 2012, p. 598). The focus of this paper is the Mediterranean crisis and the situation of migrants in detention, primarily from the perspective of the Court (Turanjanin, 2019a; Turanjanin, 2019b), with other countries, such as Australia, facing similar problems (Schloenhardt and Craig, 2015; Marmo and Giannacopoulos, 2017, p. 5; Henderson, 2014).

The 1951 Geneva Convention Relating to the Status of Refugees sets out situations in which a state must grant the refugee status to persons seeking that status. Article 1 of the Geneva Convention defines the concept of a refugee as a person who, due to a well-founded fear of persecution on the basis of race, religion, nationality, membership of a particular social group or political opinion, finds himself outside the country of his nationality and is unable or, because of such fear, does not want to use the protection of that country; or persons who, because they do not have a nationality but reside, because of such events, outside the country in which they were previously settled, and cannot or, because of such fear, do not wish to return to it. Thereafter, under Article 33, paragraph 1, no Contracting State shall in any way expel or return (*refouler*)[1] a refugee to the border of a territory where his life or freedom would be threatened on the basis of race, religion, nationality, affiliation with a particular social group or political opinions. Of course, international law allows states to take reasonable measures in their territorial waters to prevent the entry of ships carrying illegal migrants (Guilfoyle, 2009, p. 222). Simply, the link between migrants and migration control has always been a point of conflict between state sovereignty and international law (Gammeltoft-Hansen, 2011, p. 11), but also between law and politics. However, the existence of international treaties and national legislation guaranteeing rights does not mean that their violation will not occur at the same time (further on this topic: Storey, 2016, p. 20).

As we can see, one of the basic principles in this area is precisely the principle of non-refoulement, as pointed out by the UNHCR in its Note on

[1] This principle dates back to 1933 (Bhuiuon, 2013, p. 101).

International Protection of 13 September 2001, emphasizing that it is a key principle of protection embodied in the Convention (see about the legal nature of this principle Greenman, 2015). In a significant sense, this principle is a logical continuation of the right to seek asylum, recognized in the Universal Declaration of Human Rights, which has come to be regarded as a rule of customary international law binding on all states. In addition, international humanitarian law establishes non-refoulement as a fundamental component of an absolute ban on torture and cruel, inhumane or degrading treatment or punishment. The duty not to return (*refouler*) has also been recognized as applicable to refugees regardless of the formal recognition of their status, so it obviously involves asylum seekers whose status has not yet been decided. It implies all measures attributable to the State that could have the effect of returning an asylum seeker or refugee to the borders of a territory where their life or liberty would be threatened, or where they would be at risk of persecution. These include border refusal, interception and indirect *refoulement*, either by an individual seeking asylum or in situations of mass influx. Although at first glance it may seem that returning a ship to the high seas does not have to lead to refoulement because the ship can theoretically sail to any country in the world that has sea access, the matter is far more complicated (Guilfoyle, 2009, p. 222). Resolution 1821 (2011) of the Parliamentary Assembly of the Council of Europe on the interception and rescue at sea of asylum seekers, refugees and irregular migrants is also very significant. Although individual states enter into treaties that somehow attempt to circumvent the rules of international law, they cannot be rendered invalid in this way. For example, Italy and Libya concluded several secret agreements in the period 2000-2012, some of which concerned the control of the smuggling of migrants to Italy and their sending back to Libya (Gallaghe and David, 2014, p. 7; Hessbruegge, 2012, p. 423; on smuggling and routes extensively in Tinti and Reitano, 2017), and Italy has concluded similar contracts with Tunisia. The treaties were repealed (Pera, 2017, p. 358) to conclude a new one two months after the verdict, which obliges Libya to strengthen its land and sea borders and Italy to provide technical assistance, equipment and training to Libyan officials (Gammeltoft-Hansen, 2014, p. 586). However, between May 6 and November 6, 2009, 834 persons were returned to Libya, 23 to Algeria (Giuffré, 2013, p. 697), and generally speaking, thousands of migrants were returned from European borders in recent years (Bevilacqua, 2017, p. 168).

MIGRANT'S DETENTION UNDER THE CONVENTION

Certain European countries have developed specific procedures for detaining asylum seekers until their issue is resolved (Costello i Mouzourakis, 2016, p. 60; Mainwaring & Cook, 2018). Therefore, in migrant cases, it is not uncommon for a migrant to be detained illegally until his or

her status and / or asylum claim is resolved. This is not a matter of classic detention in terms of criminal proceedings (Vrolijk, 2016, p. 48). However, if we reject the terminological differences, it is essentially a matter of detention, especially if the crime was committed at the same time. However, in the first place we have to explain, in short, the Article 5 of the Convention, particularly when it comes to the migrant cases. This paper focuses on the detention of adult migrants, since addressing the issue of minor accompanied and unaccompanied migrants would far exceed the limits of this paper.

Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

> *4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.*
>
> *5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.*

This Article concerns the protection of each person, as confirmed by the Court in *Nada v. Switzerland* (Nada v. Switzerland, 2012, § 224). Most EU countries allow migrants to be deprived of their liberty upon entering the country, most often by border police (Cornelisse, 2010, p. 8). Establishing a global image of imprisonment for migrants is considered extremely difficult (Fiske, 2016, p. 191). The grounds for deprivation of liberty are exhaustively stated in the Convention and a person cannot be deprived of his liberty beyond the enumerated grounds (see Saadi v. the United Kingdom, 2008, § 43). Article 5 enshrines a fundamental human right, namely the protection of the individual against arbitrary interference by the State with his or her right to liberty. Sub-paragraphs (a) to (f) of Article 5 § 1 contain an exhaustive list of permissible grounds on which persons may be deprived of their liberty and no deprivation of liberty will be lawful unless it falls within one of those grounds. Moreover, only a narrow interpretation of those exceptions is consistent with the aim of that provision, namely to ensure that no one is arbitrarily deprived of his or her liberty. One of the exceptions, contained in sub-paragraph (f) of Article 5 § 1, permits the State to control the liberty of aliens in an immigration context. This article does not require the detention to be reasonably considered necessary, for example to prevent the individual from committing an offence or fleeing. However, any deprivation of liberty under the second limb of Article 5 § 1 (f) will be justified only as long as deportation or extradition proceedings are in progress. If such proceedings are not prosecuted with "due diligence", the detention will cease to be permissible under Article 5 § 1 (f). The deprivation of liberty must also be "lawful". Where the "lawfulness" of detention is an issue, including the question of whether "a procedure prescribed by law" has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules of that law, but it requires in addition that any deprivation of liberty should be in keeping with the purpose of Article 5, namely to protect the individual from arbitrariness. In lying down that any deprivation of liberty must be effected "in accordance with a procedure prescribed by law", Article 5 § 1 primarily requires any arrest or detention to have a legal basis in domestic law, as the Court stressed in the *Bozano v. France*.

However, the "lawfulness" of detention under domestic law is not always the decisive element, so the Court must moreover ascertain whether domestic law itself is in conformity with the Convention, including the general principles expressed or implied therein. In numerous judgments on this point, the Court stressed that, where deprivation of liberty is concerned, it is particularly important that the general principle of legal certainty be satisfied. It is therefore essential that the conditions for deprivation of liberty under domestic law be clearly defined and that the law itself be foreseeable in its application, so that it meets the standard of "lawfulness" set by the Convention, a standard which requires any law to be sufficiently precise to avoid all risk of arbitrariness (Nasrulloyev v. Russia, 2007, § 71; Khudoyorov v. Russia, 2005, § 125; Jeĉius v. Lithuania, 2000, § 56; Baranowski v. Poland, 2000, §§ 50-52). In the migrant case *Shamsa v. Poland*, as well as in *Steel and Others v. the United Kingdom*, the Court stated that the standard of "lawfulness" established in the Convention requires that all law be sufficiently precise to allow the citizen – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (Shamsa v. Poland, 2003, § 40, Steel and Others v. the United Kingdom, 1998, § 54).

Further, words "in accordance with a procedure prescribed by law" do not merely refer back to domestic law. They also relate to the quality of the law, requiring it to be compatible with the rule of law, a concept inherent in all Articles of the Convention. The Court stresses that where deprivation of liberty is concerned it is particularly important that the general principle of legal certainty be satisfied. It is therefore essential that the conditions for deprivation of liberty under domestic law be clearly defined and that the law itself be foreseeable in its application, so that it meets the standard of "lawfulness" set by the Convention, a standard which requires that all law be sufficiently precise to allow the person – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.

In addition, Article 5 § 1 requires that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness and the notion of "arbitrariness" in Article 5 § 1 extends beyond a lack of conformity with national law, so that deprivation of liberty may be lawful in terms of domestic law but still arbitrary, and therefore contrary to the Convention. The Court in *Saadi v. the United Kingdom*, *A. and Others v. the United Kingdom* and *Rustamov v. Russia* stated that to avoid being branded as arbitrary, detention under Article 5 § 1 (f) must be carried out in good faith; it must be closely connected to the grounds of detention relied on by the Government, the place and conditions of detention must be appropriate, and the length of the detention must not exceed that reasonably required for the purpose pursued (Saadi v. the United Kingdom, 2008, § 74, ECHR 2008; Rustamov v. Russia, 2012, § 150,; A. and Others v. the United Kingdom, 2009, § 164).

As the Court stressed in a *M.S.S. v. Belgium and Greece* and *Amuur v. France*, the confinement of aliens, accompanied by suitable safeguards for the persons concerned, is acceptable only in order to enable States to prevent unlawful immigration while complying with their international obligations, in particular under the 1951 Geneva Convention relating to the Status of Refugees and the European Convention on Human Rights. States‟ legitimate concern to foil the increasingly frequent attempts to circumvent immigration restrictions must not deprive asylum-seekers of the protection afforded by these conventions (M.S.S. v. Belgium and Greece, 2011, § 216; Amuur v. France, 1996, § 43). In addition, where the Court is called upon to examine the conformity of the manner and method of the execution of the measure with the provisions of the Convention, it must look at the particular situations of the persons concerned (M.S.S. v. Belgium and Greece, 2011, § 217; Riad and Idiab v. Belgium, 2008, § 100).

In *Medvedyev and Others v. France*, in the first place, the applicants were placed under the control of the French Special Forces and imprisoned while navigating a ship supervised by the French forces, after which they were deprived of their liberty within the meaning of Article 5 of the Convention. The Court emphasized that it does not prevent States from cooperating in other forms of cooperation in the fight against illicit trafficking in narcotic drugs at sea. Diplomatic notes are a source of international law that can be compared to a treaty or agreement when there is a formal agreement between the competent authorities, a common position on a particular issue or even, for example, an expression of unilateral desire or commitment. The diplomatic statement in this case represents the Cambodian authorities' agreement to the Winner's interception. In the text of the diplomatic statement, "the ship is named the Winner, which flies the Cambodian flag", is stated as the sole object of the treaty, and the approval for interception, search and legal action in connection with the ship is confirmed. It is evident, however, that the treatment of crew members was not clearly defined in the statement and thus it was not established that the two states had agreed to deprive crew members of their liberty. Their compliance, however, could be interpreted as a "clearly defined law" within the meaning of case law. The diplomatic statement also did not satisfy the "foreseeability" condition. The state has not demonstrated the existence of co-operation and long-standing practices in the fight against drug trafficking at sea between Cambodia and France in relation to ships flying the Cambodian flag; on the contrary, Cambodia has not ratified the relevant conventions, and the use of an *ad hoc* diplomatic note, in the absence of any permanent bilateral or multilateral treaty or agreement concluded between the two countries, is a co-operation of exceptional and one-off nature that existed exclusively in this case. In terms of predictability, there should be no ambiguity for perpetrators charged with narcotics trafficking under the law under which legal action was taken against them. Otherwise, any act that is considered a criminal offense under domestic law would relieve the State of

the obligation to pass the law of the required quality, especially with respect to Article 5 para. 1 Convention which would make sense of that provision (Medvedyev and Others v. France, 2010, §§ 93-103).

In *Khlaifia and Others v. Italy*, the applicants left Tunisia with others on board rudimentary vessels heading for the Italian coast. After several hours at sea, their vessels were intercepted by the Italian coastguard, which escorted them to a port on the island of Lampedusa. The applicants arrived on the island on 17 and 18 September 2011 respectively. The applicants were transferred to a *Centro di Soccorso e Prima Accoglienza* – "CSPA" on the island of Lampedusa at Contrada Imbriacola where, after giving them first aid, the authorities proceeded with their identification. They were accommodated in a part of the center reserved for adult Tunisians. According to the applicants, they were held in an overcrowded and dirty area and were obliged to sleep on the floor because of the shortage of available beds and the poor quality of the mattresses. They had to eat their meals outside, sitting on the ground. The center was kept permanently under police surveillance, making any contact with the outside world impossible. The applicants remained in the CSPA until 20 September, when a violent revolt broke out among the migrants. The premises were gutted by fire and the applicants were taken to a sports complex on Lampedusa for the night. At dawn on 21 September, they managed, together with other migrants, to evade the police surveillance and walk to the village of Lampedusa. From there, with about 1,800 other migrants, they started a demonstration through the streets of the island. After being stopped by the police, the applicants were taken first back to the reception center and then to Lampedusa airport. On the morning of 22 September 2011 the applicants were flown to Palermo. After disembarking, they were transferred to ships that were moored in the harbour there. The first applicant was placed on the Vincent, with some 190 other people, while the second and third applicants were put on board the Audace, with about 150 others. The applicants described the conditions as follows. All the migrants on each vessel were confined to the restaurant areas, access to the cabins being prohibited. They slept on the floor and had to wait several hours to use the toilets. They could go outside onto the decks twice a day for only a few minutes at a time. They were allegedly insulted and ill-treated by the police, who kept them under permanent surveillance, and they claimed not to have received any information from the authorities. The applicants remained on the ships for a few days. On 27 September 2011 the second and third applicants were taken to Palermo airport pending their removal to Tunisia; the first applicant followed suit on 29 September. Before boarding the planes, the migrants were received by the Tunisian Consul. In their submission, the Consul merely recorded their identities in accordance with the agreement between Italy and Tunisia of April 2011. In their application the applicants asserted that at no time during their stay in Italy had they been issued with any document.

In this case, the Court had to firstly determine whether the applicants‟ deprivation of liberty was justified under one of the sub-paragraphs of Article 5 § 1 of the Convention, because any deprivation of liberty which does not fall within one of the sub-paragraphs of Article 5 § 1 of the Convention will inevitably breach that provision. The Court found that the provisions applying to the detention of irregular migrants were lacking in precision. That legislative ambiguity has given rise to numerous situations of *de facto* deprivation of liberty and the fact that placement in a CSPA is not subject to judicial supervision cannot, even in the context of a migration crisis, be compatible with the aim of Article 5 of the Convention: to ensure that no one should be deprived of his or her liberty in an arbitrary fashion. Firstly, Article 10 of Legislative Decree no. 286 of 1998 provides for the refusal of entry and removal of, among other categories of aliens, those allowed to remain temporarily in Italy on public assistance grounds, so, the Court has not found any reference therein to detention or other measures entailing deprivation of liberty that could be implemented in respect of the migrants concerned – this Article could have constituted the legal basis for the applicants‟ detention (Khlaifia and Others v. Italy, 2016, §§ 100-101). Secondly, the applicants were not only deprived of their liberty without a clear and accessible legal basis, they were also unable to enjoy the fundamental safeguards of *habeas corpus*, as laid down, for example, in Article 13 of the Italian Constitution (under that provision, any restriction of personal liberty has to be based on a reasoned decision of the judicial authority, and any provisional measures taken by a police authority, in exceptional cases of necessity and urgency, must be validated by the judicial authority within forty-eight hours). Accordingly, since the applicants‟ detention had not been validated by any decision, whether judicial or administrative, they were deprived of those important safeguards (Khlaifia and Others v. Italy, 2016, § 105).

In *Annur v. France*, the applicants arrived at Paris-Orly Airport on 9 March 1992 on board a Syrian Airlines flight from Damascus, where they had stayed for two months after travelling there via Kenya. They asserted that they had fled Somalia because, after the overthrow of the regime of President Siyad Barre, their lives were in danger and several members of their family had been murdered. Five of their cousins and thirteen other Somali nationals (including eleven children) arrived, some on the same flight and others from Cairo on 14 March. However, the airport and border police refused to admit them to French territory, on the ground that their passports had been falsified, and held them at the Hôtel Arcade, part of which had been let to the Ministry of the Interior and converted for use as a waiting area for Orly Airport. On 26 March the applicants applied to the urgent applications judge at the Créteil tribunal de grande instance at short notice seeking an order for their release from confinement at the Hôtel Arcade, which, they asserted, constituted a flagrantly unlawful act (*voie de fait*). France brought decisions to remove them from the French territory (Amuur v. France, 1996, §§ 7-14). In this

case, France considered that the applicants‟ stay in the transit zone was not comparable to detention, while the Commission concluded that the applicants‟ stay in the international zone was no different from detention in the ordinary meaning of that term, but Article 5 cannot be applicable (Amuur v. France, 1996, §§ 38-40). However, the Court took a completely different position. According to it, in order to determine whether someone has been "deprived of his liberty", the starting-point must be his concrete situation, and account must be taken of a whole range of criteria such as the type, duration, effects and manner of implementation of the measure in question. The difference between deprivation of and restriction upon liberty is merely one of degree or intensity, and not one of nature or substance (Amuur v. France, 1996, § 42; Guzzardi v. Italy, 1980, § 92). The Court further emphasized:

> *Holding aliens in the international zone does indeed involve a restriction upon liberty, but one which is not in every respect comparable to that which obtains in centres for the detention of aliens pending deportation. Such confinement, accompanied by suitable safeguards for the persons concerned, is acceptable only in order to enable States to prevent unlawful immigration while complying with their international obligations, particularly under the 1951 Geneva Convention Relating to the Status of Refugees and the European Convention on Human Rights. States' legitimate concern to foil the increasingly frequent attempts to circumvent immigration restrictions must not deprive asylum-seekers of the protection afforded by these conventions. Such holding should not be prolonged excessively, otherwise there would be a risk of it turning a mere restriction on liberty - inevitable with a view to organising the practical details of the alien's repatriation or, where he has requested asylum, while his application for leave to enter the territory for that purpose is considered - into a deprivation of liberty. In that connection account should be taken of the fact that the measure is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country. Although by the force of circumstances the decision to order holding must necessarily be taken by the administrative or police authorities, its prolongation requires speedy review by the courts, the traditional guardians of personal liberties. Above all, such confinement must not deprive the asylum-seeker of the right to gain effective access to the procedure for determining refugee status* (Amuur v. France, 1996, § 43).

The Court equalized the applicants‟ position with the deprivation of liberty in practice, in view of the restrictions suffered, with the remarks to the mere fact that it is possible for asylum-seekers to voluntarily leave the country where they wish to take refuge, but that it cannot exclude a restriction on liberty and furthermore, this possibility becomes theoretical if no other country offering protection comparable to the protection they expect to find in the country where they are seeking asylum is inclined or

prepared to take them in. Sending the applicants back to Syria only became possible, apart from the practical problems of the journey, following negotiations between the French and Syrian authorities (Amuur v. France, 1996, § 48).

After the *Amuur*, the Court reached the judgment in *Shamsa v. Poland*. This case concerned the applicants, two brothers and Libyan nationals, who were arrested in Warsaw with no valid identity papers or residence permit. Their expulsion within 90 days was ordered and they were placed in detention pending expulsion. The authorities made three attempts to execute the expulsion order, but to no avail, partly because of the brothers‟ refusal to cooperate. Under Polish law an expulsion order must be enforced within 90 days, after which the person concerned must be released. The applicants‟ complained that they had been held by the Warsaw airport border police, with a view to their expulsion, in a transit zone after the date on which they should have been released under Polish law, namely on 25 August 1997. However, the authorities had continued to enforce the expulsion order, with no legal basis, after the statutory time-limit had expired and until 3 October 1997 when the applicants had been taken to hospital by the police for an examination and left. The Court pointed out that detention for a period of several days which has not been ordered by a court, a judge or any other person authorised by law to exercise judicial power cannot be considered “lawful” within the meaning of Article 5 § 1 of the Convention. Considering that the applicants‟ detention between 25 August and 3 October 1997 had not been “prescribed by law” or “lawful”, the Court held that that there had been a violation of Article 5 § 1 of the Convention (Shamsa v. Poland, 2003).

In the next case, *Riad and Idiab v. Belgium*, the first applicant arrived in Belgium at Brussels National Airport on 27 December 2002, carrying a Lebanese travel document stating that he was a Palestinian refugee, but he was refused entry to Belgium as he did not have the necessary visas and he was taken to the Transit Centre on the premises of the Brussels National Airport. The second applicant arrived in Belgium at Brussels National Airport on a flight from Freetown on 24 December 2002. As he did not have a transit visa allowing him to travel onwards to London, steps were taken to refuse him entry to the Belgian territory and the carrier which had provided the flight was requested to take him, or have him taken, back to the country of origin or to another State where he could be allowed entry, so the second applicant was rerouted to Beirut, via Budapest. Nevertheless, when he underwent a check in the transit zone on the same date, this applicant stated that he did not wish to go to Beirut and requested recognition of his refugee status, maintaining that his life was in danger in Lebanon and he was issued with a document certifying that he had applied for asylum. He was taken to the same Transit Centre as the first applicant.

Contrary to the *Ammur* case, the applicants in this case were confined in the transit zone not upon their arrival in the country but more than one month later, after decisions had been given ordering their release. Their confinement was ordered for an indefinite period and eventually lasted for fifteen days and eleven days respectively. To resolve this legal situation, the Court had to combine several principles from its earlier judgments. In the first place, the Court recalled the old rule from the *Bozano v. France* and *Gebremedhin [Gaberamadhian] v. France*, that it may happen that a Contracting State's agents conduct themselves unlawfully in good faith; in such cases, a subsequent finding by the courts that there has been a failure to comply with domestic law may not necessarily retrospectively affect the validity, under domestic law, of any implementing measures taken in the meantime. Matters would be different if the authorities at the outset knowingly contravened the legislation in force and, in particular, if their original decision was an abuse of power (Bozano v. France, 1986, § 55; Gebremedhin [Gaberamadhian] v. France, 2007, § 56). So, the transfer to and confinement in the transit zone cannot therefore be regarded as the application in good faith of the immigration legislation. After that, the Court reiterates that according to its case-law, there must be some relationship between the ground of permitted deprivation of liberty relied on and the place and conditions of detention (Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, 2006, § 53). The applicants were left to their own devices in the transit zone, without humanitarian or social support of any kind and the second applicant was placed in the transit zone, without any explanation of the existence, functioning and location of the centre, where he might have been given a more appropriate reception. The first applicant, who had initially been placed in the same situation, was given no information about the existence of the centre and was taken there only after he had described his situation to the officials at the border inspection post. According to the Court, such detention was not lawful (Riad and Idiab v. Belgium, 2008, §§ 76-79).

A very interesting case is also *Nolan and K. v. Russia*. Here, the applicant was a member of the Unification Church, a spiritual movement founded by Mr Sun Myung Moon in 1954. In 1994, the Church invited the applicant to assist its activities in Russia. The Ministry of Foreign Affairs of the Russian Federation granted the applicant the permission to stay in Russia. His permission to stay was subsequently renewed by the Ministry on a yearly basis through invitations issued by the registered religious organisation of the Unification Church in Moscow and an associated social organisation in St Petersburg, the Family Federation for World Peace and Unification. Further, on 12 July 2001 the applicant"s son, K., was born. On 2 October 2001 the applicant and his wife separated; the applicant"s wife returned to the United States and the applicant retained sole custody of the child. On 19 May 2002 the applicant travelled to Cyprus, and 2 June 2002 the applicant was in

Moscow and on a flight from Cyprus. Nevertheless, upon his arrival at the transit hall, officials directed the applicant to wait in a small room adjacent to their office with a desk and a sofa, but no phone, ventilation or windows. Once he entered the room, the officials locked him in from outside. Initially, the applicant thought that this would be just for a few minutes, but after half an hour, he realised that he was being held in an improvised detention cell. He began knocking on the door, asking to be let out. The female officer responded through the door that he would not be let out until the morning, and told him to lie down and sleep. Ten minutes after that a male officer came with the applicant‟s visa stapled to a one-page document. He told the applicant that his visa had been cancelled and asked him to sign the document. The applicant did as he was requested, although he could not read the document, which was handwritten in Russian. The applicant indicated that his detention might have been effected in accordance with the Border Crossing Guidelines, since he fell in the category of persons whose entry into Russia was prohibited and he pointed out that the Border Crossing Guidelines had never been published or accessible to the public. Accordingly, the Court concluded that the Border Crossing Guideless did not meet the requirements of accessibility and foreseeability and fell short of the “quality of law” standard required under the Convention. Consequently, the Russian system failed to protect the applicant from arbitrary deprivation of liberty, and his detention cannot be considered “prescribed by law” for the purposes of Article 5 § 1 of the Convention (Nolan and K. v. Russia, 2009, § 99).

In *Medvedyev and Others v. France*, however, there exists no violation of paragraph 3 of Article 5. The fact is that the applicants were not brought before an investigating judge who could be considered a "judge or official of another judicially designated body" within the meaning of Article 5 para. 3 thirteen days after their detention. At the time of the interception, the Winner was on the high seas far from the French coast. There was nothing to indicate that the warship sailed longer than necessary to open the ship to France, especially given the weather conditions and poor condition of the Winner, so it was impossible to travel faster. In addition, the applicants claimed that they could have been brought before the authorities of a country closer to France, where they could have been brought immediately before the judicial authorities. As to the idea that they were able to cross the coast by a faster-moving French Navy, it is not for the Court to assess the justification of such work in the circumstances of the case. Finally, upon arriving in France, they spent only about eight or nine hours in detention before being brought before a judge. That period of eight or nine hours was entirely compatible with the concept of "brought promptly" contained in Article 5 para. 3. and in the Court‟s case-law (Medvedyev and others v.France, 2010, §§ 131-134).

The applicant in *S.K. v. Russia* arrived in this state in October 2011. He was in possession of a visa declaring the purpose of his visit as business, which was due to expire in October 2012. However, the visa allowed the applicant to stay in Russia for no longer than ninety days in the course of a single visit and he was therefore expected to leave Russia in early 2012. The applicant did not leave and started to live together with Ms B. By judgment of 26 February 2015, the Sovetskiy District Court of Makhachkala found the applicant guilty of an offense and it sentenced him to a fine and a penalty of forcible administrative removal from Russia. However, the Court in this case did not engage too much into explaining the violation of the Article 5, finding a comparison in the previous judgments against Russia (Azimov. v. Russia, 2013; Kim v. Russia, 2014; L.M. and Others v. Russia, 2015; R. v. Russia, 2016). In the Court‟s view, it should have been sufficiently evident for the national authorities already that the applicant‟s removal was not practicable and would remain unlikely in view of the worsening conflict in Syria and in these circumstances, it was incumbent on the domestic authorities to consider alternative measures that could be taken in respect of the applicant. Nevertheless, once the order for the applicant‟s placement in a special detention facility for foreigners had been issued, the detention matter was not reassessed, in particular as to whether it would be practicable to ensure his removal to Syria (S.K. v. Russia, 2017, § 115).

Case *J.R. and Others v. Greece* concerned the conditions in which three Afghan nationals were held in the Vial reception centre, on the Greek island of Chios, and the circumstances of their detention. The applicants complained in particular about the length of their detention in the centre, which they regarded as arbitrary and that they had not received any information about the reasons for their detention, neither in their mother tongue nor in any other language. This is the first judgment where the Court held that there is no violation of Article 5 § 1. It found in particular that the applicants had been deprived of their liberty for their first month in the centre, until 21 April 2016 when it became a semi-open centre. The Court was nevertheless of the view that the one-month period of detention, whose aim had been to guarantee the possibility of removing the applicants under the EU-Turkey Declaration, was not arbitrary and could not be regarded as "unlawful" within the meaning of Article 5 § 1 (f) (J.R. and Others v. Greece, 2018).

In *Amie and Others v. Bulgaria*, the Court noted that the first applicant remained in detention pending the enforcement of the order for his expulsion for a total period of one year, eight months and twenty-four days: two months and twenty-two days in 2006, and one year, six months and two days in 2008-10. It appeared that the only steps taken by the authorities during that time were to write four times to the Lebanese Embassy in Sofia, asking it to issue a travel document for the applicant. Although apparently asked him to specify such, there is no indication that the authorities took any steps to

themselves explore a country for the migrants. The enforcement of expulsion measures against refugees may involve considerable difficulty and even prove impossible because there is no readily available country to which they may be removed. However, if the authorities are aware of those difficulties, they should consider whether removal is a realistic prospect, and accordingly whether detention with a view of removal is from the outset, or continues to be, justified (Amie and Others v. Bulgaria, 2013, § 77). Such attitude is taken also in *Ali v. Switzerland* and *A. and Others v. the United Kingdom* (Ali v. Switzerland, 1997; A. and Others v. the United Kingdom, 2009, § 167).

Then, *K.G. v. Belgium* concerned an asylum-seeker who was placed and kept in detention under four decisions, for security reasons, while his asylum application was pending. In particular, the applicant was "placed at the Government"s disposal" and held on that basis for approximately 13 months. The Court stated that there is no violation of Article 5 § 1 of the Convention. It specifically found that public interest considerations had weighed heavily in the decision to keep the applicant in detention, and saw no evidence of arbitrariness in the assessment made by the domestic authorities. In addition, it observed that the applicant"s health had not been jeopardised and that he had benefited from special care in both of the centres where he had been detained. Lastly, the Court found that, in view of the issues at stake and the fact that the domestic authorities had acted with the requisite diligence, the length of time for which the applicant had been placed at the Government"s disposal could not be regarded as excessive (K.G. v. Belgium, 2018).

In *Abdolkhani and Karimnia v. Turkey*, the Court found violation of Article 5 § 1, in which the applicants, Iranian nationals and former members of the *People's Mojahedin Organisation* in Iran, were being held in *Gaziosmanpaşa Foreigners' Admission and Accommodation Centre* in Kırklareli. The Court concluded that in the absence of clear legal provisions establishing the procedure for ordering and extending detention with a view of deportation and setting time-limits for such detention, the deprivation of liberty to which the applicants were subjected was not circumscribed by adequate safeguards against arbitrariness (Abdolkhani and Karimnia v. Turkey, 2009, § 135). The same approach was taken in a similar case, the Court stated in *Ghorbanov and Others v. Turkey*.

In a recent case before the Court, the applicant, an illegal migrant who entered the country with a fake passport, was detained for 18 months and 6 days, during which his asylum application was processed. However, according to the Court, the detention of a person is justified only while being handled at his request, but unless the due process has been conducted with due care, the detention ceases to be justified (as in Saadi v. Italy, 2008, § 72). Therefore, in the said case, the applicant's detention was unlawful (Haghilo v. Cyprus, 2019, § 207).

In this moment, there are two applications referred to the Grand Chamber *(Ilias and Ahmed v. Hungary*, *Z.A. and Others v. Russia*), while in *Kaak and Others v. Greece* and *A.E. and T.B. v. Italy* applications communicated to the Greek Government on 07 September 2017 and to the Italian Government 24 November 2017 respectively). We will not comment on the Chamber‟s judgments before the final judgments of the Grand Chamber.

Right to be Informed Promptly of the Reasons for Arrest

Paragraph 2 of Article 5 lays down an elementary safeguard: any person who has been arrested should know why they are being deprived of their liberty. This provision is an integral part of the scheme of protection afforded by Article 5: any person who has been arrested must be told, in simple, non-technical language that they can understand, the essential legal and factual grounds for their deprivation of liberty, so as to be able to apply to a court to challenge its lawfulness. Whilst this information must be conveyed "promptly", it need not be related in its entirety by the arresting officer at the very moment of the arrest. Whether the content and promptness of the information conveyed is sufficient should be assessed in each case according to its special features. In addition, the Court has previously held that the requirement of prompt information is to be given an autonomous meaning extending beyond the realm of criminal law measures.

In *Khlaifia and Others v. Italy* the refusal-of-entry orders were apparently notified to the applicants very belatedly, on 27 and 29 September 2011, respectively, although they had been placed in the CSPA on 17 and 18 September and consequently, even if the orders had contained information as to the legal basis for the detention, which was not the case, they would not in any event have satisfied the requirement of promptness, so there has been a violation of Article 5 § 2 of the Convention (Khlaifia and Others v. Italy, 2016, § 120). Further, the Court in *J.R. and Others v. Greece* held that there had been a violation of Article 5 § 2, finding that the applicants had not been appropriately informed about the reasons for their arrest or the remedies available in order to challenge that detention (J.R. and Others v. Greece, 2018).

In the specific case of *Abdolkhani and Karimnia v. Turkey*, there exists a violation of the Article 5 § 2 because of the absence of a reply from the Government and any document in the case file to show that the applicants were informed of the grounds for their continued detention, subsequently leading the Court to the conclusion that the reasons for the applicants‟ detention were never communicated to them by the national authorities (Abdolkhani and Karimnia v. Turkey, 2009, § 138).

Right to Have Lawfulness of Detention Decided Speedily by a Court

Article 5 § 4 entitles detained persons to institute proceedings for a review of compliance with the procedural and substantive conditions which are essential for the "lawfulness", in Convention terms, of their deprivation of liberty. The notion of "lawfulness" under paragraph 4 has the same meaning as in Paragraph 1, such that a detained person is entitled to a review of the "lawfulness" of their detention in the light not only of the requirements of domestic law but also of the Convention, the general principles embodied therein and the aim of the restrictions permitted by Article 5 § 1. Article 5 § 4 does not guarantee a right to judicial review of such a scope as to empower the court, on all aspects of the case including questions of pure expediency, to substitute its own discretion for that of the decision-making authority. The review should, however, be wide enough to bear on those conditions which are essential for the "lawful" detention of a person according to Article 5 § 1. The reviewing "court" must not have merely advisory functions but must have the competence to "decide" the "lawfulness" of the detention and to order release if the detention is unlawful. The existence of the remedy must nevertheless be sufficiently certain, not only in theory but also in practice, for its failing would represent the lack of the requisite accessibility and effectiveness. Article 5 § 4 also secures the right to have the lawfulness of their detention decided "speedily" by a court and to have their release ordered if the detention is not lawful, both to persons arrested or detained. Proceedings concerning issues of deprivation of liberty require particular expedition, and any exceptions to the requirement of "speedy" review of the lawfulness of a measure of detention call for strict interpretation. The question of whether the principle of speedy proceedings has been observed is not to be addressed in the abstract but in the context of a general assessment of the information, taking into account the circumstances of the case, particularly in the light of the complexity of the case, any specificities of the domestic procedure and the applicant‟s behaviour in the course of the proceedings. In principle, however, since the liberty of the individual is at stake, the State must ensure that the proceedings are conducted as quickly as possible.

In *Khlaifia and Others v. Italy*, the Court stated that the Italian legal system did not provide the applicants with a remedy whereby they could obtain a judicial decision on the lawfulness of their deprivation of liberty and makes it unnecessary for the Court to determine whether the remedies available under Italian law could have afforded the applicants sufficient guarantees for the purposes of Article 5 § 4 of the Convention. In addition, the Court emphasized that the refusal-of-entry orders cannot be regarded as the decisions on which the applicants‟ detention was based, and the lodging of an appeal against them could not, in any event, have taken place until after the applicants‟ release on their return to Tunisia (Khlaifia and Others v. Italy, 2016, § 134). Accordingly, there has thus been a violation of

Article 5 § 4 of the Convention. A violation of Article 5 § 4 exists also in the *Abdolkhani and Karimnia v. Turkey*, because the Turkish legal system did not provide the applicants with a remedy whereby they could obtain judicial review of the lawfulness of their detention (Abdolkhani and Karimnia v. Turkey, 2009, § 142).

CONCLUSION

The second half of the XX and the beginning of the XXI century was marked by waves of migration which move from east to west, from poorer to richer states. Migration flows are different and routes vary depending on the attitude of individual countries towards migrants. As is well known, Serbia is not spared from migration, although they certainly do not belong to countries that represent the final destination for migrants, but only a transition country. There are exceptions, of course. On the one hand, Italy is the most exposed to the wave of migration coming from the sea, most often from Libya and Tunisia. An attempt by the Italian authorities to stop the migration by contracting with the countries concerned has failed. The applications submitted to the Court against Italy were successful, and from the migrants‟ points of view, which the Court acknowledged, violations of the Convention's rights were present. Greece and Malta, on the other hand, are also countries that are affected by migration, and judging by the Court's judgments, these countries have hitherto suffered the most serious violations of Convention rights for unaccompanied and accompanied migrant children. This paper focuses on the detention of adult migrants, since addressing the issue of minor accompanied and unaccompanied migrants would far exceed the limits of this paper. As we have noticed in the analysis of the judgments given, violations of the rights guaranteed by the Convention are, unfortunately, not rare. Despite the fact that it is not easy for any European country exposed to the migration wave to cope with the problem, it does not justify drastic human rights violations in this area. Whether the situation will improve in the coming period remains to be seen.

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ЛИШЕЊЕ СЛОБОДЕ МИГРАНАТА: ПРИСТУП ЕВРОПСКОГ СУДА ЗА ЉУДСКА ПРАВА

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Резиме

Иако је крај 2019. године, мигрантска криза проналази начине да се продуби, а пред Европским судом за људска права јављају се нови проблеми у тумачењу кршења и очувања људских права. Пре свега неколико месеци, тачније, дана 25. јуна 2019. године, Европски суд за људска права одбио је захтев подносилаца у предмету Rackete и други против Италије, који су, у складу са чланом 39 Rules of Court тражили дозволу за искрцавање на обали Италије са брода Sea-Watch 3. У конкретном предмету подносиоци представке су капетаница брода и око четрдесет лица који су држављани Нигерије, Гвинеје, Камеруна, Малија, Обале слоноваче, Гане, Буркине Фасо и Гвинеје, који су се од 12. јуна 2019. године налазили на броду, у време писања представке ван територијалних вода Италије. Потом, дана 15. јуна је десет особа добило дозволу да се искрца са брода, и то три породице, малолетно дете и жена у другом стању, а на основу здравствених разлога у ноћи између 21. и 22. јуна још једно лице је искрцано на обалу Италије. У међувремену, дана 17. јуна, брод је затражио од регионалног управног суда да по хитном поступку суспендује забрану броду да уђе у територијалне воде Италије. Два дана касније захтев је одбијен с образложењем да, поред лица која су добила одобрење за искрцавање, остала лица не потпадају под категорију осетљивих лица, те да према томе не постоје изузетно озбиљни и хитни разлози за примену хитних мера. Након тога, подносиоци су од Суда затражили дозволу да се искрцају како би затражили међународну заштиту или да буду одведени на сигурно место. Међутим, Суд је одбио да изда привремену меру (које се иначе издају само у ситуацији када је подносилац суочен са стварним ризиком наношења непоправљиве штете), ослањајући се на италијанске власти да ће наставити да пружају сву потребну помоћ лицима која се налазе на броду и која су посебно рањива због година живота или

здравственог стања. Капетаница брода је пак, не могавши више да чува мигранте на броду због све веће суицидалне претње, пробила блокаду заобишавши брод који је блокирао пут и наневши му малу штету. Искрцала је преостале мигранте, те је ухапшена, а након пуштања на слободу налази се на скривеној локацији у Алпима. И тако, с једне стране, имамо мноштво проблема с којима се суочавају како државе тако и мигранти, а долази до различитих форми лишења слободе, са друге стране. Суд је у многобројним пресудама покушао да јасно разграничи оправдано лишење слободе од неоправданог. Кључни члан Конвенције у овој области је члан 5, при чему смо због обима рада заобишли проблематику члана 3 Конвенције, те проблеме с којима се суочавају малолетни мигранти са пратњом и без пратње.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 981–996

Прегледни рад https://doi.org/10.22190/TEME191011058J
Примљено: 11. 10. 2019. UDK 504:628.4:352(497.11)
Ревидирана верзија: 18. 10. 2019. 502.174.1:352(497.11)
Одобрено за штампу: 1. 12. 2019.

SECURITY THREATS AND CHALLENGES - INADEQUATE WASTE MANAGEMENT AT THE LOCAL LEVEL IN THE REPUBLIC OF SERBIA

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Abstract

Inadequate management of waste originating from industry and other activities, communal and service actions, health protection, agriculture and natural person's activities, creates threats and security challenges at the local level within the Republic of Serbia (RS). In this paper, the author systemically analyzes and assess all these problems regarding the diverse generation of waste putting it in the context of public authorities' jurisdiction on all levels, as well as in the context of waste generators. It is specifically assessed in the context of strategic planning documents, laws and bylaws, historical pollution (temporarily stored waste), unsuitable (criminal) waste disposal in locations that are not designed for such purposes, as well as security challenges and threats in that sense. A landfill as a complex has a direct impact on the environment and its mediums, which is especially analyzed in this paper, as well as its impact on human health and the quality of life. Moreover, through an analysis of these impacts and threats (by stating concrete examples for these statements) in the Republic of Serbia, the manners for potential reduction of all these challenges and threats in the local environment are analyzed and discussed with the help of various contemporary approaches and models already applied world-wide, and the recommendations for their use are provided.

Key words: waste, security, local level, environment, the Republic of Serbia.

БЕЗБЕДНОСНИ ИЗАЗОВИ И ПРЕТЊЕ – НЕАДЕКВАТНО УПРАВЉАЊЕ ОТПАДОМ НА ЛОКАЛНОМ НИВОУ У РЕПУБЛИЦИ СРБИЈИ

Апстракт

Неадекватно управљање отпадом који је пореклом из различитих привредних и других активности, комуналних и услужних делатности, здравствене заштите, пољопривреде и активности физичких лица – ствара претње и безбедносне изазове на локалном нивоу у Републици Србији (РС). У раду се системски анализирају и

сагледавају сви ови проблеми у вези са генерисањем отпада различитог порекла стављајући то у контекст надлежности државних органа на свим нивоима, као и генератора отпада. Посебно се наведено сагледава и у контексту стратешко-планских докумената, закона и подзаконских аката, историјског загађења (привремено ускладиштеног отпада) и неодговарајућег (криминалног) одлагања отпада на локације које за то нису предвиђене и безбедносне изазове и претње у том смислу. Депонија као објекат има непосредан утицај на животну средину и њене делове (медијуме), што се у раду посебно анализира, као и утицај на људско здравље и квалитет живота. Такође, у раду се кроз анализу ових утицаја и претњи (навођењем конкретних примера за ове тврдње) у РС, анализирају и дискутују начини за потенцијално смањење свих ових изазова и претњи у локалном окружењу (животној средини), помоћу различитих савремених приступа и модела који се примењују у свету и дају препоруке за њихову примену.

Кључне речи: отпад, безбедност, локални ниво, животна средина, Република Србија.

INTRODUCTION

In the widest sense, waste occurs as a „negative product" and a consequence of any economic activity performed with a goal of creating a product or providing services. It indispensably occurs at the end of the useful life span of any product. The waste (of any kind and origin, dangerous, etc.) is generated in the place of origin. Adequate management of waste and its disposal often occurs as a regional and sometimes even national state problem. Integral waste management implies the implementation of a series of prescribed measures and activities of conduct (the collection, transport, storage, treatment, disposal, monitoring and the maintenance of facilities for waste management after their closure) (SEPA, Otpad i upravljanje otpadom, N.D).

Problems in the field of waste management, regardless of whether they occur on the global or regional level, always have a local determinant (Petrović, 2012, 531), that is, they manifest on a local level (Vavić, Ţivković and Jovanović, 2009, 188). The condition present among us is that inadequate waste management is one of the biggest and most complex problems in regards to the environment (Vavić, Jovanović and Ţivković, 2009, 64). Ecological delicts (Jovašević, 2014, 627) in the field of waste management in the Republic of Serbia, besides being a matter of the Criminal Law (Joldţić and Jovašević, 2012, 58), have not been sanctioned in a proper manner and within the right measure yet.

The democratization of society has led to the issues regarding the environment (Jovanović L., Jovanović Đ., 2014) and the quality of life being highly ranked on the list of values of the contemporary society, on the collective level, but the individual as well (Jovanović, Joldţić and Jovanović, 2015). The rights of citizens regarding the issues of the environment are contained within the Aarhus Convention as an international contract ratified even by the Republic of Serbia, and in 2009, a form of law was adopted in Serbia modelled on this international contract (Aarhus Convention) (Official

Gazette of the Republic of Serbia-International Contracts, 2009), with complementary Strategies for its implementation (Official Gazette of the Republic of Serbia, 2011).

In developed countries, the concept of „green and circular economy" (Ghisellini, Cialani and Ulgiati, 2016, 16) has been implemented for a long time, and it has found its use in different industries (Lieder and Rashid, 2016, 42). Such an approach implies the maximum use of generated waste in all the phases of the product's life span, as well as the reduction of the quantity of the deposited waste and all the risks and threats that might appear as a consequence. It must be acknowledged that the state in this field in the Republic of Serbia is still far from the mentioned standard, since the biggest part of the produced waste is deposited, and only a small amount of it recycled. The state of undeveloped mechanisms pertaining to waste production and disposal results in the contribution to the increase of various forms of risks and threats on a local level.

THE METHODOLOGICAL BASIS OF THE CONDUCTED RESEARCH

The methods used in this research are analysis and content analysis. The author used publicly-available data and SEPA Reports, as well as data available from other foreign and domestic sources. The fundamental question is: to what point is the current state connected to the lack of systemic order, and which part is linked to the lack of implementation of the existent laws and strategies? To that end, the author conducted an analysis of legal and strategic planning documents in the field of waste and waste management in the Republic of Serbia. The security challenges and threats occurring due to inadequate waste management on the local level, in regards to landfills as complexes, municipal waste, industrial waste and other types of waste are in this paper identified and analyzed. In this way, the current state is reviewed and possible ways for reducing challenges and threats in regard to waste management on the local level are suggested.

THE ANALYSIS OF LEGAL AND STRATEGIC PLANNING DOCUMENTS IN THE FIELD OF WASTE MANAGEMENT

Waste management is a complex task that demands suitable organization capacities of all bodies, from the highest state authorities to the local self-government, as well as the cooperation between various interested parties. Planning waste management is regulated by the legal obligation of passing and adopting planning documents by different subjects participating in this field of work. (Ţivković, 2019, 350). Sectoral, material regulation that deals with the field of waste management and conduct is the Law on Waste Management, and the Strategy for Waste Management and its implementation falls under the obligations of the line ministry. Passing

Table 1. Laws directly or indirectly connected to the field of waste management and the analysis of the fulfillment of the said obligations by the competent authorities

Law title	Obligations of the competent authorities
Law on Protection of the Environment The Official Gazette of the Republic of Serbia, no. 135/2004, 36/2009, 36/2009 – state law, 72/2009 – state law, 43/2011 – decision of the Constitutional Court, 14/2016, 76/2018, 95/2018 – state law and 95/2018 – state law	Ministry for the protection of the environment – did not fulfill its legal obligations (Art. 5. Par. 1. and Art. 30 of the Law). Provincial Authorities - did not fulfill their legal obligations (Art. 5. Par. 1 and Art. 30 of the Law). Local self-governments - did not fulfill their legal obligations (Art. 5 Par. 1 and Art 30 of the Law).
Law on Waste Management The Official Gazette of the Republic of Serbia, no. 36/2009, 88/2010, 14/2016 and 95/2018	Ministry for the protection of the environment – did not fulfill its legal obligations (Art. 18 and 84 of the Law). Provincial Authorities - did not fulfill their legal obligations (Art. 19 and 84 of the Law). Local self-governments - did not fulfill their legal obligations (Art. 20 and 84 of the Law).
Law on Packaging and Packaging Waste The Official Gazette of the Republic of Serbia, no. 36/2009 and 95/2019 and the state law	Ministry for the protection of the environment – did not fulfill its legal obligations (Art. 47 of the Law). Provincial Authorities - did not fulfill their legal obligations (Art. 47 of the Law)
Low on Local Self-Government The Official Gazette of the Republic of Serbia, no. 129/2007, 83/2014 – state law, 101/2016 – state law and 47/2018	Local self-governments - did not fulfill their legal obligations (Art. 20 Par. 1. P. 8 of the Law)
Law on Communal Activities The Official Gazette of the Republic of Serbia, no. 88/2011, 104/2016 and 95/2018	Local self-governments - did not fulfill their legal obligations (Art. 3. Par. 1. P. 4. of the Law).
Law on Privatization The Official Gazette of the Republic of Serbia, no. 83/2014, 43/2015, 112/2015, 20/2016 – authentic interpretation	Ministry responsible for business affairs – did not fulfill its legal obligations (Art. 7 of the Law).
Law on Public-Private Partnership (PPP) and Concessions The Official Gazette of the Republic of Serbia, no. 88/2011, 15/2016 and 104/2016	Within the Law on PPP, there is not a clearly defined jurisdiction regarding the supervision of application of the concluded contracts. Neither the Board for PPP nor any other body has jurisdiction or is obliged to collect data on contract application and the conduct of public partners. The Law does not contain penal provisions, which is one of its major deficiencies.

regional and local plans for waste management is a legal obligation in the Republic of Serbia. The Law on Waste Management stipulates that the local self-government Assembly should pass a local plan for waste management for the given territory. Adopting a regional plan for waste management, as a legal obligation, falls within the jurisdiction of the assemblies of two or three local self-government units, or the autonomous province (Ţivković, Vavić and Jovanović, 2009, 72). The regional plan for waste management (for more than 220.000 habitants) includes data collection with regards to: existent utility companies, landfills on the territories of the municipalities included in the said plan, quantities of waste and its content, prices for waste collection and disposal, percentage of territory coverage of the said region by waste collectors, etc.

Table 2. The Analysis of the expiry-date of the strategic planning documents in the field of waste management in the Republic of Serbia

Document title	**Expiry-date**
National Strategy for Waste Management for the period 2010 - 2019. The Official Gazette of the Republic of Serbia, no. 88/2010	10 years, expired in April 2019
National Program for the Protection of the Environment. The Official Gazette of the Republic of Serbia, no. 12/2010	10 years, expired in January 2019
National Strategy for Sustainable Development (The Official Gazette of the Republic of Serbia, no. 57/2008)	10 years, expired in June 2018
National Environmental Approximation Strategy. The Official Gazette of the Republic of Serbia, no. 80/2011	Regarding the field of waste management, expired in January 2019
Strategy for Introduction of Cleaner Production in the Republic of Serbia. The Official Gazette of the Republic of Serbia, no. 17/2009	10 years, expired in March 2019
Spatial Plan of the Republic of Serbia. The Official Gazette of the Republic of Serbia, no. 88/2010	10 years, expires in 2020

Through analyzing the legislative-legal context of the fulfilment of demands in the field of environment protection (for state authorities within the Republic of Serbia on all levels), it might be said that a significant number of the said demands are not fulfilled or are partially fulfilled, and usually not implemented systematically or at all. By conducting an analysis of the expiry-date of the strategic planning documents regarding the field of waste management in the Republic of Serbia, it can be seen that they have most often expired, and that the activities planned by these documents usually remain unfulfilled due to various reasons (organization, financing, etc.).

The analysis of criminal acts against the environment within the Criminal Law (which was not separately listed in Table 1) leads towards the conclusion that inadequate waste management is not defined as a criminal act (consequential pollution of the environment), thus leaving a wide space for illegal management of waste of different origin.

Based on the available data (SEPA, Otpad i upravljanje otpadom, N.D.) (SEPA, Katastar deponija, N.D.), it can be concluded that, out of 28 regions, 13 of them do not even have the waste management plan adopted. Out of 148 existent local self-governments, 24 of them did not draft a plan. Having in mind that the Strategy for Waste Management has just expired (consequentially, as the majority of the before mentioned plans did too), local self-governments do not have the legal basis for making the said plans in the future until the new Strategy for Waste Management is adopted (and it has not yet been passed).

The before mentioned is a clear indicator of the contempt of the law passed by the state (ministries), the Autonomous Province of Vojvodina, a certain number of local self-governments, and it is also an indicator of the catastrophic strategic planning inconsistency in the field of waste management on all levels in the Republic of Serbia. This points to the lack of any plan for the future in this field in Serbia, any real financing for the obligations and activities previously provided by adopted, and now expired, plans. For all the before mentioned stances, no sanctions stipulated by legal regulations were introduced.

THE ANALYSIS OF SECURITY CHALLENGES AND THREATS DUE TO INADEQUATE MUNICIPAL WASTE MANAGEMENT

Through an analysis of municipal waste management at the local level in the Republic of Serbia, it might be said that the current state in Serbian municipalities is characterized by unreliable and incomplete data on the quantity and quality of generating municipal and household waste. Further analysis refers to the inadequacy of landfills in the context of the fulfillment of legal provisions referring to this field and security challenges and threats in this sense.

Waste disposal in the Republic of Serbia is regulated by the Decree on landfilling of waste (Official Gazette of the Republic of Serbia, 2010) which stipulates (Article 1.):

> ”The conditions and criteria for determining the location, technical and technological project conditions, construction and landfill operation, types of waste forbidden from being landfilled, the amount of biodegradable waste that can be landfilled, criteria and procedures for accepting or not accepting, that is, disposing the waste in the landfill, the manner and procedures for operating and closing a landfill, content and monitoring of the landfill operation, as well as additional maintenance of the landfill after being closed.”

Furthermore, the ”Rulebook on methodology for designing recovery and remediation projects” (Official Gazette of the Republic of Serbia, 2015) stipulates the methodology for designing recovery and remediation projects, as well as recovery and remediation of the present unsanitary landfills of municipal waste - dumps. Great non-uniformity of the existent dumps demands for a definition of methodology for four groups of possible unsanitary landfills – dumps that will: ultimately be closed; be used up to three years; be used for five or more years, and the ones that directly endanger water sources (no matter the size and service life).

Based on the data acquired from Public Communal Companies, the Serbian Environment Protection Agency (SEPA) conducted an analysis for the purpose of preparing the Report on the State of the Environment. The analysis of the collected data was conducted based on the „Landfill Cadaster”, created by SEPA (SEPA, Katastar deponija, N.D.). After analyzing the said report, it might be said that within the territory of the Republic of Serbia, there are 164 landfills used by Public Communal Companies for waste disposal. The land on which the landfills are located is (most often) the property of the state or the local self-government, that is, the property of a certain company. The age of a single landfill ranges from 5 new ones (Bačka Palanka - Obrovac, Bela Palanka, Malo Crniće, Pančevo and Tutin) to the oldest one dating from 1956 (Silbaš, Bela Palanka municipality).

The data on the dimensions and volume of the landfill body is usually not the most reliable. The recorded volumes are usually overestimated, since for a majority of them there is no (suitable) technical documentation. The biggest landfills in the Republic of Serbia are located in the biggest cities (Beograd, Niš, Novi Sad), and the majority of the analyzed data from the local municipalities have mechanization and vehicles for collecting waste – from specialized roto press skid loaders and skid steers for large containers, to simple trucks and tractors equipped with trailers. The lack of suitable equipment for waste collection is visible and significant, as it is the case with the mechanisms used for landfill manipulations. Covering waste (with the goal of manifold risk reduction) is conducted on 117 landfills, that is, on 72% of them, and they are in most cases covered by earth or some other inert material. On 15 landfill location, the covering is being conducted on a daily basis, and on 101 of them in accordance with the needs (SEPA, Katastar deponija, N.D.).

Analyzing data on the distance of landfills from water bodies also paints a devastating picture. Up to 25 landfills (15.2%) are located at the distance of less than 50m from the local river, stream or lake side or some water accumulation, and 14 landfills are practically located on the water side or in its hull (SEPA, Katastar deponija, N.D.). A total of 32 (20%) municipalities did not present any data on this. A total of 11 (6.7%) landfills are located at a distance of less than 500m from the water supply zone, and 28 (12.2%) are located at a distance of less than 1000m from the said zone

(SEPA, Katastar deponija, N.D.). It might be expected with great certainty that the landfill body might be connected to the watercourses in the location of the landfill and the geological characteristics of the soil. Only 63 municipalities reported data on the distance of landfills from the protected natural goods and monuments of the significance for the cultural heritage. Landfills in three municipalities are situated less than 100m from the said objects, and in eight municipalities, they are located less than 1000m from them (SEPA, Katastar deponija, N.D.).

Table 3. The number of landfills interacting in some way with watercourses (SEPA, Katastar deponija, N.D.)

Type of landfill and watercourse interaction	Number of landfills
Watercourse is registered within the landfill body	12
Watercourse is registered in the proximity of a landfill	65
There is a possibility of an interaction between the landfill and the watercourse	46
The landfill is in or near the floodplain	28

By analyzing data on the distance of landfills from settlements, it might be concluded that they are alarming too, given that, from the total number of landfills, 12 of them (7.3%) are located less than 100m from settlements Katastar deponija, N.D.), which speaks of the endangerment of the population from the landfill pollution, but also of possible occurrence of various illnesses passed by animals living on landfills.

ANALYSIS OF SECURITY CHALLENGES AND THREATS DUE TO INADEQUATE MANAGEMENT OF OTHER TYPES OF WASTE

When analyzing the security challenges and threats in the context of industrial waste at the local level, it might be said that (dangerous) industrial waste management is one of the biggest ecological, health and security issues in the Republic of Serbia. There are significant amounts of toxic and cancerogenic (dangerous) waste originating from private but also abandoned industrial facilities as historical pollution (waste, etc.). The operation of a facility generates additional new quantities of waste that are often inadequately and illegally resolved (by burial). This has, unfortunately, lead to ecological incidents on numerous locations, and thus has seriously endangered the population's health and the ecological security on the territory of the Republic of Serbia.

Every subject of waste management is obliged to respect the legal praxis of depositing, transporting and removing (dangerous) waste. In practice, there are many more examples of inadequate waste management. But regardless of whether it is the case of depositing dangerous waste in the proximity of an inactive factory , that is, a bankrupt or abandoned building, or

the case of an unconscientious operator or producer that, besides illegally depositing the waste also conducts illegal transport and removal of dangerous waste, the fact is that the responsible authorities are not taking measures stipulated by the law. The most common examples of such security challenges are the following: „Viskoza" in Loznica (leakage of hazardous substance from the 350 cubic meter reservoir into the Drina River, with the risk of further spillage into the Sava River in 2014), as well as nine abandoned factories around which a great amount of dangerous waste is piled (white liquor, green liquor, rare black liquor, sodium hydroxide, sulfuric acid, formaldehyde, butyl acetate, ethyl alcohol, etc.).

In the non-privatized factories of „Zorka" Company in Šabac, which have not been operative for years, the chemicals stored in completely destroyed plants, tanks and pipelines, located in the immediate vicinity of the Sava coast, pose the potential danger and threat to human health and the environment. We are speaking of about 5,500 tons of concentrated sulfuric acid stored in above ground tanks.

During 2018, on the fields near the coast of the Sava River in the vicinity of Obrenovac, buried barrels of about 110 tons of hazardous waste were repeatedly found; in May 2018, within the premises of „Beo tok" (slaughterhouse industry) from Pančevo, hydrochloric acid waste (about 10 tons) was poured directly from the tanks into the city rain sewer; „Eko 21" operator from Pančevo, registered for pickup, temporary storage and export of hazardous waste, according to the statement of the inspection in 2018, improperly treats and stores hazardous waste (improper facilities and infrastructure - manipulating plateau, septic tank, access road and other).

Significant contribution to raising awareness and informing the public about and prioritizing this issue goes to electronic and written media, which publicly give increasing importance to these topics (Jovanović and Aćimović, 2014, 338). Thus, this thematic content and its media presence influence the creation of a better and different environment and an attitude towards values in the context of the environment, health and quality of life (Jovanović and Aćimović, 2014, 340) in our country (Jovanović, Bajac, Radović, Matavulj and Antonović, 2013, 88).

In 2019, the authorities (SEPA) have filed criminal and misdemeanor charges under the laws governing the field of environmental protection. These reports were filed to the National Pollutant Source Register against companies that did not submit data (or have provided incorrect data) on products that, after use, become separate waste streams.

In 2018, a total of 1961 misdemeanor charges were initiated against companies that did not submit any data on products placed on the market in the Republic of Serbia, and a total of 357 criminal charges were initiated in 2016, 2017 and 2018 targeting companies that provided incorrect data when entering data into the information system. Based on the information available to SEPA, obtained from the Customs Administration, the estimated fee for incorrectly entered data is about 4.8 billion dinars in total.

In May 2019, all the companies that have not fulfilled the obligation of submitting the annual report were sent a notification regarding the disregard for their obligations (a total of 4797 companies), after which the majority of the said companies corrected this omission (SEPA, August 21, 2019).

The disposal of treated (and untreated) medical waste at landfills (or dumps) can (indirectly) pose a risk for pathogenic and toxic pollutants found in the environment. Out of the total amount of generated waste in the medical sector, about 85% amounts to non-dangerous and 15% to dangerous waste, which is often infectious, toxic or radioactive. Annually, about 16 billion injections are used world-wide, but not all of them are properly disposed after use.

The uncontrolled combustion of the said waste at landfills can result in the emission of dioxins, furans and particulates (WHO, 2018), which poses an ecological and health challenge and a threat on a local level. What the state needs to do to achieve a universal solution in the long run is an urgent action that should be taken at the local level.

The example of this threat are illegal landfills in the Republic of Serbia on which fires occur due to self-inflammation (of generated landfill gases) or the intention of extracting secondary resources from the waste. The „Vinča" landfill burned for several days, even despitethe Belgrade fire department interventions in 2018.

In mid-2019, a serious problem of landslide present on the landfill body was remedied. Namely, the city of Belgrade, as the signatory of the Contract on PPP (providing services of treatment and disposal of municipality waste and „Vinča" landfill remediation with a private partner, a French-Japanese corporation), fulfilled the contractual obligation in the preparatory phase of the realization of the contract in question by remediating the landslide.

COMMENT

Inadequate waste management (now is not being defined as a criminal act), might broadly be classified as the criminal act of „Environmental Pollution" or „Failure to take Environmental Measures". However, by analyzing available data in the sense of the insignificant number of filed criminal charges and initiated and implemented proceedings for the said offenses, the following might be concluded. Legally defined broad legal terms („pollution on a larger scale or in a wide area") are problematic for public prosecutors for evaluation, and thus, within the process of evidence presentation, not even the expert findings (without on-site investigations), can not be competent to initiate and conduct criminal proceedings. Thus, criminal sanctions for inadequate waste management, in the context of the said criminal acts, can be proven only in rare cases, and are thus negliglible, in the form of an insignificant fine.

The penalty policy is the only solution to the criminal disposal (burial) of hazardous waste of different origin on a private property. There have been numerous talks on this topic in the press, electronic media, and the ministry is urging citizens to report such cases on its website (Ministry of Environmental Protection, n.d.). By the end of 2018, the proposals for amendments to the Criminal Code and for a new crime called ”eco-terrorism“ emerged. The term ”eco-terrorism“ began to be talked about and written about at the end of the last century (Schwartz, D.M. 1998), and the pro-ecologically motivated criminal activity in recent decades has been expanding (Matković, 2013, 531). In the context of waste management, the term ”eco-terrorism” is linked to illegal and unconscious dangerous waste disposal (most often by burial, discharge into rivers, etc.). This act represents a criminal activity against human health and the environment.

In recent times, there has been significant development and implementation of the concept of PPP in the Republic of Serbia in the field of utilities and waste management (Brdarević and Jovanović, 2012, 107). In this sense, local self-governments might be able to start planning and projecting improved systems for waste recycling, waste minimization and waste management. On the state level, the conditions and criteria for the creation and implementation of legal regulations (including financing, control and penalty policy), as well as strategies and plans for waste management, should be more clearly defined.

CONCLUSION

Inadequate waste management on the local level poses numerous threats and security challenges with consequently numerous other environmental and human health implications. In the Republic of Serbia, waste management is practically based on local landfills (dumps) waste disposal, that (with a few exceptions) do not fulfil even the basic hygienic and technical-technological conditions. Besides that, some existing disposal sites are practically almost full. In accordance with the existent state, in Serbia, only a few landfills might be seen as sanitary landfills. As a consequence, an inadequate recycling level is also present.

Public utility companies in the field of waste management are founded and should (almost) exclusively deal with municipality waste. However, due to the fact that this system is unregulated in the Republic of Serbia, all other categories of waste of different origin, including dangerous waste, end up on the landfills that are planned for the storage of municipality waste. One part of dangerous industrial waste is not deposited in landfills anymore, but neither is it exported for treatment (even though it might seem that way) – it is illegally deposited in the surrounding (by burial) without authorization, as stated in this paper. Therefore, it turns to be a serious criminal act against security of people and the environment on a local, but also wider, regional and state level.

On the territory of the Republic of Serbia, urgent systemic improvement of municipality waste management through establishment of organized and separate collection, sorting and waste recycling is necessary. Waste management demands for constant investment and accompanying costs, with the goal of avoiding potential security challenges and threats on the local level. On the other hand, inadequate waste management leads towards an increase of expenses of environment pollution, health expenses and the impact on population health in the state. This consequentially impacts the health protection system and health funds. This has a direct and negative impact on part of the environment and the food production through the inability to produce healthy food on the territory of the Republic of Serbia.

Environmental allocations at the current level are insufficient and must be increased several times, in line with the strategies in this area. The overall result of this situation are the security challenges and threats on the local level, arising as the result of inadequate management of waste of different origins.

ACKNOWLEDGEMENTS. The authors gratefully acknowledge the support from the Project of *Matica srpska* entitled „Environment and the perspectives of quality development and health safety of food in AP Vojvodina".

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БЕЗБЕДНОСНИ ИЗАЗОВИ И ПРЕТЊЕ – НЕАДЕКВАТНО УПРАВЉАЊЕ ОТПАДОМ НА ЛОКАЛНОМ НИВОУ У РЕПУБЛИЦИ СРБИЈИ

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Резиме

Неадекватно управљање отпадом на локалном нивоу изазива бројне претње и безбедносне изазове, са последично бројним другим импликацијама везаним за животну средину и људско здравље, што представља један од највећих нерешених системских проблема у РС. У раду се анализирају и сагледавају проблеми у вези са стварањем отпада различитог порекла и решавањем отпада (депоновања), стављајући то у контекст надлежности државних органа на свим нивоима, као и генератора отпада. Наведено се посебно сагледава у контексту стратешко-планских докумената, закона и подзаконских аката, историјског загађења (привремено ускладиштеног отпада), неодговарајућег (криминалног) одлагања отпада на локације које за то нису предвиђене и растућој појави безбедносних изазова и претњи у том смислу. У РС је практично једини начин управљања отпадом одлагање на локалне депоније (сметлишта), које (са веома мало изузетака) не задовољавају ни основне хигијенске и техничко-технолошке услове. Поред тога, нека од постојећих одлагалишта су практично сасвим попуњена. Према постојећем стању, у РС је врло мали број депонија које се могу сврстати у санитарне депоније. Последично томе, присутан је и неадекватан степен рециклаже.

Када је у питању управљање отпадом и његово депоновање, мора се нагласити да депонија, као објекат, има одређени и непосредан утицај на животну средину и њене појединачне делове (медијуме). Овај утицај (услед неадекватног управљања

отпадом) повећава се и посебно анализира у раду као претња људском здрављу и, последично, смањењу квалитета живота на локалном нивоу. Кроз анализу утицаја и претњи (навођењем конкретних примера за ове тврдње) у РС, анализирају се и дискутују начини за потенцијално смањење свих ових утицаја у локалном окружењу (животној средини), помоћу различитих савремених приступа и модела који се примењују у свету и дају препоруке за њихову примену.

Анализирајући законодавно-правни контекст испуњености захтева у области животне средине (за државне органе у РС на свим нивоима), може се рећи да један значајан број ових захтева није испуњен или је испуњен само делимично, најчешће само на папиру. Анализирајући рокове важности стратешко-планских докумената везаних за област отпада у РС, уочава се да су они углавном истекли, да су активности које су овим документима планиране углавном остале неиспуњене из различитих разлога (организација, финансирање и др.).

У РС је зато потребно хитно системско побољшање управљања комуналним отпадом (али и свим другим врстама отпада), кроз успостављање организованог и одвојеног сакупљања, сортирања и рециклаже отпада. Управљање отпадом подразумева стална улагања и пратеће трошкове у циљу избегавања потенцијалних безбедносних изазова и претњи на локалном нивоу. Са друге стране, због неадекватног управљања отпадом, имамо и повећане трошкове загађења животне средине, лечења и утицаја на људско здравље, што у РС последично утиче на целокупни систем здравствене заштите и здравствене фондове. Значајна негативна и системска последица је утицај на пољопривредну производњу, кроз потенцијалну немогућност производње здравствено безбедне хране на територији РС, о чему посебно морамо водити рачуна у будућности.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 997–1011

Прегледни рад https://doi.org/10.22190/TEME191014059K
Примљено: 14. 10. 2019. UDK 343.13:343.982
Ревидирана верзија: 15. 10. 2019. 342.7:343.45
Одобрено за штампу: 1. 12. 2019.

APPLICATION OF THERMAL IMAGING CAMERAS IN CRIME DETECTION [a]

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Abstract

The application of thermal imaging cameras in crime detection has raised the question of the legality of their use, as well as the procedural value of thus obtained information. With regard to these questions, the standpoint of the U.S. court practice has shown diametrically opposite views. The earliar U.S. courts rulings took the position that the application of thermal imaging cameras was not subject to the fulfillment of any particular conditions and that it was encompassed by police discretionary decisions. The position of later rulings was that the application of new technologies, including thermal imaging cameras, was subject to basic conditions required for searching, i.e. mandatory obtaining of the court order with the purpose of protecting the right to privacy. As the application of thermal imaging cameras in the Republic of Serbia is prescribed neither by laws nor by by-laws, it could be governed by general regulations on the use of technical means in implementing operational tactical measures and actions, as well as gathering of evidence. Therefore, thermal imaging cameras might be used in police actions, such as police observation, covert surveillance and recording. In the course of covert surveillance and recording, as part of theevidence gathering process, the use of thermal imaging cameras would be regulated by the same conditions by which the undertaken actions are regulated. Since the possibility of the application of thermal imaging cameras while performing police observation is not explicitly provided for, dilemmas with regard to their use still remain, as well as the issues concerning their procedural value.

Key words: thermal imaging cameras, crime detection, privacy.

[a] This paper is the result of the realisation of the Scientific Research Project entitled "Development of Institutional Capacities, Standards and Procedures for Fighting Organized Crime and Terrorism in Climate of International Integrations". The project is financed by the Ministry of Education, Science and Technological Development of the Republic of Serbia (No 179045) and carried out by the University of Criminal Investigation and Police Studie (2011-2019).

ПРИМЕНА ТЕРМОВИЗИЈСКИХ КАМЕРА У ДЕТЕКЦИЈИ КРИМИНАЛА

Апстракт

Примена термовизијских камера у детекцији криминала отворила је питање законитости њихове употребе и процесног значаја тако добијених информација. У одговору на ова питања пракса америчких судова заузимала је дијаметрално супротстављена гледишта. Старије пресуде америчких судова су полазиле од схватања да примена термовизијских камера не подлеже испуњавању никаквих посебних услова и да потпада под полицијско дискреционо одлучивање. Касније пресуде заузимају став да примена нових технологија, па и термовизијских камера, подлеже основним условима који се траже за претресање, односно обавезном прибављању судске наредбе, а све у циљу заштите права на приватност. Примена термовизијских камера у Републици Србији није прописана ниједним законом или подзаконским актом, већ би се могла подвести под опште одредбе о употреби техничких средстава при спровођењу оперативно-тактичких мера и радњи и доказних радњи. Као радње при чијем спровођењу би могло доћи до употребе термовизијских камера издвајају се полицијско опажање и тајно праћење и снимање. Приликом примене тајног праћења и снимања, као посебне доказне радње, примена термовизијских камера била би уређена под истим условима под којима се и сама радња предузима. Дилеме постоје код примене термовизијских камера при спровођењу полицијског опажања, будући да та могућност није експлицитно предвиђена, а тиме је остало без одговора и питање њиховог процесног значаја.

Кључне речи: термовизијске камере, детекција криминала, приватност.

INTRODUCTION

Modern society is characterized by numerous challenges, among which those regarding safety may be singled out as the most important. Safety issues presents a fundamental and primary concern since both society and its members may fully develop only in a safe environment. The safety of an individual and the community is not an isolated issue with which a state, region or an organization have to deal with, but a universal problem asking for multiagency approach, internal and international normative and operational response (Nikač, Radovanović, Zorić, 2018, p. 204). One of the biggest safety threats arises from the perpetration of various criminal acts. Dealing with safety protection, i.e. prevention, detection and the proving of criminal acts, modern societies use advanced technologies to a great extent. One of these technologies applied in crime detection is the utilization of thermal imaging cameras.

Thermal imaging cameras record heat emission, converting infrared radiation into radiation visible to the human eye. Infrared light is used for identifying the presence of bloodstains, the detection of writing ink, the examination of burned documents, the detection of gunshot residue (GSR), trace impression evidence, etc. Law enforcement officers use thermal imaging cameras mostly for the detection of illegal marijuana

growing, human trafficking and state border surveillance. The U.S. applies this technique as the basis for obtaining a search warrant if there is probable cause that a person is cultivating cannabis illegally.

The utilization of thermal imaging cameras in crime detection has raised two questions. The first question refers to the lawful use of thermal imaging cameras with regard to the protection of the right to privacy, while the second one deals with the issue of the procedural value of the information obtained by means of thermal imaging cameras. With the aim of answering these questions, the first part of the paper presents the basic features of infrared thermal imaging technology and its potential areas of application. The second part of the paper analyzes some of the most significant rulings of the U.S. courts pertaining to the use of thermal imaging cameras in crime detection and protection of the right to privacy. The third part of the paper deals with the positive legal solutions in the Republic of Serbia with reference to the application of thermal imaging cameras.

INFRARED THERMAL IMAGING TECHNOLOGY

Infrared radiation is the range of electromagnetic specter of radiation that arises from the thermal radiation with longer wavelengths than visible light and shorter wavelengths than microwave radiation. (Asirdizer, et.al., 2016, p. 98). It is in range from 700nm to 30μm and it is used for the detection of emitted heat. Each object in nature that has a temperature above the absolute zero (0 K = -273ºC) emits radiation in the infrared range of electromagnetic spectra because it is hotter than its surroundings and cools down by transferring energy through convection, conduction and radiation. There are three types of infrared radiation: near, mid and thermal infrared radiation (Battalwar, et.al., 2015, p. 11; Chua, et.al., 2018, p. 1). The relation between the amount of emitted energy by the object and the temperature is given as Stefan-Boltzman law (Equation 1) (Edelman, et.al., 2013, p.1157).

$$W = \sigma \varepsilon T^4$$

W stands for the total amount of energy per square meter (W/m^2), $\sigma = 5.67 \times 10^{-8}$ Wm^2/K^4 is Stefan-Boltzman Constant, ε is emissivity, and T is absolute temperature (K).

Infrared thermal imaging is a contactless and nondestructive technique which detects temperature changes of a recorded object. Initially, infrared technology was developed for military purposes. This technology can be applied to any situation where thermal profile and temperature will provide information about an object (Battalwar, et.al., 2015, p.10). The equipment needed for thermal imaging involves a camera and computer with the appropriate software for saving and

subsequent image processing. An infrared camera converts invisible light into visible images, similar to a common camera which uses visible light.

The working principle of a thermal imaging camera is based on the passing of infrared rays through a specific lens, which subsequently focus passing through a sensor. In order to avoid reflection, this lens is not made of ordinary glass, but of Ge, SiO_2, ZnSe, ZnS (Edelman, et.al., 2013, p. 1160). The obtained information visible as numerous dots of a recorded object is processed and displayed in the form of a thermal image by the sensor in a very short time. Digital sensors are made to be sensitive to wavelengths of infrared rays. Digital technology converts a thermal image into electrical impulses directed toward the unit for signal processing and the system for image acquisition. A thermal image is dyed in various colors depending on the emitted energy of the recorded object.

Regarding the fact that the temperature measuring of the recorded object is a non-contact method, a number of factors, such as the quality of the recorded object surface, i.e. its emissivity, reflectivity, distance between the device and the recorded object, environment temperature, etc. act on the recorded temperature values. A lot of research has been done all over the world in order to improve the accuracy of temperature measurement with the use of infrared thermal imager (Zhang, et.al., 2019, p. 1).

Nowadays, advances in technology have made infrared digital imaging available to forensic photographers. Infrared light has wide application in forensic science in developed countries. It can be used both at the crime scene and in the laboratory. Thus, infrared light is used for identifying the presence of bloodstains, detection of writing ink, examination of burned documents, detection of gunshot residue (GSR), trace impression evidence, such as tire prints on dark clothes, biomedical photography, surveillance photography, etc. (Lyn, et.al., 2007, p. 1148; De Broux, et.al., 2007, p. 1).

Thermal traces found at the crime scene may lead to information when a certain object was used, i.e. when it was in contact with a warm object, e.g. if there was any electrical devices, cups or any other containers with lukewarm liquid (Edelman, et.al., 2013, p. 1161). Furthermore, thermal imaging can be used for the estimation of cooling time from pixel intensity values within a time interval of 3 to 25 minutes after shoes have been removed from the crime scene, which means that it would be possible to assess the amount of time since a suspect has left the crime scene (Chua, et.al., 2018, p. 1). With the use of thermal infrared camera technology, it is possible to identify the source of the failure and track its path. Moreover, it can be used for looking through the smoke.

Thermal imaging of a person's face is used in order to estimate their current functional and psycho-emotional state based on the analysis of parameters which characterize the work of the respiratory and the cardiovascular system. The change of temperature of the facial areas near

the bridge of the nose is in direct relation to the parameters of the cardiovascular system (Alyushin & Kolobashkina, 2018, p. 44). Thermal imaging is also applied in firefighting operations, military, law enforcement and anti-terrorism, automotive applications, roof inspection, medical imaging, night vision, medical field, police target detection and acquisition (Battalwar, et.al., 2015, p. 13). Infrared thermal imaging technology is a new technology which is applied in police practice in the Republic of Serbia.

THE APPLICATION OF THERMAL IMAGING CAMERAS IN CRIME DETECTION IN THE USA

The U.S. police agencies started using thermal imaging cameras in the early 90s of the 20th century. Therefore, courts had to decide if the use of thermal imaging constituted search under the Fourth Amendment (Dashiell, 2003, p. 360). In the USA, thermal imaging is dominantly used for the detection of illegal laboratories for the cultivation of cannabis as proof for reinforcing the request for the search of specified premises. Therefore, in the practice of the U.S. courts, the question arises as to whether this evidence should be seen through the prism of the protection of the right to privacy, i.e. the Fourth Amendment to the Constitution of the U.S. According to this Amendment, "the people have a right to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized". The Fourth Amendment issue raised by thermal imaging technology is whether the use of the device by the law enforcement constitutes a search within the meaning of the Fourth Amendment.

In the beginning, the majority of the U.S. courts held that thermal imaging was not a search and accepted thermal image as evidence although the warrant for a search was not obtained. The majority of views of the courts mentioned relies on several different rationales. One rationale posits that thermal imaging is non-intrusive and, therefore, not a search, comparing it to the search of the garbage disposed of by the suspect. In *California v. Greenwood* (486 U.S. 35, 40,1988), the Court held that it was not a Fourth Amendment violation to search a person's garbage without a warrant. The Court reasoned that one had no subjective expectation of privacy in that which he knowingly exposed to the public – "the garbage could be inspected by anyone". Nor does one have a privacy interest in that which is knowingly transferred to a third party, the garbage collectors. The District Court of Hawaii in *United States v. PennyFeeney* concluded that the disposal of waste matter was exposed to the public and, therefore, the defendant had no subjective expectation of

privacy. Even if he did, the court said, the defendant's expectation would be unreasonable, because “no intimate details connected with the use of the home or curtilage were observed”. Furthermore, the court wrote, the Fourth Amendment was not violated because the thermal imager was passive, “there was no undue noise, no wind, dust, or threat of injury” (Dashiell, 2003, pp. 360-361).

Another rationale analogizes thermal imaging to canine sniffs. The Eighth Circuit in *United States v. Pinson* reasoned that thermal imaging was “analogous to the constitutional and warrantless use of police dogs trained to sniff and identify the presence of drugs.” The Pinson court stated: “Just as odor escapes a compartment or building and is detected by the sense-enhancing instrument of a canine sniff, so also does heat escape a home and is detected by the sense-enhancing infrared camera.” The court also discussed the fact that no intimate details of the home were observed by the thermal imaging.

Finally, some courts justified the use of thermal imaging on the plain view doctrine for a search (Campisi, 2001, pp. 257-258). In *United States v. Ishmael*, the Fifth Circuit found that the defendant did have a subjective expectation of privacy, but held that the expectation was unreasonable. In this case the court compared the use of the thermal imaging device to law enforcement officers peering into a barn located in an open field. Thus, the defendants had no reasonable expectation of privacy because their secret marijuana crop was inside a building in an open field, and no search occurred because the building was never physically invaded (Dashiell, 2003, p. 362).

Only a minority of the U.S. courts considered that law enforcement officers must obtain a court warrant for this type of evidence because it would otherwise constitute a search under the Fourth Amendment. These courts focused on the intrusive nature of this technology. The view of these courts also focused on the individual's expectation of privacy in the activities conducted within the home, rather than on the expectation of privacy in the heat emitted from the residence. The turning point in the court practice concerning the use of technology in the protection of the right to privacy was the ruling in the *Katz v. United States* case because it took the view that the Fourth Amendment protects people, not places. In support of this view, it should be emphasized that the evidential value of the information obtained by communication surveillance without physical intrusion into a particular place has to be judged by the standard of the fulfillment of the search warrant requirement. Justice Harlan suggested a two-part test for assessing the violation of the right to privacy in this case. The first test referred to the assessment of the subjective expectation of the person whose premises had been searched. The second test was to assess whether that subjective expectation regarding privacy was recognized as reasonable by society (McKenzie, 2002, p. 158).

Subsequent to this ruling, in the *State v. Siegel* case, the Montana Supreme Court held that the use of thermal imagers in criminal investigations constituted a search under the Montana Constitution, thereby requiring a search warrant supported by probable cause. The court in the *State v. Siegel* case noted that thermal imaging provided information regarding heat emissions of both illegal and legal nature, finding that a thermal imager could not limit its detection solely to information regarding illegal activities and that was why a thermal imager was indiscriminate (Larks-Stanford, 2000, p. 599).

In the *California v. Ciraolo* case, the police received an anonymous tip that the suspect was cultivating marijuana in his backyard, the police surveilled the area from a plane in order to make sure whether marijuana was actually grown there. The police were forced to fly over the yard because the defendant had erected a six-foot outer fence and a ten-foot inner fence around it, preventing people from viewing the yard at ground level. The Court held that this was sufficient manifestation of an expectation of privacy on the defendant's part. However, the Court stated that this expectation of privacy was not one that society would find reasonable and, therefore, the defendant had failed the second prong of the Katz test. The Court reasoned that any member of the public flying over the house could have glanced down and seen what the officers had seen and concluded that the investigation did not violate the Fourth Amendment. One of the justices wrote a dissenting opinion claiming that the taken photos had revealed not only marijuana but a pool and a yard, as well. The dissenting opinion also pointed out that the technology used, specifically the airplane, allowed the police officers to conduct the investigation in a way that only would have been possible with physical invasions at the time the Fourth Amendment was adopted (McKenzie, 2002, p. 163).

Other courts stated that the use of thermal imaging devices reveal intimate details occurring within the sanctity of the home, the place deserving the utmost protection pursuant to the Fourth Amendment (Larks-Stanford, 2000, p. 591-593). This stance was used in the *Dow Chemical Co. v. United States* case, which involved fly-over and photographing by investigators, but the airplane and the camera were significantly more sophisticated than those used by the general public. The Court stated that "highly sophisticated surveillance equipment not generally available to the public, such as satellite technology, might be constitutionally proscribed absent a warrant. But the photographs here are not so revealing of intimate details as to raise constitutional concern" (McKenzie, 2002, p. 164).

The Supreme Court put an end to the mentioned discussion in the *Kyllo v. United States* case. In this case, the suspect's house was scanned with a thermal imaging device which revealed a huge amount of heat radiating from it. This thermal imaging scanning and the information about the electric power consumption were the basis for obtaining a search warrant. Lower courts concluded that the thermal scanner used on Kyllo's home

measured the heat being emitted from the outside of the walls of the house. However, there appears to be little agreement on how much this tells the officers about what is going on inside the home. The court stated: “It appears that there is a variety of thermal imagers available and while some are only capable of providing crude images of where heat is coming from, others have the capability to unveil more detail.” In this case, the trial court found that the thermal imager that the police used “is a non-intrusive device which emits no rays or beams and shows a crude visual image of the heat being radiated from the home outside of the house”. It further found that: “The use of the thermal imaging device here was not an intrusion into Kyllo's home. No intimate details of the home were observed, and there was no intrusion upon the privacy of the individuals within the home. The device used cannot penetrate walls or windows to reveal conversations or human activities. The device recorded only the heat being emitted from the home”.

In this case, the U.S. Supreme Court accepted a new test for the assessment of the application of sense-enhancing technology, thus rejecting Katz test and introduced substantial change in the Fourth Amendment law. The Court stated: “We think that obtaining by sense-enhancing technology any information regarding the interior of the home that could not otherwise have been obtained without physical intrusion into a constitutionally protected area constitutes a search - at least where (as here) the technology in question is not in general public use”. The court stated: “It would be foolish to contend that the degree of privacy secured to citizens by the Fourth Amendment has been entirely unaffected by the advance of technology”. Additionally, the Court noted: “Where, as here, the Government uses a device that is not in general public use, to explore details of the home that would previously have been unknowable without physical intrusion, the surveillance is a search and is presumptively unreasonable without a warrant” (*Kyllo v. United States*, (99-8508) 533 U.S. 27, 2001, F.3d 1041, reversed and remanded). A dissenting opinion was given by Justice Stevens. The dissent argued that there was a difference between technology that gave its user direct access to information in a private area and technology that only allowed its user to make inferences about what might be going on inside that private area. In his dissent, Justice Stevens emphasized that "what a person knowingly exposes to the public is not a subject of the Fourth Amendment protection".

Some U.S. authors point out that when using new technologies, priority should be given to obtaining a person’s consent for their application. “Obtaining consent, after all, is simpler, faster, and less burdensome than applying for a warrant. As Justice Alito surmises, sometimes individuals might appreciate the opportunity to make a choice whether to consent to police intrusion into their personal and private lives or not” (Crocker, 2013, p. 736).

NORMATIVE REGULATIONS OF THE APPLICATION OF THERMAL IMAGING CAMERAS IN CRIME DETECTION IN THE REPUBLIC OF SERBIA

Bearing in mind the importance and scope of application of thermal imaging cameras in crime detection, this part of the paper presents and analyzes the positive legal solutions pertaining to the application of thermal imaging cameras in the Republic of Serbia. Theoretically researching the subject matter of this problem, we have analyzed the most important laws and by-laws which directly regulate police powers. The basic legal act regulating the types of police duties, measures and actions undertaken by police officers is the Law on Police. However, this Law contains no regulations providing the possibility of application of thermal imaging cameras in crime detection and the state border protection. Therefore, we have analyzed the police observation or surveillance activity (Law on Police, 2016, art. 47, para. 2, item 3), since it involves the application of various advanced technology devices, including thermal imaging cameras.

Police observation is undertaken with the aim of investigating the obtained information and preparing a proposition for appropriate authority. The very activity may be undertaken by close observation or surveillance with the aim of gathering information which may be valuable for establishing whether there is grounds for suspicion that a crime or a misdemeanor has been committed (Law on Police, 2016, art. 50, para. 1) *even before there are grounds for suspicion that a crime or a misdemeanor has been committed*. This Law states that observation may be carried out in public and other accessible areas, excluding intrusion into any individual's right to privacy (art. 50, para. 2). When the assessment of the value of thus obtained information is concerned, the legislator has explicitly provided for a method for handling the information that may not be used in the procedure, as well as the information of no operational value, stipulating that they have to be destroyed within the period of one year (art. 50, para. 3). On the basis of this legal regulation, it may be concluded that police observation or surveillance may be treated as an activity undertaken *ante delictum and post delictum*, while the information obtained by this activity may have either operational or evidential value in proceeding a particular crime or misdemeanor. Apart from a general statement that observation must not intrude on a person's privacy, neither special guarantees are provided for, nor specific conditions for undertaking this activity are defined for the protection of the right to privacy.

There are no by-laws regulating a police officer's duties and activities that offer additional information on the specific application of thermal imaging cameras. The Regulation on Police Discharge of Particular Duties only contains a provision defining an activity titled close observation, monitoring and surveillance (art. 10). Similarly, Regulation on Police Powers does not contain special provisions either on conducting observation and

surveillance, or regarding the application of thermal imaging cameras, except for general remarks on the possibility of performing particular operational tactical measures and actions by using special devices or technical means (art. 60, para. 5).

In order to completely analyze the application of police observation by thermal imaging cameras, we have studied the Law on Protection of State Border. According to this law, a border police officer may administer powers with the use of technical means and devices while performing border control duties (art. 28, para. 1). Additionally, this law stipulates that the surveillance of the state border is performed by administering powers and carrying out measures and actions directly or by using technical means and devices (art. 31). The regulation on Police Discharge of Particular Duties explicitly provides for the possibility of technical means application in protecting the state border, emphasizing that devices are used for that purpose without concretizing the type (art. 35, para 2).

More information on police observation may be found in criminalistics theory, where this activity is defined as general operational tactical or evidentiary action undertaken with regard to particular persons, objects and areas (Žarković, Ivanović, 2014, p. 163). Moreover, terms covert surveillance or special observation are in use, as well (Simonović, 2004, p. 120). Regardless of different names, basic features of observation are that it is performed covertly by selected and trained persons equipped with adequate technical means (Popara, 2012, p. 156). Police observation is the basis for undertaking other operational tactical measures and actions (Žarković, Ivanović, 2014, p. 163). In the course of surveillance, it is customary to use adequate technical means, such as infrared cameras, etc. (Žarković, Ivanović, 2014, p. 165).

It should be emphasized that thermal imaging cameras might be used in the course of covert surveillance of particular persons with the aim of observing their activities and contacts. Some authors point out that covert surveillance is a technique by which more than 50% of evidence in most police operational processing of organized criminal groups is obtained (Popara, 2010, p. 240). However, in the cases of covert surveillance, we must have in mind its twofold legal nature. Namely, covert surveillance may be understood either as a general operational tactical activity, or an activity undertaken within the special evidentiary action of covert surveillance and recording in accordance with article 171 of the Criminal Procedure Code. Covert surveillance implies secret observation of particular persons or a group of people and objects under operational processing, and it involves secret observation and surveillance with the aim of detecting particular criminalistics and criminal proceedings-relevant facts (Krivokapić, Žarković, Simonović, 2003, p.183).

As a rule, observation as a general operational tactical action is undertaken on the basis of the authorization given by the head of the

department, supervising the unit for surveillance (Popara, 2010, p. 241). If secret observation is part of evidentiary action of covert surveillance and recording, then the conditions for their authorization are more rigorous, because this action is authorized by the preliminary proceedings judge. The time span of this special evidentiary action is legally limited and the control of its legality is carried out by preliminary proceedings judge.

Based on the above analysis, it may be concluded that adequate protection of the right to privacy is provided for by law if covert surveillance is undertaken as part of special evidentiary action of surveillance and recording. Thereby, potential application of thermal imaging cameras would be within the legal framework. The problem may arise if the police observation with the use of thermal imaging cameras is undertaken as operational tactical activity with the lack of precise provisions. Similar situation may be noticed in the legislation of the Republic of Slovenia, but the court practice there has taken the standpoint that the use of technical means has to be based on the court order (Kriznar, 2017, p. 200).

The Police Powers and Duties Act of the Republic of Croatia defines covert police actions as a special police power by which the identity of a person reasonably suspected of being the perpetrator of an offence prosecuted *ex officio* may be secretly checked (art. 32, para. 1). Covert verification of identity is undertaken by observation, surveillance, the gathering of information whilst the purpose of gathering and the status of a police officer are disguised by means of technical recording (art.32, para. 2). If not otherwise provided for by a separate law, it is specified that surveillance and technical recording measures may last for 24 hours at most, unless the measures have been undertaken in order to check the identity of a person suspected of committing offences for which the prescribed sentence is at least five years of imprisonment, in which case the measures may last for 48 hours (art. 32, para. 3).

The Police Powers and Duties Act of the Republic of Croatia provides for the possibility of undertaking covert police actions, such as observation and surveillance in the course of criminal investigation if it is evident that other actions shall not achieve the aims of police duties (art. 80, para. 1 and 2). Additionally, it is stipulated that observation and surveillance actions may last for fifteen days starting from the day of the order issuing, which may be extended by another fifteen days for reasons of successful completion of undertaken actions. The written order for observation and surveillance is issued by the general police director or some other person authorized by him, while in case of extension of the surveillance action, the order can be issued exclusively by the general director or his deputy. Exceptionally, the order may be placed orally if so required for reasons of urgency, but has to be issued in the written form within 24 hours (art. 80, para. 4 and 5). The law precisely defines that an authorized public prosecutor and the general police director have to be informed about the undertaken covert observation and

surveillance actions with the aim of supervising their legality within 48 hours after the completion of the action (art. 80, para. 7). This law also provides for the civil control of the undertaken observation and surveillance actions (art. 102a).

Similarly, the Regulation on Police Discharge of Duties of the Republic of Croatia specifies that the observation and surveillance may be performed by means of adequate technical and program solutions (art. 120a) and it is the duty of the superior officer to check whether the used technical devices are in good working order after the completion of the action (art. 171).

On the basis of the above mentioned, we may conclude that there is sufficient room in the Serbian legislation for the improvement of laws and by-laws which would in detail regulate the legal basis (i.e. material and formal condition) for undertaking operational tactical police observation, the duration of the action, the control of its performance, the application of adequate technical devices, including thermal imaging cameras and defining their operational importance.

CONCLUSION

The use of thermal imaging cameras in crime detection as an additional technical device may help in obtaining information on excessive heat emission in a particular area. Thus obtained information is not sufficient for making conclusions implying that a criminal activity might be taking place on a certain location. Hence, these devices should exclusively be characterized as indications due to which other police measures and actions in crime detection may be realized. Furthermore, based on thermal imaging scanning and other undertaken police measures and actions (e.g. obtained information about electric power consumption), material basis for a search may be strengthened.

Since thermal imaging cameras enable recording of excessive heat emission, we are of the opinion that their application does not considerably violate the right to privacy. However, this right might be brought into question by undertaking some other operational tactical measures and actions, such as police observation, due to vague legal provisions. Hence, we are of the opinion that full protection of the right to privacy would be achieved by regulating police surveillance modelled after the Croatian legislative solution, as well as by stipulating the possibility for the application of thermal imaging cameras to facilitate crime detection. Thus, the citizens would be acquainted with the options at police officers' disposal to detect crimes, conditions and methods of their application, as well as legal means that they may use in order to control the legality of police actions involving the use of thermal imaging cameras, and the storing and processing of thus obtained information.

The U.S. court practice supports the argument according to which a court order is required for the application of thermal imaging cameras because technology seems to be advancing at an unprecedented pace. Consequently, it is only a matter of time when thermal imaging cameras will be able to detect more than ordinary heat emission. We think that the employment of technology should be regulated taking into consideration its current performances, and not its overall potential, althewhile "keeping pace with everyday life" in order to ensure the full protection of human rights and freedoms.

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ПРИМЕНА ТЕРМОВИЗИЈСКИХ КАМЕРА У ДЕТЕКЦИЈИ КРИМИНАЛА

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Резиме

У заштити безбедности, односно у откривању и доказивању кривичних дела, полицијски службеници све више користе савремену технологију, међу којима се издваја и употреба термовизијских камера. Термовизијске камере функционишу тако што бележе емисију топлоте, претварајући инфрацрвену радијацију у радијацију која је видљива људском оку. На тај начин могу се открити различите криминалне активности, од незаконите производње марихуане, трговине људима, кријумчарења људи до надзора државне границе.

У САД примена термовизијских уређаја изазвала је много контроверзи, пре свега са аспекта заштите права на приватност, предвиђеног Четвртим амандманом. У изостанку прецизног законског овлашћења на употребу термовизијских камера, америчка судска пракса покушала је да понуди одговоре на кључна питања, као што су законитост њихове употребе и дозвољеност употребе тако добијених информација у кривичном поступку. У почетку, већина судова сматрала је да се термовизијске камере могу користити без посебне судске наредбе за претресање, правдајући овакав став различитим аргументацијама. Прекретницу у судској пракси доноси пресуда Врховног суда САД у предмету Killo vs. United States, у којој је суд оценио да је за примену термовизијских уређаја неопходно обезбедити судску наредбу.

Имајући у виду недоумице које у пракси америчких судова изазвала примена термовизијских камера у откривању и доказивању кривичних дела, анализирали смо нормативна решења у Републици Србији. Анализом смо обухватили најважније прописе који регулишу поступање полицијских службеника. Свима њима заједничко је да не садрже посебне одредбе о употреби термовизијских камера, већ би се њихова употреба могла подвести под опште одредбе ових прописа, којима се предвиђа могућност коришћења техничких средства при вршењу полицијских овлашћења. Полазећи од анализе оперативно-тактичких мера и радњи код којих је употреба ових уређаја могућа, закључили смо да би се они могли користити при полицијском опажању, као и приликом предузимања посебне доказне радње, тајно праћење и снимање. У зависности од тога да ли се користе при предузимању полицијског опажања или тајног праћења и снимања, услови за примену термовизијских камера били би идентични као за предузимање радње при чијем спровођењу се користе. Будући да оперативно-тактичка радња полицијско опажање није прецизно уређена прописима, самим тим и питање примене термовизијских камера остаје без одговора. Мишљења смо да би законом требало предвидети могућност коришћења термовизијских камера при спровођењу полицијског опажања, а информације добијене њиховом применом третирати као информације од оперативног значаја. Посебна вредност информација добијених применом термовизијских камера огледа се у оснаживању правног основа за предузимање појединих доказних радњи, као што су претресање и тајно праћење и снимање.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1013–1028

Оригинални научни рад https://doi.org/10.22190/TEME191014060D
Примљено: 14. 10. 2019. UDK 342.7:316.774
Ревидирана верзија: 11. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

THE HYBRIDIZATION OF SECURITY SYSTEMS AS A FUNCTION OF THE HUMAN SECURITY CONCEPT

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Abstract

Depending on the inclination of the authors and the focus of their security research, we recognize two most common approaches: the first focuses on the stability of national governance structures and territorial integrity (state and/or national security); while the second approach focuses on security as a civil right in daily life, the availability of necessary resources and the quality of life. The latter approach is known in theory as the concept of human security. Considering the fact that a comprehensive analysis of the security situation involves elements of both approaches, in the paper we consider the complex relationship between state and non-state security actors through the hybridization of the political system. The mismatch between the level of the national strategy and its operationalization at the level of meeting the needs of citizens requires the introduction of new elements in the space between the strategic and operational levels. The outlined approach can be called the Hybrid Security System because of its potential contribution to raising the level of Human Security (HS) in local communities. We will present the hybrid security system conceptually in the form of a decentralized computer network. The presented diagram of System Dynamics and the proposed model of HS operationalization through the hybridization of security systems using the potential of Information and Communications Technologies are a good basis for the analysis and raising the level of citizens' security in relation to current threats.

Key words: security system, Human Security, operationalization, hybridization, System Dynamics.

ХИБРИДИЗАЦИЈА СИСТЕМА БЕЗБЕДНОСТИ У ФУНКЦИЈИ РЕАЛИЗАЦИЈЕ КОНЦЕПТА ЉУДСКЕ БЕЗБЕДНОСТИ

Апстракт

У зависности од опредељења аутора и фокуса њихових истраживања у области безбедности, препознајемо два приступа: први у средиште истраживања ставља стабилност државних управљачких структура и територијални интегритет (државна и/или национална безбедност); док се други приступ усредсређује на безбедност као право грађана на сигурност у свакодневном животу, доступност неопходних

средстава и квалитет живота. Овај други приступ је у теорији познат под називом концепт људске безбедности. Имајући у виду чињеницу да свеобухватна анализа безбедносне ситуације подразумева елементе оба приступа, у раду разматрамо сложен однос државних и недржавних субјеката безбедности кроз хибридизацију политичког уређења. Неусаглашеност између нивоа државне стратегије и њене операционализације на нивоу задовољавања потреба грађана захтева увођење нових елемената у међупростор између стратешког и оперативног нивоа. Изложени приступ због потенцијалног доприноса подизању нивоа Људске безбедности у локалним заједницама можемо назвати Хибридним системом безбедности. Хибридини систем безбедности приказаћемо концептуално у виду децентрализоване рачунарске мреже. Приказани дијаграм системске динамике и предложени модел операционализације људске безбедности кроз хибридизацију политичког система, користећи потенцијал информационо-комуникационих технологија, даје добру основу за анализу и подизање нивоа сигурности грађана у односу на актуелне претње.

Кључне речи: систем безбедности, људска безбедност, операционализација, хибридизација, системска динамика.

INTRODUCTION

Security is a complex field that can be analyzed applying various approaches, depending on the inclination of the author and the focus of their research. In the broadest sense, we most often recognize two approaches: the investigation of the political processes and the social environment affecting the stability of the state and local managing structures; and the investigation of security as the right of citizens to their security, protection of their assets and welfare. Although at first glance it seems that this is the case of mutually excluding positions, we talk about complementary approaches to security that can contribute to the quality of security status analysis together.

The primary goal of the first approach that we recognize by two terms, state and/or national security, is the security on the institutional level that ultimately also affects the security of the citizens. The second approach gives an important place to citizens by introducing them as the subjects of the security space, apart from the state. The Concept of Human Security quantifies its status by the elements that affect the quality of life of the citizens – elements that are, as such, a constituting part of common public interest. Many of HS elements may appear in state documents pertaining to strategic measures that generate politics focused on the security of citizens.

The elements of HS are present in the strategies of national states through their commitment to upholding the principles of sustainable development, as well as the respect for the basic human rights contained in the UN Chart. However, it is a long way from a declarative commitment to an idea to its implementation. The realization of HS requires the creation of a political framework that demands a wide involvement of different actors beside the involvement of formal state institutions. Beside the regular subjects, such as states and international universal (and regional)

organizations, we also recognize the following actors: non-governmental organizations (associations of citizens - both national and global), transnational businesses, international political movements, various levels of local (self) government, and many informal institutions. Given the number of actors, their vertical and horizontal coordination across political structures is required in order to bring about positive effects at the individual level - the level of citizens as end-users of the system.

The implementation of national policies and strategies that have an impact on HS follow the top-down principle. At the national level, decisions and regulations are made, which are then implemented at a lower, local level. The shortcoming of this process is that strategies are rarely changed and often do not take into account the changing realities at lower levels. On the other hand, operationalization, i.e. the realization of security-related activities at the citizen level, requires the bottom-up principle and a rapid real-time response. Activities such as risk management, monitoring, various security services, etc., are carried out in dynamic and ever-changing circumstances and require insight into the specific situation at the local level. The state, at the strategic level, as a slow inert structure, is not able to react in a timely manner in accordance with the needs of the situation in order to protect the interests of citizens. In practice, this leads to problems in the efficiency of the realization of activities that contribute to the status of citizens' security in the part that is addressed at the local level (Kraushaar & Lambach, 2009).

Considering the described characteristics of the process, we can say that there is a kind of interregnum between the institutional level of security space design and citizens as end-users of the system. In order to solve the problem identified, we propose a hybrid approach based on the introduction of new elements of the security system in the interspace between the strategic level at which state strategies are created, and their operationalization in real conditions, at the local level. We see a solution to the problem in the hybridization of the political order that can facilitate the operationalization of the HS (Richmod & Michell, 2012). This paper presents a proposal for the realization of HS through a hybrid form of a distributed computer network.

THE CONCEPT OF HUMAN SECURITY

After the fall of the Berlin Wall, many expectations of the transitional process of returning to the capitalism of the former socialist (communist) countries were betrayed. The period of time from 1989 to 1994, was long enough to identify global trends and security challenges in the post bipolar world. In addition to the problems inherited from the Cold War period, there are also negative effects of transition, that is, the consequences of this process on the lives of the people affected by it. UNDP experts who participated in the writing of the 1994 Annual Development Report offered an analytical

framework that should be able to identify the causes of the poor social and political condition (UNDP, 1994, pp. 22-40).

The seven-dimensional matrix, on which HS is based, enables the quantification of the quality of life of people in an area, through all relevant segments of the private, social, economic, health, political, environmental and institutional space (Đorđević, 2013, p. 78). The HS incorporates the struggle for human rights and the humanization of human relations, as well as the relation of man to the living and non-living world on the planet from the Enlightenment to our times. The idea is that the quality of life of members of our civilization is quantified by universal standards, regardless of where they live, what their skin color or confessional affiliation is. HS represents an attempt to operationalize UN documents, such as the Charter of Human Rights, Brutland and the Brandt Report, as well as many other movements and declarations (such as the fight for the rights of workers and women, the Roman Club, etc.). The analytical potential that the HS carries in itself enables the identification of the causes of the largest number of security challenges and threats the modern civilization is currently facing.

This situation emphasizes the need for operationalization of the HS in order to obtain a model that enables a qualitative analysis based on specific indicators. The monitoring of the situation on the ground makes it possible to identify the source of the problem and therefore to find the solution in an easier way. When designing research procedures, it is necessary to ensure the reliability of the data obtained and to prevent any information manipulation. Explicating the methodology that researchers will be guided by requires far more space than we have on this occasion. The idea is to point out the analytical potential of the HS that is even more pronounced using the opportunities offered by information and communication technologies (ICT). However, we emphasize here that the increasing digitalization in our surroundings and the automation of business processes based on the principles of artificial intelligence requires additional engagement in protecting people and their surroundings. The so-called AI offers certain possibilities, but there are no definitive solutions to the problems it opens in the field of HS, thus we are talking about new aspects of HS and the issue of respecting the ethical standards in this field (Đorđević & Džigurski, 2018).

We emphasize the fact that HS challenges the right of states and economic entities to pursue their interests by endangering fundamental human rights. HS starts from the protection of human rights as the basic premise of the existing UN system and the commitment assumed by all Member States. Scientific and technological progress raises many ethical and legal issues that need to be addressed in order to maintain the current level and make progress in the field of HS. One of the solutions is to apply the so-called embedded security and ethical methods and principles into technical means and decision-making processes in order to achieve an effective response to existing and possible new forms of endangering

people and their surroundings. That is why interdisciplinary cooperation between experts of various profiles (technical experts, ethicists, lawyers, etc.) and policy makers in the field of HS is required.

Operationalizing the Concept of Human Security

The operationalization of the HS concept involves the use of its basic settings in threat assessment, that is, undertaking adequate activities to mitigate threats to raise the level of security of the population and individuals at risk. This requires the creation of strategies and activities in order to protect against existing and potential sources of threat. Protecting people from violence and repression, fighting poverty, preventing epidemics and other threats that can cause unexpected accidents raises society's resilience to sudden changes in the surroundings (UN, 2016)[1].

An effective approach in the process of HS operationalization is the systemic approach. This approach, founded on the principles of System Dynamics (SD), is good because it is based on status monitoring and change management on the basis of the monitoring of selected parameters (variables). For the purpose of monitoring HS, indicators are used in the process of the analysis of the situation within all seven dimensions of HS. The problem with the security phenomena is that measuring the change in different phenomena is usually not possible directly. The process is compounded by the fact that subjective experiences are part of the research, and special expertise is needed to objectify the results obtained.

From the technical point of view, the operationalization of HS and its effective implementation is possible at the level of engineering operational management thanks to the use of modern information technologies. For this purpose, Management Centers are required that make management decisions on the basis of monitoring the obtained data and their expert analysis in order to achieve the desired level of security. Due to the complexity of factors affecting the citizens' security and a large amount of data that we receive through the monitoring process, i.e. the need for a broad base of expert knowledge necessary to make adequate management decisions, the use of AI-based tools can contribute to their quality.

In terms of infrastructure, control centers should be brought about in the form of a distributed computer network, with numerous data monitoring components. The essential monitoring components are the Early Warning Systems, which are necessary to generate data for emergency management purposes. Given that data validity and reliability are important to the success of the system, blockchain technology (Bruyn, 2017) can be used to

[1] Bearing in mind the limited space, we are not in a position to further elaborate on the process of operationalizing the concept of human security. Therefore, we recommend the following references for anyone who is not familiar with this topic.

establish a computer network, which provides a high level of data security and enables their fast and reliable transfer as an essential prerequisite for achieving the desired objective.

Based on the above said, it can be concluded that the operationalization of the HS requires an expert selection of topics and areas within a unified holistic approach. The basic prerequisite for the successful implementation of the HS is the recognition of the specific nature of threats to the security of citizens, as well as various options for taking action to prevent or mitigate their activities. By fostering participatory processes, HS contributes to the establishment of networks and mechanisms of cooperation between different actors, thereby contributing to the improvement of dialogue between formal state institutions and informal institutions founded by citizens. This process can contribute to increase (establish) the trust in the system and greater citizen engagement, which ultimately leads to improving social coherence.

The operationalization of HS can be efficiently achieved through the process of hybridization of political systems, which, combined with the adequate use of ICT, enables:

- Combining top-down processes, norms, and formal state institutions that include the rule of law, responsible governance, and social protection instruments, with a bottom-up approach in which democratic processes support the important role of people and local communities as actors in defining and exercising their essential rights.
- Identifying the gaps in the existing security infrastructure and determining ways and means of preventing its deficiency displaying.
- Making programs and policies sustainable to protect and improve existential conditions, as a systematic way to achieve long-term stability.
- A higher level of citizen activity in pursuing their personal and community interests.
- Increasing the resilience of people and local communities, taking into account the factors of their lack of security in the event of an accident.
- Fostering participatory processes between formal state institutions and informal civic organizations (Richmod & Michell, 2012).

HYBRID POLITICAL SYSTEM

Hybrid political system (HPS) is characterized by practices through which democratic and autocratic characteristics are manifested. It is called hybrid because it is a combination of democratic processes with features that are characteristic of autocratic political systems. In short, we can say that hybrid political systems are a special form of political arrangement that is between democratic and autocratic models of organization. HPS is present in many developing countries, especially since the end of the Cold War. In addition to the potential destabilizing factors in relation to the efficiency of public administration, so far it is shown in practice that by combining both

approaches (democratic and autocratic), hybrid political systems can ensure the sustainability and resilience of complex political entities. It is for this reason that the experience in the implementation of HPS governance mechanisms can be applied to improve the efficiency of public administration. More about the statistics and the presence of hybrid political systems in the world can be seen in more detail in the reference: *Hybrid what? - The contemporary debate on hybrid regimes and the identity question* (Cassani, 2012).

The HPS is an arrangement in which formal (state) and informal institutions coexist and participate jointly, depending on their competencies, interests, and capabilities, in the implementation of the administrative processes of a state system.[2] From the standpoint of development and security, formal state institutions are necessary but not always sufficient for the functioning of a complex political organization. Informal institutions can act complementarily to stabilize and support the functioning of the system, which implies a balance between formal and informal institutions and their functions.

Informal networks are present in the civil society sector, in social, cultural, political, environmental, health, education, security, and other domains. The existing informal networks and organizations achieve their special logic and rules of functioning in relation to the state structure. Although the functioning of informal networks is not always in line with strict regulatory frameworks, they can contribute to creating a stable structure across the spectrum of social practice. In order to overcome the constraints of formal institutions, local social actors can develop specific patterns of interaction and communication that emerge as adaptive responses to the constraints and capabilities of formal institutions.

The relationship between formal institutions and informal social networks is not yet adequately conceptualized, but the most rational approach to solving this is one advocating the inclusion of informal networks as sectoral subsystems within the overall governance. The hybridization within political systems can contribute to the development of political strategies in the process of democratization of social processes, raising the efficiency of public administration, stimulating economic and social development, raising the level of security, implementing post-conflict strategies, humanitarian activities, etc.

Given that hybridization supports the integration of formal and informal institutions, various variants of hybrid political order can contribute

[2] In this text, we speak affirmatively of HPS. However, there are authors whose views of hybridity in the context of political order have a negative connotation. Nora Stel and Wim Naude use the term hybridity to explain corrupt practices in Lebanon (Stel & Naude, 2016). Honorata Mazepus, Wouter Veenendaal, Anthea McCarthy-Jones and Juan Manuel Trak Vásquez elaborate on the hybridity of political order through the analysis of solely, according to them, authoritarian systems (Mazepus et al., 2016).

to achieving the objectives that are the focus of HS. This assumption is based on the fact that the hybrid system, in comparison to the classic top-down government, is better adapted to the phenomena in local communities, that it can mobilize the local population and local institutions and bring about their legitimacy. That is why we believe that the implementation of HS leads to the hybridization of political systems, while HPS contributes to the operationalization of HS in the form of the so-called Hybrid Security System (HySec).

THE IMPLEMENTATION OF THE HUMAN SECURITY CONCEPTS THROUGH THE HYBRID SECURITY SYSTEM

In many developing (and/or transitional) countries the hybridization of the security system is a more appropriate model for managing the security sector than the standard state model. HySec enables the establishment of complex relationships between formal and informal, state and non-state actors in the security sector. HySec is more functional and easier to adapt to the real needs in accordance with changes in the surroundings.

The hybridization of the security system is a process in which state and non-state actors in the field of security coexist and interact, with the state distributing some of its authority and legitimacy to other entities (networks and institutions) within the existing legal framework. Functionally, HySec achieves the harmonization between state and non-state security actors by carrying out the following activities:

- The identification of relevant informal actors, institutions, norms and their roles within the existing political system.
- Achieving an increase in the capacity of informal actors and directing their activities towards linking with formal institutions to support their activities.
- The development of realistic programs and the creation of policies that should contribute to raising the level of security and the realization of human rights at the level of local communities and the vulnerable categories of the population.
- The establishing of evaluation and monitoring systems to the purpose of monitoring the situation on the ground and making adequate decisions to address security challenges and threats. This system should maximize the involvement of formal and informal actors in emergencies and in crisis management.

The concept of HySec is a new approach in the field of security management, and the significance of this concept is found in its possible positive impact on the security of people in all dimensions of HS, especially in the region of developing countries and in vulnerable areas. However, realizing this positive potential entails significant research efforts, as well as the transformation of security systems in order to make HySec operational in governance systems.

Research conducted in the territory of Bosnia and Herzegovina shows that the activities of informal networks created during the war and their links with formal structures in power are very firm in local ethnically homogenized communities. This is an example of the use of informal networks affiliated with formal institutions to protect ethnic identity in existing social circumstances, thereby enhancing the sense of security of the population (Bojicic-Dzelilovic, 2013).

More detailed research was carried out in Africa as part of the reform of the national security sector, with the aim of incorporating hybridization into public administration systems. Although most African states have sovereignty within internationally recognized borders, there exist non-state, i.e. informal institutions, in many parts of this continent that have a particular impact on citizens' security (Bagayoko, Hutchful, & Luckham, 2016).

In the conditions of internal and/or international conflicts on the African continent, often informal institutions are the only ones that survive and function. They play an important role in the security and protection of local communities, as well as in the legitimacy and efficiency of governance in the security sector. Considering the experiences of the African continent, it can be concluded that HySec is particularly important for countries in the territory of which there are conflicts or communities in the post-conflict phase (Middelkoop, 2016).

The Hybridization of Security Systems

Hybrid security systems can be implemented through the process of operationalization of HS in order to increase its functionality. The particular benefit of implementing HySec is that there are numerous institutions in the HS field that deal with various security dimensions and operate largely independently of one another. Often, this multitude of institutions and NGO networks are not linked, which leads to wasting time and resources. The situation can be explained, among other things, by the arrogance of the bureaucratic apparatus in relation to civic activism, but also by the misunderstanding of the functioning of the official system of institutions by NGO activists. The idea is to create an institutional environment that will enable a partnership between formal institutions and the NGO sector, that is, informal social networks. The result of the partnership of the two sectors through the hybrid security system is the synchronization of the dynamics of implementation of security strategies and security functions in both directions, i.e. from formal institutions to informal and vice versa.

Mismatches in the dynamics of the functioning of the components and delays in the decision-making and their execution through the state administration system are the most common causes of instability and disturbance in the field of HS. The stability of the functioning of complex control systems can benefit from the study of processes by way of analysis and methodology based on SD (Sterman, 2001).

A general diagram of SD for the HS management system is shown in Figure 1.

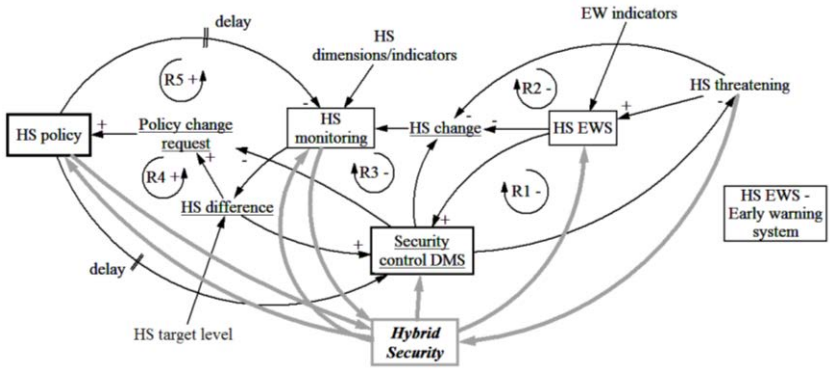

Figure 1. General diagram of System Dynamics for the Human Security management system
Source: Authors, based on Vensim software tool (Vensim, 2019).

In Figure 1, we can see how the Early Warning System (EWS) has some positive effects with regard to conventional threats to citizens' security. This is shown in the diagram by the R1 managing loops (the emergence of direct threats triggers the early warning system that sends this information to Decision Making System (DMS) that takes action under its authority); R2 (registering change of indicators indirectly signals the sources of threat and activates DMS through the EWS) and R3 (change of indicators registered by monitoring indicates the difference between the projected security state and the real situation (HS difference), leading to the instruction to activate DMS, but also requesting systemic changes). Problems arise when new threats that require changes emerge at the strategic level and such situations are presented with control-management loops R4 (HS policy - Security policy - request change policy - HS policy) and R5 (HS policy - HS assessment/monitoring - HS difference - Policy change request - HS policy) are the causes of the instability of the management system. The main reason for this is delays in the adoption of appropriate administrative policies and decisions, as well as inconsistencies in the dynamics of implementation and execution of control activities. The stabilization of the management system functioning is achieved by the addition of a new functional block based on the principles of the Hybrid Security System (shown in gray). The hybrid security sector enables avoiding the delays in procedures that require systemic changes from the moment a problem is detected (new threats emergence) to the DMS response. Figure 2. illustrates the executive functions of each sector within the concept of hybrid security,

where the operability of the hybrid block, which ensures the synchronization of the activities of formal and informal institutions and their o

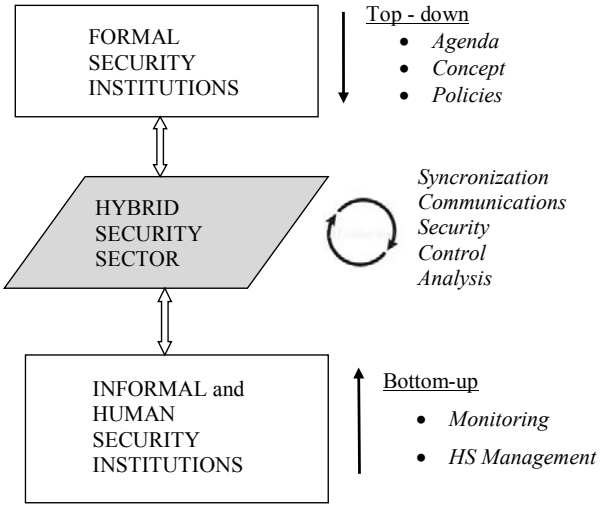

Figure 2. Executive functions of the sectors within the hybrid security system. Source: Authors

The role of the hybrid security sector is to enable the building of a more functional security system by aligning political directives and the needs of people as end-users of the system. Approaching the ideal situation in which the operationalization of the HS enables real-time response requires the alignment of the work of formal and informal sectors. The hybrid security sector should have two parts: the research/development and the executive part. The R&D part should work on finding models for decision making and system communications that will enable effective response based on the analysis of the situation and the observed changes in the monitored indicators. The executive part consists of various communication modules necessary for real-time activity synchronization between formal and informal actors in the field of HS management.

Elements of research / development work:

- Research and development of policy models based on HS (doctrinal documents and agendas),
- Based on policy models for the implementation of the HS, define the actors and variables of the HS management system
- Qualitative and quantitative analysis of the components of systems involved in HS management
- Static and dynamic analysis of HS management processes from the perspective of Top-down and Bottom-Up approaches

- Development of decision-making and HS management models using the potential of ICT technologies and artificial intelligence
- Developing sophisticated forecasting models to explore new approaches to policy-making, decision-making and governance in the areas of security (in general terms) and HS separately
- Development of models for monitoring and evaluation of the parameters of the HS management system
- Designing hybrid security system infrastructure

Elements of the executive part:

- Interactive communication in both directions between formal and informal institutions and local HS centers
- The synchronization of the dynamics of execution of the control processes from the aspect of Top-down and Bottom-Up approaches
- Security protection of data, established procedures and protocols of cooperation within administrative processes
- Control of HS operationalization on the principles of risk/ resilience of engineering management.

Operationally, the Hybrid Security Sector can be infrastructurally implemented in the form of a distributed computer network connecting state institutions operating in the HS area, on the one hand, and local centers (HS1, HS2, ... HSn), which operate in different HS domains relevant to particular parts of the national territory, or to a particular dimension of HS, Figure 3. Each local HS center is connected to one of the servers (HySeC1, HySec2… HySeCn) within the HS network. All servers in the HySec network are interconnected on a Peer-to-Peer basis that allows

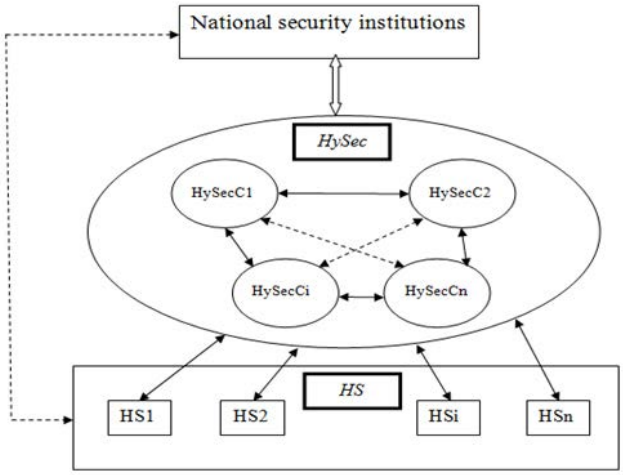

Figure 3. Proposal of information infrastructure for implementation of hybrid security in the field of HS.
Source: Authors

for the creation of a decentralized computer network in which each computer can serve as a server for other computers, allowing shared access to files and peripherals without the need for a central server. The proposed information architecture can eliminate to a certain extent the functional problems and instabilities caused by delays in the management decision making and the implementation of the decisions.

Since the operation of the Hybrid Security Sector requires a high level of efficiency in the transmission of large amounts of data (big data), as well as the need for a high degree of protection of this data, this computer network can be built on the principles of blockchain technology. Networks based on blockchain technology transfer data on a peer-to-peer basis. This network contains a distributed registry in the form of a blockchain of data that is used to record data transactions on multiple computers simultaneously so that each transaction record cannot be modified retroactively. In this way, a high degree of cybersecurity is achieved and it is virtually impossible to compromise the recorded data.

CONCLUSION

The current security challenges and threats are the results of inadequate solutions and the course of events following the fall of the Berlin Wall. Instead of moving to a higher level of organization, the power centers that decide on the course of events after 1989 choose retrograde solutions, by which the historic chance of establishing a global world order that would reduce existing tensions and prevent the opening of new foci is missed. In view of the current situation, the authors of the 1994 Human Development Report promoting HS tried to draw attention to the real security challenges and threats affecting ordinary people. It is an attempt to put the existing system at the service of the interests of the citizens, not the corporate interests and obsolete geopolitical projects of global hegemony. In the meantime, contrary to the initial idea, some parts of the HS are instrumentalized by conservative circles in order to realize the projects underpinning the interests of large capital. A re-reading of the 1994 UNDP report and academic papers that elaborate on the idea of HS leads to the confirmation of the thesis that HS is focused on addressing the security challenges of the modern world. The basic idea is to put the existing state institutions and the system of international organizations in the function of the interests of people, as global citizens, which means preserving the rest of the living world on the Planet and the Planet itself as a habitat.

With the operationalization of HS through HySec, that is, the hybridization of the security system, technological advances are put at the service of the interests of citizens and their needs. The hybrid structure of the system facilitates the analysis, research, and development of new governance models, as well as aligning national strategies with dynamic changes in order to effectively manage the elements of the structure that affect the citizens'

security. Since HS is focused on those dimensions that pertain to the quality of life of people, we are also changing our relationship to nature and the living world on Planet Earth. The current state of affairs is far from satisfactory with private companies gaining too much power, creating a potential threat to the values of Western civilization. The way out of the current situation could be a return to the original concepts of democracy and the role of the state in the public space. Private initiative is good for starting new projects and raising the efficiency of the system, but the public interest is not always identical to that of profit-oriented power centers. For this reason, there must be an institutional system of control over activities that can jeopardize the interests of the majority for the personal enrichment of the minority. That is why, among other things, the HS is important, because it offers a way to improve the situation in relation to the work of institutions and their role in protecting citizens' rights. Establishing a system based on the monitoring of relevant indicators helps to identify the causes of problems in the functioning of institutions and prevents new disorders by eliminating the phenomena that can lead to them.

The implementation of HS requires the incorporation of its elements in the creation and implementation of state policy at all levels, and especially at the level of local communities. It is, therefore, necessary to involve not only state institutions, but also the broad participation of various actors, such as regional and international organizations, non-governmental organizations, local government organizations and informal groups founded by citizens. In this way, in the form of a hybrid political system, it is possible to increase efficiency in the realization of state administrative processes and create a stable system resistant to various forms of threat and potential accidents.

Regarding the fact that the area of HS covers a large number of informal institutions that are more or less interacting with formal government institutions, the implementation of HySec would contribute to a more efficient implementation of HS in practice. The presented diagram of SD and the proposed model of HS operationalization through the hybridization of security systems using the potential of ICT (especially blockchain networks) are a good basis for raising the level of citizens' security in relation to current threats. Due to their high reliability, blockchain networks are widely used in many public domains, such as managing public affairs, smart cities, etc.

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ХИБРИДИЗАЦИЈА СИСТЕМА БЕЗБЕДНОСТИ У ФУНКЦИЈИ РЕАЛИЗАЦИЈЕ КОНЦЕПТА ЉУДСКЕ БЕЗБЕДНОСТИ

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Резиме

Пад Берлинског зида покренуо је процесе који указују на неодрживост постојећег модела функционисања савремене цивилизације. Концепт људске безбедности је један од покушаја у потрази за решењем које би ускладило амбиције власника капитала и интересе грађана. Идеја да се стање безбедности квантификује на основу

индикатора који приказују квалитет живота грађана – представља покушај еволутивне промене доминантног неоконзервативног приступа уређењу друштвено-економских токова. Примена концепта људске безбедности у пракси захтева одговарајућу промену у институционалној сфери савремене државе.

Научно-технолошки прогрес, посебно у областима информационо-комуникационих технологија (ИКТ) и вештачке интелигенције, отворио је нове могућности за напредак човечанства. Међутим, у пракси највише до изражаја долазе ефекти на нивоу корпоративних интереса. Стиче се утисак да су изневерена оптимистичка очекивања хуманиста у односу на потенцијал ИКТ. Чињеница да су највећа достигнућа ИКТ дошла из научних институција чији је рад финансиран из приватних фондова представља део објашњења зашто су ефекти примене ИКТ највидљивији у корпоративном сектору. Јачање позиције приватног капитала у односу на моћ државе чини да су њене институције, све више, инструментализоване зарад остваривања интереса неформалних центара моћи. С обзиром на то да очекивања у правцу демократизације политичких процеса нису испуњена, све је приметнија апстиненција грађана у односу на изборне процесе.

Хибридизација политичког уређења представља покушај да се ИКТ искористе како би се активирао уздржани део грађана са правом гласа. Стављање система државних институција у функцију интереса грађана повећало би њихову заинтересованост за политичке процесе. Истовремено, вештачка интелигенција обезбедила би алат за праћење функција система и уочавање угрожавања и аномалија, односно спречила њихову појаву.

Концепт људске безбедности је добар аналитички оквир који путем седам димензија и одговарајућег броја индикатора обезбеђује могућност квантификације стања и праћење промене параметара. Укључивање неформалних друштвених мрежа у процес одлучивања кроз тзв. Хибридизацију политичког уређења – ствара услове за стварање хибридног система безбедности. Хибридни систем безбедности погодан је за успостављање система раног упозорења и брзу реакцију у односу на уочене деструктивне појаве и трендове.

Применом метода системске динамике уз употребу ИКТ (рачунарске мреже и Blockchain технологије) подиже се оперативност у раду државних институција и обезбеђују услови за правовремену реакцију на конкретне промене. Улога сектора хибридне безбедности је да омогући изградњу функционалнијег система безбедности усаглашавањем политичких директива и потреба људи као крајњих корисника система. Наведена операционализација људске безбедности омогућава реаговање у реалном времену захваљујући усклађености активности државног (формалног) и неформалног сектора. С обзиром на то да област људске безбедности покрива велики број неформалних институција, примена хибридне безбедности допринела би ефикаснијој имплементацији људске безбедности у пракси. Приказани дијаграм системске динамике и предлог модела операционализације људске безбедности путем хибридизације система безбедности уз коришћење потенцијала ИКТ – представља добру основу за анализу и подизање нивоа безбедности грађана у односу на актуелне безбедносне претње и изазове.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1029–1044

Прегледни рад https://doi.org/10.22190/TEME191014061D
Примљено: 15. 10. 2019. UDK 343.9.02:343.1(497.11:4-672EU)
Ревидирана верзија: 14. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

FORMING A GROUP FOR THE PURPOSE OF COMMITTING CRIMINAL OFFENCES AS A CONTEMPORARY THREAT TO DEMOCRATIC SOCIETIES – NEW CHALLENGES IN THE PROCESS OF ACCESSION OF THE REPUBLIC OF SERBIA TO THE EUROPEAN UNION

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Abstract

The views of the contemporary criminal law doctrine have been emphasizing the importance of finding adequate criminal legal instruments of state response to organized crime for more than a decade, primarily bearing in mind the danger this form of crime poses to the contemporary, democratic society. The adequacy of the state response to organized crime requires a number of instruments that should be effective in the strategic field, in the field of ratified international documents, amended legal texts, which in the future would contribute to an even more effective fight in the field of detecting, proving and conducting proceedings for organized criminal offences. Taking into account the degree of danger of organized crime to modern society, including the criminal offence of forming a group for the purpose of committing crimes, it is necessary to react in all the fields mentioned above, especially with regard to the process of accession to the European Union.

The authors analyse the legal characteristics of the criminal offence of forming a group for the purpose of committing criminal offences, which is one of the basic types of criminalisation associated with organized crime. The authors also analyse the normative and practical measures that are a prerequisite for a more effective fight against organized crime and an important stepping stone on Serbia‟s path to the European Union.

Key words: organized crime, forming a group for the purpose of committing criminal offences, European Union, criminal charges, Prosecutor's Office for Organized crime.

УДРУЖИВАЊЕ РАДИ ВРШЕЊА КРИВИЧНИХ ДЕЛА КАО САВРЕМЕНА ПРЕТЊА ДЕМОКРАТСКОМ ДРУШТВУ – НОВИ ИЗАЗОВИ У ПОСТУПКУ ПРИСТУПАЊА РЕПУБЛИКЕ СРБИЈЕ ЕВРОПСКОЈ УНИЈИ

Апстракт

Ставови савремене доктрине више од једне деценије указују на значај проналажења адекватних кривичноправних инструмената државне реакције на организовани криминалитет, полазећи од опасности коју овај облик криминалитета представља за савремено, демократско друштво. Адекватност државне реакције на организовани криминалитет захтева велики број инструмената који би требало да делују на стратешком пољу, пољу ратификованих међународних докумената, измењених законских текстова, који би у перспективи допринели још ефикаснијој борби на пољу откривања, доказивања и спровођењу поступака за кривична дела организованог криминалитета. Узимајући у обзир степен опасности организованог криминалитета по савремено друштво, укључујући и кривично дело удруживања ради вршења кривичних дела, неопходно је реаговати на свим претходно поменутим пољима, посебно у процесу приступања Европској унији. Аутори у раду анализирају законска обележја кривичног дела удруживање ради вршења кривичних дела, које представља једну од основних инкриминација повезаних са организованим формама криминалитета, као и мере на нормативном и практичном плану које су услов за ефикаснију борбу против организованог криминалитета и важна претпоставка на европском путу Србије.

Кључне речи: организовани криминалитет, удруживање ради вршења кривичних дела, Европска унија, кривична пријава, Тужилаштво за организовани криминал.

INTRODUCTORY REMARKS

The criminalisation of the act of forming a group for the purpose of committing criminal offences protects both the public order and peace. The very alliance of certain persons to commit serious crimes is dangerous enough to require social reaction and criminalisation (Vuković, 2007, p. 179). Criminal legal protection here moves back, to the previous stage - the stage of preparing the delict. In this way, a significant preventive effect is also achieved, since it is possible to punish the organizer or a member of a particular group, regardless of whether the act involving the criminal plan around which the group was assembled has actually been executed (Vuković, 2007, pp. 179-180). At the same time, this act is also a typical offence in the field of organized crime, because, logically, almost every act that can be considered a part of organized crime stems from the previous offence of forming a group for the purpose of committing criminal offences, i.e. it is intrinsically linked to it (Škulić, 2015, p. 254). Despite its very limited use in practice, prescribing such a delict is a significant tool in the fight against organized crime.

LEGAL CHARACTERISTICS OF THE CRIMINAL OFFENCE OF FORMING A GROUP FOR THE PURPOSE OF COMMITTING CRIMINAL OFFENCES (ARTICLE 346 OF THE CRIMINAL CODE)

The offence referred to in Article 346 of the Criminal Code has, in addition to its basic form, certain lighter and more serious forms.

The execution of the basic form (Criminal Code, 2005, Article 346, paragraph 1) consists of *organizing a group aimed at committing criminal offences for which a sentence of imprisonment of three years or more severe punishment may be imposed, unless for such organizing a more severe punishment is provided for by the law.* Organizing involves the creation of a new, hitherto non-existent form of association, or the use of an existing one that changes the basic function of action, or, in addition to the existing ones, the function of committing criminal offences as the basic one is added (Stojanović, Delić, 2017, p. 277). Organizing can be accomplished by various activities, such as recruiting other persons, creating a plan of action, gaining funds for the operation of a group, training members for committing criminal offences, and the like (Lazarević, 1995, p. 746). The exploitation of a pre-existing form of criminal association basically implies giving new content to such an association, or substantially modifying it, so that it is transformed into a new organizational form having a criminal character (Škulić, 2015, p. 257). The organizer himself does not have to be a later member of the group. However, even a person who, at the time of the formation of the group, is an ordinary member and later acquires a decisive role in the pursuit of criminal goals cannot be considered an organizer (Vuković, 2007, p. 182).

A group is considered to consist of at least three persons connected for the purpose of perpetual or intermittent commission of criminal offences, and the group does not have to have defined member-roles, continuity of membership or a developed structure (Criminal Code, 2005, Article 112, Paragraph 22). The existence of a group requires certain organization of its members, but it does not require that they are more closely connected, nor does it require a higher degree of organization. Such an organization is, by the nature of things, necessary for the joint action of several persons, which amounts to the prior agreement of three or more persons to jointly commit crimes (Kraus, 1978, p. 773). Spatial cohesion of the group members is not necessary, so it is not a condition for criminal activity to be carried out exclusively in the territory of our country. Moreover, certain forms of organized crime imply the international character of a criminal organization (Vuković, 2007, p. 183-184). Whether the organizer will know all the members of the group or just some of them, as well as whether the members of the group will know each other or only some of them depends on the way the group is organized and the methods of action, and especially the degree of conspiracy that is sought (Kraus, 1981, p. 676).

Organizing a group should aim at committing criminal offences. These offences are not closely defined, except that they are criminal offences for which a sentence of imprisonment of three years or more may be imposed. However, a certain type of criminal offence that the group will commit must be determined (Lazarević, 1995, p. 747). The commission of criminal offences may not be the sole aim of the group, but it must be the dominant, central activity of the group (Vuković, 2007, p. 185). In our literature, there are two different views regarding the legal nature of this characteristic relating to the gravity of the offence. On the one hand, this is an objective condition of criminalisation, i. e. a feature of a legal description of an act that does not have to be covered by the perpetrator's guilt. The second understanding starts from the view that it is a normative feature of the crime, which, in plain words, must be reflected in the perpetrator's consciousness (Vuković, 2007, p. 186-187).

An additional condition for the existence of this criminal offence is that the law does not provide for a more severe penalty for such organizing. This act is therefore of a subsidiary nature and will not exist unless the legislator has imposed a more severe penalty for similar activity (organizing), with additional conditions. For example, the legislator provides more severe penalties than the ones referred to in Article 346 of the Criminal Code for the creation of a group for the purpose of committing certain criminal offences against the constitutional order and the security of the Republic of Serbia because of the nature and gravity of those offences, so they would only be liable for such a severe offence.

The criminal offence is considered to be completed by the very creation of the group and it is not necessary that a specific crime is actually committed, for the purpose of which the group is organized. In the case of the commission of any of the planned acts, there will be a concurrence of criminal offences, association for the purpose of committing the criminal offences and the committed or attempted act. This view is undeniable in science and it is justified by the view that the group is organized for the purpose of committing an indefinite number of crimes and that it does not cease to exist by committing an individual crime (Atanacković, 1981, p. 542; Stojanović, 2017, p. 997). Previously, it was considered that the organizer was responsible not only for this crime, but also for any act that was committed in the implementation of the criminal plan of the association, even if they did not participate in it as a perpetrator, co-perpetrator, abettor, or aider. This was made possible by certain provisions of the General Part. Namely, in our earlier criminal legislation there was a special case of complicity called organizing a criminal association. Under current rules, something like that is not possible.[1]

[1] According to the Article 26 of the Criminal Code of the FRY, as previously applicable, an organizer is a person who creates or exploits an organization, gang,

Imprisonment between six months and five years is foreseen for the basic form of the criminal offence.

A more serious form of the crime is provided for in paragraph 2 and defined as *committed by the organizer of the organized criminal group, unless the law provides for a more severe penalty for such organizing*. Pursuant to Article 112, paragraph 35 of the CC, an organized criminal group is a group of three or more persons, which exists for a certain period of time and acts by agreement with the purpose of committing one or more criminal offenses for which imprisonment of four years or more severe imprisonment is imposed, for direct or indirect gain of financial or other benefits. This form of crime is punishable by one to eight years in prison. Like the basic form, this more severe form will only exist unless a heavier penalty is prescribed for such organizing, so there is legal subsidiarity here as well.

Paragraphs 3 and 4 provide for less severe forms of the offense consisting of belonging to a group or an organized criminal group. Becoming a group member in this sense means accepting one"s participation in achieving the goals of the group and expressing one"s agreement to participate in the group. A member is an individual who is aware that he or she has become a member of the group and is willing to participate in the group's activities (Lazarević, 1995, p. 746). A member of the group will be sentenced to prison from three months to three years, whereas a member of an organized criminal group will be sentenced to prison from six months to five years. Belonging to a group, i.e. to an organized criminal group, involves actually joining it and acting in accordance with its interests and goals (Stojanović, Delić, 2017, p. 278). In this form, forming a group for the purpose of committing criminal offenses is a perpetual criminal offense - accession to the association creates a continuous unlawful situation which the member willingly maintains or continuously prolongs with his or her actions (Vuković, 2007, p. 183). The literature points out that membership requires a longer period of time and a more lasting character of association with the group. One-off activities alone are not sufficient to establish the status of members, but continuous activity within the group is not necessary either. A member does not have to be the perpetrator or accomplice in every single act undertaken by other members of the criminal organization. It is also sufficient to carry out general, logistical tasks without the knowledge of particular planned acts - e.g. working on relations with other criminal groups or recruiting future members of the association (Vuković, 2007, p. 183). The offense is in itself done by the act of joining the group.

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conspiracy, group or other association for the purpose of committing criminal offences. According to this provision, the organizer is punished for all criminal offences arising from the criminal plan of these associations as if he had committed them, regardless of whether he was directly involved in the execution of any of those acts (Srzentić, Stajić, Lazarević, 2000, p. 266).

The qualified form of act (Criminal Code, article 346, paragraph 5) exists if the organization, i.e. membership, *refers to a group or organized criminal group, which has the purpose of committing criminal offenses for which a sentence of twenty years' imprisonment or thirty to forty years' imprisonment may be imposed*.[2] The organizer of the group or organized criminal group shall be punished by imprisonment not less than ten years or imprisonment between thirty and forty years, whereas a member of the group or organized criminal group by imprisonment between six months and five years.

With regard to the subjective plan, all forms of acts imply the existence of intent. The perpetrator must be aware that he or she is organizing or belonging to an association that aims to commit crimes. The intent of the organizer, therefore, includes the awareness that he creates a group aimed at committing criminal offences, and with membership, that he has become a member of an association organized for the purpose of committing criminal offences (Lazarević, 1995, p. 747). The members of the group or the organizer do not need to be aware of the total number of members of the group or know each one in person (Vuković, 2007, p. 186).

For certain criminal political reasons, the legislator also provided for the privileged forms of this crime in paragraphs 6 and 7. The first milder form refers to the organizer. An organizer of a group or organized criminal group who, by uncovering a group or organized criminal group or otherwise prevent the commission of criminal offences for the purpose of which the group or organized criminal group is organized, shall be punished by imprisonment for a term not exceeding three years, and may be released from punishment. The uncovering of an association means informing the prosecution body of its participants (organizers and members) (Vukovic, 2007, p. 187). It is somewhat open to the question whether such repentant activity of the organizer is possible only before the group (organized criminal group) has already participated in the commission of one or more criminal offences, or if privilege is possible even after e.g. years of involvement in the group's criminal activities. Although this is not precisely specified in the legal text, certain methods of interpretation indicate that it is necessary that the detection or other prevention of the commission of criminal offences should be realized prior to the commission of any criminal offence (Vuković, 2007, p. 187).

Another milder form refers to a member of a group, or organized criminal group. A member of a group or organized criminal group who uncovers a group or organized criminal group before committing an

[2] The 2019 Criminal Code Amendment Act provides for life imprisonment instead of thirty to forty years imprisonment, so that the appropriate intervention was also made in the text of the offense under Article 346. These amendments enter into force on 1 December 2019

offense as its member shall be punished by a fine or imprisonment for up to one year, and may be released from punishment.

The basis for privilege is the real remorse of the organizer or the group member. The criminal political significance of this provision is to stimulate the organizers and members of a criminal association to prevent the criminal organization from committing criminal offenses in a timely manner by reporting it to the competent state authorities. While it is sufficient for the organizer to disclose the association or otherwise prevent the execution of the act for the purpose of which the association was organized, a member of the group must not commit any of the acts covered by the group plan (Vuković, 2007, pp. 187-188).

CRIMINAL LEGAL INSTRUMENTS OF STATE RESPONSE TO ORGANIZED CRIME AND THE CRIMINAL OFFENSE OF FORMING A GROUP FOR THE PURPOSE OF COMMITTING CRIMINAL OFFENSES - NEW CHALLENGES TO EU ACCESSION

The Republic of Serbia faces serious challenges in terms of amending legal texts, drafting strategic documents, and taking a proactive approach to the fight against organized crime. Accordingly, Serbia has successfully responded to most of the requirements foreseen by the European Commission. Namely, a considering the degree of improvement of the normative framework of the Republic of Serbia, with regard to the previously presented documents, can best be seen through their analysis. In analyzing the issue at hand, particular attention will be paid to the recommendations made by the European Commission as primary in the Screening Report for negotiation chapter 23: Justice and Fundamental Rights, July 28, 2014.[3]

In response to the Screening Report for Negotiation Chapter 23 (Kolaković-Bojović, 2016), the Republic of Serbia, among other things, adopted: the National Judicial Reform Strategy 2013-2018,[4] the Action Plan for the Implementation of the National Judicial Reform Strategy 2013-2018 and the Action Plan for Chapter 23,[5] adopted by the Government of the Republic of Serbia on April 27, 2016.

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[3] Screening Report for Negotiation Chapter 23: Justice and Fundamental Rights, available at: http://seio.gov.rs/upload/documents/eu_dokumenta/Skrining/Screening%20Report%2023_SR.pdf, accessed on July 19, 2019.

[4] The National Judicial Reform Strategy for 2013-2018 was adopted by the National Assembly of the Republic of Serbia on July 1, 2013, while the Government of the Republic of Serbia on August 31, 2013 adopted an Action Plan for the Implementation of the National Judicial Reform Strategy for the period 2013-2018.

[5] Action Plan for Chapter 23, available at: http://www.mpravde.gov.rs/files/Akcioni%20plan%20PG%2023.pdf, accessed on August 19, 2019.

Taken from the aspect of the realization of the preventive and repressive aspects of organized crime criminal policy, we will analyse the legal framework of criminal legal response in the process of accession to the European Union. Namely, the Action Plan for Chapter 23 regulates the key areas that need to be changed through three segments: the judiciary area, the fight against corruption and fundamental rights. Each of these segments sets out recommendations, impact indicators and end results in the field of more successful criminal legal response to the fight against organized crime.

Within the judiciary and fundamental rights, there are procedural guarantees for a more effective fight against organized crime, which primarily include amendments to the Criminal Procedure Code (Criminal Procedure Code, 2011) (Bejatović, 2014; Škulić, 2014a), setting up an adequate monitoring mechanism for the implementation of the CPC and compliance with the CPC with European standards. Namely, the CPC (Škulić, 2014b), as a key instrument for combating organized crime, through the provisions on special evidentiary actions, special conditions for the examination of witnesses and experts, the temporal determinants of organized crime cases, greatly contributes to a more efficient fight, but also raises questions of adequate monitoring mechanism over the implementation of the CPC posed by the European Commission, especially in view of the changes that have occurred with the adoption of the new CPC, first of all by introducing a prosecutorial investigation and efficiency issues (Bejatović, 2015) of criminal procedure. According to recommendation No. 1.3.10 from the Action Plan, it is necessary to establish an adequate mechanism for monitoring the implementation of the CPC, which through the impact indicators and the results of the measures implemented, is determined through the commission for monitoring the implementation of the Criminal Procedure Code, which should report to the Commission regarding the implementation of the National Judicial Reform Strategy for the period 2013-2018 and receive a positive assessment by the European Commission on this issue. This particularly emphasizes the improvement of the efficiency of criminal proceedings in general, as well as criminal proceedings for organized crime offenses. Also, a very important segment of the improvement of the normative framework, but also of compliance with the European standards, is set through fundamental rights in the Action Plan, i.e. procedural guarantees (3.7.1.1. of the Action Plan), which, as a recommendation, provide for the reform of the defence provisions, the exercise of the right to a fair trial, but also to strengthen procedural guarantees, such as the presumption of innocence (3.7.10 of the Action Plan for chapter 23, 2016). Accordingly, among other things, it is necessary to pass a Law on Free Legal Aid (Čvorović, 2017), which was done, i.e. the realization of the fair process through equality of arms, which is an extremely important implication of the fair process in cases of organized crime. Also,

compliance with European standards, the Directive 2013/48/EU, is necessary with regard to strengthening the right of access to a lawyer for suspects and defendants without delay and before any hearing by the investigating authorities in criminal proceedings.

In addition to the reform of the CPC, one of the significant instruments for achieving efficiency is the specialization of the organs for the detection and prosecution of organized crime offenses (Mijalković, Čvorović & Turanjanin, 2019), including the criminal offense of forming a group for the purpose of committing criminal offences. This has been achieved by adopting the new Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Terrorism and Corruption[6] (Mijalković, Čvorović, 2018), hereinafter referred to as LOJSASOCTC. Namely, many of the recommendations in the Action Plan relate to securing independent, effective and specialized bodies (2.3.2. of the Action Plan for chapter 23, 2016) for prosecuting organized crime, corruption, strengthening independence measures, but also taking a proactive approach to improving cooperation and exchange of information between specialized bodies, better interconnection of databases, etc. Another recommendation (2.3.2.2. of the Action Plan for chapter 23, 2016) pertains to the amendment of the Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Corruption and other Severe Criminal Offences,[7] which was accepted by adopting a new legal text. In the new legal text (LOJSASOCTC) the recommendations from the Action Plan (2.3.2.4. of the Action Plan for chapter 23, 2016) were implemented by introducing a financial forensics service (LOJSASOCTC, 2016, Article 19), a liaison officer (LOJSASOCTC, 2016, Article 20) and forming task forces (LOJSASOCTC, 2016, Article 21).

In addition to the legal framework, a more effective fight against this form of crime is determined by the Strategic Framework, which in the process of accession to the European Union made a number of novelties. When it comes to organized crime, including the criminal offence of forming a group for the purpose of committing criminal offences, it is common knowledge that their actions are generating large profits and enormous financial power that affect all spheres of life, from the social to the political sphere, and that the seizure of the proceeds of crime should be one of the key instruments in the fight against organized crime within the strategic and legal framework. In this way, the organized criminal group

[6] Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Terrorism and Corruption, „Official Gazette of the RS', No. 94/2016.

[7] Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Corruption and other Severe Criminal Offences, „Official Gazette of the RS", No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – separate law, 45/2005, 61/2005, 72/2009, 72/2011- separate law, 101/2011- separate law and 32/ 2013.

would gradually be destroyed and eventually disappear, thus achieving the international legal affirmation "that no one can become rich by committing crimes". Accordingly, the requirements of the European Commission to combat this form of crime more effectively have largely concerned the effective and permanent confiscation of property resulting from crime (2.3.5. of the Action Plan) and the improvement of the national framework. The European Commission has set as a primary requirement the adoption of the Law on Amendments to the Law on Seizure and Confiscation of Proceeds from Crime, in accordance with the previously conducted efficiency improvement analysis, based on EU Directive 2014/42 (2.3.5.1. of the Action Plan of the Action Plan for chapter 23, 2016). Accordingly, the Law on Amendments to the Law on Seizure and Confiscation of Proceeds of Crime was adopted (Law on Seizure and Confiscation of Proceeds of Crime, 2013). Also, the Financial Investigation Strategy for 2015-2016 was adopted (Financial Investigation Strategy for 2015-2016, 2015), as well as the National Strategy on Anti-Money Laundering and Combating the Financing of Terrorism (National Strategy on Anti-Money Laundering and Combating the Financing of Terrorism, 2008) and the National Strategy for Fight against Organized Crime (National Strategy for Fight against Organized Crime, 2009), etc.

In order to function in an adequate criminal policy of combating organized crime, the above reformed legal texts and the adopted Strategy must meet the contemporary requirements of combating this form of crime, it must be applicable, the organization and functioning of courts, prosecution and the police must be adequate, and the mutual cooperation of specialized bodies must be in accordance with the legal norm and with the aim of achieving the desired efficiency during pre-trial and criminal proceedings. The consideration of adequacy of the reformed framework of Serbia can best be seen through the practical application of the legal norm, i.e. the statistical indicators of criminal charges filed, criminal proceedings instituted and indictments filed by the Prosecutor for Organized Crime for the criminal offence of forming a group for the purpose of committing crimes and other organized criminal offences in 2019.

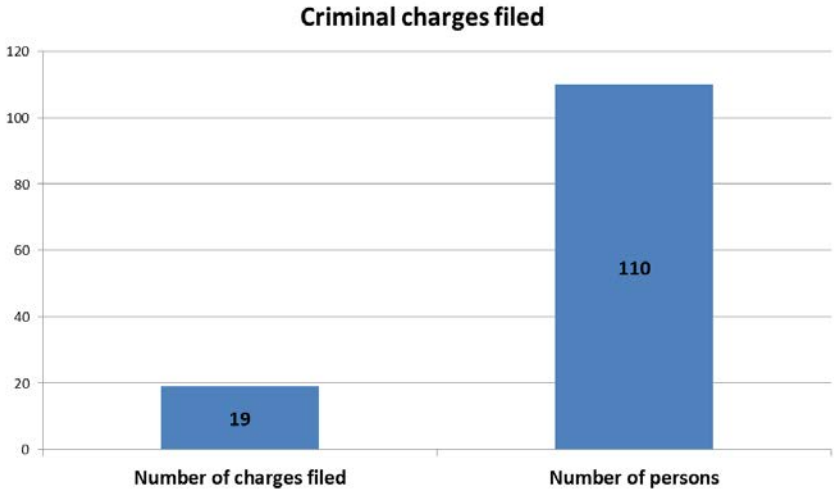

Diagram 1. Number of criminal charges filed in 2019 by the Prosecutor's Office for Organized Crime for the criminal offence of forming a group for the purpose of committing criminal offences compared to the number of persons against whom charges were filed

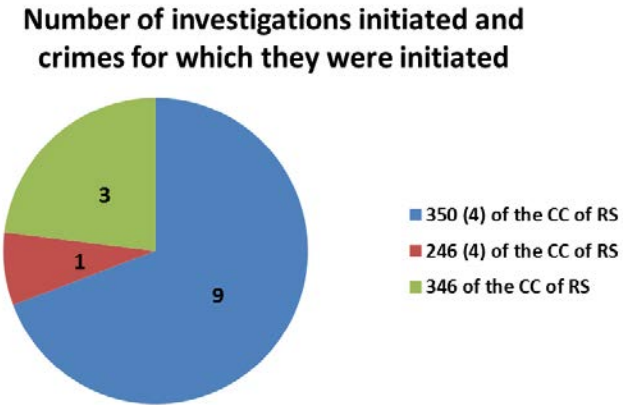

Diagram 2. Ratio of criminal offences in 2019 initiated by the Prosecutor's Office for Organized Crime against a total of 62 persons

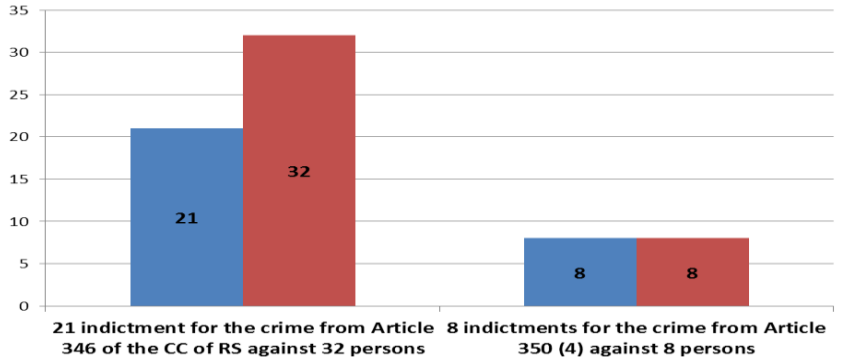

Diagram 3 Number of indictments filed in 2019 by the Prosecutor's Office for Organized Crime for criminal offences of forming a group for the purpose of criminal offences and illegal crossing of the state border and people smuggling

According to the statistic indicators for 2019 of the Prosecutor's Office for Organized Crime, 19 criminal charges were filed against 110 persons for the criminal offence of forming a group for the purpose of committing criminal offences. In total, 13 investigations were initiated against 62 persons, of which 9 investigations were initiated for the criminal offence of forming a group for the purpose of committing criminal offences alongside some other criminal offence from the Criminal Code of the Republic of Serbia; 1 investigation was initiated for the criminal offence of illicit production and marketing of narcotic drugs, but from paragraph 4 of the Criminal Code; and 3 investigations were initiated for the criminal offence of illegal crossing of the state border and people smuggling from paragraph 4 of the CC. As for the indictments, 21 indictments were filed against 32 persons for the criminal offence of forming a group for the purpose of committing criminal offences alongside some other criminal offence from the Criminal Code of the Republic of Serbia, whereas 8 indictments against 8 persons were filed for the criminal offence of illegal crossing of the state border and people smuggling from paragraph 4 of the Criminal Code of the Republic of Serbia.

The reformed normative framework, the specialization of state bodies for detecting, proving and prosecuting organized crime, including the criminal offence of forming a group for the purpose of committing criminal offences, represents a great step for Serbia in the process of accession to the European Union, but also the necessity to continue its work in order to create even more efficient normative foundations that will more adequately respond to contemporary challenges posed by organized crime.

CONCLUSION

Although not often applied in practice, the crime of forming a group for the purpose of committing criminal offences is undoubtedly an important tool in the fight against organized forms of crime. It is almost impossible to imagine committing any organized criminal offence that would not be linked to this criminalization. The criminalization allows punishing not only the organizer of a group that aims to commit crimes of a certain gravity, but it also allows for the punishing of the membership to the group, regardless of whether or not one or more of the crimes for which the group was created was actually committed. This demonstrates the willingness of the state to act preventively in this area, threatening to punish a person for an essentially preparatory activity. In that sense, it can be said that there is full legitimacy for such criminalization, i.e. that from a criminal political point of view, it has been justifiably prescribed by the legislator.

The Republic of Serbia has made a significant effort to adapt its normative framework to European requirements on its path to the membership in the European Union. The newly introduced substantive and procedural mechanisms for combating organized crime undoubtedly show not only the willingness to persevere in the path of alignment with the European standards, but also to more successfully combat this form of crime.

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УДРУЖИВАЊЕ РАДИ ВРШЕЊА КРИВИЧНИХ ДЕЛА КАО САВРЕМЕНА ПРЕТЊА ДЕМОКРАТСКОМ ДРУШТВУ – НОВИ ИЗАЗОВИ У ПОСТУПКУ ПРИСТУПАЊА РЕПУБЛИКЕ СРБИЈЕ ЕВРОПСКОЈ УНИЈИ

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Резиме

Криминалитет уопште, а посебно његове организоване форме, које подразумевају учествовање у криминалној активности већег броја људи, уз мање или више изражену спрегу са структурама државне власти, представљају изузетну опасност по савремено друштво. Стога је изградња ефикасног механизма за супротстављање, како на нормативном тако и на практичном плану, од пресудног значаја у борби против организованог криминалитета. Република Србија је, барем када је реч о законодавној активности, предузела значајне кораке у настојању да адекватно одговори на претње организованих криминалних група по интересе поретка. Осим одговарајућих мера и инкриминација у Кривичном законику, предвиђени су и релевантни механизми у Законику о кривичном поступку, а нормативни оквир је обогаћен усва-

јањем Закона о одузимању имовине проистекле из кривичног дела, као и Закона о организацији и надлежности државних органа у сузбијању организованог криминала, тероризма и корупције.

На свом путу ка чланству у Европској унији, а као одговор на Извештај о скринингу Европске комисије за преговарачко поглавље 23, Република Србија је, између осталог, донела: Националну Стратегију реформе правосуђа за период 2013–2018. год., Акциони план за спровођење Националне стратегије реформе правосуђа за период 2013–2018. год. и Акциони план за поглавље 23, који је Влада Републике Србије усвојила 27. априла 2016. год.

Анализирано кривично дело удруживања ради вршења кривичних дела, према ранијој терминологији, злочиначко удруживање, јесте незаобилазно дело у сфери организованог криминалитета, јер је готово незамисливо било какво организовано вршење кривичних дела, а да претходно нису остварена обележја ове инкриминације. Оно омогућава кажњавање лица које организује групу за вршење кривичних дела одређене тежине, независно од тога да ли је заиста и учињено неко кривично дело ради чијег вршења је удружење створено, тако да представља деликт препреку, које суштински кажњава једну припремну радњу. Осим организатора, казном затвора је запрећено и припадништво групи. Иако ово кривично дело није често у судској пракси (у 2018. години било је 19 осуђујућих одлука), оно представља значајно средство у борби против организованог криминалитета.

Реформисани нормативни оквир, специјализација државних органа откривања, доказивања и вођења поступка за кривична дела организованог криминалитета, укључујући кривично дело удруживања ради вршења кривичних дела, представља велики корак за Србију у процесу приступања Европској унији, али исто тако и неопходан је и наставак рада, са циљем стварања још ефикасније нормативне основе која ће адекватније одговорити на савремене изазове које намеће организовани криминалитет.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1045–1061

Оригинални научни рад https://doi.org/10.22190/TEME191015062K
Примљено: 15. 10. 2019. UDK 316.774:004.738.5(497.11)
Ревидирана верзија: 17. 10. 2019.
Одобрено за штампу: 1. 12. 2019.

ELECTRIC SCOOTERS - URBAN SECURITY CHALLENGE OR MORAL PANIC ISSUE -

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Abstract

Triggered by the widespread use of electric scooters in Serbian cities, the authors conducted an empirical research of media discourses in terms of their use and the influence they have on the various aspects of wellbeing in the urban environment. Among other, the authors explore the relation between the use of electric scooters and urban security challenges as seen by newspapers, as well as the lens of the Twitter community in Serbia. Through the identification of the main topics represented in both newspapers and Twitter posts, the ways and tones in which the topics have been addressed, as well as arguments provided to support the publicly expressed attitudes, this paper provides both the quantitative and qualitative analysis of data, attempting to give an answer to whether the use of electric scooters could be considered an urban security challenge or just another issue causing moral panic.

Key words: urban security, electric scooters, media discourse, moral panic.

ЕЛЕКТРИЧНИ ТРОТИНЕТИ – ИЗАЗОВ УРБАНЕ БЕЗБЕДНОСТИ ИЛИ ПРЕДМЕТ МОРАЛНЕ ПАНИКЕ

Апстракт

Подстакнути распрострањеном употребом електричних тротинета у Србији, аутори су спровели анализу медијског дискурса у вези са утицајем његове употребе на општу добробит у урбаним срединама. Између осталог, аутори су истражили везу између употребе електричних тротинета и изазова урбане безбедности, посматрано у светлу новинског извештавања, као и ставова корисника Твитера у Србији. Кроз препознавање кључних тема заступљених у оба извора – у новинским чланцима и објавама на Твитеру; доминантних тонова и приступа у адресирању ове теме, као и аргумената изложених у прилог јавно заузетим ставовима – аутори рада дају квантитативну и квалитативну анализу података, тражећи при томе одговор на питање: „Треба ли употребу електричних тротинета посматрати као изазов урбаној безбедности или као само још једну од тема које служе за повод стварања моралне панике?”.

Кључне речи: урбана безбедност, електрични тротинети, медијски дискурс, морална паника.

INTRODUCTION

For academics and practitioners, the issue of urban mobility and quality of transportation infrastructure is of the utmost significance for the quality of life and citizens' wellbeing, hand in hand with urban security. As a contested concept, urban security comprises diverse security problems (challenges, risks and threats), strategies and actions taken to tackle these problems in order to protect important values, as well as different actors, i.e. providers participating in the achievement and enhancement of security in the urban environment (Paraušić & Lipovac, 2019, p. 257). Defined in this manner, security not only involves the protection against traditional and serious threats, such as armed conflicts or terrorism, but also concerns the broader framework of providing the adequate quality of life (Paraušić, 2019), including the functioning of urban transportation infrastructure. In the past two years, vehicles with electric engines descended in masse in cities all around the world. The main ideas surrounding the introduction of alternative means of transportation are the reduction of traffic jams and air pollution in the urban environment, and the alternatives include transportation such as electric scooters, segways, hoverboards, etc.[1]

The recent introduction of electric scooters in urban environments has triggered a significant research interest in various social and security aspects of their use. Existing studies have primarily focused on the social impacts of these scooter services (Petersen, 2019; Loizos, 2018) and parking placements (Fang et al., 2018), and acceptance rates (Riggs, 2018; Degele et al., 2018). Additional research has centered on the distribution optimization (Chen et al., 2018), the electrical engineering-focused efforts towards efficient batteries (Pellegrino et al., 2010), the reduction of personal automobile usage (Smith & Schwieterman, 2018), as well as the spatial and temporal analysis between e-scooters and other AVs (McKenzie, 2019). Moreover, one recent study focused on safety concerns of one e-scooter company (Bird) conducting an analysis of the official Instagram profile (Allem & Majmundar, 2019).

But as the number of e-scooters rises, they have been received with the moral panic and outburst of the wider public. Moral panics are described as volatile moments characterized by heightened concerns about a group, its conduct or a particular event; hostility against the perpetrators; disproportionality in the depiction of the threat; and a consensual reaction to it (Cohen 2002; Goode & Ben-Yehuda, 1994). In some American cities, public officials have used safety concerns as a reason to ban the little dockless vehicles (Gutman, 2018), and in other, safety was cited as a main

[1] Scooter companies and their promoters argue that they can offer a space-efficient, environmentally friendly, car-reducing way to get around the city. They are cheaper than cabs, require less effort than a bicycle and more convenient than buses.

driver behind the proposal to jail scooter users who exceed a 15-mph speed limit or ride on the sidewalk (Philipsen, 2019). They are also labelled as a threat to the security of pedestrians, other drivers and urban transportation in general, as well as the cause of significant amount of crashes and injuries (Trivedi et al., 2019; Bresler et al., 2019; Kobayashi et al., 2019). Just how many problems and health concerns they actually cause, and to what degree city officials and other regulators should care, remains a topic of dispute.

Despite the increased interest of the academic community for electric scooters, the percentage of injuries involving alternative vehicles in general is comparatively far from that of other means of transportation (car accidents above all). Moreover, the expected number of injuries or crashes may be likely due to the exponential rise in the number of drivers of e-scooters, e-bikes, hoverboards and such. Nevertheless, the so-called scooter-skeptics seized on the news as a proof that these "disruptive devices" indeed represent a safety and public health issue. As it is evident, electric scooters in the academic discourse, as well as in the public debate are presented in a two-fold manner: as alternative innovative means of transportation, on the one hand and as an urban security challenge potentially endangering the citizens' mobility in the city, on the other.

Having all the above mentioned in mind, the **overall objective of this paper** is to explore whether the use of electric scooters could be considered an urban security challenge or just another issue causing moral panic. More specifically, this research strives to uncover the relation between the use of electric scooters and urban security challenges as seen by the mainstream newspapers, as well as the lens of the Twitter community in Serbia. Our primary goal is to identify the main topics represented in both- newspapers and Twitter posts, the ways and tones in which they have been addressed as well as arguments provided to support the publicly expressed attitudes.

Considering this, we aim to answer three basic research questions:

- What were the main discussions on Twitter and news media since the mass introduction of e-scooters in urban transportation?
- What similarities and differences could emerge by contrasting the thematic findings from Twitter and newspapers?
- Does the response of users on Twitter and newspapers mimic that of moral panic?

METHODOLOGY

Research Phases and Sampling

This research was conducted in the period between June and September 2019, with the dynamic divided into two research phases:

Research phase I: Analysis of the daily newspapers' reporting on the use of electric scooters

During this stage, we examined the media coverage of the e-scooters in leading agenda-setting newspapers, precisely, their websites from June to September 2019. Eight popular daily newspapers were selected: Novosti[2], Blic[3], Politika[4], Danas[5], Alo[6], Kurir[7], Informer[8] and Srpski telegraf[9]. Considering the wide audience they gather, we found them relevant for framing the public discourse on the main research problem.[10] The initial search of the daily newspaper portals yielded a total of 248 articles. After reviewing and eliminating duplicates, as well as articles where the electric scooters were mentioned incidentally, or non-motorized scooters were in question, the final sample reached the number of 115 newspaper articles.

Research phase II: Analysis of Twitter posts on the use of electric scooters

In order to get a more complete picture of the discussion about electric scooters on the city streets, the survey also included a Twitter analysis with its dynamics and debates. We analyzed posts made on Twitter in the six weeks' period (July 24th to September 4th, 2019) that had been previously identified as the pick of media reporting on electric scooters. We focused exclusively on posts written in Serbian in order to get results on attitudes toward electric scooters in Serbian urban communities (mostly in Belgrade). We identified 304 posts that fulfil the above mentioned criteria.[11] Posts' coding process showed that some of

[2] http://www.novosti.rs/ last accessed September 25, 2019
[3] https://www.blic.rs/ last accessed September 25, 2019
[4] http://www.politika.rs/ last accessed September 25, 2019
[5] https://www.danas.rs/ last accessed September 25, 2019
[6] https://www.alo.rs/ last accessed September 25, 2019
[7] https://www.kurir.rs/ last accessed September 25, 2019
[8] https://informer.rs/ last accessed September 25, 2019
[9] https://www.republika.rs/najnovije-vesti
[10] https://serbia.mom-rsf.org/rs/mediji/print/ last accessed September 24, 2019
[11] In order to avoid the contamination of the sample, we decided to exclude 36 posts written in the middle of the analyzed period that mentioned electrical scooters, but only as a side issue while discussing political topics. Namely, a local Belgrade politician who belongs to the non-ruling party used the electric scooter to show that the reconstruction of the streets in the city center resulted in extremely unpleasant conditions to drive electric scooters in that part of the city. This attracted significant interest of Twitter users and the public in general and triggered intense debate. As a result of that debate, numerous posts were made. Some of them focused on issues

the posts addressed more than one of the identified topics, meaning that we as the final outcome, analyzed 338 Twitter posts.

Methods

Content analysis was used as the main research method and the unit of analysis was single text/tweet with all visual and content related parts. Each news/tweet item was examined to identify the main topics, the actors involved, the activities they performed, and how they were characterized. Specifically, the analysis focused on the issue and themes that were considered significant since the introduction of e-scooters on the streets of Belgrade, and how this significance was expressed (in positive, negative or neutral terms).

In terms of procedure, after extracting every single news/post from the newspapers' websites and Twitter, using the Google Tool and Twitter Search option, based on the key words (scooter(s), electric scooter(s), trotinette(s), electric trotinette(s)), each news item or a twit we identified was analyzed after finishing the coding process that had been conducted in order to identify the main topic(s) it addressed, the tone of the news/post, the main arguments (if any) it provided to support the attitude publicly expressed.

FINDINGS

Daily Newspaper Analysis

The media reported relatively uniformly on electric scooters, with the only exception being *Blic*, which has almost double the number of articles published (about 22% of the total number of articles) compared to the average for other newspapers (about 11%). After the *Blic*, most articles were published in *Kurir* (15), then in the *Srpski telegraf* (14), the same number of articles were published in *Politika* and *Informer* (13 each); *Danas* has published 12 articles, and *Novosti* and *Alo* 11 units each.

Table 1. Number of articles published per newspaper

Media	Novosti	Blic	Politika	Danas	Alo	Kurir	Informer	S. telegraf	Total
No. articles	11	26	13	12	11	15	13	14	115
%	9.5	22.6	11.3	10.4	9.5	13.1	11.3	12.3	100

relevant for our research and were consequently included in the sample. In contrast, 36 aforementioned posts mentioned electrical scooters exclusively as a side issue while discussing topics in the field of politics, pro and contra the ruling party, on the local level. This qualified them for the exclusion from the research sample.

The media were particularly active when it came to announcing the adoption of a new Law on Road Traffic Safety, which should regulate the e-scooters use and driving (June 20th), as well as sharpening penal practice for e-scooter drivers in several European capitals (July 1st). Interestingly, the news on the arrest of dozens of electric scooters drivers under the influence of alcohol and/or narcotics in Denmark (July 9th) was particularly interesting for the Serbian media, as was the news about famous youtuber, Emily Hartridge's death while driving e-scooter in the UK (July 15th). Almost all media reported a boy was injured when he was hit by an electric scooter driver (July 31st), as well as an increased number of road accident victims, where driving this alternative means of transportation was marked as one of safety risks (August 6th). The Serbian media also paid great attention to the announcement of the city manager, Goran Vesić, who said that the driving of this increasingly popular electric device on the streets of Belgrade must be regulated (August 23rd).

Analyzed media articles were distributed in three thematic categories[12]:

Thematic category I: *Electric scooters as an urban security challenge*
Thematic category II: *Electric scooters as an alternative means of transportation*
Thematic category III: *Electric scooters as a fashion trend and/or status symbol*

Table 2. The main topics of media discourse on electric scooters

	Topic/Media (%)	Novosti	Blic	Politika	Danas	Alo	Kurir	Informer	Srpski telegraf	Ukupno
1	Electric scooters as urban security challenge	69.2	61.5	75	66.6	83.3	75	64.7	81.2	70.2
2	Electric scooters as alternative means of transportation	30.7	28.2	18.7	22.2	16.6	20	23.5	12.5	22.5
3	Electric scooters as a fashion trend and/or status symbol	/	7.7	6.3	11.1	/	/	11.7	6.2	6
	Other	/	2.5	/	/	/	5	/	/	1.3

The media discourse on the electric scooters is largely shaped by the topic of urban security, which has been mentioned in as many as 70% of

[12] It should be noted that in order to gain meaningful insights, in most cases, we find that more than one topic could be relevant in one article. Therefore, the number in tables referred to the number of topic/subtopic mentions, not the number of articles.

cases. Within the topic of urban security, the media was most concerned with the legal regulation of this means of transportation, as, according to the testimony of the actors, there is a danger for all road users requiring urgent state intervention, and the emergent introduction of electric scooters in the new Law on Road Traffic Safety. Within this sub-topic, the issue of where these vehicles should be driven is particularly relevant. In support of the legal regulation of this area, the media reported on harsher penalties for drivers of e-scooters in European cities, which was motivated, as they say, by numerous road accidents. Somewhat less attention has been paid by the media to the subtopics of the security of other traffic participants, especially pedestrians, where it is often noted that pedestrians may be at risk of injury and even death due to the inappropriate and irresponsible behavior of electric scooter drivers. The sub-theme of e-scooters drivers' safety has been largely addressed through the reporting of accidents in which the lives of the drivers of this alternative vehicle (first of all, the famous UK youtuber, Emily Hartridge) have been lost, and ultimately pose a great danger to the safety of e-scooter owners. Another topic we have identified as relevant is traffic safety in the most general sense, where the media usually point out that electric scooters are the cause of traffic jams and disruptions to the functioning of the city's transportation system, and discourage people from using other eco-friendly means of transportation.

Table 3. Topic 1 - Electric scooters as an urban security challenge

	Subtopic/media	Novosti	Blic	Politika	Danas	Alo	Kurir	Informer	Sr. Telegraf	Total
1	Electric scooters and legislation	31.8	38.1	47.6	31.8	38.8	31.8	33.3	43.4	37.3
2	Safety of drivers of electric scooters	31.6	14.3	14.3	27.3	22.2	18.2	33.3	17.4	21.1
3	Safety of other traffic participants, especially pedestrians	31.6	28.6	19.1	22.7	22.2	22.7	22.2	26.1	24.9
4	Road Traffic Safety	5.3	19.4	19.1	18.2	16.6	27.3	11.1	13.2	16.7

To a much lesser extent (22%), the media pictured electric scooters as an alternative means of transportation that could greatly improve urban transportation infrastructure. In this respect, the sub-themes related to traffic congestion and environmental protection are dominant, as electric scooters have been promoted as eco-friendly vehicles of the future. Somewhat less importance was attached to the sub-topics of technological development, connection with other similar means of transportation (especially bicycles), as well as micromobility. Seen under this second

major theme, electric scooters as an alternative means of transportation are presented as a leap into the future, which are economical, make life easier for users and save time. In just nine articles, electric scooters are referred to as the impersonation of a new trend that has "plagued" city dwellers, where often its drivers are labeled "yuppies" or "hipsters" and the vehicles themselves are referred as "fashion accessories."

The thematic analysis of media reporting shows that there are no significant deviations in the coverage of individual media. The topic of urban security is the most present in *Alo* (84%) and least in *Blic* (61%). Another major topic, alternative means of transportation, is mentioned the most in the daily newspapers *Novosti* and *Blic*, and least in the *Srpski telegraf*. Electric scooters as a trend or fashion are recognized by the daily newspapers such as *Blic*, *Politika*, *Danas*, *Informer* and the *Srpski Telegraf*.

If we look at the general tone of the reporting, we can conclude that the media in Serbia have created a rather negative image of electric scooters. As many as 72% of articles have a condemnatory tone, and it can be noted that electric scooters, and especially their drivers, are most often targets of criticism and rarely given the opportunity to speak in their defense. In about 16% of the reports, journalists took a neutral approach, citing either the technical characteristics of the vehicle, or the legal practice in the field in European countries. Only 12% of the total number of the content presented the general sense of approval to the e-scooters, emphasizing their cost-effectiveness, positive impact on urban traffic congestion and the environmental benefits.

Table 4. Tone analysis of media discourse on electric scooters

Media/Tone (%)	Negative	Positive	Neutral
Novosti	66.8	16.6	16.6
Blic	67.6	14.7	17.6
Politika	60	0	40
Danas	50	25	25
Alo	82	0	18
Kurir	93.7	6.3	0
Informer	92.3	7.7	0
Srpski telegraf	73.3	13.3	13.3
Total	71.9	11.4	16.7

However, the tone of reporting differs significantly when comparing the selected newspapers, which must be taken into account in framing the media discourse on electric scooters in urban environment. Specifically, the percentage of articles in which a negative tone can be identified varies from 50% in *Danas* to over 90% in *Alo* and *Informer*. *Danas* has the largest share of articles that have a positive tone (25%), while in *Politika* and *Alo* we have not found any articles with positive

tone. However, the neutral tone is the most obvious in *Politika*, while *Kurir* and *Informer* do not have any neutral coverage. Nevertheless, it is evident that the media in Serbia were extremely reluctant to approach positively this alternative means of transportation, which is in line with the dominant thematic framework, that is, electric scooters as a challenge to urban security.

Twitter Posts Analysis

Differently from the media reporting analysis, the number of thematic categories was increased to six, as visible from below given list.

Thematic category I: Electric scooters' use and impact on health.
Thematic category II: Electric scooters as an alternative means of transportation and/or ecology and financial benefit.
Thematic category III: Electric scooters as an urban security challenge.
Thematic category IV: Electric scooters as a fashion trend and/or status symbol.
Thematic category V: Hate and/or negative attitudes toward electric scooters without providing arguments or reasons in support of this attitude.
Thematic category VI: Affirmative posts about electric scooters without providing arguments or reasons in support of this attitude.

The coding process itself showed that there is a large number of affirmative or negative posts about electrical scooters that do not provide any reasons or arguments to support attitudes of the author. Their authors "just purely expressed love or hate" toward electric scooters. This resulted in establishing two additional categories of posts compared with the analysis of media reporting in order to cluster these posts.

The second important difference in terms of the methodological approach is related to the tone of the posts. All analyzed posts on Twitter were placed in one of two, not three tone categories: positive or negative. Neutral-tone posts were not found, which could be explained by the nature of social networks where people come to express it personal attitudes and opinions, while the purpose of media reports is, before all, to objectively inform citizens on actualities. This results in a certain percentage of neutral tone news, contrary to Twitter posts that are clearly positively or negatively toned.

In addition to the number and tone of posts within the above listed categories, we tried to identify the main issues, discussion subtopics and attitudes for all categories.

Table 5. The main topics of Twitter debate on electric scooters

	Topic/ Thematic category	Number/ percentage of posts	Tone of the post	
			positive	negative
1	Electric scooters' use and impact on health	16 5%	0 0%	4 100%
2	Electric scooters as an alternative means of transportation and/or ecology and financial benefit	54 16%	28 52%	26 48%
3	Electric scooters as an urban security challenge	149 44.1%	6 4%	143 96%
4	Electric scooters as a fashion trend and/or status symbol	71 21%	5 7%	66 93%
5	Hate and/or negative attitudes toward electric scooters without providing arguments or reasons in support of this attitude.	38 11.2%	0 0%	38 100%
6	Affirmative posts about electric scooters without providing arguments or reasons in support of this attitude.	10 4%	10 100%	0 0%
	Total number of posts	338 (100%)	49 (15%)	289 (85%)

The coding process showed that the most of Twitter users, almost half of them, who had addressed the issue of electrical scooters did it referring to the topic of urban security (44.1%). In terms of the tone of posts, it is quite alarming that 96% of Twitter users perceived an influence that electric scooters have on urban security as negative, since only 4% of them do not see the negative impact of electric scooters on the security of scooter drivers and other participants in traffic.[13]

In order to further explore the attitudes of Twitter users who consider the use of electric scooters as urban security challenge, we identify the main subtopics they addressed in their posts. In this regard, five main subtopics were recognized:

Subtopic I: Where to drive-normative uncertainty;
Subtopic II: Threat to other traffic participants
Subtopic III: Threat to other traffic participants;
Subtopic IV: Threat to drivers of scooters
Subtopic V: Threat to both- drivers of scooters other traffic participants

[13] A bit surprisingly, considering the very nature of an alternative transportation means, only 16% of Twitter users posted about this. More Twitter users, 21% of them, see electric scooters as a matter of fashion trend and/or status symbol. 11.2% of those who posted about electric scooters expressed merely negative attitudes regarding this vehicle without providing any reason in support of their claim or addressing any of the above mentioned topics. A very symbolic number of Twitter users (less than 10% in total) posted about electric scooters and their impact on health (0.5%)

Table 6. Electric scooters as an urban security challenge (total numbers)

No.	Subtopic	Number of posts	The tone of post	
			positive	negative
1	Where to drive-normative uncertainty	37	0	37
2	Electric scooter can cause a fire	7	0	7
3	Threat to other traffic participants	39	0	39
4	Threat to drivers of scooters	29	6	23
5	Threat to both drivers of scooters and other traffic participants	37	0	37
	Total number of posts	149	6	143

It is interesting to mention that three out of five categories were almost equally in the focus of Twitter users (Subtopics I, III and V). Subtopic IV was just a bit less in focus, while Subtopic II attracted minor attention of the Serbian Twitter community. Predominantly, the use of electric scooters was addressed in a negative tone (96%), while only 4% of the posts are not of the prior idea that the use of electric scooters is an urban security challenge.

Table 7. Electric scooters as an urban security challenge (percentages)

No.	Subtopic	Percentage of posts	The tone of post	
			positive	negative
1	Where to drive - normative uncertainty	24.8%	0	37
2	Electric scooter can cause a fire	4.7%	0	7
3	Threat to other traffic participants	26.2%	0	39
4	Threat to drivers of scooters	19.5%	6	23
5	Threat to both- drivers of scooters other traffic participants	24.8%	0	37
	Total number of posts	149 (100%)	6 (4%)	143 (96%)

Subtopic I: *Where to drive-normative uncertainty*- The total of 37 participants (24.8%) addressed the issue of normative uncertainty, but also the lack of awareness issue in terms of where electric scooters should be driven (on the streets/roads or along pedestrian paths). Namely, there is a significant portion of posts that clearly indicates:

a. weaknesses of normative framework which deal with the safety of road traffic;
b. a lack of legal certainty in terms of legal framework applicable on electric scooters and their participation in road traffic;
c. a low level of awareness of citizens regarding the rules and procedures applicable on electric scooters, their drivers and the interaction with other participants in traffic.

Subtopic II: *Electric scooter can cause a fire* - The analysis showed that 7 posts (4.7%) addressed the risk of use of electric scooters as potential cause of fire when plugged in for charging. All of the post in this subcategory referred to the same accident where an electric scooter in Germany exploded when being charged and caused a fire in the whole building.

The group consisted of three subtopics (III, IV and V) addressed security risks named in Twitter posts referring to the risks of the use of electric scooters for drivers of scooters, other participants in traffic or both of them. This group of subtopics was raised in 105 Twitter posts (70.5%) which is a clear sign that electric scooters are generally perceived as an urban security challenge in terms of personal safety.

Within this group of topics, *Subtopic III*: *Threat to other traffic participants* - is represented in 39 posts (26.2%); *Subtopic IV*: *Threat to drivers of scooters* - is raised in 29 posts (19.5%) while *Subtopic V*: *Threat to both- drivers of scooters other traffic participants* - is underlined in 37 posts (24.8%).

In order to assess whether this attitude is associated with personal or indirect experience in terms of accidents or other incidents caused and/or with participation of electric scooters, we analyzed arguments given in support to publicly expressed concerns. Only 4 of 149 posts addressed the accidents in which the authors took part or witnessed to them. The rest of the posts are based on the authors' attitudes unsupported by experience and/or based on information about accidents from domestic or international media.

DISCUSSION OF THE RESEARCH FINDINGS

Electric Scooters and Urban Security Challenges

Despite the broadening of the thematic scope for the three topics in the Twitter analysis, there is an evident overlap between the emerging themes of newspaper articles and Twitter posts. In both cases, the majority of analyzed units (70.2% of newspaper units and 44% of Twitter posts) framed electric scooters as an urban security challenge.

When comparing the subtopics of urban security challenges, we found that it is possible to compare newspapers and Twitter debates in relation to: 1) normative uncertainty and regulation electric scooters; 2) safety of the drivers of electric scooters; 3) safety of other traffic participants; 4) safety of both electric scooter drivers and other participants in traffic. These topics consist almost 100% of both- newspaper units and posts on Twitter.

Table 8. Comparing the newspapers and Twitter in relation to the theme of urban security

Subtopic/Media %	Newspapers	Twitter
Legislative/normative framework	37.3	24.8
Safety of the drivers	21.1	19.5
Safety of the other traffic participants	24.9	26.2
Safety of both electric scooter drivers and other participants in traffic	16.7	24.8

Divided in two thematic categories, the data shows that 37.3% of newspaper units addressed the issue of normative uncertainty in terms of "where to drive issue", and so did 24.8% of Twitter posts. In addition to the difference in the percentage of posts/news addressing this issue, the approach is different in terms of flagging the issue of citizens' awareness of the existing normative framework which rules the use electric scooters. More precisely, while some Twitter users flagged the existence of such a normative framework emphasizing the lack of citizens' awareness in this regard, there is no track record in the newspapers on the same topic. This is of great importance, having in mind the main purpose and role of newspapers as a traditional media is to inform citizens and/or to raise their awareness of important issues, not to contribute to moral panic.

The second group of subtopics referring to the use of electric scooters as a safety risk for drivers of scooters, other participants in traffic or both of them consists of 62.7% of news units and 70.4% of Twitter posts.

Not surprisingly, the tone analysis of newspaper articles and Twitter posts exhibited strong compliance. Although the neutral tone could not be recognized on Twitter as a tool to express personal views, negative attitude toward electric scooters on the streets of the cities is dominant in both cases (around 70% in newspapers, and up to 85% on Twitter). This means that the introduction of electric scooters in urban environment was met with a backlash on all levels, from citizens, city officials, media, and the public in general. The media discourse framed the drivers and owners of this vehicle in a distinctively hostile manner, labeling them as an imminent danger to pedestrians and urban traffic.

Table 9. Comparing the tone of the newspaper articles and Twitter posts

%	Positive	Negative
Newspapers	11.4	71.9
Twitter	15	85

E-scooters and moral panic

The case of e-scooter related issues in Belgrade could be characterized as a case of moral panic to the extent that it generated a consensual, volatile and disproportionately hostile reaction to a particular group, however difficult it may be to identify membership of that group (Goode & Ben-Yehuda, 1994). Indeed, the media narrative examined here contained key features of moral panic: a) concern about a conduct or practice; b) hostility against the perpetrators; c) consensus in the reaction; d) disproportionality in the depiction of the threat; e) volatility of the episode (the media reporting and a period of intense anxiety emerging quickly and then dissipating).

Regarding the first feature of moral panic, the concern about the electric scooters in urban transport is evident since the media and the Twitter users, in the majority of the cases, framed this vehicle as an urban security challenge, either with the view of regulations and penalties (going as far as calling it "a new anarchy"), or in terms of it being a threat to pedestrians, traffic, as well as the drivers themselves. Owners and drivers of electric scooters are presented in overtly negative tones, labeled as "silent killers", "hipsters", "arrogant yuppies", "junkies", "sectarians", etc. Almost all the media reported on dozens of e-scooters drivers' arrests abroad due to being under the influence of alcohol and drugs, accentuating and disapproving of their inappropriate and reckless behavior. Citizens manifested great consensus in their reaction to electric scooters in the streets, expressing the fear for their safety and resentment toward this alternative means of transportation. Public officials also reacted to the introduction of electric scooters in urban transportation, calling for urgent law reform and regulations regarding this vehicle. Media panic is clearly manifested in the constant and repeated reporting on how dangerous driving of electric scooters could be, "causing numerous injuries, even deaths", without referencing to official data for Serbia. Moreover, only one accident causing an injury happened in Belgrade and was reported on in the newspapers. Similarly, as mentioned earlier, only 4 of 149 posts addressed the accidents in which the authors took part or witnessed to them. The rest of the posts were based on the authors' attitudes unsupported by experience and/or based on information about accidents from domestic or international media.

There were also instances of using the term "war" between e-scooter drivers and pedestrians, as well as between city officials and drivers. Media reporting on electric scooters was marked by short period of intense publicity, followed by a significant decrease in coverage. Electric scooters on the Belgrade and European streets were the subject of media reporting mostly during July and August[14], with as many as 74% of the analyzed material.

[14] Reporting pick, also chosen as analyzed period for Twitter analysis

CONCLUDING REMARKS

The results of the research indicate a significant thematic overlap between newspaper reporting and discussion on Twitter. Namely, the security challenges of the use of electric scooters as an alternative means of transportation have been recognized as a priority issue by both Twitter users and journalists. In addition to that, the tone of the public discourse on electric scooters in an urban environment is markedly negative, meaning that users and drivers of electric scooters have been the target of constant criticism when reporting and debating on Twitter.

Considering the extreme attention they have attracted, the unduly hostile attitude towards the users, the consensus in the public reaction, the disproportionality in reporting/describing the supposed safety risks compared to the actual number of accidents/incidents, the short but intense period of reporting and discussions on Twitter, we can conclude that the media discourse on electric scooters on city streets has all the main features of moral panic.

As the number of electric scooters on the streets continues to increase, and considering that over time their use will lose the character of a new phenomenon, we believe that conducting a follow-up survey after 12-18 months could yield significant results. Furthermore, it is expected that after this period, official data on potential incidents or accidents caused or involving electric scooters might be available, thereby allowing for the media discourse to be observed with regard to this novelty in the context of objective data.

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ЕЛЕКТРИЧНИ ТРОТИНЕТИ – ИЗАЗОВ УРБАНЕ БЕЗБЕДНОСТИ ИЛИ ПРЕДМЕТ МОРАЛНЕ ПАНИКЕ

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Резиме

Подстакнути распрострањеном употребом електричних тротинета у Србији, аутори су спровели анализу медијског дискурса у вези са утицајем њихове употребе на општу добробит у урбаним срединама. Између осталог, аутори су истражили везу између употребе електричних тротинета и изазова урбане безбедности, посматрано у светлу новинског извештавања, као и ставова корисника Твитера у Србији. Кроз препознавање кључних тема заступљених у оба извора – новинским чланцима и објавама на Твитеру; доминантних тонова и приступа у адресирању ове теме, као и аргумената изложених у прилог јавно заузетим ставовима – аутори овог рада дају квантитативну и квалитативну анализу података, трагајући при томе за одговором на питање: „Треба ли употребу електричних тротинета посматрати као изазов урбаној безбедности или као само још једну од тема које служе за повод стварања моралне панике?".

Истраживачка стратегија подразумевала је рад у две фазе: Прво смо анализирали текстове у популарним дневним новинама, а затим смо спровели анализу твитова који су у вези са електричним тротинетима на улицама градова. Резултати спроведеног истраживања упућују на значајно тематско преклапање између новинског извештавања и дискусије на Твитеру. Наиме, као доминантни тематски оквир препознали смо електричне тротинете као изазов урбане безбедности, те се може закључити да су корисници Твитера, као и аутори новинских текстова, пре свега скретали пажњу на опасности које са собом носи коришћење овог алтернативног превозног средства на градским улицама. Осим тога, тон јавног дискурса о електричним тротинетима у урбаном окружењу изразито је негативан, што значи да су корисници и возачи електричних тротинета били мета непрестаних критика приликом извештавања и дебате на Твитеру.

Имајући у виду изразиту пажњу коју су изазвали нескривено непријатељски став према корисницима, консензус у реакцији јавности, непропорционалност у приказу опасности, кратак, али интензиван, период извештавања и дискусије на Твитеру, можемо закључити да медијски дискурс о електричним тротинетима на градским улицама има све главне одлике моралне панике.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1063–1077

Прегледни рад https://doi.org/10.22190/TEME191015063S
Примљено: 15. 10. 2019. UDK 342.726-055.3:351.74/.76
Ревидирана верзија: 9. 11. 2019. 342.726-055.3:343.341
Одобрено за штампу: 1. 12. 2019.

GENDARMERIE ACTING IMPROVEMENT IN COUNTERING TERRORISM

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Abstract

When considering terrorist acts as those whose modus operandi could be described as a non-selective punctual immediate physical violence with heavy consequences directed against a group of people, we can say that it is a phenomenon encountered by the security apparatus of many contemporary countries. Such modus operandi, characterized by a high level of cruelty and impudency, causing the great number of victims, deterrence and public disturbances, is very closely connected with the acts mentioned. The trend of such acts is on the increase, and they are more often performed as the representative form of terrorism, as the complex form of political violence, as well as other heavy crimes, and set a task for the security offices to find effective mechanisms to confront them. This requires changes along the process of training, organization, and tactics in the Gendarmerie police officers' procedures.

Key words: violence, terrorism, training process, procedure, Gendarmerie.

УНАПРЕЂЕЊЕ ПОСТУПАЊА ЖАНДАРМЕРИЈЕ ЗА СУПРОТСТАВЉАЊЕ ТЕРОРИЗМУ

Апстракт

Предузимање терористичких аката чији би се modus operandi могао описати као неселективно пунктуално тренутно физичко насиље са тешким последицама уперено према групи лица – јесте феномен са којим се сусрећу безбедносни апарати многих савремених држава. Наведени modus operandi одликује висок степен свирепости и безобзирности, проузроковање великог броја жртава, док су истовремено застрашивање и узнемирење јавности уско повезани са предметним актима. Тенденција повећања ових аката, који представљају појавни облик тероризма као сложеног облика политичког насиља, пред органе безбедности поставља задатак изналажења ефикасних механизама за супротстављање истима, што захтева промене у процесу обучавања, те у организацији и тактици поступања полицијских службеника Жандармерије.

Кључне речи: насиље, тероризам, процес обучавања, процедура, Жандармерија.

INTRODUCTORY REMARKS

Criminality as a social phenomenon has been perceived as negative by most community members since the beginning of institutional regulation of interpersonal relationships and the creation organized communities of people. In different historical eras, society's response to criminality has adapted to specific social and political conditions. Terrorism[1] is ranked as political criminality and represents one of more prominent problems of many modern states. A modern state accentuates the fight against crime as one of high priority tasks, with the emphasis on serious forms of crime, where terrorism is certainly included. From the perspective of criminal phenomenology, that is, by observing particular manifestations of criminality as a mass social phenomenon and criminal behavior as an individual phenomenon, some of these forms that particularly affect society can be distinguished. Terrorism can be classified as one of such forms of criminality.

The object of this article is the investigation of incriminating behavior that materialises the essence of the criminal act of terrorism, i.e. the manner of committing this crime, which manifests itself in using non-selective, punctual, instant physical violence against a group of persons resulting in death or injury of the persons targeted. Also, here will be presented novelties in the training process, organization and methods of Gendarmerie police officers' actions, which we believe can increase the efficiency in countering the perpetrators of the said acts of violence, as well as reduce consequences of these acts.

In theory and practice, the aforementioned way of expressing violence is differently called[2], and the distinction between them is made according to different criteria, such as active subject characteristics, or circumstances related to the perpetrator's personality; according to motives as organic or psychological factors that initiate or regulate behavior in order to achieve certain goals (Rot, 1977, p. 87); according to protected object as a good, value or interest for which the criminal law protection is provided against injury or threat (Jovašević, 2012, p. 94),

[1] For the purpose of this paper, the author has accepted a definition according to which "the terrorism is a form of violent struggle in which violence is deliberately used against civilians in order to achieve political goals." (Ganor, 2005, p. 17).

[2] In foreign theory, and especially in practice of the Western European countries police, the term AMOK is widespread. The word itself comes from the Malay language, and is used to label persons who, due to psychological distress in a state of unrestrained anger, commit violence that results in the deprivation of the lives of others. The term itself is not comprehensive and scientifically based, but it is widely used in practice for naming enforcement. In addition to that, the terms such as eng. *killing spree* and eng. *rampage shooting* are also present in the police practice in USA, and they also refer to the manner of enforcing acts of violence. The examples presented do not exhaust all terms that are present in practice.

and which is protected via incrimination of certain behavior, etc. The subject of our interest is the violence performed by terrorists, who use violence as one of the means to achieve goals of ideology of an organization or group to which they belong or identify with. The *modus operandi* of terrorist acts may be different, and one of them is using non-selective, punctual, instant physical violence against a group of persons, resulting in death or injury of the persons targeted.

> "Both individuals and society have always encountered various forms of indelible violence against which the combat is difficult, and which can hardly be eradicated as an immanently negative social phenomenon" (Belančić, 2004, p. 9).

In developed information and communication-technology conditions, when such acts, in almost real time, with all the cruelty and ruthlessness that characterize them, are dispersed to a wide audience, causing a high degree of intimidation and public disturbance, the states with their security apparatus must find ways and measures to oppose them efficiently. Regardless of whether these measures are preventive or repressive, their evaluation will depend on the efficiency in counteracting acts of violence in question, and minimizing consequences caused by their enforcement. We believe that a security threat depends on the will of the perpetrator and that they have control over it, while the risk can also be seen as the difference between the level of threat and the ability to counter it. In this article, we will try to present the innovations in the training process, organization, and tactics we believe would have effect on raising the level of ability to counter the terrorist acts in question.

THE CONCEPT OF VIOLENCE

Before we present the process of training, organization of work and behavioral tactics of Gendarmerie police officers in opposing perpetrators of the acts of violence in question, it is necessary to explain what characterizes the acts of violence that are the subject of this article. Also, the phenomenon of violence itself should be explained, which is often widely used to denote the phenomena that manifest in different social spheres[3]. All of this indicates that it is necessary to determine the characteristics of the form of violence that is relevant to this article. We can conclude that there is no universally accepted concept of violence. Moreover, in its definition, theorists give more or less importance to certain elements referring to the term of violence, which leads to many definitions,

[3] For example, violence is discussed in the context of domestic violence, peer violence, violence at sports events, violence on the Internet, violence against animals, violence in international relations, etc.

and even conflicting opinions regarding the term violence. The author here has no ambition to define the notion of violence, which is certainly a complex task that would require a complex and profound research on the phenomenon, which this article cannot comprehend because of its subject and volume. We will try to present the notion of violence as it was defined by the institutions involved in researching violence, as well as theorists tending to different scientific fields, in order to facilitate later descriptions of the form of violence that is the subject of our interest.

One of the institutions that recognized violence as a problem is the World Health Organization and they define violence in the 2015 Report on Violence and Health as:

> deliberate use of physical force and power, endangering or really, against oneself, another person, or against a group or community that has caused or is likely to cause injury, death, psychological harm, downgrade or deprivation. (World Health Organization, 2015, p. 5).

Violence is a negative social phenomenon that can be observed from the political, sociological, security, criminological, criminal law and other aspects. Violence is a way of expressing and exercising power, when the subject of power mediates its influence by force in communication with the object of power (Simeunović, 2002, p. 146). At the same time, according to the aforementioned author, “exercising violence is a manifestation of power, but only with an exception that violence can also be a manifestation of powerlessness” (Simeunović, 2002, p. 146). The aforementioned author, in his political approach, insists on the distinction between force as a means, and violence as a way of fulfilment and sustaining, or expressing and exercising power. The expression of violence itself has a negative connotation, i.e. it is speaking of something that is forbidden, illegal. The force, however, represents a term that is valuably neutral in itself (Stojanovic, 2014, p. 3).

From a criminological point of view, "violence means the use of force, threat or abuse of power against another person" (Šeparović, 1988, p. 7). Violence is also defined as:

> the use of enforced means and methods against someone and against their will and rights, or application of physical force on objects and material means (Bošković, 1999, p. 202).

In addition to the mentioned criminological definitions that are relatively short, according to one of the broadest criminological definitions, violence implies:

> various acts, practices and behaviors of individuals, groups, social institutions, organizations or societies in relation to people, involving the application of physical, psychological, political or other forces that threaten the physical, psychological or social integrity of a person, and cause different physical and psychological damage and other adverse consequences (Milosavljević, 1998, p. 33).

Violence in itself is not incriminated in the criminal legislation as a separate criminal offense, but there is a significant number of criminal offenses in which violence occurs as an element, or a manner in which a crime is committed, and one criminal offense from a separate part of the CL of the RS in its name has the term violence (domestic violence referred to in Article 194 of the CL of the RS).

> "In criminal law, the term "violence" is not a commonly used term, nor does it represent a general institute, and the theory of criminal law itself has not sufficiently addressed the definition of the criminal law concept of violence and its criminal law significance." (Stojanović, 2014, p. 2).

According to prof. Dr. Zoran Stojanovic:

> violence as a criminal law term and as an act of perpetration in criminal acts in which it is comprehended in legal description should be defined as it follows. It is the use of physical strength that represents an attack on one's bodily integrity. So it must be an (active) action, not an omission. Then, the exercise of violence involves the use of force (not a threat also), which must be directed at a person's body, and it must be noticeable, rougher use of physical force. The notion of violence does not include the goal it seeks to achieve. Violence as an act of perpetration represents the use of physical force aimed at attacking bodily integrity only (Stojanović, 2014, p. 4).

The previously presented definitions of violence, which perceive the phenomenon in question from the point of view of the scientific field they originate from, show how complex the issue of defining the concept of violence is. Since the subject of this article is the totality of measures and procedures undertaken by the Gendarmerie police officers in order to prevent the manifestation of violence, it is of primary importance for the author, with due regard for the efforts made in defining the notion of violence, to determine the form of violence to be dealt with in this paper, and its characteristics, as violence which occurs as a *modus operandi* for the criminal act of terrorism. How a particular crime will later be qualified depends on the elements of the criminal act. We believe that *modus operandi* of the criminal act of terrorism addressed in this article should be referred to as the *non-selective punctual current physical violence with grave consequences directed against a group of persons*. We will try to explain the proposed designation in the following text.

THE CHARACTERISTICS OF FORMS OF SUBJECTIVE TERRORIST ACT ENFORCEMENT

If the term selectivity implies the ability to select (Vujaklija, 1966, p. 862), then non-selectivity of subjective violence would imply a lack of choice for the individual to whom it is directed, and which would be

performed upon according to the criteria that differentiate a particular person from all other persons. We are talking about individual non-selectivity, which does not exclude these persons from being selected by the perpetrator of acts of violence because of their affiliation to a broader social group against which the perpetrator wishes to enforce violence. In accordance with the ideology of the organization or group to which the perpetrator belongs or identifies with, the perpetrator enforces violence on members of a particular ethnic, minority, confessional or other groups with his personal motives and attitudes. The offended group may have a more distinguishing peculiarity, such as students of a particular school or university students, members of a political party, employees of a particular institution, etc. What makes the subjective violence non-selective is that the persons at whom the violence is directed are not individually identified and selected even within the smaller social group to which they belong, but are passive subjects against whom the violence is enforced only because of their affiliation to a particular social group.

Taking the spatial distribution as a criterion, subjective violence is defined as punctual. Punctuality implies that a specific act of violence is carried out in a relatively restricted area, such as a certain public institution, traffic infrastructure facilities, religious sites, shopping malls and other spaces, which are, in principle, characterized by a high person movement frequency. A distinction needs to be made between a punctuality related to a specific act of violence and geographical distribution referring to the diffusion of indefinite number of subjective acts. Geographically, subjective acts are widespread throughout the world, and their scope will depend on specific conditions and causes that can be identified in a particular area, and which affect the occurrence of the subjective acts of violence.

Considering the durability of an act, subjective acts can be designated as current. These acts are manifested as a deed, and not as activities and processes that would place them in the category of long-term violence. The duration of subjective acts of violence is relatively short, influenced by the reaction of police and other security structures, difficult sustainability of high intensity of the violence manifested over a continuous, long, period of time (the physical capabilities of the perpetrator and the technical capabilities of means used for violence), the will of the perpetrator, the reaction of passive subjects, etc. The previously stated does not exclude the possibility of periodically committed acts of violence in a particular area, for a shorter or longer period of time, even by the same perpetrator, group or organization. When we characterized subjective acts of violence as instantaneous, we primarily focused on the duration of each individual act.

Violence can be manifested as physical and psychological, although there are some theorists who imply that violence is only a physical act, as can be seen from the definitions of violence we have presented in the previous section of the paper. The subject of our interest is physical violence, which is manifested over passive subject through the use of the

physical strength of the perpetrator, or the means used by the perpetrator, suitable to attack the bodily integrity of the passive subject. These include cold weapons and firearms, explosives, motor vehicles, etc. As the consequences of enforcing these acts of violence result in death and serious injury of the targeted persons, the consequences can be qualified as serious. The formulation of a group of persons is considered to be three and more persons. As subjective acts of violence, as a rule, are undertaken in areas characterized by a high frequency of persons movement, so it follows that a larger number of persons are exposed to the act of violence, ranging from three to several hundred, and even thousands of persons.

THE SPECIFICITY OF THE GENDARMERIE POLICE OFFICERS' TRAINING PROCESS FOR COUNTERACTING SUBJECTIVE TERRORIST ACTS

The Gendarmerie is a special police unit within the Police Directorate of the Ministry of Interior of the Republic of Serbia, designed to perform complex security tasks, which imposes the need for adequate training of police officers and the Gendarmerie units. The training of police officers and the Gendarmerie units is a planned activity that is being implemented continuously, in all weather and land conditions, in accordance to the training plan, stated needs, available time, space, material and financial capacities, and engagement of units.

In the modern world, a distinctive dynamic in the field of security puts us at the forefront of a great problem of failing to follow up promptly and respond to manifested changes with a timely response. The overall situation is further being complicated by the fact that security systems, by their very nature, as well as all complex systems, are prone to inertia, which is why changes and adjustments require time, and sometimes we don't have enough of it. The previously mentioned adoption of the new content arising from science and practice implies continuous monitoring of security challenges, risks and threats, i.e. the endangering security facts that arise, changing or supplementing previous ones. The concept of security challenges, risks, and threats has been introduced into the Serbian theory of security and political theory and practice relatively recently from the Anglo-Saxon security theory and practice as a synonym, and an exchange for the term used before "the endangering security facts" which caused certain terminological confusion as well as the question of regularity of introduction of the term mentioned above[4].

[4] When discussing the regularity of using the syntagm of security challenges, risks, and threats, "because of some inner controversy this syntagm cannot be a completely satisfying synonym in that sense, and it seems that its introduction in our theory and

Radical Islamism[5] as an ideology and, consequently, various manifestations of political violence as means of achieving goals of the ideology of radical Islamism, are a global phenomena that have their own regional reflection on the Balkans, and consequently have influence on the security situation in the Republic of Serbia. Although acts of violence were enforced in the second half of the twentieth century by groups and organizations to which radical Islamism was an ideological basis, it can be stated that this phenomenon has a global character after the "absolute event" (Baudrillard, 2007, p. 7), i.e. the terrorist attacks in the USA on September 11, 2001, and continues to this day. Looking at the period from the attack to the present moment, the dynamic transformation of the *modus operandi* is noticeable, in terms of the adaptation of the strategies of the states and other entities, applied at the operational and tactical level. If we take geographical distribution as a criterion, acts of violence were enforced in countries with the Muslim majority and targeted against non-Muslims and other Muslims on the basis of belonging to another denomination, religious movement or sect within Islam. These acts were also enforced in countries where Muslims, as a religious community, are a minority. They have also appeared in Western countries with many Muslim immigrant communities. As for the manifestations of political violence, almost all simple and complex manifestations of political violence were present, such as threat of force, political killings, assassinations, riots, turbulences, armed insurgencies, terrorism, riots and civil war, and they, depending on specific

practice of security was not quite necessary, causing more problems than resolving them." (Ilic, 2013 :49).

[5] Broadly accepted subjective apparatus which could define and descript phenomena like Islamism and Islamic Terrorism in more details does not exist, and because of that there are serious difficulties in dealing with this questions, so we believe it is necessary to explain what shall be considered while using these terms.

Islamism – political ideology based on Islam as religious study searching a way to rearrange society in accordance with Islamic interpretations of the person conducting the teaching, where this political activism could have different organizational and appearance forms. Rearranging itself implies a greater level of introducing and applying Islamic law (Sharia) and teaching in political institutions and social relationships. If a descriptive adjective "radical" is added, we get the phrase **radical Islamism**, pointing out the act of performing in order to realize islamist goals, which could contain enforcing different forms of political violence.

Islamic terrorism – the phrase is made of two words, without the general accepted meaning of them, but it is a subject of widespread controversy. The dilemma and discussion around the adjective Islamist/Islamic in marking terrorism as a complex form of religiously based political violence. Considering Islamism as a political ideology based on reduced interpretation and application of Islam, which is far wider than Islamism both theoretically and in influencing different spheres of life, and terrorism as one of the means of realizing ideology of Islamism, the adjective Islamist is more suitable for use.

As for the term terrorism, we have defined it in previous section of this article.

conditions, often intersected and transformed from one to another. In terrorist acts that were recently enforced in the Near and Middle East, Africa, Asia and Europe, the dominant *modus operandi* is the one referred to above as *non-selective punctual current physical violence with grave consequences directed against a group of persons*. The perpetrators themselves commit violence in most cases until they are prevented, which generally results in deprivation of liberty or deprivation of life of these persons by police officers. Although so far such acts of terrorism have not been committed on the territory of the Republic of Serbia, their execution cannot be completely ruled out as a possibility. Factors that may influence eventual execution of subjective acts are participation of the Republic of Serbia citizens in armed conflicts in the Middle East, as well as the high frequency of persons originating from the area affected by armed conflicts within the so-called "migrant crises"[6].

The author believes, taking all of the above into account, that there is enough space for improving the system of training that would enable the Gendarmerie police officers to make their eventual treatment of subjective terrorist acts perpetrators more efficient. The introduction of novelties is required in the following teaching areas: special action tactics and weapons with shooting classes. It should be noted that the primary assumption is that police officers who are being trained to counteract subjective acts have previously passed selective, basic and special training, and that the training we are talking about is an upgrade to a specific security threat, or a way of its manifestation.

Within the teaching area of special action tactics, which already encompasses subjects on terrorism, antiterrorist measures and antiterrorist actions, it is necessary to introduce an additional subject that would refer to subjective *modus operandi* of terrorist acts. The specific issues of this subject are the space and surroundings where Gendarmerie police officers would eventually be forced to act, the behavior of subjective violent act perpetrators, and the nature and the way of using means of execution.

The main feature of the area where the Gendarmerie police officers would eventually act is their high frequency of persons. Analyzing the acts of terrorism carried out in the world in the previous period (70's, 80's

[6]The Republic of Serbia is located on the so-called "Balkan route" of migrants moving from the Middle East and Africa to countries of Western Europe. It would be arbitrarily, non-objective, and even immoral, to claim that migrants as a population may be presented as a threat in relation with possible terrorist acts. It is a population that is fleeing from violence, that is, armed conflicts in their home countries, and passes through the territory of the Republic of Serbia on their way to their destination countries. However, the sheer size of this population and inability to exercise effective control over persons consisting population, makes it easier for potential terrorists to disguise themselves and find their way to their final destinations.

and 90's of the 20th century)[7] and in terms of the space where they were executed, it is obvious that they were relatively spatially restricted (hijacking an aircraft after landing, directed to the part of the airport intended for such situations, hostage situations in facilities, occupation of facilities of vital importance, etc.), while related to current terrorist acts, it is more difficult to limit the space of terrorist activity, which leans to spatial dispersion of activities rendering counteractions of police officers more difficult, while endangering a greater number of persons. The space itself also affects the environment in which the Gendarmerie police officers could eventually act. The nature of the space we cited above indicates that it would be difficult to set up a blockade within a short period of time, which would allow physical separation of perpetrators from persons in the blocked space, which means that eventual actions of the Gendarmerie police officers would be placed in an environment characterized by high concentration, who can be expected to react driven by fear and panic. The need for evacuation and triage of these persons, while simultaneously acting against the perpetrator, with all actions taking place over a very short period of time, makes the environment very complex.

Unlike in the past, we perceive the use of widely available means, which in addition to their primary purpose have potential to cause death or serious injury to persons, such as, for example, motor vehicles (Miller, 2019, p.7). In the training process, attention must be paid to the way in which the Gendarmerie police officers would confront persons using these assets as means of executing terrorist acts, while making their actions efficient and safe for persons finding themselves at the scene.

While discussing topics in the teaching area of Weapons with Shooting Classes, which relate to tactics of using firearms, as well as the implementation of shooting programs, changes must be made that would closely reflect the possible tactical situations in which police officers may find themselves. Namely, it is necessary to take into consideration the saturation of space, that is, observation and fire sectors to persons whose behavior cannot be influenced, which will act as the disruptive factor for the use of firearms against the perpetrator, if the conditions provided by the law are met. It is also necessary to consider the position of cooperating forces, their movement and observation and fire sectors, in order to avoid their crossing. Training related to the tactical use of firearms, as well as the realization of shooting, is necessary to be performed at night and in conditions of reduced visibility, in closed spaces exposed to interfering factors (smoke, noise, etc.), with the use of opto-electronic sighting and aiming devices in order to approximate the training conditions to those

[7] Source: Office of the Director of National Intelligence, https://www.dni.gov/nctc/timeline.html, accessed 10th October , 2019

expected in real life situations. Also, the method of shooting should enable the Gendarmerie police officers to establish a fire system, control, handling and discipline of fire during the course of realization.

ORGANIZATION AND THE GENDARMERIE POLICE OFFICERS' ACTING METHOD

The security threat of terrorism, in which *non-selective punctual current physical violence with grave consequences directed at a group of persons* occurs as a *modus operandi*, points to the need to introduce changes in the current mode of work organization, with the primary goal of shortening the period of time from accepting the task to its execution. The previously stated is conditioned by the very nature of the subjective acts of violence, which, after the onset, terminate only with the actions of police officers, while any increase of time period between these two moments could result in the increase in the number of victims. For the improvement in the organization of work, spatial dispersion of police officers at the time of alert was taken into account, i.e. their referral to locations that will enable operability in the shortest possible period of time, with simultaneous delivery of arms, equipment and material-technical assets. The aforementioned method of organization implies successive deployment of forces, with an emphasis on rapid first reaction, which should influence on termination of terrorism act, damage control, admission and introduction of newly arrived forces, although the above will be mainly determined by specific present tactical situation.

The author believes that it is necessary to define a procedure, i.e. the standard operative procedure, which would help police officers, in conditions of a restrictive time frame in which it is necessary to assess the situation and make a decision on the course of action, to undertake all the necessary measures and actions for the successful completion of the tasks. Standard Operative Procedures are:

> official information notes or guidelines written for use in interventions. SOPs typically have operational and technical content and are written for emergency response interventions to coordinate different disciplines during an emergency. Regular and effective SOPs are necessary for the development and dissemination of any solution" (DHS, 2004).

The procedure itself must have clear guidance for police officers on the necessary measures and actions, but at the same time it must not be as specific so it would prevent the adaptation of the procedure to any tactical situations that may be brought before the Gendarmerie police officers. While designing the procedure, it is necessary to take into account the characteristics of the form of violence to which the procedure shall be applied, and especially the fact that the time frame from the

moment of accepting the task to its completion, decision making, preparatory actions, drafting and issuing orders for the completion of the task, is very limited, and that some of these stages will be absent, combined, or conjoined.

The procedure to be conducted should be designed to facilitate the work of the Gendarmerie police officers in a situation characterized by a certain degree of personal stress. Accordingly, the process should be in the form of an easily readable table with stages of the procedure highlighted in different colors. As for the stages themselves, they should be as follows:

1. *The phase which contains measures and actions undertaken outside the risk zone;*
2. *The phase which contains measures and actions undertaken in the wider environment of the scene and at the outer boundary of the blocade line;*
3. *The phase which contains measures and actions undertaken at the scene, in the situation when the perpetrator ceased to exercise acts of violence, and there is no danger of jeopardizing other persons and*
4. *The phase which contains measures and actions undertaken at the scene, in the situation when the perpetrator is currently enforcing acts of violence and endangering other persons.*

The procedure, assuming the chronological order that may be altered under the influence of particular circumstances of the event, would include certain measures and actions that police officer would be required to carry out, unless the tactical situation dictates otherwise. The measures and actions are related to receiving alert signals and referring police officers to the scene; gathering personnel, receiving arms, equipment and material-technical assets; gathering information about the event necessary to assess the situation and make decision on how police officers should act; blocking the premises and securing the scene; identifying the perpetrator; using means of compulsion in accordance with the law and the principles of tactical conduct in order to prevent the perpetrator from acting violently; the evacuation and triage of persons from the blocked space, organization of assistance and care of the injured; reporting and accepting intervention forces.

CONCLUSION

The dynamics, in modern conditions, indicates the need to constantly monitor the past transforming and new emerging security challenges, risks and threats, determine their characteristics and factors that affect them, and find mechanisms to ensure effective counteracting. *Non-selective punctual current physical violence with grave consequences directed against a group of persons* is identified as a very common form of execution, primarily acts

of terrorism as a complex form of political violence and criminal offense incriminated by the criminal legislation of the Republic of Serbia. It was necessary to determine, explain and name the characteristics of the subjective form of violence, which the author of this article tried to do. Although terrorist acts of this kind have not been committed on the territory of the Republic of Serbia, their perpetration in countries with which the Republic of Serbia has developed political, economic and other relations, but also factors such as the participation of people from the Republic of Serbia and the Balkans in armed conflicts in the Middle East, as well as extensive flow of persons from areas affected by armed conflicts, among which it is realistic to expect infiltrated persons who may be perpetrators of terrorist acts, a necessary improvement of the training process is identified in order to raise the level of police officers and the Gendarmerie units' competence to counter subjective terrorist acts.

The peculiarities of a security threat are also requiring the introduction of novelties in organization and operations of police officers and the Gendarmerie units. If we consider, as mentioned earlier in the article, that the perpetrator has control over the threat, while considering the security risk as the difference between the level of threat and the ability to counter it, then it follows that raising the level of ability of police officers and the Gendarmerie units to counter this threat has a direct effect on reducing the degree of risk. The high competence level of police officers and the Gendarmerie units to counter subjective terrorist acts can serve as a discouraging factor for potential perpetrators, i.e. have a preventive effect. In the event of a possible terrorist act enforcement whose *modus operandi* could be described as *non-selective punctual current physical violence with grave consequences directed against a group of persons* and, accordingly, the indicated need for repressive action, increasing the level of competence of police officers and the Gendarmerie units, the improvement of the organization of work and the way police officers of the Gendarmerie act will minimize any potential consequences of a terrorist act and prevent the perpetrators from continuing their acts by efficient and lawful actions.

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УНАПРЕЂЕЊЕ ПОСТУПАЊА ЖАНДАРМЕРИЈЕ ЗА СУПРОТСТАВЉАЊЕ ТЕРОРИЗМУ

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Резиме

Динамика којом се, у савременим условима, трансформишу претходни и појављују нови безбедносни изазови, ризици и претње – указује на неопходност сталног праћења истих, одређивања њихових карактеристика и фактора који на њих утичу, те на изналажење механизама који треба да обезбеде ефикасно супротстављање насталим безбедносним изазовима, ризицима и претњама.

Неселективно пунктуално тренутно физичко насиље са тешким последицама уперено према групи лица идентификује се као веома заступљен начин извршења, првенствено аката тероризма као сложеног облика политичког насиља и кривичног дела инкриминисаног кривичним законодавством Републике Србије. Предметном облику насиља било је неопходно одредити карактеристике, објаснити их и именовати га, што је аутор у овом чланку и покушао да уради. Иако терористички акти ове врсте нису вршени на простору Републике Србије, њихово вршење у државама са којима Република Србија има развијене политичке, економске и друге односе, али и фактори као што су партиципација лица из Републике Србије и простора Балкана у оружаним сукобима на Блиском истоку, као и обиман проток лица из подручја захваћеним оружаним сукобима, међу којима је реално очекивати и инфилтрирана лица која могу бити извршиоци терористичких аката, идентификује

се као неопходно унапређење процеса обучавања, а у циљу подизања нивоа оспособљености полицијских службеника и јединица Жандармерије за супротстављање предметним терористичким актима. Специфичности безбедносне претње изискују и новине у организацији рада и поступања полицијских службеника и јединица Жандармерије. Ако сматрамо, као што смо већ споменули у чланку, да над претњом контролу има извршилац, док безбедносни ризик посматрамо као разлику између нивоа претње и способности да јој се супротстави, онда произлази да се подизањем нивоа способности полицијских службеника и јединица Жандармерије за супротстављање овој претњи директно утиче на смањење степена ризика. Висок ниво оспособљености полицијских службеника и јединица Жандармерије за супростављање предметним терористичким актима може деловати као одвраћајући фактор за потенцијалне извршиоце, односно имати превентивно дејство. У случају евентуалног извршења терористичког акта чији би се modus operandi могао означити као неселективно пунктуално тренутно физичко насиље са тешким последицама уперено према групи лица и, сходно томе, указане потребе за репресивним деловањем, подигнути ниво оспособљености полицијских службеника и јединица Жандармерије, унапређена организација рада и начин поступања полицијских службеника Жандармерије утицаће на то да се умање последице извршеног терористичког акта и да се извршиоци ефикасним и законитим поступањем спрече да наставе са вршењем ових аката.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1079–1094

Прегледни рад https://doi.org/10.22190/TEME191015064P
Примљено: 15. 10. 2019. UDK 316.774:159.9
Ревидирана верзија: 13. 11. 2019. 316.774:316.62
Одобрено за штампу: 1. 12. 2019.

INFORMATIONAL AND PSYCHOLOGICAL ASPECTS OF SECURITY THREATS IN CONTEMPORARY ENVIRONMENT

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Abstract

The paper presents the contemporary concepts of information and psychological operation in the contemporary environment. The concepts were presented through general theoretical considerations by presenting leading theorists from the US, Russian Federation and the PR China. The concepts explain the goals, content and methods of acting on potential groups and individuals, and the means of information and psychological operation. The goal of the paper is to show that the research problem is not important exclusively for political and military systems, but that groups and individuals are particularly exposed to the challenges and threats in the contemporary environment. Various means of information and psychological activity in the contemporary environment (rumors, fake news) and their consequences such as changing attitudes and behavior of people in political and social processes are presented. An empirical account showing the importance of this topic is an analysis of the European institutions" activities in counteracting fake news during important political processes and elections for the European Parliament.

Key words: modern concepts of information operations, contemporary environment, goals of information-psychological operations, rumors, fake news, influence on changing attitudes and behaviours.

ИНФОРМАЦИОНИ И ПСИХОЛОШКИ АСПЕКТИ БЕЗБЕДНОСНИХ ПРЕТЊИ У САВРЕМЕНОМ ОКРУЖЕЊУ

Апстракт

У раду су приказани савремени концепти информационо-психолошког деловања у савременом окружењу. Концепти су представљени кроз општа теоријска разматрања приказивањем водећих теоретичара са подручја САД, Руске Федерације и НР Кине. Концепти објашњавају циљеве, садржаје и методе деловања на потенцијалне групе и појединце, као и средства информационо-психолошког деловања. Циљ рада је да се укаже на то да истраживани проблем није искључиво важан за политичке и

војне системе, већ да су изазовима и претњама у савременом окружењу посебно изложене и групе и појединци. Приказана су различита средства информационо-психолошког деловања у савременом окружењу (гласине, лажне вести) и њихове последице на мењање ставова и понашања људи у политичким и друштвеним процесима. Емпиријски приказ који указује на важност ове теме је анализа активности Европских институција на плану супротстављања лажним вестима током важних политичких процеса и избора за Европски парламент.

Кључне речи: савремени концепти информационог деловања, савремено окружење, циљеви информационо-психолошког деловања, гласине, лажне вести, утицај на промене ставова и понашања.

INTRODUCTION

According to the American theorist Toffler, the last decade of the twentieth century presented the transition from the industrial to the new "third age" or information age, whose basic characteristics are that "information" is the central potential of world production and political power. World production is based on the ownership and monopoly of information and new conflicts are based on geoinformation competitions. Information becomes a strategic resource. Philip M. Taylor, an English theorist from the University of Leeds, sees communication and information in the 21stcentury as important to contemporary society as oil and coal were to the development of civilization in the 20th century.

The widespread use of modern information technology and the phenomenon of information abundance have led to the intensification of competition with regard to information, which has, in turn, led to an increase in the number and type of security challenges in the contemporary environment based on conflicts and influence through information. In other words, information activities become very important for both national security and personal and psychological security, and the protection of organizations and individuals as essential parts of the broader community.

The topicality and importance of information operation, both at the broader social level and at the individual level, influenced the security sphere in terms of a conceptual transition from the "traditional" to the "new generation of conflicts", such as the transition 1) from segmental warfare to total war; 2) from the war in the physical environment to the war in human consciousness and in cyber space; 3) from symmetrical to asymmetrical conflict - simultaneous and coordinated application of political, economic, information, technological and environmental campaigns; points to the currentness of information and psychological operations as a model of psychological action on target groups of different character and level.

CONTEMPORARY CONCEPTS OF INFORMATION AND PSYCHOLOGIC OPERATION IN THE SECURITY ENVIRONMENT

Information is a term which has been known since ancient times. During the twentieth century, various theories related to this term, such as communication science, were studied more intensively. Many theorists, such as Claude E. Shannon, Norbet Weaver, and Russell Ekof, point to the possibility of influencing the external environment through information (Shannon, 1948; Norbert, 1973, p. 32). Many theories about information functions, such as the "biological theory", the American theory of communicology, and the neo-Marxist theory, point to "influence" as one of the characteristics of information (Radojković, Đorđević T., 2005, p. 211; Mattelart, 1998, p. 57).

The central place in all these theories belongs to the evaluations of effects and the nature of influence information can have on the influence object.

Information has always been a means of influencing target groups, whether states or individuals. In contemporary society, information technology is spreading information much more widely and faster than ever before in history, which is why the importance of information as a factor of influence has grown. Accordingly, in the information age, information is becoming increasingly important for national security as well. In addition to the traditional elements of national power, in the second half of the twentieth century, power in the information sphere especially stood out, i.e. the ability to influence the target groups in the information sphere. This ability of the state as expressed in international relations is realized through diplomacy, media, new media and other means. Information operations and psychological operations are used as basic conceptual models for opponents, neutral and domestic public in the information age.

In Western theory, information operations are defined as activities undertaken with the goal to act on hostile information and information systems simultaneously protecting their own information and information systems. The primary targets of information operations attacks are the opposing leadership, the infrastructure (telecommunications, transportation, energy system, financial system, production system) and citizens (Joint Pub 3-13: *Joint Doctrine for Information Operations*, US Army Joint Chiefs of Staff, 1998; and *Joint Vision 2020*, United States Department of Defence, Washington DC, 2000).

When analyzing psychological operations as a specific part of information operations, by looking at the period from the end of the Cold War until today, the transformation of the use of the term can be noticed in propaganda, media action, and "Perception Management". Psychological Operations (PSYOP) are defined as activities designed to convey selected information and indications to a foreign audience. They aim to influence emotions, motives, ways of thinking and ultimately the behavior of

foreign governments, organizations, groups and individuals. Psychological operations are applied at the strategic, operational and tactical levels. At the strategic level, they often take the form of political or diplomatic views and statements (Joint Pub 3-53: *Doctrine for Joint Psychological Operations*, US Army Joint Chiefs of Staff, 2003).

All information and psychological operations are realized within a much broader context called the *information environment - sphere*. The information sphere is defined as a set of individuals, organizations or systems for collecting, processing or distributing information (Field,1996).

The information sphere consists of three elements: 1) information infrastructure (systems and devices for collecting, transmitting, processing and delivering information), 2) information and its flow, and 3) the personnel performing various activities. The information sphere was created as a result of the emergence of a new socio-economic formation in the society - the information society (Sinkovski, 2005). There are three conceptual dimensions within the information sphere: physical, information and cognitive. Similarly, a Chinese military theorist Dai Qingmin states that the information sphere is made up of three dimensions: a) the electromagnetic space, b) the computer-network space, and c) the cognitive and value system of decision makers (Qingmin, 2003).

In accordance with the previous definitions, and in the opinion of the American theorist Joseph Nye, "winning hearts and minds has always been important, but it is of particular importance in the global information age." In that sense, he states that information has always been power, and that contemporary information technology is spreading information much more widely and faster than ever before in history, which is why the importance of information as an element of power has grown. Nye points out that the nature of power has changed in the last fifty years, and especially since the last IT revolution that made computers and the Internet indispensable in all walks of life (Stenley,1967).

For Russian authors, the security of the information sphere is a complex and, in its essence, a multilayered problem. It is the subject of interdisciplinary, technological and humanistic scientific research (Petrović, 2012). Therefore, Russian theorists argue that information operations, by means applied, are divided into operations carried out by: 1) information-technical means - such as attacks on critical objects of national infrastructure, cyber attacks and 2) information-perceptive means - such as propaganda, management of opponents' perception, misinformation, psychological operations and deception (Thomas L. T., 1996).

Russian scientists have also been studying the potential of information-psychological operations on a system of values, emotions and beliefs of a target group (traditional psychological warfare), but also the methods for influencing objective reasoning and decision-making processes for military and civilian leaders. In this sense, the Russian theory deals not

only with the study of the possible influence of information weapons on computer systems and processes, but also on the possible information influence on the human mind (Miljković, 2010). In the naval forces journal, Morskoy Sbornik (October 2003), a retired officer R. Bikkenin points out that information warfare has become a kind of an „art" where offensive and defensive actors are engaged in influencing the intellect of the civilian population and the members of the armed forces of the opponent (Bikkenin, 2003, p. 39). Following this line of thought, technological cyber attacks can also be undertaken in the information space. Russia believes that any deliberate dissemination of information on the Internet by a foreign government in order to undermine or overthrow the government of another country must be qualified as aggression in international relations (Mladenović, Drakulić, Jovanović, 2012). The completely opposite view is promoted by the United States and the states assembled around NATO, which deny the right to any attempt to establish state censorship of ideas and information on the Internet, explaining it as a universal principle of protection of human rights and democracy. From the American point of view, information activity cannot be a form of armed aggression against a state in the sense of international law. The US implies that information assault in terms of use of force consists solely of the offensive use of cyber weapons for the purpose of causing damage.

Similarly, Chinese theorists seek to develop and update a theory and ideology of psychological action that will be based on intimidation and that will use the advantages of the difference between Eastern and Western mentality. PLA plans to set up command structures for psychological warfare, as well as specialized PSYOP units to reduce technological inferiority of the Chinese military by deploying PSYOP in military operations. Even more significant is the fact that Chinese theorists believe that contemporary psychological warfare can provide stability and contribute to shaping and building a broader culture of thinking about the importance of national security, leading to the conclusion that PSYOP operations are much more applied in peace than in war.

Objectives and the Importance of Information-Psychological Operations against Target Groups

The goals of psychological operations may be, conditionally, divided into general, special and individual. Long-term and general-purpose psychological operations are generally performed to influence the value systems of large groups of people such as nations, states, religious communities, political movements, or multinational companies (domestic or competing). Specific objectives relate to areas of human activities such as culture, tradition, morale and, in particular, combat morale in war. An individual goal refers to a specific process in a limited space and in a short

time. The effects are short-lived and quickly noticeable. Such goals are set in the conduct of war operations (Miljković, 2008, p. 100).

According to its importance and level, psychological activity is performed at: the strategic, operational and tactical level. At the strategic level, psychological action is the responsibility of the highest leadership of the country. It is undertaken and implemented in order to achieve major national interests and influence on opposing and foreign national, political and military leaderships, as well as the public opinion of other countries. They are dominantly executed by civilian institutions and bodies, while military authorities can participate in supporting their implementation. Psychological action of operational importance is performed in the area of a particular region or country for the purpose of influencing the views of the adversary and its population. At the tactical level, psychological activity is performed in a narrower space, in order to influence the opposing forces and the population. It achieves partial, current and short-term goals (Miljković, 2008, p. 102).

Content and Methods of Information-Psychologic Operations

The most common content of psychological information is "persuasive and strong" information (messages), half-truths, "misleading information" and misinformation, rumors and fake news that are distributed through the media, diplomatic channels or the "face-to-face" method. Propaganda information and messages, first and foremost, aim at those psychological factors (perception, motivation, doubt, fear, stress - to psychologically shock, etc.) that, in different situations, have a decisive influence on people's behavior. In relation to these factors, appropriate methods and techniques of psychological operations have been developed. The following methods are most commonly applied in relation to the effects intended against a particular target group: causing certain emotional states (including shock); influencing knowledge, attitudes and beliefs (up to the level of commitment in practice); causing confusion in the value system (disorientation); imposing our own value models (ideologization); aggressive imposition of behavioral models (indoctrination); inhumane alteration of a "victim's" personality (Miljković, 2008, p. 106), etc.

American propaganda experts classify methods of psychological action in several groups:

- the first group includes the obvious methods: claiming authority, assertion, connection to others, disagreement, "glittering" generalizations, ambiguities, rationalization and simplification, projecting guilt and moral labeling, the "least of evils", "ordinary" people.
- the second group includes unconvincing methods: incredible truths, insinuations, unverified information, simplification, „let the other side be heard“ (Miljković, 2008, p. 106).

Means for Information-Psychologic Operations

In the past, there have been different approaches to classifying assets for psychological operations. The most acceptable to us is the division made in relation to the sensory bases of receiving messages (Mihajlović, 1984, p. 64). According to this classification, there are three groups of means: auditory, visual and audiovisual. Auditory means rely on the sense of hearing. The most well-known forms of auditory messaging are the spoken word (speeches, oratorship), radio and speakers, while the auditory elements are the human voice, music, sound, noise, and other sound content. Visual means are defined by visual perception. They are in widespread use and are characterized by appropriate symbolization. The most famous visual means include: print (newspapers, magazines, illustrations), leaflets, posters, drawings, paintings, cartoons, graphic symbols, comic books, books and the like. Audiovisual propaganda means are the result of modern science and technology. The most famous are: film, television, means of IT support (computers) and the Internet. The most powerful tool today is television. Artificial satellites allow real-time tracking of events from anywhere on the planet. The Internet is a powerful tool for spreading propaganda. Internet and satellite connections allow the placement of information and propaganda content "inside" and in the conditions of closed media space of a certain country from the influence of other media.

The media has the power to represent the world in different ways. The effectiveness of the message depends on the technical carrier of the message. The same message, communicated through various types of technical means, causes unequal effects, which proves that the power of the message depends not only on the content of the message but also on the form and structure of the technical transmission (Djordjević, Pešić, 2004). McLuhan points to the importance of form explaining it by comparing the effects of two stimuli: one that is the American flag (with stars and stripes) and the other stimulus that is a fabric that says "American flag". Although the meaning is the same, their effects are different. The words "American flag" cover only the conscious layer of shared experience, while the stars and stripes express both the conscious layer and the collective subconscious and unconscious. Engaging in action rather than meaning is a basic characteristic of a new society, because one experiences more than one understands, and it is wrong to conclude that a person acts only based of what they understand, but also on the basis of what they experience and do not understand. (McLuhan, 1971).

INFORMATION-PSYCHOLOGICAL OPERATION AGAINST SMALLER GROUPS AND INDIVIDUALS

In relation to the objects of operation (target groups), the goals of psychological operations may be directed towards:

- top state government - to influence changes in the decisions, attitudes and intentions of the opposing leadership in terms of accepting the political, economic and other interests of the other party;
- the population - to provoke thinking and dilemma among civilian structures and reduce the support of the population of their own leadership, encourage passive resistance in relation to the fulfillment of the citizens' obligations and organize protests as well as other forms of civil disobedience.

The common goal of acting on these subjects is to change attitudes, beliefs and behaviors. Rumors and fake news stand out as a characteristic form of psychological activity towards smaller groups and individuals (Miljković, 2008, p. 100).

Rumours as a Method of Psychological Activity against Small Groups and Individuals

One of the oldest forms of propaganda and simultaneously a method of applying psychological operations and a means of influencing the consciousness of the masses are rumors. It is believed that the rumors were responsible for Nero's confrontation with Christianity, that Genghis Khan had special front-line units moving before the remainder of the army and spoke of the cruelty of Genghis Khan's army, and that Napoleon used artists and negotiators for the same propaganda purposes. Frederick the Great used methods of deceiving the enemy by using dirty tricks, fake news (Neubauer, 2010).

According to their origin, there are two types of rumors: spontaneous and intentionally constituted. Past experience suggests that rumors are one of the most reliable and most powerful means of psychological activity. They work by being inserted from multiple sides simultaneously and through different channels (print, Internet, radio and TV). Rumors are actually about deliberately publicizing various misinformation with strictly dosed content (Marković, 2000, p. 108) about certain events and people which, under the influence of emotions of the receivers most often get accepted, subjectively interpreted and transfered furter as new facts, which, the more they spread, have increasingly less connection to reality. The motives relating to some emotional and intellectual states, such as fear, hatred, hope, expectation, curiosity and others, are especially important for the emergence of rumors. Rumors most often refer to certain well known persons from the state and military leadership with influence on decision making, or are themselves

responsible for giving important orders or making important decisions regarding the security of an entire state and nation. Also, rumors may relate to certain events and situations concerning the security of a number of groups or individuals, such as casualties, injuries, capture, loss of technology, enemy environment, the use of new enemy weapons, and similar.

The most usual factors taken into consideration with regard to the classification of rumors are the basic objective of their application, the motives which stimulate their occurrence, the psychological state and traits of the transmitter and the combination of these factors, taking into account both criteria. Although there is no precise distinction between the known types of rumors (certain rumors can be categorized into one, another, or even multiple types of rumors) they can be divided into seven groups:

1) rumors of fear - one such rumor was spread by Japanese agents among US troops in New Guinea during World War II. They spread the information that the antimalarial atebrin tablets, taken by US soldiers, cause permanent impotence. US soldiers believed this and began to reject antimalarial tablets, resulting in a large number of malaria-infected soldiers. Because of this rumor, nearly 80 percent of troops were put out of action, which, according to later American analysis, was more fatal than many Japanese military offensives on the battlefield (Rupčić, 2007, p. 68).

2) rumors of uncertainty,

3) rumors of hate – in 1941, a German radio station, camouflaged as the BBC, broadcast the news that English troops were heroically resisting the German offensive at Arden by themselves, while the US troops were retreating, leaving them stranded. That show had high ratings and was a success. The English were angry at the cowardly Americans, while the Americans were angry at the alleged British arrogance (Zvonarević,1981).

4) misleading rumours,

5) wish rumours,

6) dream (nostalgic) rumours and

7) curiosity rumours - During World War II, German agents spread rumors across America that "Roosevelt was suffering from syphilis, that Churchill had suffered a delirium tremens attack because of his excessive love for whiskey and alcohol, that an American bomber was carrying Roosevelt‟s son's dog from Europe“ (Zvonarević,1981).

Rumours find support in man's need to find out and explain all that is essential to his existence. They appear because of curiosity, the need to prove oneself and gain respect, but also due to emotions of fear, hope or hatred (Pajević, Kordić, 2007). The emergence of rumors is affected by situational and personal factors. Situational factors are social conditions in which there is no sufficient official information or news about current events (social crises, corruption, crime, stock market events, flood or fire emergencies, war circumstances). In those moments, every news, even untrue, makes people feel better and helps garner the sense of security,

but they are also moments which can lead to falling victim to the rumor maker. Personal factors represent people who are prone to accepting and spreading rumors. The characteristics of these people are most often the need to be in the spotlight, they are often people with some personal problems, people who are more easily frightened. Human desires, needs, and hopes can also be a source of rumours, and then the content of rumours is usually positive and encouraging (pay increase, more days off work). Rumours may also relate to certain events and situations concerning the security of a number of groups or individuals, such as casualties, injuries, capture, loss of technology, enemy environment, use of new enemy weapons, and similar. Rumours about the stock market developments are very common, used to raise or lower the price of certain commodities or corporate stocks (Roganić, 2004), as well as rumours about a supposed product contamination (Dašić, 2014).

Fake News as a Means of Information-Psychological Operation Against Small Groups and Individuals

According to expert opinion, fake news is defined as the deliberate or conscious online publication of false statements (Gelfert, 2018, p. 97). The goal of fake news, based on nonexistent or distorted "facts," is to mislead and manipulate the public opinion. Crisis situations, such as natural disasters, bombings or armed attacks, are favorite situations for fake news authors who use the emotions that surround such events to try to give their works the maximum exposure.

The issue of fake news as a significant challenge to the internal security of states is linked to the fact that social media and online platforms, which represent an important source of information today, play an important role in accelerating the spread of fake news and enabling them to spread globally and broadly, thereby significantly speeding up the spread of the internal instability in a country. Moreover, the fast spread of a large amount of false information can have a significant negative and manipulative effect on public opinion, and consequently become a major security problem today (Lohr, 2018). News, in general, including fake news as its subcategory, transmitted by the use of modern technology that enables fast and inexpensive transmission, emerges as a generator of political, moral and other attitudes of individuals and society, and therefore is the driver of internal political events in the country (Bodrožić, 2017, p. 251).

Fake news, as part of the doctrine of crisis provocation or crisis management, and in the broader sense of public opinion management, of provoking civil dissatisfaction and unrest that most often implicitly impose self-interest, or as part of creating the conditions for the domestic and international public for a media war to grow into a real war, are treated as part of subversive action, specifically as part of information warfare, that is,

as an instrument of information operations for information action on the internal stability of opponents (Stajić, Gaćinović, 2007, p. 242).

THE ANALYSIS OF APPLICATION OF INFORMATION-PSYCHOLOGICAL OPERATIONS AS A SECURITY THREAT IN POLITICAL PROCESSES

Due to the widespread use of information technology in the field of communications modern states face the problem of how to effectively control and protect the national information sphere, and subsuquently national security. From the aspect of protection of internal security and political stability, the use of propaganda and misinformation as part of "information operations" by an external factor is classified as a type of subversive action, which as such may be divided into: 1) political influence operations, 2) media and public opinion influence operations and 3) ideological-political indoctrination (Miljković, 2016, p. 206).

The European Commission's High Level Expert Group on Fake News and Online Disinformation defines the conceptas disinformation in all forms of false, inaccurate or misleading information designed, presented and promoted to harm the public or for profit. Disinformation, that is, demonstrably false or misleading information which is conceived, presented and disseminated for the purpose of gaining economic benefits or deliberately misleading the public, damages public debate, violates citizens' confidence in institutions and the media, thus damaging the country's internal stability and democratic processes such as electoral processes. Therefore the goal of information manipulation is not to persuade people into an alternative political ideology, but to cause the weakening of the existing internal stability of a country through divisions.

In the European Union, the issue of disinformation and fake news is highly positioned on the security agenda of European lawmakers as proven by the European Parliament elections which were held in 2019. In this regard, a campaign has been conducted in the EU to combat "fake news" in the field of legislation by the governments of many European countries. Germany has already introduced, and France has implemented new rules aimed at removing or blocking hate speech and fabricated content on Internet communication platforms. The United Kingdom, on the other hand, plans to designate a unit within its security apparatus to combat the aforementioned threats, while the Czech Republic has already formed a unit within the Ministry of the Interior to combat hybrid threats and misinformation (Miljković, 2019).

The fact that fake news is a significant security problem for contemporary societies is confirmed by the results of a survey implemented in February 2018 in the European Union, which was conducted among 25,576 respondents in 28 Member States, and on this occasion 85% of EU

citizens recognized fake news as a problem in their states. (Final results of the Eurobarometer on fake news and online disinformation).

The key factor in the spread of disinformation is human behavior on social networks, and the fact that social media has almost completely replaced traditional media. An increasing number of EU citizens (an average of 46 percent in 2016) follow the news on social networks, and six out of ten articles that are shared are forwarded without prior reading. According to the results of a study, false information is shared more than true information, fake stories receive more attention and are therefore distributed at a faster rate. A study by the prestigious Massachusetts Institute of Technology, published in March in the *Science Journal*, found that fake news on social networks spread much faster than real news, regardless of the topic. According to the survey, true news on Twitter rarely spread to more than 1,000 people. On the other hand, 1% of the most popular fake news typically reaches between 1,000 and 100,000 people. Also, a true information takes six times longer to reach 1,500 people than a false one.

The Internet does not follow the standards of the journalistic community, so it is impossible to restrain it with traditional instruments and conservative measures. It is the leading place for spreading disinformation, lies and half-truths, and fear and panic are spreading due to social networks, as well as lack of belief in anything coming from the official media (Jevtović, 2014).

CONCLUSION

Information has long been used for manipulative purposes, to influence public opinion, internal affairs, and the security of states. In the contemporary information age, due to the negative impact of the mass application of contemporary information and communication technology on the sovereignty and control of states over the national information space, the importance of "information" as a means of provoking conflicts and "information sphere" as a space for the competition of contemporary global society has been actualized.

The increase of security challenges in the information space has made the importance of information security current. However, contemporary practice, especially the actualization of protection against fake news and disinformation in European countries, during sensitive political periods such as the elections, indicates that security challenges in the contemporary information environment are primarily informational and psychological in nature rather than information-technical, which was the prominent concept in an earlier time.

The information security practice so far seems to forget the important fact that in addition to information and the means of information transfer,

man is an important element of the information system of a society, and perhaps its most vulnerable link.

On the other hand, practice indicates that in contemporary societies there is neither a well-developed concept of psychological protection of an individual from fake news, disinformation and rumors at the lower level, nor is there a sufficiently developed concept of psychological protection of society from information and psychological operations at the social level. Therefore, it is necessary to improve and develop the concepts of psychological defense at the state, social and personal level, and at the same time to develop the educational capacities and skills necessary to meet these contemporary security challenges.

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ИНФОРМАЦИОНИ И ПСИХОЛОШКИ АСПЕКТИ БЕЗБЕДНОСНИХ ПРЕТЊИ У САВРЕМЕНОМ ОКРУЖЕЊУ

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Резиме

Информационо деловање остварује се извођењем информационо-психолошких операција. Имајући у виду да су информационе операције по својој природи војне природе, дефиниције информационих операција су пре свега најважније у безбедносним и војним доктринама западних земаља и Кине. Теоретичари Руске Федерације користе термин „информационо деловање". Упоређујући западни и руски приступ, примећује се да руски стручњаци у својим дефиницијама истичу да се информационе операције изводе у доба мира и рата. У миру се појмови информационе и информативне операције односе на шире активности према владином сектору, културне и производне аспекте, са посебним нагласком на заштиту националних извора информација. Амерички теоретичар Џозеф Нај истиче да је „освајање срца и умова" одувек било важно и од посебног значаја у глобалном добу информација. Најчешћи садржај психолошких информација су „убедљиве и јаке" информације (поруке), полуистине, „обмањивачке информације" и дезинформације, гласине и лажне вести које се пласирају путем јавних гласила, дипломатским путем или „методом лице у лице". Информације и пропагандне поруке пре свега се усредсређују на оне психолошке факторе (перцепција, мотивација, сумња, страх, стрес, па све до психолошког шока итд.) који у различитим ситуацијама имају пресудан утицај на понашање људи. Технички и технолошки развој утицали су на промену средстава за пренос информација и психолошких порука, али циљеви су остали исти, што доказује да моћ поруке не зависи само од садржаја поруке, већ и од облика и структуре техничког преноса. Заједнички циљ деловања је промена ставова, убеђења и начина понашања. Гласине и лажне вести истичу се као карактеристичан облик

психолошког деловања према мањим групама и појединцима. Питање дезинформација и лажних вести високо је позиционирано на безбедносној агенди европских законодаваца чињеницом да су избори за европске посланике и Парламент ЕУ одржани у 2019. години. С тим у вези, у ЕУ је вођена кампања за борбу против „лажних вести" у области законодавства од стране влада многих европских земаља. Немачка је већ увела, а Француска је применила нова правила која имају за циљ уклањање или блокирање говора мржње и измишљеног садржаја на интернет комуникационим платформама. Велика Британија, с друге стране, планира одредити јединицу унутар свог безбедносног апарата за борбу против ових претњи, док је Чешка Република већ формирала јединицу унутар Министарства унутрашњих послова за борбу против хибридних претњи и дезинформација. Пракса указује на то да у савременом друштву не постоји добро развијен концепт психолошке заштите појединаца од лажних вести, дезинформација и гласина на нижем нивоу, нити довољно развијен концепт психолошке заштите друштва од информационих и психолошких операција. Стога је потребно развијати концепте психолошке заштите на државном, социјалном, организационом и личном нивоу, а истовремено развити образовне капацитете и вештине потребне за одговор на ове савремене безбедносне изазове.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1095–1108

Оригинални научни рад https://doi.org/10.22190/TEME191017065M
Примљено: 17. 10. 2019. UDK 342.726-056.26/.29(497.1)
Ревидирана верзија: 21. 10. 2019.
Одобрено за штампу: 1. 12. 2019.

AWARENESS OF PERSONS WITH DISABILITIES OF CRIMINAL JUSTICE PROTECTION AGAINST DISCRIMINATION IN THE FORMER SFRY COUNTRIES

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Abstract

Discrimination against persons with disabilities is a widespread social phenomenon. In recent years, Serbia has successfully completed its normative framework by adopting a number of laws in the field of protection against discrimination (Act on Prevention of Discrimination against Persons with Disabilities, Act on Prohibition of Discrimination, Act on Professional Rehabilitation and Employment of Persons with Disabilities). Civil law protection and compensation for pecuniary and non-pecuniary damage are the most common forms of protection against discrimination. In addition to civil protection, the legal order of the Republic of Serbia also prescribes criminal law protection against discrimination. The aim of the paper is to investigate, by means of a specially designed questionnaire, the degree of awareness of persons with disabilities of the mechanisms of criminal law protection against discrimination. Being aware of one's rights and how to protect them is a prerequisite for successful implementation of legal solutions. The results of the research show that persons with disabilities in Serbia are insufficiently informed about the available mechanisms for criminal justice protection against discrimination. As a result, there is a very small number of completed criminal proceedings in this field, which is one of the reasons for the unfavorable social and legal position of this vulnerable social group in Serbia.

Key words: crime, persons with disabilities, discrimination, criminal legislation.

ИНФОРМИСАНОСТ ОСОБА СА ИНВАЛИДИТЕТОМ О КРИВИЧНОПРАВНОЈ ЗАШТИТИ ОД ДИСКРИМИНАЦИЈЕ У ДРЖАВАМА БИВШЕ СФРЈ

Апстракт

Дискриминација особа са инвалидитетом је веома распрострањен друштвени феномен. Последњих година Србија је, усвајањем низа закона из области заштите од дискриминације (Закон о спречавању дискриминације особа са инвалидитетом, Закон о забрани дискриминације, Закон о професионалној рехабилитацији и запошљавању особа са инвалидитетом), успешно заокружила свој нормативни оквир. Када је реч о заштити од дискриминације, обично се мисли на грађанскоправну заштиту и

на накнаду материјалне и нематеријалне штете. Осим грађанскоправне заштите, правни поредак Републике Србије прописује и кривичноправну заштиту од дискриминације. Циљ рада је да се, коришћењем посебно дизајнираног упитника, истражи колико су саме особе са инвалидитетом упознате са механизмима кривичноправне заштите од дискриминације. Информисаност о правима и начину њихове заштите је предуслов успешне примене законских решења. Резултати спроведеног истраживања су показали су да особе са инвалидитетом у Србији нису у довољној мери информисани о начинима кривичноправне дискриминације. У овоме треба тражити и узрок веома малог броја окончаних кривичних поступака из ове области у Србији, што је један од разлога неповољног друштвеног и правног положаја ове групе људи.

Кључне речи: криминалитет, особе са инвалидитетом, дискриминација, кривично законодавство.

1. INTRODUCTORY NOTES

In order to enjoy the full scope of their rights, people should be adequately informed about the manner and conditions for their implementation. This is especially true for people with disabilities who have been on the sidelines of social developments for years. Unfortunately, discrimination is a negative social phenomenon that persons with disabilities in Serbia, and in the region, face almost daily to a greater or lesser extent. Much has been said and written about discrimination in recent years. Discrimination covers a wide range of topics (Petrušić *et al*., 2012, p. 28). With all this in mind, the aim of the research conducted for the purposes of this paper is to explore, through the use of a specially designed questionnaire, the degree of awareness of persons with disabilities of the mechanisms of criminal justiceprotection against discrimination. Today, discrimination against persons with disabilities is present in all countries of the former SFRY.

The first part of the paper provides a summary of the legal framework concerning criminal law protection against discrimination in the countries that emerged after the breakup of the SFRY. Then, the author analyzes and interprets the data collected in the empirical research. On the basis of the presented findings, the author draws conclusions and suggests further action to improve the situation in this area.

2. COMPARATIVE OVERVIEW OF CRIMINAL LAW PROTECTION AGAINST DISCRIMINATION IN THE FORMER SFRY COUNTRIES

Persons with disabilities enjoy protection against discrimination under the criminal legislation.In Serbia, the basic source of criminal law is the Criminal Code of the Republic of Serbia,[1] but it should be noted

[1]Krivični zakonikRepublike Srbije (Criminal Code of Republic of Serbia), „*Službeni glasnik Republike Srbije*“ br.85/2005...94/2016.

that the criminal law protection of persons with disabilities is incomplete and fragmentary. This was a subject of many theoretical and empirical researches and analysis especially in countries of former SFRY.

First of all, we should mention the criminal offense of violation of equality under Article 128 of the Criminal Code of the Republic of Serbia (hereinafter referred to as CC). The qualified form of the said criminal offenseexists if it is committed by an official in the discharge of duty, which is punishable by imprisonment of up to five years. The perpetrator of this criminal offense may be any person who is in a position to decide on the exercise of one's rights and interests (Jovašević, 2006, p. 480). Another important offence envisaged in Article 387 of the Serbian Criminal Code is the criminal offense of racial and other discrimination. The basic form of this criminal offense is committed by anyone who, on the grounds of differences in race, color, religion, nationality, ethnic origin or some other personal characteristic, violates the fundamental human rights and freedoms guaranteed by the universally accepted rules of international law and international treaties ratified by Serbia; the perpetrator of such a crime may be punished by a term of imprisonment ranging from six months to five years. Apart from this, there are other forms of the same criminal offense. The same punishment (imprisonment ranging from six months to five years) will be imposed on those who persecute organizations or individuals for their efforts to promote equality. Anyone whospreads ideas about the superiority of one race over another, or propagates racial hatred or incites racial discrimination, will be punished by imprisonment ranging from three months to three years. Anyone who disseminates or otherwise makes public texts, pictures or any other representation of ideas or theories that advocate or encourage hatred, discrimination or violence against any person or group of persons based on race, skin color, religious affiliation, nationality, ethnicity origin or other personal property, shall be punished by a sentence of imprisonment ranging from three months to three years. Whoever publicly threatens to commit a criminal offense punishable by imprisonment exceeding four years against a person or a group of persons belonging to a particular race, color, religion, nationality, ethnic origin or other personal property, shall be punished by imprisonment from three months to three years. The criminalization of equality violations from Article 128 CC can be considereda positive development. Namely, the amendments to the Criminal Code (adopted in 2016) also mention disability as one of the grounds for the violation of equality, which is in compliance with Article 21 of the Constitution of the Republic of Serbia concerning the prohibition of discrimination.[2]

[2] See: UstavRepublike Srbije (Constitution of Republic of Serbia), „*Službeni glasnik Republike Srbije*“ br. 98/2006, i Zakon o izmenama i dopunama Krivičnog zakonika

Similar legal solutions exist in the criminal legislations of certain states of the former SFRY. For example, the Criminal Code of the Republic of Croatia (hereinafter: CC RC) prescribes the criminal offense of violation of equality, envisaging that "whoever, on the basis of race, ethnic affiliation, skin colour, gender, language, religion, political and other convictions, national or social origin, property, birth, education, social status, marital or family status, age, state of health, disability, genetic inheritance, gender identity, expression, sexual orientation or other characteristics, denies, limits or conditions another the right to acquire goods or receive services, the right to carry out an activity, the right to employment and promotion, or whoever on the basis of any such characteristic or affiliation gives another privileges or advantages, shall be punished by imprisonment not exceeding three years" (Article 125 of CC RC).[3] Article 325 of the Criminal Code of the Republic of Croatia, which prescribes the criminal offense of public incitement to violence and hatred, is particularly important from the aspect of the protection of persons with disabilities.This offense envisages that any person who "through the press, radio, television, computer system or network, at a public gathering or in some other way publicly incites or makes available to the public leaflets, pictures or other material instigating violence or hatred directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent,colour, gender, sexual orientation, gender identity, disability or any other characteristics, shall be punished by imprisonment not exceeding three years" (Article 325 of CC RC). Moreover, in cases involving criminal offenses with elements of violence which are committed against a person with disabilities, criminal prosecution is undertaken *ex officio*.[4]

A similar legal solution on racial and other discrimination exists in the Criminal Code of Montenegro (hereinafter: CCMNE). Thus, Article 443 (3) of the CCMNE stipulates that "anyone who spreads ideas about the superiority of one race over another or propagates hatred or intolerance based on race, sex, sexual orientation, gender identity or other personal characteristics or incites racial or other discrimination, shall be punished by imprisonment from three months to five years.[5] From the aspect of protecting people with disabilities, this solution can be assessed as positive.

The Criminal Code of the Republic of Slovenia prescribes the criminal offense of violation of equality but does not stipulate disability

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Republike Srbije (Act on Amendments to the Criminal Code of the Republic of Serbia), „*Službeni glasnik Republike Srbije"* br. 96/2016.

[3] Kazneni zakonik Republike Hrvatske (Criminal Code of Republic of Croatia), „*Narodne novine",* br.125/2011,... 118/2018.

[4]See: Art.138. and Art. 139. Criminal Code of the Republic of Croatia.

[5]Krivični zakonik Crne Gore (Criminal Code of the Republic of Montenegro), „*Službeni list RCG" i Službeni list CG",*, 70/2003...49/2018.

as a special discrimination ground for violation of equality.[6] Similarly, the Criminal Code of the Republic of Macedonia (CCRM) does not stipulate disability as grounds for discrimination either in the criminal offense of violation of the equality (Article 137 of the CCRM) or in the criminal offense of racial or other discrimination (Article 417 CCRM).[7] Such solutions in the criminal legislation of Northern Macedonia certainly do not contribute to the protection of persons with disabilities from discrimination as a socially dangerous behavior.

The main problem in the criminal law system in Bosniaand Herzegovina is legal particularism. There are four Criminal Acts/Codes. As for the criminal legislation in the Federation of Bosnia and Herzegovina, in addition to the Criminal Act of the Federation of Bosnia and Herzegovina, it should be noted that each entity hasitsown legislative act: the Criminal Codeof Bosnia and Herzegovina, the Criminal Code of Republika Srpska, and the Criminal Act of Brčko District.Article 145 of the Criminal Code of Bosnia and Herzegovina[8] contains the criminal offense of infringement of the equality of individuals and citizens,but it does not refer to disability as separate grounds for equality violation, not even through the generic term "other personal property" which would at least provide indirect criminal law protection against discrimination to persons with disabilities. Article 139 of the Criminal Code of the Republic of Srpska prescribes the criminal offense of violation of equality butdisabilityis not envisagedas grounds for equality violation.[9] Article 174 of the Criminal Act of Brčko District does not envisage disability as grounds fordiscrimination for equality violation either.[10] Similarly, Article 177 of the Criminal Act of the Federation of Bosnia and Herzegovina does not envisage disability as a discrimination ground. Thus, none of these legislative acts provide appropriate criminal law protection to persons with disabilities.[11]

On the basis of this brief overview of the criminal law legislation of the states formed after the disintegration of the former SFRY, it can be concluded that none of these countries has properly recognized the significance of the criminal protection of persons with disabilities. Some

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[6]Kazenenski zakonik Republike Slovenije (Criminal Code of the Republic of Slovenia), „*Uradni list Slovenije",* 55/2008…27/2017.

[7]Krivičen zakonik na Republika Makedonija (Criminal Code of the Republic of Macedonia), „*Služben vesnik na RM"*, 80/99…132/2014.

[8] Krivični zakon Bosne i Hercegovine (Criminal Codeof Bosnia and Herzegovina), „*Službeni glasnik Bosne i Hercegovine",* 3/2003…35/2018.

[9]Krivični zakonik Republike Srpske (Criminal Code of Republic of Srpska), „*Službeni glasnik Republike Srpske",* 64/2017, 104/2018.

[10] Krivični zakon Brčko Distrikta Bosne i Hercegovine (Criminal Act of Brčko District of Bosnia and Herzegovina)„*Slubeni glasnik BD B i H",*33/2013…50/2018.

[11] Krivični zakonFederacije Bosne i Hercegovine (Criminal Act of Federation of Bosnia and Herzegovina), „Službene novine FBiH", 36/2003...75/2017.

of these states have separate laws (*lex specialis*) on the prohibition of discrimination against persons with disabilities, which include penal provisions.[12] However, we consider that misdemeanor law protection is insufficient to sanction all those unlawful activities that put persons with disabilities into a substantially unequal position as compared to other citizens.The amendments to the criminal legislation of the Republic of Serbia provide grounds to believe that the perpetrators of the criminal offense of equality violation will be adequately sanctioned in the future.[13]

The findings of this research show that there is a lack of judicial practice in the area of legal protection of people with disabilities in criminal law in the former SFRY countries. As an example, we will present the case of Dalibor Đorđević -a Croatian citizen with a physical impairment and a learning disability, who was subjected to on-going abuse and a violent physical assaultover a period of four years.The Police intervened when called upon, but they did not take concrete action. In 2012, the European Court of Human Rights stated in a landmark ruling that the state had failed in its obligation to protect him from continued abuse. This case re-emphasizes the role that the authorities must play to effectively counter hate crimes against people with disabilities.[14] This was an important victory for Đorđević and the people with disabilities who face intolerance on a daily basis, and a guiding principle tohow people with disabilities should react in case of discrimination and abuse.

3. EXAMINATION OF THE LEVEL OF AWARENESS OF PERSONS WITH DISABILITIES ABOUT CRIMINAL LAW PROTECTION AGAINST DISCRIMINATION

3.1. Introduction and Methodology

Considering that successful protection against discrimination presupposes that citizens are well informed about the protection mechanisms, it is necessary to examine to what extent persons with disabilities are informed about the possibilities of criminal law protection against discrimination as a negative social phenomenon. For the purposes of this

[12] See: Zakon o sprečavanju diskriminacije osoba sa invaliditetom (Act on Prevention of Discrimination against Persons with Disabilities,„*Službeni glasnik RS",* 33/2006. This legislative act is a *lex specialis;* it is a kind of curiosity in the anti-discrimination legislation of the Republic of Serbia that this Act was adopted before the Anti-Discrimination Act.

[13] For more about the earlier situation of criminal legislation in Serbia see: Mirić, 2017, p. 217-218. The overview of the criminal legislation in the former SFRY counties was cited after Mirić, 2017, p. 217-218.

[14] Hate Crime against People with Disabilities, https://www.osce.org/odihr/hate-crime-against-people-with-disabilities?download=true;accessed on 17 November 2019.

paper, the survey on criminal protection of persons with disabilities included the users of the social network Facebook. The main objective of the research was to determine to which extent Facebook users, persons with disabilities, recognize criminal legislation in Serbia as an effective tool in the fight against discrimination involving persons with disabilities. The research aimed to test two hypotheses. The first hypothesis was that users of social networks with disabilities were insufficiently aware of the criminal law protection against discrimination; the second hypothesis was that a vast majority of respondents consider that criminal and civil court proceedings are equally important for combating discrimination against persons with disabilities. The survey was conducted using a questionnaire comprised of eight questions. Each question included a list of structured multiple answers, and the respondent was prompted to answer by choosing one of the provided options. The research instrument was designed to facilitate the statistical processing of the obtained results. The questionnaire was made publicly available on Facebook, in several online groups that gather people with disabilities. It should be noted that it was impossible to predict the research sample in advance. The survey was primarily aimed to examine the views of Facebook users, persons with disabilities. The participation in the survey was voluntary and anonymous.

The questionnaire was available to the general public from 17th Aprilto 17th July 2018, during which time a total of 34 Facebook users (respondents) participated in the survey. In the course of the survey, it was noted that there was no greater interest among persons with disabilities to participate in such projects. This situation imposes the need to take action in the future to instigate campaigns aimed at raising awareness of the importance of protecting persons with disabilities through the criminal justice system. The data obtained were processed in the GNU PSPP Statistical Analysis Software.

3.2. Results and Discussion

This part of the paper will present the results of the research through a summary of the respondents' answers to each of the questions in the questionnaire.

Table 1. Respondent's country of residence

Country	Frequency	Percent
Serbia	29	85.29
Bosnia and Herzegovina	2	5.88
Slovenia	2	5.88
Croatia	1	2.94
Total	34	100.00

The questionnaire was completed by a total of 34 respondents. According to the data contained in Table 1, as many as 29 (85.29%) of respondents live in Serbia, 2 in Bosnia and Herzegovina and 2 in Slovenia (5.88% each), and only 1 (2.94%) in Croatia. On the basis of these data, it can be concluded that the data obtained in this survey is mostly related to Serbia since a negligible number of respondents came from other countries. Such a responsemay be attributed to the fact thatit was impossible to anticipate and control the structure of Facebook social network users who wanted to participate in the survey.

Table 2. Respondents' structure by age

Age group	Frequency	Percent
18-35	12	35.29
36-49	15	44.12
50-60	4	11.76
60-70	2	5.88
70+	1	2.94
Total	34	100.00

The data contained in Table 2 show that the largest number of respondents fall into the 36-49 year age group (44.12%), followed by the 18-35 year age group (35.29%), while the lowestnumber of respondents (2 respondents only) belong to the 70+age group. Such results are expected, bearing in mind that it is known from experience that older persons are least likely to use social networks.

Table 3. Respondents' level of education

Education	Frequency	Percent
Elementary school	3	8.82
Secondary/High school	13	38.24
Higher education vocational studies (2-3 years)	5	14.71
Undergraduate academic studies (4 years)	6	17.65
Master/Magister studies (1-2 years)	4	11.76
Doctoral studies	3	8.82
Total	34	100.00

As for the level of education, the majority of respondents completed high school (13), followed by the respondents who completed higher education/vocational studies (5), university undergraduate studies (6), master/magister degree studies (4), doctoral studies (3) and elementary school (3). The survey confirmed the well-known hypothesis that persons who complete secondary/high school education are prevalent among persons with disabilities.

Table 4. Type of disability

Disability	Frequency	Percent
Intellectual disability	1	2.94
Physical disability	22	64.71
Sensory disability	1	2.94
Mixed (multiple) disability	4	11.76
I don't want to answer	6	17.65
Total	34	100.00

Considering the type of disability, the majority of respondents had some form of physical disability (22), mixed/multiple disability (4), sensory disability (1), intellectual disability (1), while 6 respondents (17.65%) did not want to state their type of disability. This shows that the number of respondents who do not want to discuss issues related to their disability is negligible. If the findings of future research show that there is such a tendency in the population of persons with disabilities, it would be much more difficult to create affirmative measures for this category of people.

Table 5. Social status of persons with disabilities

Social status	Frequency	Percent
Bad	20	58.82
Very bad	13	38.24
Good	0	0.00
Very good	0	0.00
I have no opinion	1	2.94
Total	34	100.00

The data contained in Table 5 indicate that over half of the respondents (58.82%) believe that the social status of persons with disabilities in the country where they live is bad, 38.24% think that it is very bad, and 1 respondent (2.94%) has no opinion on this issue. Interestingly, none of the respondents rated the social status of persons with disabilities as good or very good. These findings clearly illustrate how people with disabilities perceive their social status.

Table 6. Effectiveness of court proceedings in combating discrimination against persons with disabilities.

Court proceedings	Frequency	Percent
Criminal Procedure	5	14.71
Civil Procedure	3	8.82
Both	20	58.82
I have noopinion	6	17.65
Total	34	100.00

Table 6 shows the respondents' opinions on the question: *Which court procedure do you consider to be more effective in combating discrimination against persons with disabilities?*The collected data indicate that 5 respondents (14,71%) considered criminal procedure to be more effective than civil procedure (8,82% of respondents), 6 respondents (17,65%) did not have a position on this issue while 20 respondents (58.82%) considered that both criminal and civil procedure were equally effective. This confirms the hypothesis that most respondents believe that criminal and civil court proceedings are equally important in combating discrimination against persons with disabilities. It is encouraging that the majority of respondents believe in the unity of the legal system in combating discrimination.

Table 7. Discrimination as a crime

Discrimination as a crime	Frequency	Percent
Yes	21	61.76
No	3	8.82
I don't know	10	29.41
Total	34	100.00

Table 7 shows very significant findings on the nature of discrimination. As many as 61.76% of respondents believe that discrimination is a crime, and only 8.82% of respondents believe that it is not a crime. Interestingly, almost a third of respondents (29.41%) do not know the answer to this question.

Table 8. Awareness of persons with disabilities about criminal justicemechanisms for protection against discrimination

Awareness of persons with disabilities	Frequency	Percent
Yes	6	17.65
No	24	70.59
I don't have an opinion	2	5.88
Without answer	2	5.88
Total	34	100.00

The results presented in Table 8 confirm the first hypothesis. Even though they largely recognize discrimination as a crime, persons with disabilities areneitheraware of ,norproperly informed about the criminal justice mechanisms for protection against discrimination. As many as 70.59 % of respondents do not have enough information on this matter.This large percentage of under-informed respondents imposes the need to create active policies to raise awareness of persons with disabilities about the available mechanisms of legal protection against discrimination. Unfortunately, the findings of this research show that there is insufficient number of studies and scientific articles about the level of awareness of

persons with disabilities about relevant criminal law protection against discrimination. One of the limitations of this research is that it is based on a small sample of respondents. However, the results presented in this paper may serve as a solid ground for futuremore extensive examination of this matter.

4. CONCLUSION

According to the brief overview of the criminal legislation of the former SFRY countries, it can be concluded that, in most of them, disability is not recognized either as a specific basis of discrimination or as a substantive element of thecriminal offense of violation of equality. This state of affairs in the legislation creates a legal gap, which can only be filled by subsuming disability under the generic term "other personal property". Thisultimately causes a series of problems when proving disability-based discrimination in criminal proceedings. For these reasons, it would be useful to envisage disability as the basis of discrimination or violation of equality into the substantive elements of relevant criminal offenses, which would largely facilitate the criminal protection of persons with disabilities against discrimination. Such legislation would certainly be in line with international documents in the field of protection against discrimination, as well as with relevant constitutional provisions on the prohibition of discrimination.

The ground legal document which contains anti-discrimination provisions is the European Convention on Human Rights.[15] Article 14 provides the general prohibition of discrimination. Namely, the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The international document of significantimportance on this matter is the UN Convention on the Rights of Persons with Disabilities, adopted in 2006 and ratified by the Republic of Serbia in 2009.[16] This Convention is the first binding legal document that explicitly prohibits discrimination against persons with disabilities. The basic objectives of the Convention are: to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms for all persons with disabilities and to promote respect for their innate dignity. The application of the principles and provisions of the Convention will encourage States parties to

[15]The European Convention on Human Rights, https://www.echr.coe.int/Documents/Convention_ENG.pdf, Accessed on 31October 2019.

[16] Zakon o potvrđivanju Konvencije o pravima osoba sa invaliditetom (Act on Ratification of the Convention on the Protection of the Rights of People with Disabilities, „*Službeni glasnik RS-Međunarodni ugovori", br*. 42/2009.

the Convention to actively work on the removal of both architectural and social barriers that prevent persons with disabilities from becoming active factors in the society in which they live and work (Tatić, 2006, p.10). The Republic of Serbia has introduceddisability-based discrimination into its criminal legislationand adopted a *lex specialis,* Act on the Prevention of Discrimination against Persons with Disabilities of 2006, which is in accordance with the adopted international legal documents.

Another problem that is noticed when protecting persons with disabilities against discrimination is a very small number of initiated and legally terminated criminal proceedings related to the criminal acts involving violation of equality in which people with disabilities appear as injured parties. Bearing in mind the overall social status of people with disabilities in Serbia today, it seems that the assumption is that the dark figures are extremely high in case of discrimination of persons with disabilities. In order to provide empirical verification for this statement, further research on an appropriate sample of respondents is needed, which is likely to be pursued in the future.

In the process of seeking an adequate response to this social phenomenon, it is crucial that citizens are fully aware of and informed about its manifestations in order to recognize it. Well-informed citizens are the best defense against all socially dangerous and harmful phenomena. The awareness of persons with disabilities is a very important factor in preventing discrimination in all areas. The results of thissmall-scale survey show that as many as 70.59% of respondents do not have enough information on criminal protection against discrimination. In addition, a large percentage of under-informed respondents impose the need to create active policies to raise awareness of this category of people about the mechanisms of legal protection of persons with disabilities against discrimination. These findings indicate that additional measures and actions are needed to further inform persons with disabilities about the possibilities of criminal justice protection against discrimination.

As compared to the previous period, the legal position of persons with disabilities has been significantly improved by means of legislative activity and activism of numerous associations and organizations forpersons with disabilities.Now, at least, it seems that people with disabilities have become "more visible" and that many state institutions deal with the issue of disability in a comprehensive way. However, in order to safeguard the rights of persons with disabilities, it is necessary to constantly and purposely work on amending legal solutions and to insist on their consistent application. In this process, the reform of criminal legislation is of paramount importance, as it should not be forgotten that the legal system is basically a sum of regulations and that no legal provision should be viewed in isolation.

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ИНФОРМИСАНОСТ ОСОБА СА ИНВАЛИДИТЕТОМ О КРИВИЧНОПРАВНОЈ ЗАШТИТИ ОД ДИСКРИМИНАЦИЈЕ У ДРЖАВАМА БИВШЕ СФРЈ

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Резиме

Дискриминација особа са инвалидитетом је веома распрострањен друштвени феномен. Последњих година Србија је, усвајањем низа закона из области заштите од дискриминације (Закон о спречавању дискриминације особа са инвалидитетом, Закон о забрани дискриминације, Закон о професионалној рехабилитацији и запошљавању особа са инвалидитетом), успешно заокружила свој нормативни оквир. Када је реч о заштити од дискриминације, обично се мисли на грађанскоправну заштиту и на накнаду материјалне и нематеријалне штете. Осим грађанскоправне заштите, правни поредак Републике Србије прописује и кривичноправну заштиту од дискриминације. Циљ рада је да се, коришћењем посебно дизајнираног упитника, истражи колико су саме особе са инвалидитетом упознате са механизмима кривичноправне заштите од дискриминације. Информисаност о правима и начину њихове заштите је предуслов успешне примене законских решења. Резултати спроведеног истраживања показали су да особе са инвалидитетом у Србији нису у довољној мери информисане о начинима кривичноправне дискриминације. У овоме треба тражити и узрок веома малог броја окончаних кривичних поступака из ове области у Србији, што је један од разлога неповољног друштвеног и правног положаја ове групе људи.

У процесу тражења адекватног одговора на овај друштвени феномен, од пресудног је значаја информисаност грађана, у циљу њеног препознавања. Добро информисани грађани су најбоља одбрана од свих друштвено опасних и штетних појава. Информисаност особа са инвалидитетом је веома важан фактор превенције дискриминације у свим областима. Резултати спроведеног истраживања показују да чак 70,59 посто испитаника нема довољно информација о кривичноправној заштити од дискриминације. Осим тога, велики проценат недовољно информисаних испитаника на ову тему намеће потребу осмишљавања активних политика подизања свести ове категорије људи о механизмима правне заштите особа са инвалидитетом од дискриминације. Ови налази показују да је неопходно осмишљавање додатних мера и акција, како би се особе са инвалидитетом у будућности додатно информисале о могућностима кривичноправне заштите од дискриминације.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1109–1124

Прегледни рад https://doi.org/10.22190/TEME191018066G
Примљено: 18. 10. 2019. UDK 343.26(497.11)
Ревидирана верзија: 19. 10. 2019.
Одобрено за штампу: 1. 12. 2019.

LIFE IMPRISONMENT AS AN ANSWER TO CONTEMPORARY SECURITY CHALLENGES - THE (IN)ADEQUACY OF THE RETRIBUTIVE APPROACH –

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Abstract

Contemporary Serbian criminal legislation characterizes the concept of expansionism – the strengthening of the prescribed penalties and extending the limits of criminal repression ("punitive populism"), as legislative response to the trends of criminality, potential security challenges and public attitudes on the adequacy of the social response to the phenomenon of crime. The latest in a series of legislative changes envisages the introduction of life imprisonment as a new penalty in the criminal sanction system and, at the same time, the abolition of (long-term) imprisonment from thirty up to forty years. The severity of the criminal law reaction is reflected not only in the introduction of life imprisonment, but also in the prohibition of conditional release for the convicted, to life imprisonment for certain serious crimes, although such a solution is often challenged in comparative and international jurisprudence. The aim of this paper is to review the justification of introducing life imprisonment in our criminal legislation and to point out the (in)acceptability of certain normative solutions; to determine the potential scope and effects of life imprisonment as penalty, that is, to critically analyze the adequacy of the retributive approach in relation to the trends of criminality and contemporary security challenges.

Key words: life imprisonment, prison sentence, security challenges.

КАЗНА ДОЖИВОТНОГ ЗАТВОРА КАО ОДГОВОР НА САВРЕМЕНЕ БЕЗБЕДНОСНЕ ИЗАЗОВЕ – (НЕ)АДЕКВАТНОСТ РЕТРИБУТИВНОГ ПРИСТУПА

Апстракт

Савремено српско кривично законодавство обележава концепт експанзионизма – константног пооштравања казни и проширивање граница кривичноправне репресије, тзв. казнени популизам, који се појављује као реакција законодавца на стање криминалитета, потенцијалне безбедносне изазове и став опште јавности о адекватности друштвеног одговора на феномен криминалитета. Последња у низу измена и допуна предвиђа увођење казне доживотног затвора у систем кривичних

санкција и, истовремено, укидање казне (дуготрајног) затвора у трајању од тридесет до четрдесет година. Оштрина кривичноправне реакције огледа се не само у увођењу доживотног затварања већ и у забрани условног отпуштања осуђених на казну доживотног затвора за одређена кривична дела (код којих је прописана казна доживотног затвора), иако је овакво решење често оспоравано у упоредној и међународној јуриспруденцији. Циљ овог рада је да преиспита оправданост увођења казне доживотног затвора у српско кривично законодавство и укаже на (не)прихватљивост одређених нормативних решења, да укаже на потенцијалне домете и ефекте доживотног затварања, односно, да анализира адекватност ретрибутивног приступа у односу на стање криминалитета и савремене безбедносне изазове.

Кључне речи: казна доживотног затвора, казна затвора, безбедносни изазови.

INTRODUCTORY REMARKS

Contemporary criminal legislation in the Republic of Serbia is characterized by frequent amendments, which also include the Criminal Code (Official Gazette 85/2005, 88/2005 – correc. 107/2005 – correc., 72/2009, 111/2009, 121 / 2012, 104/2013, 108/2014 and 94/2016 - hereinafter CC), which was part of the amended 2005 Serbian criminal law legislation. The basic characteristic of the numerous amendments to the CC, viewed from the current perspective, is the introduction of new incriminations and the toughening of the prescribed penalties as legislative reaction with regards to the criminal trends and the security challenges our society faces. This approach is, undoubtedly, not isolated in comparative legislation and practice, and it is practically a consequence of the populist response to the problem of combating crime and crime control, which, as a trend started in the 1980s, has appeared in many contemporary criminal justice systems, and it has been developing to this day. In essence, it is the affirmation of the neoclassical principle of just, fair and rigorous punishment, referred to in the literature as "just deserts" (Hirsch, 1985: 29), which suppresses the offender's resocialisation and social reintegration to the secondary purpose of punishment and, as the primary goal and purpose of punishing reaffirms the „deserved" and just sentence proportional to the gravity of the crime.

In other words, the contemporary criminal law is characterized by criminal expansionism - prescribing a large number of new offenses, deviating from some basic principles of criminal law and using criminal law as a *solo ratio* rather than the *ultima ratio* (Stojanović, 2010: 37), a "security orientation" directed towards the elimination of the causes of potential danger and increasing repressiveness (Soković, 2011: 217, 218), hence, "punitive populism" (Ristivojević, 2013: 319) can be taken to be the basic criminal-political orientation of the legislator.

In this context, it is no surprise that life sentence has been introduced in the criminal sanctions system and (long-term) imprisonment ranging from thirty to forty years, as the most severe penalty in the system, has been abolished. Long-term imprisonment scope and effectiveness could not even be challenged, since the period after its introduction has been shorter than the one necessary for any analysis or research. On the other hand, although the general public has been

appalled by the recent brutal crimes with children as victims, influencing, undoubtedly, the tenacity in the standpoint for introducing life imprisonment, this process lacked the presentation of a comparative statistical analysis on the most serious crimes as a potential argument in favor of introducing such a sentence as necessary and justified. Therefore, in this paper, we will present the statistical indicators of the general criminality trends and the dynamics of violent crimes in the previous period as indicators that can lead us to conclude on the adequacy of the retributive approach to punishing and the necessity of introducing life imprisonment in Serbian criminal legislation.

LIFE IMPRISONMENT IN SERBIAN CRIMINAL LEGISLATION

The public opinion has welcomed the possibility of introducing life imprisonment, because experience so far indicates that the public has always expressed the need for repressive punishment as much as possible (Stojanović, 2015: 7). Life imprisonment was not introduced in Serbian legislation after the abolition of the death penalty, first by legislative activities on the federal level in 1993 and 2001 (when it was replaced by a prison sentence of up to 40 years), or more precisely, in 2002, when it was abolished for the remaining crimes prescribed in the Criminal Law. The new CC from 2005 kept the maximum sentence of forty years of imprisonment, while most of the other contemporary national criminal legislation, after the abolition of the death penalty, adopted a different approach – introducting life imprisonment (Van Zyl Smit, Appleton, 2019).[1]

Introducing life imprisonment in the Republic of Serbia was announced in 2015, when the Ministry of Justice presented the public with the Draft Law on Amendments to the Criminal Code, which, among other things, provided for the changes of the criminal sanctions system and introduced life imprisonment as a new penalty. After a public debate on the text of the Draft, critical and divided opinions of the expert public on justifying the introduction (such as the unique suggestion of the judges of the Criminal Division of the Supreme Court of Cassation not to introduce the sentence into the system, Dragičević-Dičič, 2015: 15), there was a withdrawal of the Draft Law from further procedure.

However, a series of severe crimes that have taken place in recent years, especially the monstrous murders of children, influenced the legislator decision during 2019, without holding a public hearing, to submit the Draft and adopt the Law of Amending the Criminal Code and to introduce the sentence of life

[1] From 51 countries (or territories) in Europe, 42 of them, including now the Republic of Serbia, have the sentence of life imprisonment in their legislation. European countries in which it is not prescribed are: Andorra, Bosnia and Herzegovina, Croatia, Faroe Islands, Montenegro, Norway, San Marino and the Vatican. In the African continent, it is not prescribed in 3 out of 55 national systems, in Asia in 3 out of 29 countries. Only 2 out of 22 Caribbean states, 6 out of 8 Central American states, 1 out of 18 Oceania countries, 1 out of 4 North America and 7 out of 12 South American countries do not have the life sentence prescribed.

imprisonment into the criminal legislation (Grujić, Blagić, Bojanić: 2019, f. 4).[2] The father of one of the murdered girls, lobbying via the foundation named after the victim, launched a media campaign and organized the submission of the people"s initiative with over 158,000 signatures, which turned out to be crucial in the implementation of the accelerated procedure for changing the CC, the implementation of the previous idea of the legislator to finally introduce life imprisonment in the criminal sanctions system.[3]

The amended Article 43 of the CC, among other penalties, now provides for life imprisonment and it will be possible to impose it starting from December 1st 2019 when the provisions of the new law come into force. The new Article 44a of the CC, entitled "Life imprisonment" provides that for the most serious crimes and the most serious forms of serious crimes, in addition to the imprisonment, the punishment of life imprisonment may be prescribed, except in case of a person who did not reach the age of twenty-one at the time of committing the crime, or in the cases where the law provides that the penalty may be mitigated (Article 56, paragraph 1, item 1 of the CC), or where there are no grounds for the remittance of punishment. Therefore, by virtue of a number of phenomenological and etiological characteristics of minors, their criminality must be distinguished from the criminality of the adults (Kostić, 2011: 476). This means that this punishment cannot be imposed on juvenile offenders or offenders in the category of young adults due to the specificities of their position in criminal legislation.

Although the legal formulation provides that life imprisonment can only be prescribed as an addition to the sentence of imprisonment, the Law of Amending CC virtually abolishes the sentence of long-term imprisonment from thirty up to forty years and replaces it with life imprisonment. It is contrary to the principle of judicial determination of sentence to prescribe life imprisonment as the only penalty for a particular crime, since in this case the court does not even have the possibility of determining the duration of the sentence (Risimović, Kolarić, 2016: 2). Life imprisonment represents a sentence which cannot be the standard of determination, but it can only be imposed if the court considers it justified and necessary (or "fair and proportionate").

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[2] The public was horrified by the murder cases: Tijana Jurić, a 15-year-old girl from Subotica who was abducted, raped and killed in Bajmok on the night between July 25th and 26th 2014 while visiting her grandparents. Her body was found on August 7th, 12 days after the disappearance. The killer first hit the girl with his car, kidnapped and got the girl into the car, raped, then strangled, and disposed of the body in an improvised garbage dump near Sombor, 23 kilometers from the place where she was abducted; The three-year-old Anđelina Stefanović, a girl from the village of Vratarnica near Zaječar, who was murdered on July 9th, 2016. Murderer, a neighbor, took the girl away from the celebration of a child's birthday into a nearby forest. According to the media, the killer first raped the girl and then smashed the child's head using a stone he found on site. After executing the murder, the killer changed his clothes and returned to the birthday party.

[3] "Tijana Đurić Foundation": https://tijana.rs/fondacija/, Access: September 30th 2019.

Life imprisonment taking over the role and function of long-term sentences duration of which ranges from thirty to forty years, two questions are raised. The first being whether the frequency of imposed imprisonment of forty years and its participation in the structure of imposed prison sentence can be an indicator for the future application of life imprisonment. The second question is whether the abolition of thirty up to forty years‟ imprisonment would affect the more frequent imposition of life imprisonment because the courts would be limited in determination with (only one remaining) general maximum of twenty years of imprisonment (Đokić, 2016: 223).

Table 1. Long-term imprisonment in the Republic of Serbia 2007-2016

Long-term Imprisonment	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
40 years	11	-	1	4	10	3	2	1	2	4	5	2	3	48
30 to 40 years	-	7	14	20	16	5	12	9	11	13	9	11	7	134

Source: Statistical Office of the Republic of Serbia

According to the Statistical Office of the Republic of Serbia (Bulletin, 2015; Report, 2019) presented in the table 1, the total number of 48 prison sentences of forty years were imposed between 2006 and 2018. The highest number of 11 was recorded in 2006, and in 2007 no penalty was imposed. On average, there were 3.69 sentences of forty years of imprisonment each year. When it comes to prison terms of between thirty to forty years, a total of 134 sentences were imposed in the same period, or, on average, just over 10 annually. The highest number was 20 imposed in 2009, and the smallest 5 in 2011.

The presented data confirms that the imposition of imprisonment from thirty up to forty years stands as the exception, not the rule. Namely, in the observed period, the total number of 110,372 prison sentences were imposed in the criminal proceedings. When comparing the absolute number of those sentenced to imprisonment, it is easy to find that the share of thirty to forty years of imprisonment in the structure of prison sentences was 0.165%, while this percentage is lower for the forty years‟ sentence - 0.043%. This data may be an indicator that, in the case of similar crime rates and trends and the unchanged criminal policy of the courts after introducing the new sentence in the CC, life imprisonment would be applied only as an exception, which was presumably the intention of the legislator when defining how to prescribe it. This could, at least for the time being, delay any potential problems in the process of implementing life imprisonment in penitentiary institutions where the penalty would be executed.

The introduction of life imprisonment in criminal legislation, and its regulation, required the amendments of several other provisions of the CC. Thus, the provisions in relations to the conditional release were amended. The adopted solutions can be considered controversial.

Firstly, it is the period of time served in prison after which the sentenced person can initiate conditional release proceedings. Namely, Article 46, paragraph 2 of the CC, provides optional (facultative) conditional release for persons sentenced to life imprisonment, or, a convicted person may initiate conditional release proceedings only after serving twenty-seven years. Although there are different decisions in comparative law about the length of time a prisoner must spend in prison before they can initiate release,[4] the question is raised of what has led our legislator to set that limit to exactly twenty-seven years. Possible explanations for this could be found in different international standards, so when it comes to the served period in prison, the internationally "established standard" is set to the maximum of twenty-five years, unless a shorter period is provided for by national law, based on the jurisprudence of the European Court of Human Rights (e.g. *Vinter and Others v. United Kingdom*,) or the decision adopted in the Rome Statute of the International Criminal Court (UN Doc. A & CONF, 183/9).

The legislator"s explanation is that life imprisonment is considered to be a tougher sentence than forty years of imprisonment and that therefore it is prescribed as astricter period. Thus, mathematical calculations set a period of twenty-seven years, which is four months longer than was necessary for the sentence of forty years of imprisonment. This example may be paradigmatic in pointing out the legislator"s approach of proposing and adopting "systematic", but in practice, *ad hoc* and unsustainable solutions.

Another controversial solution is the prohibition of the conditional release of persons sentenced to life imprisonment for specific crimes prescribed by the law. Thus, Article 46, paragraph 5 of the CC provides that a court may not release a person convicted to life imprisonment for: aggravated murder (Art. 114, para. 1, p. 9), rape (Art. 178, para. 4), sexual intercourse with a helpless person (Art. 179, para. 3), sexual intercourse with a child (Art. 180, para. 3), and sexual intercourse through abuse of position (Art. 181, para. 5). By imposing a ban, another form of life imprisonment is introduced in our criminal justice system - de jure life imprisonment without parole fully irreducible - LWOP (Van Zyl Smith, Appleton, 2019: 41).

In this regard, new issues have been raised. First being the choice of crimes. The above mentioned crimes qualify by means of grave consequence - the death of a child, a pregnant woman or a person in a disadvantaged position (e.g. children and students in relation to their teacher - Vuković, Đokić, 2015: 888), and represent, without doubt, the ones which were selected as a consequence of pressure by the families of children. However,

[4] For example: Kosovo and Metohija (UN 1244) 40 years in prison before the possibility of applying for conditional release, Argentina and Peru 35, Philippines, Cuba, Estonia 30, Serbia and Israel 27, Italy 26, Albania, Northern Macedonia, Poland, Russia, Slovakia, Spain, South Africa 25, Turkey 24, France 18, Belgium, Germany, Greece, Switzerland 15, Cyprus, Denmark, Finland, Sweden 12, South Korea, Japan 10, Botswana and Ireland 7.

there are a great number of other serious crimes, such as: other qualified forms of aggravated murder under Art. 114. CC, killing the representatives of the highest state bodies (Art. 310 CC), or grave acts against the constitutional system and the security of Serbia (Art. 321 CC) in which there is a possibility for conditional release of persons sentenced to life imprisonment, or, even, the crimes against humanity and other rights guaranteed by international law, e.g. genocide (Art. 370 CC) or crimes against humanity (Art. 371 CC) in which the act of execution may contain the acts of the crimes referred to in Article 46, paragraph 5, whereby convicted persons to life imprisonment would be given the possibility of conditional release.

However, the most important aspect of the prohibition of the possibility of conditional release of pertaining to life imprisonment is the potential violation of Article 3 of the European Convention on Human Rights (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR) for such a ban (Dimovski, Vujičič, Jovanović, 2019: 102).

The ECtHR jurisprudence has indicated in numerous cases that the existence of life imprisonment in the system does not present a form of torture, inhumane or degrading punishment or treatment,[5] that is, prescribing life imprisonment in the national legal system does not constitute the violation of the Article 3 of the Convention. At the same time, the prohibition of the possibility of early dismissal or reviewing the sentence of life imprisonment constitutes inhumane or degrading punishment or treatment, that is, a violation of Article 3 of the ECHR. The practice of the ECtHR, therefore, is based on the premise that prisoners sentenced to life imprisonment must have "hope" and "path to release".

In one of the latest verdicts from March 12th 2019, in the case *Petukhov v. Ukraine*, the Court affirmed, inter alia, „that there has been a violation of Article 3 of the Convention on the account of the applicant's irreducible life sentence". In the Grand Chamber Judgment of 9 July 2013, in the case *Vinter and Others v. United Kingdom*, the Court considers that "each life prisoner is entitled to know, at the outset of his sentence, what he must do in order to be taken into consideration for release and under what conditions, including when a review of his sentence will take place or when it may be sought. Consequently, where domestic law does not provide any mechanism or possibility for review of the whole life sentence, the incompatibility with Article 3 on this ground already arises at the moment of the imposition of the whole life sentence and not at a later stage of incarceration." casein the case of *Kafkaris v. Cyprus*, the Courtstates in para.103, that "notwithstanding, the Court does not find that life sentences in Cyprus are irreducible with no

[5] The Grand Chamber Judgment from February 12 2008 in the case *Kafkaris v. Cyprus* (Application no. 21906/04), pointed, in para. 97, that „the imposition of a sentence of life imprisonment on an adult offender is not in itself prohibited by or incompatible with Article 3 or any other Article of the Convention."

possibility of release; on the contrary, it is clear that in Cyprus such sentences are both *de jure* and *de facto* reducible." In the case *Murray v. The Netherlands* in para 104. it is stated that "life prisoners are thus to be provided with an opportunity to rehabilitate themselves. As to the extent of any obligations incumbent on States in this regard, the Court considers that even though States are not responsible for achieving the rehabilitation of life prisoners, they nevertheless have a duty to make it possible for such prisoners to rehabilitate themselves."

Another controversial normative solution is the length of conditional release for life prisoners who are eligible for a release. Namely, the essence of conditional release is that "part of the sentence is not served, that is, the execution of the remaining part of the sentence is only exceptional, ie. in cases of conditional release revocation, and if it does not occur the sentence is extinguished. During parole, punishment exists only as a legal possibility" (Stojanović, 2017: 230). However, Article 47 par. 7 of the CC provides that condional release lasts for fifteen years for life prisoners, and from the date of the release. Such a solution is completely illogical and contrary to the nature of the conditional release. However, other legal provisions do not specify what happens to a convicted person out of prison, after the expiration of fifteen years. Is it that the convicted, after that period, needs to (re)serve their sentence, so the release can be counted as a "life break" before the life of the convict ends in prison serving their sentence; or, perhaps, the idea of the legislator was to provide space for continual reconsideration of new conditional release terms for the remainder of the life prisoner"s life. In any case, the law does not contain any more detailed provisions. We are of the opinion that there is no logical basis, neither criminal-political nor penological justification for temporarily limiting the duration of conditional release.

Finally, we will briefly touch upon the problem of the purpose of life imprisonment and the purpose of punishment. Life imprisonment is, according to its content, the punishment of an eliminating character with the purpose of excluding the sentenced person from society and incapacitating them for the rest of their life in terms of removing them from society into the confined prison space (if there is no possibility of conditional or early release). Consequentially, it cannot be expected that the purpose of this is the actual punishment prescribed in Article 42 of the CC. Without raising the questions of the purpose of punishment and the purpose of life imprisonment, due to the scope of this paper, we must point out that the Serbian legislator resorted to a "specific" decision that "complements" the purpose of the punishment. Namely, the new aim and purpose of the punishment, in the amended CC, is attaining justice (fairness) and proportionality between the crime and the gravity of the penalty.

Proportionality between crimes and punishment, and the satisfaction of the principle of justice in contemporary criminal law is achieved through

the penal policy of the legislator by prescribing the type and (minimum and maximum) duration of the penalty for each individual incrimination. The imposition of "classical" or "bekarian" thinking in defining the "new" purpose of punishing appears to be the result of extorted legislative solutions. Justice and proportionality between gravity of the crime and penalty, now as the proclaimed principle (Ashworth, 2005: 102), on the one hand, attempts to create the impression of the necessity to return to a retributive and more punitive concept of punishment, while, at the same time, "justifying" the introduction of a severe sentence, such as life imprisonment. At the same time, the impossibility of resocialisation and social reintegration of the convicted person, as the proclaimed purpose of the execution of the imprisonment, will be compensated by the principles of justice and proportionality (Grujić et al, 2019).

CONTEMPORARY SECURITY CHALLENGES THROUGH THE PRISM OF PREJUDICE, CRIME RATES AND TRENDS

Considering the general criminal-political aspirations of the legislator in the recent period in the Serbian criminal law legislation, expansionism of the criminal law, the orientation towards the security aspect, the prescribing of new incriminations and the constant tightening and introduction of new penalties, all lead to a conclusion that our society faces strong security challenges and that the apparent response to these challenges is the harshness of criminal repression.

At the same time, the media content is filled with sensationalism when it comes to the topic of crime, and especially with regards to violent crime. Most of the media focuses on topics covering murder, rape, injury, abduction, extortion, acts of terrorism, acts of domestic violence or peer violence in order to popularize and commercialize their content. Without any empathy, on a daily basis, the media show blood and crime scenes, release entrusted information leaking from police sources, reconstruct the scenes of the crimes, publish photos of victims and reactions of victims‟ families, circulate images of violence posted on social networks and media, which, without other content dedicated to the topic of crime or criminality, results in a sense of general insecurity and vulnerability of the citizens.

Also, day-to-day activities of those performing public functions and politicians (or the pretenders to those positions) are aimed to “show strength” and a desire to “finally deal with criminals,” promoting “zero tolerance of crime,” “eradicating corruption” or similar phrases and metaphors used solely for increasing the popularity of these individuals and preserving their social or political positions (or hiding from criminal prosecution or concealing their own role in criminal activities or businesses). The media, as broadcasters of these statements, complement their sensationalist content on the topic of crime. Such a spiraling effect of interaction between the media, general

public, interest groups and authorities is referred to as "moral panic" in literature (Ignjatović, 2018: 148).

However, we must point out that this is not the real, but a twisted picture of crime and criminality. The danger of crime is of much less relevance than it appears to be. Acts of violent crime, which most affect our prejudices about crime and their scale, represent only a small part of the overall structure of crime (Felson, 2011). Most of the reported crimes pertain to the area of property-related criminal acts, and many of them seem irrelevant and donot provoke a negative reaction from the general public. Moreover, most often they do not even require the initiation of the criminal justice mechanism.

The security challenges that our society faces are not dramatic, but contrary to that. This attitude is confirmed by the data on the crime rates and trends, as well as the structure of adjudicated crime, which will be addressed in the following section of the paper.

In accordance with the above, we will present data on the crime rates and trends in the Republic of Serbia from 2008 to 2018. We must emphasize that property crimes present more than half of the total number of reported crimes in the same period, which is a decades-long trend. In addition to that, because of the scope of this work we did not want to show this specific data separately. We wanted to focus on three groups of offenses, according to the chapters in the Special Part of the CC: crimes against life and body, criminal offenses against sexual freedom, as well as criminal offenses against marriage and the familly (because of one particular incrimination - domestic violence, Article 194 CC).

The average number of reported crimes annually during this period was 93,573 (Table 2). The highest number of crimes 108,759 was reported in 2015, the lowest 74,279 - 2010. At the beginning of the observed period in 2008, 101,723 crimes were reported, and at the end, in 2018, 92,802. If we consider the crime rates in the time lapse between 2008 and 2018, it can be concluded that the general trend of crime is decreasing. In this period, except for 2010 and 2011, when the lowest number of reported crimes is recorded due to the implementation of the “reform” of the judiciary, and in 2015, when the highest number of reports is recorded, the crime rate can be marked as stable, with a tendency to decrease, which is particularly evident for the period ofthe last three years: 2016, 2017 and 2018.

Crimes against life and body make up an average of 4% of the total reported crimes, although looking at media content, it could be assumed that this percentage is much higher. The highest reported number was 5,297 in 2008, and the lowest 3,266 in 2014. The average number of reported crimes in absolute numbers is 3,823 cases annually in the observed period, compared to 93,573 of the total number of reported crimes. Offenses against life and body are characterized by a downward trend from 5.2% in 2008 to 3.3% in 2018.

Sexual offenses account for an average of only 0.4% of reported crimes. The highest number was 448 in 2009, and the lowest 252 in 2014. The average number of reported crimes annually was 371. The trend here is relatively stable, with a decrease in reported crimes from 2008 to 2014, followed by oscillation and then a slight increase until 2018.

For the crimes against marriage and family, there is an increasing trend. The lowest number of crimes was reported in 2008 - 5,250, and the highest was 10,729 in the last observed year. The percentage share in the structure of reported crimes for the whole period is about 7.7%, the lowest was recorded 5.2% in 2008, and the highest 11.5% in 2017. The reason for the increasing number of reports pertaining to crimes against marriage and family is the sharp increase in the number of reports of crime of domestic violence referred to in Article 194 of the CC. Namely, in 2008, 2,660 acts of domestic violence were reported, in 2011, 3,550, in 2013 it was 3,782 acts, in 2017 the number was 7,795, and in 2018 we notice the highest value with 7,916 crimes reported. In the observed period, the number of reports for this crime has almost tripled. An explanation for the phenomenon of such an increase in the number of acts of domestic violence is, among other things, the focus of society on domestic violence, the media coverage of this type of violence which affected the victims to be encouraged to report the crime, but also the preparation and the adoption of a special law that seeks to prevent this type of crime. Of course, it cannot be argued that this is a new phenomenon indeed. The relatively new incrimination of domestic violence has led to the "opening of the door of family home" and domestic violence is, therefore, no longer an unknown and disguised phenomenonbut is consequently being treated as a problem by the wider community, not just by the affected families or victims.

Table 2. Reported crimes in the Republic of Serbia 2008-2018

Reported Crimes	Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
	Total	101723	100026	74279	88207	92879	91411	92600	108759	96237	90384	92802
Against life and body		5297	4912	3381	3908	3923	3734	3266	3818	3451	3278	3084
		5,2%	4,9%	4,6%	4,4%	4,2%	4,1%	3,5%	3,5%	3,6%	3,6%	3,3%
Sexual offences		405	448	387	414	372	320	252	352	367	338	427
		0,4%	0,4%	0,5%	0,5%	0,4%	0,4%	0,3%	0,3%	0,4%	0,4%	0,5%
Against marriage and family		5250	5617	4657	5868	6182	6268	5914	7891	10190	10561	10729
		5,2%	5,6%	6,3%	6,7%	6,7%	6,9%	6,4%	7,3%	10,6%	11,7%	11,6%

Source: Statistical Office of the Republic of Serbia

Table 3 presents data on the total number of persons who have been convicted in criminal proceedings, as well as data on convicted persons for the same three groups of crimes: against life and body, sexual freedom and marriage and family. The purpose of presenting this data is to present the participation of persons convicted of these crimes in the structure of adjudicated crime. They are also an indicator of the society's response to

contemporary security challenges. Due to the volume of work, there was no analysis of data on the type of criminal sanctions imposed.

On average, between 2008 and 2018, 36,548 criminal sanctions were imposed annually. In relation to the average number of reported crimes, 39% of crimes were adjudicated. The highest number of court decisions was made in 2014 - 48,425, and the lowest 21,681 in 2010. At the beginning of the observed period, 42,138 cases were adjudicated, and at the end of 2018 - 35,146. At first glance, it can be concluded that the trend of adjudicated crime is declining; however, the period is characterized by considerable fluctuations. There was a significant decline in 2010, then a slight increase in the next two years, then a sharp peak in 2014, followed by a four-year downward trend.

The adjudicated crimes against life and body make up an average of 7.15% annually. The maximum percentage is recorded in the first observed year, 9.2%, and the minimum in the last 2018. And in absolute numbers, it presents the same trend. The maximum number of judgments was 3,892 in 2008, a minimum of 1,691 in the last year. It can be stated that the trend of adjudicated crimes against life and body is declining.

When it comes to crimes against sexual freedom, they make up an average of 0.6% in the structure of sentencing, and this percentage is almost constant throughout the whole observed period. In absolute numbers, the highest number of verdicts was 256 in 2008, and the lowest164 in 2010. In the last three years, there has been a trend of a slight decline, which follows the trend of the decreasein the number of criminal sanctions pronounced.

Finally, crimes against marriage and family, due to the incrimination of domestic violence, show a growing trend of adjudicated crimes. The lowest percentage was recorded in 2008, 6.7%, and the highest in 2018 - 15.5%. The average percentage participation is 10.2% of adjudicated crime. In absolute numbers, the minimum number of judgments was 2,842 and the maximum was 4,661. The increasing trend is marked in the entire observed period, without oscillations, with a tendency of further increase.

Table 3. Sentenced for crimes in the Republic of Serbia 2008-2018

Sentenced persons	Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
	Total	42138	40880	21681	30807	31322	32241	48425	42030	39610	37752	35146
Against life and limb		3892	3410	1679	2320	2321	2397	2611	2074	1935	1913	1691
		9,2%	8,3%%	7,7%	7,5%	7,4%	7,4%	7,4%	6,2%	5,9%	6,0%	5,7%
Sexual offences		256	238	164	190	244	236	242	174	204	189	188
		0,6%	0,6%	0,8%	0,6%	0,8%	0,7%	0,7%	0,5%	0,6%	0,6%	0,6%
Against marriage and family		2842	3251	1835	2891	2771	3102	3465	3512	3766	4400	4661
		6,7%	8,0%	8,5%	9,4%	8,8%	9,6%	9,8%	10,6%	11,6%	13,9%	15,5%

Source: Statistical Office of the Republic of Serbia

CONCLUSION

The latest in a series of amendments to the CC has introduced the life imprisonment sentence into Serbian criminal legislation. At the same time, long-term imprisonment from thirty and up to forty years was abolished. Life imprisonment has assumed the role and function of the most rigorous imprisonment, although not enough time has elapsed since its introduction into the system so as to assess and review its effectiveness.

Bearing in mind that the period preceding the imposition of life imprisonment is characterized by the introduction of new incriminations, the toughening of penalties for existing offenses, the prohibition of mitigating sentences for certain offenses, the toughening of conditions for conditional release of prisoners, or, the widening of the retributive approach to punishment in general, it would be almost natural to assume that our society is facing serious security challenges and that such a reaction from the legislator was necessary.

However, such an assumption is incorrect and the retributive approach to punishment is not necessary. In support of this, the paper presents crime rates, trends and the structure of adjudicated crimes against life and body, sexual freedom and marriage and family in the period 2008-2018 as the main argument. With the exception of the increase in the number of reported and adjudicated crimes against marriage and family due to one crime - domestic violence, incriminated under Article 194 of the CC, other acts of violent nature do not have an upward trend. On the contrary, there is a decreasing trend.

The paper essentially opens the question of of why life imprisonment was introduced and what it is that can be expected from its implementation. The answer to this question is not simple, however. The authors of this paper have tried to emphasize the key elements on which the answer is based. Namely, the opportunity to introduce life imprisonment was not seized in 2002 after the death penalty was abolished, although most comparative criminal legislation also contains a sentence of life imprisonment in their systems. An attempt from 2015, when a draft amendment to the CC was introduced, which provided for the introduction of this sentence, was unsuccessful after serious criticism from the expert public and the Draft was withdrawn from the procedure. However, it was several of the monstrous crimes targeting children as victims and the activities of these victims‟ families that ensued that acted as decisive factors for the introduction of amendments to the CC, as well asof the life imprisonment sentence in 2019, without public hearing. Thus, without any analysis of the need for the introduction and the possible effects of life imprisonment as a punishment, the general public‟s urge to punish the perpetrators was satisfied. Criminal populism, as a postulate of state representatives, was thus accomplished.

Although the life imprisonment sentence has been introduced in the criminal sanctions system and its application has been enabled starting

December 1, 2019, when the amended provisions come into force, the paper critically analyzes a number of controversial normative solutions that will, without a doubt, shortly hereafter be the subject of new amendments.

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КАЗНА ДОЖИВОТНОГ ЗАТВОРА КАО ОДГОВОР НА САВРЕМЕНЕ БЕЗБЕДНОСНЕ ИЗАЗОВЕ – (НЕ)АДЕКВАТНОСТ РЕТРИБУТИВНОГ ПРИСТУПА

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Резиме

Последњом у низу измена и допуна КЗ у српско кривично законодавство уведена је казна доживотног затвора. Истовремено, укинута је казна дуготрајног затвора у трајању од тридесет до четрдесет година. Могло би се претпоставити да се наше друштво налази пред озбиљним безбедносним изазовима и да је таква реакција законодавца нужна и неопходна.

Међутим, таква претпоставка није тачна, а ретрибутивни приступ кажњавању није неопходан. Као аргумент претходно изнетом, у раду смо представили стопе

криминалитета, трендове и структуру пресуђеног криминалитета код кривичних дела против живота и тела, полне слободе и брака и породице у периоду од 2008. до 2018. године. Изузев пораста броја пријављених и пресуђених кривичних дела против брака и породице због једне инкриминације – насиља у породици из члана 194 КЗ, остала дела насилничког карактера немају тенденцију раста. Напротив, бележи се тренд опадања.

Намеће се питање због чега је дошло до увођења казне доживотног затвора и шта се од њене примене може очекивати. Наиме, прилика да се уведе казна доживотног затвора није искоришћена приликом укидања смртне казне 2002. године. Покушај из 2015. године, када је представљен Нацрт измена и допуна КЗ у коме је било предвиђено увођење ове казне, након изнетих озбиљних критика стручне јавности био је неуспешан и Нацрт је повучен из процедуре. Међутим, неколико монструозних злочина, чије су жртве биле деца и активности њихових породица које су током уследиле, представљали су одлучујуће факторе да се у 2019. години, без одржавања јавне расправе, усвоје измене и допуне КЗ и казна доживотног затвора уведе у систем кажњавања. Тиме је без икакве анализе о потреби увођења и евентуалним ефектима доживотног затварања као казне задовољен порив опште јавности за репресивнијим кажњавањем злочинаца. Казнени популизам, као постулат представника власти, тиме је остварен.

Иако је казна доживотног затвора уведена у систем кривичних санкција и њена примена омогућена од 1. децембра 2019. година, када измењене одредбе ступају на снагу, у раду су критички анализирана бројна спорна нормативна решења, која ће, без икакве сумње, убрзо бити предмет нових измена и допуна.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1125–1140

Оригинални научни рад https://doi.org/10.22190/TEME191026067O
Примљено: 26. 10. 2019. UDK 663.99:343.3/.7(497.11)"2003/2019"
Ревидирана верзија: 1. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

CLANDESTINE DRUG PRODUCTION LABORATORIES IN SERBIA

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Abstract

The problem of the existence of illegal drug production laboratories in the world was recorded as early as in the mid-twentieth century. At the beginning of the twentieth century, this global problem affected Serbia, too, when the first clandestine drug production laboratories, whose production capacities exceeded the demands of the Serbian drug market, were uncovered. The aim of this paper is to determine the characteristics of illegal laboratories for the production of narcotics in the Republic of Serbia and how widespread they are. On the basis of the data provided by the Department of Analytics at the Ministry of the Interior of the Republic of Serbia, data relating to all illegal laboratories uncovered in Serbia (excluding Kosovo and Metohija) in the period from 2003 to 2019 was used. An exploratory research has been conducted analyzing 147 uncovered laboratories in which 245 illegal manufacturers were imprisoned. The production of marijuana took place in 92.5% of the laboratories, in 6.8% of cases synthetic drugs were produced, while hallucinogenic mushrooms were grown in one laboratory. A cartographic representation of how widespread the laboratories are and their basic characteristics in terms of location, production capacity and the type of installed equipment has also been provided.

Key words: drugs, illicit production, laboratory, marijuana, synthetic drugs.

ТАЈНЕ ЛАБОРАТОРИЈЕ ЗА ПРОИЗВОДЊУ ДРОГА У СРБИЈИ

Апстракт

Проблем постојања илегалних лабораторија за производњу дрога у свету забележен је још средином прошлог века. Овај проблем је са светског нивоа пресликан почетком овог века и на Србију, када су откривене прве тајне лабораторије за производњу дрога, чији су производни капацитети превазилазили потребе српског нарко-тржишта. Циљ рада је утврдити распрострањеност и карактеристике илегалних лабораторија за производњу опојних дрога у Републици Србији. На основу доступних података Управе за аналитику МУП-а Србије, обезбеђени су подаци који се односе на све илегалне лабораторије откривене у Србији (без Косова и Метохије) у периоду од 2003. до 2019. године. Спроведено је експлоративно истражи-

вање у којем је анализирано 147 откривених лабораторија у којима је лишено слободе 245 илегалних произвођача. Производња марихуане одвијала се у 92,5% лабораторија, у 6,8% случајева реч је била о синтетичким дрогама, док је у једној лабораторији узгајана халуциногена печурка. Дат је и картографски приказ распрострањености лабораторија и њихове основне карактеристике у погледу локације, производних капацитета и типа инсталиране опреме.

Кључне речи: дрога, илегална производња, лабораторија, марихуана, синтетичке дроге.

INTRODUCTION

During the last decades of the twentieth century, drugs became increasingly widespread among young people. Throughout the world, drug production and drug trafficking was practically in the hands of organized crime and was one of its leading activities, a source of enormous wealth for individuals and an occasional cause of warfare between states. Because of the danger that drug addiction poses to every social community, states allocate substantial resources to suppress it, and research work also has its own significant place in this fight. The important aspect of this issue is the production of psychoactive controlled substances.

The scale of drug crime in the world is really massive. The scholars who research organized crime estimate that the annual turnover of global drug crime reaches a figure of almost 500 billion US dollars, and that at least 50% of all those involved in organized crime deal with drug crime (Kostić, 2000). When it comes to types of drugs, reports from international organizations as well as local research data (Jugović, 2004, p.180; Stanković, 2008; Radovanović and Lajić, 2016, p.345) indicate that cannabinoids are the most commonly used drugs both at the global and local level, while amphetamine-type stimulants (ATS) are the second most prevalent drug group. Unlike heroin and cocaine, whose production largely depends on the climate, they can be synthesized anywhere (Christian, 2004, p.32; Scott & Dedel, 2006; UNODC, 2010; UNODC, 2016). Simple procedure, detailed instructions and recipes that can be easily accessed on the Internet, the necessary constituents which are easily accessible and in everyday use, have influenced the increase in the production and use of ATS.

The problem of the existence of illegal drug production laboratories in the world was recorded as early as in the mid-twentieth century. During the last two decades such illegal production has become more and more common both in the world and in our country. Over the years, the number of illegal laboratories has grown and has spread to other territories where such activities had not been registered before (UNODC, 2010; UNODC, 2012; Ahmad et al. 2014). The data provided by the European Monitoring Center for Drugs and Drug Addiction (EMCDDA), in a report relating to Serbia, show that synthetic drugs and precursors are smuggled to Serbia via the Balkan route. However, several large illegal laboratories for the production of

synthetic drugs have recently been uncovered in Serbia. Based on the confiscated quantities of drugs, the equipment in the laboratories, as well as the amount of confiscated substances intended for production, experts estimate that the capacities of the laboratories exceeded the demands of the domestic market and that some of the drugs produced were intended for smuggling across Serbian borders (EMCDDA, 2009; Hadžić & Zorić, 2009).

In terms of production capacity, the size of clandestine laboratories ranges from: a) those whose capacities are sufficient to meet the personal needs or demands of a small circle of users and to cover production costs, through b) those laboratories where only one part of the production process takes place, all the way to c) the laboratories that, according to their capacity, can be classified in the industrial production, the so-called 'super' or 'mega' laboratories. Although, according to some sources, about 80% of illegal laboratories fall into the category of small or the so-called 'kitchen' laboratories, large 'mega' laboratories provide almost 90% of the total quantity produced and their number is constantly increasing throughout the world (Scott, 2002; Scott & Dedel, 2006; The Australian Government, 2011; Ahmad et al. 2014; Wright, 2015; ACIC, 2015/16). In terms of their location, laboratories can be found everywhere - in rural countryside areas, at the outskirts of cities, city shopping centers, but also in urban and residential areas, rented apartments and houses, sheds, garages, motel rooms, and even inside means of transport (Scott & Dedel , 2006; Ahmad et al. 2014; Wright, 2015). However, residential premises are the most widespread location for clandestine laboratories.

The existence of illegal laboratories has multiple negative impacts on society. Although the unauthorized production of psychoactive controlled substances is a criminal offence per se, there are several other exceptionally negative consequences - physical injuries (due to explosions, fires, inhalation of toxic fumes and burns), endangering the health of people, especially children and endangering the environment, as well as association with other criminal activities (ONDCP, 2006; Scott & Dedel, 2006; Ahmad et al. 2014). In addition to the standard consequences such as substance addiction, many other problems are related to the illicit production of substances - illegal trafficking and smuggling of these substances and precursors, human trafficking, corruption, fraud, robberies, etc. Moreover, according to certain reports, a large number of criminal offences with elements of violence are caused by pharmacological effects of methamphetamine (after a transient phase of euphoric mood, there is a phase in which users are prone to sudden mood swings, hallucinations, psychotic, paranoid and aggressive reactions, suicidal and homicidal tendencies occur (ONDCP, 2006; EnHealth, 2017) and victims of these violent acts (both physical and sexual) are often family members, especially children.

The subject of this paper is to investigate the basic characteristics of illegal drug production laboratories uncovered in the Republic of Serbia.

The main aim of this paper is to determine the prevalence of illegal drug production laboratories, the trend of their uncovering, and to determine their basic characteristics (the level of their organization, quality of equipment used, type of drug produced, etc.). In addition to that, another aim of the paper is to evaluate the social threat and possible consequences of installing illegal laboratories (especially those intended for the production of synthetic drugs) and to provide recommendations for the work of police and judicial authorities in order to increase their efficiency in controlling the traffic of substances and equipment that may be misused in illegal production.

METHODOLOGY

The conducted research is exploratory in its character.

The basic hypothesis reads as follows: There are a significant number of illegal drug production laboratories on the territory of Serbia, and this situation is an important social issue.

In accordance with the determined aims of this research, specific hypotheses have also been made, as follows:

1. Synthetic drug production laboratories are characterized by a high level of organization, high quality equipment and considerable production capacity.

1a. During the time period covered by this research, a significant amount of confiscated drugs produced in these laboratories was recorded and, accordingly, a significant amount of illegally obtained financial gain.

2. Illegal drug production laboratories are significantly more frequently situated in large cities than in smaller towns or villages, due to better opportunities and easier procurement of equipment and raw materials.

3. According to the type of drugs, the most prevalent laboratories in Serbia are those for the production i.e. the cultivation of marijuana.

This research is exploratory in its character. It encompasses 147 illegal laboratories (laboratories that have been uncovered) for drug production on the territory of the Republic of Serbia (excluding Kosovo and Metohija) in the period from 2003 to 2019. The data that were used were provided by the Department of Analytics at the Ministry of the Interior of the Republic of Serbia, which records all cases of detection of clandestine laboratories on the territory of Serbia, regardless of whether they produce organic or synthetic drugs. Laboratories were analyzed depending on the type of drugs produced in them, the number of apprehended persons who participated in the production (one or more persons), the age of these persons, the number of police officers and the number of foreign nationals who participated in the unauthorized production of drugs. In addition to that, the number of clandestine laboratories uncovered per year was analyzed, according to the place of discovery of the clandestine laboratory (geographic location),

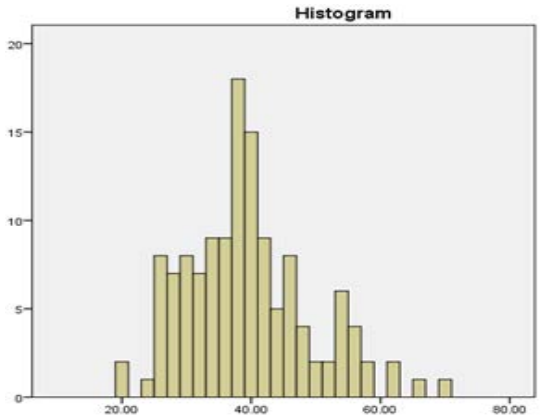
according to the premises where the laboratory was located (ownership of the illegal manufacturer or rented space) according to the amount of confiscated drugs and money, and the amount of found weapons.

The analysis encompasses the production capacities of clandestine laboratories depending on whether professional or improvised equipment needed for the illicit production of drugs was used and whether all the production processes took place in one or more locations. Finally, the manner in which the laboratories were uncovered was analyzed (whether they were uncovered by routine police checks or operational work of the police, or whether these drug "factories" were uncovered by the criminal police at the Regional Police Directorates or by the Service for Combating Organized Crime, whether their discovery was preceded by any incident, at how many locations the laboratories were found (one or more laboratories within one criminal offence) and which type of equipment (improvised or professional equipment)).

IBM SPSS Advanced Statistics 20 package was used for the statistical data analysis.

RESULTS

Out of the total of 147 laboratories, 10 produced synthetic drugs (ecstasy - MDMA and amphetamines), one laboratory produced psilocin (a hallucinogenic mushroom), and the remaining 136 laboratories produced marijuana. A total of 245 perpetrators were registered, their average age being 39 (standard deviation is 9.5 years).



Graph 1. Age of perpetrators

Table 1 provides an overview of the type of drugs produced in the uncovered laboratories. Marijuana was produced in the majority of cases (92.5%). The remaining drugs were synthetic drugs (6.8%), whereas in

one case a laboratory for the production of hallucinogenic mushrooms was uncovered - psilocin.

Table 1. Types of drugs in the uncovered laboratories

Type of drugs	F	%
Marijuana	136	92.5
Synthetic	10	6.8
Psilocin	1	.7
Total	147	100.0

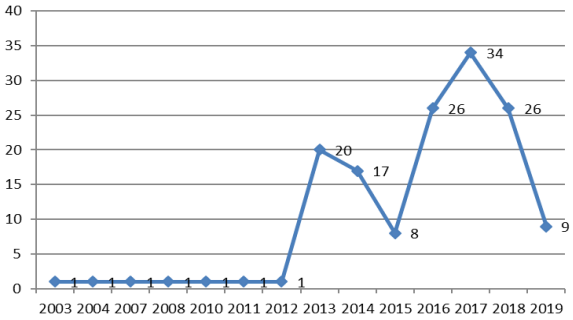
Table 2 shows the results of the number of apprehended persons in clandestine laboratories. In almost two thirds of the cases, one perpetrator (63.9%) was apprehended, in 17% of the cases two perpetrators were apprehended, in 4.1% of the cases three or four perpetrators were apprehended, while the remaining part of the cases included laboratories where five or more persons were apprehended. In three cases, laboratories were uncovered where no persons were found during the police incursion. Among the apprehended persons there were five police officers and two foreign nationals. A total of 245 people were apprehended in all laboratories, while 5 of them are still fugitives.

Table 2. Number of apprehended persons in laboratories

Number of apprehended persons per laboratory	F	Total number of apprehended persons	%
1.00	94	94	63.9
2.00	25	50	17.0
3.00	6	18	4.1
4.00	6	24	4.1
5.00	1	5	.7
6.00	1	6	.7
7.00	1	1	.7
10.00	3	30	2.0
11.00	1	11	.7
Total	138	245	93.9
Lack of data*	9		6.1
Number of laboratories	147		100

*Uncovered laboratory without any apprehended perpetrators

When it comes to the number of uncovered laboratories per year, in the period from 2003 to 2012 there was one uncovered laboratory each year (Graph 2). In the analyzed period, the smallest number of laboratories was uncovered in 2015, and after that the frequency increased; a small number of laboratories uncovered in 2019 results from the fact that the collected data refer to the first half of this year. The largest number of laboratories was uncovered in 2017 - a total of 34 of them.



Graph 2. Number of uncovered laboratories per year

Figure 1 demonstrates the territorial layout of the uncovered laboratories in the territory of Serbia (excluding Kosovo and Metohija). Most were uncovered in Belgrade (42) and Novi Sad (13), followed by discoveries in Subotica (12), Niš (9), Kragujevac (6), Kruševac and Sombor with 5 laboratories each, and in Smederevo with 4. A smaller number of laboratories were uncovered in other cities.

Figure 1. The number of laboratories uncovered according to crime scene

Table 3 displays the total confiscation of drugs, money and weapons in the uncovered laboratories. During these police actions, the following were confiscated: 2,253.000 pills and 12.2 kilograms of various synthetic drugs, 12,908 kilograms of hallucinogenic mushroom – psilocin, 607.8 kilograms of dried marijuana ready for street sale, 772.66 kg of raw marijuana, 11,136 stems of marijuana and 6,540 pots of raw marijuana. The production process was underway at the time of their detection. During the incursion into the laboratory and the arrest of persons involved in the illicit production, a significant amount of weapons was uncovered, which reveals the criminal intent of the perpetrators of these criminal offences: 15 guns, 5 automatic rifles, 2 silencers, 2 optical sights, seven bombs and 300 pieces of ammunition of different caliber.

Table 3. Total confiscation in laboratories

	Amount	Money	Weapons
Number of pills	2253000	10 000 000 euros in one criminal offence 35 060 euros and 388 000 dinars in other criminal offences	15 guns, 5 rifles, over 300 pieces of ammunition, 7 bombs, 2 silencers, 2 optical sniper sights
Synthetic drugs in kg	12.2 kg		
Psilocin (mushrooms)	12 908 kg		
The amount of dried marijuana	607.8 kg		
The amount of raw marijuana	772.66 kg		
Number of marijuana stems	11136		
Number of marijuana pots	6540		

The following table (Table 4) displays the descriptive results regarding the criminalistic characteristics of the uncovered laboratories. In the majority of cases, laboratories were uncovered as a result of the operational work of criminal police employees from regional police directorates (93.2%), while the Service for Combating Organized Crime uncovered 10 laboratories (6.8%) as a result of its operational work. The premises where illegal laboratories were situated were, in most cases, owned by illegal manufacturers, while a smaller part of the laboratories was installed in a rented space - 4.1% (6 of them). Highly professional equipment was found in 22 laboratories (15%), which was in line with the production capacities of the laboratories uncovered, while in 85% of cases improvised laboratory equipment was found. The laboratories were mostly installed in one location (90.5%), while 9.5% or 14 laboratories were installed at two or more locations, which indicates that different stages of the drug production process took place at different locations. The laboratories were uncovered as a result of operational work of the criminal police. However, 3 laboratories were uncovered following an incident. In one of the cases, the chemicals intended for the illicit production of synthetic drugs were inadequately stored, which could have led to serious environmental pollution as highly toxic and carcinogenic waste leaked into the ground without control. In another case, the laboratory was uncovered after a fire had broken out. In the third case, an illegal manufacturer was wounded in a gun showdown in Belgrade. Having

received medical assistance, he refused to give testimony to the criminal police officers, after which a search of apartments and other premises ensued only to discover an installed laboratory. Its production capacities indicated that the drugs produced had been intended for the illegal market for the purpose of obtaining financial profit, as revealed by the fact that the person in whose premises the drugs had been found was not a drug user.

Table 4. The criminalistic characteristics of the uncovered laboratories

		F	%
The organizational unit of the police which uncovered the laboratory	Regional Police Directorates	137	93.2
	Service for Combating Organized Crime	10	6.8
The real estate where the laboratory was located	in ownership	141	95.9
	in a rented space	6	4.1
Was the equipment at the laboratory improvised or professional	improvised equipment	125	85.0
	professional equipment	22	15.0
Was the laboratory installed at one or more than one locations	one location	133	90.5
	more than one locations	14	9.5
Was the discovery of the laboratory preceded by an incident	no incident	144	98.0
	Incident	3	2.0

The relation between the type of drug and the laboratory equipment used stood out as a regularity in this research (Table 5). In all cases involving synthetic drug production, including the production of hallucinogenic mushrooms, highly professional equipment was used, whose production capacities exceeded the demands of the Serbian narcotics market, while most of the marijuana was grown under improvised laboratory conditions. Improvised and inexpensive laboratory equipment was installed in 125 laboratories dealing with illegal marijuana production, while in 11 laboratories highly professional equipment was found along with special Grow boxes filled with nutrient-rich soil and artificial lighting that allows the plant to grow without the presence of light (the so-called indoor cultivation).

Table 5. Type of drugs and type of laboratory equipment

Type of drugs	Type of laboratory equipment		Total
	Improvised	Professional	
Marijuana	125	11	136
Synthetic	0	10	10
Psilocin	0	1	1
Total	125	22	147

DISCUSSION

Out of the total number of laboratories detected in the analyzed period, 92.5% of cases were related to the illicit production of marijuana,

which is the most widespread drug on the illegal market in almost all countries of the world, including Serbia. Marijuana is one of the oldest cultivated plants in world history. It can grow as a wild plant (weed) in all climates except in the polar zone and in tropical forests. It grows as a plant in our area as well, and can be grown outdoors and indoors. The subject of this analysis is the cultivation of marijuana under laboratory conditions (indoor), the so-called indoor cultivation. Based on the amount of confiscated drugs, the laboratory equipment, the amount of confiscated money and the period during which marijuana was grown under laboratory conditions, it can be concluded that the perpetrators intended to produce and sell it commercially. The number of laboratories uncovered (136) clearly indicates that illicit production is simple and easy to organize even at home. Information on how to cultivate marijuana is easily accessible and can be found on the Internet. Some presentations provide step-by-step procedures for its successful cultivation. There are also a number of tips on agricultural measures necessary to be taken for a good yield, including plant protection procedures and pesticides used in such production. For perpetrators of criminal offences with regard to the illicit manufacture of drugs, the Internet provides easy access to pharmaceutical, chemical and medical research data (Risimović, Bošković, 2018, p. 27). Drugs can be bought and sold online, hiding the identity of the parties involved in the transaction.

Illicit production of synthetic drugs was detected in 10 (6.8%) laboratories, which is not a new problem for all those dealing with the issues of illicit production of synthetic drugs. The article entitled "The Fire Protection Service Should Know about Clandestine Drug Laboratories" came out in the US National Fire Protection Association Journal in November 1970. Today, one of the key problems in the USA is the illicit production of methamphetamine, which is simple and inexpensive. According to FBI data, in some cities in the western part of the USA, it has been reported that the number of apprehended persons involved in the production of methamphetamine exceeds the number of arrests of those who drive a motor vehicle under the influence of alcohol (Vernon, 2009).

After the USA, the first clandestine laboratories were uncovered in Europe, too - in the Benelux countries in the mid-1980s. Today, in addition to these countries, which are traditionally considered the largest manufacturers of synthetic drugs in Europe, a large number of illegal laboratories have also been uncovered in the countries of the former Eastern Bloc such as the Czech Republic, Poland and Hungary.

The first laboratory for the illicit production of synthetic drugs in Serbia was uncovered in 2003. It has turned out to be the largest illegal laboratory uncovered in the Balkans to date. The main organizer of this production was a Doctor of Pharmacy, M.Z, the owner of the "Lenel Farm" company. In an almost year-long police operation, about 10,000 MDMA ecstasy pills and about 20 tons of amphetamine sulfate (a mixture for the production of ecstasy with a total value of about 10 million euros) were

confiscated, and the value of the uncovered "pharmaceutical" machines was slightly lower (Otašević, Atanasov, 2018, p.331).

Only 245 persons were imprisoned in 142 clandestine drug production laboratories, and in almost two thirds (63.9%) of the cases only one perpetrator was apprehended. This information may point out to failures in police work, since during the operational work no link is established between illicit manufacturers and the rest of the criminal organization, although it is common knowledge that criminal offenses related to narcotics are generally group criminal offences with a hierarchical structure in its organization. A small number of apprehended persons may also indicate that the operational work of police services working to detect and prove these criminal offences is hampered by the careful logistics and organization of criminal groups, but also that this type of crime is the result of specialization where drug production cells are isolated from other elements in the drug trafficking chain such as transportation, resale or street drug sales.

The failures in police work are also revealed by the fact that in three cases no persons were found during the incursion into illegal laboratories. When the existence of an illegal laboratory is uncovered through operational work, then there is a possibility to monitor its work for a while, and therefore to plan the incursion into the laboratory (Otašević, 2017, p. 13). It is best to break into the laboratory and interrupt its work at a time when suspected and monitored persons are inside the laboratory and when the production process is underway. The incursion into an empty (without people) laboratory and not during production is in most cases counterproductive. In such cases, proving what exactly the laboratory produced can be very complicated.

The largest number of clandestine laboratories were uncovered in Belgrade (42), followed by Novi Sad, Subotica, Niš, Kragujevac, Kruševac and Sombor.

With regard to the illicit production of synthetic drugs, out of 10 uncovered illegal laboratories for the production of synthetic drugs, the largest number was detected in Belgrade and its surroundings - the total of 8, and one laboratory each was uncovered in Novi Sad and Dimitrovgrad. Out of the total of ten laboratories detected, seven were involved in the illicit production of amphetamines, two in the illicit production of ecstasy and one in the production of the synthetic drug methaqualone. Out of 8 illegal laboratories uncovered in Belgrade, only two were uncovered in the inner city core, while 6 were uncovered on the outskirts. Two laboratories were installed in apartments, and 8 in specially equipped premises (Otašević, Atanasov, Dostić, 2018, p.80). Such laboratories can be installed in many different locations such as apartments, houses, basements, garages, utility rooms, sheds, attics, means of transport, trailers (Chiu, et.al., 2011, p. 356), and can be set up both in urban and rural areas.

The largest number of uncovered clandestine laboratories were in Belgrade, in accordance with the Public Security Strategic Assessment drafted by the Ministry of the Interior of the Republic of Serbia and officially

published in 2017, which indicates that a total of 58 organized crime groups of different levels of organization have been registered in Serbia: 8.6% - high level of organization, 44.9% - medium level of organization and 46.5% - low level of organization. Most organized criminal groups operate in Belgrade, and the predominant criminal activity of these groups is illegal production, smuggling and drug trafficking (86.2% of registered organized criminal groups deal with the aforementioned)[1].

The amount of confiscated drugs in the marijuana production laboratories and synthetic drug laboratories is different, but if the quantities of drug and money confiscated are compared to the production capacity of the uncovered laboratories, it can be concluded that they were highly profitable laboratories, and that manufacturers did not leave "goods" to lie around for long, which means that the turnover rate was high. None of the detected illegal manufacturers produced drugs on a non-commercial basis, i.e., for their own or their friends' needs. The production of marijuana was intended for the demands of the local drug market, while the production capacities of the synthetic drug production laboratories exceeded the demands of the Serbian drug market so the manufactured drugs were smuggled to other countries as well.

Those laboratories were uncovered solely due to the operational work of employees of the criminal police. Only three laboratories were uncovered after incidents in laboratories, which is negligible data compared to other countries in Europe, especially the USA. For example, according to the DEA, about 6,500 methamphetamine laboratory incidents are annually reported in the USA, while at least three illegal manufacturers are killed in clandestine laboratories as a result of poisoning or explosions, while many others suffer injuries or burns (Vernon, 2009, p. 6). This data is confirmed by the results of a study conducted in the USA, where in 33% of cases the containers were pierced causing the chemicals to leak uncontrollably, while in 64% of cases there was a risk of combustion. Therefore, it is not surprising that fire broke out in 33% of cases during the attempt to install a laboratory (Diplock, et.al. 2005, p.10).

Highly professional equipment was found in 22 laboratories (15%), which was in line with the production capacities of the laboratories uncovered, while in 85% of cases improvised laboratory equipment was found. Contrary to the results of our research, the results of a research conducted in the USA based on analyzing files on uncovered laboratories suggest that in 16% of cases laboratory equipment was handcrafted; in 22% the used equipment was a mixture of handcrafted and professional items, while in the remaining 62% of the cases the equipment used was professionally produced (Diplock, et.al. 2005, p. 6).

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[1] Source: Document of the Ministry of the Interior, *Public Security Strategic Assessment*, Belgrade, 2017

In criminal law practice, there is a wide range of the type of equipment identified as incriminating in these premises. This is influenced by a number of factors: primarily whether organized criminal groups or individuals are in question; whether they engage professional or trained people; the type of drugs they produce; financial capabilities of criminal groups; the availability of equipment, chemicals, etc. Regardless of their size, the principle of production is the same for all of them (Otašević, 2018, p.14).

All of the laboratories dealing with the illicit production of synthetic drugs (10 of them) had professional production equipment and their production capacities exceeded the demands of the Serbian drug market. Everywhere in the world, and even in our conditions, these laboratories are the "ownership" of organized criminal groups that can only be confronted by a force of an organized state.

When it comes to the production of marijuana in laboratories, out of the 136 uncovered laboratories, high-quality production equipment was found only in 11 of them. The laboratories had professional Grow boxes filled with nutrient-rich soil and professional lighting. HPS grow lamps of 400 to 600W were installed in them, which allow for constant and stable penetration power (light penetration), which directly affects the quality of the cultivated marijuana. In most of these laboratories, the so-called hormonal powder was also found, which affects the faster growth and formation of the woody part of the stem. Criminal law practice is also familiar with the application of innovative methods in the cultivation of marijuana, including the hydroponic method of cultivation when the plant is grown in a protected area without contact with the soil (Risimović, 2018, p. 260). The confiscated marijuana in the uncovered laboratories was of different quality and with higher percentage of THC as a carrier of psychoactive activity. This is significant because marijuana can be found to be significantly more potent in the illegal market, with higher THC percentage which can lead to health problems, i.e. delayed psychoactive effects three hours after consuming (vomiting, anxiety) caused by an overdose (Vandrey et al., 2017, p. 94-95). What also represents a health hazard is the fact that a large number of marijuana samples have confirmed contamination, i.e., the existence of fungi and bacteria that are harmful to health. The level of health risks is increasing when marijuana is produced in improvised laboratory conditions, which is the most common case in our country. In these laboratories, persons who do not have any formal chemical or pharmaceutical education are illegal manufacturers, and most of them learn about illicit production from criminal sources and networks. In these laboratories, manufacturers are drug dealers at the same time.

CONCLUSION

The number of uncovered laboratories and the amount of confiscated drugs in the last two decades suggest that the illicit production of drugs,

especially synthetic drugs, is a serious social problem in our country. The largest number (42) of laboratories has been uncovered in Belgrade, where the highest numbers of organized criminal groups were registered - criminal groups whose predominant criminal activity is illegal drug production and trafficking. Moreover, illegal production is easier to set up in large cities because it is easier to obtain the raw materials and laboratory equipment necessary for larger production of both organic and synthetic drugs.

Only 245 people were imprisoned in 142 clandestine drug laboratories, and in almost two thirds (63.9%) of the cases only one perpetrator was apprehended even though it is common knowledge that illicit drug production involves organization and strict delegation of tasks, where everyone knows exactly what they are responsible for in the illicit production chain. We believe that this situation is most often the result of the lack of preparedness of police to cope with the emerging circumstances, but also of poor legal regulations, especially in the area of control and traffic of substances and equipment necessary for illicit drug production. The failures in the methodology of uncovering and dismantling clandestine laboratories are also revealed by the fact that no persons were found in three laboratories during the police incursion. The basic rule of criminal work is that an incursion is carried out in the laboratory when the production process is underway and when the persons in charge of production are inside the laboratory. When the existence of an illegal laboratory is uncovered, then its work should be monitored for a while, and the incursion into the laboratory and arrest of the persons involved in different production stages should be planned in detail. The police must be able to investigate criminal organizations patiently and with regard to the time-period necessary to establish a clear image of their functioning and their manner of operation. This includes the systematic collection and analysis of data, the specialization of prosecutors and employees of the criminal police and the application of professional knowledge in an organized manner.

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ТАЈНЕ ЛАБОРАТОРИЈЕ ЗА ПРОИЗВОДЊУ ДРОГА У СРБИЈИ

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Резиме

Број откривених лабораторија и количина заплењених дрога у последње две деценије упућују на закључак да је илегална производња посебно синтетичких дрога озбиљан друштвени проблем у нашој земљи. У 142 тајне лабораторије за производњу дрога лишено је слободе само 245 лица, а у скоро две трећине (63,9%) случајева ухапшен је само по један извршилац – иако је опште познато да илегална производња дрога подразумева организацију и строгу поделу посла, где се тачно зна ко је за шта задужен у ланцу илегалне производње. Сматрамо да је овакво стање најчешће последица неспремности полиције да се снађе у новонасталим околностима, али и лоше правне регулативе, посебно у делу контроле и промета супстанци и опреме која је неопходна за илегану производњу дрога. На пропусте у методици откривања и демонтирања тајних лабораторија указује и податак да у три лабораторије приликом упада полиције није затечено ниједно лице. Основно правило криминалистичког рада је да се упад у лабораторију врши када је процес производње у току и када се у лабораторији налазе лица која су задужена за производњу. Када се дође до сазнања о постојању тајне лабораторије, онда њен рад одређени период треба тајно надзирати и детаљно испланирати упад и хапшење лица која су укључена у различите фазе процеса производње. Полиција мора бити оспособљена да стрпљиво и у дужем временском периоду проучава криминалне организације, начин њиховог функционисања и њихове методе рада. То подразумева системско прикупљање и анализирање података, специјализацију тужилаца и припадника криминалистичке полиције и примену професионалних знања на организовани начин.

У највећем броју случајева, у тајним лабораторијама производила се марихуана (92,5%). Остатак чине синтетичке дроге (6,8%), док је у једном случају откривена лабораторија за производњу халуциногених печурака – псилоцин. У свим случајевима илегалне производње синтетичких дрога коришћена је скупа високопрофесионална опрема, чији су производни капацитети превазилазили потребе српског нарко-тржишта, па је дрога произведена у овим лабораторијама крijумчарена ван граница Србије. Када је у питању илегална производња марихуане у лабораторијским условима, такозвани унутрашњи узгој, од 136 лабораторија, само је у њих 11 нађена високопрофесионална опрема, док производни капацитети откривених лабораторија упућују на закључак да је дрога била намењена потребама локалног нарко-тржишта.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1141–1156

Прегледни рад https://doi.org/10.22190/TEME191029068B
Примљено: 29. 10. 2019. UDK 355.4:327(73)
Ревидирана верзија: 5. 11. 2019. 355.01:327(73)
Одобрено за штампу: 1. 12. 2019.

MILITARY POWER IN US FOREIGN POLICY - TRADITION AND CHALLENGES

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Abstract

When considering the military power of the United States, it is necessary to distinguish military force and military power. Military force represents an organization that is equipped and trained to use force. America is clearly the largest military power in the world, and that is a fact. However, the term military power is significantly wider than that of the military force. It also includes elements related to the threat of using force and many other activities related to the involvement of military force in contemporary international relations, including international defense cooperation, military-technical cooperation, the purchase and sale of weapons and military equipment, and more. The paper focuses on this exact segment of military power, understood as a willingness to engage the US military force outside their national territory. The aim of the paper is to describe the evolution of the United States' strategic thought regarding military power as a foreign policy instrument by analyzing the key processes in specific historical conditions from their independence to modern times. The results of this analysis will represent valuable indicators for a future role of military power in the US foreign policy in terms of potential conflicts for the preservation of global hegemony.

Key words: United States, Military Power, Strategy, International Relations, Global Hegemony.

ВОЈНА МОЋ У СПОЉНОЈ ПОЛИТИЦИ САД – ТРАДИЦИЈА И ИЗАЗОВИ

Апстракт

Када се разматра војна моћ Сједињених Држава, нужно је направити дистинкцију између војне силе и војне моћи. Војна сила представља организацију која је опремљена и оспособљена да примењује силу. Америка недвосмислено представља највећу војну силу на свету, што и није истраживачки изазов. Међутим, појам војне моћи је значајно шири од војне силе, јер укључује и елементе који су везани за претњу употребом силе и многе друге елементе пројектовања војне силе у савременим међународним односима, међу којима су међународна сарадња у области одбране, војно-техничка сарадња, продаја наоружања и војне опреме и друго. Управо је сегмент војне моћи, схваћен као спремност да се ангажује војна сила САД ван на-

ционалне територије, предмет истраживања овог рада. Дакле, кључно питање овог рада није да ли Америка може да се војно ангажује, већ да ли има политичку вољу за то. Циљ рада је описати еволуцију америчке стратешке мисли о војној моћи као инструменту спољне политике, и то анализом кључних процеса у конкретним историјским условима од независности до савременог доба. Резултати ове анализе представљаће показатеље за будућу улогу војне моћи у спољној политици Сједињених Држава у контексту потенцијалног сукоба за очување глобалне хегемоније.

Кључне речи: Сједињене Државе, војна моћ, стратегија, међународни односи, глобална хегемонија.

INTRODUCTORY CONSIDERATIONS ON MILITARY POWER

Power is a key concept in international relations studies, while military power has represented, represents and will represent an essential factor in determining the straight gradient of each of the subjects pertaining to international politics. Military power is usually determined by the quantity and quality of weapons as well as military equipment, the ability to effectively command units, and by their combat morale. Having military superiority enables countries to both plan and implement their foreign policy more ambitiously, and because of their ultimate support for other elements of power, they can influence other actors in international politics. The logic behind military power is quite simple: military force symbolizes intimidation and destruction. Overwhelming military power provides a greater likelihood for potential opponents to persuade, dissuade or be forced to postpone action that would harm national interests. Military power can reach full effectiveness and efficiency only when it is undoubtedly sufficient (Freeman, 2002, p.18).

Military power essentially has three applications in the strategic context: deterrence, coercion and defense. It has the potential of enforcement against a state or non-state actor to: prevent something or prevent the realization of certain plans (deterrence), change the behavior of potential adversaries (coercion), and protect state property from harmful actions of other players in the international system (defense) (Art, 2003, p. 3). Due to its destructive nature and potential to threaten the existence of others, military power is most effective in controlling and forcing other subjects, while supporting other foreign policy tools to achieve the desired goals. The possession of military power is a reliable support for self-help in case of aggression, but it can also serve as a support for other instruments of power. After all, the balance of power in the international order is a balance of all the options and instruments available to the states to achieve their goals (Slović, 2009, p. 178). Military power is one of the traditional components of the power calculus, which "measures" the state's ability to influence world politics.

Training, military morale, and leadership are important qualitative factors of the military force. Small and professional forces that undergo

intensive training are usually far more capable than large numbers of untrained soldiers. Morale is also crucial to the overall readiness of the military. According to Machiavelli, the introduction of the idea of patriotism gave the armed forces a deeper meaning, a notion of fulfillment among soldiers that bolstered their will to fight (Paret, 1986, pp. 25-27).

The American and French revolutions have left a significant mark on human society in general, and on military organization, which is primarily related to the introduction of mass recruitment of the population. Before the revolutions, wars represented conflicts between the rulers. Those forms of the state, reflected through the hierarchy of classes, were also visible in the military structure. The armed forces were divided into classes: officers whose motives were honor and glory, while soldiers were usually perceived as incapable of any higher feelings other than lust for combat. Lack of discipline and training made huge battles almost unimaginable and very risky, which resulted in limited wars (Paret, 1986, pp. 91-95).

Despite the relative military stagnation in the pre-revolutionary period, Europe has witnessed intense foreign policy engagement by France in order to reduce the power of the Habsburgs. Namely, with the arrival of Cardinal Richelieu to power, political disintegration of Central Europe became the most important strategic objective for French foreign policy. In other words, the Cardinal saw the threat in the unification of Central Europe and how this could potentially compromise future French political interests. The Cardinal's reasoning suggested two key concepts. The great powers were aware, even then, of the concepts of the balance of power and how disruption of this balance could endanger their survival. Furthermore, Richelieu laid the foundations for the idea of a grand strategy that, in the case of France, should halt the unification of Central Europe, which lasted for more than two centuries until Bismarck's declaration of the German Empire.

Richelieu basically introduced the concept of "grand strategies". It can be described as a combination of political, economic and military power of the state establishing a way for the involvement at the international level. Grand strategies should articulate the priorities of national politics on the international level in accordance with the current capabilities of the state, where one of the most important factors is military power, as Colin Gray clearly explains "the direction and use of any or all of the potential of the security system, including its military instrument, for policy needs that are decided by political leadership" (Hoffman, 2014, p. 474). Nevertheless, the grand strategy does not strictly imply a military strategy or a foreign policy strategy, but rather represents a holistic approach to state power in the perspective of achieving the goals. Grand strategies should be able to answer two important questions, which is to define key national goals and how to achieve them (Murdock & Kallmyer, 2011, p. 542).

Although the revolutions of the late XVIII century introduced various innovations in military technology and strategy, their significance

was in the political nature of the American, as well as the French Revolution. The union of the government with the people enabled the people to participate in state affairs, and a certain degree of control over the work of the ruling structure, which was not possible before. This sense of participation in the government created a new social reality which in turn resulted in the creation of a sense of patriotism and implied that the population should fight for their state with devotion. However, governments were the ultimate beneficiaries of the revolution. The ruling establishment easily, and relatively quickly, transformed the right to defense into a normative obligation to defend the homeland. Political elites acquired sovereign rights to militarily organize all available human and material resources. Thus, relatively limited dynastic wars evoked conflicts of entire societies. Wars became an instrument for achieving political goals, which is often discussed by Klauzevic (Blagojevic & Pejic, 2019, pp. 15/16).

U.S. MILITARY POWER UNTIL THE GREAT WAR

American colonies made a significant contribution to the Seven Years' War (1756-1763) and were expected to be rewarded for such behavior. Instead, the British Parliament introduced direct taxes and the colonies responded with civil disobedience. Under the famous slogan, "No Taxation without Representation", they continued to fight for their rights. The inflexibility of London led to the rebellion of colonies in North America in 1775. At the beginning of the war, the rebel colonies had a large number of members of militia and military forces who participated in the previous war. Hoping to diminish Britain's power, France, Spain and the Netherlands joined the war. With insufficient resources to wage effective "positional" warfare, General Washington managed to force Britain to sign the peace agreement in Paris in 1783, by implementing a strategy of partisan warfare.

The British Navy represented a strategic advantage over the American rebels. Their victory wouldn't have been expected if the Allied naval support had not arrived in time. Therefore, immediately after independence, US began building the Navy. Unlike the development of naval forces, to which the US paid constant attention, the active component of the Army was of minor status as they relied on state militia as the mainstay of the revolution. From independence to 1812, the US paid no attention to strategic thinking; drafting only a few military handbooks; they had no adequate domestic literature of strategic and doctrinal provinces (Weigley, 1973, p. 18-55).

The US adopted the Monroe Doctrine in 1823, stating that America would have the obligation to intervene if European forces militarily engaged in North or South America. At the same time, the US pledged not to interfere in the internal affairs of the existing colonies. At that time, it was unusual for a non-European country to make any kind of request to European powers,

and even less to demand the limitation of European colonial ambitions. The adoption of the Monroe Doctrine also pointed out the emergence of "exceptionalism" and the Manifest Destiny in American culture and politics, which will become its important determinants, especially in foreign policy. The Monroe Doctrine gave pretext to a lot of US military interventions in Latin and Central America over the next few decades (Johnson, 1991, pp. 50-55). Reliable armed forces, especially the Navy, were necessary for military interventions, which the leaders of the United States were aware of, and therefore established a firm commitment to reach that goal.

The US Army remained relatively small in the age of the Indian wars. A key figure in American development was General Scott Winfield, who served as Chief of the Army General Staff for two decades. He insisted on the discipline and skills of the soldiers, and his strategic commitment was to create a small and professional army, unlike the massive armies that Napoleon had introduced in Europe. The war with Mexico began and General Winfield believed that the key to victory was not in the destruction of the opponent, but in the political pressure on the weaknesses of the Mexicans. Like the European empires, the Mexicans' weakness was the sensitivity to the security of the capital. This is why a campaign to seize Mexico City was launched, supported by solid political preparation. The result was victory in the Mexican War (1846-1848) and the US almost doubling their national territory (Weigley, 1973, p. 59-76).

The long-lasting problem that divided the American society was the issue of slavery. Disputes culminated during the handover of presidency in 1861, when seven southern states declared secession from the United States and formed the Confederation. President Lincoln ordered an attack on one of the fortresses in South Carolina and called for conscription, which resulted in four southern countries joining the Confederation. The North won in the civil war, which caused heavy casualties and destruction. This was the first major industrial war, which required the engagement of the entire society, not only in the combat, but also in the production of weapons and military equipment (Johnson, 1991, pp. 55-56).

The American naval power was proved in the brief Spanish-American War of 1898, which ended the Spanish colonial presence in the Western Hemisphere. The US victory forced Spain to give up possession in Cuba as well as Guam, Puerto Rico and the Philippines, giving the US primacy in the Caribbean region and a position to protect their interests in Asia (The Spanish-American War, 1898).

At the beginning of the Great War, the US pursued an isolationist policy. After the re-election in November 1916, President Woodrow Wilson launched an unsuccessful diplomatic initiative to stop the war in Europe. In WWI, the US involved itself in 1917 on the side of the UK and allied powers, which was previously provided by large US war loans. That same year, the Bolshevik Revolution started and Russia signed a separate

peace agreement with the Central Powers. In a short period of time, the US mobilized about 2 million troops for the European front, while their industry demonstrated great potential to support the war effort. The US managed to organize the transport of troops and military equipment to Europe. The Central Powers did not expect that. The biggest winners of WWI were the US, which used its economy to meet the Allies' war needs and take over the traditional European markets around the world. After the war, the financial center of the world moved from London and Paris to New York. The end of the war brings Wilson's program of the famous 14 Points, which established the League of Nations, as well as the so called sanitary corridor or the strategic buffer zone between Europe and USSR.

However, the US did not join the League of Nations, but returned to isolationism. At the same time, the personnel of the professional army were reduced, as well as their defense budget. The exception was, partly, the retained powerful Navy. It can be said that the decision to do so was in accordance with the liberal views that traditionally require a small and functional state apparatus and the armed forces, and the US could have been categorized as such, because there were no significant threats to their national security.

U.S. MILITARY POWER FROM ROOSEVELT TO REGAN

Similar to WWI, the US pursued an isolationist foreign policy and sought to avoid engaging in WWII for as long as possible. In military terms, they were completely unprepared for the war effort, except for the Navy and partly the Air Force.

The US focused its military engagements on the Asian Pacific while suppressing the Axis forces in the Mediterranean. Japan's military expansion and conquest in China, Indochina, Thailand and the Philippines sought to establish a "new order" without Western powers in East Asia. Since the attack on Pearl Harbor, 7th December 1941, the US and UK forces suffered heavy losses in manpower, armaments and space. The Battle of Midway, in June 1942, was a strategic turning point, as losses in vessels were equal, but the US was able to renew war equipment and manpower unlike Japan. With the allies' gradual takeover of the initiative, and especially after the Battle of Leita, the Japanese Navy was no longer a real threat. The capabilities of the Japanese naval transport were hampered by the operation of US submarines. During the war, the Japanese Air Force constantly lost its potential, both in manpower and armaments. From September 24, 1944 until August 14, 1945, the US Air Force bombed Japanese territory and military installations in China (Kovač & Forca, 2000, pp. 25-26).

President Harry Truman was advised by the Special Commission to use a nuclear bomb against Japan. That same month, the Potsdam Declaration was adopted, and the Allies sought the surrender of Japan, under the threat of facing large-scale destruction. Since Japan responded negatively,

President Truman ordered the use of the first atomic bomb on Hiroshima on 6th August 1945. Three days later, the bomb was thrown on Nagasaki, and the USSR entered the war against Japan. All of this resulted in the capitulation signed by the Japanese Emperor on September 2, 1945 (Kovač & Forca, 2000, pp. 25-26). Thus, in addition to rescuing its own losses in the war against Japan, the US opened the Pandora's Box of international security, which was reflected in the challenge to possess nuclear weapons and the readiness to use it. The possession of nuclear weapons has become imperative for the second superpower of that time, the USSR, and later for other major powers as well. These weapons still pose a major threat today not only to international security but also to the survival of human civilization.

With Normandy landings in June 1944, the US and its allies came to Europe, which was occupied by the Nazis. From then on, the US military has been present in Europe to this very day. The continuing presence of US military forces in Europe serves as a great reminder that military power is a significant foreign policy instrument not only for war, but also for the preservation of peace. The US has maintained respectable peacetime armed forces and a defense budget that is still the largest in the world. All post-war strategy documents of the US clearly define a commitment to keep their military power unchallenged worldwide. At the same time, the US secured global economic-financial dominance through Breton Woods Institutions. In this way, Washington has provided two of the most significant foreign policy instruments, military and economic, that have been shaped and implemented by politics and diplomacy.

After WWII, an ideological confrontation ensued between former allies from the West and the East. The NATO (1949) and the Warsaw Pact (1955) were formed, and the world was divided according to different ideological orientations. The Cold War era arose, which was replete with various military interventions by both super powers, but mostly within the boundaries of the defined sphere of interest, as was the case with the Monroe Doctrine in Latin America. The Soviet's interventions in Hungary, Czechoslovakia and Afghanistan, on the other hand, indicated that military power was a first-class foreign policy instrument. The Cold War was filled with various crisis situations, which threatened not only peace but also the survival of the human civilization, as the nuclear superpowers had sufficient potential to destroy the world (Gedis, 2003; Blagojevic & Pejic, 2019, pp. 115-232). Global strategies of containment, deterrence, USSR-directed "anaconda" and the constant arms race were the major determinations of the US foreign policy during the Cold War that include a large scale of military cooperation and arms sales to a friendly state.

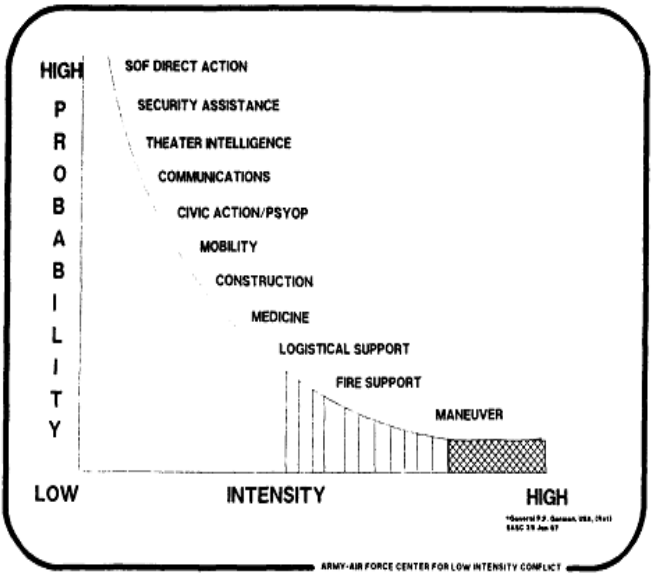
The failure of the US Armed Forces in Vietnam shows that lack of morale and increased stress among soldiers, as well as inadequate military budgets and political demonstrations at home, resulted in overall losing support of the public for continuing the war campaign in Vietnam. In fact, one of the main reasons for the US withdrawal from Vietnam was the

lack of political support for the war effort, which was very badly reflected across all levels of military structures, resulting in the demoralization of soldiers directly involved in the war (Paret, 1986, pp. 25-27).

The defeat in Vietnam had a negative impact not only on the morale and reputation of the US Armed Forces, but also on its overall foreign policy. American presidents did not show the will to engage military power outside the national territory until the end of the Cold War, except for “smaller” military interventions such as the one in Granada or the bombing of Libya. The US overcame the "Vietnam Syndrome" only after the 1991 Iraqi War.

After their defeat in Indochina, America withdraws from Angola, and Soviet and Cuban forces move from Angola to Ethiopia, the Soviets enter Afghanistan, and Iranian fundamentalists overthrow Shah Pahlavi and capture US citizens at the Embassy in Tehran. As Kissinger correctly pointed out, "it has never happened in history that a world power collapses so quickly and thoroughly even though it was not defeated in the war" (Kissinger, 1999, p. 679). The arrival of President Ronald Reagan on power in 1981 is a milestone in foreign policy that is based on the desire to "reaffirm the traditional code of belief of US exceptionalism" (Kissinger, 1999, p. 678).

President Regan adopted the Strategy of Low-Intensity Conflicts, which sought to systemically address the shortcomings that led to the defeat in Vietnam. These are primarily political shortcomings in the strategic approach to the war in Indochina. The UK's experience in fighting post-World War II colonial insurgents was taken as a starting point for a new strategy, and the engagement spectrum is given in the appendix that follows.



Graph 1. Intensity of Engagement in Low-Intensity Conflict
(Low Intensity Conflict, 1989, p. 30)

The strategy was initially intended to counter the revolutionary communist movements, and its implementation was accompanied by resistance from the US officer corps as they felt that their traditional warlike spirit implied the destruction of the enemy rather than political outburst with the enemy.

President Regan succeeded in uniting the nation and pursuing the foreign policy that led to the collapse of the USSR. He abandoned the *détente* favored by his predecessor, Jimmy Carter, and imposed a "new arms race" on the Soviets, who could not stand the tempo, especially after the withdrawal from Afghanistan. President Gorbachev announced the political program known as the "perestroika", which was a prelude to the breakup of the Warsaw Pact and the USSR, as well as the end of the Cold War era.

AMERICAN MILITARY POWER FROM H. W. BUSH TO OBAMA

In the last decade of the XX century, the US had a prominent position in international politics, as the only remaining superpower, and the ideological winner in the Cold War with the strongest world economy. That victory also entailed a tremendous responsibility, as the undoubted global leader who had an almost unique position in modern history to crucially influence the course of events in international politics. The opening of the market of the former Eastern Bloc accelerated the process of globalization and entrenched liberal thought as a significant theoretical basis in international relations.

Nevertheless, the US decided that NATO was still a valuable instrument of their foreign and security policy and needed to survive, despite the fact that the Warsaw Pact was terminated. Together with the Allies, they changed the priorities of NATO in line with the changed circumstances in international relations. The main objective was to fill the "security vacuum" in Europe created by the collapse of the Warsaw Pact, which is defined by the "open door" policy for European states. The US is the world largest arms exporter and uses that to pursue its foreign policy goals. Ultimately, the policy resulted in the expansion of the Alliance to the East, which was increasingly opposed by Russia.

The rapid development of information and communication technologies introduced a real-time dimension into the combat zone. Leading developed nations, most notably the US, have been able to effectively deploy new technologies into their armed forces, triggering the so-called Revolution in Military Affairs (RMA). The most important aspect of RMA is the great divide created by this revolution between those who can follow the fast pace of new technologies and those who do not have the capabilities. It soon became apparent that the "unipolar moment" in international relations was caused not only by the dissolution of the Warsaw Pact and the USSR, but also by the enormous military-technological superiority of America. The next

generation of the US Armed Forces was able to reach almost every target anywhere on the planet, while potential enemies were almost incapable of setting up effective defense or retaliation measures. Those who spearheaded the revolution in military affairs were in a position to easily make and execute foreign policy decisions, using the threat of force or engaging with military force without the fear of retaliation from other subjects of international politics (Blagojevic & Pejic, 2019, pp. 115-232).

The technological innovations implemented at the tactical level will affect the overall strategy and thus affect the overall potential at the foreign policy level. New technology has dispelled the "fog of war" for actors in the arm conflict. War is a fierce competition between opponents, and that is why the armed forces are constantly modernizing themselves to outsmart a potential or actual enemy (Gray, 1990, pp. 110-197).

Although modern weapons and military equipment allow soldiers to beat their technologically inferior enemy, it should not be treated as the primary means of victory in modern-day military operations. In many cases it was evident that morale, combat readiness, tactical and strategic approach, as well as geography and other traditional-structural factors of war, proved their importance in post-Cold War wars. Despite the smaller number of modern armed forces due to the revolution in military affairs, the actual military budgets of many states, especially the US, Russia and China, were higher than before. Many states have been more prone to military spending in order to boost their military technology, even though the imminent threat of war "against the great enemy," such as the USSR, was no longer realistic (Blagojevic & Pejic, 2019, pp. 115-232).

NATO engaged militarily, for the first time in its history, outside the territory of the member states against the Serbian forces in Bosnia and Herzegovina in 1995, and several years later in the military operation "Allied Forces" against the FRY. This introduced the concept of "humanitarian intervention" into the practice of international relations, as well as in the concept of international law, even though defending the morality of such novel phenomenon was not only questionable but reasonably difficult. Twenty years after these events, the alleged moral motives of the military intervention are more than clear to all (Blagojević, 2019, pp. 365-384). Despite the revolution in military affairs, which had a major impact on the characteristics of modern warfare and substantially reduced the number of states capable of "keeping up with technological advances", the US has not abandoned the implementation of the low-intensity conflict strategy. The US involvement in the conflicts in the Balkans in the last decade of the XX century speaks convincingly in favor of that fact.

The 9/11 terrorist attacks have been a pivotal event since the beginning of the new millennium, which has changed not only America's foreign and security policies, but international relations as a whole. The strategic response was in the planning for a year, confirming that the US

was unprepared for terrorist threats of that magnitude on its own territory. The National Security Strategy of the US issued on September 2002 promotes the global fight against Islamic terrorism by all available means of power, especially military power, but also by the "fight for hearts and minds" worldwide.

This strategy has promoted another concept, which is problematic in many ways. These are the so-called preemptive strikes against terrorist threats anywhere in the world – preemptive measures with the purpose of destroying potential threats before they become a real danger. This concept has many elements of excellence and manifest destiny, a source of morale and philosophy the US has drawn inspiration from often throughout history. Namely, they give themselves the opportunity to act in a way that is not acceptable to others, or at least most of the subjects of international relations. America gave itself the right to act against terrorists, no matter on whose territory they were located, thus undermining the concept of state sovereignty. The unilateralism of the US in its fight against Islamic terrorism formed the basis for President G. W. Bush's strategic approach to counter-terrorism. During the presidency of Barack Obama, the fight against terrorism became an increasingly multilateral approach. Yet, more and more often, the foreign policy of the US could be seen in favor of military means in countering terrorism, while the "fight for hearts and minds" was generally put into the background.

The US military engagement in Afghanistan gained the support of most subjects of international politics, which was not the case with the war in Iraq. America is still militarily present in these countries, but the goals of their engagement have not been met. The situation was further complicated by the appearance of the so-called Islamic state, first in the Iraqi territory and then neighboring Syria. Obviously, the military means predominantly used by the US are inadequate to address the complex problems of religious extremism and backwardness. One gets the impression that America is on track to lose the "fight for hearts and minds" and that it simply has not resisted the challenge of "arranging the world in its own model".

CONCLUDING CONSIDERATIONS ON THE ROLE OF MILITARY POWER IN MAINTAINING AMERICAN HEGEMONY

For many years, scientists have debated the future of international relations and the fate of global leadership. The key questions pertain to who the challengers to American hegemony are, and what the structure of international relations will look like in the future. The question is focused on the "challenger" list, which most often refers to China, then Russia, India, Brazil, individually, or more likely united. There are a lot of assessments that China will most probably reach the US in economic power, and it is a fact that Beijing is rapidly developing military power in

cooperation with Russia. However, there are also objective limitations to China's effective bid for the global leader, such as the lack of naval forces to project military power, influence in international organizations, and other more or less questionable deficiencies in the full spectrum of power.

On the other hand, there are also respectable arguments that point out that the US will have the capacity and potential that are unavailable to challengers for the foreseeable future.

> "The unique position of US in the hierarchy of the world today is widely recognized and accepted. ... The modern world may not like American supremacy - it may not trust it, be reluctant to it, it may even occasionally oppose it, but in practice they cannot directly oppose it. To no avail, the Chinese and Russians flirted with a strategic partnership to promote global "multipolarity" - a term that can clearly be translated as counter-hegemony.“ (Bžežinski, 2005, p. 13)

In these words, the well-known theorist Zbigniew Brzezinski described the US position in the modern world and the alternatives in global leadership in 2003.

However, since then, many significant processes in international relations have taken place, which gradually, but continually seem to influence the image of America as a global hegemon. The world economic crisis, which started in the US, had negative impact on America's "soft power". The US forces have huge problems in stabilizing the security situation in Afghanistan and Iraq, which puts into question the adequacy of the US engagement in the fight against global terrorism. Islamic states in Iraq and Syria, whose ideology is based on extreme Islamism and anti-Americanism, have clearly shown a strong resistance to the Western system of values.

Russia's military engagement in Georgia and the crisis in Ukraine that ultimately resulted in the annexation of Crimea, clearly indicate that Moscow is ready to act in accordance to their strategic documents defining its immediate neighborhood a priority of engagement in stopping the process of NATO's expansion to the east. The "Arab Spring" showed all the complexity and unpredictability of Islamic societies. The latest in a series of "awakening nations" in Syria sparked a civil war, which definitely confirmed that Russia has the political will and potential for military engagement abroad.

During this period, the US has been restrained and to a larger extent left its allies within the Alliance to act, providing them with command and logistical support through NATO Command that implemented operations such as the one in Libya or the air strikes on targets in Syria.

It seems that the US has become aware that economic indicators do not give them optimism. Additionally, they are not convinced that military engagements in current crisis-hotspots are cost-efficient, especially with the

risk of direct massive US military engagement. They want to avoid situations in which long-term military presence in unstable countries would be required, such as Afghanistan and Iraq, where they failed to resolve the security situation. Finally, this may well be the first hint that Washington has become aware of the fact that the conditions in international relations are not in favor of their military engagements, as well as the need to act in order to avoid the known danger of "imperial overstretch".

Of course, this does not mean that the US has exhausted its military power, but they have become more hesitant about direct military engagements. No doubts that Russia has contributed to this by engaging outside their national territory, as well as the increasingly respectable military power of China.

There is a real possibility that the US will fall into the so-called Thucydides trap and try to provoke China into conflict, such as those during the Cold War, in an effort to prevent China's further economic and military strengthening. These would not be direct armed conflict between the US and China or Russia due to the fact that these states are first-class nuclear powers and such conflicts are in all probability not considered by Washington. However, such an option is advocated by offensive realists who stress that "attack is the best defense" and the current situation in Thailand indicates the potential for such developments. Official Beijing seems to have a good understanding of the current US policy and "preventively" points out that they are for the peaceful settlement of all international disputes, except for those that are an internal issue of China.

In the last decade of XX century, the US abolished the centralized planning process for the armed forces, because there was no military rival that possessed the potential to counter American power in a large-scale war. It seems that the announcements of the re-introduction of these practices indicate that such time has passed and there are challengers. Maybe they have no capacity for confrontation to the entire spectrum of US military resources, but contenders might have sufficient capacity to lead "regional wars", if that is possible in the time of globalization. All this points to the fact that defensive realism, definitely is a much more reasonable option for the strategists in Washington, much like previously in American history, and considering their participation in the world wars. Moreover, it could be said that the US seeks to possess military power sufficient to crucially reverse the course of key events in international politics, thereby securing the position of a "balancing power" in the multi-polar order that is announced while avoiding "exhausting" military potential by engaging in local wars.

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ВОЈНА МОЋ У СПОЉНОЈ ПОЛИТИЦИ САД – ТРАДИЦИЈА И ИЗАЗОВИ

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Резиме

Ратничку традицију Сједињених Држава поштује читаво друштво. Дуго времена по осамостаљивању су САД имале малобројне оружане снаге и ослањале су се на народну војску, што је и била тековина Америчке револуције. И данас се америчке оружане снаге умногоме ослањају на резервни састав, односно националне гарде држава, иако у другачијим организацијским условима. Географска удаљеност од великих сила, слаби суседи и пространи океани створили су геостратешке и безбедносне услове за развој и територијална проширења „младе америчке републике". Управо су океани условили развој ратне морнарице САД, која је дуго представљала једини приоритет оружаних снага, у складу са Махановом геополитичком теоријом, која фаворизује поморску моћ.

Усвајањем Монроове доктрине 1823. године, САД показују аспирације за учешће у светској политици и дефинишу Латинску Америку и Централну Америку као сопствену зону интереса. Европске силе тога доба заокупљене су колонијалним освајањима, а завршетак тог процеса је суштински довео до Првог светског рата. САД су све до 1917. године водиле изолационалистичку политику и давале кредите за ратне напоре европских држава. Убрзо након уласка у рат, Америка мобилише два милиона војника, њена полетна економија брзо се преоријентише на ратну производњу, а моћна морнарица организује масован транспорт трупа у Европу. То је за силе основине било стратегијско изненађење, које је допринело њиховом поразу. Председник Вилсон у програму од 14 тачака уређује послератну мапу Европе и утиче на целокупне међународне односе, али се након рата САД поново повлаче у изолационализам, драстично умањује бројност оружаних снага и буџет за одбрану. И Други светски рат су САД дочекале изолационистичком политиком, која је прекинута нападом на поморску базу у Перл Харбуру. Америка је брзо мобилисала војску и ратну индустрију. Главне снаге ангажује на азијском Пацифику, док су помоћне снаге ангажоване у Медитерану, а тек од 1944. године се значајније ангажује у Европи. САД су прве и једине употребиле нуклеарно оружје против Јапана, чиме су умањиле сопствене жртве у наставку рата, али и отвориле „Пандорину кутију" поседовања и претње употребом нуклеарног наоружања.

После Другог светског рата и поделе на окупационе територије, САД задржавају војно присуство у Европи и на овај начин напуштају традицију Вилсоновог идеализма и изолационализма. Сједињене Државе су ангажовањем сопствених војних капацитета у Европи, али и пружањем помоћи савезницима у оквиру НАТО, сузбијале експанзионистичке амбиције идеолошки супротстављеног блока, односно Варшавског уговора, који је располагао масовним конвенционалним копненим снагама, али и нуклеарним арсеналом СССР. Америка је, као „таласократска" сила, поред поморске моћи, користила и стратегију „анаконде", засновану на геополитичком учењу Спајкмана, која је заснована на контроли приобалних територија превасходно евроазијског копна. У том контексту, треба посматрати и америчко ангажовање у Кореји, а касније и у Индокини. Управо је неуспешно војно ангажовање у сукобу у Вијетнаму довело до слабљења угледа САД, као суперсиле и појаве тзв. Вијетнамског синдрома, кога су се решили тек након Ирачког рата 1990/1991. године. Америка је, након неуспеха у Вијетнаму, усвојила стратегију сукоба ниског интензитета која је била усмерена против револуционарних покрета које је подстрекивао СССР.

Успех Америке у Хладном рату треба несумњиво приписати војној моћи, која се најчешће умешно допуњавала економском и идеолошком супериорношћу.

Крај Хладног рата је САД поставио на лидерску позицију у међународним односима, као једине суперсиле и најмоћније економије у свету. САД су иницирале промене у приоритетима НАТО, који је добио задатак да попуни „безбедносни вакуум" настао у Европи након укидања Варшавског уговора. Алијанса је по први пут у историји дејствовала ван граница држава чланица у ратовима на Балкану у последњој деценији XX века. САД су на терористичке нападе на својој територији 2001. године одговориле доминантно војним средствима, која су резултирала масовним војним ангажовањем у Авганистану и Ираку. Иако су успешно реализоване операције заузимања територије, америчке снаге и данас имају проблеме у стабилизацији безбедносних прилика у наведеним државама и не назире се могућност реалних излазних стратегија из наведених сукоба. Униполарност је довела у искушење САД да доминантну војну моћ користе и према доктринама које су контроверзне по многим питањима. Реч је о „хуманитарним интервенцијама", према којој је реализовано ангажовање НАТО на Балкану и „предухитрујућим ударима", који су у доброј мери усложниле безбедносну ситуацију у Авганистану, Ираку и на Блиском истоку. Ангажовање према наведеним доктринама увећало је ангажовање оружаних снага, без сразмерне користи на плану стабилизације међународне безбедности и умањења терористичких претњи. Напротив, појава такозване Исламске државе на територији Ирака и Сирије указује на супротне ефекте, јер ангажовање војне моћи САД није адекватно праћено другим спољнополитичким средствима.

Појава потенцијалних изазивача америчке хегемоније на глобалном плану који јачају војне потенцијале – покренула је процес преиспитивања приступа и употребе војне моћи. Томе су допринели и опасност од „империјалног пренапрезања", недостатак излазних стратегија из актуелних сукоба и други фактори. Може се рећи да САД настоје да избегну директно војно ангажовање у локалним сукобима, али је сасвим извесно да ће одржавати и унапређивати војне капацитете који ће бити способни да суштински утичу на кључне догађаје у међународној политици.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1157–1169

Прегледни рад https://doi.org/10.22190/TEME191030069O
Примљено: 30. 10. 2019. UDK 343.14(497.11)
Ревидирана верзија: 10. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

THE IMPORTANCE OF VOICE IDENTIFICATION IN THE WITNESS RECOGNITION PROCEDURE

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Abstract

From a theoretical point of view, this paper considers the evidentiary action of recognizing the voice of the perpetrator by the witness. It is the identification of the voice by a person who is usually an "unprofessional listener". Due to the specificity of the voice as an object of recognition, the involvement of forensics (linguists and phoneticians) in the organization and immediate realization of the voice recognition action seems inevitable. Their activity would be manifested in giving guidance to the authority on how to increase the efficiency of voice identification and the accuracy of witness testimony. The witness gives evidence based on his perceptual (auditory) abilities in a procedure prescribed by the law, in which the credibility of his/her testimony is simultaneously checked and assessed. The Criminal Procedure Code of the Republic of Serbia establishes the legal framework for taking the voice recognition action, while the content of performing the direct recognition action is determined by the criminal-tactical rules.

Key words: voice, auditory presentation, procedural rules, criminal-tactical rules.

ЗНАЧАЈ ИДЕНТИФИКАЦИЈЕ ГЛАСА У ПОСТУПКУ ПРЕПОЗНАВАЊА ЛИЦА ОД СТРАНЕ СВЕДОКА

Апстракт

У раду се са теоријског аспекта разматра доказна радња препознавања гласа учиниоца кривичног дела од стране сведока. Реч је о идентификацији гласа од стране лица које је најчешће „непрофесионални слушалац". Услед специфичности гласа као објекта препознавања, укљученост форензичара (лингвисте и фонетичара) у организацију и непосредну реализацију радње препознавања гласа чини се неизбежним. Њихова активност огледала би се у давању смерница органу поступка како да се повећа ефикасност идентификације гласа и тачности исказа сведока. Сведок даје исказ на основу перцептивних (слушних) способности у законом прописаном поступку у којем се истовремено проверава и оцењује веродостојност

његовог исказа. Законником о кривичном поступку Републике Србије утврђен је правни оквир предузимања радње препознавања гласа, док је садржина вршења непосредне радње препознавања одређена криминалистичко-тактичким правилима.

Кључне речи: глас, аудитивно предочавање, процесна правила, криминалистичко-тактичка правила.

INTRODUCTION

The need for identification is as old as humanity. At the beginning of the development of human civilization, the ability to recognize certain characteristics was the key to survival. In everyday life, we identify and recognize people around us by looking at and/or listening to them. Biological characteristics make each person a unique being on the planet (biological differences exist even in monozygotic twins). It is this uniqueness that underlies the identifying process, i.e. the identification (Tuthill,1994). The human voice is a feature that contains physiological and behavioral characteristics and is very specific. It is according to voice that people choose friends, partners and inadvertently create a picture of the speaker. It is an identity mark, because just as there are no two identical fingerprints, two identical manuscripts and two identical retinas, there are no two identical voices. In recent decades, there has been an increasing interest and need to identify perpetrators of crimes based on voice, as recognized by witnesses. The evidence they provide can be crucial to identifying the perpetrator, indicting him and ultimately convicting him. Therefore, it is absolutely necessary that the testimony of eyewitnesses is as accurate and complete as possible. In cases where there is no recording of the voice of the perpetrator, and the witness does not see the perpetrator but only hears their voice (for example: rape in the dark or with a mask on the perpetrator's face, robbery done by perpetrators wearing masks, etc.), the organ of the proceedings (which, depending on the phase of the proceeding, may be a public prosecutor, police or court) is compelled to take a voice recognition action to identify the perpetrator of the crime (voice line-up). The voice line-up is based on the same principles, defined by procedural and criminal rules, much in the form of the visual line-up. It is a complex identification procedure that establishes the identity of the voice presented with the voice previously heard. Auditory recognition can be organized, even if the voice recording of the perpetrator exists, as a supplement to expert analysis. This maximizes the use of all available information in a given case. The basic issue in case law, i.e. evidentiary proceedings, is the evidentiary value of auditory recognition (Hollien, 2012). Namely, it should be borne in mind that in voice identification procedures, recognition is most often performed by "non-professional listeners", and that identification is based on acoustic and linguistic features - information that carries the speech of the person to be identified (Schreuder, et al., 2018). Therefore, the involvement of forensic professionals (linguists, phoneticians) is required to help carry out the voice

recognition work in an efficient and professional manner (Bojanić, et al., 2017). The basic requirement for taking and realizing a recognition action is the ability of the witness to accurately describe and subsequently recognize the characteristics of the perpetrator's voice. It essentially raises the question of the discriminating characteristics in the speech of two speakers and determining the criteria on the basis of which it can be determined with greater or less certainty whether there is a similarity between the speakers. No matter what methodological procedure is involved, recognition involves comparing a set of features and determining how similar or different the features are.

ACOUSTIC AND PERCEPTIVE CHARACTERISTICS OF THE HUMAN VOICE

The human vocal tract is a specific source of acoustic signal. It generates a signal (voice) that has speech-specific features. The frequency range of speech goes from 80Hz to 12kHz and is the so-called speech frequency range. However, the most important is the frequency range between 250 and 5000Hz in which speech intelligibility is 100% (Nešić, et al., 2011). The research work conducted in this area has shown that the frequencies of 500Hz, 1kHz and 2kHz are the most important for a good understanding of speech. Vowels in the lower frequency range are known to provide the required power (loudness), and consonants, which are higher than vocals at higher frequencies, give intelligibility to speech. This indicates that the voice message is audible enough thanks to the vowels, and understandable thanks to the consonants. The average vowel power in speech is about 50W (in the case of a man's loud voice the power can reach the value of 2000W), the power of the quietest consonants is only 0.03W (Heđever, et al., 1997, p, 104 - 119). Therefore, although on average vowel power is about 1600 times greater than the power of the consonants, still the consonants are more important for speech intelligibility. This confirms that objective acoustic values do not always correlate with the subjective feeling. When it comes to speech communication, how we perceive voice or speech is equally important, along with the acoustic characteristics of the speech signal and its production (Musiek & Chermak, 2007, p.78). We perceive our own speech through hearing and proprioception, and perceive the speech of the other person using our auditory and visual apparatus (in direct contact). In terms of perception, we can talk about three basic characteristics of sound. These are the intensity, pitch and color of the sound. The normal voice (speech) intensity of an individual in a quiet environment is between 60 and 65db. The disturbing factors in speech perception and comprehension are: the distance between the speaker (sound source) and the listener, noise levels (interfering noise) and reverberation time (echo).

COMPLEXITY AND VARIATIONS OF SPEECH EXPRESSION

People communicate using speech that is shared by their language community. However, this common language (speech) is at the same time the carrier of the individual characteristics of each speaker individually, in terms of spoken expression and in terms of the use of linguistic means. This individuality in the use of the common language can be used to confirm or deny one's identity on the basis of what has been said (uttered). Every communicative situation, even the short-lived one, reveals individual characteristics in both terms: in terms of speech expression, and in terms of the use of linguistic means at all levels of the linguistic structure. The appearance of personal speech characteristics and the personal style of using language means are major markers in determining the speaker's identity. The presence of context-induced variations in phonetic and linguistic terms in spoken expression is very important, as they form the basis of verbal expression. There are also variations of emotional nature. Other variations come to light depending on the conditions of conversation (speech in a noisy environment, in a hurry, in a café, etc.). Each feature in the speech signal has its own variation field or volume. This means that its variation can be caused by different factors controlling the organs of the articulation, and that the size of that field or volume depends on the physiological characteristics of the vocal tract. Thus, the basic frequency of the voice depends on the physiological characteristics of the vocal cords, on the psycho-emotional state, on the Lombard reflex when speaking in a noisy environment, etc. All this indicates that a good knowledge of the causes of detectable acoustic variations and their characteristics is a prerequisite for successful recognition of the speaker's speech (Јовичић & Кашић, 2009). It should also be borne in mind that hearing-based testimony is generally less reliable than eye-witness testimony. The height, color and volume of sound and noise, its duration, and speech are audited and registered. Furthermore, the ability to adapt the sense of hearing, which is an individual characteristic of the listener, is very significant.

The hearing sense in situations where it is exposed to large noise, reflexively without the influence of willpower and consciousness, reduces its sensitivity, so that long-term exposure to large noise gradually diminishes its sensitivity. On the other hand, listening to noise and quiet tones directs attention, which increases the sensitivity of the hearing sense (Taylor, 2011).

AUDITIVE PRESENTATION (VOICE LINE-UP) – PROCESS AND CRIMINAL ASPECT

The Process Rules for Implementing a Voice Recognition Action

Voice recognition action is a complex evidentiary action that legally determines the perpetrator's identity based on his or her voice. The Serbian legislature foresees the possibility of taking a voice recognition action throughout the proceedings, which is why we will use the term perpetrator for the person whose voice is to be recognized, which encompasses both the suspect when their voice is recognized in pre-trial or in the investigation, as well as the accused when recognizing is performed at the main trial.

The voice is recognized when the witness, who subsequently hears it, declares that he/she remembers the voice he/she has already heard and described (Marković, 1972, p. 437). The Criminal Procedure Code of the Republic of Serbia (*Službeni glasnik Republike Srbije*, 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019) in the provisions of Articles 100 and 90 provides for a voice as an object of the recognition action, but when determining the manner and conditions of performing the recognition action, it refers to the appropriate application of the provisions on taking the recognition action of a person or object.

The voice recognition action will be taken by the procedure authority when it is necessary to determine whether a witness recognizes a particular voice. The witness recognizes the voice by being presented, at the same time, with the perpetrator's voice, together with other voices unknown to them whose basic characteristics are similar to the voice described earlier by the witness. The presentation of voices is done by requiring the perpetrator and other persons to utter the same words or phrases in an identical manner (loud, quiet, or whispering) (Симоновић, 2004, стр. 269).

After the witness has been presented with a number of voices, he/she is required to say whether he/she recognizes any of them, and in the case of a positive (affirmative) response, to indicate to the recognized voice and to state whether they recognize the voice with certainty or with a certain degree of probability. There are, in fact, two degrees of belief – greater in the form of certainty and lesser in the form of a certain degree of probability. The degree of probability is expressed by witnesses as a percentage, seeking to more accurately express the degree of belief in their ability to accurately identify the voice of the perpetrator they have previously observed, taking into account the preponderance of the grounds in support of or at the expense of recognizing the voice (Илић и сар., 2013, стр. 288; Атанасов, 2016.). The outcome of the recognition action may consist of the correct or incorrect recognition of the voice. The correct outcome occurs when the witness recognizes the perpetrator’s voice among multiple voices, or doesn’t point to one of the voices presented when the perpetrator’s voice is not present. The inaccurate outcome of the act of the recognition occurs when the witness

misidentifies and points to a voice that is undoubtedly found to belong to a person other than the perpetrator (so-called *false alarm*), or when he/she fails to identify the perpetrator's voice by stating that he or she is unable to recognize the voice described previously, although the perpetrator's voice was among the voices presented (Koţar, et al., 2013, p. 251).

When a voice recognition action is taken in a pre-trial or during an investigation, it will be conducted in such a way that the person whose voice is being recognized cannot see or hear the witness, and in such a manner that the witness doing the identification cannot hear the perpetrator – the suspect, before the recognition procedure begins. The purpose of such an act of recognition is to protect the witness from any possible threat and harm that might occur by the person whose voice is being recognized, and at the same time to prevent the suggestive influence on the witness to identify a particular person by the voice heard just before the recognition action is taken, and not at the scene of the crime (Илић и сар., 2013, стр. 304). The identification action in the pre-trial procedure and in the investigation is carried out in the presence of the public prosecutor. The course of the proceedings and the results of the action taken should be recorded in minutes. Depending on how the voice recognition is implemented, various items (e.g. audio and/or video recordings) are an integral part of the record, which together with the content fixed in the record, represent a unity manifest the whole process of voice recognition action in an original way (Атанасов, 2014, стр. 228 – 240).

Unlike some foreign legal solutions, The Criminal Procedure Code of the Republic of Serbia regulates the manner of performing the recognition action. However, all questions related to the number of voices presented, the similarity of voices, taking the description of a voice, the moment when the authority takes the recognition action and other issues of importance for the effectiveness of the recognition action are left to criminal theory and practice.

Criminal and Tactical Rules for Voice Recognition

Recognizing the specificity of a voice as an object of recognition, criminal tactics have built a number of rules based on the facial recognition action, the proper application of which reduces the possible dangers of inaccurate recognition. Some of these rules are specifically mentioned as follows (Marković, 1972, p. 438 - 439):

- Prior to the immediate realization of the voice recognition action, it is necessary to determine the witness' ability to perceive the voice. This means that individual differences arising from the personality of the witness should be determined. First of all, *the age of the witness* should be determined (emotional sensitivity to other human senses is the first one that begins to weaken, which is why it is estimated that about 25% of the elderly have hearing impairment) (Simić et al., 2007, p. 82), *the psychic personality* of the witness (determining which type of observer the witness belongs to, auditory, visual, visual-motor or neutral), the witness' *job (occupation)* (musicians

perfectly notice the differences between voices), *cultural background* (in theory, there is an understanding that people who are closer to the natural way of life have a better ability to perceive and observe sounds and voices), etc. (Marković, 1972, p. 438).

- The witness should be required to describe the conditions in which he/she observed the voice: where, when and under what circumstances he/she observed the voice. For example, where he/she stood and how far he/she was from the source of the voice, the perpetrator, because distance completely prevents or greatly reduces the ability to perceive, as well as to determine differential features (e.g., at the end of the 19th century, one survey found that at 8 meter's distance from the speaker, 56% of listeners between the ages of 50 and 60 would hear whispers, 11% of them between the ages 60 and 70 and only 10% of listeners between the ages 70 and 80. Persons older than 80 will be able to hear whispers only at a distance of 2 meters (about 40%) (Smiljanić, 1999, p. 54). Furthermore, how long the speech and speech observation lasted (a short observation would make it impossible to perceive specific voice traits, that is, the length of the observation positively affects the accuracy of identification (Deffenbacher, 1991; In: Bornstein, 1995, p. 342); whether the observation was made outdoors or indoors (this significantly affects the content and scope of observations) (Marković, 1972, p. 438 – 439); what were the weather and ambient conditions (e.g., whether it was raining and thundering, silent or noisy, whether other disturbing factors were present and which ones, because every aspect of the event that interferes with the perception of the perpetrator's voice has a negative impact on the later memory of the witness) (Deffenbacher, 1991 In: Bornstein, 1995, p. 342), whose voice he/she heard, what the characteristics of that voice are that make it specific to identify, whether he/she heard the whole speech or only part of it, etc. (Vodinelić et al, 1986, p. 241).
- It is crucial to determine the emotional state of the perpetrator at the moment when the witness observes his/her voice, because depending on the emotional state of the perpetrator, his/her voice also changes (Altavilla, p.322). For example, the voice of the perpetrator in anger or hatred can become squeaky, hoarse and metallic, and tremble in fear. The velvety voice of a woman in anger can become uncomfortable and stiff, while the voice of a man when addressing a beloved woman can get a feminine sweetness. The tone of the voice is also very important to determine, because depending on the tone of a single word or phrase, one speech may have different meaning (Altavilla, p.121).
- The interview with the witness should also include questions that determine the psycho-physical condition of the witness at the time the voice is observed, that is, whether he/she was rested or tired, intoxicated, whether his/her attention was focused on the voice to be recognized or whether he/she heard it suddenly and by chance, and whether the witness' memory of the acoustic contents is good or bad, and what the state of his hearing sense is, etc. (Vodinelić et al, 1986, p. 241).

- It is necessary to require the witness to describe in detail the voice he or she will recognize, taking care not to ask questions that would suggestively affect the witness, and that the witness' ability to describe and recognize does not have to be developed to the same extent. Voice descriptions have value only if they indicate individual and, at the same time, differential features that make it possible to distinguish and recognize the voice (Marković, 1972, p. 439). In describing the voice, an effort should be made to determine the color, pitch and volume of the voice, determine whether the voice has been communicated in a whispered or altered voice, whether the voice has any particular characteristics and whether a specific characteristic is present in the mode of speech, in the mode of pronunciation of individual sounds, i.e., individual letters, especially the letter "r", what the speaker's accent is, whether the speech belongs to a particular dialect, slang, jargon, and the like (Pečjak, 1981, p. 458-459). Moreover, did he/she perceive the voice of a known or unknown person, because if the witness believes that they heard the voice of a known person, when he/she hears that voice again, the witness will not be able to correct that mistake.
- Due to the specific characteristics of the voice, experts (linguist and phoneticians) should be used during the first interview or examination of the witness. Reasons for this are to be found in the inability of most witnesses to describe the necessary characteristics of a voice suitable for its identification. Most witnesses perceive and remember the characteristics of the perpetrator's face and clothing better than the perpetrator's voice and speech, which is why the knowledge in the field of linguistics and phonetics related to the articulation and acoustic features of the voice and speech possessed by the linguist and phonetician will help the witness to accurately describe the voice that he/she has heard. If the authorities do not have the basic knowledge in this field, it is necessary to consult the experts mentioned above and to engage the linguist and phonetician in the course of drawing up voice and speech descriptions, selecting similar voices, and during the direct realization of the voice recognition action (Jokić, 2018, p.120).
- Voice recognition can be immediate and indirect in nature. Immediate voice recognition is performed with the witness listening to voices of persons in the adjacent room, while indirect recognition is realized with the witness' conclusion on the identity of the voice after hearing multiple recorded voices from the tape (Симоновић, 2004, стр. 269). Whether the recognition action will be taken directly or indirectly will depend on whether the perpetrator is cooperative and whether the perpetrator wants to participate in the recognition action, that is, whether the perpetrator is available to the authorities and whether there are recordings of the perpetrator's voice recorded by audio devices. Due to the need for auditory presentation to be carried out in a professional and efficient manner, a linguist should be involved in the organization process and the implementation of the voice recognition action. (Атанасов, 2016.; Bajin, 2010, p.301.).

- The presented voices must be similar and the recognition must be of an optional character, i.e. the witness, among a number of similar voices, should point to a voice he/she has heard and described before. That is why the leader of the identification action should assemble a group of similar voices, which will be presented to the witness and which, by their characteristics, provide an adequate basis for identification.
- This means that the group of voices should be composed in a way that the voice of the perpetrator does not stand out by any means. Beside the suspect, the group consists of other persons (fillers), who are selected according to certain characteristics possessed by the perpetrator, for example, social affiliation and ethnicity, educational level, intensity, height and the color of the voice, etc. The spoken statement (pronouncement, content) should be the same as the one the witness originally heard at the time when the perpetrator uttered it. Some police agencies carry out this action by capturing the speech of each individual with special equipment (which must meet certain technical characteristics), and afterwards presenting them to the witness. Technical characteristics imply that the equipment can record and reproduce frequencies from 120 to 5500Hz, with an amplitude deviation not exceeding +/- 6dB. Other agencies find it more efficient to "perform a live presentation of the group." This is achieved by having a group of persons – voices of the presentation line – in a separate room from the witness listening behind the screen, or from the room next door (Stacey et all., 2018).
- The number of voices to be presented simultaneously will depend on the simultaneous capacity of the witness, which is an extremely individual matter. It is the witness' ability to receive a number of stimuli, which is the consequence of the selectivity of the sensory organs. Some psychologists believe that an adult should not be presented with more than six voices, and no less than three. Children, tired and frustrated witnesses, should not be presented with more than three voices; though there are different opinions (e.g. in England the number is at least 8, whereas in domestic literature the opinion is that this number should not exceed 8) (Aleksić & Milovanović, 1993, p. 215). With the increase in the number of stimuli, i.e. voices, attention becomes distracted, the witness cannot focus on the voices presented, and therefore, the result of the recognition taken may be incorrect (Vodinelić et al, 1986, p.242).
- Although it is indisputable in domestic theory and practice that the recognition action is performed by presenting multiple voices in order to identify them, and that there are no dilemmas about selective recognition, there are other opinions that highlight certain negative aspects of selective representation. Namely, the supporters of a different understanding emphasize the suggestive influence of the recognition action on the witness, i.e., they state that such recognition should be approached only when the witness declares that he/she remembers the voice heard during the critical event, and instead of presenting similar voices to the witness, different voices should be presented in order to be recognized by the witness. Vodinelić

believes that these complaints are not justified and can be remedied by a number of appropriate measures. In the first place, he points out that the suggestive influence of the recognition action on the witness can be eliminated by removing the critical object of recognition – the voice will not be presented alone, but always with similar voices.

The Criminal Procedure Code prohibits asking suggestive questions during the interrogation of the witness, except at the main hearing when the witness is cross-examined, and consequently the creation of situations that would have a strong suggestive effect on the witness (e.g. giving only one voice to the witness for the sake of voice recognition) is prohibited (Vodinelić, 1985, p.575-576). Furthermore, leading a witness to hear the perpetrator before recognition is considered to be a suggestive act in the most dangerous way, and consequently no voice recognition action is allowed afterwards (Vodinelić et al, 1986, p. 241).

- Before the act of recognizing the voice, the witness must be asked a specially formulated question for this action: "Is there among the presented voices the voice you described earlier, or is that not the case?" (Vodinelić, 1996, p. 232), which will lift off the burden of the witness to necessarily label one of the voices as the voice that he/she heard at the critical moment. However, according to some psychologists who have dealt with the range of recognized material, if the voices are very similar in perceptual characteristics, the recognition success may be "somewhat better than accidental guessing" (Pečjak, 1981, p. 263).

CONCLUSION

Voice recognition action is a complex evidentiary action taken by the authority when it is necessary to determine whether the witness recognizes a voice heard earlier. When the witness has not seen the perpetrator but only heard his/her voice, the organ of the proceeding will take a voice recognition action, the result of which is evidence that can be used in the perpetrator's guilty plea and upon which a verdict can be based and reached. The perpetrator's voice is characterized by color, volume, strength and speed, i.e. a series of individual characteristics that make each individual's voice, regardless of the variations expressed, suitable for identification. Some of these characteristics are natural features, determined by hereditary and physiological factors, and some are acquired habits. Voice recognition is a complex evidentiary action. The completion of this action requires the proper implementation of legal provisions and criminal-tactical rules (especially those concerning the number of voices to be presented to the witness, meeting the criteria of the similarity of voices, eliminating suggestiveness, protecting witnesses, using phoneticians, linguists, etc.). Principally, it should be borne in mind that voice-based perpetrator identification is most commonly performed by "non-professional listeners", which is why the

participation of phoneticians, i.e. linguists, represent the *conditio sine qua non (a necessary condition)* of the effective realization of the voice recognition action.

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ЗНАЧАЈ ИДЕНТИФИКАЦИЈЕ ГЛАСА У ПОСТУПКУ ПРЕПОЗНАВАЊА ЛИЦА ОД СТРАНЕ СВЕДОКА

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Резиме

Радња препознавања гласа је сложена доказна радња коју орган поступка предузима када је потребно утврдити да ли сведок препознаје глас који је раније чуо. Када сведок није видео учиниоца кривичног дела, већ је само чуо његов глас, орган поступка ће предузети радњу препознавања гласа, чији резултат представља доказ који се може користити у поступку доказивања кривице учиниоца кривичног дела и

на коме се може заснивати судска пресуда. Радња препознавања гласа може се предузети током целог поступка, с тим да је орган поступка дужан да појачане мере заштите сведока примени када се ова радња предузима у предистражном поступку и истрази. Глас учиниоца кривичног дела карактерише боја, јачина, снага и брзина, односно низ индивидуалних карактеристика које глас сваког појединца, независно од изражених варијација, чини погодним за идентификацију. Нека од наведених обележја природна су датост коју одређују наследни и физиолошки фактори, а нека стечених навика, услед чега не постоје два иста гласа, као што не постоје два иста отиска или две исте мрежњаче. Стога је могуће на основу гласа посредно сазнати и о више других карактеристика учиниоца кривичног дела, које су оријентационог карактера, као што су: старост и пол говорника, здравствено стање. Радња препознавања гласа представља сложену доказну радњу за чију реализацију је непходна правилна примена законских одредаба и криминалистичко-тактичких правила (нарочито оних која се тичу броја гласова који ће бити предочени сведоку, испуњења критеријума сличности гласова, отклањања сугестивности, заштите сведока, коришћења фонетичара, лингвиста и др.). Треба имати на уму да идентификацију учиниоца кривичног дела на основу гласа врше најчешће „непрофесионални слушаоци", због чега учешће фонетичара, тј. лингвисте, представља conditio sine qua non ефикасне реализације радње препознавања гласа. Њихово учешће чини се нарочито важним у моменту када сведок врши опис гласа који је чуо, током формирања групе гласова који ће бити предочени сведоку, као и током непосредне реализације радње препознавања.

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1171–1185

Прегледни рад https://doi.org/10.22190/TEME191031070V
Примљено: 31. 10. 2019. UDK 327:911.3(497.11)
Ревидирана верзија: 5. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

THE GEOPOLITICAL REALITY OF SERBIA AND ITS SECURITY

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Abstract

In the assessment of Serbia"s security within the Balkan geopolitical node, it is important to analyze the position of foreign political centers of power and their geopolitical partners in the region, as well as the relations with other geopolitical nodes (Caucasus, Middle East) or key zones (Bosphorus, Dardanelles, Suez). Usually, power centers such as the US, NATO, EU, Russia and others demonstrate their inclination to protect the interests of a particular ethnic group, religious inclination, or state. The relations between Eurasia (Russia) and Orthodox Serbia, as well as between Mitteleurope (Germany, Austria) and Catholic Croatia can serve as examples from history. From the specific European, Eurasian and global centers of geopolitical power, the Balkans are viewed in terms of a very specific geopolitical interest.

In such a sensitive environment, the Republic of Serbia seeks to find a balanced relationship both with the great powers and with the states and peoples in the immediate environment. Balancing military neutrality, threading the path to European integration, and turning to Russia and Eurasian allies, all raise a number of issues in the area of security and stable political positioning on the contemporary world stage.

Key words: Serbia, Balkans, Balkanism, Geopolitical Node, Security.

ГЕОПОЛИТИЧКА СТВАРНОСТ СРБИЈЕ И ЊЕНА БЕЗБЕДНОСТ

Апстракт

У оцени безбедности Србије у оквиру балканског геополитичког чвора од значаја је анализа позиције спољнополитичких центара моћи и њихових геополитичких партнера у региону, као и односи према другим геополитичким чворовима (Кавказ, Блиски исток) или кључним зонама (Босфор, Дарданели, Суец). Обично, центри моћи као што су САД, НАТО, ЕУ, Русија и други – демонстрирају своју наклоност према заштити интереса одређеног етноса, религије или државе. Као историјски

примери могу да послуже односи између Евроазије (Русије) и православне Србије, као и између Mitteleuropa (Немачка, Аустрија) и католичке Хрватске.

Из конкретних европских, евроазијских и глобалних средишта геополитичке моћи, на Балкан се гледа из различитог географског оптикума. Имајући у виду да је географски неодвојив део Европе, Балкан, а посебно простор Србије, згодно је послужио да апсорбује мноштво екстернализованих политичких, идеолошких и културних фрустрација које потичу из тензија и противречности својствених регионима и друштвима изван Балкана. У тако осетљивом окружењу Република Србија настоји да пронађе избалансиран однос како према великим силама тако и према државама и народима у непосредном окружењу. Избалансирана војна неутралност, пут ка европским интеграцијама или окретање Русији и Евроазијским савезницима – отвара бројна питања у области безбедности и стабилног политичког позиционирања на савременој светској сцени.

Кључне речи: Србија, Балкан, геополитички чвор, безбедност.

INTRODUCTION

The security threats in contemporaneity have changed substantially, and yet, as Schopenhauer argued, we live in a "worst of all" world, and given that "God Mars still continues its apocalyptic march," all these facts must not stop the struggle of the democratic world in changing the driving forces, dimensions, forms and procedures, and mechanisms of operational-strategic processes of global security protection. These forces, continuous with the development of globalization, should focus all potentials on domestic, local and regional security issues. One has to be optimistic, especially persistent in this task, in which sociologists have a great responsibility as well, with the help of the security structures made in response to the threats present today and still in force, new forms and institutions of international cooperation to meet the new security realities.

Over the past few years, the geospatial of the Balkans has once again been at the forefront of actuality. The Balkans is today politically divided into the eastern and western parts. Countries that are full members of the European Union and NATO belong to the Eastern Balkans, and those that are not, but wish to be, are the Western countries. The former have a certain privilege - greater assistance in the economic development and a protective umbrella in maintaining their security.

The fact that the Balkans lies at the crossroads of three continents (Europe, Asia and Africa), and represents a contact zone of collisions and interferences of the three major religions and their civilizational-cultural differences and interests (Orthodox, Roman Catholic and Islamic), makes the Balkan Peninsula one of the most geopolitically unstable regions not only on the European continent but also beyond.

The contemporary Balkans are in the process of social transformation and economic transition - the construction of the new internal, interstate and international relations, as well as post-war recovery. Armed conflicts over territorial interests in the western part of the Balkans during the 1990s had

very large geopolitical, geo-economic and social consequences, the removal of which required a great deal of human effort and material and technical means. Overcoming the emerging gap with armed conflicts and interethnic, inter-religious and inter-ethnic intolerance will not be easy to solve. It is because of this security and geopolitical importance of the Balkans and Serbia that the "creators" of the New World Order have a special geopolitics and geo-strategy in the Balkans.

1. THE BALKAN GEOPOLITICAL NODE AND SECURITY

At the beginning of the twentieth century, Europe added to its Schimpfwörter repertoire, in derogatory words, a new term that, though recently coined, proved to be more enduring than those with a hundred-year-long tradition. "Balkanization" signified not only the fragmentation of large and powerful political units, but became synonymous with a return to tribal, backward, primitive and barbaric social organization and lifestyle. In its most recent hypostasis, especially in the context of American higher education, the term has been completely taken out of context and has begun to address a wide variety of issues. The fact that the Balkans is described as the "other" in relation to Europe does not need to be specifically proved. With regard to the Balkans, it has been emphasized that its inhabitants did not care for standards of conduct that were devised and prescribed by the civilized world. Like any other generalization, this one is based on reductionism, but that reductionism and the creation of stereotypes about the Balkans have reached such a degree and intensity that the whole discourse deserves and requires a special analysis (Todorova, 2006, p.47).

The historical-geographical Balkans represent "old Europe", the cradle of Hellenic civilization, the Byzantine Empires and the Orthodox religion, unlike the "new Europe" which inherits the cultural heritage of the Roman Empire, the Catholic Church and the cultural and historical epoch of the Renaissance. The first civilization in Europe (ancient Greece), the first empire (Macedonia), was formed on the Balkan Peninsula, followed by other empires (Byzantium, Turkey, Habsburg) and the interest spheres of the great powers developed respectively. For centuries, the East and the West have struggled on the Balkan soil, under various forms of ecclesiastical, cultural, ideological or state-political expansionist pretenses. The Balkans is a specific regional conglomerate of different nations, cultures, religions and languages. Throughout the turbulent history of this region, tempestuous events and wars have taken place, leading to various processes of ethnic integration and disintegration (Grčić, 2013, p.41).

Geographically inseparable from Europe, but Balkanistically constructed as a "lower order" internal (cultural) otherness, the Balkans "conveniently served to absorb the multitude of externalized-external political, ideological and cultural frustrations that stem from tensions and

contradictions inherent in regions and societies outside the Balkans" (Todorova, 2006, p.355). Because of the geostrategic and geopolitical importance of the Balkans, the "creators" of the New World Order (NSP) have a specific strategy that underpins several important factors (Tomić, 2015, p.108; Trud, 2013, p.14-16):

1) Instead of a bipolar or multipolar international order, the tendencies of a unipolar order dominated by the USA and the strengthening of the NATO alliance and the European Union (EU) in order to neutralize Russia and China, as a once powerful empire, are being revitalized.
2) The firm and dominant positioning of the Federal Republic of Germany in Europe and the EU and its control and balancing with France and the United Kingdom. As the Balkans are a strategic region of the Eastern Mediterranean due to oil and roads, Germany and the United States are confronted with the goal of controlling the Balkans, and the Balkans are a constant field of competition and competition for the great powers, while the nations, states and peoples of the Balkans are just pawns in that chess party.
3) The transformation of the Balkans into an area of constant latent conflicts and dangers, instead of joint cooperation and integration and on this basis, the existence of a "world policeman" who resolves these conflicts.
4) The revitalization of the role and function of NATO, the opening up of perspectives and the meaning of the existence of this organization, as well as its possible actions.
5) The expansion to the East (and thus to American influence), the environment and isolation of Russia (the example of Ukraine), and the intersection of the Orthodox transversal to the South - Mediterranean and Middle East.
6) The common interests of the US and Germany are observed through the reduction of nationalism, and thus of state structures and the minimization of special national interests, and thus of states for different purposes. Nationalism is a barrier to the spread of the world order - a universal source of well-being, and America believes it is its religious duty to allow humanity to enjoy it.
7) The infiltration of Islamic fundamentalism into the Balkans and Europe with the ultimate intention of latent political and cultural weakening of Christian Europe, with Kosovo and Metohija and Bosnia and Herzegovina playing the role of the "Trojan Horse" of America.

The policy of destabilizing the Balkans, this important European region, serves to legitimize the presence and existence of the largest and only military alliance in the world, NATO, in the region, which practically justifies its existence and continues to expand. The end result is the control of European states and European borders by a single military alliance, the

subordination of the EU to a rigid and dangerous Leviathan, behind which, of course, the interests of the global Hegemon (unlimited lord), the United States, play a primary role in deciding this military alliance (Stojanović, 2009, p.62).

It is noticeable that, according to the Neo-Eurasian conception, the Balkans is again on a geopolitically shaky "crack". The "broken" line was traced along the meridian line along the Serbian border with Romania and Bulgaria and divides the "chains of the world" between the two of the four global zones - Euro-Africa in the west and Pan-Eurasia in the east. Thus, the two Black Sea countries, Romania and Bulgaria, are part of Russia-Eurasia as the most extensive "large area" of the Pan-Eurasian zone. Serbia does not belong to the Pan-Eurasian zone, i.e., The Russian-Eurasian large space, already as part of the ex-Yugoslav transitional post-space (designated as the experimental Western Balkans), belongs to the European Great Space, which is an integral part of the Euro-African zone (Stepić, 2016. p.582).

2. THE GEOPOLITICAL REALITY AND SECURITY OF SERBIA

As a precondition for achieving the primary geopolitical, security and economic goal of the NSP actors - penetrating the East ("Drang nach Osten"), mastering the Eurasia area - there is a problem of previous mastering, conquering and controlling the Balkans, and especially its central maneuvering space - Serbia, as a significant geopolitical and geostrategic region. It is located at the intersection of the two most important, richest and most populous continents - Europe and Asia, connecting them with the main and shortest inland, sea-river and air routes. This communication bundle connects northern Europe with the Mediterranean, western Europe with the Middle East and Africa (Sekulović, 2011, p.61).

The area of the Balkans, by its geopolitical and security position, is a very dynamic area. Serbia, being at its center, has been exposed for many years to the consequences of many historical events and processes, those directly related to the Balkans, as well as those of global importance (Vukonjanski, 2014, p.104). The influences that came to Serbia in this way sometimes had a beneficial effect on the state and the people, and on other occasions they would collapse on it with the devastation of a natural phenomenon. In the last twenty years, Serbia has once again witnessed and participated in dramatic and complex events that, of course, have global significance. These were events with far-reaching consequences, far exceeding the local geospatial.

Often, as a consequence of the great struggle of large geopolitical players, unsettled inter-ethnic and inter-state relations remain in the Balkans. During the last decades of the twentieth and the first and second decades of the twenty-first century, it turned out that Serbia"s geopolitical goals were not in line with the goals of as many as three, out of the four geopolitical

concepts outlined (Atlanticism, Central European Continentalism and Neo-Ottomanism), resulting in the significant erosion of the geopolitical position of the country. Serbia was forced into geopolitical withdrawal, so the control zone is continuously spatially diminishing, and as a consequence the process of converting influence zones into occupational zones occurs (Proroković, 2014, p.643).

In order to analyze the geopolitical position of Serbia, it is necessary to consider a number of specific social and natural factors that directly condition the historical, security and geopolitical development of Serbia. The geopolitical position of our country is complex because it is determined by a combination of different geographical, cultural and historical, geopolitical and security factors. The geographical, historical, cultural, religious, and geopolitical-security environment has had a direct impact on the historical and cultural development of Serbia (Sekulović & Gigović, 2008, p.12).

The elements of the structure of the geopolitical-security environment of Serbia are determined by:

1. Cultural and religious factors include influences from Central Europe, Asia Minor and the Mediterranean, and religion-wise, Orthodoxy, Islam and Catholicism, respectively.

2. Historical and geopolitical factors include the national projects such as Mitteleuropa (Drang nach Osten), Eurasia (Russia), Atlanticism (USA, UK, France) and national projects (Greater Albania and others).

3. Modern geopolitical-security environment determined by NATO, Partnership for Peace, European Union, Former SFRJ (disintegration) and European institutions and organizations.

Due to its favorable natural connections, Serbia and its neighboring parts mostly cover the central Balkan area (Central Maneuvering Area) which has the easiest direct communication links with neighboring countries. This area includes: the Skopje area with Sheep Field, Kumanovo (Northern Macedonia) and Preševo divorce, Kosovo, the regions around Vranje, Leskovac, Pirot and Niš, and the areas around Kyustendil and Sofia in Bulgaria. The Skopje-Preševo region has a unique position in this area. It has easy and secure connections in all directions, holds the key to the most important longitudinal communication and its connection through main cross-communication. Due to these characteristics, the Skopje-Preševo area becomes the center from which the vast Balkan regions can be most easily controlled, and from which all parts of the interior of the Balkan Peninsula can be influenced. For these reasons, Cvijić singled out the Skopje-Preševo area by importance and called it the Balkan core (Cvijić, 1991, p.121).

From the national point of view, the geospatial of Serbia can be seen as a national battlefield and it is defined by borders, size and shape with all the characteristics and phenomena that work in it. In this case, it is necessary to define possible challenges, threats and risks to national security and, on the basis of this, to define strategic, operational and tactical elements in the

geospatial of the country. An analysis of the American daily newspaper "Defense and foreign affairs" states that "[...] the node of Southeast Europe remains Belgrade" (Sekulović & Milkovski, 2005, p.10).

In the process of the enlargement of the European Union to the southeast, the term Balkans is increasingly being replaced by the term Southeast Europe. In practice, the term Western Balkans is limited to the territory of the former Yugoslavia without Slovenia and includes Albania. Countries created in the process of the disintegration of the former SFRY are burdened with a number of complex geopolitical and overall development problems. Some of them are included in the EU and NATO, some aspire to those alliances, and only some want to maintain neutrality over NATO. Practically, the West has established full control over much of the Western Balkans, thereby providing a strong geopolitical influence on the overall development processes in emerging countries, as well as influencing the positioning of emerging countries in relation to the regional environment. Contrary to the interests of the West, the rebuilding of New Russia, practically since the beginning of this century, is gaining increasing geopolitical and economic influence globally, including in the Western Balkans (Gnjato, R. et al, 2015, p. 61).

The obstacles that the Serbian people face in all proclaimed, entirely divergent, but mandatory, real-political processes of joining the integrative Euro structures are numerous, diverse and substantially unique. Serbia in the process of globalization is an example of a small nation that is in no way able to cope because it is either too vulnerable to external influences or stubbornly opposed.

The project "Serbia's Accession to the European Union" is not only too difficult, but also a life-long or experientially unconvincing answer to the major collective-existential dilemma that the Serbian people face at the beginning of the twenty-first century: the consent to the possible separation of Kosmet from the rest of its national territory. The Serbian people face the challenge of new supranational integrations, the outcome of which is now unknowingly suspected by those who initiated them (Vukonjanski, 2017, p.114).

For all these and many other related reasons, even at the level of rhetorical self-presentation, the project "Joining Serbia to the EU" is not only too difficult, but also a life-long or experientially unconvincing answer to those major collective-existential dilemmas facing the Serbian people at the beginning of the twenty-first century (Nakarada, 2004, p.556). Serbia is facing the choice of a geopolitical strategy of guaranteed national integrity and security. We can formulate such a variant of foreign policy engagement as active neutrality. This has to do with the successful establishment of comprehensive economic, political and military contacts on the one hand, and good neighborly relations on the other. An essential feature of Serbia"s future active neutrality should be the building of favorable state positions in

the inevitable political transformation of our region in the future from the position of a just and lasting solution to the contemporary (not historically worn out) Serbian national issue. The basic criteria for defining Serbia‟s foreign policy priorities should be set depending on the reality of its geopolitical and geo-strategic position. Serbia's military neutrality, proclaimed by the National Assembly in 2007, must find its place in normative (laws and regulations) and strategic documents, which are under review (Forca, 2016, p.120).

Current processes of Balkanization show that the Balkans and Serbia have not entered the period of geopolitical calm and lasting peace. Although poorly visible, these so-called low-intensity conflicts are taking place before our eyes as part of the realization of a policy of even stronger dominance of NATO and the US in the Balkans (Despotović, 2010, p.545).

3. SERBIA'S GEOPOLITICAL SITUATION AND CURRENT SECURITY CHALLENGES

Serbia‟s geopolitical position can be explicated through the description of its immediate environment, and is in the function of interstate relations with its neighbors. Serbia‟s geospatial area is surrounded by eight countries, which makes its position significantly sensitive. When it comes to our neighbors, their goal is to diminish, relativize and take on the political, economic and geostrategic benefits of our position. Certainly, relations with all neighbors are not uniform, but depend on numerous factors of historical, social, geopolitical, economic, military and other nature. Establishing stability and balance among neighbors reduces the possibility of conflict, but a policy of double standards and disregard for international principles can always bring the Balkan story back to the beginning with the ability to activate the military power of the dominant world powers. Therefore, Serbia's geopolitical position towards its neighbors should be individualized in relation to each neighbor.

The recent geopolitical processes in the early decades of the twenty-first century show that the projected „axis of friendship‟ towards Germany in the European sector is very important, but not sufficient to successfully dismantle the US transatlantic bridgehead. Viewed from Moscow's "standpoint", a "gaping gap" in the southwestern sector is apparent, i.e. the need for a missing vector to the geopolitically crucial "Balkan subcontinent" (Stepić, 2016, p. 562). Serbia‟s geospatial is wedged between the diverse interests of global and regional actors, which are largely contrary to its national and integration goals. From this point of view, its geopolitical position is very sensitive.

In terms of considering the geopolitical position of Serbia and current security challenges, the following points should be considered: 1) Relations with countries belonging to international military alliances; 2) the current

military neutrality of the Republic of Serbia; and 3) other factors, among which the country‟s energy security is particularly emphasized.

3.1. The Relations of the Republic of Serbia with the Countries Belonging to the NATO Alliance

In terms of the neighbors‟ commitment, Serbia is wedged between NATO member states (Hungary, Romania, Croatia, Albania and Montenegro) and countries on track to becoming a full member of this Alliance (Macedonia). It is also located in the institutional environment of the European Union (Hungary, Romania, Bulgaria, Croatia). When considering the NATO alliance as a factor in Serbia‟s geopolitical position, it should be borne in mind that NATO countries have around 250,000 troops and several dozen functionally equipped NATO military bases that could potentially be used in aggression against Serbia (Gigović, 2017, p. 42-43).

For the defense and security of Serbia, the fact that all NATO states, security and defenses are built and upgraded in such a manner so as to act as a collective defense system, coordinated to jointly participate in the use of defense capacities and to engage human and material resources in the event of an attack on one of them. In 2007, the Serbian Parliament voted in the favor of the Resolution on Military Neutrality, which makes its position in relation to NATO and its immediate geopolitical and military environment very complex and sensitive. Military neutrality implies its own defense capabilities that are capable of responding to contemporary security risks. This requires a significantly larger army and significantly greater investment in Serbia‟s defense system, which is not in line with its current economic capabilities.

When it comes to the geopolitical aspect of Serbia-EU relations, it is important to emphasize that Serbia is in the zone of the institutional political and military security environment of the Union. Hungary, Croatia, Slovenia, Romania and Bulgaria are EU members. Montenegro, BiH, Albania, as well as Serbia are in the process of joining the EU. In view of the past experiences with the process of Serbia‟s accession, it is expected that as the process progresses, new conditions will emerge on the part of the EU regarding Kosovo, which greatly complicates our political and military geographic position. Also, the assumption is that the neighboring EU countries will use the right of veto to force Serbia to make various concessions, and regardless of whether it is the unresolved border issues or the position of minorities in Serbia, a policy of double standards and disregard for international principles can always bring the Balkan story back to the beginning. All this makes our position in relation to NATO countries and the EU military-geographically sensitive.

3.2. The Political Aspect of the Sustainability and Limitations of Serbia's Neutrality

The basic principle of domestic policy, especially on extremely important issues for the state and the people, is the consensus of all actors, or at least in the majority of the points of view. On the other hand, the basic principle of foreign policy is compromise. There is another principle in foreign policy, which, unscientific but pragmatic, we can call - "as the leader says (obedience)" - and this is a kind of compromise. Both principles (consensus and compromise) are connected by interest. In accordance with the aforementioned initial and borderline conditions, the determination of the political elites in Serbia to make a decision on military neutrality can be considered an act of extortion, or the least damage, if no gain, as the theory of games observes.

A particular (interstate) aspect of the political deliberation of the sustainability and limitations of Serbia's military neutrality is the question - to whom that military neutrality applies. Many analysts, including the official EU, "criticize" Serbia for not having adopted a foreign policy strategy.

The Constitution of Serbia, in its preamble, contains a position on the inseparability of Kosovo and Metohija as an integral part of the Republic of Serbia. The facts give a completely different picture, characterized by the facts that:

1) In Kosovo and Metohija, the protectorate is the UN and the government of the Republic of Serbia does not function;

2) Kosovo"s independence has been recognized by over 110 countries, including the United States and most EU Member States (23 Union Member States),

3) Kosovo"s independence has not been recognized by Russia and China.

4) Point 14 of the Brussels Agreement, although it does not contain the concept of Kosovo"s independence, implies its independent path towards the EU,

5) The official policy declaratively declares that it will not recognize Kosovo"s independence,

6) The unilateral and unlawful proclamation of Kosovo"s independence (as classified in the highest strategic documents) is considered the greatest threat to Serbia"s security.

So the political issue of all issues, including military neutrality, is the resolution of the status of Kosovo and Metohija. According to numerous analysts, the strategic goal – Serbia"s accession to the EU, will one day lead to a request for Serbia"s declaration of the recognition of Kosovo"s independence (Forca, 2016, p. 143-144).

The major issue, including the attitude towards the neutrality of Serbia, is the fact that Serbia is an "unfinished" state and a UN and EU security object, that is, de jure, the final status of Kosovo and Metohija has

not been determined. Therefore, it should come as no surprise that Serbia does not have a foreign policy strategy and that it "delays" the revision of the National Security Strategy. The settlement of the status of Kosovo and Metohija will be a key factor in all issues of the status and position of Serbia in international relations. There is too much history in the Balkans. Where the homogenization of space on a national basis (Serbia, BiH and Macedonia) has not been completed, the biggest security problem remains. The settlement of the status of Kosovo and Metohija is a new topic and an introduction to solving the Serbian and Albanian issues.

3.3. The Geopolitical Challenges and Energetic Security of the Republic of Serbia

The part of the geopolitical stability of most countries, as well as Serbia, is increasingly reflected in energy security. Numerous states manage to build their power based on the possession and export of natural energy. When looking at the European continent, a clear separation can be observed between producer and consumer countries. The Balkan Peninsula is an important area in terms of the flow of energy and the connection of sources with energy consumers.

The main instrument in modern German geopolitics according to diagonals is its external economic activity. To this end, it exploits socio-economic transformations in Eastern Europe and restores its economic position in the region. In the last decade, Germany has been an absolute leader among foreign trade partners and investors, not only in Serbia, but in all Southeast European countries. Due to its long-term interests, penetrating the southeast, as close as possible to oil springs, through an increasingly prominent presence in the region, Germany is trying to threaten American domination in the Balkans, the Mediterranean and the Middle East. To that end, it has maintained traditionally good relations, not only with Turkey, but with the Islamic world in general. Much of central and western Europe does not have any natural reserves of energy resources (except for renewables and nuclear power plants) that would allow the smooth development of industry and the economy.

The main risks to the energy security of the Balkan countries are related to the volatility of the geopolitical situation and energy costs, mainly due to the countries‟ dependence on oil and gas imports, which is further fueled by high prices. Another important factor is the critically high level of energy intensity of their economies, mainly due to the outdated infrastructure base and limited investments for modernization, including the energy sector itself. These challenges are based on the poor governance of the energy sector, which increases the possibility of risky consequences, especially during economic and political crises (Đorđević, 2017, p. 58).

Serbia plays an important role in the transit of energy resources (primarily gas) from eastern to western Europe. Serbia‟s energy

infrastructure, including hydro and thermal power plants, is relatively old. Foreign partners are indispensable for expensive investments and overall investments in the energy sector. The increasing importance of Serbia in the European circles and the cooperation with Russian oil companies can be very useful for the future of the country"s energy grid. As Russia and China draw closer, they are increasingly criticized by the European Union and America. Serbia does not focus on nuclear energy, and renewable energy sources will be necessary to prevent potential threats to energy security, but also to meet the European Union standards.

CONCLUSION

An important historical, political and territorial feature of the Balkans is contained in the fact that it is an area whose borders have for centuries been determined by non-Balkan factors (great powers) according to their interests and power, often unnecessarily beyond the observance of the ethnic-national principle and the need to round up national territories as an important factor for peace and stability in the region. The metaphor of the Balkans as a "barrel of gunpowder" is the product of such a policy in which the constant instability and intolerance of the Balkan states and peoples is projected as an important feature of the "seduce and rule" strategy. An important consequence of this attitude of the international factor towards the Balkans are the centuries-old conflicts of the Balkan states, which underlie the unresolved territorial disputes, as well as the status of national minorities that remains outside the natural (ethnic) and administrative borders of the countries of origin.

The adverse trend in the geopolitical development of the Balkans should not continue. The national political and intellectual elites must be confronted with the fact that most Balkan nations are on the slow, but now seemingly safe, path to disappearing from this region. In order to stop such a trend and approach the path of peace and prosperity, it is necessary to take appropriate measures, including promoting inter-ethnic and inter-religious reconciliation and tolerance, establishing and maintaining inter-state, regional and international cooperation, accelerating economic development and improving the quality of life of all citizens. Foreign assistance, without conditionality and impartiality, is of the utmost importance. Such assistance should also be an obligation of the so-called international communities.

The favorable geopolitical and geo-strategic position of Serbia can be successfully valorized in the conditions of its full integration into Europe. The only way in which this valorization is possible is through the harmonization of relations with the environment, the stabilization of internal circumstances and the cooperation with the European and world institutions and associations. The inertia towards open European integrations, and the ignoring of their significance, initiates the possibility for Serbia to stay out of

all current events and contemporary trends. That is why the priority the geopolitical interest of Serbia is its integration into the European, economic, political and security system. Because of this geo-strategic and geopolitical importance of the Balkans and Serbia, the "creators" of the New World Order have a special geopolitics and strategy in the Balkans.

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ГЕОПОЛИТИЧКА СТВАРНОСТ СРБИЈЕ И ЊЕНА БЕЗБЕДНОСТ

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Резиме

У раду се истражује значај историјског, политичког и територијалног обележја Балкана садржан у чињеници да је он подручје чије границе већ вековима одређују ванбалкански фактори великих сила, које сходно својим интересима и снази, често мимо поштовања етничко-националног принципа и потреба, заокружује националне територије као битан фактор за мир и стабилност у региону. У раду се показало да је производ управо овакве политике, у којој је пројектована стална нестабилност и нетрпељивост балканских држава и народа, данас битан извор безбедносних претњи и изазова са којима се суочава Република Србија.

Такође, резултати истраживања у овом раду указују на то да неповољан тренд геополитичког развоја Балкана не би смео да се настави. Наиме, стваоци јавних политика морају бити суочени с чињеницом да је већина балканских народа на путу спорог, али, како сада изгледа, прилично сигурног, ишчезавања са ових простора. Да би се такав тренд зауставио и приступило путу изградње мира и просперитета, неопходно је предузети одговарајуће мере, укључујући и промовисање међунационалног и међуверског помирења и толеранције, као и успостављање и одржавање међудржавне, регионалне и међународне сарадње.

Главни закључак рада је да игнорисање или инертан став према отвореним европским интеграцијама иницира могућност континуираног угрожавања безбедности Републике Србије, како на политичком, економском, енергетском, али и војном плану, при чему би Србија остала ван свих дешавања и савремених трендова. Зато је приоритетан геополитички интерес Републилке Србије заправо њена интеграција у европски, економски, политички и безбедносни систем.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1187–1199

Прегледни рад https://doi.org/10.22190/TEME191101071D
Примљено: 1. 11. 2019. UDK 343.24:343.261-052(497.11)
Ревидирана верзија: 3. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

RESPONSIBILITY OF CONVICTED AND MAINTENANCE OF ORDER AND SECURITY IN PENITENTIARY INSTITUTIONS [a]

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Abstract

In the Republic of Serbia, there are more than thirty penitentiary institutions in which convicted offenders serve their prison sentences. These are prisons of different types: closed, semi-closed and open prisons. At the same time, convicts are not the only ones placed in prisons, but also other persons deprived of their liberty by law. Apart from offenders convicted for the commission of criminal offences, these penitentiary institutions also house other persons who are lawfully deprived of liberty under the law for the commission of a misdemeanour or for the failure to pay a fine or do community service. A common feature shared by all these categories of people is the liability for the committed offence but, depending on the specific type of liability, they are subject to different treatment in penal institutions. In such circumstances, penal institutions have to take relevant measures to maintain order and security in prisons.

The paper explores a number of issues related to convicts and other inmates in prisons. The authors first focus on three different types of liability: criminal liability, disciplinary liability, and material liability, which clearly imply different treatments of convicts and inmates in the course of serving their term of imprisonment. Then, the authors address the problems of maintaining order and security in prisons. Generally speaking, the law that applies to persons serving their sentences in a penal institution is the Act on the Execution of Criminal Sanctions but, depending on the committed crime, they may also be subject to the Act on the Execution of Imprisonment for Organized Crime. Thus, the authors discuss the legal solutions pertaining to this subject matter as contained in both legislative acts.

Key words: convicts, responsibility, order maintenance, security.

[a] The work was realized within the project "Protection of human and minority rights in the European legal area" no. 179046 of the Ministry of Education, Science and Technological Development of the Republic of Serbia.

ОДГОВОРНОСТ ОСУЂЕНИКА И ОДРЖАВАЊЕ РЕДА И БЕЗБЕДНОСТИ У КАЗНЕНИМ ЗАВОДИМА

Апстракт

У Републици Србији постоји више од тридесет затворских установа у којима осуђени преступници издржавају затворске казне. То су затвори различитог типа: затворени, полузатворени и отворени затвори. У исто време, осуђени нису само они који су смештени у затворе, већ су то и друга лица која су законом лишена слободе. Осим осуђених за извршење кривичних дела, у ове казнено-поправне установе смештају се и друга лица која су лишена слободе по закону због извршења прекршаја или због неплаћања новчане казне или обављања казне рада у јавном интересу. Заједничка карактеристика коју деле све ове категорије људи је одговорност за почињено кривично дело, али зависно од посебне врсте одговорности, они су изложени различитом поступању у казненим установама. У таквим околностима, казнене установе морају предузети одговарајуће мере за одржавање реда и сигурности у затворима. У средишту пажње аутора је неколико питања која се тичу осуђеника у казненим заводима. Аутори указују на видове одговорности осуђеника за време издржавања казне затвора, и то кривичну, дисциплинску и материјалну одговорност. Аутори су пажњу посветили и проблемима одржавања реда и безбедности у казненим заводима. Имајући у виду чињеницу да се према лицу које издржава казну у казненом заводу примењује Закон о извршењу кривичних санкција, али да може да се примењује и Закон о извршењу казне затвора за кривична дела организованог криминала, аутори указују на решења оба закона која се односе на предметну материју.

Кључне речи: осуђеници, одговорност, одржавање реда, безбедност.

INTRODUCTION

From the day the convict enters a penal institution where they are to serve the awarded prison sentence, they are subject to special rules of conduct - prison rules. These rules are valid from the moment when the convicted person enters the institution until the moment when they have served their sentence in the penitentiary. The rules of conduct in prisons are regulated by the law (legislative acts), as well as by by-laws (administrative acts). The prisons themselves are also entitled to pass certain regulatory acts that regulate the rules of conduct of convicts and inmates. Obviously, the convicted persons must behave in accordance with all the rules that are enforced at the penitentiary; otherwise, they bear some responsibility - may bear the consequences of failing to abide by the rules, and they may be held accountable for the violation of prison rules. The rules of conduct are strict. In addition to these strict prison rules, which are embodied in normative acts, the convicts' conduct is most likely to be influenced by a set of informal norms of behavior. These norms, which are usually short and straightforward, determine the behavior of convicts not only towards the formal penal system, but also towards other members of the informal system (Dimovski, Kostic, 2018, p. 1054).

If a convicted person does not comply with the regulations and lawful orders of the authorized persons, they commit a disciplinary offense.

Such a convict is subject to disciplinary proceedings, and disciplinary measures are imposed if the existence of the offense and their responsibility are established. The violation of prison discipline is prescribed as a disciplinary offense.

Convicted persons may commit a criminal offense while serving their imprisonment sentences, in which case they are held liable under the same conditions as persons who are not serving the sentence in a penal institution. There is one exception to this rule. Namely, the convicted person can cause damage to the penal institution in which they are serving their sentence. In this case, the convict bears material responsibility; one specificity in such a case is who decides on the compensation for damage.

While serving prison sentences, some convicts may need to be subjected to certain preventive measures which are taken because there is a danger that they may impair their health or endanger the order and security at the penitentiary.

All cases of convicts' disorderly conduct are recorded and kept as penitentiary records, and such conduct may necessarily affect the scope of convicts' rights and benefits while serving their sentence, which may be reflected in the individual treatment in the course of the execution of the prison sentence.

WHO IS PLACED IN PENITENTIARIES IN THE REPUBLIC OF SERBIA?

The prison population is comprised not only of convicted offenders committed to serve their prison sentences there, but also of persons deprived of their liberty for various legal reasons. Certainly, individuals convicted in criminal proceedings and sentenced to imprisonment make the highest percentage of prison population. Yet, it also includes individuals whose imprisonment is due to misdemeanor offenses, as well as a certain number of persons who have been fined, or sentenced to community service in criminal proceedings - sentences substituted for imprisonment due to non-payment of the imposed fine or due to failure to perform community sentence. The same goes for persons who have committed a misdemeanor. A person who is found liable for the commission of an economic offense may also be placed in the penitentiary; if they fail to pay the imposed fine, it is substituted by a term of imprisonment. Therefore, persons deprived of liberty are placed in prisons on different legal grounds and, thus, they have different treatment during their imprisonment. A common feature for all of them is that they cannot leave the penitentiary, except when permitted by law. Also, during the execution of the prison sentence, they are obliged to act in accordance with the law and regulations issued on the basis of the law, and abide by the orders of prison officials unless the execution of the order is unlawful.

RESPONSIBILITY OF CONVICTS IN PRISON

While serving a sentence of imprisonment in the penitentiary, convicted persons can commit a prohibited act, which may be regarded either as a criminal offense or a disciplinary offense. If a convicted person commits a criminal offense or a disciplinary offense, they will be held liable. In addition to *criminal* and *disciplinary* liability, there is also *material liability* which exists if the convicted person causes damage to the penitentiary.

Criminal Liability of Convicts while Serving a Prison Sentence

The commission of a crime while serving a prison sentence is not common. We may certainly pose the question of how many of these offences go undetected. It is logical that a convicted person in a penitentiary cannot commit a criminal offense that they could commit at large. Convicts in prisons usually commit crimes against life and limb. The passive subject (the victim) is usually another convict. If a convicted person commits a criminal offense in a penal institution, his liability is the same (established on the same grounds) as if they committed the criminal offense at large. Criminological studies have shown that persons most prone to violence, both in and out of prison, are between the age of 16 and 24. The average age of persons admitted to penitentiary institutions is 27 years. It is also shown that young people are more likely to be victimized by various forms of violence than adults (Clear, Cole, & Reisig, 2009, p. 278). However, there are no detailed studies in the Republic of Serbia on the extent of prison violence committed by members of different collectives. Although records are kept of the extent of violence in Serbian prisons, it is not possible to find in any statistical record whether a particular violent event occurred as a result of the disruption of relations within the collective or conflict between the inmates. Specifically, conflicts between prisoners can occur as a result of a criminal event involving several persons currently serving a prison sentence. Therefore, the reasons for verbal and physical conflicts should not only be sought in relationships between collectives and their members, but also in prisoners' relationships before their conviction (Dimovski, Kostic, 2018, p. 1052).

Regarding the criminal responsibility of a convicted person while serving a prison sentence, there is an exception prescribed by the Serbian Criminal Code. A convicted person who commits a criminal offense for which the law prescribes a fine or imprisonment of up to one year, while serving a sentence of imprisonment or while in juvenile prison, is punishable by disciplinary action (Article 62 CC).[1] In this case, prison authorities do not

[1] Art. 62 of the Criminal Code, "*Official Gazette RS* ", no. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019

raise criminal charges against the convicted person; instead, they initiate a disciplinary proceeding against the inmate. Although it is not explicitly prescribed, the convicted person should be held liable as if he or she committed a serious disciplinary offense. In this case, disciplinary proceedings are conducted by a disciplinary commission, which may impose disciplinary measures on the convicted person.

Disciplinary Responsibility of Convicted Persons

Life in penal institutions is governed by strict rules, prescribed both by the law and by-laws, as well as by the regulations adopted by prisons themselves. In addition, officials have the authority to issue orders to convicted persons. Strict rules must be observed in these institutions because it is the only way to maintain order and discipline in penitentiaries (Milić, Dimovski, 2016, pp. 219-231). If convicted persons violate the rules of conduct, such an act constitutes a disciplinary offense. Disciplinary offenses are prescribed by the Act the Execution of Criminal Sanctions (hereinafter: ECS Act) and they are divided into more major and minor disciplinary offences. If it is established in a disciplinary proceeding that the convicted person has committed a disciplinary offense and that they are liable, they will be imposed the appropriate disciplinary measure. Disciplinary measures may be said to be repressive measures because they are imposed only after the existence of the disciplinary offense, and the defendant's responsibility has been established in the disciplinary proceedings (Drakić, Milić, 2016, pp.475-491).

Material Liability of Convicted Persons

In addition to committing a disciplinary offense while serving their sentence, a convicted person may cause damage to the penal institution. In such a case, the convicted person is obliged, under certain conditions, to compensate the damage. A convicted person may cause damage to the institution by the very act for which they committed a disciplinary offense, but it may also cause damage regardless of disciplinary responsibility. The first instance disciplinary authority decides on compensation amounting to 15,000 RSD, whereas the compensation for damage exceeding 15,000 RSD is carried out in civil proceedings.[2]

It is interesting that the legislature has stipulated that the first instance disciplinary authority may decide on compensation for damage. A convicted person may cause damage to a penal institution when committing a disciplinary offense, or without committing a disciplinary offense. In that respect, there are two distinctive situations.

[2] Art. 177 of the Act on Execution of Criminal Sanctions, "*Official Gazette RS ",* no. 55/2014, 35/2019.

In the first case, the applicant seeking the initiation of disciplinary proceedings will also file a compensation claim.[3] Such a decision is probably prescribed on the basis of criminal proceedings, in which the court can decide on a compensation claim. Although in principle there is justification for such a prescription, as well as justification for the criminal court to decide on a compensation claim, disciplinary procedure is fairly distinctive in terms of the specific procedure and decision-making bodies. Thus, for example, the first instance disciplinary proceedings for minor disciplinary offenses are conducted by the prison warden, who does not have to be a law graduate. Furthermore, the Rules on Disciplinary Procedure against Convicted Persons regulate the procedure itself, but the Criminal Procedure Code shall be applied accordingly for anything not prescribed by the Disciplinary Procedure Rules. Therefore, the decision on the compensation for damage is made by an underqualified person, who is not a lawyer (law graduate) and who is expected to interpret and apply the law.

Another situation exists when the convict has caused damage to the prison facility, but without committing a disciplinary offense. In such a case, the question arises whether the first instance body conducting the disciplinary proceedings shall decide on the compensation for damage. It seems that the response to this question can be affirmative, but it also raises a new question of whether it should be the warden or the disciplinary commission making a decision considering that they are the first-instance disciplinary authorities that conduct disciplinary proceedings depending on the gravity of the offense.

WHO IS GUARDING PRISONS IN THE REPUBLIC OF SERBIA?

It is quite logical that persons deprived of liberty cannot leave the penitentiary when they wish. They can do so only in cases which are explicitly prescribed in the regulations. However, convicts may attempt to *unlawfully* leave the penitentiary, resorting either to escape or unpermitted departure from the premises (Milić, 2017, pp. 813-823). Every person has a desire to get out of the penitentiary as soon as possible, to regain their freedom. However, this does not mean that every convicted person has the desire to escape from the penitentiary. As a rule, the persons sentenced to short-term imprisonment and those who have committed an act of negligence do not have this desire. Also, persons who have been punished for a misdemeanor or convicted of an economic offense have no desire to escape. There are certainly exceptions to these rules. In this regard, there are different prisons of different types in the Republic of Serbia, but,

[3] See Article 59 of the Rulebook on Disciplinary Procedure against Convicted Persons, "*Official Gazette RS* ", No. 79/2014.

viewed from the security standpoint, it is common for them all that prison guards present an obstacle to their escape.

Thus, Article 14 of the Act on Execution of Criminal Sanctions (ECS Act) stipulates that, based on the degree of security, prisons may be open, semi-open, closed, and closed -special security prisons. There are no physical and technical barriers to escape in open-type prisons. In semi-open prisons, the elementary obstacle to escape is the security personnel. In addition to the security staff, there are other physical and technical barriers preventing escape in closed institutions, and there are further physical and technical barriers in closed special security institutions that ensure the highest level of security. Based on the above, we can conclude that the Security Service is an obstacle to escape prisons of all security levels.

The prisons in the Republic of Serbia are guarded by the Security Service. This service, as a unique formation of the Directorate for the Execution of Criminal Sanctions, takes care of the security of people and property in prisons, escorts convicted and detained persons, participates in the establishment and implementation of the convicted persons' treatment programs, and performs other tasks stipulated by the law. The security service shall be organized in such a way as to ensure the efficient performance of its tasks. Depending on the size and type of prison, the security service may comprise: a duty service, external security, internal security, an escort service, and a special unit. Security jobs are performed on a daily and continuous basis, in shifts.

The members of the security service have the status of authorized officers; they are authorized to carry weapons, inspect the prison premises, search and frisk persons, conduct body examination (except for body cavity searches, which are performed by a health care professional), apply measures for maintaining order and security in prison, and perform other tasks specified by the law.

Types of Coercive Measures that can be Applied to Convicted Persons

The types of coercive measures that can be applied to convicted persons vary depending on which law applies to sentenced persons. Considering the legal framework pertaining to these persons, we can distinguish "ordinary convicts" and "special convicts", depending on the law which applies to them during the execution of imprisonment (Grujić, Milić, 2015, p. 819-830). While serving their sentence in a penal institution, convicted persons may be subject to the Act on Execution of Criminal Sanctions (hereinafter: ECS Act) or to the Act on Execution of Imprisonment for Organized Crime (hereinafter: EIOC Act).[4] The EIOC Act is a *lex*

[4] Act on Execution of Imprisonment for Organized Crime Offenses, *Official Gazette RS*, No. 72/2009 and 101/2010.

specialis in relation to the ECS Act, and it does not fully regulate the execution of the prison sentence, but instead applies the provisions of the ECS Act accordingly.

Both laws prescribe coercive measures that can be applied to convicted persons in almost identical ways. Coercion measures against sentenced persons can be applied by security officers. Certain coercive measures may be applied by members of the security service on their own initiative, of course, provided that the conditions are met. Certain coercive measures can only be used if ordered by the prison warden.

Coercive Measures under the Law on Execution of Criminal Sanctions

The Act on Execution of Criminal Sanctions (ECS Act) prescribes what measures of coercion can be applied to convicted persons. The legislature has chosen to explicitly address this issue. As prescribed, the convicted persons may be subjected to: 1) use of physical force; 2) restraining or tying at-risk prisoners; 3) solitary confinement, separation or isolation; 4) use of a rubber stick; 5) use of water jets; 6) use of chemical agents; and 7) use of firearms (Art. 143 of the ECS Act). Therefore, only these six measures can be applied against "ordinary convicts". Certainly, the strictest coercion measure is the use of firearms, which may be used by the security officer on his own initiative (assessment). The use of water jets and chemical agents can only be ordered by the warden (in extraordinary circumstances).

Coercive Measures under the Law on Execution of Imprisonment for Organized Crime Offenses

In recent years, Serbian criminal law and criminal procedure law have been going through a very dynamic development period. Drafts, proposals for amendments, or completely new legal texts are quite common, and it is hard to avoid the impression that they keep replacing one another at high speed (Ristivojević, 2015, p. 3). The reform did not spare criminal enforcement law either. *The Act on Execution of Imprisonment for Organized Crime Offenses* (EIOC Act), adopted in 2019, generally applies to the perpetrators of organized crime, but it may also apply to persons convicted of other crimes (Milić, 2017, pp. 468-469).

The EIOC Act also prescribes what coercive measures can be applied to those convicted persons to whom it applies. It prescribes the following coercive measures: 1) use of physical force; 2) binding; 3) separation; 4) use of a rubber stick; 5) use of sniffles with water; 6) use of chemical agents; 7) the use of electromagnetic (electronic) non-lethal means; 8) the use of acoustic-optical non-lethal means; 9) the use of kinetic non-lethal agents; 10) use of firearms (Article 46 of the EIOC Act). We see that this law prescribes three coercive measures more than the ECS Act. It is interesting to

see what coercive measures are prescribed by the Police Act.[5] Specifically, under this law, coercive measures are 1) physical strength; 2) irritant sprayer; 3) electromagnetic means; 4) baton; 5) binding; 6) special vehicles; 7) service dogs; 8) service horses; 9) means of prevention; 10) devices for ejecting water jets; 11) chemical agents; 12) special types of weapons; 13) firearms. (Article 222 of the Police Act). Although there are some overlaps in the types of coercion, this law prescribes a greater number of coercion types than the laws pertaining to the execution of criminal sanctions.

When Coercive Measures can be Applied to Convicted Persons

In order for the security officer to apply coercive measures, the conditions for their application must be fulfilled. Conditions for enforcement of coercive measures are prescribed by the ECS Act, the EIOC Act, and the Rulebook on the Measures for Maintenance of Order and Security in the institutions for the execution of criminal sanctions.[6]

Conditions for Application of Coercive Measures Prescribed by the Law on Execution of Criminal Sanctions (ECS Act)

Pursuant to the ECS Act, coercive measures against a convicted person can only be applied when it is necessary to prevent: 1) the escape of the convict; 2) physical assault on another person; 3) causing injury to another person; 4) self-harm; 5) causing considerable material damage; 6) active and passive resistance of the convicted person (Article 142, paragraph 1 ECS Act). This Act also regulates active and passive resistance.

Active resistance means any opposition of a convicted person to lawful official measures, actions and orders of an official or authorized person by hiding behind or holding onto a person or object, by abduction, by likelihood that some person will be attacked, or by a similar action. *Passive resistance* means any opposition of a convicted person to abide by lawful official measures, actions and orders of an official or authorized person by pretending not to hear an order, or taking a kneeling, sitting, lying or similar position (Art. 42 paragraphs 2 and 3 of the ECS. Act).

Conditions for Application of Coercive Measures Prescribed by the Law on Execution of Imprisonment for Organized Crime (EIOC Act)

Coercive measures against the convicted person can only be applied when it is necessary to prevent: 1) the escape of the convicted person; 2) physical assault, or causing injury to another person; 3) self-harm or

[5] The Police Act, *Official Gazette of RS*, no. 6/2016, 24/2018 and 87/2018.
[6] Rulebook on Measures for Maintaining Law and Order in the Institutions for Execution of Criminal Sanctions "*Official Gazette RS* ", no. 105/2014.

suicide of the convicted person; 4) causing material damage; 5) active and passive resistance of the convicted person (Art. 142 paragraph 1 of the EIOC Act).

This law also prescribes what is considered to be active and passive resistance. Active resistance implies any opposition of a convicted person to lawful official measures, actions and orders of an official carried out by hiding behind or holding onto another person or object, by abducting, by the likelihood of attacking another person, or by taking similar actions. Passive resistance implies any opposition of a convicted person to lawful official measures, actions and orders of an official carried out by pretending not to hear an order, or by taking a kneeling, sitting, lying or similar position.

SPECIAL MEASURES TO CONVICTED PERSONS

Special measures can also be applied to convicted persons at these institutions (Milić, 2017, pp. 372-379). These are *preventative measures* that can be applied under certain conditions. These measures apply even though the convict has done nothing contrary to the prison rules. In order to implement specific measures, it is sufficient that there is a danger that the convicted person may "take certain actions". Specific measures are determined by the prison warden or by a person authorized by him. The previously mentioned laws also contain provisions regarding special measures.

Special Measures under the Law on Execution of Criminal Sanctions

According to the ECS Act, special measures are: 1) seizure and temporary holding of things whose keeping is otherwise permitted; 2) accommodation in a special secured room without dangerous things; 3) accommodation under enhanced supervision; 4) placing the convict in solitary confinement; 5) testing for infectious diseases or psychoactive substances.

The ECS Act also regulates in detail when each measure can be applied to convicted persons. It also prescribes how long certain measures can last and how they can be executed.

Special Measures under the Law on Execution of Imprisonment for Organized Crime

Under the EIOC Act, specific measures are: 1) seizure and temporary holding of things that are allowed to be kept in inmates' possession; 2) accommodation in a special secured room without dangerous things; 3) placing the convict in solitary confinement; 4) testing for infectious diseases or psychoactive agents. This Act has no further provisions in terms of special measures, which means that the ECS Act is applied according to all other issues.

When special measures can be applied to convicted persons

In order to apply special measures to convicted persons, certain conditions have to be fulfilled. So, just like in the case of special measures, the ECS Act and the EIOC Act prescribe (in an almost identical way) the conditions under which the measures are applied. We believe that the EIOC Act does not need to transcribe provisions from the ECS Act that regulate legal issues in the same way, given that the ECS Act applies subsidiarily to all issues which are not regulated by the EIOC Act.

Conditions for the Implementation of Special Measures Prescribed by the Law on Execution of Criminal Sanctions

Under the ECS Act, special measures may be exceptionally ordered against a convicted person when there is a danger of escape, violent conduct, self-harm or endangering order and security of some other kind, which cannot otherwise be eliminated. A special measure will be determined depending on the type of existing danger.

Conditions for the Implementation of Special Measures Prescribed by the Law on Execution of Imprisonment for Organized Crime

The EIOC Act only transcribes the provisions prescribed by the ECS Act. These special measures may be exceptionally ordered against a convicted person when there is a danger of escape, violent conduct, self-harm or endangering order and security of some other kind, which cannot otherwise be eliminated.

CONCLUSION

The existence of two legislative acts, *Act on Execution of Criminal Sanctions* and *the Act on Execution of Imprisonment for Organized Crime,* regulating the execution of imprisonment in penal institutions, clearly indicates that there are two groups of convicts in the Republic of Serbia. Considering the two laws (the ECS Act and the EIOC Act), it is clear that the EIOC Act is a *lex specialis*, which explicitly stipulates that the ECS Act will be applied accordingly to any issues that it does not regulate. In this regard, it is unnecessary for the EIOC Act to contain identical provisions, which are prescribed by the ECS Act. Therefore, some of the provisions of the ECS Act are merely transcribed into the EIOC Act, which is unnecessary. Such a decision by the legislature, at the very least, only burdens the text of the law itself. It is clear that the legislator has made every effort to address the issue of liability of convicted persons for offences committed in the course of serving their prison sentences. Different types of liability (criminal, disciplinary, material) are assessed in the same manner with different categories of convicted persons. Such a

conclusion is based on the fact that the EIOC Act does not prescribe specific provisions on the liability of convicted offenders. There are some differences with respect to law enforcement measures regarding the law applicable to convicted persons.

The prison sentence of the convicted person is individualized until they serve the determined sentence. At the same time, convicts are constantly monitored by prison authorities and any disorderly conduct is recorded in the penal institution records. Such records may also affect the convict's treatment and individualization of the awarded sentence during the execution of punishment; as a result of misconduct, the convicted person may be denied some rights, benefits or privileges. As a result of this setback, the convicted person may be placed into a more rigorous ward or group, where the scope of his individual rights and benefits would be significantly restricted.

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ОДГОВОРНОСТ ОСУЂЕНИКА И ОДРЖАВАЊЕ РЕДА И БЕЗБЕДНОСТИ У КАЗНЕНИМ ЗАВОДИМА

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Резиме

У пенитенцијарном систему Републике Србије, поред лица осуђених услед извршења кривичних дела, на издржавању казне затвора су и друга лица која су, на основу закона, лишена слободе. Другим речима, у казненим заводима налазе се и лица која су прекршајно кажњена затворском казном. Уједно, на издржавању казне затвора су и лица којима је у кривичном или прекршајном поступку изречена новчана казна или казна рада у јавном интересу, а која им је услед неплаћања, односне услед необављања рада у јавном интересу, замењена за казну затвора. Уколико одговорно лице, које је осуђено због учињеног привредног преступа, не плати новчану казну, она се замењује у казну затвора, те се шаље у казнени завод на њено издржавање. Осуђена лица у казненом заводу могу да учине неку радњу која је забрањена. Та забрањена радња може бити прописана као кривично дело или дисциплински преступ. С тим у вези, аутори су у раду објаснили кривичне и дисциплинске одговорности осуђеног лица у случају недозвољеног понашања. Иако у случају извршења кривичног дела од стране осуђеног лица не постоје никакве специфичности у односу на кривично дело почињено од стране лица на слободи, ипак постоји изузетак који прописује Кривични законик. Наиме, ако осуђени, који за време издржавања казне затвора или малолетничког затвора, учини кривично дело, за које закон прописује новчану казну или казну затвора до једне године, казниће се дисциплински. Уколико осуђена лица прекрше правила понашања у пенитенцијарним установама, чине дисциплински преступ. Дисциплинске преступе прописује ЗИКС и дели их на теже и лакше. Поред тога што осуђено лице може да учини кривично дело или дисциплински преступ, оно за време издржавања казне може да проузрокује штету заводу. У том случају, осуђени је под одређеним условима дужан да надокнади штету заводу. У другом делу рада аутори се баве службом за обезбеђење, те њиховим обавезама. Наиме, ова служба стара се о безбедности људи и имовине у заводу, спроводи осуђена и притворена лица, учествује у утврђивању и спровођењу програма поступања према осуђеном и обавља друге послове одређене законом. У наставку рада аутори се баве питањем могућности примене различитих врста принуде од стране припадника Службе за обезбеђење. Последњи део рада посвећен је посебним мерама. Реч је о превентивним мерама које могу да се примене под одређеним условима. То су мере које се примењују иако осуђени није учинио ништа што је противно затворским прописима. Услов за примену посебних мера је постојање опасности да осуђени може „предузети одређене радње".

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1201–1215

Оригинални научни рад https://doi.org/10.22190/TEME191101072S
Примљено: 1. 11. 2019. UDK 327.56:351.88(497.11:4-672EU)
Ревидирана верзија: 23. 11. 2019.
Одобрено за штампу: 1. 12. 2019.

BALANCING NATIONAL SECURITY AND COMPETITIVENESS IN THE AGE OF INFORMATION [a]

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Abstract

A secure environment plays a crucial role in the overall stability of the economy, having an impact and contributing to its competitiveness. Although an absence of security risks cannot certainly drive the country's economic development and competitiveness, its existence would definitely have far-reaching consequences for the economy. The paper aims to analyze the national security of the European (EU) countries and Serbia, reflected in the following security indicators: business costs of terrorism, business costs of crime and violence, organized crime, and the reliability of policy services. In this context, the study provides a comparative analysis of the mentioned indicators in order to assess their trend, as well as the correlation between national security and national competitiveness with the aim to determine how national security affects national competitiveness. The empirical analysis of the study includes 28 EU member countries and Serbia as a candidate country, covering the period from 2011 to 2017, with data available in the Global Competitiveness Reports. The findings of this study allow for a better understanding of the overall national security and its impact on the national competitiveness in the context of the EU and Serbia.

Key words: national security, competitiveness, indicators, European Union, Serbia.

БАЛАНСИРАЊЕ НАЦИОНАЛНЕ БЕЗБЕДНОСТИ И КОНКУРЕНТНОСТИ У ДОБА ИНФОРМАЦИЈА

Апстракт

Безбедно окружење игра изузетно важну улогу у одржавању стабилности привреде и тиме битно утиче на њену укупну конкурентност и доприноси јој. Иако одсуство безбедносних ризика не води само по себи економском развоју и конкурентности, њихово постојање би са сигурношћу имало далекосежне последице по

[a] The research is realised under the projects no. 179066 and 47023 that is financed by the Ministry of Education, Science and Technological Development of the Republic of Serbia.

привреду. Циљ рада је да се анализира национална безбедност европских (ЕУ) земаља и Србије, на основу следећих показатеља безбедности: пословни трошкови проузроковани тероризмом, пословни трошкови проузроковани криминалом и насиљем, организовани криминал и поузданост политичких услуга. Сходно томе, у раду је дата упоредна анализа поменутих показатеља како би се утврдио ниво показатеља у ЕУ и Србији, сагледао тренд у датом временском периоду, као и корелација између националне безбедности и националне конкурентности с циљем утврђивања утицаја који национална безбедност има на националну конкурентност. Емпиријска анализа укључује 28 земаља чланица ЕУ и Србију као државу кандидата, а за период од 2011. до 2017. године. Информациону основу чине подаци доступни у *Извештају о глобалној конкурентности*. Резултати истраживања пружају могућност бољег разумевања концепта националне безбедности и њеног утицаја на националну конкурентност у контексту ЕУ и Србије.

Кључне речи: национална безбедност, конкурентност, индикатори, Европска унија, Србија.

INTRODUCTION

Extremely rapid scientific and technological development, diffusion of modern scientific achievements and technology and their increasing impact on all areas of social life, boost the complexity of the global environment. In this context, there will be a greater potential for positive impact on the economic development of countries through the implementation of innovative technological solutions that will contribute to the proper use of resources and accelerate productivity growth. However, contrary to expectations that the responsibility of all involved actors will be increased for the use of scientific advances in the general interest and for the benefit of all humanity, it is estimated that the development of science and technology will continue to be subject to various forms of abuse, leading to negative security implications. The dynamics of global information technology development will further facilitate and intensify different crime activities (National Security Strategy of the Republic of Serbia - draft, 2017, p. 4).

The last decade of XX century and the beginning of XXI century were under the influence of new security trends in the world. These trends shifted from, initially, military to other areas, such as the economy, energy, ecology, but also the security of individuals (civilians), as well as the entire society (National Security Strategy of the Republic of Serbia, 2009, p. 4).

National and international security has become one of the biggest challenges over the last years, and the core objective for national and international organizations. Given the ever-changing security environment and the various perspectives that need to be taken into consideration, the concept of security is not easy to define. In general, security is considered the ability of a country to protect its territory and citizens and respond to all kinds of threats that may evolve and emerge over time (Nikolaevich et al., 2018, p. 462). Given its importance from the aspect of urgency and criticality, special attention should be given to a comprehensive analysis of security issues from different perspectives.

The circumstances that lead to security risks at the global level are various, and it is the gap in the level of economic and cultural development that leads to poverty and social vulnerability of the population, negative demographics and negative psycho-social phenomena, to name some of them. Regional and local conflicts, ethnical and religious extremism, terrorism, organized crime, arms trade, illegal migration, lack of natural resources, corruption, etc., jeopardize the stability of economies and thus national and international security. The impact of unstable economies that do not provide safe life and business environment can be reflected in various aspects: a decline in investments, the fall in demand, movement of supply of goods and service including financial flow, etc. The common feature to all security risks is their unpredictable, asymmetrical and transnational character (National Security Strategy of the Republic of Serbia, 2009, p. 4).

The list of security problems that can affect the competitiveness of a country is long and diverse. Among them, special attention should be given to those that harm the international position of a country and its competitiveness. Namely, national security problems, reflected in terrorism, crime, violence, etc., have an equal influence on national competitiveness as other micro and macroeconomic determinants. All these security issues become a part of the national competitive business strategy.

The paper explores national competitiveness through the prism of national security in order to assess the correlation between security and competitiveness. The author identifies the national security indicators that are key to national competitiveness and contribute to a country's position in global economy. Namely, these indicators are: *business costs of terrorism, business costs of crime and violence, organized crime, and the reliability of policy services*, as indicators pertaining to national competitiveness. The subject of the analyses are the EU countries and Serbia in the period from 2011 to 2017.

LITERATURE REVIEW

Over the last decades and worldwide, many people have benefited from the expansion of the online environment and plenty of economic opportunities have been introduced in this new era. In the information age, only "smart economies" will be competitive on the global market and only these economies will be able to provide a proper nation's defence.

A modern economy cannot be considered the result of actions of million isolated market players, but as a joint result within a framework of national economies (Botos, 2006, p. 13). Improving competitiveness implies not only a well-functioning market, but also strong institutions with the quality of adaptability and capacity for innovation. These essential elements will become even more important in the future, given that competitive economies take risks more easily, and adapt to the rapidly changing

environment (WEF, 2018, p. 2). Cho and Moon (2001, p. 55) define competitiveness as the country's ability to produce products and provide services that meet the tastes of international competition, while the citizens of that country enjoy a sustainable living standard. In general, competitiveness should ensure a high standard of living, poverty reduction and job opportunities to all (Lang, 2009, p. 26).

One of the key roles in national competitiveness belongs to the state, and this role is reflected in the state's aspiration to constantly stimulate the improvement of the economy and the process of innovation (Stanojević, 2018, p. 85). Given that some economies are technologically superior, offering innovative and high quality products, etc., the question of what determines competitiveness must be raised. Individual factors and determinants that contribute to the progress of the economy and its competitiveness should be taken into consideration. Institutions (public and private), the infrastructure, the macroeconomic environment, education, the market (goods, labor, financial) efficiency and size, technology, research and development and innovation, are some of the indicators that need to be analyzed (Krstić, Stanojević & Stanišić, 2016, p. 1038).

Institutions, as one of national competitiveness indicators, can be affected by different security determinants. Threats that jeopardize national security by themselves have a negative impact on national competitiveness. However, strict rules and regulations in order to prevent these threats and protect a nation can also impact competitiveness in a negative manner, impeding the free movement of goods, services, capital and labor (Long, 2013, p. 46).

The concept of security can be elaborated at the individual, national and international level. While individual security is related to the individual impact on security issues, national and international security involves a wide range of national and international organizations and institutions dealing with security risks and trying to prevent, minimize and/or eliminate them (Simanavičienė, Stankevičius, 2015, p. 128).

The traditional concept of national security refers to a nation's intention to protect their territory and natural resources by using military power. Political independence and territory integrity are the values that should be protected. This concept is based on the protection of foreign policy interests in international relations, territories from external aggression, the order of government and governing regimes (in socialist countries), and focusing on the security of people and their participation in international and global security.

In the modern era, instead of the state as a sole "security provider", individuals and non-governmental, subnational and transnational entities take on the role of active security entities. In addition to traditional functions (diplomatic, intelligence and defence), the modern state emphasizes the importance of economic, energy, cultural, environmental, social, information

and other security aspects (Mijalković, 2009, p. 59). All this indicates a change in the concept of national security which is adapted to the conditions and needs of contemporary security reality. Today's national security implies different kinds of treats that require state protection through diplomacy, economic or political power (Borrus, Zysman, 1990, p. 4). National security is a wide term that refers to different types of securities in addition to the military, such as: monetary, political, economic, energetic, environmental and natural resources.

In "The Concept of Security" (Baldwin (1997, p. 14), it is stated that security is a condition difficult to be qualified since "we shall either be secure, or we shall be insecure. We cannot have partial security. If we are only half secure, we are not secure at all". However, security by itself causes certain costs that could be managed with other purposes in mind. In addition to the costs incurred by providing a certain level of national security, there are costs caused by the already existing crime, terrorism and violence. Accordingly, there are indicators and measures that quantify various security risks. In the paper, security indicators are considered to be those related to national competitiveness, and they are listed in the Global Competitiveness Report as (public) institutional competitiveness.

DATA AND METHODOLOGY

The aim of the research is to provide an overview and to analyze national security, based on the following indicators: *business costs of terrorism, business costs of crime and violence, organized crime, and the reliability of policy services*. These four indicators go under the public institutions and belong to the first pillar - Institutions among eleven other pillars that compose the Global Competitiveness Index (GCI). "The institutional environment is determined by the legal and administrative framework within which individuals, firms, and governments interact to generate wealth" (Global Competitiveness Report, 2013, p. 4). The quality of institutions has influence on the overall national competitiveness and economic growth by affecting investment decisions and other economic activities. Explicitly, investors are not willing to invest their capital in case of an insecure environment where there is no efficient protection of rights.

The subject of the analysis are the 28 EU countries and Serbia as a candidate country. The information base of the analysis are the World Economic Forum data available in the Global Competitiveness Reports in the period from 2011 to 2017. The methods used in the analysis are descriptive statistics, correlation, and comparative analysis.

The purpose of the analysis is to examine the trend of the four security indicators that reflect the national security of the EU countries and examine the position of Serbia towards them, as well as examine the inter-correlation between individual indicators in the analyzed period.

Further, the correlation analysis highlights the relation between national security and competitiveness in order to estimate the influence of security to national competitiveness.

RESULTS AND DISCUSSION

a) Comparative analysis of national security as an important factor of overall competitiveness of the EU countries and Serbia

National security refers to the overall security of a country and the safety of the environment of its citizens, the economy, and its institutions. In the paper, national security is analyzed in terms of the four indicators that are considered as the main determinants of security and accordingly impact the competitiveness of public institutions and overall institutions.

Table 1 provides an overview of the security indicators (*business costs of terrorism, business costs of crime and violence, organized crime, and the reliability of policy services*), as well as the Global Competitiveness Index (GCI), and Pillar 1- Institutions as one of the 12 pillars in the GCI. The analyzed period covers the years from 2011 to 2017 for the EU countries and Serbia. The value of indicators ranges between 1 and 7, where 7 indicates the most desirable outcome.

Based on the data provided in table 1, the highest score of almost all four security indicators in the whole analyzed period is recorded in Finland. Also, Finland records the highest score for the overall competitiveness and the competitiveness of institutions. For some of the security indicators and analyzed years, high scores are also recorded in Germany, Denmark, Luxemburg, Netherlands, Slovenia and Sweden.

As for the lowest score of the security indicators, many countries faced security issues in the analyzed period. Based on the data provided in table 1, Bulgaria is the EU country that suffers the most from the negative security factors. However, other EU countries also record low results for certain security indicators in the analyzed years. Namely, Denmark recorded the lowest score for business costs of terrorism in 2013 and Belgium in 2017. Since 2014, the business costs of terrorism score are the lowest in France.

The score for the Pillar 1 – Institutions is low in Hungary and Croatia, while Italy has the biggest concern regarding organized crime. Other countries with low scores are Romania and Slovakia. Greece is the EU country with the lowest GCI in the entire analyzed period, which is not the case with other the security indicators.

Serbia, as the EU candidate country, shows results pertaining to security indicators that do not deviate from the results of the EU countries. However, for the Pillar 1 in the GCI – Institutions, Serbia records slightly lower results compared to the EU countries.

Table 1. Security indicators for the EU countries and Serbia in the period 2011-2017

Country Name	2011						2012						2013						2014					
	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services
Austria	5.1	5.2	6.5	5.6	6.4	5.9	5.2	5.0	6.6	5.8	6.4	6.0	5.2	5.1	6.6	6.0	6.5	5.9	5.2	5.1	6.5	6.1	6.5	5.9
Belgium	5.2	5.0	6.2	5.7	6.3	5.6	5.2	5.0	6.2	5.8	6.1	5.7	5.1	5.0	6.1	5.5	6.0	5.6	5.2	5.1	6.0	5.5	6.1	5.7
Bulgaria	4.2	3.3	4.9	4.0	3.9	3.4	4.3	3.4	4.8	3.8	3.9	3.4	4.3	3.4	4.9	3.9	3.8	3.4	4.4	3.3	5.1	4.3	4.0	3.3
Cyprus	4.4	4.8	5.9	5.7	5.6	5.2	4.3	4.6	6.0	5.6	5.7	5.1	4.3	4.5	6.0	5.5	5.7	4.8	4.3	4.4	6.0	5.7	5.7	4.7
Czech Rep.	4.5	3.6	6.4	5.5	5.5	3.6	4.5	3.7	6.5	5.4	5.4	3.8	4.4	3.6	6.4	5.0	5.0	3.9	4.5	3.8	5.8	4.8	5.0	4.1
Germany	5.4	5.3	5.8	5.6	5.9	5.9	5.5	5.3	5.8	5.8	6.0	5.9	5.5	5.3	5.7	5.6	5.8	6.0	5.5	5.2	5.5	5.2	5.5	5.9
Denmark	5.4	5.9	6.3	6.2	6.8	6.3	5.3	5.4	5.5	5.2	6.1	6.2	5.2	5.2	4.9	4.6	5.5	6.1	5.3	5.3	4.8	4.7	5.5	6.0
Spain	4.5	4.3	5.1	5.4	5.7	5.8	4.6	4.2	5.3	5.5	5.8	6.0	4.6	4.1	5.2	5.5	5.7	5.9	4.6	3.8	5.0	5.2	5.5	5.8
Estonia	4.6	5.0	6.4	5.5	6.6	5.5	4.6	4.9	6.4	5.5	6.6	5.5	4.7	4.9	6.4	5.6	6.4	5.3	4.7	5.0	6.2	5.5	6.3	5.3
Finland	5.5	6.0	6.6	6.3	6.6	6.7	5.6	6.0	6.7	6.4	6.7	6.6	5.5	6.1	6.7	6.3	6.6	6.7	5.5	6.1	6.7	6.3	6.6	6.7
France	5.1	5.0	5.3	5.3	5.7	5.4	5.1	4.8	5.2	5.3	5.8	5.3	5.1	4.8	5.1	4.9	5.5	5.3	5.1	4.7	4.6	4.3	4.9	5.3
UK	5.4	5.3	5.1	5.3	5.9	5.7	5.5	5.4	5.2	5.3	6.0	5.9	5.4	5.4	5.2	5.1	5.9	5.7	5.4	5.4	5.1	5.0	5.8	5.6
Greece	3.9	3.5	5.4	4.8	5.5	4.0	3.9	3.4	5.3	4.7	5.3	3.9	3.9	3.5	5.3	4.7	5.4	4.0	4.0	3.6	5.3	4.9	5.5	4.4
Croatia	4.1	3.6	6.2	5.2	4.9	4.7	4.0	3.5	6.2	5.2	5.2	4.7	4.1	3.6	6.4	5.3	5.5	4.6	4.1	3.6	6.5	5.2	5.4	4.4
Hungary	4.4	3.8	6.4	4.9	5.4	4.2	4.3	3.7	6.5	5.0	5.4	4.2	4.3	3.7	6.4	4.9	5.1	4.2	4.3	3.7	6.2	4.8	4.9	4.1
Ireland	4.8	5.2	6.2	5.7	6.5	6.0	4.9	5.2	6.3	5.6	6.3	6.0	4.9	5.3	6.1	5.5	5.9	6.1	5.0	5.4	6.1	5.5	5.9	6.1
Italy	4.4	3.6	5.5	4.5	3.5	5.1	4.5	3.6	5.6	4.5	3.5	5.1	4.4	3.5	5.7	4.5	3.6	5.0	4.4	3.4	5.6	4.3	3.3	4.8
Lithuania	4.4	3.9	6.4	5.4	5.7	4.2	4.4	4.0	6.3	5.3	5.7	4.3	4.4	4.0	6.3	5.1	5.5	4.2	4.5	4.0	5.7	4.8	5.1	4.3
Luxembourg	5.0	5.7	6.2	6.0	6.7	5.9	5.1	5.6	6.2	6.2	6.8	5.9	5.1	5.6	6.3	6.3	6.5	6.0	5.2	5.7	6.2	6.1	6.3	6.1
Latvia	4.2	3.9	5.9	5.2	5.5	4.2	4.4	4.0	6.0	5.3	5.7	4.3	4.4	4.1	6.2	5.4	5.7	4.4	4.5	4.1	5.9	5.2	5.7	4.6
Malta	4.3	4.7	6.1	6.0	6.6	5.2	4.4	4.6	5.9	5.9	6.4	5.0	4.5	4.6	5.8	5.8	6.0	5.3	4.5	4.5	5.6	5.7	5.8	5.3
Netherlands	5.4	5.6	5.8	5.2	6.1	6.1	5.5	5.7	6.1	5.6	6.3	6.2	5.4	5.6	6.1	5.5	6.2	6.1	5.5	5.5	5.7	5.2	6.0	6.0
Poland	4.5	4.2	6.0	5.5	5.7	4.4	4.5	4.1	6.1	5.5	5.7	4.3	4.5	4.0	6.2	5.4	5.7	4.1	4.5	4.0	6.0	5.4	5.6	4.1
Portugal	4.4	4.2	6.2	5.8	6.2	5.0	4.4	4.3	6.3	5.9	6.2	5.2	4.4	4.3	6.5	5.9	6.2	5.2	4.5	4.4	6.5	6.0	6.3	5.3
Romania	4.1	3.5	5.7	4.9	4.9	3.7	4.1	3.3	5.7	5.1	4.6	3.4	4.1	3.3	5.6	5.1	4.7	3.6	4.3	3.6	4.8	4.4	4.1	4.2
Slovak Rep.	4.2	3.5	6.3	5.0	4.7	3.8	4.1	3.4	6.2	4.9	4.6	3.9	4.1	3.3	6.2	4.7	4.5	3.6	4.2	3.3	5.9	4.5	4.6	3.6
Slovenia	4.3	4.1	6.8	6.1	5.8	4.4	4.3	4.0	6.7	6.0	5.8	4.7	4.3	3.9	6.7	5.8	5.7	5.0	4.2	3.8	6.6	5.5	5.5	4.9
Sweden	5.6	6.1	6.3	6.0	6.6	6.0	5.5	5.7	6.2	5.7	6.0	6.1	5.5	5.7	6.1	5.5	6.0	5.9	5.4	5.4	5.8	5.2	5.6	5.7
EU	4.7	4.6	6.0	5.4	5.8	5.1	4.7	4.5	6.0	5.4	5.7	5.1	4.7	4.5	6.0	5.3	5.6	5.1	4.7	4.5	5.8	5.2	5.5	5.1
Serbia	3.9	3.2	5.5	4.5	4.3	3.9	3.9	3.2	5.6	4.6	4.1	4.0	3.8	3.2	5.6	4.3	4.0	4.0	3.9	3.2	5.5	4.2	4.1	3.8

Source: The World Bank, www.worldbank.org

Note: the lowest results the highest results

Table 1. Security indicators for the EU countries and Serbia in the period 2011-2017 (continued)

Country Name	2015						2016						2017					
	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services	Global competitiveness index	Pillar 1. Institutions	Business costs of terrorism	Business costs of crime and violence	Organized crime	Reliability of police services
Austria	5.1	5.2	6.3	6.0	6.4	5.9	5.2	5.2	5.8	5.5	6.0	6.2	5.2	5.2	5.6	5.3	5.7	6.1
Belgium	5.2	5.2	5.7	5.4	5.8	5.7	5.3	5.2	4.8	5.1	5.4	5.9	5.2	5.0	4.2	4.8	5.3	5.6
Bulgaria	4.3	3.4	4.8	4.2	3.9	3.3	4.4	3.5	4.5	4.0	3.7	3.5	4.5	3.5	4.5	3.9	3.7	3.6
Cyprus	4.2	4.3	6.0	5.8	5.6	4.7	4.0	4.0	5.5	5.3	5.1	4.5	4.3	4.2	5.3	5.1	4.8	4.7
Czech Rep.	4.7	4.1	6.0	5.2	5.6	4.1	4.7	4.2	6.0	5.3	5.7	4.5	4.8	4.2	6.0	5.5	5.9	4.8
Germany	5.5	5.2	5.1	5.0	5.3	5.9	5.6	5.2	4.9	4.8	5.0	5.3	5.7	5.3	5.1	5.0	5.0	5.3
Denmark	5.3	5.5	5.0	5.3	5.8	6.0	5.3	5.5	5.1	5.4	5.8	6.0	5.4	5.5	4.9	5.2	5.4	5.8
Spain	4.6	3.9	5.2	5.2	5.6	5.8	4.7	4.1	5.4	5.4	5.7	6.2	4.7	4.1	5.3	5.3	5.5	6.2
Estonia	4.7	5.0	6.2	5.5	6.4	5.3	4.8	5.1	6.2	5.5	6.3	6.1	4.8	5.0	6.1	5.6	6.2	6.0
Finland	5.5	6.1	6.7	6.5	6.8	6.7	5.4	6.1	6.4	6.4	6.7	6.8	5.5	6.2	6.5	6.3	6.8	6.8
France	5.1	4.8	4.5	4.5	5.0	5.3	5.2	4.9	4.3	4.8	5.1	5.8	5.2	4.8	4.2	4.9	5.1	5.7
UK	5.4	5.5	5.1	5.2	5.7	5.6	5.5	5.5	4.8	5.1	5.6	6.1	5.5	5.5	4.7	5.0	5.5	6.0
Greece	4.0	3.7	5.4	5.0	5.3	4.4	4.0	3.8	5.4	5.0	5.3	4.7	4.0	3.7	5.3	4.9	5.1	4.4
Croatia	4.1	3.6	6.4	5.4	5.3	4.4	4.1	3.6	6.2	5.6	5.1	4.9	4.2	3.5	5.9	5.3	4.9	4.6
Hungary	4.3	3.5	6.2	5.0	4.6	4.1	4.2	3.3	4.8	5.7	4.6	4.3	4.3	3.5	5.3	5.6	5.1	4.5
Ireland	5.1	5.5	6.3	5.5	6.1	6.1	5.2	5.6	6.1	5.2	5.8	6.1	5.2	5.3	5.5	4.9	5.5	5.8
Italy	4.5	3.4	5.3	4.1	3.3	4.8	4.5	3.5	5.1	4.0	3.5	4.3	4.5	3.5	4.9	4.0	3.5	4.5
Lithuania	4.6	4.1	5.4	5.0	5.2	4.3	4.6	4.2	5.6	5.1	5.4	4.7	4.6	4.1	5.6	5.1	5.5	4.7
Luxembourg	5.2	5.8	6.1	6.0	6.2	6.1	5.2	5.8	5.7	5.8	6.1	6.2	5.2	5.7	5.6	5.9	6.2	6.2
Latvia	4.5	4.2	6.1	5.3	6.1	4.6	4.4	4.0	5.9	5.3	5.8	4.2	4.4	3.8	6.1	5.2	5.5	4.3
Malta	4.4	4.5	5.7	5.7	6.0	5.3	4.5	4.5	5.4	5.4	5.7	5.0	4.6	4.5	5.5	5.5	5.7	4.8
Netherlands	5.5	5.6	5.5	5.2	5.9	6.0	5.6	5.7	5.4	5.2	5.8	6.2	5.7	5.8	5.2	5.1	5.7	6.1
Poland	4.5	4.1	5.7	5.2	5.4	4.1	4.6	4.0	5.5	5.0	5.2	4.1	4.6	3.8	5.3	4.9	5.1	4.1
Portugal	4.5	4.4	6.3	6.0	6.3	5.3	4.5	4.3	6.1	5.9	6.2	5.7	4.6	4.4	6.0	5.8	6.0	5.7
Romania	4.3	3.7	5.2	4.9	4.6	4.2	4.3	3.6	5.7	5.3	5.1	4.2	4.3	3.7	5.3	5.1	4.8	4.4
Slovak Rep.	4.2	3.4	5.8	4.8	4.8	3.6	4.3	3.5	5.8	4.8	4.9	3.6	4.3	3.5	5.8	4.8	5.0	3.5
Slovenia	4.3	3.9	6.3	5.6	5.5	4.9	4.4	4.1	5.9	5.8	5.7	5.5	4.5	4.1	5.6	5.6	5.4	5.3
Sweden	5.4	5.6	5.8	5.4	5.7	5.7	5.5	5.9	6.0	5.8	6.2	5.7	5.5	5.6	5.5	5.2	5.6	5.3
EU	4.8	4.5	5.7	5.3	5.5	5.1	4.8	4.6	5.5	5.3	5.4	5.2	4.8	4.5	5.4	5.2	5.3	5.2
Serbia	3.9	3.2	5.4	4.4	4.3	3.8	4.0	3.3	5.1	4.4	4.1	3.7	4.1	3.4	5.0	4.4	4.1	3.9

Source: The World Bank, www.worldbank.org

Note: the lowest results the highest results

b) The analysis of interdependence between national security indicators and the Global Competitiveness Index of the EU countries and Serbia

The interdependence of national security indicators can be determined using correlation analysis. Namely, the *Pearson's correlation coefficient,* as a measure of the linear relationship between indicators, represents a range of values from 0 to 1 indicating the strength of their correlation (Soldić-Aleksić, 2015, p. 177):

$$r = \frac{cov_{xz}}{s_x s_y} = \frac{\sum(x_i - \bar{x})(y_i - \bar{y})}{(n-1)s_x s_y}$$

For the values of the Pearson's correlation coefficient between 0.10 and 0.29, the correlation is considered to be low; if the Pearson's correlation coefficient falls between 0.30 and 0.49, the correlation is medium, and the correlation is high if the Pearson's correlation coefficient scores above 0.50 (Soldić-Aleksić, 2015, p. 180).

The relationship between variables can be both positive and negative. If variables change in the same direction, precisely, if a direction change of one variable follows the change of other variable(s) in the same direction, the relationship is positive. On the other hand, the relationship is considered to be a negative one if variables change in opposite directions. However, before the correlation analysis is applied, it is of paramount to investigate the existence of the relationship between indicators, based on the concept of statistical significance.

The coefficient of determination, as a squared Pearson's coefficient of correlation R^2, can be also used for the purpose of data interpretation (table 2). Namely, the coefficient of determination shows the common variance of two variables, or how much of the variance of one variable is explained and caused by the variance of another variable (Soldic-Aleksic, 2015, p. 180).

Table 2 illustrates the results of correlation analysis between GCI and four security indicators, as well as the correlation with the first GCI pillar - Institutions, for the analyzed countries over the period 2011-2017.

Table 2. Correlation analysis of the security indicators and national competitiveness, for the EU countries and Serbia, 2011-2017

Correlation		Pearson Correlation	Coefficient of determination	*Sig. (2-tailed)
Austria:	GCI-Pillar 1_Institutions	-0.496	24.60%	0.257
	GCI-Business costs of terrorism	-0.216	4.67%	0.642
	GCI-Business costs of crime and violence	-0.098	0.96%	0.835
	GCI-Organized crime	-0.289	8.35%	0.530
	GCI-Reliability of police services	0.482	23.23%	0.273
Belgium:	GCI-Pillar 1_Institutions	0.607	36.84%	0.148
	GCI-Business costs of terrorism	-0.475	22.56%	0.281
	GCI-Business costs of crime and violence	-0.333	11.09%	0.465
	GCI-Organized crime	-0.458	20.98%	0.301
	GCI-Reliability of police services	0.810	65.61%	0.027

Bulgaria:	GCI-Pillar 1_Institutions	0.627	39.31%	0.131
	GCI-Business costs of terrorism	-0.512	26.21%	0.240
	GCI-Business costs of crime and violence	0.055	0.30%	0.907
	GCI-Organized crime	-0.495	24.50%	0.259
	GCI-Reliability of police services	0.571	32.60%	0.181
Cyprus:	GCI-Pillar 1_Institutions	0.842	70.90%	0.018
	GCI-Business costs of terrorism	0.379	14.36%	0.402
	GCI-Business costs of crime and violence	0.307	9.42%	0.503
	GCI-Organized crime	0.390	15.21%	0.387
	GCI-Reliability of police services	0.763	58.22%	0.046
Czech Republic:	GCI-Pillar 1_Institutions	0.952	90.63%	0.001
	GCI-Business costs of terrorism	-0.566	32.04%	0.185
	GCI-Business costs of crime and violence	0.450	20.25%	0.311
	GCI-Organized crime	0.883	77.97%	0.008
	GCI-Reliability of police services	0.829	68.72%	0.021
Germany:	GCI-Pillar 1_Institutions	-0.047	0.22%	0.921
	GCI-Business costs of terrorism	-0.712	50.69%	0.073
	GCI-Business costs of crime and violence	-0.632	39.94%	0.128
	GCI-Organized crime	-0.800	64.00%	0.031
	GCI-Reliability of police services	-0.854	72.93%	0.014
Denmark:	GCI-Pillar 1_Institutions	0.795	63.20%	0.033
	GCI-Business costs of terrorism	0.494	24.40%	0.259
	GCI-Business costs of crime and violence	0.723	52.27%	0.66
	GCI-Organized crime	0.426	18.15%	0.341
	GCI-Reliability of police services	-0.085	0.72%	0.856
Spain:	GCI-Pillar 1_Institutions	-0.243	5.90%	0.600
	GCI-Business costs of terrorism	0.693	48.02%	0.085
	GCI-Business costs of crime and violence	-0.108	1.17%	0.817
	GCI-Organized crime	-0.304	9.24%	0.507
	GCI-Reliability of police services	0.857	73.44%	0.014
Estonia:	GCI-Pillar 1_Institutions	0.592	35.05%	0.162
	GCI-Business costs of terrorism	-0.814	66.26%	0.026
	GCI-Business costs of crime and violence	0.418	17.47%	0.350
	GCI-Organized crime	-0.935	87.42%	0.002
	GCI-Reliability of police services	0.660	43.56%	0.107
Finland:	GCI-Pillar 1_Institutions	-0.418	17.47%	0.350
	GCI-Business costs of terrorism	0.713	50.84%	0.072
	GCI-Business costs of crime and violence	0.000	0.00%	1.000
	GCI-Organized crime	0.000	0.00%	1.000
	GCI-Reliability of police services	-0.837	70.06%	0.019
France:	GCI-Pillar 1_Institutions	0.154	2.37%	0.742
	GCI-Business costs of terrorism	-0.748	55.95%	0.053
	GCI-Business costs of crime and violence	-0.013	0.02%	0.978
	GCI-Organized crime	-0.379	14.36%	0.402
	GCI-Reliability of police services	0.976	95.26%	0.000
UK:	GCI-Pillar 1_Institutions	0.471	22.18%	0.286
	GCI-Business costs of terrorism	-0.609	37.09%	0.147
	GCI-Business costs of crime and violence	-0.070	0.49%	0.881
	GCI-Organized crime	-0.371	13.76%	0.412
	GCI-Reliability of police services	0.935	87.42%	0.002
Greece:	GCI-Pillar 1_Institutions	0.882	77.79%	0.009
	GCI-Business costs of terrorism	0.167	2.79%	0.721
	GCI-Business costs of crime and violence	0.910	82.81%	0.004
	GCI-Organized crime	-0.383	14.67%	0.397
	GCI-Reliability of police services	0.926	85.75%	0.003

Croatia:	GCI-Pillar 1_Institutions	0.000	0.00%	1.000
	GCI-Business costs of terrorism	-0.436	19.01%	0.329
	GCI-Business costs of crime and violence	0.197	3.88%	0.672
	GCI-Organized crime	-0.370	13.69%	0.414
	GCI-Reliability of police services	-0.163	2.66%	0.727
Hungary:	GCI-Pillar 1_Institutions	0.833	69.39%	0.020
	GCI-Business costs of terrorism	0.705	49.70%	0.077
	GCI-Business costs of crime and violence	-0.635	40.32%	0.126
	GCI-Organized crime	0.692	47.89%	0.085
	GCI-Reliability of police services	-0.209	4.37%	0.653
Ireland:	GCI-Pillar 1_Institutions	0.731	53.44%	0.062
	GCI-Business costs of terrorism	-0.537	28.84%	0.214
	GCI-Business costs of crime and violence	-0.858	73.62%	0.014
	GCI-Organized crime	-0.798	63.68%	0.031
	GCI-Reliability of police services	-0.218	4.75%	0.639
Italy:	GCI-Pillar 1_Institutions	0.000	0.00%	1.000
	GCI-Business costs of terrorism	-0.675	45.56%	0.096
	GCI-Business costs of crime and violence	-0.642	41.22%	0.120
	GCI-Organized crime	-0.079	0.62%	0.867
	GCI-Reliability of police services	-0.510	26.01%	0.242
Lithuania:	GCI-Pillar 1_Institutions	0.854	72.93%	0.014
	GCI-Business costs of terrorism	-0.961	92.35%	0.001
	GCI-Business costs of crime and violence	-0.512	26.21%	0.240
	GCI-Organized crime	-0.580	33.64%	0.172
	GCI-Reliability of police services	0.760	57.76%	0.047
Luxemburg:	GCI-Pillar 1_Institutions	0.519	26.94%	0.233
	GCI-Business costs of terrorism	-0.559	31.25%	0.192
	GCI-Business costs of crime and violence	-0.405	16.40%	0.367
	GCI-Organized crime	-0.860	73.96%	0.013
	GCI-Reliability of police services	0.880	77.44%	0.009
Latvia:	GCI-Pillar 1_Institutions	0.619	38.32%	0.138
	GCI-Business costs of terrorism	0.274	7.51%	0.552
	GCI-Business costs of crime and violence	0.220	4.84%	0.635
	GCI-Organized crime	0.655	42.90%	0.110
	GCI-Reliability of police services	0.782	61.15%	0.038
Malta:	GCI-Pillar 1_Institutions	-0.713	50.84%	0.072
	GCI-Business costs of terrorism	-0.820	67.24%	0.024
	GCI-Business costs of crime and violence	-0.773	59.75%	0.042
	GCI-Organized crime	-0.886	78.50%	0.008
	GCI-Reliability of police services	-0.444	19.71%	0.318
Netherlands:	GCI-Pillar 1_Institutions	0.730	53.29%	0.062
	GCI-Business costs of terrorism	-0.810	65.61%	0.027
	GCI-Business costs of crime and violence	-0.490	24.01%	0.265
	GCI-Organized crime	-0.794	63.04%	0.033
	GCI-Reliability of police services	0.191	3.65%	0.682
Poland:	GCI-Pillar 1_Institutions	-0.701	49.14%	0.080
	GCI-Business costs of terrorism	-0.873	76.21%	0.010
	GCI-Business costs of crime and violence	-0.904	81.72%	0.005
	GCI-Organized crime	-0.901	81.18%	0.006
	GCI-Reliability of police services	-0.389	15.13%	0.388
Portugal:	GCI-Pillar 1_Institutions	0.750	56.25%	0.052
	GCI-Business costs of terrorism	-0.533	28.41%	0.218
	GCI-Business costs of crime and violence	0.000	0.00%	1.000
	GCI-Organized crime	-0.441	19.45%	0.322
	GCI-Reliability of police services	0.824	67.90%	0.023

Romania:	GCI-Pillar 1_Institutions	0.889	79.03%	0.007
	GCI-Business costs of terrorism	-0.645	41.60%	0.117
	GCI-Business costs of crime and violence	-0.202	4.08%	0.664
	GCI-Organized crime	-0.142	2.02%	0.761
	GCI-Reliability of police services	0.955	91.20%	0.001
Slovak Republic:	GCI-Pillar 1_Institutions	0.681	46.38%	0.092
	GCI-Business costs of terrorism	-0.730	53.29%	0.062
	GCI-Business costs of crime and violence	0.000	0.00%	1.000
	GCI-Organized crime	0.907	82.26%	0.005
	GCI-Reliability of police services	-0.584	34.11%	0.168
Slovenia:	GCI-Pillar 1_Institutions	0.762	58.06%	0.046
	GCI-Business costs of terrorism	-0.853	72.76%	0.015
	GCI-Business costs of crime and violence	-0.034	0.12%	0.942
	GCI-Organized crime	-0.281	7.90%	0.542
	GCI-Reliability of police services	0.618	38.19%	0.139
Sweden:	GCI-Pillar 1_Institutions	0.867	75.17%	0.011
	GCI-Business costs of terrorism	0.575	33.06%	0.177
	GCI-Business costs of crime and violence	0.747	55.80%	0.054
	GCI-Organized crime	0.833	69.39%	0.020
	GCI-Reliability of police services	0.341	11.63%	0.454
EU:	GCI-Pillar 1_Institutions	0.091	0.83%	0.846
	GCI-Business costs of terrorism	-0.892	79.57%	0.007
	GCI-Business costs of crime and violence	-0.382	14.59%	0.398
	GCI-Organized crime	-0.778	60.53%	0.040
	GCI-Reliability of police services	0.730	53.29%	0.062
Serbia:	GCI-Pillar 1_Institutions	0.923	85.19%	0.003
	GCI-Business costs of terrorism	-0.924	85.38%	0.003
	GCI-Business costs of crime and violence	0.136	1.85%	0.772
	GCI-Organized crime	0.022	0.05%	0.963
	GCI-Reliability of police services	-0.382	14.59%	0.397

Note: *Correlation is significant at the 0.01 level (2-tailed).
Source: Prepared by the authors (SPSS Statistics)

Based on the correlation analysis results provided in table 2, the EU itself and the majority of member countries have a positive correlation between GCI and Institutions, as well as between GCI and the reliability of police services, over the period 2011-2017. Accordingly, the rise in the efficiency of the institutional environment, in both private and public sectors, leads at the same time to an increase of GCI. Also, higher reliability of police services leads to an increase of GCI as well. The mentioned correlation is the highest in the Czech Republic, Greece and Romania. However, the correlation between GCI on the one side and business costs of terrorism, business costs of crime and violence, and organized crime on the other side, is negative, with some exceptions. Furthermore, a rise in business costs of terrorism, business costs of crime and violence, and organized crime lead to the decrease in the global competitiveness index (GCI).

CONCLUSION

A modern understanding of the concept of security has replaced the traditional understanding of security which relies only on military security. This modern concept implies the degree of human development that has been achieved, reflected in the synthesis of the citizens' security and the security of the state, but also their participation in the spheres of international and global security. The state remains the dominant player in all aspects of national security, such as monetary, political, economic, energetic, environmental and that pertaining to natural resources. However, the existence of any of the various security risks can jeopardize the national economy and its competitiveness.

According to the results of the performed empirical analysis, the EU countries and Serbia as a candidate country, experienced fluctuations in the four security indicators (*business costs of terrorism, business costs of crime and violence, organized crime, and the reliability of policy services*) being analyzed for the period 2011-2017. Namely, the country that constantly has satisfactory values of all four indicators is Finland. On the other hand, Bulgaria is a country with almost the lowest performance regarding security issues.

The conducted correlation analysis results confirm the positive correlation between national competitiveness and institutions (public and private), as well as between national competitiveness and reliability on policy services. On the contrary, the rise in the business costs of terrorism, business costs of crime and violence and organized crime all have a negative impact on the overall national competitiveness.

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БАЛАНСИРАЊЕ НАЦИОНАЛНЕ БЕЗБЕДНОСТИ И КОНКУРЕНТНОСТИ У ДОБА ИНФОРМАЦИЈА

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Резиме

Изузетно брз научни и технолошки развој, широка примена савремених научних и информационих достигнућа и њихов велики утицај на све области друштвеног живота – повећавају сложеност глобалног окружења. Супротно очекивањима да ће се ниво одговорности свих актера повећати са становишта коришћења научног напретка у општем интересу и за добробит целог човечанства, сматра се да ће развој науке и технологије бити подложан различитим облицима злоупотреба и водити до негативних импликација по безбедност. Динамика развоја глобалне информационе технологије додатно ће олакшати и интензивирати различите криминалне активности. Стога се национална и међународна безбедност јављају као један од већих изазова последњих година, али и као главни циљ националних и међународних организација.

У раду се истражује национална конкурентност кроз призму националне безбедности како би се проценила корелација безбедности и конкурентности. Аутори су препознали показатеље националне безбедности који су кључни за националну конкурентност и доприносе позиционирању привреде на међународној сцени.

Циљ истраживања је сагледавање традиционалног и савременог концепта националне безбедности и њена анализа на основу следећих показатеља: пословни трошкови проузроковани тероризмом, пословни трошкови проузроковани криминалом и насиљем, организовани криминал и поузданост политичких услуга. Четири поменута показатеља припадају првом од дванаест стубова конкурентности који су обухваћени Индексом глобалне конкурентности, а односе се пре свега на државне институције. Квалитет и конкурентност самих институција има утицаја на укупну националну конкурентност и економски раст утичући на инвестиционе одлуке и друге економске активности. Наиме, инвеститори нису спремни да уложе капитал у случају небезбедног окружења и незаштићених права појединаца.

Истраживањем су обухваћене земље Европске уније и Србија као земља кандидат. Информациону базу чине подаци Светског економског форума који су доступни у Извештајима о глобалној конкурентности за период од 2011. до 2017. године. Методе коришћене у анализи су дескриптивна статистика, корелација и компаративна анализа. Сврха анализе је да се испита тренд четири показатеља која одражавају националну безбедност земаља ЕУ и да се испита положај Србије у односу на ЕУ. Такође, корелационом анализом указује се на однос између националне безбедности и конкурентности како би се пре свега утврдио утицај који безбедност има на националну конкурентност.

Према резултатима спроведене емпиријске анализе, земље ЕУ и Србија, као земља кандидат, доживеле су извесна варирања у четири анализирана показатеља безбедности. Земља ЕУ која константно има задовољавајуће вредности сва четири показатеља у анализираном периоду јесте Финска. Са друге стране, Бугарска је земља са готово најнижим перформансама у погледу безбедности. Србија је у анализираном периоду и у дата четири показатеља безбедности остварила вредности које не одступају много у односу на ЕУ. Међутим, са становишта првог стуба конкурентности – Институције, Србија остварује резултате који су благо испод резултата које остварују земље ЕУ.

Резултати корелационе корекције потврдили су позитивну корелацију између националне конкурентности и институција (јавних и приватних), као и између националне конкурентности и поузданости политичких услуга. Са друге стране, раст пословних трошкова проузрокованих тероризмом, пословних трошкова проузрокованих криминалом и насиљем, те раст организованог криминала – негативно утичу на укупну националну конкурентност.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1217–1232

Прегледни рад https://doi.org/10.22190/TEME191106073K
Примљено: 6. 11. 2019. UDK 343.9:327.8
Ревидирана верзија: 14. 11. 2019. 323.28
Одобрено за штампу: 1. 12. 2019.

CRIMINOLOGY - SECURITY THREATS AND CHALLENGES NOWDAYS [a]

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Abstract

The authors seek to highlight the modernity of studying various issues in criminology and their inter-relatedness to the fields of social sciences and humanities in general, such as sociology, criminology, security, and all deal-related, often opportunistic, "Interlaced" phenomena. Related issues have been studying the relevant safety facts and science that are incorporated in them, not mutually exclusive items related observation, rather than grouping them in one goal - preventing social negative social phenomena. The authors give special attention to the determining of the concept of a political crime, and terrorism. Crime, delinquency - occurs whenever a gain of three quintessential elements of their existence: the victim, the offender and the place of execution. Accordingly, the basis for the philosophy of prevention consists in disrupting or disabling synergies of these three elements. While the idea of crime prevention may be an unattainable ideal, a lot can still be done in an efficient process minimizing the occurrence of crime.

Key words: criminology, security, political crime, terrorism, prevention.

КРИМИНОЛОГИЈА И БЕЗБЕДНОСТИ ИЗАЗОВИ И ПРЕТЊЕ ДАНАС

Апстракт

Аутори желе да истакну модерност проучавања различитих питања криминологије и њихову међусобну повезаност са областима друштвених и хуманистичких наука уопште, попут социологије, криминологије, безбедности и свих повезаних, често опортунистичких, „испреплетених“ појава. Сродна питања су проучавање релевантних чињеница о сигурности и науке које су у њима уграђене, а не посматрање које се међусобно искључују, него њихово групирање у један циљ - спречавање друштвено негативних друштвених појава. Аутори посебну пажњу посвећују одре-

[a] The work was realized within the project "Protection of human and minority rights in the European legal area" no. 179046 of the Ministry of Education, Science and Technological Development of the Republic of Serbia.

ђивању концепта политичког злочина и тероризма. Злочин, делинквенција - догађају се кад год се стекну три битна елемента њиховог постојања: жртва, преступник и место извршења. Према томе, основа филозофије превенције састоји се у прекиду или онемогућавању синергије ова три елемента. Иако би идеја о спречавању криминалитета могла бити недостижан идеал, још увек се може много тога урадити у ефикасном процесу који минимизира појаву криминалитета.

Кључне речи: криминологија, безбедност, политички криминал, тероризам, превенција.

INTRODUCTION

Numerous questions related to the basic tenets of criminology as an independent science, such as subjects, methods, ideological starting points of criminologists in interpreting the empirical results of the research, are at first glance standard topics, and they are the starting points of criminological literature.

From the very beginnings of cogitation about crime and criminals, in a way that was not only criminal, there was, above all, heterogeneity and ambiguity in the concept of crime in general. Experts from various other sciences who first began dealing with criminological issues, such as psychologists, biologists, doctors, anthropologists, and sociologists used the knowledge of their sciences and scientific disciplines as a source for interpreting the various facts that stood out by observing the phenomenon of criminality, or the criminal himself.

Practicing criminology, as well as any other social science or scientific discipline, requires a clear, precise definition of the subject and purpose of the theoretical and empirical research, as well as the application of appropriate methodological procedures in order to successfully explore the subject under study. Various questions in the fields of sociology, criminology, penology, victimology, crime suppression policy, as well as answers to them, are covered by some of the leading ideas of the intellectual tradition in the west, primarily about the nature of scientific knowledge and the ways to reach them. Otherwise, there is a constant need in science for a clear account of the history of the development of human thought, and the associated constant "exuberance" of human research, which makes it extremely difficult to put one's knowledge "first and foremost, as a leader, in intellectual history" (Oldroyd, 1986: pp.1).

The related issues raised in security studies and the science incorporated in them do not exclude related objects of observation but group them together for the sole purpose of preventing socially negative behaviors. That is why it is natural to discuss issues such as political crime and terrorism, as specific types of crime, within the framework of criminal phenomenology. With the exclusive knowledge of these two terms, it is possible to construct adequate measures of prevention, in the context of the criminal-political understanding of crime prevention.

However, in social sciences, such as sociology, criminology, security, dealing with related, often conditioned, "intertwined" phenomena, regardless of the similarity of objects and the use of identical methods in their study, there are other criteria "that justify the formation of special and independent scientific disciplines' (Oldroyd, 1986: p.1). Certainly, this kind of demarcation, as well as the justification for the attributes of autonomy that science bears, can be observed if a clear distinction is made between the epistemological and methodological standpoints related to one science. The epistemological standpoint entails establishing the constitutive principles of the scientific activity, that is, what science seeks to achieve, while the methodological viewpoint relates to how and in what way "the scientist really adapts his behavior to the ideal requirements of the activity in which he participates" (Đurić, 1962: pp. 32). Therefore, the aim of this paper is not to take over, but to integrate the same topics across related disciplines.

POLITICAL CRIME AND TERRORISM

The concept of political criminality represents "the core of understanding criminology and the entire normative system of society" (Schafer, 1974). Nevertheless, it has been relatively neglected in the studies of criminologists, with very little work devoted to historical developments and contemporary examples of political crime. The importance of studying political crime is indubitable for a number of reasons: activities that are defined as criminal activities are only one type of harm covered by the criminal law; Governing policy is involved in deciding what is considered a crime within the framework of political crime, and what is defined as criminal behavior within the framework of political crime may not always be a negative phenomenon. In addition to that, as Paddy Hillyard states, "A political criminal today can be a government minister tomorrow" (McLaughlin and Muncie, 2006: pp. 301).

Political crime is defined in different ways, from a broad definition, according to which all crime in a country is political, to definitions that separate political crime from general (conventional) crime because of the different motivation or ideology of individuals or because of the different context in which this form of criminality manifests[1] (McLaughlin and Muncie, 2006: p. 301). A number of writers emphasize persuasion or motivation as the basic criterion for distinguishing political from conventional crime. Thus, Hagan (1977) defines political crime as criminal activity carried out for ideological purposes and not for private greed or

[1] Overall crime in political terms is a violation of the criminal law, which results from the political process of defending a certain value system. Godwin and De Sade (Jenkins, 1984) considered criminality to be essentially political. Most writers, however, distinguish between political crime and ordinary crime in form, context and motivation.

passion. He gives a list of different types of motivation and examples of individuals who have expressed these motivations: socio-political (Robin Hood), religious (Martin Luther), moral or ethical (anti-abortion activists), scientific (Copernicus or Galileo), political causes (Nathan Hale, Benedict Arnold) (McLaughlin and Muncie, 2006: pp. 300). Political relations in society, political processes and conflicts between individuals and the social system condition the occurrence of criminal activity for ideological reasons - *political criminality*, which includes crime against the internal and external security of the country (treason, espionage, armed insurgency, terrorism, etc.). These are delinquent actions that are socially most extreme because they are opposed to a particular social and political system. The perpetrators of these delicts do not accept the existing social and political system and for certain ideological reasons and political views want to overthrow it.

There are three understandings of political crime in the literature: (Milutinovic, pp. 211) the first understanding is based on objective criteria, and here, political crime implies all offenses that attack the state, its organs and institutions, independence, sovereignty and territorial integrity; the second understanding considers only the subjective factor as the criteria, and those are the motives and intentions of the perpetrator, namely the intention to overthrow the state and its institutions; and the third, based on the critique of the first two understandings, connects objective and subjective elements because such conflicts with the political system can be caused by both reasons. In the modern science of criminal law, both elements are taken into account because it is required that there be both a political object and a political motive. In order to avoid weaknesses in defining the objective and subjective theory, a division into absolute (real or pure) political offenses and relative (non-real) political offenses was made.

Absolute political crimes, in addition to all the objective features of political crimes, also contain a subjective criterion because they are triggered by ideological and political motives (espionage, hostile propaganda, etc.). These offenses attack the state and social order, the external and internal security of the state, that is, the political good, from the political initiatives aimed at changing the social and political system or the state order of the country. Relative political offenses are ordinary, classic offenses aimed at achieving political goals against the state, its organization and security (for example, the assassination of the president of the state, or the government of the state, or the highest representative of a state body) or occur as a means of committing political crimes (shooting hostages, burning and killing during a riot, stealing weapons, shoes, food, etc. to help the enemy) (Arnaudovski, 2007: pp. 298). The division of political crimes is significant from the point of view of extradition because, under international law and the criminal laws

of some countries,[2] extradition cannot be conducted for purely political crimes.

The political system is the basic and most general concept of politics[3] and political science, because it tries to rationalize and unite the parts of a whole at the highest abstraction level (Matić and Podunavac, 1994: pp. 131). In addition to the state, the political system includes political actors: political parties, interest groups, the public opinion, the political elite, forms of democracy, etc. The relationship between the political system and crime has been discussed in the crime literature in different ways. The impact of the political system on crime is analyzed in two ways: one is to link liberal democracy with particular forms of crime, and the other is to look at the impact of state activity on people's behavior.

When examining the relationship between liberal democracy and particular forms of crime, two observations were made (Gassen, pp. 344): (1) studying the structure of delinquency in the liberal democratic political system reveals that there are certain transgressions whose nature is related to their political structure, such as election fraud; corruption of political leaders, union heads, head of the police, especially in the US and Canada; racketeering; subduction; revolutionary and subversive political criminality; (2) the quantitative level has a higher rate of delinquency in countries with liberal democracy than in other countries.

Within certain political systems, movements and ideas can be suppressed, if they are considered unacceptable from the standpoint of that political system, even if they are democratic, and if they use non-violent means for their realization. The repressive mechanism of persecution of the bearers of these movements and ideas leads to open opposition to the existing political system, even in the form of terrorist actions. Gasen refers to these acts as criminalizing protests and citing a range of activities, which are not political acts, but can become so when there is opposition to the organs of order (peasants and truckers who block roads, strikes that impede others from reaching their workplace and holding employers detained) or in cases of attacks on installations and facilities which endanger the eco-system.

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[2] The extradition or extradition of culprits is considered the most important act of international legal assistance. It is carried out for the purpose of conducting criminal proceedings against an extradited person or for the purpose of executing a sentence against him. In the Serbian law, the conditions for extradition are provided for in Art.540 of the Criminal Procedure Code. The ban on extradition for political and military offenses is also envisaged - Art.548 CPC.

[3] The term politics (from the Greek word polis-city, state, community, square with citizens engaged in public affairs) originally implied the skill of governing a city or state, the way of life and internal organization of a human community, or simply a general matter for all citizens of politics. (Tadic, 1996). Today, this term means state affairs, issues that are solved by the state, the methods and means by which it is done. (Pesic, p. 241).

The criminal legislation of Serbia has criminalized as criminal offenses against the constitutional order and security of Serbia (Chapter XXVIII) the following: endangering independence, recognizing capitulation or occupation, endangering the territorial unit, attacking the constitutional order, calling for a violent change of the constitutional order, killing the highest representatives of the state union and Member State, armed insurgency, terrorism, sabotage, espionage, revealing state secrets, provoking national, racial and religious hatred and intolerance, violation of territorial sovereignty, association for unconstitutional activities, preparation of the commission of these crimes and grave acts against constitutional and security regulation. Military criminal offenses are criminalized in Chapter XXXV as criminal offenses against the Serbian Army.

In criminology, terrorism (from the Latin word terror, horror, fear) is defined as a form of political crime. Terrorist acts are planned in advance, and in order to achieve the full effect of their actions, terrorists must manipulate the community to which the message is addressed by committing an act of terrorism. Intimidation is the highest goal, which is the true purpose of this overtly public criminal activity. Likewise, terrorism can be seen as a form of crime of violence directed against a certain person, except that the act of terror applied in a single act of robbery differs from a terrorist attack precisely in the absence of the objective of causing fear in the public and not only in individual victims. The robbery's actions are not directed at public opinion, but at the benefit it has, without wanting to be seen in the environment in any way. On the contrary, in the act of terrorism, the current victim is of no importance, the pursuit is directed at the general public. And it is precisely in this element that terrorism differs significantly from the perpetration of individual violent crimes.[4]

There are different definitions of terrorism (Gaćinović, 2005, pp. 43-48). No matter the differences, they all contain the same elements: violence, fear, purpose and motive. There are more or less differences in terms of encyclopaedic explanations. Thus, terrorism is defined as an action of violence that is undertaken for political reasons to intimidate and mercilessly break the resistance of the one targeted (Politička enciklopedija, 1985, pp. 105-167). Some authors, such as Lemkin, have identified terrorism as the deliberate use of any means that could create a common danger, or a threat that threatens the interests of more states or their citizens (Lemkin, 1933: pp. 900-901, acc. to: Gaćinović, 2005, pp. 44). This author emphasizes that terrorism in the broadest sense implies an act of intimidation of people by performing violent acts.

[4] Distinguishing terrorists from other forms of crime reveals the necessary elements that make an act terrorist: inevitable political motivation; violence or threat of violence; focusing on the far-reaching psychological consequences beyond the immediate victim of violence; the leadership of a terrorist organization whose members do not wear uniforms or insignia. (Gaćinović, 2005, p. 51).

Even at the UN level, there is no unified position on the conceptual definition of terrorism, so members agree that terrorism is equivalent to a war crime committed during peacetime (Maguire, Morgan and Reiner, 2007: p. 780). As early as 1937, the League of Nations attempted to codify the definition of terrorism by adopting the Geneva Convention on the Prevention and Punishment of Terrorism. According to the Geneva Convention, terrorism encompasses "all crimes directed against the state and committed with the intent to create a state of terror in the minds of certain persons or groups of persons or with the general public" (Andreau-Guzmán, 2002: p. 185).

Contemporary criminological literature also contains a number of definitions of terrorism. This form of crime is defined as "violence motivated to achieve political goals" (Titus Reid, 2003: pp. 223). Also, terrorism is said to be "a tactic or technique in the sense that the act of violence or threat of violence is used to achieve the basic goal of creating overwhelming fear over the goals of coercion" (Titus Reid, 2003: pp. 223). The American Law Institute drafted the Criminal Code, which defines the threat of terrorism as follows: “a person is guilty of a criminal offense if he threatens to commit any crime of violence for the purpose of terrorizing another person or causing the evacuation of a building, gathering place or means of public transportation, or any other act that causes serious disturbance to the public, or by reckless negligence creates the risk of causing that terror or harassment" (American Law Institute, Model Penal Code, Section 211.3). Titus Reid cites a relevant definition of terrorism by a criminal law professor H. H. A. Cooper, who in 2001 said: “Terrorism is the deliberate creation of mass fears caused by people in order to secure or maintain control over other people. Terrorism is not a fight for the hearts or consciousness of the victims or for their immortal souls. It is a naked struggle for power, who will own it and what it leads to" (Cooper, 2001: p. 881-93, acc. to Titus Reid, pp. 224). Cooper states that such a definition is "necessary as well as illusory" and compares it to pornography, concluding "we know well what it is when we see it" (Cooper, 2001: pp. 881-93, acc. to Titus Reid, pp. 224).

Cooper classifies terrorism into six categories: **civil disorder**, as "a form of collective violence that disrupts others' peace, security, and the normal functioning of the community"; **political terrorism**, as "violent criminal behavior, primarily designed to provoke fear or a real segment of community fear, for political purposes"; **non-political terrorism**, as terrorism not undertaken for political purposes, but which shows "an intentional form of creating and maintaining a high degree of fear for achieving coercive goals, but the goal is individual or collective success before reaching political affairs"; **quasi-terrorism**, "those incidental activities while committing crime of violence that are similar in form and method to true terrorism, but which do not yet contain its essential ingredient." The true aim of a quasi-terrorist is not to "provoke terror at an

instant victim," as in the case of a real terrorist act. A typical example of a quasi-terrorist relates to a fugitive who holds hostages and whose methods are similar to those applied by real terrorists, but whose goals are quite different; **limited political terrorism**, as "acts of terrorism that are committed out of ideological or political motives but which are not part of a concerted campaign to seize control over the state." Limited political terrorism is different from actual terrorism in the previous lack of a revolutionary approach; and, finally, **official or state terrorism**, activities undertaken by "a people whose government is based on fear and oppression that reaches terrorist scales" (National Advisory Committee, Disorders and Terrorism, pp. 3-7).

Terrorism can be manifested as an act, a process, or a threat, or both acts together. The Task Force on Disorders and Terrorism in the United States has identified several characteristics that distinguish modern terrorism from classic terrorism in its original form. Namely, among the first features there is an increased possibility of harming someone today in comparison to past times, due to the over-development of technology, which inevitably brings with it technological vulnerability. This development, which includes advances in international traffic and the mass media, has increased the "contracting power" of modern terrorists (National Advisory Committee, Disorders and Terrorism, pp. 3-7). Television broadcasts terrorist activities around the world, giving the modern terrorist greater power than the classic terrorist. And lastly, the modern terrorist believes that through violence he can maintain or promote hope for his goals. By reporting terrorist activities, the media simultaneously propagate their ideas, although this is not the primary purpose of the news. On the other hand, unilaterally declaring some actions important because of their "liberation character" is affecting the growing vulnerability of the global community "which, by controlling global electronic intersections, gives green light" to such information (Jevtović, 2006: pp. 48).

Otherwise, some analysts consider terrorism a form of communication. Professor Pavao Novosel, in his commentary on the terrorist attack on the US, writes that this act was, above all, communication, shouting, crying of those who were disenfranchised and who thought they did not get what they deserved. "What is too close to a man, in which he is constantly, less or less visible. This is the so-called drive blindness, you are constantly in the drive and you do not know what is going on, what are the relationships, how others feel and similar. The same is the case with communication. The more they communicate, the less they see the effects of their communication. Only when an accident occurs, when they communicate poorly, when they move away instead of converging, can one

see that something is wrong with the communication. Then they make the process aware and try to find a way to correct it"[5] (Novosel, 2001).

In addition to that, the Internet is available as a new global medium. Terrorist communication over the Internet can be open or using cryptography. Terrorists advertise their activities to gain sympathizers and members, as well as with the view of a number of other goals, such as: planning and coordination, fundraising, publicity, psychological warfare, money laundering, etc. (Kešetović, 2008: pp. 38-39). In 1998, less than half of organizations that were designated as terrorists in the US had their websites on the Internet, and by the end of 1999, almost all. Nowadays, all active terrorist organizations have at least one form of internet presence. By 2007, over 5,000 terrorist websites, online forums or chat rooms were exposed (Kešetović, 2008: pp. 38-39).

Titus Reid distinguishes the subject, strategy, and behavior of terrorists. The primary object of a terrorist act is to create violence or to instil fear of violence, all in favor of success. Or more precisely, they seek to destroy the trust that citizens have in the state.

Terrorist groups can be divided into: xenofighters fighting for aliens or homofighters fighting for their own people. Often, xenofighters seek to remove foreign power or change political boundaries relative to foreign power. Their goals are: attracting international attention; harming the target country's relations with other nations; causing uncertainty and damaging the economy and public order in the target country; developing a sense of distrust and aversion towards the government among the residents of the target country; causing real harm to civilians, security forces and state property (Merari, 1978, pp. 332-47, acc. to Titus Reid, pp. 226). In contrast, homofighters must win the support of their countrymen in their efforts to discredit their own government. Therefore, they must adopt the political views that do not alienate them from the population. An example is the behavior of Robin Hood, by which terrorists use an acceptable goal to justify their unacceptable actions. Homofighters use some of the following strategies: undermining internal security, public order and the economy in order to create distrust in the government's ability to maintain control; gaining general sympathy and support for positive action; creation of a repulsive attitude in the people in relation to extremely repressive counter-

[5] Explaining further the significance of the terrorist act on America's future, the author concludes: "It is the strongest message that can ever be sent. The act of terrorism in the US is a cry for consumer civilization. After that, the US is no longer psychologically what it was. There was a sudden transition without people even knowing that it had happened. Suddenly, Americans are no longer safe in their own nest, in their own space. Their civilization, which arose from the extermination of the natives and the imposition of their culture, was shaken. That's one aspect. Another aspect is the pioneering importance of that civilization, from which American individualism grew. Until now, that individualism has been constantly winning, and now this civilization is threatened from within, from within" (Novosel, 2001).

terrorist measures; inflicting harm on the party's vested interests; damage to the internal position of the existing regime; causing physical harm and harassment of the persons and institutions representing the governing regime (Merari, 1978, pp. 332-47, acc. to Titus Reid, pp. 226).

Terrorism is often linked to organized crime. These two criminological phenomena have their similarities. The following can be cited as the common elements of both phenomena: the existence of an organization (an organized group of people who have been brought together to commit crimes with a view to achieve an appropriate goal); unlawfulness of activities carried out by an organized group; conspiracy, that is, the secrecy of functioning of an organized group; the use of violence to pursue the interests of an organized group; intimidation of the environment in order to pursue the interests of the organized group; endangering and harming values such as: life, health, moral integrity, property, public and state security. The basic difference between terrorism and organized crime is reflected in the psychological element, that is, the motive. The main motive for terrorist activity is to pursue a political, social, national, ideological or religious goal, while in organized crime, the main motive of the actors is unlawful enrichment (Šuput, 2006: pp. 67). At the same time, political ambitions for organized crime actors are emerging now, as well as the "exchange of goods" in the interest of linking terrorist organizations and organized crime (Ćosić, 2008: pp. 22-23).

CC of the Republic of Serbia, in ch. XXVIII, "Criminal offenses against the constitutional order and security of RS" stipulates in Art. 312 "Terrorism." The domestic legislator, when incriminating terrorism, takes into account the following common elements in all the definitions of terrorism: "Who, in order to endanger the constitutional system or security of Serbia, causes an explosion or fire or undertakes any other dangerous act or abducts a person or other act of violence or threatens to take any acts of general danger or by the use of nuclear, chemical, bacteriological or other general means of danger, thereby causing fear or insecurity for citizens, shall be punished by imprisonment for a term between three and fifteen years." In this way, Serbia has partially implemented certain elements of the "anti-terrorism resolutions" of the Security Council related to criminal law. Also, Serbia has accepted the official list of terrorists and terrorist organizations of the European Union. The list adopted by the EU Council on March 20, 2006 contains 45 people and a number of terrorist groups and organizations from all continents except Australia (Mićić, 2006: pp. 1023), and has adopted or ratified a number of other instruments of importance in the international integration of states in the fight against terrorism.[6]

[6] For example: Strategy of Interest Border Management in the Republic of Serbia, Official Gazette of the Republic of Serbia no. 11/2006; Decision on the Criteria for Issuing Licenses for the Export of Arms, Military Equipment and Dual-Use Items "Official Gazette of Serbia and Montenegro" no. 11/2005; Law on Confirmation of Defeat of the

CONCLUSION

Crime and delinquency always occur when three essential elements of their existence are acquired: the victim, the perpetrator and the place of the act. Accordingly, the basis of the philosophy of prevention is to interfere with, or to prevent, the co-existence of these three elements. While the idea of total crime prevention is an unattainable ideal, much can still be done in the process of effectively minimizing the occurrence of crime.

The emergence and development of crime prevention are some of the important features of criminal justice systems in modern countries of the world and often reflect the global "transfer" of prevention practices and ideas, as they are embedded in different jurisdictions and within the jurisdiction of each country. This is always clearly shaped by the various local and cultural traditions, as well as by the social-legalistic context of the issues it regulates. The adoption of preventive strategies and technologies, in the broadest sense, is conditioned by their alignment with political aspirations, on the one hand, and their harmony with the values of culture, on the other.

The issues of crime prevention need to be considered in relation to the past, as well as the contemporary rise in the level of the preventative mentality in people, in a clear historical context (Kostić, pp. 89-110). Next, it is important to look at the notions of crime, law and security, because these three concepts are the key to developing crime prevention and security in the community. This shift towards prevention, together with the discussions that take place there, the different practices and technological procedures used in prevention, is not set as a premise on the basis of a theoretically coherent framework, but on a number of assumptions, which are often not in agreement with one another.

Technological change has played a crucial role in crime prevention. Yet, as usual at first glance, all technological procedures and strategies in crime prevention imbue powerful demands on human effort and opportunities for prevention. Crime prevention is not only a freely valued “tool bag” that has emerged from practice, it is deeply embedded in the conceptual starting points and creates challenges pertaining to various ethical and social issues.

Federal Government of the Federal Republic of Yugoslavia and the Government of the Republic of Slovenia on Cooperation in the Fight against Organized Crime, Trafficking in Illicit Drugs and Psychotropic Substances, Terrorism and Other Serious Crimes, Official Gazette of the Federal Republic of Yugoslavia - International Treaties no. 4/2001; Declaration on the importance of joint action in the fight against organized crime and terrorism, "Joint action of the countries of the region in the fight against organized crime and terrorism", source: Press Office of the Government of the Republic of Serbia, 16.10.2006; Law Confirming the International Convention for the Suppression of Terrorist Attacks by Bombs, “Official Gazette of the Federal Republic of Yugoslavia - International Treaties” no. 12/2002

In the criminology literature, all of these efforts are often interpreted as the consequence of the famous "Martin Works" (Martinson, R., Lipton, D., Wilks, J., 1974) platitude "nothing works". These criminologists, using a meta-analysis procedure, performed a complete evaluation of the criminal rehabilitation program that was implemented in the period 1945-1967 in Europe. They concluded that "with a few isolated exceptions, the reported rehabilitation efforts did not have a noticeable impact on recidivism."[7] The results of that assessment convinced them that "nothing" had any particular success and that no program seemed better than the other.

Therefore, in later criminology, it was precisely under the influence of such a pessimistic conclusion that the question of "what succeeds" was raised, with the aim of changing the professional ideology in 21st century criminology.

Until the late 1960s, criminologists believed that scientific research into the causes of crime would create the basis of individualization of treatment that would reduce recidivism among offenders. Later, by the mid-1970s, this attitude failed and was replaced by a professional ideology that "nothing succeeds" in correctional treatment of perpetrators, under Martinson's influence, that the causes of crime are structural and that crime can only be prevented under the influence of social justice. This professional ideology has one "unfortunate consequence" of legitimatizing "destructive knowledge" (which shows what fails but applies) as the core of an intellectual criminological project, and rendering it the part of a weakened effort of "constructive knowledge" (which shows what succeeds and does not apply). The "what works" movement within the correctional treatment, however, requires an alternative professional ideology, which, again, introduces the use of science into the process of addressing crime-related issues. This vision will advance criminology as a science and contribute more than a "nothing fails" attitude to the well-being of both the perpetrators and the public order in crime prevention.[8]

A further shift in contemporary crime prevention has taken place under the influence of Wilson (J. Wilson, 1975) and his work *Thinking About Crime*. The idea of fixing criminals through social programs was the revival of the classic thoughts of the intimidation of perpetrators combined with the pursuit of mechanisms of informal control and new pragmatic realism. Wilson advocated an approach in which criminology has a much closer connection with public policy goals, an approach that should be achievable. In his view, by then, there was an over-occupation with issues of broad social and structural causation. Criminological theories, which explain the causes of crime by the action of social factors, have remained, according to this author, unconfirmed or impractical. Prevention policy

[7] „Nothing works“, http://sociologyindex.com/nothing_works.htm, accessed: 8.9.2010.
[8] *Ibidem.*

should focus on what can be changed or what can be manipulated. The new logic was to seek intervention that could diminish the source of criminal opportunities and improve the likelihood of detecting and apprehending criminals. Motivational issues, as well as those of a social, structural or psychological nature, should be suppressed in the background of action.[9]

According to Ekblom (Ekblom, 2000) these are the "ultimate factors". In the "new criminology of everyday life" (Garland, 1996), in the precursor of preventative mentality, the proximal (closest) factors need to be aligned more prominently. This assumption assumes that in criminology a shift must be made from the perpetrator as an object of knowledge, to the crime, its situational and spatial characteristics, and at the same time to the place and role of the victim in the crime (The Oxford Handbook of Criminology, pp. 870).

Today, there are definitions of crime prevention on the Network that call it "an attempt to reduce victimization, prevent crime and intimidate criminals." This definition refers solely to the efforts made by the state to reduce crime, to the application of the law, and in particular to the criminal justice system. A broader definition is that "crime prevention is any initiative or policy that reduces or eliminates the overall level of victimization or the risk of individual criminal behavior". The term so defined includes programs undertaken by the state and the local community to reduce the risk factors that correlate with criminal behavior and the level of victimization, as well as efforts to change the notion of crime.

This approach to crime prevention stems directly from the work of various international organizations. Thus, in 2004, the World Health Organization adopted the World Health Organization Guide (2004), which complements the World Report on Violence and Health (2002) and the World Health Assembly Resolution of 2003. 2003 (2003 World Health Assembly Resolution 56-24), which recommends that States implement the following nine recommendations: create, implement, and monitor national action plans for the prevention of violence; increase the space for collecting data on violence; define priorities, such as: causes, consequences and evaluation of violence prevention and support research on it; promote primary prevention efforts; strengthen response to victims of violence; integrate prevention of violence into social and educational policies and thereby promote gender and social equality; increase cooperation and exchange of information on violence prevention; promote and monitor the implementation of international treaties, laws and other mechanisms for the protection of human rights; seek applicable, concerted responses to the global drug and arms trade.[10]

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[9] J. Wilson, *Thinking About Crime,* http://www.freeservants.us/thinkcrime.html, accessed: 9.9.2010.
[10] *Ibidem.*

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КРИМИНОЛОГИЈА И БЕЗБЕДНОСТИ ИЗАЗОВИ И ПРЕТЊЕ ДАНАС

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Резиме

Бављење криминологијим, као и било којом другом друштвеном науком или научном дисциплином, подразумева јасно, прецизно одређење предмета и циља теоријског и емпиријског истраживања, као и примену одговарајућих методолошких поступака ради долажења до сазнања предмета који се проучава. Сродна питања која се изучавају у безбедносним студијама и наука које се инкорпорирају у њих не искључују међусобно сродне предмете посматрања, него их групишу, у једном циљу – превенцији друштвено негтивних понашања. Зато је природно расправљати криминолошки о питањима као што су политички криминалитет и тероризам, као посебним типовима криминалитета, у оквиру криминалне феноменологије. Искључивим познавањем ове две појаве могуће је изградити одговарајуће мере превенције, у оквиру криминално-политичког поимања спречавања злочина. Концепт политичког криминалитета је релативно занемарен у изучавањима криминолога, веома мало радова посвећено је историјском развоју и савременим примерима политичког криминалитета. Издвајају се три схватања о политичком криминалитету: прво схватање полази од објективних критеријума и под политичким криминалитетом подразумева све преступе којима се напада држава, њени органи и институције, независност, суверенитет, територијални интегритет; друго схватање једини критеријум сагледава у субјективном фактору, мотивима и намерама извршиоца кривичног дела, а то је рушење државе и њених институција и треће, настало на основу критике прва два схватања, повезује објективне и субјективне елементе јер конфликти са политичким системом могу бити изазвани и једним и

другим разлозима. У савременој науци кривичног права узимају се у обзир оба елемента јер се тражи да постоји и политички објект и политички мотив. Да би се избегле слабости у дефинисању објективне и субјективне теорије, учињена је подела на апсолутна (права или чиста) политичка кривична дела и релативна (неправа) политичка кривична дела. У криминологији се тероризам одређује као облик испољавања политичког криминалитета. Уливање страха је највиши, промишљени циљ, који је права сврха активности пред јавношћу. Исто тако, тероризам се може посматрати и као облик криминалитета насиља упереног против одређене личности, с тим што се акт терора примењен у појединачном чину вршења разбојништва, на пример, разликује од терористичког напада управо у недостатку циља изазивања страха код јавности, а не само код појединачне жртве. У енциклопедијским објашњењима тероризма постоје веће или мање разлике. Тако, на пример, тероризам се одређује као акција насиља која се предузима из политичких разлога ради застрашивања и беспоштедног сламања отпора онога коме је упућена.

Криминалитет, злочин, делинквенција – јављају се увек када се стекну три суштаствена елемента њиховог постојања: жртва, учинилац и место извршења. У складу са тим, основ филозофије превенције састоји се у ометању, односно онемогућавању, постојања садејства ова три елемента. Док је идеја потпуне превенције криминалитета недостижни идеал, много тога, ипак, може бити учињено у процесу ефикасног минимизирања појаве криминалитета.

Питања превенције криминалитета неопходно је сагледати у односу на прошли, као и савремени, пораст нивоа превентивног менталитета код људи, у једном јасном историјском контексту. Затим, битно је сагледати и схватања злочина, реда и безбедности, с тим што ова три појма чине кључ развоја превенције злочина и сигурности у друштвеној заједници. Тај заокрет ка превенцији, заједно са расправама које се о томе воде, различитом праксом и технолошким поступцима који се примењују у превенцији, није постављен као премиса на основу теоријског кохерентног оквира, већ је заснован на бројним претпоставкама, које често нису сагласне једна другој.

TEME, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1233–1244

Прегледни рад https://doi.org/10.22190/TEME191113074T
Примљено: 13. 11. 2019. UDK 327:911.3
Ревидирана верзија: 13. 11. 2019. 327.56:351.88
Одобрено за штампу: 1. 12. 2019.

NATIONAL AND INTERNATIONAL SECURITY AND CORPORATE GOVERNANCE

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Abstract

Corporate governance is a complex process that represents a relatively new concept in the countries in transition, as is the case in the Balkans. A particularly important phenomenon is that of company managers, running state-property companies, mostly in the company's success, but largely invested in their personal gain and self-promotion. It is often the case that they sign detrimental contracts for their own profit, therefore, jeopardize, and weaken the entire economic system of a country, which represents a serious security risk. Modern cooperative governance assumes an entire set of security measures that have to be undertaken in respect to the degree of threats that may jeopardize the profit and success of a company.

Key words: security, corporations, governance, threats, risks, assessments.

НАЦИОНАЛНА И МЕЂУНАРОДНА БЕЗБЕДНОСТ И КОРПОРАТИВНО УПРАВЉАЊЕ

Апстракт

Корпоративно управљање представља сложен процес који је релативно нов концепт у земљама у транзицији, као што је то случај на Балкану. Менаџери који су углавном били незаинтересовани за успех компаније, али само због сопственог интересовања и самопромоције, водили су компаније које су биле, или су још увек, у државној својини. Често се догађа да они закључе лоше уговоре ради сопствене добити, стога угрожавају и ослабљују читав економски систем земље, што представља озбиљан безбедносни ризик. Модерно корпоративно управљање такође претпоставља читав низ безбедносних мера које се морају предузети у вези са степеном претњи које могу угрозити профит и успех компаније.

Кључне речи: безбедност, корпорације, управљање, претње, ризици, процена.

INTRODUCTION

Corporate governance is a complex process that represents a relatively new concept, especially when it comes to the countries in transition. The level of success and economic development of a country can be assessed according to the applied models of corporate governance. When it comes to public and social companies in the countries that are in the transition process from the socialist to the capitalist way of managing, the model of corporate governance has certain similarities to the capitalist model. In fact, when it comes to their initial capital, public and social companies use state funds, as well as different management structure and control. The process of transition from social to the joint stock ownership, as well as changes in the ownership structure of companies, became the source of various kinds of manipulation and abuse, especially in the case of former Yugoslavian countries. Generally speaking, corporate governance involves the process of managing a company. For the purposes of this work, I would like to highlight the following definition of corporate governance. Corporate governance generally refers to the legal and organizational framework within which a corporation governs principles and processes. It specifically refers to the powers, accountability and relationships of those who participate in the direction and control of a company. There are aspects of corporate governance that have an impact on the relationship between shareholders and the company[1]. The essence of corporate governance refers to the responsibility of the management to the owners of stocks or shareholders. In addition to that, from the definition, we are able to see that corporate governance depends on legal regulations, rules, contracts and norms focused on the existence and action of a company in terms of the market economy.

Diagram 1 shows the difference in corporate governance between the capitalist and socialist organization and management of a company. The Balkan countries are still in the stage of transition and it is becoming obvious that the companies are managed quite differently, primarily taking into consideration the principles of the free market. In most of the Balkans countries, the process of transition from state to the market economy is almost finished. The foreign investment, political will and the system of education all push the economy into the direction of the completion of these processes.

[1] Report of the HIH Royal Commission (Owen Report) The *Failure of HIH Insurance – Volume I: A Corporate Collapse and its Lessons*, Canberra, Commonwealth of Australia, 2003, p. xxxiii.

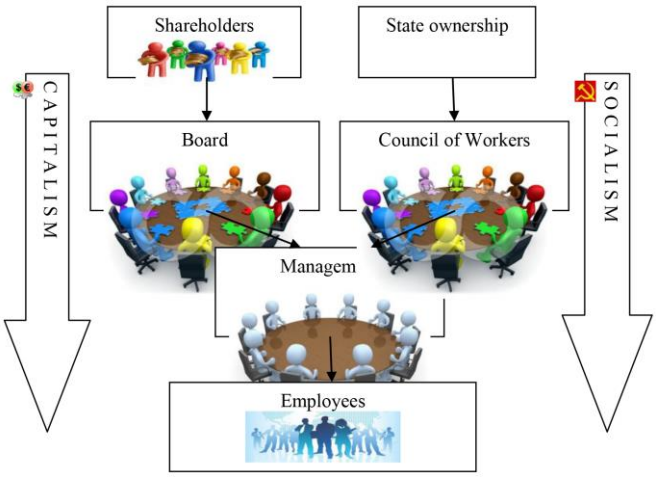

Diagram 1. Corporate governance in capitalism and socialism[2]

The socialist system of corporate governance is one of the important reasons for the collapse and the economic stagnation in the countries that have applied it. Managers who were mostly uninterested for the company's success, but only for their own interest and self-promotion, ran companies that were, or still are, in the state property. It is often the case that they sign detrimental contracts for their own profit and therefore, jeopardize and weaken the entire economic system of a country, which represents a serious security risk. However, corporate governance has been improved in market-oriented economies, and it is extremely important to pay attention to all the potential risks with regard to the state security, and in some cases, international security. The case of a multinational company Enron leads us to the need to establish a new system of rules and guidelines focused on how to run businesses, with a focus on security issues (Eicher, 2009, p.32). Regardless of theory (and there are four theories in this regard – Agency Theory, Stewardship Theory, Stakeholders Theory and Sociological Theory (Banerjee, 2010, p.917)) and models of corporate governance (The Anglo American Model, German Model and Japanese Model (Brink, 1998, p.151)) in modern conditions, more attention has been focused on the security aspects related to the work of one company. These security aspects can no longer refer exclusively to the internal processes of the companies, but also have to follow all those processes outside the company. Therefore, corporate governance involves a much wider range of activities. Corporate governance is something much broader to include a fair, efficient and transparent administration to meet certain well-defined objectives. It is a system of

[2] Diagram 1. Corporate governance in capitalism and socialism – source – author.

structuring, operating and controlling a company, with the view of achieving long term strategic long goals to satisfy shareholders, creditors, employees, customers and suppliers and to comply with legal and regulatory requirements, apart from meeting environmental and local community needs (Rao, 1998,. p. 151). Modern corporate governance also involves a response to the security challenges that a company faces. In the meantime, security management has become part of the highest hierarchy of corporate governance and the adequate response is solved systematically. Corporate governance includes a wide range of measures in the security field, including security risks that may jeopardize the company's work. Security management of the company detects security risks, both internal and external. Upon risk detection, the next step is to allocate the risk holders, and according to them, determine which steps should be taken, the objective being the protection of the company's work.

CORPORATE GOVERNANCE AND SECURITY

In corporate management, security can be seen in a narrow and broad sense. In a narrow sense, security implies all the measures that are related to the safe work within a company. On the other hand, the broad concept of security involves all the works and processes on the activities outside the company. Moreover, as a broad concept, corporate security can also be seen through the position of one company in the system of national security.

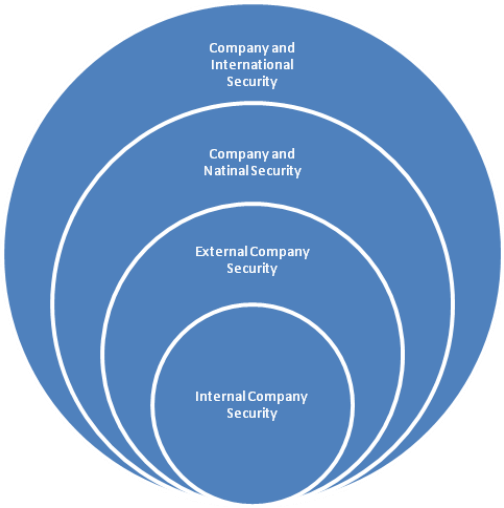

Diagram 2. Company Security[3]

[3] Diagram 2, Company Security – Source: author.

New areas related to corporate governance have been developed over time and refer to the security of corporate governance. For example, Business Security has developed from the internal security of the company, and Business Intelligence has evolved from external Company Security. At the same time, some scholars underline that corporate governance framework sets objectives, policies, values, culture, accountabilities and performance. Risk management and security risk management are integral components of effective corporate governance (Smith & Brooks, 2013. p.33).

INTERNAL COMPANY SECURITY

Internal security of a company implies those measures and procedures, which are defined by law, as well as the internal regulations of a company which are focused on working within the framework of the company. Above all, it applies the measures of physical and technical protection, fire protection, as well as everything related to the functioning of technology, such as computers and computer systems. If it is necessary, physical - technical protection measures imply guardian service with all the activities typical of this form of protection, the application of cameras and other recording and detection devices, all in order to prevent constantly unauthorized monitoring and unauthorized entry into the workspace. In addition to that, companies can provide significant protection for the important figures and apply self-protection measures that involve the personal accompaniment of one or more persons, depending on the degree of risk and a sense of personal security. In these situations, the company hires specialized agencies or professional employees. For the purpose of personal protection of employees, some companies apply the latest technology, such as different programs installed on mobile phones that are used for warning, and GPS devices with two-way communication, which are installed in wristwatches, mobile phones, personal computers or vehicles, that very precisely determine the position of the employee in the company. One of the essential dilemmas is how to protect computers, computer systems and other means of mass communication such as the Internet, telephone lines and other means of internal and external communication, different models of radio stations, radio connections, etc. Special challenges are all those systems of protection of information, theft or modifying information within the company (intrusion into the software system by Cyber-attacks). Intentionally modified information can cause great damage to the company. For example, a small error in the software in one of the largest automobile company Toyota cost the company billions, not to mention the brand damage for this car manufacturer. Not only did the company have to withdraw all disputed cars, but they also had to pay damages of 1.3 billion USD[4]. Internal company

[4] Toyota to pay $1.3 billion over deadly brake faults, AAP, *http://www.sbs.com.au/news /article/2014/03/20/toyota-pay-13-billion-over-deadly-brake-faults,* Retrieve 09.04.2019

focused on the workspace, the objects of work and workers themselves. More and more often companies decide to test their workers using polygraph in certain situations. This happens during the employment, during work or in exceptional circumstances. This will ensure the confidentiality of the work, the outflow of information and company loyalty to corporate - business secrets. Although this method was particularly used by the companies in the United States, with the imposition of The Employee Polygraph Protection Act from 1988, the use of polygraphs by private companies is limited (Dempsey, 2011, p.249). This law mainly refers to the implementation of these methods to workers who perform specific business scope of work such as primary security jobs, work on the manufacturing and distribution of controlled dangerous substances, workers who do confidential jobs and important work of national importance (water-works, nuclear power plants, are important objects of infrastructure, etc.). Considering new security challenges, especially after the terrorist attacks of 9/11, big corporations decided to hire security experts in anti-terrorism, kidnapping or negotiations in crises. In case of crisis, these experts have the duty to protect the employees and the company, as well as to train employees how to act in these circumstances (Halibozek, 2008, p. XI).

EXTERNAL COMPANY SECURITY

The External Security of a company implies all those processes and activities outside the company which threaten the safety of the company, or its employees. As for the Internal Security of a company, it is also essential to have a proper assessment of the risks and threats that lead to potential dangers. These risks may be related to the endangerment of the company's labor and facilities, or the endangering of the employees in the performance of their work outside the company. Also, certain risks may be related to the important interests of the company, as well as the ability to operate freely domestically or internationally. Certain construction companies, while doing work in dangerous or war-encompassed countries, provide even bulletproof vests for the workers, to protect them from possible attacks. Large multinational companies that perform their business operations on the territory of other countries in extremely dangerous and complex circumstances, producing controversial goods, or just offering similar services, can be an easy target even for terrorists (Halibozek, 2008, p.64). With the escalation of terrorism and the appearance of armed formations of various extremist groups that are capable of kidnapping workers, companies had to adequately respond and implement all the possible measures to protect their employees. For example, forty Indian construction workers been kidnapped from the militant-controlled city of Mosul in northern Iraq[5]. On

[5] *India Says 40 Indians Kidnapped in Iraq*, Wall Street Journal, http://online.wsj.com/articles/india-says-it-has-lost-contact-with-40-indians-in-iraq-1403073794 Retrieve

the other hand, kidnappers once again struck along the creeks of the Niger Delta as four men working for a dredging company attached to a construction giant, Setraco, were abducted along the creek of Nembe, in the Nembe Local Government Area of Bayelsa State[6]. The abduction of the workers who work in dangerous parts of the world has become a serious problem for the companies, in terms of not only human lives and family tragedies, but also in terms of great material losses. The so-called "Sea Pirates" are causing great damage to the economy because they steal entire crews of ocean liners ships and demand ransom for them, and the goods from abducted ships are sold on the black market (Palmer, 2014, p.191). The African coast is especially dangerous because pirates cause enormous damage to the economy all the way from Nigeria in the West, to Somalia in the Northeast. Speaking from personal experience, following the original pictures is a proof that pirates can be extremely dangerous. The attack on a cargo ship Linea Messina took place in November 2010. The pirates were not expecting that the company had hired top anti-terrorist experts, a security service especially for that purpose, and they stopped the pirates' attack. However, other companies have not properly assessed the risk of pirates and terrorists, and they suffered great losses.

Photo 1. Cargo ship Linea Messina
Source Author

Photo 2. Fishing boat with pirates
Source: author

Photo 3. Pirates
Source: author

Photo 4. Pirates run after the expert's intervention
Source: author

04.09.2019.

[6] *Four Setraco Workers kidnapped in Bayelsa*, Thisday Live, http://www.thisdaylive.com/articles/four-setraco-workers-kidnapped-in-bayelsa/186605/ Retrive 05.09.2019.

The case of Malaysia Airways – the national airline of Malaysia, or better to say the tragedy that struck this company caused tremendous damage. In two separate accidents (the first being the case of the abduction of an aircraft, and another the case of folding passenger aircraft), the company lost two aircrafts and on both occasions, hundreds of passengers lost their lives. Human victims, material damage and the greatly disturbed reputation and brand of this company led Malays Airways to a forced lay-off of more than 6,000 workers, which means that this 42-year-old company is brought to the edge of collapse.[7] Perhaps this case is an example of a completely ignorant attitude by the company towards external security threats. The first aircraft on the flight, MH 370, was abducted and has not been recovered to this day. I doubt that this is the work of terrorists or the crew members. This is not the first time that a Malaysian plane was abducted. In 1977, a single terrorist abducted the aircraft on the Malaysia Airlines flight, MH 653. The Japanese terrorist, a member of the Japanese Red Army, abducted the aircraft, killed the pilot and then crashed the plane with no survivors (Robertson, 2007, p.354). The question is whether Malaysian Airways has ever had any professionals in charge of security risk assessments? This issue is even more justifiable if we take into consideration the other disaster-related flight, MH 17.

The aircraft was on the flight from Amsterdam to Kuala Lumpur, and was destroyed by a rocket in the war-affected territory between Ukraine and Russia.[8] Certainly, the business management of the company ignored all warnings related to possible security risks and threats that exist when it comes to the flight over conflict affected territory. The listed examples show the necessity of collecting all available information about the security risks that could jeopardize operations or employees in a company. Different epidemic factors, may also affect the business. This is, for example, the case with the current epidemic of the Ebola virus. In the past, we have seen a range of factors causing panic in investment markets across Africa. The latest worry to investors is the Ebola Virus Disease (EVD) outbreak. The Chief Executive Officer of Financial Derivatives Company (FDC) Limited, Mr. Bismarck Rewane said that the Nigerian economy risks losing over $3.5billion (circa N542.5bn) to the epidemic if nothing is done to contain the spread. The company mentioned in their recent report that the sectors that will be impacted the most in Nigeria are the aviation, hospitality and tourism,

[7] Malaysia Airlines to lose 6,000 jobs in revamp, Daily Star, *http://www.dailystar.com.lb/Business/International/2014/Aug-30/268980-malaysia-airlines-to-lose-6000-jobs-in-revamp.ashx#axzz3CT1gJoUA* Retrieve 05.09.2019

[8] MH17 Malaysia plane crash in Ukraine: What we know, BBC, *http://www.bbc.com/news/world-europe-28357880* Retrieve 05.09.2019.

trade, the medical field and agriculture[9]. The list of risks and threats to companies operating internationally is long and ranges from those risks and threats that come from physical deterrence and the inability to work, to the political instability of the country, or global geopolitical trends. In other words, those risks and threats can be financial risks – inflation or currency crisis, natural disasters such as flooding, earthquakes or uncontrolled fires, political instability or risks, undesirable regulation, expropriation of assets or property by foreign government.

COMPANY AND NATIONAL SECURITY

The company and National Security determine the role and position of the company with regard to the national security, both the home country of the company, as well as the foreign country where the company is active. It is a primary mission of each state to secure the legal framework of company work, stable economic conditions and safe work. Economic security and stability represent the vital interests of every country. Stable and progressive economy is one of the prerequisites of the defensive possibilities of a country. The weakening of the economic possibilities of one country directly impacts national security. Security can be achieved only by national economy's growth and development (Singh, 1996, p.25). National economy is based on the work of the companies. When it comes to national security, it is extremely important to develop partnerships between the public and private sector. The public and private sectors have a mutual interest in increasing corporate activities to the benefit of homeland security in general and First Responders specifically. In the United States and Europe, large portions of the critical infrastructure lie in the hands of private actors (Steinhausler, 2005. p.121). It is essential to establish the relation between national security and corporate security. Both corporate and national security must be linked by a common national interest. In today's context, corporate security can certainly help national security agencies in many ways and vice versa. For instance, in the US there are three different levels of security hierarchy. National Security (protects the nation with jurisdiction in the US and abroad), Homeland security (protects society with jurisdiction in the US) and Corporate security (protects industrial assets) (Lee E. 2015, p.10).

[9] *Ebola virus: Imminent danger to banks, investments*, Nigerian Tribune, http://tribune.com.ng/business/tribune-business/item/14379-ebola-virus-imminent-danger-to-banks-investments/14379-ebola-virus-imminent-danger-to-banks-investments Retrieve 05.09.2019

COMPANY AND INTERNATIONAL SECURITY

Companies and International Security determine the role and position of one company with regard to international security. Moreover, this is primarily the case with multinational companies. The main question here is whether international security affects international trade and vice versa, and if yes, how? Multinational companies operate around the globe, particularly among the less developed countries. That is why multinational companies are often identified as the world's leaders in the exploitation of the poor (Kolodziej, 2005, p.16). By using their power in assets, humans and influence, when it comes to world peace and stability, multinational companies have an important role. For example, multinational companies have an important role in the oil-producing countries and therefore they can very easily trigger a worldwide crisis based on the lack or inadequate delivery of the oil and its derivatives. Particular attention must be paid to the processes of globalization, and how those processes in which multinational corporations participate can have an impact on international and national security. Scholars have long been writing and proving the link between trade, especially international trade and wars. From Plutarch around 100 AD who stated that international commerce brought cooperation and friendship, to the philosophers from the eighteenth and nineteenth centuries, such as Adam Smith, Immanuel Kant, J. J. Rousseau, J. S. Mill, etc., all of them united in the idea that international commerce made war among states costlier (Brooks S, 2005.p.1).

CONCLUSION

The level of success and economic development of one country can be observed according to the models of corporate governance that are being used. Generally speaking, corporate governance involves the process of managing a company. The transition from the state to the market economy model is almost done in most of the Balkan's countries. Corporate governance system used in socialistic countries is one of the main reasons of the crisis and economic stagnation. However, even though corporate governance is developed in market economies, it is extremely important for us to pay attention to every potential risks for national, or in certain cases, international security. Modern corporate governance contains the answers to every security challenge one of a company. It also implies an entire list of measures from the security aspect, in relation to the potential security risks. Security management of the company detects the security risks, both internal and external. After the risk detection, the next step is to allocate the risk holders, and according to them, determine which steps should be taken with the view of protecting the company. In corporate governance, security can be seen in a narrow and broad sense. In a narrow sense, by security we imply all the measures that are related to the safety within the company. On the other

hand, the broad security concept involves all the works and processes on the activities outside the company. Moreover, as a broad concept, security can also be seen through the position of one company in the system of national security.

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НАЦИОНАЛНА И МЕЂУНАРОДНА БЕЗБЕДНОСТ И КОРПОРАТИВНО УПРАВЉАЊЕ

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Резиме

Процес преласка са друштвеног на акционарско власништво, као и промене у власничкој структури предузећа – постали су извор разних манипулација и злоупотреба, посебно у случају земаља бивше Југославије. Уопштено гледано, корпоративно управљање укључује процес управљања компанијом. Суштина корпоративног управљања односи се на одговорност менаџмента према власницима акција или акционарима. Балканске земље још увек су у фази транзиције и постаје очигледно да се компанијама управља сасвим другачије, пре свега узимајући у

обзир принципе слободног тржишта. У већини земаља Балкана, процес преласка из државне у тржишну економију је готово завршен. Савремено корпоративно управљање такође укључује одговор на безбедносне изазове са којима је компанија суочена. У међувремену, безбедносни менаџмент постао је део највише хијерархије корпоративног управљања и адекватан одговор на бројне изазове који долазе из ове сфере. Велике мултинационалне компаније које обављају своје пословне операције на територији других земаља у изузетно опасним и сложеним околностима могу бити лака мета чак и за терористе. Посебне изазове представљају сви они системи заштите од крађе или модификације информација (упада у софтверски систем информатичким нападом) у компанији. Савремено корпоративно управљање укључује одговоре на све безбедносне изазове и ризике за једну компанију. Под појмом спољне заштите компаније подразумевају се сви они процеси и активности ван компаније који угрожавају безбедност компаније или њених запослених. Што се тиче унутрашње безбедности компаније, од суштинске важности је исправна процена ризика који доводе до угрожавања. Ови ризици могу бити повезани са угрожавањем циклуса рада или угрожавањем запослених у обављању посла унутар компаније. Основна мисија сваке државе је да осигура правни оквир рада компанија, добре економске услове, те безбедан и сигуран рад. Економска сигурност представља један од виталних интереса сваке земље. Улога државе и државних институција је да на сваки начин заштити своје грађане, компаније и интересе – како унутар државе тако и ван ње.

ПАНОРАМА
PANORAMIC OVERVIEW

ТЕМЕ, г. XLIII, бр. 4, октобар – децембар 2019, стр. 1247–1264

Оригинални научни рад https://doi.org/10.22190/TEME190531075S
Примљено: 31. 5. 2019. UDK 316.74:373.3/.4"20"
Ревидирана верзија: 9. 9. 2019.
Одобрено за штампу: 1. 12. 2019.

КЊИЖЕВНИ ЈУНАК И СОЦИЈАЛНО ОДГОВОРНО ПОНАШАЊЕ ПОЈЕДИНЦА У ЧИТАНКАМА ЗА МЛАЂЕ РАЗРЕДЕ ОСНОВНЕ ШКОЛЕ

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Апстракт

Двадесет први век – век технике – донео је много новина, али и изазове и проблеме за све оне који живе и раде у њему. Динамичне промене савременог друштва снажно утичу на сваког појединца, а посебно на младе. Зато су неминовне промене места и улоге коју образовање има у развоју појединца како не би дошло до антагонизма на релацији ученик–школа, што може имати озбиљне последице. Избором вредних наставних садржаја, њиховим дидактичко-методичким обликовањем у уџбеницима и квалитетном наставном интерпретацијом, осим квантума знања, треба утицати на емоционално, социјално и морално васпитање младих. Вредно књижевно дело пружа велике могућности за то. Полазећи од Ингарденове тврдње да постоје две различите фазе сазнавања књижевног текста (фаза за време читања и фаза после читања), у раду се истиче значај шире интерпретације књижевног јунака за развој емоционалне осетљивости и моралне и социјалне одговорности почев од најранијег узраста.

Књижевни јунак може се анализирати са различитих аспеката. Колико се, осим на поступцима, понашању и особинама, инсистира на описима, говору, осећањима и расположењима, као и повезаности са искуством ученика – сазнаћемо анализом садржаја читанки за трећи разред основне школе издавача у Србији. Акценат је на лингвометодичкој апаратури иза текста, која представља драгоцене смернице учитељима у тумачењу и утиче на рецепцију дела од стране ученика.

Добијени резултати показују да аутори углавном ученике упућују на запажање поступака, понашања и особина јунака, мање пажње посвећују спољашњем опису и осећањима и расположењима, а најмање говору ликова, као и потреби да се предузму конкретне активности у окружењу и помогне другоме, чиме је велика одговорност на учитељу да добрим методичким приступом обезбеди ваљане подстицаје за продуктивнију анализу јунака како би код ученика дошло до саморефлексије, прихватања позитивних вредности и социјално одговорног понашања.

Кључне речи: читанка, лингвометодичка апаратура, социјално одговорно понашање, ученик, савремено друштво.

THE LITERARY HERO AND THE SOCIALLY RESPONSIBLE BEHAVIOR IN THE READING BOOKS FOR YOUNG ELEMENTARY SCHOOL CHILDREN

Abstract

The twenty-first century, the century of technology, has brought a lot of novelties, but also challenges and problems for everyone living and working in this century. The dynamic changes of the modern society affect everyone, especially the young. That is why it is necessary to make certain changes concerning the place and role of education in the development of an individual in order to avoid any antagonism between the student and school that could have serious consequences.

Choosing the adequate learning materials, organizing them didactically and methodologically in textbooks, along with a well thought out teaching process are the actions supposed not only to increase the quantity of knowledge, but also focus on the emotional, social and moral education of young people.

A good literary work offers many possibilities for this. By starting from Ingarden's assertion that there are two different phases of reading a literary text (While-Reading Stage; Post-Reading Stage), this paper emphasizes that a more detailed interpretation of the literary hero is very important for the development of emotional sensitivity, and moral and social responsibility starting from an early age.

A literary hero can be analyzed from different perspectives. The analysis of the reading books for the third grade of primary school published in Serbia will help us find out if these books insist only on the literary heroes' actions, behavior and qualities, or if they also insist on the descriptions, speech, feelings and moods, as well as on the connection with the students' experience.

The emphasis is on the linguistic and methodological apparatus which serve as valuable guidelines to the teachers to help the students interpret and understand the literary work.

The results obtained indicate that the authors of the reading books mainly focus the students' attention to the characters' actions, behavior and characteristics, while they focus less on the description of the characters' looks, feelings and moods, and the least attention is paid to what the characters are saying, as well as to the need to take specific actions and help others, where the teacher's responsibility is to use appropriate methodological approaches to ensure proper motivation for a more productive analysis of the character, in order to prompt self-reflection, and the adoption of positive values and socially responsible behavior in students.

Key words: reading books, linguistic and methodological apparatus, socially responsible behavior, student, modern society.

Оно што деца и млади науче
касније постане суштина друштвених односа.
Ако желимо бољи свет,образовање у својој
суштини мора да се бави људским вредностима.
Жак Делор (из *Извештаја међународне*
комисије за образовање за 21. век)

1. УВОД

Савремени друштвени развој оличен је у дијадном односу образовања и науке као кључних развојних ресурса. Са становишта *социологије развоја*, потребно је указати и на значај истраживања улоге образовања у условима глобализације, посебно тзв. хуманистичког приступа, и то како са становишта развоја појединца тако и обликовања претпоставки могућег рационалног и хуманог развоја друштва. Зачеци хуманизма у историји људске цивилизације везују се за Аристотела и Конфучија, док се одлучујући инспиратори савремених хуманистичких теорија васпитања везују за представнике егзистенцијализма деветнаестог века (Milutinović, 2008). Познато је да хуманистичка педагогија педагошким остваривањем идеја хуманистичке психологије (Маслов и други) пажњу усмерава на стварање целовите личности насупрот Маркузеоовом *једнодимензионалном човеку*. Образовању за 21. век постављани су нови захтеви који би се односили на „хуманистички карактер, односно на подстицање развоја личности и њених способности, развијање демократских вредности, критичког мишљења и грађанске свести, на општу доступност образовања и заштиту националних култура. Образовање у свету који се стално мења, подразумева не само преношење и усвајање знања, већ и развијање вештина и компетенција потребних за свет тржишта и свакодневни живот" (Марковић-Крстић, Милошевић-Радуловић, 2016, стр. 13).

Међутим, у пракси је присутан својеврсни парадокс: промене друштва у транзицији доводе до пада система вредности, кризе морала, појачане агресивности, док се, истовремено, хуманистичком васпитању и развоју пожељних модела понашања, развијању позитивних особина личности не посвећује довољно пажње (више у Јевтић, Јовановић, 2016, стр. 587–606). Могућа решења уоченог проблема су, између осталог, у реформи и модернизацији наставе, која би требало да се тиче наставних стратегија, али и избора садржаја и концепције уџбеника (Ненадић, 2006). Први и основни корак ка томе садржан је у избору и добром дидактичко-методичком обликовању пожељних садржаја у уџбеницима, чиме би се, осим квантума знања, значајно утицало на формирање друштвених норми и изграђивање хуманих вредности. На то обавезује и *Закон о основном образовању и васпитању*, који истиче да, између осталог, треба:

„...12) развијати осећање солидарности, разумевања и конструктивне сарадње са другима и неговати другарство и пријатељство;

13) развијати позитивне људске вредности;

14) развијати компентенције за разумевање и поштовање права детета, људских права, грађанских слобода и способности за живот у демократски уређеном и праведном друштву;

15) развијати поштовање расне, националне, културне, језичке, верске, родне, полне и узрасне равноправности, толеранцију и уважавање различитости;

16) развијати лични и национални идентитет, свест и осећање припадности Републици Србији, поштовање и неговање српског језика и матерњег језика, традиције и културе српског народа и националних мањина, развијати интеркултуралност, поштовање и очување националне и светске културне баштине (члан 21, *Закон о основном образовању и васпитању*).

Значајан допринос развоју социјално пожељног понашања и моралног поступања појединца, поред породице и предшколске установе, даје и школа јер се од учитеља очекује да препознајући адекватне садржаје и користећи их развија високо моралну личност ученика (више у Минић, Јовановић, 2015, стр. 44). Истраживања потврђују да је период предшколског и основношколског образовања најпогоднији за развој просоцијалног понашања (више у Јевтић, Јовановић, 2016, стр. 587–606). Развој социјалне компетентности појединца са узрастом неће бити прогресиван уколико се не почне на време са континуираном применом одговарајућих наставних стратегија уз заједничко ангажовање породице и школе (Јевтић, 2015, стр. 845–865). Резултати многих истраживања о развојним постигнућима појединца иду у прилог раном учењу социјалних вештина (Rajs, 1966; Hes & Tornei, 1967; Atvud, 1986; prema: National Council for the Social Studies Elementary / Early Child hood Education Committee, 2002; Abbott, Lundin, Ong, 2008). Тако се у предшколском периоду говори о међусобној друштвеној покретљивости вршњака, спонтаној сарадњи детета са другима у играма које захтевају поштовање правила и договор (Vandell, Nenide & Winkle, 2006). Рани школски узраст одликује способност слушања других, флексибилност, отвореност, толерантност и интересовање за прошлост заједнице, брига за групу којој ученик припада и тежња да помогне (National Council for the Social Studies Elementary / Early Child hood Education Committee, 2002; Landy, 2002).

Избором и презентацијом друштвених садржаја у оквиру одређених предмета, а посебно књижевних текстова, почев од млађих разреда основне школе, уџбеник, односно читанка, може у великој мери да обликује индивидуални доживљај стварности, развија позитивне емоције и изграђује хумане вредности код ученика. У средишту истраживања биће лингвометодичка апаратура која се односи на ликове одабраних дела у читанкама за трећи разред основне школе како би се утврдило учешће анализе јунака у унапређењу и развоју емоционалног, моралног и социјално одговорног понашања ученика узраста десет година.

2. ЧИТАНКА КАО УЏБЕНИК И ИЗБОР САДРЖАЈА У ЊОЈ – ПОЛАЗНА ОСНОВА ВАСПИТАЊА

Наставни садржаји се методолошки разрађују у уџбенику, још увек примарном извору знања. „Концепција уџбеника следи наставни програм, те са тог становишта, он није одговоран за мањак или вишак неких знања или вредносних садржаја. Ипак, одговоран је за квалитет знања који се обликује на његовим страницама, као и за начин презентације у основном тексту и дидактичко-методичком апарату" (Милошевић-Радуловић, 2013, стр. 35). Уџбеник је културни продукт који представља темељну основу за индивидуални развој појединца, али и важан инструмент културне трансмисије и културне репродукције заједнице (Plut, 2003). Са аспекта друштвених садржаја, најпогодније је средство за ширење вредности јер рад на тим садржајима доводи до когнитивних и емоционално-социјалних „последица" у духовном развоју ученика. Уџбеник има моћ да обликује однос ученика према породичној и друштвеној стварности, историји и ширим знањима о човеку и друштву и зато концепцијски треба да буде усмерен према друштвено пожељним циљевима (Аврамовић, 2007, стр. 36).

Садржаје о прошлости свога народа деца треба да упознају читањем прича које почивају на историјским догађајима. Дела народне књижевности драгоцено су штиво за буђење националног духа, јачање моралне свести, усвајање система правих вредности (више у Стојановић, 2015). Добро мотивисан најмлађи реципијент, подстакнут питањима и задацима иза дела, тумачи и изнова ствара дело у складу са хоризонтом очекивања. Тиме духовно, естетски и емоционално богати себе новим значењима. Зато велику пажњу, осим избору дела, треба посветити питањима и задацима иза текста.

Улажење у поетски свет дела је сложен процес, који подразумева примену мноштва теорија тумачења. Ингарден (1971) тврди да постоје две фазе сазнавања књижевног текста: фаза за време читања и фаза после читања – рецепција. Рецепционо-естетички модел настоји да свако књижевно дело посматра као носиоца порука одређених информативних, естетских и етичких вредности и подстиче читаоца да вреднује и доноси судове у вези са делом који не налазе аргументацију само у тексту, већ и у личном искуству и емоционалном доживљају читаоца. Савремена методика наставе књижевности у приступу делу треба да „развија и негује трагалачки смисао и истраживачки занос да се продре у најсуптилније унутарње његове изворе подстицаја који зраче неисцрпним врелом искуства и сазнања" (Кисић, 1999, према: Миловановић, 2016, стр. 225).

3. КЊИЖЕВНИ ЈУНАК И ЊЕГОВ УТИЦАЈ НА ЛИЧНОСТ РЕЦИПИЈЕНТА

Један од најефикаснијих методичких приступа књижевном тексту јесте обрада путем јунака, јер књижевни ликови „у структури епског дела имају двоструку функцију: 1. покрећу и усмеравају радњу, и 2. представљају носиоце одређених емотивних, етичких и интелектуалних својстава личности" (Стакић, 2015, стр. 294). Као слојевита творевина, књижевни лик је састављен од „више различитих елемената, снагом стваралачког духа обједињених у целину. Он има своје значење, структуру, функцију и смисао" (Милатовић, 2011, стр. 318). Као носилац пишчевих мисли, главни јунак у уметничкој приповеци је „психолошки продубљен и социјално одређен само у оним цртама које су важне за сегмент живота или догађај који се приказује, али готово све што је садржано у причи непосредно или посредно учествује у обликовању лика и његовом формирању" (Стакић, 2015, стр. 308). Зато је анализа књижевног лика могућност за разоткривање различитих карактера обликованих на више начина, и то:

- сликањем **физичког изгледа**,
- сликањем **морала – етичког поступања** јунака,
- **описом психолошког стања**,
- **идејним** сликањем погледа на свет,
- **лингвистички**, језиком којим јунак говори (више у Милатовић, 2011, стр. 318–319).

Вешт писац често једну карактеризацију постиже другом, па тако физичку карактеризацију користи да би описао унутрашње стање јунака. На пример, у делу *Бајка о белом коњу* описујући спољашњост, неугледност и израбљеност коња, хромим ходом и бангавошћу писац дочарава његову унутрашњу психолошку драму и тегобан живот. Моралну величину добре роде (*Прича о доброј роди*) слика потребом за уметношћу, која јој је битнија од хране.

Лик у књижевном делу разоткрива се читаоцу на себи својствен начин, па анализу треба усмерити на: спољашњи изглед, поступке, понашање, особине, осећања, говор. Зато питањима и задацима за анализу треба актуелизовати:

- „како ученик доживљава лик,
- спољашњи изглед лика[1],
- психолошки портрет лика, морално понашање, моралне поступке и гледишта,

[1] Подвучене аспекте пратићемо у одабраном узорку питања и задатака анализираних читанки.

- мотивацију лика, мотивску оправданост за увиђање појединих мотива, ситуација и поступака и њихово повезивање у дело као целину,
- пројектовање лика на околину,
- међусобне односе ликова,
- нараторску улогу лика,
- социјалну одређеност лика,
- говор и језик лика, начин говорења и одлике језика,
- идејна и филозофска схватања,
- улогу ауторових коментара у току карактеризације и
- вредновање књижевног лика" (Милатовић, 2011, стр. 320).

Како ће после читања дела започети књижевно-естетска анализа и у ком смеру ће тећи најчешће зависи од подстицаја у читанци. Зато смо сматрали посебно важним сагледати квалитет и квантитет питања и задатака иза текста.

4. МЕТОДОЛОШКИ ОКВИР ИСТРАЖИВАЊА

Предмет истраживања је анализа питања и задатака који се тичу ликова у одабраним делима у читанкама за трећи разред основне школе са циљем да се утврди колико се анализом јунака подстиче развој емоција, морално поступање и социјално одговорно понашање ученика. Узорак истраживања биће питања и задаци у читанкама одабраних издавачких кућа у Србији одобрених од стране Министарства. Тачније, пратићемо заступљеност питања и задатака којима се ученици упућују да запазе:

- спољашњи опис лика,
- његове поступке и понашање,
- особине које испољава,
- осећања која (не) испољава,
- говор и језик у делу,
- везу са личним искуством и потребу имплементације сазнатог у непосредном окружењу.

Циљ истраживања је компаративном анализом лингвометодичке апаратуре утврдити у оквиру којих сегмената се најчешће сагледава књижевни јунак.

Полазећи од постављеног циља, *задаци истраживања* су:

1. утврдити квантитет питања и задатака којима се најчешће „разоткрива" књижевни јунак;
2. испитати колико често се инсистира да ученици запажају *поступке и понашање* ликова;
3. утврдити колико се упућују да на основу испољених поступака уоче *особине* јунака;
4. истражити колико се пажње поклања *осећањима ликова*;

5. испитати колико се ученицима скреће пажња на *говор* ликова;
6. утврдити колико се тражењем *везе* између јунака дела и искуства ученика упућују на социјално одговорно понашање у непосредном окружењу *применом* наученог.

Хипотезе истраживања

У складу са постављеним задацима, дефинисана је једна општа хипотеза и више посебних хипотеза.

Општа хипотеза је:

С обзиром на узраст ученика, очекује се да су најчешћи начини „разоткривања" јунака у делу путем задатака који се тичу *спољашњег изгледа, поступака и понашања, али и језика*.

Посебне хипотезе су:

1. Полазећи од чињенице да дела откривају карактер појединца, очекује се да ће највећи број питања упућивати ученике на запажање *поступака и понашање* ликова;
2. Имајући у виду да поступцима писци откривају унутрашње особине јунака, очекује се да ће готово увек ученици бити упућени да запазе *позитивне и негативне особине*;
3. С обзиром на то да је емоција моћан покретач понашања, очекује се велики број питања која се тичу *осећања* као „слике" психолошког стања јунака;
4. Претпоставља се да ће врло често аутори упућивати ученика да проналази везу између јунака и личног искуства како би преиспитивао и кориговао своје понашање. Истовремено, очекује се да ће ученик увек када је то могуће бити подстакнут да уочено социјално одговорно понашање и морално поступање примени у окружењу.

Узорак истраживања чиниле су читанке за трећи разред основне школе издавачких кућа: *Завод за уџбенике*, *Креативни центар*, *Едука*, *Нова школа* и *Клет*. Циљно су анализирана издања објављена 2004. и 2007. године (*Завод за уџбенике*, *Креативни центар* и *Нова школа*) и скоро деценију касније 2012, 2014. и 2016. године (*Креативни центар*, *Едука*, *Клет*) како бисмо пратили фреквентност и очекивану прогресију појединих група питања (спољашњи опис, осећања, говор) с обзиром на недовољно развијену чулну и језичку осетљивост младих.

Испитивањем су обухваћене *основне јединице квалитативне анализе*, тј. дидактичко-методичка апаратура иза десет текстова, и то:

- *Марко Краљевић и бег Костадин* – народна песма;
- *Ветар и Сунце* – народна приповетка;
- *Прича о Раку Кројачу* – Десанка Максимовић;

- *Бајка о белом коњу* – Стеван Раичковић;
- *Самоћа* – Бранко В. Радичевић;
- *Стакларева љубав* – Гроздана Олујић;
- *Прича о доброј роди* – Стојанка Грозданов-Давидовић;
- *Лав и човек* – Арапска народна приповетка;
- *Себични џин* – Оскар Вајлд и
- *Свитац тражи пријатеље* – Су Ју Ђин.

Већ на основу наслова може се закључити да су текстови пажљиво бирани, јер тематиком могу значајно допринети емоционалном и моралном развоју, као и социјално одговорном понашању ученика, те се узорак може назвати пригодним.

Ради бољег увида у квалитет, наводимо питања и задатке из читанки новијих издања (Табела 1 у прилогу). Осенчена поља доносе питања и задатке који ангажују лично искуство и иницирају непосредно деловање читаоца.

5. АНАЛИЗА И ИНТЕРПРЕТАЦИЈА РЕЗУЛТАТА

Квантитативна анализа показује да су по садржајности новија издања читанки богатија. Просечан број питања креће се у распону од 7,4, колико их је у читанци издавачке куће *Завод за уџбенике* (2004), па до 16,6, у читанци издавачке куће *Клет* (2016), што је њен важан квалитативни атрибут имајући у виду потребе савремених генерација. С обзиром на све скромније искуство и недовољну чулност и недостатак емпатије, оправдан је умерени пораст броја питања којима се предлаже суптилнија анализа јунака.

У оквиру **опште хипотезе** очекивали смо да ће најчешћи начини којима ће ученици бити упућивани у „разоткривање" јунака бити питања и задаци који се тичу *спољашњег изгледа*, *поступака*, *понашања*, *али и језика*.

На основу података у Табели 1 и добијених резултата (Табела 2), закључујемо да је од укупног броја питања 31,42% питања посвећено поступцима ликова и њиховом понашању. Спољашњем опису посвећено је 10,07% питања, а језику само 2,64%. Највећи проценат питања посвећен поступцима и понашању је у читанкама издавачке куће *Нова школа* (2007) и *Едука* (2014), а затим Креативног центра (2007/2016). Најмање их има у читанци издавачке куће *Завод за уџбенике*. На основу наведеног, закључујемо да је **општа хипотеза** *делимично потврђена* – ученици нису довољно упућивани да запажају *спољашњи опис,* као ни *говор* јунака.

Табела 2 Књижевни јунак се у читанкама издавача у Србији разоткрива на основу...

Издавач	...описа спољашњег изгледа (*физичка карактеризација*)	...поступака и понашања (*етичка – морална карактеризација*)	...особина (*идејна карактеризација*)	...осећања (*психолошка карактеризација*)	...говора (*лингвистичка карактеризација*)	...веза са личним искуством и деловање у окружењу	...просечан број питања по тексту
Завод за уџбенике, 2004.	0,53%	3,19%	2,38%	0,53%	0,26%	0,53%	7,4
Нова школа, 2007/11.	1,06%	5,32%	3,17%	2,65%	0,53%	1,58%	8,5
Едука, 2012.	1,85%	4,78%	6,91%	1,85%	0,26%	3,70%	12,2
Едука, 2014.	2,12%	5,32%	5,58%	0,26%	0,53%	1,06%	13,5
Клет, 2014.	0,53%	4,25%	2,12%	2,91%	0,53%	2,12%	12,2
Клет, 2016.	1,86%	3,51%	5,32%	1,85%	0,00%	2,39%	16,6
Креативни центар, 2007/2016.	2,12%	5,05%	4,52%	3,43%	0,53%	1,06%	10,9
Укупан бр. питања	10,07%	31,42%	30,00%	13,48%	2,64%	12,43%	378

На основу резултата из Табеле 3 (прва колона), закључујемо да су спољашњи опис ликова као могућност у разоткривању карактера јунака најчешће користили аутори издавачке куће *Креативни центар* (2007/2016) и *Едука* (2014), а најмање аутори читанки издавачких кућа *Завод за уџбенике* (2004) и *Клет* (2014).

Табела 3. Питањима и задацима у читанкама издавача у Србији ученик се упућује да...

Издавач	...запажа *спољашњи опис* лика како би га повезао са унутрашњим осећањима	...запажа позитивне и негативне *особине* ликова
Завод за уџбенике 2004.	0,53%	2,38%
Нова школа 2007/11.	1,06%	3,17%
Едука 2012/14.	1,85/2,12%	6,91/5,58%
Клет 2014/16.	0,53/1,86%	2,12/5,32%
Креативни центар 2007/16.	2,12%	4,52%

У оквиру прве посебне хипотезе, полазећи од чињенице да дела откривају карактер јунака, очекивало се да ће аутори највећим бројем питања, после спољашњег изгледа, ученике упућивати да запажају *поступке и понашање* ликова, што добијени резултати (Табела 2) и потврђују. Највећи проценат питања и задатака код свих издавача посвећен је поступцима и понашању ликова – 31,42%. Посебно су аутори читанки *Нове школе* (2007) и *Едуке* (2014) са 5,32% на томе инсистирали; иза њих је *Креативни центар* 5,05%; а на последњем месту су аутори издавачке куће *Клет* (2016) са 3,51%, ако

се изузме Заводова читанка, која неке од текстова не садржи *(Самоћа* – Бранка В. Радичевића, *Стакларева љубав* – Гроздане Олујић и *Прича о доброј роди* – Стојанке Грозданов-Давидовић). **Прва потхипотеза** је *у потпуности потврђена.*

У оквиру друге потхипотезе очекивало се да ће ученици најчешће бити упућивани да уочавањем поступака и понашања запажају *позитивне и негативне особине* јунака. Очекивања су се потврдила (резултати у табелама 2 и 3 – друга колона). Од укупног броја питања, 30,00% посвећено је особинама. Предњаче читанке *Едуке* (2012/14), затим *Клета* (2016) и *Креативног центра* (4,52%), а најмање их је у *Клетовој* читанци из 2014, односно 2,12%, што је неочекивано с обзиром на претходно издање 5,32%. Овим је и **друга потхипотеза** *у потпуности потврђена*.

Говор јунака је важан аспект сагледавања његовог карактера, јер „у језику је садржана свест човека, његове емоције, искуство, осећања, укус...", а посредством говора откривају се „унутрашња преживљавања, размишљања и осећања говорних актера" (Стакић, 2015, стр. 304). Очекивало се да ће значајна пажња бити посвећена језичкој анализи драгоценој за емоционални развој, развој комуникативних и социјалних вештина ученика. Резултати показују да је само 2,64% питања посвећено овоме (Табела 4 – прва колона). Ниједно усмерење ученици нису добили у читанци издавачке куће *Клет* (2016), скоро незнатно у читанкама *Завода* и *Креативног центра* (0,26%), а ни остали (са 0,53%) нису у довољној мери узели овај значајан сегмент карактера јунака.

Табела 4. Питањима и задацима у читанкама издавача у Србији ученик се упућује да...

Издавач	...запажа *говор* ликова и формира своју слику о њима	...запажа *осећања* ликова
Завод за уџбенике 2004.	0,26%	0,53%
Нова школа 2007/11.	0,53%	2,65%
Едука 2012/14.	0,26/0,53%	1,85/0,26%
Клет 2014/16.	0,53/0%	2,91/1,85%
Креативни центар 2007/16.	0,53%	3,43%

Осим што је одраз емоционалног стања, језик подстиче емоције и укупно понашање појединца. У оквиру треће потхипотезе очекивало се да ће бити већи број питања која се тичу *осећања и расположења* као одраза унутрашњег стања јунака, чиме би се развијала емпатија преко потребна појединцу данас. Добијени резултати (Табела 4, друга колона) показују да је **трећа потхипотеза** *делимично потврђена*. Само 13,48% питања упућује ученике на овај важан сегмент, што је недовољно. Ако желимо развити емотивно богате и чулно

осетљиве појединце који ће лако препознати своја, али и туђа, осећања и разумети потребе другог, требало би да их буде више.

Рефлексивна моћ књижевности за непосредно поступање реципијента је веома значајна. У оквиру четврте потхипотезе очекивало се да ће ученик често бити подстакнут да проналази сличне ситуације из искуства и да социјално одговорно поступа у окружењу.

Табела 5. Питањима и задацима у читанкама издавача у Србији ученик се упућује да...

Издавач	...повезује ситуације јунака дела и своје лично искуство и делује социјално одговорно у непосредној околини
Завод за уџбенике 2004.	0,53%
Нова школа 2007/11.	3,58%
Едука 2012/14.	3,70/1,06%
Клет 2014/16.	2,12/2,39%
Креативни центар 2007/16.	1,06%

Добијени резултати (табеле 2 и 5) показују да од укупног броја питања само 12,43% (Табела 2) упућује ученике на везу са личним искуством и одговорно понашање у окружењу. Најчешће то чине аутори издавачке куће *Едука* (2012) 3,70%. Први су о томе бринули аутори *Нове школе* још 2007. године (3,58%), а касније неоправдано запоставили овај важан сегмент (1,06%). И аутори издавачке куће *Клет* воде рачуна о овоме (2,12/2,39%), док се за остале не може рећи. Треба нагласити да аутори читанке *Креативног центра* предлажу мањи број неуметничких текстова који се баве друштвеним односима (*Добар друг*, мишљења ученика трећег разреда једне основне школе, *Учионица без насилништва,* одломак из истоимене књиге Л. Бина и *Умемо ли да слушамо*, одломак – Љ. Марковић, *Конфликти и шта са њима*). Аутори читанки издавачких кућа *Едука* (2012/2014) и *Клет* (2016), поред обавезне лектире, предлажу дела слободне лектире којима се може радити на усвајању правих вредности. Сагледавањем резултата у табелама 2 и 5, закључујемо да **четврта потхипотеза** *није потврђена*.

6. ЗАКЉУЧАК

Образовање је моћан развојни ресурс који утиче на решавање бројних глобалних друштвених проблема данас и изграђивање другачијих односа на релацији развијени–неразвијени свет, као и односа између савременог друштва и природе. Период раног школског узраста одређује се као време психофизичког сазревања детета у контексту идеје о разумевању односа света који га окружује и укључивања у социјалне интеракције. Зато у школске програме треба

укључити садржаје којима се преносе и усвајају друштвене норме и правила понашања неопходна за успешну комуникацију и изграђивање релација на нивоу ширег социјалног миљеа.

Пажљиво одабрани и добро обликовани књижевни садржаји доводе до когнитивних, а пре свега, естетских и емоционално-социјалних промена у духовном развоју ученика. Позитивне особине и праве вредности дете усваја од малена уколико се васпитава у духу љубави, толеранције, емпатије и других вредности које упознаје на примерима из окружења, али и јунака у књижевним делима.

Ваљано конципиран садржај и организација читанке као литерарне антологије има моћ да обликује позитивно емоционално обојен однос ученика према породичној и широј друштвеној средини који почива на социјално одговорном понашању и моралном поступању. Компаративна анализа лингвометодичке апаратуре у читанкама за трећи разред основне школе доминантних издавачких кућа у Србији из угла књижевног јунака показује да питањима и задацима иза текста аутори **не подстичу довољно:**

- суптилнију анализу јунака која би се заснивала на спољашњем опису, запажању осећања и расположења, као и језику дела;
- развој позитивних особина личности попут емпатије, емоционалности, чулне осетљивости;
- не развија се осећај за лепу и пажљиво бирану реч која „гвоздена врата отвара", а прејака и „више главе посече него сабља".

Питања и задаци нису у служби функционалне оријентације у друштву и недовољно подстичу повезивање поетског света дела са личним искуством ученика. Уколико сâм учитељ адекватним методичким приступом не обезбеди суптилнију анализу јунака рецепцијом дела на основу анализираних подстицаја у поменутим читанкама, изостаће дубљи емоционали доживљај, али и „морални одговори" ученика, тј. морално обојене активности и социјално одговорно понашање у окружењу. У прилог овоме је и тумачење да би плиму вршњачког насиља у школи ваљало сузбијати кроз обликовање садржаја у читанкама који могу директно „пробудити" најдубље емоционалне доживљаје код ученика.

Предлози за унапређивање квалитета садржаја читанке осим у одговарајућем избору текстова који би обезбедили ванвременску универзалност и актуелност у преношењу пожељних вредности – тичу се и садржајније концепције лингвометодичке апаратуре. Њоме би требало подстицати чулну осетљивост ученика, активно укључивање при тумачењу дела; дубље разоткривање карактера јунака, осим поступцима, понашањем и особинама, и спољашњим описом, осећањима и говором који је непосредни одраз унутрашњег стања и односа

према друштвеној средини. Веза са личним искуством и подстицај на морално и социјално одговорно понашање конструктивним решавањем проблема у непосредном окружењу доприносили би стварању прогресивне и хумане друштвене стварности.

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THE LITERARY HERO AND THE SOCIALLY RESPONSIBLE BEHAVIOR IN THE READING BOOKS FOR YOUNG ELEMENTARY SCHOOL CHILDREN

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Summary

The culmination of violence today, starting from the family, the school, and extending to the broader social environment is a serious warning to all those who are educating young people to pay more attention to their emotional development, moral behavior and socially responsible behavior from a young age.

With its poetic world, characters, their characteristics, actions and messages, but also with its language and style, literature greatly contributes to the development of these segments of personality. The power of the educational effect of the literary text is reflected in the fact that it portrays an individual in all their abundance of mental and physical abilities, focusing on their entire life and on the activities which affect the character's development.

A well-motivated young reader sees a literary work as realistic, and embraces its poetic world imagining that such a world could exist here and now. The proper teaching techniques in the form of the linguistic and methodological apparatus pertaining to reading books lead to a good interpretation of the literary work and the adoption of its values, and later to self-reflection. The literary text is interpreted during the hermeneutical situation (the relationship between the two subjects communicating) in this case - reading, and the hermeneutic task (the task of understanding, interpreting, analyzing, asking questions both to the text and oneself) that occurs in the analysis phase. During this phase, the student is answering the questions at the end of the literary text in the reading book, and this is when the student "receives" the messages that the writer most often communicates through the literary hero. The young reader is then motivated by the literary hero who has influence on them.

Based on the abovementioned, and on the results obtained by the comparative analysis of the reading books for the third grade published by the dominant publishers in Serbia, we emphasize the need for a more detailed methodological approach to interpreting literary heroes which should include not only the events, actions and behaviors (which is the most frequent practice), but also their external description, their speech, emotions, as well as the reference to the students' experience, and the need for the students to be active participants in the society in order to make it humane and to achieve the social and moral dimension of social life.

Табела 1. Питања и задаци за ученике у појединим издањима читанки (2012–2016) анализираних издавачких кућа у Србији

Назив текста	Назив издавачке куће				
	Едука, 2012.[2]	*Едука*, 2014.[3]	*Клет*, 2014.[4]	*Клет*, 2016.[5]	*Креативни центар* 2007/2016.[6]
Марко Краљевић и бег Коста-дин – нар. песма	Како се бег понаша према сиромашнима на почетку, а како касније, шта понашање говори о њему, а шта о Марку, опиши М. поступке, како се треба понети према сиромашнима, упиши своје добре и лоше особине[7]	Опиши Марка, опиши бега, наведи нечовештва бега, протумачи последњи стих, порука: *Доброта је највеће благо*.	Шта Марко замера бегу, шта је бегово највеће нечовештво, зашто, шта је бег одговорио Марку, напиши разговор два пријатеља савременим језиком	Зашто Марко бегове поступке назива нечовештвом, како процењујеш Маркове поступке, за какве вредности се залаже нар. певач, треба ли указати пријатељу да се не понаша добро, наведи пример нечовештва из твог окружења	Означите нечовештва, зашто је бег отерао сиротице, која реч најбоље слика његово понашање: *улизица*, *ласкавац*, *лажљивац*, *варалица*, зашто други пут прима сиротице, како се односи према господи, како према родитељима, које су особине Марка, како би бег одговорио Марку
Самоћа – Бранко В. Радичевић	Како је приповедач прославио познанство са птицом, зашто се приповедач на крају приче осећа мање усамљеним него раније	Како је писац описао птицу на почетку, са чиме пореди њен глас, какав је био њен лет, како славе своје познанство, како је разрешена самоћа	Шта је самоћа, чиме се усамљеност може најлакше отерати, која осећања обично иду уз самоћу, да ли се човек може осећати усамљено када је у друштву	Како се приповедач трудио око птице, како је сазнао њено име, на који начин му је птица указала поверење	Пронађи опис изгледа, гласа, покрета, царићево царство, како се птица ослободила, по чему видимо да писац и птица нису више усамљени, писац не може да види, али осећа присуство птице – како
Стакларева љубав – Г. Олујић	Да ли су дечак и Светлоока слични, како се мали стаклар променио када се дружио са Светлооком, на шта га је упозорила, шта је крхкије од стакла, да ли је дечак послушао	Како је девојчица нестала, како би прича изгледала да није разбијена, истражи ликове и њихове односе, ко су позитивни, има ли негативних ликова, шта се једино на свету удвостручује када се дели	Како је дечак изгубио стаклену вилу, које су особине дечака, опиши како помажеш људима, шта те радује	Зашто се каже да је „љубав крхка као стакло”, за кога се каже да је као слон у стаклари, какав је то осећај кад ти кроз груди пролети језа, које су дечакове особине	Зашто је дечак постао смркнут и ћутљив, чега се бојао, како је изгубио стаклену девојчицу

[2] Јовић, М., Јовић И. (2012): *Читанка за 3. разред основне школе*, Београд: Едука.
[3] Цветковић, М. и сар. (2014): *Водено огледало,* читанка за 3. разред основне школе, Београд: Едука.
[4] Жежељ-Ралић, Р. (2014): *Река речи*, читанка за 3. разред основне школе, Београд: Klett.
[5] Жежељ-Ралић, Р. (2016): *Маша и Раша,* читанка за 3. разред основне школе, Београд: Klett.
[6] Мариинковић, С., Марковић, С. (2016): *Читанка за трећи разред основне школе*, Београд: Креативни центар.
[7] Подвучена питања и задаци подстичу ученике на пронађу везу између лика и личног искуства и конструктивно поступе у непосредном окружењу

Прича о доброј роди – С. Грозданов-Давидовић	Шта је роду чинило срећном, када је мислила да је свет леп, каква је жаба јер није хтела да пусти лептира, упореди понашање роде и жабе, какве особине имају, роди је цртање важније од хране, а жаби, да ли ти уживаш док нешто стваращ	Каква су осећања роде када слави лепоте света, зашто рода тражи да жаба пусти лептира, како жаба није видела корист за себе ако пусти лептира, зашто ће довести др. жабе да гледају роду издалека за сваки случај	Опиши роду, по чему се ова рода разликује од других, како је заволела лептире, како је рода почела да једе само биљну храну	Како су остале роде гледале на добру роду, процени родин поступак када је пустила жабу, које особине има рода	Пронађи речи и реченице које потврђују да је ова рода добра, препричај причу из угла: роде, жабе, лептира, зашто је лептир рекао да је жаба глупа
Себични џин - О. Вајлд	Шта се десило када је џин забранио улазак, ко је дошао у башту са зимом, ко је тајанствени дечак, где је одвео џина, смисли причу *Дарежљиви џин*, себични џин се учи доброти на тежи начин – научи кроз игру – уради нешто добро за свог друга/ другарицу	Које су још џинове особине, како су се осећала деца када им је забрањен врт, откуд зима у башти у пролеће, да ли је то у вези са себичношћу, како се пролеће вратило у врт, које поступке џина осуђујеш, које оправдаваш, када је омекшало његово срце, да ли се покајао, ако јесте докажи, промени крај да буде срећан	Како је џин покушао да се искупи за себичност, да ли је успео, наброј радосне и тужне тренутке, ко је џину дао шансу да се искупи за свој грех, како разумеш преображај кад сусреће немоћног дечака, какви људи могу ући у врт малог дечака, шта се не може купити новцем, да ли срећа зависи од новца	Упореди џинову башту и џинову душу, шта се не може купити новцем, да си ти џин како би изгледао твој дом	Зашто су деца била срећна док су се играла у башти, чиме је џин показао себичлук, у ком тренутку је његово срце омекшало, како је хтео да оправда своје понашање, по чему видиш да више није зао, како се ти понашаш према некоме ко је себичан
Свитац тра-жи пријатеља- С. Ј. Ђин	Скакавац и мрав су пристали, зашто се пријатељство није остварило, покажи свицу како да стекне пријатеља, шта треба да промени у понашању, да ли те је неко разочарао, да ли си ти неког изневерио, како си се осећао, како да пријатељство траје	Осуђујеш ли поступке свица, зашто, како би ти поступио, зашто се свитац обраћа речима: *скакавчићу*, *скакавчићу*, коју људску особину критикује писац, зашто је свитац одбио да помогне другима, који је твој „рецепт" за проналажење пријатеља, да ли си се икада жртвовао/-ла за свог пријатеља	Наведи особине свица, шта су свица замолили скакавац и мрав, како је свитац доживљавао пријатељство, зашто није нашао пријатеља, шта значи *Пријатељ се у невољи познаје*, наведи пример пријатељства, напиши писмо свицу како да нађе пријатеља	Са каквим људима можемо упоредити свица, које су његове особине, чиме се потврђује пријатељство, када људи изгубе пријатеље	Због чега свитац није нашао пријатеље, зашто је изгубио пријатеље, посаветуј свица како да пронађе пријатеље, шта кажеш када желиш да се спријатељиш с неким

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Each paragraph should have the first line indented (1 cm).

In-text citations: Whenever referring to a source (monograph, article, statistical source), the author should cite the source in the text, using the

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▪ When referring to several works by the same author, provide all the years of publication chronologically after the author's name. If there are several works by the same author published the same year, provide further specification using letters (a, b,...) after the year of publication: "...confirming this hypothesis (Wuthnow, 1987a, p. 32)...".

▪ When referring to several works by different authors, provide the authors' names in brackets following the alphabetical order, separating authors by semi-colon: "... several studies were central to this question (Jakšić, 1993; Iannaccone, 1994; Stark and Finke, 2000)."

Direct quotations can be included in the text if not longer than 20 words. Longer quotations should be given as separate paragraphs, spaced-out from the previous and following text, and with the following formatting: Format, Paragraph, Indents and Spacing, Left 1 cm, Right 1 cm, Line spacing – Single; for instance:

To explain how "culture through language affects the way we think and communicate with others of different background" (Gumperz, 2001, p. 35), Gumperz states:

> "Conversational inference is partly a matter of a priori extra-textual knowledge, stereotypes and attitudes, but it is also to a large extent constructed through talk" (Gumperz, 2001, p.37)."

It is crucial that the in-text citations and references should match the literature listed at the end of the paper. All in-text citations and references must be listed in the References, and the References must not contain sources not referred to or cited in the text. The bibliography listed at the end of the paper should contain author names and source titles in original languages and alphabets, without translation.

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EXAMPLES OF SOURCE QUOTING AND REFERENCING:

Journal papers and articles – 1 author

In-text citation:

(Manouselis, 2008), i.e. (Manouselis, 2008, p. 55)

In 'References':

Manouselis, N. (2008). Deploying and evaluating multiattribute product recommendation in e-markets. *International Journal of Management & Decision Making, 9*, 43-61. doi:10.1504/IJMDM.2008.016041

Journal papers and articles – 2 to 6 authors

In-text citation:

First reference: (Uxó, Paúl, & Febrero, 2011)

Subsequent references: (Uxó et al., 2011)

In 'References':

Uxó, J., Paúl, J., & Febrero, E. (2011). Current account imbalances in the monetary union and the great recession: Causes and policies. *Panoeconomicus*, 58(5), 571-592.

Journal papers and articles – more than 6 authors

In-text citation:

(Cummings et al., 2010, p. 833)

In 'References':

Cummings, E., Schermerhorn, A., Merrilees, C., Goeke-Morey, M., Shirlow, P., & Cairns, E. (2010). Political violence and child adjustment in Northern Ireland: Testing pathways in a social–ecological model including single-and two-parent families. *Developmental Psychology, 46*, 827-841. doi: 10.1037/a0019668

Book – 1 author

In-text citation:

(Heschl, 2001, p. 33)

In 'References':

Heschl, A. (2001). *The intelligent genome: On the origin of the human mind by mutation and selection*. New York, NY: Springer-Verlag.

Book – edited volume

In-text citation:

(Lenzenweger & Hooley, 2002)

In 'References':

Lenzenweger, M. F., & Hooley, J. M. (Eds.). (2002). *Principles of experimental psychopathology: Essays in honor of Brendan A. Maher*. Washington, DC: American Psychological Association.

Paper or chapter in an edited volume

In-text citation:

(Cvitković, 2007)

In 'References':

Cvitkovic, I. (2007). Katolicizam [Catholicism]. U A. Mimica i M. Bogdanović (Prir.), *Sociološki rečnik* [*Dictionary of Sociology*] (str. 226-227). Beograd: Zavod za udţbe nike.

Encyclopaedia entry

In-text citation:

(Lindgren, 2001)

In 'References':

Lindgren, H. C. (2001). Stereotyping. In *The Corsini encyclopedia of psychology and behavioral science* (Vol. 4, pp. 1617-1618). New York, NY: Wiley.

Papers in Conference Proceedings

In-text citation:

(Bubanj, 2010)

In 'References':

Bubanj, S., Milenković, S., Stanković, R., Bubanj, R., Atanasković, A., Ţivanović, P. et al. (2010). Correlation of explosive strength and frontal postural status. In: Stanković, R. (Ed.): *XIV International Scientific Congress FIS Comunications 2010 in Sport, Physical Education and Recreation* (191-196). Niš: University of Niš, Faculty of Sport and Physical Education.

PhD Dissertations, MA Theses

In-text citation:

(Gibson, 2007)

In 'References':

Gibson, L. S. (2007). *Considering critical thinking and History 12: One teacher's story* (Master's thesis). Retrieved from https://circle.ubc.ca/

Institutions as authors

In-text citation:

(Републички завод за статистику, 2011)

In 'References':

Републички завод за статистику. *Месечни статистички билтен*. Бр. 11 (2011).

Laws

In-text citation:

(Закон о основама система васпитања и образовања, 2004, чл. 5, ст. 2, тач. 3.)

In 'References':

Закон о основама система васпитања и образовања, Службени гласник РС. Бр. 62 (2004)

Legal and other documents

In-text citation:

(Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276, 1971)

In 'References':

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276, (1970), ICJ Reports (1971) 12, at 14

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ТЕМЕ БРОЈА

БЕЗБЕДНОСНИ ИЗАЗОВИ И ПРЕТЊЕ У САВРЕМЕНОМ ОКРУЖЕЊУ

М. Симовић, М. Шикман, В. Турањанин, С. Соковић, Ђ. Јовановић, Т. Живковић, Т. Кесић, И. Бјеловук, И. Ђорђевић, О. Цигурски, И. Ђокић, Д. Чворовић, М. Колаковић-Бојовић, А. Параушић, С. Стевчић, М. Миљковић, А. Пешић, Ф. Мирић, З. В. Грујић, Б. Оташевић, Д. Коларевић, И. Радовановић, В. Благојевић, Ј. Оташевић, С. Атанасов, И. Вукоњански, Д. Секуловић, Д. Димовски, И. Милић, Ј. Станојевић, М. Павловић, М. Костић, М. Симовић, Д. Обрадовић, Д. Трифуновић

ПАНОРАМА

Б. Стојановић, Д. Здравковић