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FOREWORD

The International Conference Proceedings are the result of the XII International Scientific Conference "Archibald Reiss Days," which was held on November 8 and 9, 2022 in Belgrade and organized by the University of Criminal Investigation and Police Studies in collaboration with the Ministry of Interior of the Republic of Serbia, Ministry of Education, Science, and Technological Development of the Republic of Serbia, National Police University of China, Volgograd Academy of the Russian Ministry of Internal Affairs, Lviv State University of Internal Affairs, Faculty of Security in Skopje, Faculty of Criminal Justice and Security in Ljubljana, Police Academy "Alexandru Ioan Cuza" in Bucharest, Academy of Police Force in Bratislava, and the University of Banja Luka Faculty of Security Science.

The Proceedings include papers by eminent scientists and experts from nine countries who researched various topics in several scientific fields, such as criminology, victimology, criminal investigation, law, security, history, and forensics. Numerous issues were problematized and analyzed in the papers, including: LGBTI people in Serbia between homophobic violence and social integration; glossa about hatred; phenomenology of juvenile crime in Croatia; students' experiences of victimization and perpetration of online violence; implementation of criminal control over foreign fighters; photography and its importance in criminalistics; the right to respect for private life – the case of Trajkovski and Chipovski v. Macedonia; legal initiatives in the field of information security on the example of Russia; lawful hacking – technical issues in law; financial investigations and confiscation of property and other criminal relations in the Republic of North Macedonia; compensation for damages due to breach of trade secret; international standards for damage compensation for unjustified conviction and ill-founded deprivation of liberty; environmental crimes as a challenge with significant effects on our well-being; contemporary international police cooperation; use of force by the police in Serbia and Croatia; impacts of organized crime on citizens and national security; the influence of ideas of civil revolutions on the establishment of the modern police in Serbia; public security in Rankovićevo; virtual team leadership special challenges for managers; against different forms of crime – main directions of the development of higher education in the field of law enforcement in Hungary; some aspects of forensics in digital future and chemical warfare agents and their simulants.

The International Conference Proceedings is a publication that provides valuable answers to current concerns in a variety of scientific fields; therefore, we hope it will be of great interest to the broader scientific and professional community. Since this publication and the international conference would not have been possible without the participation of a large number of authors and the selfless efforts of reviewers, we would like to extend our gratitude to everyone who contributed to the success of this endeavor.

Belgrade, March 2023 *The Programme and Organizing Committees*

THEMATIC AREA 1

Etiology, Phenomenology and Trends of Contemporary Crime

PHENOMENOLOGY OF JUVENILE CRIME IN CROATIA

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ON THE ETIOLOGY OF JUVENILE DELINQUENCY

Juvenile delinquency is considered to be the most serious form of problematic youth behavior that depends on internal (subjective-psychological) and external (social and cultural) factors (Derk and Stašević, 2017). Thus, some authors consider antisocial behavior to be a constant way of behaving of individuals that begins in early childhood and lasts until early adulthood (Farrington, 2003; Sampson, Laub, 2004). It is important to distinguish between the expected rebellious pattern of behavior inherent in adolescence and the pattern that can escalate with numerous and serious consequences. Adolescence is characterized by personality development, so it is not surprising that young people want to experience and discover what the world has to offer. In most cases, this does not imply engaging in criminal activity, but delinquent behavior is not surprising. It includes most behaviors that deviate from social norms and as such can be condemned by the community. During this period, young people face many obstacles, including the future itself, and as a result there is a "growing up out of delinquency" (Siegel, Senna, 2000; according to Kovčo Vukadin, 2009). Young antisocial people are often impatient and prefer to focus on the current situation and the satisfaction they can get at the moment than on what the future holds for them. The desire for autonomy that occurs during adolescence may explain the desire to socialize with deviant peers. For some, personality devel-

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opment leads to taking responsibility for one's own actions and thus moving away from previous behavior. For those who do not develop self-control, it is possible to engage in criminal activities without worrying about the risks that such behavior carries with it. Along with biological and psychosocial maturation, dismissal of delinquent behavior can be contributed to the fact that juveniles after a certain age are criminally liable and that they are no longer under the protection of their parents or the state as an entity that must sanction their undesirable behavior in an appropriate manner. Kelley, Loeber, Keenan, and DeLamatre (1997) believe that the cause of problematic behavior over a time continuum lies in the developmental pathways of group identification. At the moment when the developmental paths of the two groups begin to differ, they differ in various segments, including behavior. When the values of one group do not coincide with the values of another, there can be a conflict of misunderstanding and rejection, so one group can be accepted by society while the behavior of another can be condemned. Delinquent behavior, due to its development without adequate intervention can escalate and lead to the commission of criminal acts.

Traditional theories that explain juvenile delinquency focus on differences among individuals and on the question of why one group commits crimes and another does not. Some of them deal with the issues of the cause of crime and its prevention. Some upgrade their questions and address the cause of the crime such as general theory of pressure, theory of social disorganization, theory of social control, etc. (Farrington, 2003). Their research and observations are based on adolescence, i.e. the age when minors break the law the most. Apart from peers, there are other risk factors that can lead from delinquency to crime, and will be mentioned later in the paper. New knowledge about the beginnings of a criminal career in adolescence has led to the development of several new theories, including the developmental criminology of lifetime. They explain that age does not have to strictly mark the transition from one stage to the next. It is precisely these transition points that are the subject of the study of developmental criminology that accompanies changes in these periods. Areas of school, family, peers and interpersonal relationships are observed, and on this basis, attempts are made to explain changes in criminal activity (Doležal, 2009). Developmental theories, unlike traditional ones, deal with the longitudinal aspect of committing crimes, so they do not look at one time point of research, but at changes in criminal career over time. They address issues of antisocial behavior and commission of criminal acts, risk factors throughout life, and the impact of life events on behavioral development (Farrington, 2003). One of the new theories of crime derived from the concept of criminal career is the "Age-graded" theory (Sampson, Laub, 2004) which has three important starting points. The first indicates how delinquent behavior in childhood and adolescence is influenced by the structure of informal family and school control. Then it explains that antisocial behavior tends to persist and

stretch through adulthood in various life segments. The last starting point emphasizes the importance of changes in the quality of informal social control by family and school and how it changes over the years. Another theory offers its view on the topic of juvenile delinquency, and that is the theory of continuous and adolescent delinquency (Moffitt, 1993). Juveniles who start their delinquent behavior in childhood and continue it in the form of chronic, multiple and even lifelong delinquency, can be called continuous delinquents while adolescent delinquents are characterized by the beginning of such behavior only in the period of adolescence with occasional involvement in criminal activities during the mentioned period, and adolescence is seen as a normal developmental stage. Integrated cognitive theory of antisocial potential (Farrington, 2003) is another recent development theory. Under the notion of antisocial potential, this theory understands the potential for committing criminal offenses that can be observed in the short and long term. The commission of criminal offenses depends on the current antisocial potential and the relationship between the individual and the environment, i.e. on the opportunity provided to commit the offense. Due to maturation, the antisocial potential is greatest during adolescence, but is consistent throughout life. It increases due to exciting stimuli and the search for adventure, which can increase at certain times.

The aims of this paper are to provide an overview of the relevant body of literature into an area of the juvenile crime and to analyze the trends, scope, structure and dynamics of juvenile delinquency in the past decade (2011–2021) in the Republic of Croatia.

RISK AND PROTECTIVE FACTORS

Risk factors are events whose existence can announce an outcome, i.e. a certain type of behavior without the existence of a causal relationship (Loeber, 1990). There are numerous divisions of risk factors that influence the development of delinquent behavior in young people, from simpler, which divide them into dynamic and static, to complex, which branch in several directions. Aware of the fact that all factors affect each other, experts agree that the development of one risk factor is not enough to develop delinquent behavior. In his paper, Ricijaš (2009) states a generally accepted division into three basic groups of risk factors: individual, risk factors in the family and school environment, and risk factors in the wider social context. Individual factors include biological/hereditary and cognitive and emotional factors, among which various experts consider the element of aggression, hostility and behavioral disorders to be important, followed by severe temperament and impulsivity, attention deficit and hyperactive disorder, intellectual functioning and

moral reasoning. The relationship between parents and children, parenting style and socio-pathological phenomena in the family fall under the second group of risk factors, as well as the factor of education and peers. Loeber (1990) and Loeber and Stouthamer-Loeber (1996) state in their research that it was the impact on risk factors that consequently led to a later change in delinquent behavior in a positive way. Manifestation of delinquent behavior does not necessarily mean that a juvenile who engages in such behavior will develop a potential career and engage in criminal activities. But it should be borne in mind that, as already mentioned, adolescents go through a period in which they make important decisions and in a certain way decide on their future. Risk factors for the observed delinquents are low verbal intelligence (Ollendick, 1979), desire to prove themselves in society, maternal alcoholism, inappropriate parenting style (Ricijaš, 2009), generally unfavorable family climate, migration, and many others. In young people, in addition to risk factors, there are also protection factors that affect the strengthening of the positive aspects of the individual and focus on the positive end. They are aimed at preventing risky behaviors of children and young people in order to prevent behaviors such as abuse of addictive substances, non-fulfillment of school obligations, violence, delinquency and the like. Dimensions of protection of minors include individual, family, school, peer groups and community. It is in these dimensions that young people can be empowered to reduce the impact of risk factors and prevent future undesirable behavior. Research on the subject of protective factors has led to the fact that some children develop resistance to risk factors and despite their influence are not subject to them, but nurture socially acceptable behavior (Garmezy, Masten, 1991; according to Martinjak, Odeljan, 2016). Anticipating factors, whether risky or protective, can greatly help experts in the field of prevention and treatment of behavioral problems.

TRENDS AND PATTERNS OF JUVENILE DELINQUENCY IN CROATIA

METHOD

There are three methods of measuring juvenile crime: through measurement of officially recorded crime in police, prosecution or court statistics, through self-reported delinquency surveys and victimization surveys. This paper focuses on the empirical analysis based on secondary data of registered crimes of the state attorney's offices and juvenile courts in the period 2013–2020, which is an indirect measure of juvenile delinquency in a particular area. The secondary data on reported, accused and convicted juvenile perpetrators for the period 2013–2020 for this purpose has been requested and obtained from the Croatian Bureau of

Statistics. Juvenile perpetrators are analyzed in relation to gender, age, educational attainment, types of crimes committed, and other relevant variables in order to identify trends and crime patterns spanning decade. The *research methods applied* in this *study are data analysis method and descriptive-comparative method.*

The results of comparative research and official crime statistics across Europe (Cajner Mraović, Butorac, & Kešetović, 2014; Enzmann & Podana, 2010; Sijerčić-Čolić, 2012; Steketee & Gruszczyńska, 2010) bring good news about declining overall juvenile crime rates in Europe since 2005. Since the mid-1990s, juvenile delinquency has been declining or stagnant in European countries (Ricijaš, 2009: 175). The trends in juvenile delinquency in the Republic of Croatia can be analyzed from several aspects. Table 1 shows the data of the Croatian Bureau of Statistics on the number of reported, accused, and convicted juveniles in the past two decades.

Table 1: Reported, accused, and convicted juveniles (2000–2021)

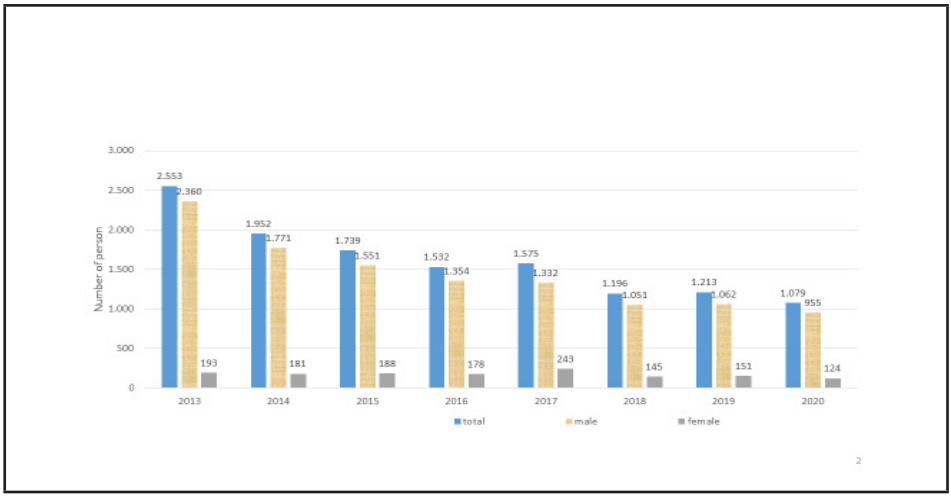
Year	Reported	Accused	Convicted
2000	2375	1108	787
2001	2846	1133	884
2002	2822	1277	994
2003	2909	1160	875
2004	2731	1306	936
2005	2630	1096	855
2006	2830	1212	974
2007	3191	1250	968
2008	3419	1296	958
2009	3188	1238	987
2010	3270	1269	925
2011	3376	1084	814
2012	3113	778	626
2013	2553	637	545
2014	1952	626	564
2015	1739	492	420
2016	1532	422	365

2017	1575	380	333
2018	1196	347	302
2019	1231	331	293
2020	1079	298	268
2021	1000	297	264

Source: Annual statistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2000 to 2020). Retrieved from: https://www.dzs.hr/ (September 19, 2022)Until 2012, there was a slight increase in the number of juveniles reported for criminal offenses, with occasional slight declines or stagnation. Starting from 2012, the trend of decrease of reported juveniles for criminal offenses begins and continues to this day, and in 2020, compared to 2011, there is a decrease of about 68%. The same is the case with the permanent decrease in the number of accused (about 72.5%) and convicted (about 67%) juveniles compared to 2011. The report of the Chief State Attorney of the Republic of Croatia on the work of state attorney's offices in 2018 (http://www.dorh.hr/dorh03052019) states the declining trend in the number of juveniles reported for criminal offenses in the work of almost all state attorney's offices in the Republic of Croatia. Possible explanations for this trend include increased undertaking of primary prevention measures at the general population level, strengthening secondary prevention by imposing a number of institutional educational measures, as well as a general reduction in the number of police reports due to the legislation amendments.

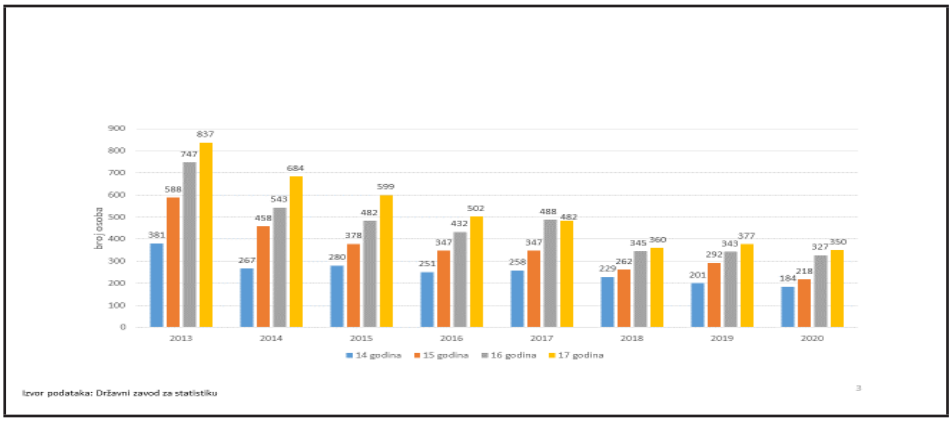
RESULTS AND DISCUSSION

Delinquent activity is related to the age of minors, therefore, looking at the age range, we notice that with the increase in age, the share of reported as well as convicted minors increases. In the observed period, it is evident that minor girls reported for criminal offenses participate in total youth crime in the range of 8 to 16%, therefore it can be stated that young men still predominate (Graph 1). In Graph 2, it is evident that the fewest convicted juveniles are 14 years old, while the most convicted juveniles are 17 years old. The police usually detect the commission of criminal offenses by minors at their age of 17. Since 2017, the increasing involvement of 16-year-olds in criminal activities has been noticeable, and 10% of 14-year-olds have been continuously reported for criminal offenses.



Graph 1 *– Reported juvenile perpetrators by gender (2013–2020)*

Source: Annual st*atistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2022).*

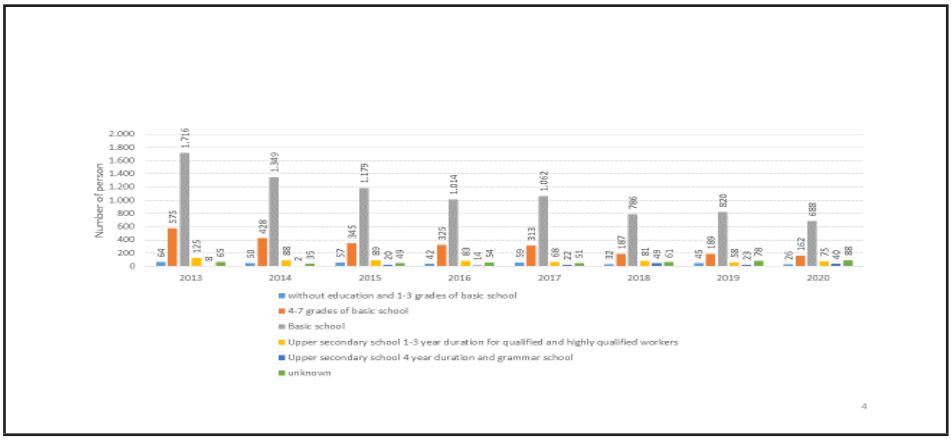


Graph 2 **–** Convicted minors by age range (2013–2020)

Source: Annual st*atistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

Since the minors are adolescents, it is expected that the majority of them have completed primary school (more than 50%), however, it's worrying fact that in all observed years a relatively large share – on average around 30% of minors – have

not completed primary school; 4 to 7 grades of primary school completed (Graph 3). This information undoubtedly indicates neglect of children's needs by parents, guardians, schools or social care. At the same time, it should be emphasized that the quota of minors who attended any secondary school is negligible. It should be pointed out that the relationship between the level of education and the development of juvenile delinquency is inversely proportional, which means that young people with poorer school performance and a lower level of education have a prerequisite for the development of delinquent behavior, since these people have a harder time enduring stressful situations, are subjected to deception and are often accompanied by a low level of upbringing and self-control. Since children, as a rule, spend a large amount of time at school, it represents an extremely important place for the socialization of young people (Ricijaš, 2005), which was missed to a significant extent in the surveyed population.



***Graph 3** – Reported juvenile perpetrators by educational attainment (2013–2020)*

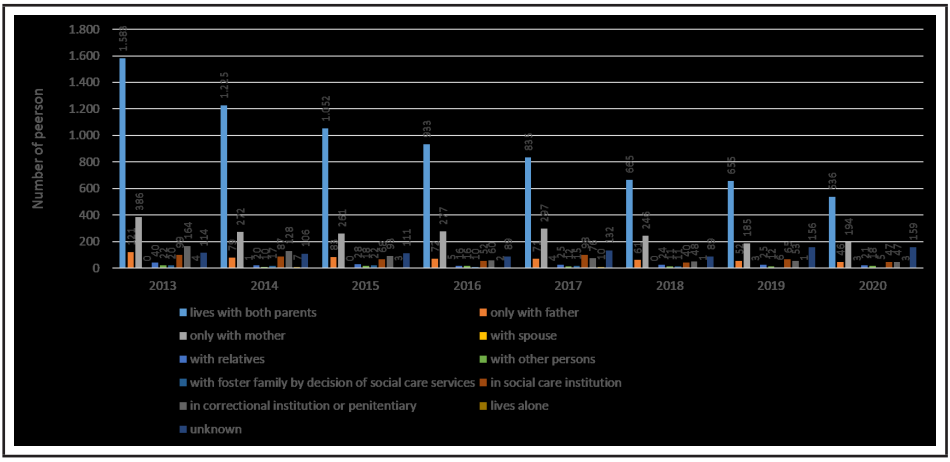
Source: Annual s*tatistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

When it comes to the integrity of the family of minors (Graph 4), it is evident that the majority of juvenile offenders still live with both parents (65%), however, the there is a question of harmony, relationships and other factors within the family that influence development of delinquent behavior. Families characterized by a high level of conflict between parents have a greater influence on the development of antisocial behavior in children because they cause an increased level of family instability, difficulties, and the connection between parents and children is greatly reduced. It is indicative that on average over 30% (in the range of 27–44%) of

them live with only one parent (predominantly with the mother – 20%), mainly after a divorce, but this pool also includes children born out of wedlock (25–35%).

The fact that more than 10% of minors were in an educational institution or a social welfare institution at the time of reporting the criminal offense is of additional concern, which indirectly indicates the beginnings of their problematic behavior in childhood and the developmental need for learning self-discipline and structuring daily obligations and activities (schooling, caring about themselves and their environment).

Theoretical models and empirical research indicate that there is a connection between the family environment and the early appearance of behavioral problems in childhood and serious delinquent behaviors during adolescence. The results of longitudinal studies show that children and adolescents living in overcrowded homes with a large number of family members, especially with single parents, had an increased risk for the later development of delinquent behavior (Pardini, Waller, & Hawes, 2015).



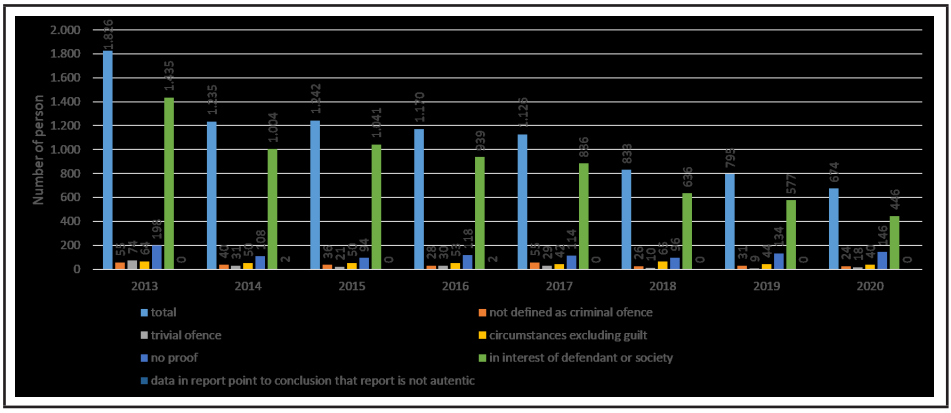
***Graph 4** – Reported juvenile perpetrators (with whom they live with; 2013–2020)*

Source: Annual *statistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

In most cases, the proposal to impose a penalty or other measure is submitted without conducting a preparatory procedure, and the procedure is not started most often for the already mentioned principle of opportunity (on average, about 80%) (Graph 5). The state attorney is thereby given the possibility to condition the decision not to initiate court proceedings on the minor's willingness to perform

one or more special obligations, the number of which is in Art. 72, para. 1 of the Juvenile Courts Act significantly expanded (Official Gazette RC, 84/11, 143/12, 148/13, 56/15, 126/19). Therefore, in the preliminary procedure, the state attorney has the authority to impose special obligations on a minor as informal sanctions without first determining their guilt. This fulfills the intention of the primacy of informal forms of treatment (in interest of defendant or society), and it can be said that decision-making by applying the principle of opportunity in juvenile criminal law has turned from an exception into an almost rule in practice.

The trend in solving criminal charges using the principle of opportunity compared to the total number of cases in the work is proportional to the trend of applying the dismissal of criminal charges. While in 2012 there was a peak of about 51% of criminal reports that were resolved in this way, in the following years there was a continuous decrease to as much as 34.1% in 2019. Among other things, state attorneys rejected criminal reports in a fifth of cases on average for the entire observed period, because there was no reasonable suspicion of the commission of a criminal offense, the reported offense was not a criminal offense or there were circumstances that exclude guilt or criminal prosecution.



***Graph 5** – Reported juvenile perpetrators by type of decision (proceedings not initiated; 2013–2020)*

Source: *Annual statistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

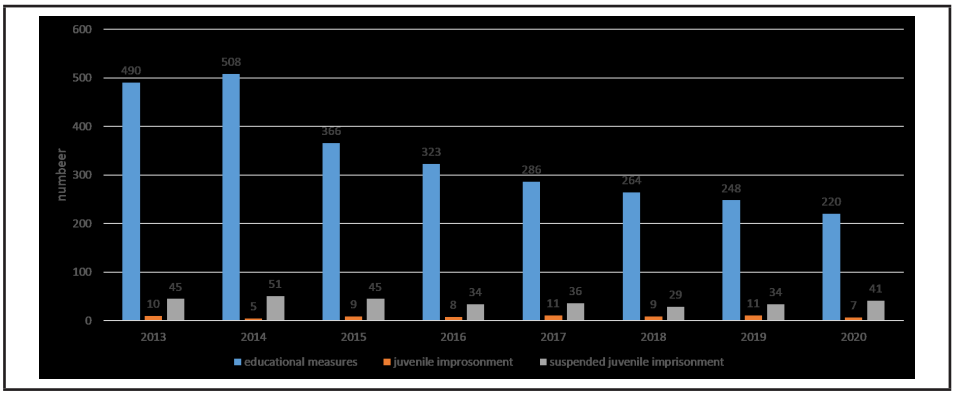
According to Article 5 of the Juvenile Courts Act, educational measures, security measures and juvenile prison sentences are imposed on juveniles as criminal sanctions for a committed crime[2]. However, a juvenile prison sentence cannot be im-

2 **Educational measures** are measures of warning, increased supervision and correctional institution measures. The aim of educational measures is to influence upbringing,

posed on a minor who, at the time of committing the criminal act, turned fourteen, but did not turn sixteen; only educational and security measures can be imposed on them. A juvenile prison sentence can be imposed on a minor who has reached the age of sixteen but has not yet reached the age of eighteen. According to Graph 6, the majority of sentenced juveniles were sentenced to educational measures (about 90%), while 2–3% of juveniles served in juvenile prison. Although the number of measures imposed decreases over the years, the measures of referral to a disciplinary center, enhanced care and supervision with a stay in an educational institution, referral to an educational institution and measures of referral to a special educational institution do not show such a trend, but are equally imposed over the years.

development of personality and to strengthen the feeling of personal responsibility of a juvenile by offering protection, care, assistance and surveillance and by providing general and professional education, in order to influence him/her to refrain from committing new criminal offences in the future. After the new Juvenile Courts Act (Official Gazette, Nos. 84/11, 143/12, 148/13 and 56/15) came into force, a new educational measure, called assignment to a centre for disciplinary development, was introduced. **Measures of warning** are reprimands and special obligations, imposed when juvenile person's personality or behaviour should be influenced upon. **Increased supervision measures** are increased care and supervision, assignment to a centre for disciplinary development and increased care and supervision with daily stay in a correctional institution, imposed when long-term measures are needed for the upbringing and education of a juvenile person with adequate surveillance and assistance, without juvenile's separation from their environment. **Correctional institution measure** refers to the assignment to a correctional institution, the assignment to a rehabilitation centre and assignment to a special correctional institution, prescribed when long-term and intensive educational measures or measures of treatment are needed, with juvenile's separation from their environment. Correctional institution measures are imposed as extreme measures and may last within the limits prescribed by the Juvenile Courts Act, only for the time needed to achieve the aim of educational measures. **Suspended juvenile imprisonment** – juvenile may be found guilty for criminal offence by a court and at the same time a juvenile imprisonment penalty may be suspended if the court thinks that, by the pronouncement of guilt and by threatening with the subsequent pronouncement of a sentence, the perpetrator can be diverted from the commitment of further criminal offences. In this case, the court may pronounce educational measure of increased supervision, assignment to a centre for disciplinary development and one or more special obligations.**Juvenile imprisonment** is the penalty of depriving freedom with particularities related to the pronouncing, duration, aim and content of penalty. Juvenile imprisonment may be imposed only for criminal offences for which the law prescribes three years penalty of imprisonment or a more severe penalty and may not be shorter than six months nor longer than five years, only exceptionally it may be up to ten years for criminal offences for which long-term imprisonment penalty has been prescribed, or in case of a merger of at least two criminal offences with prescribed imprisonment above ten years. **Security measures** applicable to juveniles are: Compulsory psychiatric treatment, Compulsory treatment of addiction, Compulsory psychosocial treatment, Prohibition to drive a motor vehicle, Prohibition to approach, harass or spy someone, Prohibition to access to internet, Protective supervision following the full execution of a prison penalty.

Radić (2017) points out that in the Republic of Croatia, the most frequently imposed educational measure is enhanced care and supervision, which is imposed annually in about 35% of cases on average. Special obligations are also imposed in about 30% of cases per year, the measure of referral to a center for disciplinary development and increased care and supervision in 7% of cases, the measure of referral to a correctional institution in 5% of cases, and the measure of referral to a special correctional institution in less than 1% of cases per year. The suspended juvenile imprisonment (similar in purpose to a suspended sentence) in the observed period was imposed on 10–20% of juveniles. This punishment is more frequent in the last six years of the observed period, which indicates a higher level of social danger, that is, more serious crimes committed by minors (see Graph 7). Namely, since the introduction of the suspended juvenile imprisonment into the legislation of the Republic of Croatia until today, this measure has been on a constant rise. Juvenile courts consider this type of sanction as a type of control mechanism for the behavior of minors in the future. However, it should be emphasized that the center for social welfare is the most important source of data on juvenile perpetrators of criminal offences, which is expected to process the data and submit it with a reasoned proposal for the imposition of a criminal sanction. At the same time, these data form the basic material used by state attorneys and juvenile judges in the proceedings.

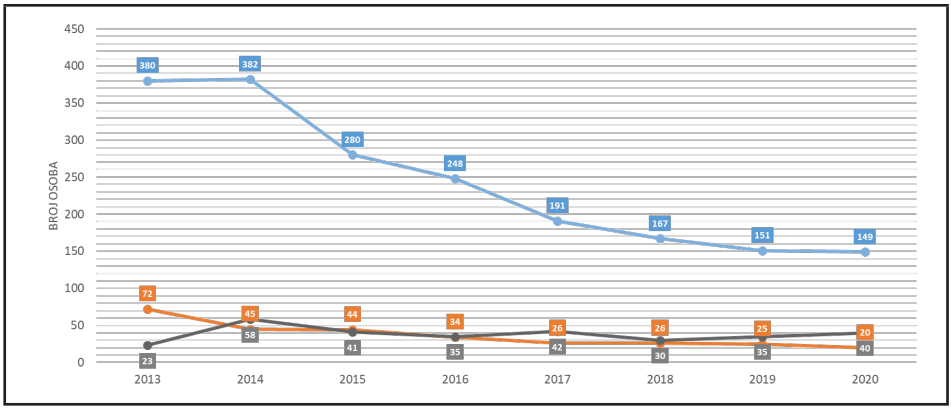


***Graph 7** – Convicted juvenile perpetrators by imposed criminal penalties and other measures (2013–2020)*

Source*: Annual statistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

In the observed period, there is a continuous and gradual downward trend in the number of criminal reports for all criminal offenses by 38% compared to the initial

year of observation. Regarding the incidence and severity of juvenile delinquency, Graph 8 provides a clearer picture. Although there is an obvious strong downward tendency of committing property crimes, they are the most represented in the total mass throughout the observed period (73–80%), which is a phenomenon in the world as well. On the other hand, in the range of 5–10% of minors persist in committing criminal offenses against life and body in the period in question and somewhat less when it comes to offenses against personal freedom. It should be pointed out that during the last two observed years (2019 and 2020), there is a greater involvement of minors in drug crime (about 20%) (Graph 8). Although the occasional use of drugs used to start in high school, nowadays the age limit has been lowered to the elementary school population in urban as well as rural areas. This problem affects the family and educational institutions, affecting all age groups and social strata. Finally, it should be noted that only a quarter of reported minors are eventually convicted.



***Graph 8** – Convicted juvenile perpetrators by most common offences (2013–2020)*

Legend: brown *line – against life and body, blue line – against property, grey line – against people's health*

Source: *Annual statistical reports of the Central Bureau of Statistics (Juvenile offenders, reports, charges and convictions from 2013 to 2020). Retrieved from: https://www.dzs.hr/ (May 10, 2021).*

CONCLUSION REMARKS

The general trend in Croatia during the observed period is a significant decline in overall juvenile crime which might lead to the conclusion that juvenile crime in Croatia does not pose a serious problem. Besides property crimes still prevail-

ing, there is an obvious increase in drug-related crime and steady share in crime against the human body as the most serious crime, even though absolute figures of the latter reported offenders are quite low. It is most likely that this trend indicates the increasing propensity of juveniles to commit more serious offences.

As regards juveniles' family characteristics and their personal features it is found that juvenile offenders come from complete, but unstable, and also from single-parent families that probably had a family history of problem behavior or family conflict (Howell, 1995) which further leads to poor parenting. In addition, this research has identified poor school performance or leaving school at a young age as a risk factor in juvenile offenders observed. Despite the ongoing discussion of the direction of causality, the evidence is clear that poor school performance and leaving school at a young age are connected to juvenile delinquency (Hawkins et al., 1998; Huisinga and Jakob-Chien, 1998; Maguin and Loeber, 1996). Consequently, child and family risk factors, peer group influences, socioeconomic status, low school motivation, and early behavior problems were the most common causes of delinquency and, in combination, increased the risk that leads to anti-social and criminal behaviour.

This research paper builds on the existing knowledge of the topic and addresses possible implications of future developments within the mixed model of the juvenile justice system that is lacking in the existing literature. Notably, in juvenile justice, there are three main and most widely accepted models of responding to the commission of criminal offenses by juveniles: protective, judicial, and mixed model with elements of restorative justice. The protective model deviates from excessive formalism, and social care centers play a significant role with the aim of educating, protecting and helping minors. In contrast, the judicial model gives little importance and attention to the personal and family circumstances of minors, and the sanctions imposed are mostly penal, instead of social welfare. Croatia opted for some form of mixed approach, placing emphasis on the personality and individual needs of minors (Radić, 2017), to which sanctions are then adjusted, which is taken from the protective model while simultaneously guaranteeing the minor's legal security and compliance with all standards of international protection from the judicial model.

All indicators in the observed period point to the conclusion that punishment is only a measure of last resort, which is confirmed by the fact that the share of juvenile prison sentences is only about 2% and that in most cases the principle of opportunity is used, thus favoring the application of educational measures as informal forms of treatment for avoiding negative stigmatization and labeling of minors. Despite the constant slight increase in the suspension of juvenile imprisonment (similar in purpose to a suspended sentence), we believe that with the predominant imposition of educational measures, a relatively mild special-pre-

ventive criminal law policy towards minors is implemented in practice with a deviation towards the protective model. However, we are of the opinion that proper intervention at an early stage is the best approach to preventing juvenile delinquency. It requires individual, group and organizational efforts aimed at minors, however, it is important to accept the fact that no state institution and imposed educational measure is as influential on the development of minors as the institution of the family.

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STUDENTS' EXPERIENCES OF VICTIMIZATION AND PERPETRATION OF ONLINE VIOLENCE

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INTRODUCTION

The modern world is unimaginable without numerous benefits of rapid technological development, among which information and communication technologies (ICT) certainly occupy a significant place. The COVID-19 pandemic has led to an accelerated shift to digital services and platforms in all areas, including distance learning and work from home in many professions. For many young people, modern technology has an important role in their daily lives from an early age (Wright, 2013), which was confirmed by Smith et al. (2008), who found that back in 2006 in the United Kingdom 51% of children aged 10 and 91% of children aged 12 owned a mobile phone. Adolescents and young people are vanguards of the consumption of new technologies. Rapid technological development and increasing use of the ICT by young people have made them benefit from outstanding opportunities on the Internet, in terms of availability of knowledge, information and skills, and social interactions with other young people from all around the world (Mirić, Vasiljević-Prodanović, 2022). Today, computers and the Internet are used in higher education for the teaching process, communication between professors and students, fulfilment of studying obligations, etc. (Vasiljević-Prodanović, 2020). Moreover, for students, the ICT, in addition to being used for private purposes, has also become a necessary resource for acquiring new knowledge during

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studies. The wide variety of digital and technological tools currently available, such as text messages, social networks (e.g., Facebook, Instagram, TikTok or Twitter), email, mobile phones and the use of a webcam, among others, allow young people to establish easily an online dating relationship as well (Burk et al., 2011). Digital technology enables people to seek, maintain or end intimate relationships in new and innovative ways. Although many youngsters may find these intimate interactions as fun and exciting, these same technologies can be used for malicious purposes. Moreover, the ICT has facilitated opportunities for the perpetration of criminal harms, such as hacking, online fraud, and identity theft. Although significant attention has been given to these existing and emerging cybersecurity threats, far less attention has been paid to the diverse ways in which digital technologies are used by offenders to perpetrate or continue the harms of interpersonal violence (Henry & Powell, 2015; Henry et al., 2020).

Online interactions have unique features that promote and encourage intimidating tactics, such as control and monitoring (Stephenson et al., 2018). It has been reported that ICT contributes to making adolescents and young people more susceptible to interpersonal intrusiveness, thus endorsing different forms of victimization such as cyberstalking (Borrajo, 2020), cyberbullying, sexting (Neves et al., 2020) and cyber dating abuse (Caridate, et al., 2020; Caridade & Dinis, 2020; Caridate, et al., 2020), trolling, hate-based harassment, and hate speech (Henry et al., 2020), among other forms of online victimization and perpetration. According to recent studies, these forms of violence have received several labels, using prefixes such as "technology", "digital", "cyber", "electronic" and "online" to describe different types of harassment, victimization, violence, aggression and abuse using the technological devices and platforms (Henry et al., 2020). The current literature uses aggression, abuse and violence as commutable, although they are not the same (Geffner, 2016; Machado et al., 2022). Hence, the term abuse indicates the victim's context, motive and outcomes. Nevertheless, the existing measures do not contemplate these characteristics and are more dedicated to evaluating a specific behaviour. We used terms such as violence, aggression and abuse in our survey to cover a wide range of hurtful behaviours, including image-based sexual violence (Harris & Woodlock, 2019), and technology-facilitated coercive control (Dragiewicz et al., 2018). In online settings, aggression can occur at any moment, the aggressor does not see the victim's reaction, so it is tempting to diminish the consequences of their acts (Muñoz-Fernández & Sánchez-Jiménez, 2020), and what is more important, he or she may feel immune due to the anonymity that the online context provides, while the victim, at the same time, experiences more humiliation and harm due to a growing potential audience (Stonard, 2020). Online violence is not an isolated phenomenon, often following the same patterns as offline violence (European Institute for Gender Equality, 2020).

among female college students showed that 27.2% of them were involved in online violence as a victim or as a perpetrator, or both (Kokkinos et al., 2014). Another study revealed that 15% of university students reported OV during their studies (Varghese & Pistole, 2017). In the UK 46% of trainee doctors reported at least one incident of OV (Farley, 2015), and among college students in Greece, it was found that 58.4% of the students were involved in online abuse (Kokkinos et al., 2014). The prevalence of OV is even higher in Turkey, where 55.3% of university students have experienced OV at least once (Dilmac, 2009). A study from Pakistan on a convenient sample of 100 students revealed that 37% of them reported having been hacked, 23% of them have experienced cyberstalking, 29% impersonation, while 59% of them have experienced spreading lies online and defamation. Further, receiving messages with violent content was reported by 40% of students (Avais et al., 2014). A qualitative study on cyber intimate partner violence on a sample of 39 college students revealed the high risk of (mis)use of the ICT to control a partner - monitoring partner's online activities and location, intimidation (Merlander, 2010). Domestic violence support professionals have reported the increasing use of digital technologies in the tactics and strategies of domestic violence offenders (Wodlock, 2017). It was found that those victims are mostly intimidated by text messages, and for most of them, online abuse is just a continuation of intimate partner violence (IPV) in real life. A study of OV and online violent perpetration (OVP), conducted on a sample of 338 students of Belgrade University students, revealed that the majority of students (91.7%) experienced at least one form of victimization in cyberspace, with receiving content infected by a virus or Trojan as the most common (55.9%), followed by cyberstalking (51.8%), cyber insults (49.7%) and sexual harassment (46.6%) (Stevković et al., 2019).

This paper aims at presenting a part of the findings from our research on the negative online experiences of students in Serbia. Specifically, the results on the prevalence, characteristics and interaction between the experiences of online victimization (EOV) and online victimizing behaviours (OVB) are presented.

THE PRESENT STUDY

Research questions

1. To what extent are the prevalence rates of online and offline victimization and online perpetration among the university students in Serbia?
2. Is there any significant difference in the prevalence rates of EOV and OVB online across genders?
3. Is there a correlation between EOV and OVB?

Design and Procedure

In this cross-sectional quantitative study, the data were collected during the spring semester of 2021/22 academic year. We used an online questionnaire as a convenient method of data collection that enables higher response rates, guarantees the anonymity of the respondents, and eliminates any tendency toward bias. Moreover, at the time of data collection, many faculties were still performing online classes, which also influenced the decision-making about the online approach in the data collection process. The questionnaire used in this survey represents a combination of a victimisation survey and a self-report survey. The questionnaire was initially made available through an online survey on the Google Docs online platform. The link and the invitation for participation in the study were disseminated by the authors of this study through an informative announcement by e-mail, social networks (e.g., e-mail, Facebook, Twitter or Viber) and contacts established with different universities. Before asking the participants to complete the questionnaire, a brief description of the study was presented, clarifying the objectives, the confidentiality and anonymity of the data, the voluntary nature of the responses, as well as the time to complete the questionnaires (about 20 min). The participants were also informed that they should answer only once. The questionnaires were available starting from March 2022 and are still available. For this paper, a cross-section of the study was made at the end of May 2022.

Sample

This study included a random sample of 332 Serbian students of all levels of studying (undergraduate, master and PhD studies), studying different study programs at different universities (faculties of social sciences and humanities, medical sciences, sciences and mathematics and technology and engineering sciences), mostly female (81.0%), aged between 19 and over 30 years. A significant percentage of the participants were attending the first level of studies (55.4%), with the same percentage in the second level of studies and college (17.2%), and 10.2% in postgraduate attendance (Table 1).

Table 1. *Sample characteristics (N=332)*

Variables	n	%
Sex		
Female	269	81.0
Male	61	18.4
Other	2	0.6
Age		
19-22	155	46.7
23-25	74	22.3
26-30	49	14.8
above 30	54	16.3
Level of study		
College	57	17.2
Undergraduate	184	55.4
Master	57	17.2
PhD	34	10.2
Study programme		
Social sciences and humanities	230	69.3
Medical sciences	37	11.1
Sciences and mathematics	34	10.2
Technology and engineering sciences	31	9.3

Measures/Instruments

The instrument used in this study was created by the authors of the paper[2] and it consisted of the Background questionnaire, Offline Experiences of Victimization Questionnaire, Online Experiences of Victimization Questionnaire and Online Victimizing Behaviours Perpetration.

Background Questionnaire included a series of questions about age, sex, level of study, study programme, social media (SM) (e.g., on which SM they have a profile, how much time they spend on SM, which data they share, how careful they are, etc.).

Offline Experiences of Victimization Questionnaire (OffEVQ): The participants were asked if they were a victim of several nonviolent and violent crimes: theft, insults (based on their sex, look, background, religion and sexual orientation),

2 Specifically, the instrument was created by Ljiljana Stevkovic and it is an adapted instrument used in her previous study. See: Stevković et al, 2019.

physical violence (slapping, pushing, grabbing, punching in the face or other parts of the body, hitting with objects or some other way of using a physical force and hurting them), threats, sexual harassment and direct sexual violence (rape).

The participants had to indicate whether they had ever experienced victimization, who the perpetrator was (an unknown person, a friend, a colleague, parents, an intimate partner or another known person) and the frequency of these experiences through a 5-point Likert scale: 1 (never), 2 (once or twice), 3 (three to five), 4 (six to ten), 5 (more than ten times).

Experiences of Online Victimization Questionnaire (EOVQ) and *Online Victimizing Behaviours Perpetration Questionnaire (OVBPQ)* are self-report measures, each consisting of 11 items about various types of EOV and OVPB, such as verbal-emotional and sexual violence and control IPV. Additionally, the EOVQ included three more items about the consequences (if the EOV caused any consequence, and which one) and support system (if they shared their EOV with someone close to them, and what the reaction of that person(s) was). The perpetrator or the victims of each type of online aggression (abuse) and/or victimizing behaviour can be a current or ex-intimate partner, an unknown person (offline or online), someone known in a real life or a virtual friend. The emotional abuse subscale comprises three items, describing situations in which the participants have experienced and/or perpetrated verbal or emotional abuse by/to someone: insults, threats, sending content infected by virus/worms/Trojans (e.g. "You/Someone posted or distributed insulting comments and lies about you/someone)"). The sexual abuse subscale comprises five items, describing situations in which the participants have experienced and/or perpetrated sexual violence by/to someone, such as sexual harassment, revenge porn (e.g "You/Someone posted someone's/your photograph and personal information on a porn website") and intimate partner sexual abuse (e.g. "You/Your partner recorded your sexual intercourse without his-her/your knowledge and distributed to others"). Three items regarding control IPV, such as using an online application for location, monitoring the partner's online activities, messages, DMs, and SM profiles (e.g., "Your ex/current partner was using an application to locate you, without your knowledge or approval." or "Your ex/current partner was reading your messages, entering and changing your SM profiles, reading DMs, etc, without your knowledge or approval" or "Your ex/current partner was checking your online activities such as your browsing history, without your knowledge or approval."). The participants responded to these items with five options: 1 (never), 2 (once or twice), 3 (three to five times), 4 (six to ten times), and 5 (more than ten times), except for the last three items of the EOVQ related to the partner's controlling tactics, which included the option 0 (I don't know). Also, these two questionnaires included several additional questions. The EOVQ included six questions regarding the onset and frequency of OV (before

or during the COVID-19 pandemic; less often, more often, neither less nor more often), reporting (to a friend, parents, siblings, colleagues and/or police) and the outcome of reporting (support, minimization, ignoring, ridicule, blaming and persuading to report to the police), and the consequences of the online victimization experiences. The OVPBQ included the same two questions regarding the onset and frequency of OVB perpetration. Cronbach's alpha (α) was measured, and reliable values for the EOVQ (α=0.89) and OVPBQ (α=0.78) were obtained.

Data Analysis

The data were analyzed by using an IBM SPSS for Windows 23.0. The descriptive univariate analyses were computed to characterize the sample, to determine the prevalence of EOV and OVB perpetration and their consequences, as well as the reporting and support system. Due to the highly skewed distribution of responses for EOV and OVB, we crosschecked these counts with a preliminary dichotomous question on whether or not the respondents experienced and/or perpetrated online victimization. The final binary for EOV was divided between no experience (n=81, 24.4%) and the experience of victimization (n=251, 75.6%). The final binary for OVPB was divided between no experience of perpetration of OVB (n=177, 53.3%) and perpetration of OVB (n=155, 46.7%). Bivariate descriptive and inferential statistics were computed to investigate the relationship between EOV and OVPB. More specifically, Pearson's correlations were computed. For testing the gender differences in the EOV and OVPB the t-test for the independent sample was applied.

FINDINGS

Frequency and gender differences between OVB use and OV

Prevalence rates for online and offline victimization and online victimizing behaviours are shown in Table 2. Offline victimization presented indicators that were the most prevalent and disturbing, with 91.3% of the participants reporting to have been subjected to some kind of abusive behaviour in their real life. Additionally, online victimization also presented indicators that were quite prevalent and disturbing as well, with 75.6% of the respondents reported having experienced at least some type of online victimizing behaviour and 53.3% acknowledged having perpetrated at least some form of online victimizing behaviour (Table 2). Moreover, 89.4% of the participants experienced both online and offline victimization, while for 50.9% there was a victim-offender overlap: in addition to experiencing online victimization, they exhibited some victimizing behaviour at least once.

In terms of the assumption that the COVID-19 pandemic may have influenced the frequency of the OV and OVB, the data showed that 57.7% of the respondents were victimized for the first time before the pandemic, while 51.1% of them reported that these victimizing experiences were less frequent or neither less nor more frequent during the pandemic that before.

Table 2. *Prevalence of online and offline victimization and online victimizing behaviours*

	Yes % (n)	No % (n)
Online victimization (OV)	75.6 (251)	24.4 (81)
Online victimizing behaviours (OVB)	46.7 (155)	53.3 (177)
Offline victimization (OffV)	91.3 (303)	8.7 (29)

Table 3 shows a statistically significant difference in the mean score of males and females in terms of the prevalence rates of the OVB among university students, indicating that male students perform OVB significantly more than female students. On the other hand, there was no significant difference in the mean score of males and females concerning the prevalence rates of OV among university students (Table 3).

Table 3. *Gender differences in experiences of online victimization and online victimizing behaviours*

	Female				Male					
	n	%	M	SD	n	%	M	SD	F	t-test
Online victimization	188	75.5	2.88	0.32	48	78.7	2.79	0.41	13.070	1.668
Online victimizing behaviours	119	44.2	2.49	0.41	36	59.1	2.34	0.79	28.474	2.191*

* $p<.05$

Prevalence of perpetration of online victimizing behaviours

In relation to the different types of OVB, most of the respondents practised some type of online IPV control. More specifically, 63.2% of them acknowledged that they have monitored their partners online activities and browsing history, while 57.4% of them have read their partners text and email messages, DMs or have controlled and changed their partners profiles on SM without his/her approval (Table 4).

***Table 4**. Prevalence of different forms of online victimizing behaviours*

Forms of online victimizing behaviour	n	%
Writing insults	16	10.3
Writing threats	23	14.8
Sending someone online content infected by a virus	5	3.2
Sending someone messages with a sexual connotation	18	11.6
Sending someone explicit photographs and videos	6	3.9
Requesting someone to send you explicit photographs or videos of himself/herself	3	1.9
Revenge pornography	12	7.7
Recording sexual intercourse with your partner without his/her knowledge	1	0.6
Using a location tracking app to control your partner	18	11.6
Reading partner's msgs, DMs, changing SM profiles, without his/her approval	89	57.4
Checking partner's online activities and browsing history without his/her approval	98	63.2

N=332

Prevalence of online victimization

Analysing the different types of OV, it can be concluded that the majority of the participants (91.8%) revealed to have experienced receiving an infected online content that might jeopardize their digital devices (phone, laptop, computer tablet, etc.) and some type of online sexual harassment, in a form of receiving unwanted explicit photographs and/or videos from someone (74.5%, messages with sexual connotations 57.6%) and a request to send someone an explicit photograph/videos of themselves (45.5%) (Table 4). Further, it should be mentioned that 40.7% of the respondents have experienced receiving online threats to their physical integrity, which carries the risk that some of these threats become realistic in offline life (Table 4).

Concerning online IPV, in terms of controlling behaviours, 40.7% of the respondents have experienced that their partner was reading their text messages and/or emails, DMs, or checking and changing their SM profiles, while 35.9% of them have experienced that the partner was monitoring all their online activities and browsing history (Table 4). It should be noted that among the respondents who did not report being the victim of these specific four forms of online IPV, some were not aware of these partners' behaviours: 8.6% (20) of the respondents have chosen the option "I don't know" for the indicator "partner was recording and distributing video of your sexual intercourse without your approval", 25.1% (58) for

the indicator "the partner was using a location tracking app to control you", 12.6% (29) for the indicator "the partner was reading your messages, DMs, checking and changing your SM profiles", and 25.9% (60) of the respondents was not aware of the fact that their partner was monitoring all their online activities and browsing history without their approval.

***Table 4**. Prevalence of different forms of online victimization*

Forms of online victimization	n	%
Online insults	14	6.1
Online threats	94	40.7
Receiving online content infected by a virus	212	91.8
Receiving messages with a sexual connotation	133	57.6
Receiving explicit photographs and videos	172	74.5
Someone asked you to send them explicit photographs or videos of yourself	105	45.5
Revenge pornography	12	5.2
Partner recorded your sexual intercourse without your approval	1	0.4
Partner was using a location tracking app to control the victim	27	11.7
Partner was reading victim's msgs, and DMs, changing SM profiles, without approval	94	40.7
Partner was checking victim's online activities and browsing history without approval	83	35.9

N=332

Concerning the consequence of OV, 19.1% (48) of the respondents stated that these experiences had some negative effect on their life. Among them, 60.4% (29) of the respondents answered an open-ended question regarding the type of consequence of OV. Several consequences were repeated in their responses: fear, discomfort, anxiety, depression, mistrust, insecurity, helplessness and disappointment. One female respondent described it in these words: *"A feeling of incredible discomfort and helplessness. Although I always try to sweep such unpleasant experiences under the carpet and not to think about them as something important, I certainly can't stop thinking about them for a few days, weeks."*

In relation to reporting victimizing online experiences, half (50.6%) of the respondents who had such experiences shared them with someone close to them, mostly a friend. For most of them (63.2%) the reaction of a trusted person with whom they have shared their experience was emotional support. However, every fifth respondent (21.4%) who shared their experience with someone was exposed to secondary victimization manifested in minimizing their experiences, ignoring, ridicule and blaming.

Association between experiences of online victimization and perpetration of online victimizing behaviours

Table 6 shows the correlations between the variables included in the study, in terms of victimization and perpetration. The upper section of Table 6 shows the correlations between overall online and offline victimization and overall OVB. The middle section demonstrates the correlations between different types of OV and OVB, while the lowest section shows the correlations among different types of OV. Looking at overall, there is a significant positive correlation between OV and OVB, between OV and OffV, as well as between OVB and OffV. However, although these correlations were found significant, correlation coefficients were considered low ($r<0.35$)[3].

When observing the correlations among different types of OV and OVB, more detailed information is obtained. The results indicated significant positive correlations among all forms of OVB and most forms of OV, with each type of OVB correlating with one or more types of OV, except with receiving online insults and experiencing that partner was recording sexual intercourse and sharing that video with others without the participant's approval. However, given that the correlation coefficients are low ($r<0.35$) for most of these correlations, they are considered weak, except for the correlation between performing online IPV control 2 and experiencing this type of online IPV, as well as the correlation between performing online IPV control 3 and experiencing this victimizing behaviour, which could be considered moderate ($0.35<r<0.70$) (Table 6). These findings indicate that the respondents, who reported being a victim of one or more types of OV, were more likely to report performing one or more types of OVB, and vice versa.

3 For more information regarding the strength of relationship in Pearson correlation please see: Moore et al., 2013.

Table 6. *Person's correlation between different types of online victimization and online victimizing behaviours*

	Online victimization	Online victimizing behaviours	Offline victimization
Online victimization	1	.212**	.283**
Online victimizing behaviours	.212**	1	.076
Offline victimization	.283**	.076	1

	Online victimization										
Online victimizing behaviours	1 (V)	2 (V)	3 (V)	4 (V)	5 (V)	6 (V)	7 (V)	8 (V)	9 (V)	10 (V)	11 (V)
Online insults (P)	.023	.202***	.052	.074	.048	.089	.182**	.012	.139*	.046	.065
Online threats (P)	.061	.276***	.105	.140*	.144**	.095	.265***	.101	.006	.066	.062
Online virus (P)	.026	.087	.093	.050	.020	.022	.241***	.007	.054	.087	.157**
SH1 (P)	.016	.115*	.014	.157**	.178**	.152**	.096	.013	.023	.145**	.077
SH2 (P)	.028	.115*	.102	.028	.086	.151*	.216***	.007	.125	.166**	.131*
SH3 (P)	.020	.011	.006	.052	.028	.072	.152**	.005	.088	.011	.092
SIPV (P)	.012	.087	.041	.067	.053	.081	.284***	.003	.016	.087	.095
IPV control 1 (P)	.016	.056	.097	.076	.098	.066	.046	.013	.269***	.086	.139*
IPV control 2 (P)	.042	.228***	.201***	.227***	.243***	.232***	.174**	.033	.039	.405***	.373***
IPV control 3 (P)	.037	.062	.171**	.131*	.122*	.185**	.122*	.036	.097	.355***	.450***
	Online victimization										
1 (V)	1	.267***	.064	.073	.052	.018	.041	.012	.047	.001	.052
2 (V)	.267***	1									
3 (V)	.064	.222***	1								
4 (V)	.073	.332***	.078	1							
5 (V)	.052	.356***	.128	.788***	1						
6 (V)	.018	.306***	.134	.422***	.449***	1					
7 (V)	.041	.165*	.011	.138*	.122*	.077	1				
8 (V)	.012	.035	.041	.045	.057	.037	.011	1			
9 (V)	.047	.155*	.040	.162	.133*	.153**	.179**	.016	1		
10 (V)	.001	.213	.091	.237***	.218***	.277***	.201***	.035	.278***	1	
11 (V)	.052	.162*	.101	.209***	.139*	.191***	.149**	.032	.312***	.564***	1

* p<0.05 ** p<0.01 *** p<0.001

Regarding the correlations among different types of OV, the data presented in Table 6 show high and moderate correlations among different types of online sexual harassment. Specifically, receiving messages with sexual connotations highly (strongly) correlate with receiving photos and/or video with explicit content (one's genitals, one's sexual intercourse, etc.) ($r>0.70$). Similarly, receiving a request for photographs/video with explicit content moderately correlates with receiving messages with sexual connotations and receiving photographs/video with explicit content ($0.35<r<0.70$). A moderate correlation was found between two types of online IPV as well. More precisely, experiencing that partner was checking the participant's text messages, DMs and/or SM profiles were positively correlated with experiencing that the partner was monitoring the participant's online activity and browsing history (Table 6). Although the correlations between other types of OV were also positive, their correlation coefficients were considered low, indicating a weak relationship. The correlations between different types of OV indicate that some respondents were experiencing multiple OV. However, it should be noted that there is no correlation between experiencing that the partner was recording sexual intercourse and sharing that video with others without the participant's approval and other types of OV. Given that only one participant reported experiencing this type of online IPV, it was not expected that there would be a correlation with any type of OV and OVB.

Perpetration (P): SH1 - sending msgs with sexual connotation; SH2 - sending to someone a photo/video with explicit content; SH3 - Requesting from someone a photo/video with explicit content; SIPV - recording sexual intercourse with a partner without his/her approval; IPV control 1 - using location tracking app to control partner; IPV control 2 - checking partner's msgs, DMs, SN profiles; IPV control 3 - monitoring partner's online activity

Victimization (V): 1 - receiving online insults; 2 - receiving online threats; 3 - receiving online virus; 4 - receiving messages with sexual connotation; 5 - receiving photo/video with explicit content; 6 - receiving a request for photo/video with explicit content; 7 - revenge pornography; 8 - partner was recording and distributing a video of your SI without your consent; 9 - partner was using a location tracking app to control you; 10 - partner was checking your msgs, DMs, SM profiles; 11 - partner was monitoring your online activity and browsing history.

DISCUSSION AND CONCLUSIONS

The main purpose of the present study was to investigate the prevalence of OV and OVB and examine the relationship between different types of victimization and victimizing behaviours since these are two under-researched topics in the

Serbian context. The present study shows a high prevalence of OV (75.6%) and relatively mild prevalence rates of OVB (46.7%). Such a high prevalence of OV is much higher than the one found in previous studies that show the prevalence rates between 8.6% and 55.3%, depending on the applied research methodology and instruments used (e.g., Finn, 2004; Dilmac, 2009; Schenk & Fremouw, 2012; Crosslin & Crosslin, 2014;). One possible explanation for these discrepancies could be in the time distance given that over the past decade the development of ICT had progressed rapidly, which has been accompanied by an increase in the number of users, opportunities for use of these technologies, as well as opportunities for misuse. However, our findings comply with the results of recent international studies (e.g., Cava et al., 2020; Gracia-Leiva, et al., 2020; Mohseny et al., 2021). For example, Mohseny et al. (2021) reported even a higher prevalence rate of OV among Iranian students (about 90%).

A half or even two-thirds of our respondents (for some types of SH) have experienced different forms of online sexual harassment (OSH) at least once. One of the female participants explained: *"In our generation, unfortunately, it is normalized for maniacs to send their genitals to girls on a daily basis. Although you try to ignore it, it's not harmless. It makes you feel insecure."* The prevalence of OSH in our study is higher than it was found in previous research (e.g., Powell & Henry, 2017; Woodlock, 2017; Douglass et al., 2018). For example, a study of Australian participants aged 15 to 29 years (n=1,272), found that 34% of them have experienced OSH through SM and 26% via phone (Douglass et al. 2018). Similarly, another study (n=5,798; Powell & Henry, 2018), found that 20% of Australian participants and 16.6% of the UK participants reported having experienced OSH in their lifetime. Bearing this in mind, our findings on OSH clearly emphasise the necessity of conducting more extensive and detailed research into this phenomenon in the student population, given the specifics of this period in young people's lives.

High indicators of online control IPV, in terms of perpetration (11.6% - 57.4% - 63.2%), found in our study, are in the line with recent international studies (e.g., Caridade & Braga, 2019; Cava et al., 2020). The prevalence of online control IPV, in terms of victimization, found in the present study (11.7% - 40.7% - 35.9%), is consistent with other studies (e.g., Burke et al., 2011; Zweig et al., 2013a; Zweig, et al., 2013b), reporting the rates below 50%. This is still a high percentage of control online IPV and it may be explained by the fact that online controlling behaviour in an emotional relationship is perceived as a sign of love or jealousy (Francis & Pearson, 2019). However, these results indicate the importance of better understanding the risk factors that may be at the origin of these abusive behaviours.

As for the consequences of OV, our research showed that every fifth respondent reported that OV had left consequences and that almost two thirds of them shared their experience with someone. This does not necessarily indicate the absence of

consequences, but rather the possibility that the respondents do not recognize some of these behaviours as hurtful, or the emotional consequences it causes. Sharing victimizing experiences with close friends and relatives is certainly one way, and even maybe the best way (Schenk & Fremouw, 2012) of overcoming negative emotions caused by those experiences. However, it is worrisome that every fifth respondent who turned to someone for help experienced secondary victimization, which supports findings from the previous study by Stevković et al. (2019). This result highlights the need to raise awareness among the wider public, especially young people, about the seriousness of OV and its consequences.

Our study showed that there were significant gender differences in the prevalence rates of OVB in the sense that a higher prevalence of victimizing behaviours was found for male students, which is in line with the results of the Hashemi's study (2021). However, our findings are inconsistent with the results of other studies (e.g., Wozencroft et al., 2015; Almenayes, 2017; Stewart et al., 2018) that found no gender differences in the prevalence rates of OVB. Interestingly, the result concerning OV indicates that there was no significant gender difference in the prevalence rate of victimization, which supports the findings of many other studies (e.g., Schenk et al., 2013; Antoniadou & Kokkinos, 2015; Wozencroft et al., 2015; Smith et al., 2018; Abaido, 2020; Hashemi, 2021).

Finally, the results of this study showed positive correlations between all types of OVB and most types of OV, indicating the overlap between victimization and perpetration, as well as revictimization of some of the respondents. This result is in line with other studies (e.g., Caridade et al., 2020; Brewer & Kerslake, 2015; Hashemi, 2021; Francisko et al., 2015).

In light of the results obtained, there is a need of undertaking additional quantitative study to understand the various kinds of OV and OVB, and qualitative studies to thoroughly examine the socio-psychological effects of OVB on victims. The need to get knowledge of the main characteristics of OV and OVB is an imperative and prerequisite for the protection of the existing and potential victims, and for planning the preventive activities (Stevković, 2012). Further, the victims must be encouraged to report any acts of OV that may have a negative impact on their mental health and wellbeing. The initiatives of OV and OVB prevention and intervention should be implemented at schools and universities. Moreover, universities should be focusing on encouraging students to report OV by assuring them that appropriate action will be taken upon their report. Finally, students should be informed about the responsibilities and the risks that come with the use of the ICT, and the need of seeking assistance from responsible adults when OV happens.

ORIGINALITY/VALUE

This study represents a relevant contribution to the understanding of the OV and OVB phenomenon among the students in Serbia. Our research only sheds the light on this problem and emphasises the need for more comprehensive research on a sample of this category of young people and the development of preventive strategies adjusted to them, in order to prevent their victimisation and perpetration of online violence. In addition to addressing this problem from a research and theoretical point of view, a broader social strategy is needed aiming at raising youth awareness about OV, as well as designing concrete knowledge-based preventive and support programmes to overcome the negative consequences of the OV experience.

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INTERNATIONAL STANDARDS FOR DAMAGE COMPENSATION FOR UNJUSTIFIED CONVICTION AND ILL-FOUNDED DEPRIVATION OF LIBERTY

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INTRODUCTION

The International Covenant on Civil and Political Rights establishes the right to compensation for unjustified convictions and unlawful arrests: the latter is guaranteed to anyone who has been a "victim of unlawful arrest or detention" (Article 9, paragraph 5), and the former to a person who has served a sentence based on a final verdict that was later revoked (or the person was pardoned) because "a new or newly discovered fact shows conclusively that there has been a miscarriage of justice ", and that the person is not "fully or partially guilty of untimely disclosure of an unknown fact" (Article 14, paragraph 6).

Article 5 paragraph 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: the Convention) stipulates that

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anyone who has been the victim of arrest or illegal detention, contrary to the provisions of Article 5, shall be entitled to compensation (Article 5, paragraph 5). The right to compensation under Article 5 paragraph 5 of the European Convention presupposes, first of all, that the person has been the victim of arrest or detention contrary to the provisions of this Article (paragraphs 1–4). If a violation of this right has been established, and the domestic laws of the state allow only partial repairs or nothing, the European Court of Human Rights (hereinafter: the European Court) may grant satisfaction to the injured party, in accordance with Article 41 of the European Convention. On the other hand, there are clear illogicalities in a number of judgments of this court – despite finding that Article 5 paragraph 5 has been violated, it has refused compensation under Article 41.

The right to compensation can be characterized as a kind of "secondary right", but before the secondary right becomes applicable – the primary violation must be established (*X v. Germany,* Application No. 4149/69 and *X v. Austria,* Application No. 5560/72). An applicant will be able to claim compensation in Strasbourg under Article 5 paragraph 5 of the European Convention only if he has been refused compensation at the highest level of domestic remedies by the national authorities (*Sakik and others v. Turkey,* ECHR 26 November 1997, § 59), despite violation of Article 5. In *Steel* case, the European Court concluded that in "civil proceedings for damage compensation against the police", it was possible to successfully claim damages (*Steel and others v. United Kingdom,* ECHR 23 September 1998, § 83). What is decisive is not the abstract possibility of success, but a concrete situation of the applicant (*NC v. Italy,* 53–56). On the other hand, in many cases the European Court has concluded that the judgment itself, simply as a result of violation of the Convention, is sufficient satisfaction (*Hood v. United Kingdom,* Application No. 27267/95, 18 February 1999, § 84). It is important to provide convincing evidence in this regard (*Weeks v. United Kingdom*, 9787/82, ECHR 2 March 1987).

The first part of the paper refers to the relevant case law of the Constitutional Court of Bosnia and Herzegovina, primarily when the appellate allegations indicate a violation of the right to a fair trial in connection with misapplication of substantive law and lack of reasoning regarding the awarded amount of non-pecuniary damage in the proceedings following an appeal or review. Another aspect of the research concerns the examination of the scope and manner of application of relevant decisions of the European Court regarding compensation for damages. For the purpose of conducting the research in question, the current case law of these courts was analyzed.

CASE LAW OF THE CONSTITUTIONAL COURT OF BOSNIA AND HERZEGOVINA

When the appellate allegations indicate a violation of the right to a fair trial in connection with the misapplication of substantive law and lack of reasoning regarding the awarded amount of compensation for non-pecuniary damage in the appeal and review procedure, a key question arises for the Constitutional Court of Bosnia and Herzegovina (hereinafter: the Constitutional Court.) as to whether it can enter into the assessment of the amount of compensation awarded for this specific type of damage. In this regard, the Constitutional Court emphasizes that its jurisdiction is determined by the Constitution of Bosnia and Herzegovina, as well as the restrictions (brakes) that the Constitutional Court has developed through its practice. One of such restrictions (brakes) is the principled position of the Constitutional Court not to examine the facts established by the regular courts. However, this position is not absolute, given that the case law of the Constitutional Court in this direction allows exceptions in cases where the relevant facts have been established "obviously arbitrarily". The Constitutional Court justifies this exception in the fact that "arbitrariness" or "self-will" cannot be in accordance with the principles of the Constitution of Bosnia and Herzegovina, despite the fact that determining relevant facts falls within the basic jurisdiction of regular courts. Therefore, the mentioned exception is necessary in order to be able to correct a decision that is potentially unconstitutional. This exception must be applied with extreme caution, but it must not become an absolute rule, as this would ultimately represent a reduction in constitutional rights.

In addition, the Constitutional Court points to the case law of the European Court in *Tolstoy Miloslavsky v. United Kingdom* (Application No. 18139/91 of 13 July 1995), in which the European Court, in addition to the substance of requirement under Article 10 of the European Convention, the right to freedom of expression, dealt with applicability of Article 6 paragraph 1 of the European Convention in the context of awarded compensation for damages, pointing out that the case was limited to an objection regarding the amount of damages determined and the court order, and that it was different with regard to other defamation cases examined by the court until then. In the present case, the amount of non-pecuniary damages awarded for defamation was three times higher than the highest amount of defamation damages previously awarded in England, and no subsequent judgment has been made with which it could be compared. Therefore, according to the European Court (*Tolstoy Miloslavsky v. United Kingdom*), the amount of damages awarded must be brought into the context of the applicable (national) substantive law and the context of the requirement of proportionality. Having in mind the stated practice, the Constitutional Court finds that, in terms of Article 6 paragraph 1 of the European Convention, it can enter into discussion on the awarded

compensation from the aspect of its proportionality, in relation to the elements from which monetary compensation is formed as fair satisfaction for ill-founded deprivation of liberty, bearing in mind that the amount of damage compensation is determined on the basis of specific circumstances of each individual case.

Several decisions in the past case law of the Constitutional Court have been made in the direction of proving the existence of validity of decisions on arrest and detention, which apply *mutatis mutandis* to cases of unjustified conviction, i.e. final meritorious decisions on guilt. Thus, in decision No. **AP-2666/06 of 28 November 2008** (available at website of the Constitutional Court *www.ustavnisud.ba*), the Constitutional Court found that in the present case the appellant, in terms of domestic legislation, was not entitled to damage compensation because at the time of the disputed damage, i.e. detention as harmful event, the provision of Article 13 of the Law on the Application of the Criminal Procedure Code, which was taken over as the Republic Law, was in force, which excluded the right to damage compensation to persons unjustifiably convicted and ill-foundedly deprived of liberty. The relevant provision of Article 13 of this Law existed until the entry into force of the Criminal Procedure Code of the Federation of BiH (Official Gazette of the Federation of BiH, No. 43/98, entered into force on 29 November 1998). Therefore, in the specific case, the appellant, according to the domestic legislation, was not entitled to damage compensation to the extent that exceeds the scope of Article 5 of the European Convention.

In the context of the right to property, in the Decision on admissibility and merits, number **AP-941/10 of 16 May 2013**, the subject matter of dispute was the determination of damage compensation to the appellant for ill-founded deprivation of liberty. The Constitutional Court recalls that in the proceedings before the regular courts it was indisputably established that the appellant was sentenced to a shorter term of imprisonment in the renewed proceedings and that he spent two years and one month longer in prison than he was ultimately sentenced to by a judgment of the Supreme Court rendered in renewed proceedings. However, in the disputed judgment, the Supreme Court concluded that the provision of Article 527 of the Criminal Procedure Code of the Federation of BiH could not be applied to the appellant's case because there was no ill-founded deprivation of liberty in this case, given that prequalification of criminal offense was made in renewed proceedings and the appellant was sentenced to a shorter term of imprisonment. Therefore, although the interpretation and application of legal provisions is, in principle, a matter for the regular courts, the Constitutional Court considers that, in the circumstances of a particular case, the Supreme Court cannot go with its interpretation beyond something explicitly prescribed by law (the right to damage compensation even to persons who served sentence of deprivalion of liberty and

in the renewed proceedings were sentenced to a shorter term of imprisonment than the sentence they served).

In the Decision on Admissibility and Merits, No. **AP-2414/11 of 10 June 2014**, the Constitutional Court notes that in parallel with positive assumptions, the court in civil proceedings also examines negative assumptions, namely the existence or absence of inadmissible proceedings that caused detention according to provision of Article 418 paragraph 3 of the Criminal Procedure Code. In this regard, it was established in the proceedings that the appellant was not in ill-founded detention because he caused his detention by his illegal actions, primarily by avoiding to receive the summons, and the detention followed the execution of the international arrest warrant and execution of detention order.

In case **AP-754/14 of 30 March 2017**, the Constitutional Court concludes that there is a violation of the right to a fair trial under Article II/3e of the Constitution of Bosnia and Herzegovina and Article 6 paragraph 1 of the European Convention when the Court of BiH by partially upholding the appeal and by altering the first instance judgment regarding the awarded amount of damages, which was confirmed in the review procedure, failed to bring the amount of awarded damages into the context of substantive law with regard to specific circumstances concerning the appellant and, therefore, the context of proportionality requirement, so it concluded that the amount of non-pecuniary damage due to violation of honor and reputation, resulting from ill-founded deprivation of liberty in the circumstances of a particular case – was arbitrarily determined.

In Decision **AP-4364/16 of 6 December 2018**, the Constitutional Court concludes that there has been a violation of the right to a fair trial under Article II/3e of the Constitution of Bosnia and Herzegovina and Article 6 paragraph 1 of the European Convention when the amount for non-pecuniary damage for ill-founded deprivation of liberty was arbitrarily determined. The Constitutional Court recalls that, in accordance with the legal position of regular courts within the territory of Bosnia and Herzegovina (orientation criteria for determining the amount of a fair monetary compensation for non-pecuniary damage adopted by the Supreme Court of the Federation of BiH on 27 January 2016), "mental pain due to ill-founded deprivation of liberty is a unique type of damage that includes all harmful consequences of non-pecuniary damage related to the injured party resulting from ill-founded deprivation of liberty".

In its Decision No. **AP-2911/11**, the Constitutional Court emphasized that it could not conclude that the regular courts arbitrarily applied substantive law when dismissing the appellant's claim for damage compensation for ill-founded deprivation of liberty, as the claim became obsolete and, thus, his right to demand fulfillment of an obligation as well. The Constitutional Court pointed out that in this particular case it was the appellant's failure to adjust his conducts to the applicable

regulations and to submit a request for compensation of non-pecuniary damage within the deadlines set by the provisions of the Law on Obligations, which is why his allegations on violation of the right to a fair trial were ill-founded.

In case No. **AP-3464/11 of 13 January 2015**, the appellant considered that the decision of the Cantonal Court violated his right to a fair trial due to arbitrary application of substantive law. The Constitutional Court points out that in previous practice it has already decided on issues relevant to this case, i.e. issues of the right to financial compensation for deprivation of liberty on the basis of detention, when subsequent proceedings did not result in a conviction (see, e.g., Decisions No. AP-1928/06 of 18 December 2006, AP-2666/06 of 28 November 2006 and AP-2774/10 of 22 March 2013). This practice points to the relevant fact that the legal basis of the claim in this case is based on a legal provision which stipulates that the right to damage compensation also belongs to a person who was in detention, and the procedure did not result in a conviction. This provision is a *lex specialis* in relation to Article 200 of the Law on Obligations because it regulates this right to this category of persons who have been detained. Having in mind the stated circumstances of the appellant's case from which it is indisputable that the appellant is a person who, in terms of Article 439 paragraph 1 item a) of the Criminal Procedure Code, is entitled to damage compensation for detention, which did not result in initiating criminal proceedings, the Constitutional Court considers that in the present case the Cantonal Court in the challenged decision arbitrarily applied relevant provisions of the Criminal Procedure Code, the Law on Obligations and Articles 7 and 123 of the Civil Procedure Code when it finally dismissed the appellant's claim for non-pecuniary damage and unjustifiably transferred the burden of proving certain facts on the appellant as the plaintiff.

CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

The case law of the European Court with regard to damage compensation is all the more significant because the Constitutional Court has confirmed the positions from the Strasbourg cases in similar cases.

In *Sancraian v. Romania* (application No. 71723/10, judgment of 14 January 2014) case, the European Court found violations of: Article 5 paragraph 1 (right to liberty and security), Article 5 paragraph 4 (right to a prompt decision on the lawfulness of deprivation of liberty) and Article 5 paragraph 5 of the European Convention (right to compensation). Relying on Article 5 paragraph 1, the applicant complained that her detention had been unlawful following the reopening of the criminal proceedings, after the November 2009 judgment ordering the reopening

of the criminal proceedings. Referring to Article 5 paragraph 4, she complained about the excessive length of the proceedings for her release. Finally, invoking Article 5 paragraph 5, she complained that she was not entitled to damage compensation for the violation of the right under Article 5 of the Convention.

Violation of Article 5 paragraph 1 (right to liberty and security – in respect of S.T. and A.T.) and Article 5 paragraph 5 (right to compensation – in respect of S.T. and A.T.) was established in the judgment of the European Court in case *Tomaszewscy v. Poland* (application No. 8933/05, judgment of 15 April 2014). Referring to Article 5 paragraph 1 and Article 5 paragraph 5 of the European Convention, the applicants complained that their arrest and detention at the Police Station had been arbitrary and that they had not been able to provide compensation for the damage they had suffered.

In *Karaosmanoğlu and Özden v. Turkey* (application No. 4807/08, judgment of 17 June 2014) judgment, the European Court found a violation of Article 5 paragraph 4 (right to a prompt examination of the lawfulness of detention – due to failure of the applicants to appear before the judges deciding on their detention) and Article 5 paragraph 5 (right to compensation) of the European Convention. Relying on Article 5 paragraph 4 and Article 5 paragraph 5, the applicants complained that they did not have efficient legal remedy for the review of detention and a legal remedy for compensation for detention, which they considered to be contrary to Article 5 of the European Convention.

In the case of *Gutsanovi v. Bulgaria* (application No. 34529/10, judgment of 15 October 2013) it was first established that there was degrading treatment under Article 3 of the European Convention due to the gross nature of the police operation of arrest of a politician at his home, in the presence of his wife and underaged children. In addition, Article 5 paragraph 3 of the European Convention was violated because the police detention lasted for three days, five hours and 30 minutes. The objectives of the police operation were to arrest, search and confiscate items, with the intention of affirming the public interest in prosecuting crimes. Although four members of this family did not suffer any physical injuries during the police operation, the latter did result in some degree of physical force.

Law enforcement agencies have not considered alternative ways of conducting this operation at the applicant's home, such as conducting the operation in the later hours or engaging some other type of officers in this operation. Taking into account the legitimate interests of Ms. Gutsanova and her daughters was particularly necessary, as the wife was not suspected of involvement in the crimes for which her husband was suspected, and her two daughters were psychologically vulnerable because they were too young (five and seven years of age). These events left serious consequences on Ms. Gutsanova and her daughters.

The fact that the police operation took place in the early morning hours and involved special agents wearing masks, served to intensify the three applicants' feelings of fear and anxiety, to the extent that the treatment they underwent exceeded the severity threshold required for the application of Article 3 of the European Convention. They were, therefore, subjected to degrading treatment. The police operation was planned and conducted without taking into account a number of factors such as the nature of the crimes Mr. Gutsanov is suspected of, the fact that he had no history of violent behavior and the possible presence of his wife and daughters in the house. The manner in which he was arrested aroused strong feelings of fear, anxiety and helplessness in Mr. Gutsanov, which humiliated and diminished him in his own eyes and in the eyes of his family. Therefore, he was subjected to degrading treatment.

When it comes to the length of detention – Mr. Gutsanov was deprived of liberty for four months, of which he spent two months under compulsory residence. Even at the time of his first requests for release, the domestic courts rejected any risk of possible escape. However, they ordered the continuation of his detention on the grounds that he could commit new criminal offenses, and in particular that he could compromise the evidence. However, the measure of compulsory residence imposed on Mr. Gutsanov remained, and the second instance court did not provide any special evidence to justify this measure, which was in force for the next two months. Accordingly, the authorities failed to fulfill their obligation to state the reasons which would justify the extension of the applicant's detention after 25 May 2010.

Article 5, paragraph 5 of the European Convention: in the opinion of the European Court, the claim provided for in the State Liability Act could not be considered an efficient domestic legal remedy. There was no other provision in the domestic law that would provide compensation for the damage suffered due to the excessive length of detention or for postponing the appearance of the suspect before a judge.

Ruslan Yakovenko v. Ukraine (application No. 5425/11, judgment of 4 June 2015). The European Court reiterates that an act is in accordance with Article 5 paragraph 5 of the Convention if there is a possibility of claiming damage compensation for deprivation of liberty contrary to paragraphs 1, 2, 3 or 4 of this Article – if this deprivation of liberty was established by domestic authority or court. The efficient enjoyment of the right to compensation (guaranteed under Article 5 paragraph 5) must be ensured with a sufficient degree of security (see, *Lobanov v. Russia*, No. 16159/03, paragraph 54, of 16 October 2008, with futher reference).

The European Court notes that in the present case the Government limited its objection to the statement that the applicant's detention was ill-founded and that he could have sought damage compensation under Article 1176 of the Civil Code. However, the Court points out that the said provision is formulated in a general

way: it does not establish legal preconditions for claiming damages, nor does it provide for specific mechanisms or procedures. Instead, Article 1176 refers to a special law regulating these issues. It turns out that this is a special law on damage compensation, which is applicable. The Government did not refer to this law in its observations. It did not specify which provision of domestic law in fact violated the applicant's detention. In view of such circumstances, the Court is not persuaded by the Government's argument that the remedy it presented was efficient and that the applicant had to use it.

Sinkova v. Ukraine (application No. 39496/11, judgment of 27 February 2018). The Court concluded that there had been no violation of Article 5 paragraph 1 of the Convention in respect of the applicant's arrest, which was based on a court order and aimed at securing her presence at the hearing in case conducted against her, because despite police efforts – they could not find her until March 2011. The European Court also finds that there has been a violation of Article 5 paragraphs 1, 3 and 5 of the Convention in that the applicant's detention from 29 May to 17 June 2011 was not covered by any court decision; the entire duration of detention from 29 March to 30 June 2011 was not justified. The court found that the applicant could not claim damage compensation at the national level as long as her detention was formally in accordance with domestic legislation. In addition, there was no statutory procedure prescribed under the law in Ukraine for damage compensation for deprivation of liberty that was contrary to the right to liberty and security guaranteed by the Convention. Thus, Ukrainian law did not provide an enforceable right to compensation for detention contrary to Article 5 paragraphs 1 and 3 of the Convention. Accordingly, there has been a violation of Article 5 paragraph 5 of the Convention.

CONCLUSION

The right to compensation for unjustified conviction or for ill-founded arrest or detention belongs to the category of fundamental human rights, which is guaranteed in modern human rights law and constitutional law. This right also represents a test of the readiness of a democratically oriented state to bear the consequences of illegal and improper work of its bodies and to take care of the protection of the rights of its citizens in case of unjustified recourse to criminal repression. The constitutionalization of this right implies the establishment and maintenance of constitutional guarantees of these rights and freedoms, which is also achieved through the judicial mechanism, including the constitutional courts.

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THE RIGHT TO RESPECT FOR PRIVATE LIFE - CASE OF TRAJKOVSKI AND CHIPOVSKI V. MACEDONIA

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INTRODUCTION

One of the human rights protected by the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) is the right to respect for private and family life (Council of Europe, 1950). This right is defined with the Article 8 that contains two paragraphs. The first paragraph represents a general provision that everyone has the right to respect for his private and family life, his home and his correspondence, while the second paragraph stipulates that there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The right to privacy is difficult to define but has come to include a wide range of overlapping and interrelated rights protecting the individual's freedom as long as his/her actions do not interfere with the rights and freedoms of others. The right to privacy is the right to individual autonomy that is violated when states interfere with, penalise or prohibit actions which essentially only concern the individual. The right to privacy encompasses the right to protection of a person's intimacy, identity, name, gender, honour, dignity, appearance, feelings and sexual orientation and extends to the home, the family and correspondence. The right to privacy

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may be limited in the interests of others and under specific conditions, provided that the interference is not arbitrary or unlawful (humanrights.is, n.d.).

This right embodies the right to a name, the right to change one's civil status and to acquire a new identity, and protection against telephone tapping, collection of private information by a State's security services and publications infringing privacy (coe.int, n.d.). The European Court of Human Rights (the ECHR) has never offered a clear and precise definition of what is meant by private life: in its view it is a broad concept, incapable of exhaustive definition. What is clear is that the notion of private life is much wider than that of privacy, encompassing a sphere within which every individual can freely develop and fulfil his personality, both in relation to others and with the outside world (Roagna, 2012: 12).

THE RELEVANT INTERNATIONAL MATERIALS

The right to respect for private life and the right to the protection of personal data are closely related. Both strive to protect similar values, i.e. the autonomy and human dignity of individuals, by granting them a personal sphere in which they can freely develop their personalities, think and shape their opinions. They are thus an essential prerequisite for the exercise of other fundamental freedoms, such as freedom of expression, freedom of peaceful assembly and association, and freedom of religion (European Union Agency for Fundamental Rights and Council of Europe, 2018:19). Consequently, several international materials address the issue of the private life, as well as the personal data. For example, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe, 1981), also known as "the Data Protection Convention", defines the "personal data" as any information relating to an identified or identifiable individual ("data subject"). In addition, the Data Protection Convention stipulates that personal data that are being processed shall be stored for specified and legitimate purposes and not used in a way incompatible with those purposes, as well as the personal data should be preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored. Regarding the special categories of data (racial origin, political opinions or religious or other beliefs, data concerning health or sexual life), the Data Protection Convention prescribes that such data may not be processed automatically unless domestic law provides appropriate safeguards. And finally, when it comes to the data security, than an appropriate security measures should be taken for the protection of personal data stored in automated data files against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.

Another relevant document regarding the use of personal data, but this time in the police sector, is the Recommendation No. R (87) 15 of the Committee of Ministers of the Council of Europe (Council of Europe - Committee of Ministers, 1987). As noted, the collection of personal data for police purposes is subject of the Principle 2, stating that it should be limited to such as it is necessary for the prevention of a real danger or the suppression of a specific criminal offence, with a note that any exception should be the subject of specific national legislation. Furthermore, the storage of personal data should be limited to accurate data and to such data that are necessary to allow police bodies to perform their lawful tasks within the framework of national law and their obligations arising from international law (Principle 3). The Recommendation No. R (87) 15 also gives attention to the length of storage and updating of data (Principle 7), whereas measures should be taken so that personal data kept are deleted if they are no longer necessary for the purposes for which they were stored, with a note that following criteria should be taken into account: the need to retain data in the light of the conclusion of an inquiry into a particular case; a final judicial decision, in particular an acquittal; rehabilitation; spent convictions; amnesties; the age of the data subject, and particular categories of data.

In 1992 another Recommendation was adopted, i.e. the Recommendation No. R (92) 1 of the Committee of Ministers on the use of analysis of deoxyribonucleic acid (DNA) within the framework of the criminal justice system (Council of Europe - Committee of Ministers, 1992a), defining that samples collected for DNA analysis and the information derived from such analysis for the purpose of the investigation and prosecution of criminal offences must not be used for other purposes. Moreover, samples taken for DNA analysis and the information so derived may be needed for research and statistical purposes, however the identity of the individual cannot be ascertained implying that the names or other identifying references must therefore be removed prior to their use for these purposes. The Recommendation No. R (92) 1 further states that the circumstances, in which the samples for DNA analysis are being taken, should be determined by the domestic law with a note that in some states this may necessitate a specific authorisation from a judicial authority. When it comes to the storage of samples and data, the Recommendation No. R (92) 1 points out that samples or other body tissue taken from individuals for DNA analysis should not be kept after the rendering of the final decision in the case for which they were used, unless it is necessary for purposes directly linked to those for which they were collected. In addition, the results of DNA analysis should be deleted when it is no longer necessary to keep it for the purposes for which it was used. However, the results of DNA analysis and the information so derived may be retained where the individual concerned has been convicted of serious offences against the life, integrity or security of persons, with a note that in such cases strict storage periods should be defined by domestic

law. Also, when the person so requests or when the sample cannot be attributed to an individual (for example when it is found at the scene of an offence), samples and other body tissues, or the information derived from them, may be stored for longer periods. On the other hand, where the security of the state is involved, the domestic law may permit retention of the samples, the results of DNA analysis and the information so derived even though the individual concerned has not been charged or convicted of an offence, but in such cases strict storage periods should be defined by domestic law.

The Explanatory memorandum to the above Recommendation (Council of Europe - Committee of Ministers, 1992b), further states that since the primary aim of the collection of samples and the carrying out of DNA analysis on such samples is the identification of offenders and the exoneration of suspected offenders, then the data should be deleted once persons have been cleared of suspicion. So, the question that follows is how long the DNA findings and the samples on which they were based can be stored in the case of a finding of guilt. In addition, the Explanatory memorandum notes that all member States keep a criminal record and that such record may be used for the purposes of the criminal justice system, and points out that there may be an exceptions permissible under certain strict conditions (when there has been a conviction; when the conviction concerns a serious criminal offence against the life, integrity and security of a person; the storage period is limited strictly; the storage is defined and regulated by law; the storage is subject to control by Parliament or an independent supervisory body).

THE RELEVANT ECHR'S PRACTICE

When it comes to the ECHR's practice about the right to respect for private life, several cases stand out. The first one is the Case of *S. and Marper v. the United Kingdom* (ECHR, 2008), in which ECHR found out that there was a violation of the Article 8, stating that the blanket and indiscriminate nature of the powers of retention of the fingerprints, cellular samples and DNA profiles of persons suspected but not convicted of offences, as applied in this case, fails to strike a fair balance between the competing public and private interests and that the respondent State has overstepped any acceptable margin of appreciation in this regard. Accordingly, the retention at issue constitutes a disproportionate interference with the applicants' right to respect for private life and cannot be regarded as necessary in a democratic society. In the present case, the applicants' fingerprints and cellular samples were taken and DNA profiles obtained in the context of criminal proceedings brought on suspicion of attempted robbery in the case of the first applicant and harassment of his partner in the case of the second

applicant. The data were retained on the basis of legislation allowing for their indefinite retention, despite the acquittal of the former and the discontinuance of the criminal proceedings against the latter. The ECHR reiterated that the mere retention and storing of personal data by public authorities, however obtained, are to be regarded as having a direct impact on the private-life interest of an individual concerned, irrespective of whether subsequent use is made of the data. ECHR also paid attention to the risk of stigmatisation, stemming from the fact that persons in the position of the applicants, who have not been convicted of any offence and are entitled to the presumption of innocence, are treated in the same way as convicted persons. Therefore, ECHR considered that the retention of the un-convicted persons' data may be especially harmful in the case of minors such as the first applicant, given their special situation and the importance of their development and integration in society.

Another relevant judgement is the one about the Case of *Gaughran v. the United Kingdom* (ECHR, 2020a), in which a violation of Convention's Article 8 was established. ECHR ruled that the respondent State has overstepped the acceptable margin of appreciation in this regard and the retention at issue constituted a disproportionate interference with the applicant's right to respect for private life and cannot be regarded as necessary in a democratic society. In essence, the ECHR found out that the indiscriminate nature of the powers of retention of the DNA profile, fingerprints and photograph of the applicant as person convicted of an offence, even if spent, without reference to the seriousness of the offence or the need for indefinite retention and in the absence of any real possibility of review, failed to strike a fair balance between the competing public and private interests. The State retained a slightly wider margin of appreciation in respect of the retention of fingerprints and photographs. However, that widened margin was not sufficient for it to conclude that the retention of such data could be proportionate in the circumstances, which include the lack of any relevant safeguards including the absence of any real review.

In the next Case of *Rotaru v. Romania* (ECHR, 2000), ECHR wanted to ascertain whether domestic law defines the circumstances in which the Romanian Intelligence Service could store and make use of information relating to the applicant's private life. Having in mind the domestic law, ECHR concluded that there was no provision that laid down any limits on the exercise of those powers (what kind of information may be recorded; the categories of people against whom surveillance measures such as gathering and keeping information may be taken; the circumstances in which such measures may be taken or the procedure to be followed; there were no limits on the age of information held; or the length of time for which it may be kept). For these reasons, ECHR noted that the Romanian system for gathering and archiving information did not provide safeguards, nor

supervision procedure. Therefore, the ECHR concluded that the holding and the use of information on the applicant's private life by the Romanian Intelligence Service were not "in accordance with the law", and ruled that there had been a violation of Article 8.

Contrary to the above cases, in the Case of *Gardel v. France* (ECHR, 2009), ECHR ruled that there has been no violation of Convention's Article 8, despite the fact that applicant was registered in the Sex Offenders Register, i.e. it was struck a fair balance between the competing private and public interests at stake and that the respondent State did not overstep the acceptable margin of appreciation in that regard. In this case, the applicant was automatically placed on the register under the transitional provisions of the 2004 Law, in view of the crime of which he had been finally convicted. He was duly notified of his placement on the register and took note of the obligations imposed on him. ECHR observed that the data were deleted automatically on expiry of period of twenty or thirty years depending on the severity of the sentence, which started to run as soon as the decision which gave rise to placement on the register ceases to have effect. In addition, the person concerned may apply to the public prosecutor to have the data concerning him or her deleted if conserving the data no longer appears necessary (the purpose of the register, the nature of the offence, the age of the person concerned when it was committed, the length of time that has elapsed and the person's current personality). ECHR thought that the period of time for which the data were kept was not disproportionate to the aim pursued in storing the information, from the aspect of the given practical opportunity to the applicant of lodging an application for removal of the stored data from the date on which the decision giving rise to their entry in the register ceases to have effect.

THE CIRCUMSTANCES OF CASE OF *TRAJKOVSKI AND CHIPOVSKI* AND THE ECHR'S RULING

Having in mind the above, as well as the ECHR's case law, if the Article 8 is chosen as a search criteria through HUDOC database (provides an access to the ECHR's case-law), it can be noted that so far there have been eight Macedonian cases regarding the Article 8 in which a violation was established. One of them is the Case of *Trajkovski and Chipovski* (ECHR, 2020b). In essence, this cases focuses on several aspects of the respect for private life, i.e. disproportionate character of indefinite retention of DNA profiles of convicted persons, blanket and indiscriminate nature of the powers of retention, the lack of consideration of the nature or gravity of the offence or other circumstances, absence of a specific

review of the necessity of data retention, as well as the lack of possibility to request deletion of data.

It is interesting to note that this case was raised by two separate applications, however given their similar factual and legal background - ECHR considered that the applications should be joined. The first applicant was Mr. Jovche Trajkovski (born in 1982; lived in Skopje; Application No. 53205/13 dated 16.08.2013) and the second applicant was Mr. Dimitar Chipovski (born in 1979; lived in Skopje; Application No. 63320/13 dated 04.10.2013). They were both Macedonian citizens, which complained that the regulatory framework on the basis of which the authorities had collected, processed and stored their DNA material was incompatible with the requirements under the Convention's Article 8. In essence, they complained that there had been no legislative framework that clearly regulated procedures regarding the DNA material - to take, use, process, store and delete. Such situation meant that the "quality of law" requirement under the Article 8, was not met by the legislative that was referred by the national authorities.

As for the first applicant Mr. Trajkovski, on February 11, 2010 he was taken to a police station by two police officers, because while he was walking down a street, he was holding a steering wheel lock. In the police station, a mouth swab was taken from him, but police officers did not give him any explanation. Based on the taken sample, the DNA findings were used as evidence against him in the criminal procedure in which he was convicted of aggravated theft (theft of a car radio) and was given a suspended prison sentence.

On 12.04.2010 the Personal Data Protection Directorate ("the Directorate"), dismissed the complaint that was submitted by Mr. Trajkovski, who alleged that the police officers had violated his right to privacy arguing that the cellular material from his mouth had been taken unlawfully (without a court order and without his consent), as well as the police had no legal right to take and retain his DNA material. The Directorate pointed out to several legal acts, like the Law on Personal Data Protection (2005, 2008, 2010, 2011, 2014, 2015, 2016, 2018), the Law on police (2006, 2009, 2012, 2014, 2015, 2016, 2018), and the Rules on police Conduct (2007), and noted that in order to prevent and detect crime, the police were authorised to take, retain and process the personal data of an individual when there was a reasonable suspicion that he/she had committed a punishable crime, as well as to establish the identity of a person on the basis of a DNA sample. The procedure continued in front of the Administrative Court, but once again on June 06, 2012 the applicant's complaint was dismissed, based on the Directorate's arguments and the Law on police. In addition, on January 24, 2014 the Higher Administrative Court upheld the lower court's decision.

Concerning Mr. Chipovski, the second applicant, a mouth swab was taken from him while he was in a police station. Namely, on October 08, 2009 he was

arrested under the allegations of theft, subsequently he was interrogated and was a part of an identity parade. He was convicted of aggravated theft and was given a suspended prison sentence (in 2014 when the procedure was reopened), with a note that the analysis of his DNA material was not submitted as evidence against him. Same as Mr. Trajkovski, on July 21, 2010 the Directorate dismissed his complaint (on May 26, 2010 he complained that the police had violated his right to privacy by taking and processing his DNA material), with an explanation that the police had undertaken investigative measures because he was suspected of committing aggravated theft. So, when the police took a DNA sample from his mouth and afterwards submitted a criminal complaint against him, the police acted in accordance with the law.

An identical decision was made by the Administrative Court. On June 06, 2012 it dismissed the complaint submitted by Mr. Chipovski (he stressed that there was no legislative regulation of the collection, storage and processing of DNA material; no legislation on the use of DNA or the time-limits for storing it; the collection and processing of his DNA had not been justified or necessary because there were other means to establish his identity). In addition, the Higher Administrative Court on March 12, 2013 dismissed his appeal and upheld the lower court's decision that the police had acted in accordance to the law when it collected and processed personal data, i.e. DNA material, since Mr. Chipovski had been suspected of committing a crime.

The ECHR in its ruling noted that DNA profiles clearly constitute data pertaining to one's "private life", and based on the Convention's Article 8 Paragraph 1, their retention amounts to an interference with the right to respect for one's private life. Therefore, ECHR addressed the following questions to the parties (ECHR, 2016):

- Was the interference with the applicants' right to respect for their private life, in respect of taking and storing their DNA material, "in accordance with the law"?
- Was the legislation that was applied in the applicants' cases accessible and sufficiently precise for the purposes of Article 8 of the Convention?
- If so, was that interference "necessary in a democratic society" under the terms of that provision?

Additionally, ECHR asked the Government to provide more details as to the conditions and arrangements for the taking, storing and use of DNA samples in criminal proceedings. Having in mind facts of the case, the given answers from both of the parties, as well as the Macedonian legislation, the ECHR unanimously ruled that there was a violation of the Convention's Article 8. In essence, the ECHR acknowledged the fact that DNA material is personal data, and raised the

question whether its retention represents an interference into the right to private life from the three aspects, i.e.:

- Lawfulness - As for the Macedonian legal framework (Law on Personal Data Protection; Law on Police; Rules on Police Conduct; Law on Criminal Procedure, 2010, 2012), ECHR noted that the retention of DNA material was not very precisely defined, and also observed that it did not find it necessary to decide whether the applicable rules met the "quality of law" requirements within the meaning of Convention's Article 8 Paragraph 2.
- Legitimate aim - ECHR concluded that the purpose of the retention of DNA material was the detection and prevention of crime. The first aim is to link a particular person to a particular crime, and the second aim is fulfilled by its retention in order to assist in the future identification of offenders.
- Necessary in a democratic society - ECHR addressed the issue whether the retention of the applicants' DNA material was proportionate and whether it has created a fair balance between the competing public and private interests. Therefore, ECHR pointed out that both of the applicants were convicted, with a note that their DNA samples and DNA profiles derived from those samples were taken in view of the criminal proceedings brought against them on suspicion of aggravated theft (the conviction of the first applicant was based on the DNA findings, which was not the case for the second applicant since his DNA material was not used as evidence against him). As for the national legislation, ECHR concluded that it did not set a specific time-limit for the retention of DNA data of the applicants as convicted persons. In the same line was the Government's response - DNA profiles were recorded in relevant registers and were retained for a certain time, i.e. until the fulfilment of purpose for which it were taken. ECHR concluded that such provisions can be variously interpreted, and also observed that the Law on Police was amendment in direction that DNA data will be stored in the relevant register permanently. However, such provisions - according to ECHR - had allowed retention period of DNA profiles to be indefinite. In addition, regarding the collection, storage and retention of DNA records there were no criteria or circumstances (nature or gravity of the offence, received a penalty, previous arrests, etc.). Furthermore, the ECHR noted that the police was authorized to delete personal data from the registers, but the law did not define the conditions and procedure under which the data can be deleted, as well as there was no provision provided for the person concerned to initiate a procedure for deletion of data concerning him / her (nature of the offence, age of the person, time that has passed, person's current personality, etc.).

From the above, ECHR concluded that there was no fair balance between the competing public and private interests, and that the retention of the DNA profiles represented a disproportionate interference with the applicants' right to respect for private life and cannot be regarded as necessary in a democratic society. In that line, ECHR pointed out that powers of retention of the DNA profiles of the applicants (as persons convicted of an offence), were not just blanket with an indiscriminate nature, but also were accompanied with the absence of sufficient safeguards available to the applicants.

CONCLUSION

'Privacy' is generally understood as part of individual existence, free from public attention, in which one is not disturbed or observed by other people. 'Private life' consequently derives from such definition as a wider conception related to personal, intimate, individual space (Saktorová, 2019: 86). Given the tendency of the ECHR to interpret the Convention as a 'living document', its case law has made the concept of private life so broad and 'not susceptible to exhaustive definition', to which DNA profiles as protected personal data have been included (Tuazon, 2021: 4).

Finally, it can be argued that there are two opposite but essential interests. One is human rights and privacy and the other is law enforcement for public safety and security. It is, therefore, important to take appropriate measures for balancing the constitutional guarantee of a right to privacy and other human rights with the government's duty to ensure public safety as well as secure the well-being of the people in their jurisdiction (Parven, 2013: 41). Genetic data, however, can be taken from an individual's remains long after their death and can continue to identify that individual as well as an expanding pool of individuals to whom they were related and, crucially, who are still alive. Genetic data can thus reduce privacy on a long-term basis and can reveal the genetic characteristics and relationships of an expanding group of individuals over successive generations (Costello, 2022: 2).

The above given remarks are in the same line with the ruling in the Macedonian case *Trajkovski and Chipovski*, in which the ECHR established that the applicants' right to respect for private life was violated by the state authorities, especially from the aspect that there were no sufficient safeguards prescribed in the domestic law, as well as from the aspect of the necessary in a democratic society. That is the reason why, the situation in question, was evaluated by the ECHR as imbalance between the public and private interests, implying that Convention's Article 8 has been violated.

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LGBTI PEOPLE IN SERBIA BETWEEN HOMOPHOBIC VIOLENCE AND SOCIAL INTEGRATION

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PURPOSE

The purpose of the paper is to present improvements in the position of the LGBTI+[2] people but also to warn that long-standing obstacles and challenges have not yet been removed. The text focuses on the results of the research "The degree of social integration of the LGBTI+ population in Serbia" (Mršević, 2021), organized by the Geten group.[3] The starting hypothesis of the research was that the situation in Serbia was improved in everyday life, primarily in terms of reducing social distance. Therefore, we decided to document the observed trends of improvement by research results. The research examines the existence of the degree of social integration as opposite to social distance. Thus, we wanted to deconstruct the easily accepted negative stereotype that the situation of LGBTI+ people in Serbia is permanently bad, while the majority population does not accept sexual minorities and opposes the expansion of their rights (Antonić 2014, 218-219).[4]

The text is also based on a series of current, domestic research studies related to the position of LGBTI+ people, reports of independent institutions, as well

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2 The acronym includes lesbian, gay, bisexual, transgender, intersex, queer, and asexual people. In the following text, LGBTI+ will be used to cover all the mentioned categories. In those parts of the text where the results of research or the views of other authors who do not use the acronym in the manner stated in this text are given, we have left the original, authorial version.

3 Geten is the title of Belgrade based Center for the Rights of LGBTIQA persons.

4 Part of our public feels aversion towards the alleged subjection of Serbia to the cultural hegemony of the "Empire" and the acceptance of the transnational establishment by local LGBT organizations.

as on the accompanying public policy documents, indicating trends of the current social situation of LGBTI+ persons at the beginning of the new Millennium. In different parts of the world, there are evident significant improvements of the LGBTI+ people civil status, equating it now almost completely with the majority population (Mršević, 2009: 34). These legal changes reflect a growing integration of that minority population in society, at the same time in reverse, and in turn contribute to the reduction of social distance.

In terms of public policies on the position of LGBTI+ people, Serbia constantly lags not only behind the European West and North, but also behind the neighboring countries, Croatia, Montenegro and Hungary, where the Law on Registered Same-Sex Unions (Law No. XXIX, Hungarian Official Gazette, 2009)[5] was enacted in 2009. There is an average of 75.3 registered same-sex unions in Hungary per year (male - 48.7, female 26.7), the average age of partners is 38.7 years (Bejegyzett élettársi kapcsolatok, 2022: 01.29). In the shadow of these improvements in the neighboring countries, we sought to document domestic trends of improvement, which, although not yet visible in legal changes, already exist in reducing social distance which is neither small nor sporadic.

Three basic problems have characterized the position of the LGBT+ population in Serbia for years (Mršević, 2019: 619): a threat to personal security due to the occurrence of unauthorized (or rarely sanctioned) phobic violence, tolerated phobic hate speech in public discourse and the lack of opportunities to establish legally regulated same sex unions. After two decades of legislative changes, improved access to justice, increased visibility and the rise of several prominent activists and organizations, despite these significant developments and clear changes in the attitudes of citizens across the region, violence and discrimination continue to be a major challenge for the community (Gavrić & Čaušević, 2021: 8).

DESIGN/METHODS/APPROACH

The research (Mršević, 2021) comprises online interviews and direct personal contact, which were conducted from February 1 to April 30, 2021. The research included two separate questionnaires. The first questionnaire, designed for the general, majority population, was based on the adjusted Bogardus scale of social distance, designed to examine and measure social distance through the degree of readiness of respondents to accept various types of social interactions with members of the surveyed social group. In addition, in order to determine the degree of LGBTI+ integration more authentically and more precisely, and particularly, to

5 The Law rules the establishment and termination of same-sex unions (Törvény, amely szabályozza a bejegyzett élettársi kapcsolatokról szóló).

identify possible directions and actors for improvement, a second questionnaire was used for the minority population of self-identified LGBTI+ people to examine their personal experiences, attitudes and assessments of their position and rights in Serbia. The research included the respondents from both groups in a total sample of 1,151 people: 687 adults from the so-called general population (249 men and 438 women) and 464 adults self-identified as members of the LGBTI+ population (237 women 227 men). The findings of the research conducted by Mršević and other used sources confirmed that violence and discrimination of the LGBT+ community in Serbia still exist. 94.6 percent of the LGBT+ respondents reported that they experienced physical violence, verbal insults, and threats. 96.3 percent reported that they were forced to hide their sexual orientation / gender identity from their surroundings. Violence and discrimination of LGBTI+ people happen everywhere, according to 93.7 percent of the respondents, more precisely in schools, 91.4 percent, in public places, 90.9 percent, in political parties, 81.0 percent. There are parents who still believe that only heterosexuality is natural and feel sorry for a daughter who finds warm tenderness in a woman's arms (Lee Evans 1994: 293). Violence against young LGBTI+ people is especially prevalent: 79.1 percent of the respondents of the LGBTI+ sample experienced personal discrimination and / or violence, including death threats, job loss, denial of inheritance, deprivation of valuable property, especially housing, forced treatment in metal hospitals, involuntary treatment outside medical institution, total or partial denial of parental support and rejection by the family, denial of support, eviction, and the like.

"The fact that they denied me support and decided to allow me to continue my studies was the last straw in the cup of misunderstanding. I packed my things, went to Belgrade, passed the entrance exam, to find a job that allowed me to live and study. Alone. From that moment on, I thought that there, in the place where my parents lived, was no longer my home. (M.23, student)." (Erdei, 2014: 138)

The Protector of Citizens also states that LGBTI+ people are still often victims of discrimination, stereotypes and prejudices. (Protector of Citizens, 2020: 47-48). Although LGBT+ people are a little safer in Belgrade and Novi Sad, this still is not the case in other places. (Danas, 2022, June 9). Life of LGBT people, especially in small communities, may be described in one word - fear. People are afraid of the reaction of the environment, but also of the treatment they will receive in the mandated institutions when they report violence. Sexual orientation and gender identity were the motive for 42 cases of violence and discrimination that the organization "*Let it be known*" recorded in 2018 (BBC, 2019, June 6). The number of attacks reported to this organization was thirty percent higher than a year earlier. Many cases recorded this year have never been reported to the authorities. The data from 2017 shows that more than two thirds of persons who reported hate crimes assessed the treatment in state institutions as negative, inadequate, and

humiliating. In regard of violence against the LGBTI+ people the situation of the Pride Info Center in Belgrade is illustrative. Since the founding of the Center in 2017, there have been fourteen attacks and no attackers have ever been prosecuted although these attacks were duly recorded by cameras. Whoever they are (from juvenile passers-by to members of the neo-Nazis groups),[6] impunity is a principle that applies to them, which may give some new attackers an incentive to organize a new attack (Danas, 2022, June 9).

According to the findings of a survey conducted in 2020 by the IDEAS Center for Research and Development in cooperation with the Regional Center on a sample of 182 gay people, more than three quarters of respondents (77%) believe that the Republic of Serbia does not care about LGBTI+ citizens. Emotional violence was reported by 56% of the participants in the last year, 8% of LGBTI+ people were exposed to physical violence, while in 2020, survey indicates that 14% of LGBTI+ people reported experiencing sexual violence (CeSID, 2021: 12). Discrimination based on sexual orientation is widespread in both public and private life, primarily due to the extremely negative social perception of LGBTI+ people expressed even by academic authors (Antonić, 2014: 215-216).[7] The LGBTI+ population is one of the most vulnerable groups because it faces daily marginalization, discrimination, harassment, threats, violence and hate speech (Commissioner for the Protection of Equality, 2011: 30). Homophobic ambient affects not only individuals or a particular LGBTI+ person, but it also creates a whole range of challenges for their environment, friends, neighbors, relatives and especially their immediate family (Mršević, 2020: 38).

Despite some positive developments, cases of discrimination, violence and hate speech against LGBTI+ people are generally not adequately treated in Serbia. One of the widespread, long-standing prejudices against LGBT people is that they are ill. However, the ministries in charge of health issues, as well as medical associations, do not take steps to overcome this prejudice. Moreover, even the persons with professional authority spread and strengthen this prejudice by their own statements (Commissioner for Protection of Equality, 2011: 31). The full realization of the rights of this population in the field of education, employment, health, social protection, legal regulation of same-sex unions and legal consequences of adjustment (change) of sex and gender identity, as well as protection of their physical and mental identity is still not noticeable. The Protector of Citizens notes that the attitude of the media towards LGBTI+ people, their position, and rights is changing and improving when compared to previous years - the number of neutral and positive texts has increased. However, LGBTI+ people often continue to appear in the

6 The faces are often clearly visible, but the offenders are usually not detected, and never punished.
7 Homosexuality, in itself, is an immoral phenomenon because homosexual behavior cannot be socially universalized, while the affirmation of gay rights is considered one of the official tasks of American foreign policy and a regular means of Washington's pressure on insufficiently obedient states.

media tabloid contents in very negative connotations (Protector of Citizens, 2017: 123), sometimes relying on academic production where some authors point out that the agenda of the LGBT movement affects some of the basic social institutions, like marriage, education, and children's socialization (Antonić, 2014: 208).

There are still security risks for participants during the Pride Parade (Labris, 2017: 9), but also in relation to the daily life and safety of LGBTI+ people, so additional activities should be directed towards improving the safe environment (Labris, 2018: 27). There were instances of inappropriate statements, comments and media reports related to the LGBTI+ population, which can be characterized as hate speech or abusive and degrading treatment (Vlada Republike Srbije, 2022: 47).[8] Ineffective criminal investigations remain one of significant problems (Vlada Republike Srbije 2022: 48).

Also, in recent years, hate-motivated attacks have been reported, mainly due to actual or presumed sexual orientation or gender identity (Labris, 2015-2016: 12-15). It should be emphasized that LGBTI+ people have distrust towards the police, which is a key reason why they are reluctant to report violence (Radoman J., Radoman M. and Šapić, 2017: 33). The sense of belonging to the social community is still limited, and the family, social circles and the state institutions remain the sources of pressure and stigma (Gavrić & Čaušević, 2021: 7).

In the absence of any legal solution, same-sex partners resort to finding alternative ways, and use all existing legal and non-legal mechanisms, which will at least partially compensate for the rights enjoyed by spouses in a traditional family. Consciousness raising groups are such compensating social models, which involve lesbians getting together, discussing what's bothering them, creating avoidance tactics, developing an analysis of social context and understanding the way oppression has developed (Hoagland, 1990: 135). This status, together with pressure created by the conservative social environment, leads to a complete lack of legal and physical security. This causes revolt in the LGBTI+ community, which results in increasingly negative attitudes, increasing mutual animosity between the LGBTI+ and the majority heterosexual population, even between gay men and lesbians themselves (Frye 2019: 161)[9], thus leaving less and less room for finding a lasting solution. On the other hand, when the LGBTI+ community, through its representatives, raises the issue of legalizing same-sex unions, these initiatives are often not understood by the public as a requirement to ensure the enjoyment of some basic human rights, but instead are rather interpreted as a reckless in-

8 See, for example, the Commissioner for the Protection of Equality, complaint no. 07-00-128 / 2020-02 opinion of 12.02.2021, complaint no. 07-00-174 / 2019-02, opinion of 29 May 2019; complaint no. 07-00-390 / 2018-02, opinion of 2 August 2018.

9 Expectations that gay men understand and support feminist and lesbian causes are strikingly unfulfilled.

sistence on unfounded privileges (Ministry of Human and Minority Rights and Social Dialogue, 2021: 2).

FINDINGS

One of the starting hypotheses of this research, based on previous pilot studies, is that the social distance towards LGBTI+ people in Serbia decreases over time, which is a good indicator that the degree of their social integration is increasing. The hypothesis is confirmed as the main research finding.

The reduction of social distance and negative attitudes towards the LGBTI+ population was confirmed by the comparison of these results to similar, earlier research in Serbia in the previous decade.[10] As regards the attitudes towards violence against people of different sexual orientations perpetrated by groups and individuals, the vast majority of the respondents, i.e., 63 percent of them, claimed that such violence ought to be punished in the same way as any other type of violence against anyone. Young people's views were again found to be divided on the topic of pride marches, with some in the under-29 cohort reporting they would join a pride parade whilst others were prepared to use violence against the marchers. (CeSID, 2021: 12)

A significant readiness of the general population to enter into various business and private relations with LGBTI+ persons was stated by the 2021 Geten organized research. There is a decrease of social distance and a gradual increase in social integration, e.g., 88.5 percent accept to be acquaintances, 76.6 percent to enter into a business / professional partnership, 85.4 percent to hire an LGBTI+ person, 87.3 percent to work for an LGBTI+ employer. Most of them do not object to LGBTI+ people taking various close private, and also leadership social roles, to being teachers in schools, coaches, babysitters to their own children and geriatric assistants (guardians for the elderly) to their own grandparents, etc. Yet social distance still exists in terms of close private relationships, for which 66.4 assess that they are not ready. 60.3 percent are not ready to accept that the closest family member (brother, sister, child) enters into a same-sex marital / extramarital relationship. In short, business is acceptable - love is not.

10See, for example: Gay Straight alliance "Prejudice in the spotlight - homophobia in Serbia, 2010". Commissioner for Protection of Equality poll "Attitudes of citizens towards discrimination in Serbia", 2012-2013. Gay Straight Alliance in 2014 poll among police officers. Commissioner for Protection of Equality "Attitudes of citizens towards discrimination in Serbia" conducted in 2016, 2018 and in 2019. Center for Public Policy Research, 2017. Ideas GLIC and Spectrum, Position of LGBT+ people in the labor market, 2018. Commissioner for Protection of Equality, survey of discrimination in the labor market, 2020.

It is important to point out the major disagreement of the respondents with the negative attitudes that exist about the LGBTI+ population, in the public, media and political discourse. This is one of the most important findings of the research because it gives a completely different picture of the attitudes towards the LGBT+ population, whose members are very often presented in a negative light in the media and in the statements of certain personalities in the field of politics, culture, sports and the like, e.g. as imports from the West, disease, contagion, contrary to our tradition and morals, etc.

A rejection of widely spread negative stereotypes regarding the LGBT+ people is significant. The interviewees do not agree on all points studied. LGBTI+ people in Serbia "lack nothing" rejected 91.6 percent, that LGBTI+ affiliation is contagious rejected 91.0 percent, that LGBTI+ people should not work as educators rejected 82.0 percent, that LGBTI+ people are sick rejected 81.2 percent, that some western countries are lobbying for the rights of the LGBTI+ population in order to reduce the birth rate in Serbia, rejected 78.7 percent.

A significant majority, more than half of them, expressed their disagreement with e.g., attitudes that the ban on LGBTI propaganda in Russian schools should be an example which Serbia should follow - 75.3 percent. That the LGBTI+ lobby rules the Serbian government from the shadows is rejected by exactly 70.5 percent, that LGBTI+ people contribute to lowering the national birth rate is not accepted by 70.6 percent, that LGBTI+ people impose their lifestyle on others is unacceptable 66.1 percent, that pride parades publicly spread immorality is rejected by 5.9 percent. A particular attention is to be paid to the rejection of the attitude often placed in some public discourse and academic publications[11] that equalizing the rights of the LGBTI+ population with other people of our country is against the tradition, religion, and culture of our people - 65.5 percent

Contrary to the rejection of the negative attitudes towards the LGBTI+ population, more than half of the respondents agreed with the positive attitudes, which is rather significant. The acceptance of the positive attitudes is one of the most important findings of the research because it gives a completely different image of people's attitudes towards the LGBTI+ population, which is commonly presented in a negative light in the media and in public statements of individuals in politics, culture, sports and the like. Most of the respondents of the general sample either completely agree or partially agree with several affirmative statements. The artistic achievements of LGBTI+ persons (films, music, literature) are worth considering - 89.7 percent. It is very important to accept that LGBTI+ people should be allowed a registered same-sex unions as a form of establishing family communities, with which 82.1 percent agree; that schools should teach about human rights and achievements of the LGBTI+ population - 79.6 percent; that LGBTI+ people should be allowed to

11 The work and actions of LGBT activists are most often financed by Washington or Brussels based foundations, what is why they are seen as imposing a new, foreign system of values on Serbian society from the outside (Antonić, 2014: 218).

adopt / foster children under the same conditions - 75.6 percent; that the protection of the LGBTI+ population from physical violence must be more consistently implemented - 74.8 percent; that the protection of the LGBTI+ population from discrimination must be more consistently implemented - 72.6 percent; and that the state's task is to enable regular and safe pride parades - 66.1 percent.

The acceptability of LGBTI+ people in social and private roles and relationships was assessed regarding the answers to a number of questions related to the opinion of the respondents on whether it is acceptable for LGBTI+ people to perform certain social roles: to be my chosen doctor is completely acceptable - 80.9 percent respondents; to be my boss / supervisor in the workplace is perfectly acceptable for 80.9 percent of the respondents; to be the selector of our national sports team is completely acceptable for 79.9 percent; minister in the Government of my country - fully acceptable by 77.1 percent; the Prime Minister of my country - fully acceptable by 76.7 percent; the President of my country - fully acceptable by 76.6 percent; the president of the municipality in which I live - completely acceptable by 76.9 percent; to teach at school is perfectly acceptable by 74.8 percent.

It is very important to mention the position that the LGBTI+ persons should be allowed a registered partnership as a form of establishing family communities, with which two thirds fully agree - 65.4%, while 16.7% partially agree, meaning as much as 82.1 percent of the respondents from the general population. This is one of the important findings of this research in a situation when it is easily considered by the public that the legalization of same-sex unions cannot "pass" in Serbia, because allegedly, most of the population do not agree with redefining marriage in this way, which can lead to a meaningless, institutional crisis, and abandonment of marriage as a legal institution (Antonić, 2014: 208). This research result refutes the authenticity and accuracy of this supposedly widespread negative attitude of the majority, which is nowhere exactly documented or measured. It is most likely that the prevailing loudness and presence of opponents of same-sex unions in public discourse derive from the misconception that their views are majority, while the much quieter majority has nothing against such unions, and even considers it the state's duty to provide the necessary legal context.

ORIGINALITY/VALUE

Social distance indicates the existence of intolerance and hostility towards certain groups. It is not only a problem that points out the existence of social divisions, marginalization and isolation of those to whom this distance is great; it is also fertile ground and "justification" for various types of discrimination, hate speech,

violence and other hatred motivated crimes. In addition, tacit "knowledge" marginalizes homosexuality by not mentioning it (Stolić 2014: 18).[12]

Directions for improving the position of LGBTI+ people comprise respect for their human rights as an important indicator of realized rights and freedoms in a society (Radoman, & Radoman & Šapić, 2017: 9). Modern societies should be inclusive – the societies which accept and respect differences, and in which each individual can realize their full potential, feel accepted and protected while participating equally with others in all areas of social life. Inclusive, democratic, non-discriminatory development of society cannot be the subject of arbitrary decision-making as to who will enjoy all human rights in full and who will not. The precondition is the elimination of harmful stereotypes and prejudices (such as the one that LGBT ideology and its legal-normative embodiment in Serbia is "homocolonialism", Antonić, 2021), the promotion of human rights culture and the elimination of social and any other distance from members of groups at risk of discrimination (Vlada Republike Srbije, 2022: 91).

The main positive changes identified by the 2021 Geten-organized research are those on which inclusiveness needs to be further built: holding the Pride Parade from 2014 till nowadays in eight years, increasing openness and increasing presence in public discourse of the problems facing the LGBTI+ population, considering the position of the LGBTI+ community as human rights, continuous actions of independent institutions in cases of discrimination and violations of human rights of that population, as well as so far[13] unhindered five-year mandate of the Prime Minister of the Republic of Serbia entrusted to a woman of an openly same-sex orientation. In addition, the publicly announced parenting of the Prime Minister has certainly reduced the stereotype about the alleged lesbian inability to be mothers (Tanjug, 2019, February 20). All these changes have contributed, in their own way, to the acceptability of the idea that diversity is normal even when it is a minority (Mršević, 2019: 621). Opinions, attitudes, suggestions, etc., regarding the directions of improvement come from various sides, e.g., from regular annual and special thematic reports of independent institutions, from research conclusions, through the views of civil society organizations, etc. Not to be forgotten: for the process of identity creation, the place where this process freely takes place, the so-called "arenas of representation", is of great importance (Savić, 2014: 149).

12 Educated people, confident in the power of "knowledge" about what is "normal and natural" in the domain of sexuality, often do not mention homosexuality at all, but by "knowing" what is "right", they create a ground for the public condemnation and disqualification of persons of same-sex sexual orientation. Homosexuality is seen as an act, a procedure, a momentary departure from the track of correctness, but not as a permanent identity mark and life-long way of living.

13 In the time of finalizing this text in June 2022

In all of them, as a denominator, there is a common need to reduce stereotypes and prejudices towards the members of groups at risk of discrimination, as well as activities aimed at promoting a positive public image of these groups. Clear and strong messages that any kind of violence is unacceptable and socially undesirable should be sent from all addresses. It should be also communicated that LGBTI community is a vulnerable group which needs support to exercise its rights. There is no single reason for a denial of rights that belong to them or rights that already belong to other groups. (CeSID, 2021: 43)

The Geten-organized research on the degree of social integration indicates that in terms of the general social situation, the respondents largely opt for such inclusive egalitarian social relations. Most respondents of the general population believe that all people should be treated equally, which 95.9 percent agree with, whereas the opinion that everything possible must be done to equalize conditions for different groups of people is a view taken by 90.4 percent of the respondents. Just as we strive to build a society in which we can fearlessly express our opinions, with respect for each individual, we should apply the same mechanism to diversity in all its forms - to different orientations, gender, appearances, desires, and dreams. (Mondo, 2022, June 6)

Continuous work on promoting a positive image in society of members of these groups also contributes to the reduction of discrimination and greater social inclusion. It should be borne in mind that certain stereotypes and prejudices stem from ignorance and / or misunderstanding of culture and other characteristics of members of certain groups, and it is necessary to work on getting to know other cultures, peoples, languages, customs and the like. The media also have a significant role in achieving this measure (Vlada Republike Srbije, 2022: 104).

When creating laws, strategies and other public policies at the national, provincial and local levels, the rights and interests of members of groups at risk of discrimination shall be taken into account and the effects of these public policies shall be monitored, in cooperation with civil society organizations. The effects of the measure are the creation of systemic conditions for the improvement of public policies aimed at members of groups at risk of discrimination and equalization of opportunities for members of these groups (Vlada Republike Srbije, 2022: 100). When LGBT+ people are protected from violence and discrimination they become actors of changes, they may increasingly participate in the processes of solving the challenges of their own securitization. That way, they are in a better position to put on the mainstream political agenda their security, endangered by the continuous victimization, violence and discrimination. According to the Copenhagen School of Security Studies, securitization depends on the historical and cultural context in which the securitizing discourse takes place. Treating something as a security issue is always a matter of political choice (Šulović, 2010). The same applies to the LGBT+ persons' security.

Social inclusion of LGBTI persons leads to important conclusions: that their vulnerability has legitimacy, that they have the capacity to point out the relevance of the threats and that they participate in decision-making and/or legitimately influence decisions that are binding upon relevant political actors.

It is more effective if security is conceptualized in terms of normative goals to be achieved or as an expression of basic values that need to be protected, than if it is articulated as something "to be defended against" (Šulović, 2010). Finally, after listing all the proposed measures to improve the position of LGBTI+ people, it should be concluded that it is important to understand that insisting on the values of equality, human rights for all and combating discrimination does not endanger anyone's freedom, but only complements it.

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GLOSSA ABOUT HATRED

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PURPOSE

Everything we do, we do out of fear or love.

Unknown author

The main purpose of this paper is primarily to explore the origin of the emotion of hate and its definitions, which, we believe, is the key for understanding it and reducing this rather negative and destructive feeling. In order to do so, we will firstly attempt a short analysis of the phenomenon of hatred from ancient times until now.

Aristotle in his "Rhetoric" speaks of emotions "as something which leads one's condition to become so transformed that his judgment is affected, and which is accompanied by pleasure and pain. Examples of emotions include anger, fear, pity, and love, as well as the opposites of these." (Aristotle, 2017: 34). According to Aristotle, emotions can strongly affect one's mind and thinking, as well as decisions he makes. On the other hand, Descartes, a proponent of rationalist understanding, separated emotions from cognition, considering them to be the consequences of the movement or doing of the spirit (Solomon: 2008: 1-4), while Spinoza regarded most emotions "as passive reactions to our unwarranted expectations of the world, which will leave us hurt, frustrated, and energized" (Spinoza, 1959: 14). Spinoza got Aristotle's point of view and connected, once again, emotions with actions and people's behaviour.

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Hatred is "the feeling that a subject feels towards a person that he believes to be evil and that threatens some of his values" (Milivojević, 2000: 300). There must be some conditions fulfilled, from the so-called *cognitive triads of hatred,* to say that hatred exists. In this situation, one person believes that there is someone who significantly jeopardizes some of his high values; that one is going to do so without due cause or justification, and will do that knowingly and intentionally, in order to hurt that person. Psychologists and therapists further believe that if a person believes that there is a justifiable reason for someone's hostile behaviour towards him, then there is *fear as an emotion*, rather than hatred, and that fear there will be a negative outcome for the person. At the very beginning *we can say that hatred may often originate from excessive or oversized fear*[2], but this will be elaborated further on below.

It is believed that hatred is an endless *circulus vitiosus - a person believes that someone hates him/her and therefore reciprocates with the same feeling.* The other person's feeling of hatred can be real or presumed, where the counter-hatred with which the first person responds is, in fact, a kind of defence mechanism. With his feelings, a person responds to a presumed stimulus from his environment, which basically contains a huge fear that has become irrational and which is realized in designing and thinking about various destructive activities directed at another person, who is an official object of hatred. All activities are aimed at doing harm to the object of hatred who is believed to hate the person who hates the object of hatred, and thus warn him to harm the first person with his (assumed or real) hatred. The range of activities comes from causing suffering to another person (the object of hatred), inflicting physical injuries, and even causing death.

According to the principle "it is better to hit them first than let others hit me before that", there are three degrees of destructiveness of these activities. "The first, lowest, degree of destructiveness refers to those behaviours that are symbolically destructive, but that are, relatively, socially acceptable. These include various gossips, petty set-ups and intrigues, etc. Destructive actions of the third degree, which result from hatred, lead to: murder, suicide, madness or severe bodily injuries." (Milivojević, 2000: 308) Sometimes a person can come fast from the first to the third degree, or maybe always remain on the first degree[3]. Or a person can cognitively decide not to take any actions, because he/she realizes that the hatred from another person and also the danger possibly involved do not exist.

2 Fear can be powerful cause for all sorts of human behaviour. As it could be a cause of crime, it could be a cause of doing things properly, as it was researched in the following paper: Ćorić D.: *Ljubav i strah kao materijalni izvor prava*; In: Ljubav i strah u fokusu interdisciplinarnih istraživanja : zbornik radova / priredile Zorica Kuburić, Ana Zotova, Ljiljana Ćumura, Novi Sad, Centar za empirijska istraživanja religije (CEIR), 2021, 241-252, ISBN 978-86-84111-33-5.

3 In such cases, a person tends to play Games – provoking specific situations which involve other people mostly unwillingly in order to get some emotional gain for oneself.

In psychology, emotions always have their *adequate and inadequate forms* (Milivojević, 2000: 312*)*. It is difficult to imagine that such an emotion as hatred, that is aimed at destruction, should have its adequate - justified form. But it is possible to imagine the context of an extreme situation, in which hatred is the only system of survival, and awakens in a person who hates another person abilities that he/she did not even know he/she possesses, all for the purpose of survival. In such situations, a person who hates will neither feel guilt nor remorse if he/she has committed some horrific acts, because everything is done for the purpose of his/her survival. In all other cases, except the extreme ones mentioned, hatred is an extremely inadequate feeling and needs to be overcome.

When accompanied by a sense of satisfaction of doing justice or defence and protection of one's own value system or even life itself, hatred does not actually bring liberation, because hatred and doing bad things leave scars on another person. The dehumanization of the subject who is hated and the renunciation of his/her human qualities somewhat "facilitates" the process of hatred and the implementation of "punishment" towards him in the form of hate products - all those activities aimed at destroying the object of hatred. Hatred also destroys the one who hates, distorting his/her consciousness and worsening his/her behaviour. So, the more destructive hatred is, the more self-destructive it is at the same time, and it often ends up hurting others and self-harming the person who cultivates that hatred in himself.

It is not uncommon for a social group to be "demonized", which implies the emergence and spread of an ideology which determines that this group is the embodiment of evil. This procedure creates a stereotype of a typical representative of a given group as an inhuman, animal, demonic or satanic creature. What is achieved by this procedure is that the members of that class are not perceived as human beings, and, therefore, morals or any norms that regulate the relations between human beings cannot be applied to them (Milivojević, 2000: 314). This creates a *collective justification* even for undertaking a war, as an extremely destructive force directed at someone who is considered the source of that (real or assumed) evil. As soon as something/somebody endangers survival, everyone who is endangered may have a right to behave in a way that ensures the individual to be able to save himself/herself. Everything done for the purpose of saving one's own life is allowed, even recommended, and completely free of any feeling of guilt. The psychological preparation of a person to do things unimaginable until then to his mind and his feelings, and to feel good and to expect gratitude for that from the wider community, is done by instilling feelings of threat by those who are supposed or trusted to hate that person.

Hatred, as one of the types of *antipathy* (Milivojević, 2000: 316), is diametrically opposed to *sympathy* and *empathy* associated with it. Rightly worried about their

own survival, then quite intimidated, members of the community are subjected to the psychological influence of fear, which grows into its irrational form - hatred and begins to do everything, just to "survive". The physical and / or survival of a particular value system within a community, justifies any kind of aggression used for its own preservation.

The so-called *Cain's complex*, which represents infantile hatred between brothers and sisters (older and younger) (Hughes, 1982:5-22) and has the characteristics of jealousy and envy, often grows into hatred. Parents punish such negative practices that children try to establish. In the same way, states punish similar practices within their legal frameworks, establishing mechanisms for the smooth exercise of rights and freedoms and for punishing discrimination and other violations of rights and freedoms. The state takes on that parental role in relation to its citizens, and sometimes its activity makes some individuals feel threatened, which, in turn, gives them the (primordial) right to defend themselves in every possible way. Even with hatred and hate crimes.

Psychology also knows a specific feeling of self-hatred or *mortido* - when a person denies himself/herself human qualities, because of some things or events occurring in the past, or because of belonging to a certain group or some other internal or external characteristics, and destructive activities aimed at destroying the object of hatred - oneself. In that case, we can simply disgust ourselves (self-loathing), but also react self-destructively, punishing ourselves mentally or physically, all the way to suicide.

There are *different forms of hatred*: autopersonal, interpersonal, partner or marital, intra-family, inter-family, intra-group, nationalist, inter-partner, racial and religious hatred. It is important to point out, however, that in each of these cases, hatred changes - mentally and morally - the people who hate (Milivojević,312). Namely, pathological hatred is often incomprehensible, crazy, passionate, bizarre, malicious and excessive. It is in the function of preserving a pathologically established equilibrium between the individual and his environment. Its functionality is only apparent, because this feeling, sooner or later, leads to the breakdown of adaptation mechanisms (psychological and social), so its consequences are almost always negative, both for the individual and for the environment in which he operates.

We also must make a difference between *hatred and anger*, as their consequences are mostly misinterpreted and replaced. The key difference between anger and hatred is that anger is caused by what we think can be changed (for example, unkind behaviour), while hatred is focused on what is seen as a stable / innate nature and motives for what or whom we hate. For example, "he behaves in a reckless and evil way" (anger) versus "he is reckless and evil" (hatred). This kind of thinking implies a sense of powerlessness, because we cannot change what is stable and innate, and a *sense of powerlessness is a prerequisite for hatred*. In addition to help-

lessness, hatred is also accompanied by feelings of poor control, great obstacles and intense discomfort due to poor treatment, lack of support, humiliation, ignorance or carelessness (Fisher, Halperin, Canetti and Jasini, 2018). Since the object of hatred is attributed with innate and unchangeable traits, haters do not see room for constructive, but only for radical problem-solving.

In a state of *altered consciousness*, both what truly threatens us and what does not threaten us becomes an attack against us as beings and against our value system and quickly and easily falls under the influence of hatred.

The reason we are talking about emotions is the special connection that exists between the emotion of hate and the consequences that could happen under the influence of hate. Those consequences are known as *hate crimes*. "Hate speech is a theory, and hate crime is a practice, i.e., theory of hatred put into practice" (Mršević, Janković,2022: 14). So legal definitions of hate speech will be mentioned more incidentally, as an additional argument to the basic thesis about fear as a cause of hatred, since their full analysis goes beyond the scope of the current topic of the paper.

After all that has been said, it no longer seems impossible for hatred to be the basis for committing some of the most serious crimes. We can say with certainty *that hatred comes from fear for one's own physical or mental survival*. If that fear can be reduced or overcome, hatred will also be ruled out as the cause of crimes.

METHODS USED/APPROACH

As mentioned in in the beginning of the paper, psychological and axiological methods, along with comparative method and deep cognitive analysis would be the basis of our work. Psychological method is useful for understanding the emotion of hate, its origins and psychological consequences it could produce. We use axiological approach to oppose hatred with its consequences to the values of the civilized world, such as freedom, dignity, etc. All together were valuable assets for defining the hypotheses we wanted to explore in this paper and to prove or refute them in the work. Uniqueness of this combination of approaches is that, to the best of our knowledge, it has never been done before, and we hope that it would constitute modest contribution to understanding this topic, both from the legal and psychological points of views.

FINDINGS

1) Fear cannot be defined in legal documents because it is not something that law should deal with. Yet, indirectly, it can be corrective of our behaviour, which directs us to act in accordance with the rules (Ćorić, 2021 :248).

Although generally considered to be a negative or unpleasant feeling, fear can actually be useful because it directs the subject to think differently in certain situations, for which he did not prepare at all (because he did not think they were possible) (Carleton , 2016:8) or did not prepare enough, and to find new solutions. Without fear, we would never, perhaps, think about our new or different behaviour, about changing some of our habits. Fear is an instrument of learning (Olsson, Phelps, 2007: 96)[4] and preparing individuals for life in a community. Here we find one paradox - fear (of getting caught while doing something bad, or of punishment), which is a negative emotion, can lead us to proper behaviour and, in the end, ensure a harmonious, peaceful society.

2) There are lots of legal definitions of hate crimes in general, especially of hate speech, but fewer legal definition of hatred. On the other side, there are some psychological definitions of hatred, but not so many, because that topic is not pleasant for research. Law is here dependant on psychology and its research.

The characterization of what is 'hateful' is mainly disputed on the basis of different legal, cultural or traditional origins. D. Jovašević states that hatred is explicitly defined by law, in provisions of Article 54a. The Criminal Code of Serbia, which "determines that a criminal offense is committed out of hatred if it involves an action that was undertaken by the perpetrator because of race and religion, national or ethnic origin, sex, sexual orientation or gender identity of another person" (Jovašević, 2022: 97). What underlies hatred is "a special, extremely high degree of conscious and voluntary ability of the perpetrator to achieve relevant criminal consequences in the external world regardless of whether it is accompanied by other psychological elements, such as intention, motive or goal (Radovanović, 1975:184-185 quoted in Jovašević, ibid.)".

The definition of "hate" in legal norms is, as in the above mentioned case, mainly restricted to the definition of discrimination[5], which implies unjustified denial of

4 Olsson, A.; Phelps, E.A. (2007). "Social learning of fear". Nature Neuroscience. 10 (9): 1095–1102

5 For example, in Art 387 of the Criminal Code (*Sl. glasnik RS*, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019), under the title "Racial and other discrimination" we find that violating basic human rights and freedoms on the basis of differences in race, colour, religion, nationality, ethnic origin or any other personal characteristic shall be punished by a term of prison between six months and five years (par.1); that spreading ideas of the superiority of one race over another or propagating racial hatred or inciting racial discrimination, shall be punished by imprisonment for a term between three months and three years (par.3) and that disseminating or otherwise making publicly available texts, images

certain rights to persons based on sex, age, religion, nationality, etc. But in Law on prohibition of discrimination (*Sl. glasnik RS*, br. 22/2009-3, 52/2021-4) in Art. 11 we find a wider definition of hate speech: it encompasses acts of discrimination, hatred or violence, listing a large number of ways in which hate speech as such can be disseminated:

It is forbidden to express ideas, information and opinions that incite discrimination, hatred or violence against a person or a group of persons because of their personal characteristics, in public newspapers and other publications, at gatherings and places accessible to the public, by writing and displaying messages or symbols and in other ways.

A much wider definition is found in Appendix to Recommendation No. R (97) 20 of The Committee of Ministers to Member States on "Hate Speech" (Strasbourg, July 2015), where hate speech covers:

all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin[6].

But only in the explanation of D. Jovašević can we find an explicit connection between the consequences of hate speech and hatred itself. The interesting point here is that this notion of hatred goes beyond the usual defining of hate speech as discrimination acts, and is extended to all cases in which a perpetrator has done something willingly to cause harm to somebody else in external world, whether or not there is any psychological cause underlying the perpetrator's actions.

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or any other representation of ideas or theories that advocate or incite hatred, discrimination or violence against any person or group of persons based on race, colour, religion, nationality, ethnic origin or any other personal characteristic shall also be punished (par. 4). Public approval of the mentioned activities (par.5) and public threatening (par.6) to perform any of the mentioned acts is also punishable. As we can see, hatred is explicitly mentioned in paragraph 3, as "racial hatred", which is probably considered here as the most common form of hate crimes, and in paragraph 4, as a possibility to incite hatred in some cases. However, the penalties are not so severe at all, they have in mind the impact that such activities, behaviours and statements can have on the formation of attitudes of individuals and groups in society. Combined with causing grievous bodily harm or causing death, sentences can be more severe, in terms of longer prison sentences, but sometimes it is not enough "re-education" for those planning to commit such activities.

6 In regard to this definition of hate speech, the definition in domestic Law on public information and media (*Sl. glasnik RS*, br. 83/2014, 58/2015 and 12/2016) in Article 75 is narrower:
"Ideas, opinions, or information published in the media must not encourage discrimination, hatred or violence against a person or group of persons because of their belonging or non-belonging to a race, religion, nation, gender, because of their sexual orientation or other personal characteristics, regardless of whether the crime was committed by publishing."

Having in mind that profession of a journalist is very responsible due to the transmission of information and their own views regarding some events, as it influences the creation of citizens' attitudes, it is important to mention that *The Code of Ethics of Journalists*[7] in Serbia has special provisions that strictly prohibit hate speech, or transmission of journalists' own prejudices to all those to whom they transmit information. The danger of spreading hate speech is the greatest here, because journalists, outside of their work, are just people with their own emotions, fears that can overcome them, despite all the professionalism they cultivate in their profession. So, when transmitting such news, we may say that journalists commit not only hate speech, but they commit – hate crime. Also, having in mind that – by means of their writings/speech - journalists can motivate large numbers of people and encourage them to fight with each other (Čok, 1994:351), hatred here is used as a rather powerful weapon.

The term *hate speech* is mostly understood as "any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor" (according to United Nations Strategy and Plan on Hate Speech, 2019). Hate speech is therefore connected to hatred as a feeling of deep *fear* for one's future and belief that it could be and probably will be endangered by activities of those individuals or groups to whom this hate speech is directed, which is also clearly stated in the UN Strategy and Plan on Hate Speech, as follows : "'hatred' and 'hostility' refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group" (United Nations Strategy and Plan on Hate Speech, 2019).

As to the psychological view on this topic, hatred is considered to be the most destructive feeling in the history of human nature (Royzman, McCauley, & Rozin, 2005). Hate research is relatively rare in psychology, and the reasons for this are both methodological and conceptual. Young people, who are mostly participants in these experiments, usually say that they have not had any experience of hatred ever in their life, or they have not had the capacity to recognize it as hatred. Conceptually, hatred is not considered as a common emotion, so it is not popularly researched, like the feelings of disgust, anger or sadness. Rising levels of hatred in various societies and lives of all people today - the so-called *hate culture* - changes this situation because hatred has serious consequences for the health of the nation, as well as the emotional, psychological and physical health of the individual. It must be noted that proponents of this hate culture are mostly young people (Ćorić, 2022: 240). They are the same age group that claim not to have experi-

7 Available on : https://savetzastampu.rs/en/documents/kodeks-novinara-srbije/, link retrieved on 10th July 2022.

ence with hatred, so it could be that they are therefore a suitable ground for the development of this - as they do not dig too deep into this topic. Also, the lack of emotional education and failures in developing the ability to empathize have made young people possible perpetrators of acts of hatred, which they are not even aware as such.

To conclude: the lack of a comprehensive definition of hatred in law is directly caused by the inconvenience of researching and dealing with this topic in psychology and other social sciences. As the law relies on the knowledge of other sciences in this part, we come across incomplete definitions of hatred, which lead to hatred being mostly equated with discrimination, although discrimination is one of the consequences of the emotion of hatred. This conclusion does not undermine the significance of all definitions of forms of hatred, especially in the case of hate speech. A variety of definitions of hate speech, some of which are presented in the paper testify to great awareness about this problem and a high level of determination of countries and the international community to supress such activities more than ever.

3. People are afraid of something that they have never experienced before, that they do not understand or they rely on the experience of *Significant Others* in their lives (Ćorić, 2021 :249). Therefore, fear can be truly the root of hatred, which is presumably often connected to lack of understanding of differences.

The social contract theory made the humanity stronger and at the same time vulnerable to external stimuli that are currently unknown to it. From its very beginning, the social contract theory wanted to establish a safer, better community for all willing to live in that community (D'Agostino, et alia, 2021). All others, who did not share the same vision of society and didn't want to obey the proposed rules of conduct were considered as those who decided to remain in their natural state, the state of wilderness and constant danger [8]. The social contract state is opposed to the natural, aggressive and dangerous 'state'. It has been used as a way to tame the disobedient, and to establish an order that suits a number of members of the community, by intimidating them with the world that has remained outside its borders. Those who are born in the social contract state do not have memories of the past; so, their fear of disrupting such a community is becoming stronger with each generation. Paradoxically, in the 21st century we, as a humanity, are confronted with similar challenges as the ones prevalent at the time when this theory emerged in the 16th century[9]. Now, any difference and departure from the

8 Celeste Friend, Social Contract Theory, available on: https://iep.utm.edu/soc-cont/, retrieved on 10th June 2022.

9 The idea of the social contract goes back to Protagoras and Epicurus, but it was revived by Thomas Hobbes and subsequently developed, in different ways, by John Locke, Jean-Jacques Rousseau, and Immanuel Kant.

majority population is considered as a type of natural state and behaviour that threatens to endanger the existing and known way of life. It is less common to think that differences can enrich and strengthen an already existing community.

4. Instead of improving the way the facts are obtained, the Internet has increased the ways in which false information is obtained. It increases fear and thus the hatred that grows in certain communities, especially where certain authorities are blindly trusted[10].

We strongly believe that simply establishing the facts and circumstances of a case/situation, verifying the truthfulness of the content that comes to each of us, which is facilitated by the existence of the Internet and limitless sources and ways of verifying information, as well as ceasing to generalize and attribute to the whole group something that causes hatred, as the main cause of all hate crimes, could prevent the spreading of these adverse phenomena. Not understanding something we encounter for the first time induces fear for mere existence in every human being, no matter what social or political position he/she finds himself/herself in. Therefore, every one of us must find enough time and make more efforts in order to explain the situations before us. Thorough explanation of everything that is different, seen for the first time, etc., could be crucial for reducing fear and reducing hatred at the same time.

Also, we must be willing to adopt *"coming to the truth"* as the basic principle of our own actions. Believing in information "on the first click", without asking questions like *"exactly who"*[11], *"are you sure that all of them are the same or this is only one man/woman/small group behaving badly",* can certainly be the beginning of entering a specific game of hatred from which it is difficult to get out. Legislative frames, national and international[12] can be good allies in this demanding struggle,

10 Authority does not necessarily mean the competent state bodies, but it can be any individual who is "influential" in any way and on any grounds in one part of the population.

11 According to the authors of the article "The spread of true and false news online", false political news were diffused more quickly and more profoundly, and reached more than 20,000 people nearly three times faster than all other types of false news reached 10,000 people." People thrive on novelty. Novelty attracts human attention, contributes to productive decision making, and encourages information-sharing. In essence, it can update our understanding of the world. When information is novel, it is not only surprising, but also more valuable - both from the information theory perspective (it provides the greatest aid to decision-making) and from a social perspective (it conveys social status that one is 'in the know' or has access to unique 'inside' information). Falsity of news, when the content is full of hatred can generate a new wave of fear for stability of one's community. The spiral of aggression is present, and soon it starts spinning. More about it: Soroush Vosoughi, Deb Roy, Sinan Aral, "The Spread of True and False News Online", Science, 2018, Vol 359, Issue 6380, pp. 1146-1151.

12 One of the most valuable international documents here is ECRI General Policy Recommendation No.6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet adopted on 15 December 2000, which specially takes into account combating racism, xenophobia

but it is up to one's own moral standings, willingness to live in a community and accept all compromises that are necessarily made for the sake of a more stable life in that community. Otherwise, there will not be punishments terrifying enough to deter some very frightened people from committing much more serious crimes in fear that they themselves have been in real danger. The truth is an important social and legal value, which is not that easy to get, but every effort is important.

5, What should be done in order to prevent hatred and reduce the number of crimes inspired by it? Coordinated work of individuals, groups and national and international bodies can improve the picture that is prevalent today.

The *United Nations* decided to make more efforts in emphasizing the responsibility of all actors (individuals, groups, national governmental bodies and international entities) and preventing hate speech by ensuring that young people in particular should be able to recognize what can truly harm them, and how to recognize speech and activities that come out of hatred[13]. All channels of communication, especially digital, should be used properly, for educational purposes. Unfortunately, the internet has become a place for the rapid spread of all kinds of information, especially false information, and superficiality in accessing all information and verifying its truthfulness is worrying. It can be said that this superficiality and non-verification of the truthfulness of information has led in part to an increase in the fear of certain individuals and groups for their own safety and to the creation of new forms of hate crimes.

Also, the UN established the so-called *threshold test in* order to help individuals, groups, and countries to recognize hate crimes and eventually hate speech (Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, 2013). The test was based on the general ban on hate speech and other forms of hate crimes, based on Art. 20 of International Covenant on Civil and Political Rights (1966) and takes into account:
- *the context of the statement* (suggests thorough analysis; the speech act within the social and political context prevalent at the time the speech was made and disseminated may not have been delivered with hatred);
- *speaker* (his/her status, position and especially political or social significance at the very moment that the speech is given);

and antisemitism on the Internet; full text : https://rm.coe.int/ecri-general-policy-recommendation-no-6-on-combating-the-dissemination/16808b5a8d, link retrieved : 10th July 2022.
13 Stopping hate speech spread via Internet tops agenda of the UN anti-racism committee, https://news.un.org/en/story/2013/08/446592-stopping-hate-speech-spread-internet-tops-agenda-un-anti-racism-committee, link retrieved : 10th July 2022; special section "Fight Racism" on the official site of the United Nations: https://www.un.org/en/fight-racism, link retrieved on 10th July 2022.

- *what was the intent* (if there is just negligence or recklessness, there will be no hate crime or hate speech);
- *what was the true content and form of the speech and in what occasion it was given*;
- *extent of the speech*, or how large was the audience that speech was given to and what was the manner of delivering the speech (whether it was given live, on the internet or in combination of those two), how wide was the audience;
- and finally, *was there any risk of harm that could be done thru that speech* and that could provoke any dangerous actions against other individuals or groups.

When all or most of these conditions are met, hate speech exists.

ORIGINALITY/VALUE OF THE WORK

In this paper, we tried to approach the topic of hate crimes from a completely different side, more from the psychological (or emotional) side, trying to understand the true origins of hatred- which is the emotion of fear. We did the analysis of some chosen legal documents and many of definitions of hate crimes that they offer, but we wanted to approach hatred directly as the cause of those violent acts. So, this paper should be taken mostly as psychological one, then legal. We hope that this short overview of the topic of hatred will be taken as an attempt at understanding origins of hate crimes and hatred as such, which might result in thinking about possible solutions for combating hatred. Unique, different approach to this topic might inspire some new researchers and new results, different from all created so far.

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ENVIRONMENTAL CRIMES: A CHALLENGE WITH SIGNIFICANT EFFECTS ON OUR WELL-BEING

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THE CONTEXT

Environmental crime is a growing threat that affects natural resources, peace, development and security. For decades it was not covered in its true essence in many parts of the world, resulting in critical effects to humans and the environment today. Environmental crime investigations and financial intelligence are significant responses to prevent natural resources and human beings from environmental criminal activities. There is a problem in identifying and setting priorities, and responding to emerging trends in environmental crime. It is also a priority to implement a forum for law enforcement officials to share experience and expertise, and discuss new strategies.

What can we do to help protect our environment from criminals? Our actions as a consumer or traveler can be a link in the illegal wildlife supply chain, or break the chain.

Environmental crime is an illegal act that directly harms both humans and the environment. It is a negligent, knowing or willful violation of an environmental law within jurisdiction. These offences can include, but are not limited to the improper collection, transport, recovery or disposal of waste, illegal operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored, killing, destruction, possession or trade of protected wild animal or plant species, production, importation, exportation, marketing or use of ozone-depleting substances.

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Waste trafficking demonstrates the extent of the problem. The use of legal business structures by criminal actors are an inherent feature of this crime area. In many cases, criminal actors and legal businesses are indistinguishable. As part of this development, criminals involved in waste trafficking have moved towards the more complex business model of illicit waste management rather than simply illegally dumping waste.

Waste traffickers now operate along the entire waste-processing chain and rely heavily on the use of fraudulent documents.

Major drivers of environmental crime include economic benefits, sustainable demand, poverty, as well as institutional and regulatory failures. Environmental crime has not been regarded as a priority in some countries, which has resulted in a lack of appropriate and proportionate governmental responses. Perceived as a "victimless" and low priority crime, environmental crime often fails to prompt the required response from governments and law enforcement.

ENVIRONMENTAL CRIME – A PROBLEM OF CONCEPTUALIZATION

The environment as we know it faces composite challenges which seem to be worsening with time, bringing us into a time of a complex environmental crisis. It is therefore becoming increasingly important to raise awareness of the existence of these challenges, as well as the solutions to reduce their impact. Some of the key challenges are: pollution, global warming, overpopulation, waste disposal, ocean acidification, loss of biodiversity, deforestation, ozone layer depletion, acid rain, public health issues. This is not an exhaustive list, but rather some points to be mentioned. At EU level for instance, a set of 14 megatrends with impact on the society as we know it, were identified. Climate change and environmental degradation is one of them.

Since the late 1980s the procedures and perspectives of criminal justice have been applied to the environmental crisis. Environmental violations have been defined as crimes, and violators viewed as criminals; criminal prosecutions of the accused and criminal sanctions against the convicted have accelerated.

Environmental crime is the fourth-largest criminal activity in the world, growing at a rate of between 5% and 7% per year, according to the Interpol and UN Environment Programme estimate. This increase, combined with the organized, transnational nature of environmental crime requires administrative, law enforcement and judicial authorities to adopt a coordinated approach at international level.

A broad range of offences is covered by the notion of environmental crime at the national, EU and international levels. Lacking a unique definition of environmental crime, we considered the crime qualification as such by the national authorities that referred the case to EUROJUST as the starting point in the process of identifying the relevant cases. An environmental crime is an unauthorized act or omission that violates the law and is therefore subject to criminal sanctions. This offence harms or endangers people's physical safety or health as well as the environment itself. It serves the interests of either organizations – typically corporations – or individuals. This definition stresses three features of environmental crime.

Firstly, environmental crime violates the existing environmental laws. Behavior, however egregious or offensive, that does not violate the law is not crime. Environmental crime, in other words, is the creation of environmental law.

Secondly, environmental crime has two victims – the people and the environment – whereas the victims of street crime are usually only the individuals. Moreover, when a street crime occurs, generally one victim at that moment is produced. When an environmental crime occurs, in contrast, it typically has many victims – sometimes the population of an entire region. Their victimization may also be gradual and silent, going undetected for years. The environment that is victim is often public property (e.g. a state park) or resources on which there is no private claim (e.g. the air), whereas the property that street crime harms is usually private.

Although corporations are the chief environmental offenders, other organizations (e.g. government agencies), as well as individuals can also commit environmental crimes. For example, the crime groups has infiltrated the waste disposal industry and illegally disposed hazardous waste; local governments have shipped solid waste to prohibited sites; individuals have contributed to the destruction of protected forests and wildlife; vendors have sold contaminated meat and seafood to the public. These are just mere examples of environmental crimes currently taking place.

INVESTIGATION OF ENVIRONMENTAL CRIMES

Criminal justice role in environmental regulation expands as the environmental crisis increases. The crisis is both the context and stimulus for heightened interests in criminal justice remedies. Consequently, the scope of the crisis should be better considered before examining how the criminal justice system may or may not help abate the crisis.

It can be assessed that the environmental crime causes substantially more illness, injury and death than street crime does. Illegal waste disposal pose threats of mis-

carriage, birth defects, cancer, chromosome damage, skin rashes, headaches, nervous disorders and other ailments to residents who live in their vicinity.

Environmental crime creates huge profits for transactional criminal groups. Concealing origins of environmental crime proceeds, saving funds and further making them available is a major goal of money launderers. Cases involved in money laundering reported to financial intelligence units lead to enhanced investigations and prosecutions found to be connected to environmental crime.

Combating environmental crime via financial intelligence must be of great importance to compliance professionals at financial institutions. Detecting and reporting suspicious transactions involved in suspected environmental crime to competent authorities can help mitigate risk of harm to the environment, natural resources and human health.

The environmental crime investigation model is based on the following areas:

- **Investigation methods**: Criminal investigations of environmental crimes target the most harmful violations of environmental laws that pose significant threats to human health and the environment. Criminal investigations are carried out via methods including interviews, searching a person or document, examining documents or objects, use of force for self-defense (where required), and subject expert area, i.e. environmental crime (illegal logging, dumping of hazardous waste and their trade, etc.). This requires well-trained special agents and investigators.

- **Science and technical expertise**: Environmental crime investigations require in-depth investigations with scientific methodologies and technical expertise. Sampling and testing of materials (e.g. chemicals or colored liquids) to obtain evidence against environmental criminals is a critical and specialized area. Scientists and specialized technical experts are required to collect this evidence.

- **Legal and prosecution aspects**: The legal and prosecution aspect of environmental crime is significantly increasing in demand. Environmental laws and developed regulations are at all levels (i.e. criminal, administrative and environmental liabilities levels) including sanctions, prison sentences, fines and restoration of damage. Cost of legal and prosecution cases are high and are conducted by specialized environmental law experts.

LEGAL AND OPERATIONAL ISSUES

A number of legal issues and practical difficulties encountered in the environmental crime cases can be attributed to such specifics of environmental crime investigations and prosecutions as their complexity and their multidisciplinary

and resource-intensive nature. These legal issues and practical difficulties included the following:

- Insufficient specialized knowledge and practical experience about the EU's environmental criminal legal framework, because environmental crime cases are not frequently encountered by investigators and prosecutors dealing with organized cross-border crime and international judicial cooperation.

- The existence in different jurisdictions of different investigative approaches to environmental offences by means of administrative and criminal law, and in particular a lack of recognition of environmental crime as organized crime, which hampers the initiation of cross-border environmental crime investigations.

- A lack of incentive for competent national authorities to get actively involved in a potentially large-scale, complex international environmental crime investigation, possibly due to the abovementioned lack of specialized knowledge and experience, along with a lack of resources and the existence of other priorities. The lack of incentive to engage actively is manifested through a hesitation on the part of national authorities to initiate parallel criminal proceedings.

- The existence in different jurisdictions of different legislative approaches to environmental crime (even though the current EU legal framework requires a harmonized approach), which results in different perceptions about some key legal qualifications and can trigger dual criminality issues during cross-border cooperation.

- The multidisciplinary nature of environmental investigations, with diverse specialized national administrative authorities (e.g. customs, environmental, veterinary, fisheries, public health and food safety authorities) that have relevant competences along with police and prosecutors, and the related challenges, in particular the following.

Ensuring the complementarity of competences and the exchange of information and coordination during an investigation at the national level is already a challenge, and it becomes even more challenging at the cross border level. Multidisciplinary coordination at national and international levels among the competent administrative, law enforcement and judicial authorities may be needed promptly, for example in wildlife trafficking cases involving the seizure of live animals and the subsequent need to ensure their survival and a swift return to their natural habitat. A lack of such coordination can have a dramatic result: in a multilateral case concerning the trafficking of European glass eels, a significant number of the seized species did not survive because of the lack of prompt cooperation among the authorities involved.

The risk of confusion regarding the competences of the authorities involved may see a particular increase during the process of cross-border cooperation. For example, in a case on illegal trading in pesticides, the execution of an Mutual legal assistance (MLA) request was assigned to the national environmental authority (because the offence concerned fell under the competence of that authority), even though that authority lacked the investigative and coercive powers to execute most of the requested measures, such as arrests, interviews, searches and the seizure of documents. As a result, the MLA request in respect of these measures was refused.

Environmental crime cases may require highly specialized legal, scientific or technical expertise, and thus the need to cooperate with relevant national or international authorities and organizations. For example, an MLA request may involve measures specific to environmental crime, such as taking samples of wild animals' DNA, taking samples of and testing hazardous substances or transporting seized live animals and reintroducing them into their natural habitat.

COUNTERING ENVIRONMENTAL CRIME: ENFORCEMENT AND PROSECUTION

Many environmental crimes are not the core focus of criminal justice systems or public concern about crime and safety despite having the potential to cause far wider social harm and a large number of deaths. Instead much environmental enforcement is regulatory or administrative in nature, particularly in respect of corporate environmental wrongdoing, which is often categorized as accidental wrongdoing, largely considered to be the fault of 'rogue' employees or the unintended consequences of governance failures. Unlike traditional street and property crimes, environmental crimes (and environmental harms) frequently have long-lasting and irreversible effects. This raises questions about the effectiveness of justice systems in dealing with environmental offenders and the damage they cause. Criminal justice systems that are predominantly based on the punishment of offenders, often fail to address the harm caused by environmental incidents.

Most of the legal issues and practical difficulties encountered in the environmental crime cases were closely related to the use of the judicial cooperation instruments and tools. These legal issues and practical difficulties included the following.

- Choosing the appropriate legal instrument for the necessary international judicial cooperation and exchange of information, and identifying the competent national authority to be addressed, including in cases involving cooperation and the exchange of information with non-EU countries.

- The urgency dictated by national procedural deadlines or by the operational needs of the investigation.

- Issues relating to the execution of MLA or mutual recognition instruments, particularly delays in execution and difficulties arising from the peculiarities of the national criminal material and procedural laws of the states involved (e.g. when clarifications were needed by the requested / executing Member State concerning dual criminality, the criminal qualification of the suspected acts, the procedural status of the persons in question or other information was needed as a precondition for the use of certain investigative measures).

- Legal and practical issues in the context of parallel criminal proceedings (e.g. a need for the urgent identification of ongoing parallel proceedings; the initiation of parallel proceedings; the prevention or resolution of jurisdictional and ne bis in idem issues; the coordination of investigative actions; the exchange of information and evidence in relation to parallel proceedings conducted at different procedural stages in different jurisdictions).

- Legal and practical aspects relating to the transfer of criminal proceedings and the transfer of sentenced persons, and extradition-related issues (e.g. when the Member State of nationality and the Member State of residence of the person being sought are different and the request is to extradite to a non-EU country).

- Matters relating to asset recovery (e.g. coordinating financial investigations; facilitating the execution of a freezing order or of an MLA aimed at the confiscation of assets).

- JIT-related legal issues and practical difficulties, including choosing the appropriate legal basis (the European Convention on Mutual Assistance in Criminal Matters of 1959, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 2000, the Council Framework Decision 2002/465/JHA on joint investigation teams), the potential implications of national legal requirements (e.g. the duty of disclosure; the withdrawal of the United Kingdom from the EU) and, the last but not the least important, practical difficulties in working together as a multicultural team.

BEST PRACTICES IDENTIFIED

Based on the legal and operational issues encountered and the solutions to issues that were successfully applied, Eurojust has built up a set of best practices that can improve the effectiveness of international judicial cooperation in environmental crime cases. These are:

- In complex cases in which an extensive MLA request or EIO needs to be sent, before issuing the MLA request or EIO discuss it with the national authority that will be its addressee.

- Before requesting information in evidential format, request that the available information be shared as intelligence at the police level, to obtain prompt access to this information and to have the opportunity to evaluate it and to prioritize the information needed in evidential format for your investigation.

- Consider that combating environmental crime is a multidisciplinary area, where competent administrative authorities play an important role in the national environmental enforcement system but have fewer investigative and coercive powers than police and prosecutors. If, in an environmental crime case, an MLA requests or EIO requires special or coercive investigative measures, make sure that the execution of the request /order is assigned to an authority that has the necessary powers to execute the requested measures.

- In cases of a delayed or refused MLA request or EIO, or other mutual recognition instrument, ask for assistance from Eurojust as soon as possible, before a significant delay has occurred or an official negative reply has been received.

- If information on national criminal law provisions is needed in the course of an ongoing cross-border investigation, obtain the necessary clarifications promptly via the National Desks or Liaison Prosecutors of non-EU countries at Eurojust, which are trusted sources of up-to-date national legal information and its interpretation.

- Enhance close cooperation and mutual trust between investigators and prosecutors by meeting in person, particularly in complex or sensitive cases; consider using CMs organized by Eurojust as a tool for that purpose.

- Discuss your cross-border case from the different perspectives of all of the countries involved to ensure that a common understanding is achieved. Environmental crime cases may need more explanation and specialized expertise than cases relating to other crime types. Use CMs organized by Eurojust to discuss and agree on a common investigation and prosecution strategy. Keep in direct contact or, if a language barrier exists, keep in contact via National Desks and Liaison Prosecutors at Eurojust, to inform each other about steps planned in the investigation and to coordinate investigative actions.

- In multilateral cases, issue MLA requests, EIOs or other mutual recognition instruments in a coordinated manner, so that the results can be used in the proceedings of all of the countries involved, and decide in a coordinated manner about the best place to prosecute, so that ne bis in idem issues and possible conflicts of jurisdiction can be prevented.

- Consider establishing a JIT, which has proved to be an effective tool for the prompt and direct exchange of evidence in a number of Eurojust environmental crime cases. JITs provide a basis for working in a multidisciplinary team of experts, including prosecutors, police, environmental protection inspectors, customs, tax authorities, etc. Working in a JIT helps to build trust among authorities

from different jurisdictions. In a JIT setting, national authorities have a complete overview of the evidence gathered in all of the jurisdictions involved and have the possibility to analyze it jointly, which will ensure a stronger evidential position for all of the national judicial authorities involved (18 Report on Eurojust Casework on Environmental Crime, January 2021).

- Considering that cross-border organized crime groups are often involved in committing environmental crimes, strive to detect and investigate the involvement of organized crime in the environmental crime that has been committed, be it waste trafficking, wildlife trafficking or environmental pollution. If an environmental crime case is identified as a case involving cross-border organized crime, this qualification enables the case to be prioritized and a more extensive set of investigative measures to be used, including special investigative tools for organized crime. This qualification also enables national authorities to refer the case to Eurojust, so that cross-border coordination and cooperation is ensured in environmental crime cases on a more regular basis.

- Environmental crimes involve a financial component, as their incentives are often the reduction of economic costs or the generation of profit; therefore, strive to conduct a financial investigation as part of the criminal investigation in each environmental case. When establishing a JIT, include financial investigation and asset recovery in the JIT agreement as objectives of the JIT.

- Strive to identify the existence of ongoing parallel proceedings in other jurisdictions as soon as possible, to avoid conducting linked investigations in a non-coordinated manner. Use Eurojust assistance to check in a prompt and centralized manner whether parallel criminal proceedings are ongoing in any other Member State.

- Consider requesting Europol assistance for information analysis, particularly when extensive amounts of data from different jurisdictions need to be processed.

FOOD FOR THOUGHTS…

Unlike traditional crimes, environmental crimes (and environmental harms) frequently have long-lasting and irreversible effects. This raises questions about the effectiveness of justice systems in dealing with environmental offenders and the damage they cause. Environmental harm cases represent a challenge for 'traditional' justice systems. The implications of such incidents also represent a challenge to punishment-based criminal justice systems.

The way forward...

What is to be done for a more effective countering of Environmental crimes? I would propose to start with the awareness on the long term impact they might

have on the society. Understanding the irreversible impact and the social and economic consequences might lead to legislative endeavors at national level for a higher criminalization of these acts.

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ENDNOTES

1. Pollution of the air, water and soil caused by toxins such as plastics, heavy metals and nitrates, caused by factors such as toxins and gases released by factories, combustion of fossil fuels, acid rain, oil spill and industrial waste.
2. The emission of greenhouse gases due to human activity causes global warming, which in turn causes an increase in temperature that then leads to rising sea levels, melting of polar ice caps, flash floods and desertification.
3. We are facing a shortage of resources such as food, water and fuel to sustain the rising global population, particularly in developing countries. Intensive agriculture attempting to lessen the problem actually leads to more damage through the use of chemical fertilizers, pesticides and insecticides.
4. An excessive amount of waste is produced and dumped in the oceans. Nuclear waste is particularly dangerous, as well as plastics and electronic waste.
5. The increase in the production of carbon dioxide by humans causes the oceans acidity to rise, which has a negative impact on marine life.

6. Species and habitats are becoming extinct due to human activity. This causes an imbalance in natural processes like pollination and poses a threat to ecosystems – coral reef destruction is particularly affected.
7. Loss of trees in order to make space for residential, industrial or commercial projects means that less oxygen is produced, and temperature and rainfall are affected.
8. Pollution caused by chlorofluorocarbons (CFCs) in the air creates a hole in the ozone layer, which protects the earth from harmful UV radiation.
9. Pollutants in the atmosphere such as sulfur dioxide and nitrogen oxides cause acid rain, which has negative consequences for humans, wildlife and aquatic species.
10. Lack of clean water is one of the leading environmental problems currently. Pollutants in the air also cause issues such as respiratory disease and cardiovascular disease.
11. https://knowledge4policy.ec.europa.eu/foresight/tool/megatrends-hub_en
12. In addition, the following EU and international sources were used as reference points for establishing the definition of an environmental crime and for identifying the cases relevant for the study: the environmental offences set out by Directive 2008/99/EC on the protection of the environment through criminal law and the typology of environmental crime applied by Europol, the United Nations Environment Programme and Interpol.
13. Such a proposal is currently ongoing in Romania aiming to stop the waste import https://www.constanta.press/news/proiectul-legislativ-pentru-stoparea-traficului-de-deseuri-ilegale-a-ajuns-in-comisia-de-mediu-a-senatului-reprezentantii-remat-au-cerut-respingerea-lui?uid=635763

IMPLEMENTATION OF CRIMINAL CONTROL OVER FOREIGN FIGHTERS

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INTRODUCTION

For the first time, the term "foreign fighter" was officially applied to fighters who came from other countries to fight for al-Qaeda in Afghanistan. Later, this term was also applied to people who came to Iraq and participated in the 2003 insurgency. However, foreign fighters first appeared much earlier. By the end of the 18th century, approximately 100,000 foreign fighters had taken part in approximately 100 wars (Malet, 2015). Since 1980, between 10,000 and 30,000 such "fighters" have been involved in conflicts ranging from Bosnia in the west to the Philippines in the east (Hegghammer, 2010).

In the absence of a legal definition, members of the scientific and professional communities have defined this term in a variety of ways. The Geneva Academy of International Humanitarian Law and Human Rights provided one of the most frequently cited definitions: "A foreign fighter is an individual who leaves his or her country of origin or habitual residence to join a non-state armed group in an armed conflict abroad and who is primarily motivated by ideology, religion, and/or kinship." (Geneva Academy of International Humanitarian Law and Human Rights, 2014).

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It is important to distinguish between the terms "foreign fighter" and "foreign terrorist fighter". Foreign terrorist fighters are individuals who travel to a country other than their country of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict (UN Security Council, Resolution 2178/2014 and Resolution 2396/2017).

By analyzing the aforementioned definition, it can be concluded that the United Nations Security Council resolutions only include foreign fighters whose goal is to carry out terrorist-related activities. However, not all foreign fighters who travel to another country and engage in some form of armed conflict intend to commit terrorist acts or prepare for a terrorist attack. At the same time, this does not preclude terrorist cells from recruiting these fighters to go to the battlefield in another country, but it does not make them terrorists.

The Criminal Code of the Republic of Serbia was amended in 2014 to include participation in a war or armed conflict in a foreign country as a new criminal offence under Article 386a. This criminal offence can be committed by any Serbian citizen who participates in war or armed conflict in a foreign state, as a member of the military or paramilitary forces parties to the conflict, and is not a citizen of the foreign state, nor a member of the official mission of an international organization of which Serbia is a member (Criminal Code, Official Gazette RS, 108/2014).

The Criminal Code of Bosnia and Herzegovina contains a similar criminal offense. Specifically, the criminal offense of unlawful establishing and joining foreign paramilitary or parapolice formations (Criminal Code of Bosnia and Herzegovina, Article 162b) is committed by anyone who, in violation of the Law on Defense of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina, organizes, directs, trains, equips or mobilizes individuals or groups for the purpose of their joining in any way foreign military, foreign paramilitary or foreign parapolice formations that are acting outside the territory of Bosnia and Herzegovina.

Foreign fighters and foreign terrorist fighters' participation in Iraq and Syria is most frequently written about and analyzed in the scientific and professional communities. Our analysis will focus on the importance of establishing criminal control over Bosnian and Herzegovinan citizens who participated in these wars. However, foreign fighters and foreign terrorist fighters from other countries also took part in the war on Bosnia and Herzegovina's territory. The war on the territory of Bosnia and Herzegovina allowed terrorist organizations to spread their influence in this region. Terrorist organizations took advantage of the war's events by sending volunteers to Bosnia and Herzegovina under the guise of assisting their brothers in the war (Šetka & Ratković, 2011:657). It is a well-known fact that Mujahideen have been coming to Bosnia and Herzegovina since 1992, par-

ticipating in war conflicts and committing the most serious crimes. Following that, a number of Mujahideen stayed there to live and were granted Bosnian and Herzegovina citizenship. They established the first Wahhabi/Salafi communities in order to spread radical ideology and recruit new members. Locals joined them, basing their lives on strict religious rules based on their interpretations, thus becoming hotbeds of radicalism and extremism. Later, events that can be linked to terrorism and specific terrorist acts were linked to the actions of these communities (Šikman, 2018: 209; Erjavec, 2009:7).

More than 30,000 fighters from more than 100 United Nations member states are fighting on the side of the Islamic State in the war Syria. (Popović, 2020:56; Šikman, 2010:210). According to CIA data (Central Intelligence Agency), that number is between 20,000 and 31,500 (Marković, 2018:210). The motivations for joining terrorist organizations ranged from religious and political to personal (UNODC, 2019:11). Their roles in the Islamic State ranged from potential suicide bombers to fighters and other auxiliary roles (RAN Centre of Excellence, 2017:20).

The return of foreign fighters to their home countries is a serious issue. They return in waves, and the statistics are very unreliable. The shrinking territories in Syria, as well as the collapse of the Islamic State in Iraq in October 2017, contributed to the latest wave of returns. At the start of 2018, there was a sharp decrease in the number of those travelling to Iraq and Syria. In addition, there is a growing concern regarding the impact of fighters returning to their home countries or moving on to other, sometimes unknown, locations. In this regard, there is also a fear that the Islamic State has directed its activities to other places using returning foreign fighters (OSCE/ODIHR, 2020:12).

In order to monitor and identify the risks of terrorism and other criminal acts of violence in a quality, timely, and objective manner, in addition to the implementation of adequate de-radicalization programs and prevention of terrorist radicalization, the implementation of criminal control is critical. Police agencies use criminal control to act proactively, directing their activities to prevent criminal acts from being committed. The method by which Bosnia and Herzegovina's institutions implement criminal control over foreign fighters will be the focus of our analysis.

THE RETURN OF FOREIGN FIGHTERS FROM THE BATTLEFIELD – A RISK FACTOR FOR COMMITTING CRIMINAL OFFENSES

Despite the fact that travels to foreign battlefields are criminalized as separate offenses, this did not deter individuals from going and participating in a war in another country. The return of foreign fighters has increased the possibility that

these individuals will perpetrate a terrorist act or other violent crime in their home country. Thus, the attacks in Paris, Brussels, Istanbul, and London between 2015 and 2017 are an example of the security challenge posed by foreign fighters, particularly foreign terrorist fighters (OSCE/ODIHR, 2020:12; Byman & Shapiro, 2014:1). They act according to their own beliefs. After traveling to another country, some foreign fighters return home and commit crimes. Aside from the immediate threat, foreign fighters concentrate their efforts on recruiting others to become terrorists. It is argued that (contrary to popular belief) most foreign fighters do not die on battlefields or travel from conflict to conflict. Instead, experience shows that those individuals return home (Cragin, 2017:293). Some authors believe that when they return to their home country, they avoid committing violent crimes in order to avoid drawing the attention of the police. However, this is not to say that they are not a security risk. In the case of Saudi Arabia, Afghan returnees did not immediately turn to violence, but their families served as the main recruiting centers for al-Qaeda in the Arabian Peninsula for more than a decade (Cragin, 2017:294).

As already pointed out, foreign fighters have different profiles as well as reasons for returning. In this connection, two groups of returnees can be distinguished. The first group consists predominantly of men, motivated to leave for humanitarian reasons and/or to fight the Assad regime, who are less violent and relatively free to leave the terrorist regime. The second generation of returnees is more battle-hardened and ideologically committed, had to evade pervasive surveillance by the Islamic State to escape and may have come back with motives to cause harm, including violence against citizens of the European Union and the Western Balkans. There are also child returnees who require special attention, because some have received military and ideological training since the age of nine. Returning children have experienced war trauma, witnessed executions and punishments, and in some cases, been forced to execute people. As the Islamic State has put up many barriers to leaving (strong surveillance and monitoring of communication, threats of execution), authorities need to question the intentions of returnees, investigate whether they have committed violent crimes (including abroad), and whether they have ulterior motives for returning[2], such as planning attacks within Europe (RAN Centre of Excellence 2017:20). The analysis of motives should be the subject of criminal control, which can be best realized through community policing, specifically by cooperating with their friends, reli-

2 For example, in the North African context, Tunisian authorities see foreign terrorist fighters as a potential security threat with unprecedented lethality and the ability to cause mass destruction. In addition, two former Shin Bet (Israel's domestic security agency) officials expressed similar concerns, believing that the agency's main problem is the return of foreign terrorist fighters who could operate within sleeper cells that could one day be activated by an external factor, allowing them to carry out terrorist acts on Israeli soil (Hofman & Furlan, 2020:6).

gious institutions, or through their own actions when they return (Barret, Maher, Pantucci & Ward, 2014:6).

Returnees are viewed as a security risk for two reasons. First, because of their acquired skills, the ability to carry out a terrorist attack or other acts of violence as a result of battlefield experience and training in terrorist network organization. Second, because of their alleged motivation to do so, as many are thought to have been desensitized to violence and brainwashed by joining the Islamic State. They represent war veterans who have become more radicalized while remaining connected to a network of people in the region and around the world who share their worldview (Šikman, 2018:127).

Given that participation in war conflicts in another country is a criminal offense, such individuals are arrested and prosecuted immediately upon their return to their home country. In Bosnia and Herzegovina, the penal policy toward these individuals is very lenient. Employees of the judiciary believe that proving the aforementioned criminal offense is extremely difficult, and suspects frequently claim that they went to a foreign battlefield to do humanitarian work. As a result, a large number of such people receive very light sentences. An additional security issue is the fact that convicted individuals can substitute a prison sentence for a fine[3]. As a result, if a person is sentenced to one year in prison, they can pay the state 30,000 KM and be released on the condition that the prison sentence be replaced with a fine. Also, at the outset, there is a problem in that the state does not consider where such people get so much money with which to pay such sanctions. We believe that such individuals should not be able to substitute a prison sentence for a fine (Popović, 2020:351).

Persons sentenced to prison are subjected to a de-radicalization process after serving their sentences in order to successfully integrate into society. De-radicalization is accomplished through the implementation of various programs (e.g., education programs for children, adolescents, and their parents in order to prevent radicalization; multi-agency programs that enable the development of cooperation between individual institutions and that identify and provide support to people who are at risk of radicalization, etc.).

Prevention is a core element of the EU Counter-Terrorism Strategy and the EU Counter-Terrorism Action Plan, and preventing radicalization and recruitment of new members is a key activity and the most difficult challenge. In 2008, the European Commission established the European Network of Experts on Radi-

3 A prison sentence is replaced by a fine by equating each day of the imposed prison sentence with one daily amount of the fine or with 100 KM if the fine is fixed. See: Criminal Code of Bosnia and Herzegovina (Official Gazette Nos. 3/2003, 32/2003 – rev., 37/2003, 54/2004, 61/2004, 30/2005, 53/2006, 55/2006, 8/2010, 47/2014, 22/2015, 40/2015, and 35/2018), Article 42a, paragraph 2.

calisation – ENER to study radicalization and develop proposals for political and legal de-radicalization measures (Đurđević &Vuković, 2016: 226).

Since large financial resources are required to implement various de-radicalization programs, not all states have the same opportunities to combat terrorism.

For example, the quality of the de-radicalization process in Bosnia and Herzegovina is very low, and it was implemented late and is still in its early stages. Aside from a lack of financial resources, it is important to note the presence of a specific problem related to the fact that a portion of Bosnia and Herzegovina views radicalized individuals as heroes, which thus complicates the process of de-radicalization (Popović, 2020:393).

Based on the above, it can be concluded that the return of foreign fighters, including foreign terrorist fighters, to their home countries poses a significant challenge to the police and other institutions (judicial bodies, social service centers, etc.) in that country. If we analyze the reason for their departure, the events in which they participated, the problems they encountered after their return, the motives for their return, and the degree of radicalization they have attained, we conclude that these individuals pose a high security risk and that there is a likelihood that they will commit one of the crimes, particularly those involving violence. To be more specific, criminal control is necessary to prevent the commission of these criminal acts, including terrorism, as well as the activities of these individuals to radicalize others. In this manner, the prevention of terrorism-related crimes and other violent crimes is accomplished.

IMPLEMENTATION OF CRIMINAL CONTROL OVER FOREIGN FIGHTERS

Foreign fighters pose a significant challenge to all countries (Cragin, 2017:293). Implementing a process of de-radicalization and criminal control over such individuals is a necessity. It is about the organized activity of the police, where they monitor and analyze their behavior as well as assess and predict potential criminal activity. The control is carried out with the goal of gaining a complete understanding of such persons' activities and behavior, more specifically, to gather facts in a timely manner that indicate that the monitored person is preparing or intending to commit a criminal offense, in order to prevent its execution (Žarković, 2009:73). Therefore, a series of operational preventive measures and actions are undertaken to collect information in order to prevent the commission of terrorist or other criminal acts, which may be committed by foreign terrorist fighters upon their return. Events and activities that may indicate the preparation and planning

of criminal acts are monitored (Đurđević & Radović, 2020:60). The existence of a general suspicion that certain events, places, and people may be at risk of committing a criminal offense is a required condition for criminal control to be implemented (Simonović & Pena, 2010:118). The goal is for the police to become familiar with and stay up-to-date on a variety of socially harmful phenomena, criminogenic factors, and interesting environments, as well as gain insight into the movement of specific categories of individuals (convicted persons, persons on parole, etc.) (Vuković, 2017:228). The return of foreign fighters and attempts to integrate them into society carry a high risk of committing a criminal offense, not only terrorism, but also other offences, most notably property crimes and criminal offenses with elements of violence. There is a legitimate fear of this if the financing of those individuals by terrorist organizations is prevented and the state is unable to provide financial assistance or employ them. When all of this is considered, it is clear that quality criminal control enforcement is to a large extent necessary. Within the framework of criminal control, the following operational-tactical measures and actions are implemented: patrolling, identification, inspection of vehicles and luggage, ambushes, raids, use of informants, secret surveillance, and monitoring of potential criminal perpetrators (Simonović, 2004:106). The most effective way for the police to implement criminal control is to perform police and patrol activities directed at criminogenic hot spots (Šetka, 2018:474). What should be emphasized in particular is that great care should be taken to ensure that foreign fighters' rights and freedoms are not violated during the implementation of these measures (Duffy, 2018:123). States must act in accordance with the law, which requires, inter alia, adhering to international human rights law, international humanitarian law, and international refugee law (OSCE/ODIHR, 2020:28–29). Accordingly, it should be noted that a country's police structure organization must be at a level that allows for the required degree of functionality in order to prevent terrorism. When this is the case, it is also possible to implement criminal control over the activities of foreign terrorist fighters (Popović & Šetka, 2018:200). Based on the aforementioned, it is clear that criminal control is a critical tool for police preventive actions and that, with its quality implementation, the commission of criminal acts by foreign fighters can be greatly prevented. Our research focuses on how institutions in Bosnia and Herzegovina control foreign fighters as well as individuals who fought in Bosnia and Herzegovina during the civil war and subsequently stayed and became citizens of the country.

EMPIRICAL RESEARCH

The research was conducted from March 22, 2019 to May 29, 2019, and a structured interview was used as a data collection tool. The research included a sample of 22 respondents who were political representatives, prosecutors, heads of police and security agencies, scientific and educational workers, counter-terrorism experts who deal with institutional cooperation, strategic issues, and strategic planning related to terrorism, and police officers dealing with terrorism control (criminal control). For the purposes of this paper, two questions will be analyzed from the broader research mentioned above:

Table 1. *How do the institutions in Bosnia and Herzegovina control foreign fighters who fought in the country, stayed in it, and were granted its citizenship?* (Popović, 2021:245–246)

	Frequency	Percent (%)	Cumulative percent (%)
Control over such persons is not being performed	11	50,0	50,0
In accordance with the institutions' competencies, and if necessary, such persons are monitored if they are of security interest	3	13,6	63,6
Continuous monitoring of such persons is carried out in accordance with the institutions' competencies	5	22,7	86,4
The citizenships of such persons are reviewed	1	4,5	90,9
I am not familiar with it	2	9,1	100,0
Total	22	100,0	

By analyzing the responses to the question "How do the institutions in Bosnia and Herzegovina control foreign fighters who fought in the country, stayed in it, and were granted its citizenship?" (Table 1), 11 of the total of 22 respondents, or 50%, believe that "control over such persons is not being performed", while three respondents (13.6%) believe that "in accordance with the institutions' competencies, and if necessary, such persons are monitored if they are of security

interest", further, five respondents (22.7%) believe that "continuous monitoring of such persons is carried out with the institutions' competencies", one respondent (4.5%) believes that "the citizenships of such persons are reviewed", while two respondents believe they do not know. The findings of the above-described question clearly show that very little, if anything, is being done to address the issue of the control in question, and that there is plenty of room for improvement. Furthermore, we cannot agree with some respondents who believe that "in accordance with the institutions' competencies, and if necessary, such persons are monitored if they are of security interest". This is supported by the fact that some respondents state that there are persons convicted of terrorist acts on Bosnia and Herzegovina's territory who are not being monitored. They offer as an example the major ideologue, member of the El Mujahid detachment and Bosnian son-in-law, Sheikh Imad el-Misri, who was sentenced to ten years in prison for the terrorist attack in the ancient Egyptian city of Luxor. Bosnia and Herzegovina extradited him to Egypt in 2001, where he spent eight years in prison before returning to Bosnia and Herzegovina to teach at faculties. He also wrote a book titled "Notions That Must Be Corrected", which is said to be a "Wahhabi manifesto". Aside from him, there is also a well-known Egyptian in Bosnia and Herzegovina, Bin Laden's explosives specialist Tariq Mahmud Ahmad al Sawah, who was extradited to Bosnia and Herzegovina by the USA authorities after thirteen years in Guantanamo prison. He is known for having led the infamous "Abu Ubaydah Camp" for training Al Qaeda terrorists to carry out terrorist acts on transoceanic flights and in all types of traffic in the air, on land, and at sea, for which he was directly praised by Osama Bin Laden. In this regard, we believe that continuous criminal control and monitoring of such persons is important, because they are always of security interest, especially when one considers the type of people in question and why these persons are in Bosnia and Herzegovina. It is also important to commend the activities regarding the revision of such persons' citizenship, as some of them were stripped of their Bosnian and Herzegovina citizenship and deported.

Table 2. *How do institutions in Bosnia and Herzegovina exercise control over citizens who are or have been involved in wars in other countries (Syria, Iraq, etc.)?* (Popović, 2021:247–248)

	Frequency	Percent (%)	Cumulative percent (%)
They are controlled through police records based on where they lived prior to travelling to a foreign battlefield, through intelligence and security agency channels, through service for foreigners channels, and through international data exchange channels	10	45,5	45,5
Monitoring of such persons is carried out, they are controlled through field informants, investigations are carried out, and such persons are prosecuted	11	50,0	95,5
Control over such persons is not being performed	1	4,5	100,0
Total	22	100,0	

In response to the question "How do institutions in Bosnia and Herzegovina exercise control over citizens who are or have been involved in wars in other countries (Syria, Iraq, etc.)?" (Table 2), 10 of the total of 22 respondents (45.5%) believe that "they are controlled through police records based on where they lived prior to travelling to a foreign battlefield, through intelligence and security agency channels, through service for foreigners channels, and through international data exchange channels", 11 respondents, or 50%, believe that "monitoring of such persons is carried out, they are controlled through field informants, investigations are carried out, and such persons are prosecuted", while one respondent (4.5%) claims that "control over such persons is not being performed". When considering the responses to the above question, it is evident how Bosnia and Herzegovina's institutions carry out the aforementioned control. We cannot agree with one respondent who claims that "control over such persons is not being performed", since it is obvious that something is being done in this regard. It is also important to note the position of some respondents who believe that when controlling persons who were once participants in some illegal formations, their human rights and freedoms should be taken into account, because it does not necessarily mean that if these persons were once members of said formations, they must wear such a label for the rest of their lives if they no longer perform such activities. We believe that such a viewpoint can have a foothold only if the de-radicalization process is carried out in a high-quality manner toward such persons. Time will tell whether

Bosnia and Herzegovina is successful in this endeavor. Until then, police agencies in Bosnia and Herzegovina must perform continuous criminal control over such persons while strictly respecting their rights and freedoms.

CONCLUSION

The phenomenon of foreign fighters has existed for a very long time. In our region, special attention has been drawn to the arrival of the Mujahideen in Bosnia and Herzegovina as well as the mass departure of people from a large number of countries to foreign battlefields and their joining the Islamic State. Although states made traveling to foreign battlefields illegal, individuals still chose to go.

When going to foreign battlefields, they performed various tasks as members of the Islamic State, among which they appeared as suicide bombers, executioners, and fighters in war conflicts. These individuals exhibit a high level of radicalization. Their return is a major issue for all of the countries they left. The unwillingness of states to implement de-radicalization processes and integrate these persons into normal social flows raises the risk that these persons will commit a criminal act, including a terrorist act. The biggest issue is the lack of financial resources to carry out such activities. Upon their return, such persons are being prosecuted, and the majority of them are sentenced to very light prison sentences, which they replace with a fine, which is a problem given the type of persons in question. When they pay the fines, they become free, and problems arise that are not adequately addressed. Then, de-radicalization programs are used to try to guide them back to normal social functioning. Many countries lack financial resources and high-quality de-radicalization programs, making it impossible to address this issue in an adequate manner. For this reason, the implementation of criminal control is critical, which must also be applied when foreign terrorist fighters are released after serving a prison sentence, as well as when they undergo a high-quality de-radicalization process. This is understandable, because the mere return of such individuals with a high level of terrorist radicalization raises the likelihood of terrorist and other criminal acts. It is necessary to identify such individuals in a timely manner in order to monitor and analyze their behavior. The primary goal of criminal control is to prevent criminal offenses from being committed through preventive work. The findings of the research clearly show that institutions in Bosnia and Herzegovina do very little, if anything, to control foreign fighters who fought in Bosnia and Herzegovina, stayed there, and were granted citizenship. The reason for such viewpoint lies in the fact that one part of Bosnia and Herzegovina perceives these persons as heroes. We believe that it is urgently required to keep continuous criminal control over these persons, taking

into account their origin and motivation for coming to Bosnia and Herzegovina's territory. In addition, it is vital to highlight that the institutions in Bosnia and Herzegovina in a certain way control Bosnians and Herzegovinians who participate or have participated in wars in other countries (Syria, Iraq, etc.). It is also vital to apply continuous criminal control over these persons.

To improve criminal control implementation, it is necessary to organizationally and systematically define the method of monitoring foreign fighters, the coordination of the work of all law enforcement authorities in identifying persons over whom control must be established, and the coordination of the planned criminal control activities. To begin, consistent implementation of the Intelligence-Led Policing model is required to strengthen capacities for data gathering and the generation of objective analytical products to direct activity. This approach was applied in the Ministry of Interior of the Republic of Serbia (Đurđević & Vuković, 2018).

The improvement of data exchange, including the establishment of state-level centers for the integration of such data and the strengthening of analytical potential for identifying threats from terrorist acts, is a prerequisite for the joint activities of various state law enforcement authorities to achieve the expected results. Such centers might operate on the same principles as the European Counter Terrorism Centre. The European Counter Terrorism Center – ECTC – was established within Europol in 2016 with the goal of providing an adequate response to new terrorism challenges. The center serves as an information center, providing law enforcement officials in EU member states and other countries with unique opportunities for exchanging information and intelligence. The ability of ECTC to cross-check newly gathered operational data with data already in the database improves the ability to detect and objectively compile a picture of a terrorist network.

The introduction of the National Criminal Intelligence System in the Republic of Serbia has made a significant contribution to the improvement of data exchange (Đurđević & Milić, 2020)

Apart from exchanging intelligence data among state authorities, similar centers in the Balkan countries might collaborate and exchange intelligence and analytical information with the ECTC. The exchange of data and their quality analysis serve as the foundation for determining which foreign fighters should be monitored. To achieve the goal of criminal control, which is the timely disclosure of information about the planning and execution of a criminal offense and its prevention, it is necessary in any case to consider the possibility of forming joint teams of different state authorities to undertake criminal control. Aside from the aforementioned, it would be beneficial if each country had a counter-terrorism coordinator, as the EU does. The EU counter-terrorism coordinator was appointed for a five-year term in July 2021 and began work on October 1, 2021. The coordinator's work focuses on the implementation of measures to freeze funds and financial assets used to sup-

port terrorism, as well as measures related to police and judicial cooperation. The responsibilities of such a coordinator in Western Balkan countries would include the coordination of all services in the fight against terrorism and the implementation of measures, including the confiscation of property used to finance terrorism. The social danger of terrorism compels us all to work systematically on improving the professional and organizational capacities required to combat this negative social phenomenon. Special attention should be paid to strengthening everyone's integrity, beginning with police officers (Simonović, Đurđević & Janković, 2017), so that unethical behavior does not become a way for terrorist threat bearers to avoid criminal responsibility.

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FINANCIAL INVESTIGATIONS AND CONFISCATION OF PROPERTY AND OTHER CRIMINAL RELATIONS IN THE REPUBLIC OF NORTH MACEDONIA

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INTRODUCTION

Organized crime is a special form of professional crime that became actualized in the middle years of the 20th century, and especially for "white collar" crime, for which Sutherland gave an explanation in 1939 and in his definition emphasized the status properties and abuse of power of the perpetrators as well as the emerging forms of criminal activity. However, the problem of legalization of criminally acquired proceeds, that is, money laundering, is getting more popular, especially with the case of Al Capone and his accountant Meyer Lensky. Crime is getting more and more organized by involving some of the criminal structures with people from the government structures from the lowest (administrative) positions, all the way to the highest, those who "are in power". This problem is even more serious, particulary among countries in transition, in which the Republic of North Macedonia (RSM) has been for over three decades.

The Republic of North Macedonia in the long transition road is constantly facing challenges in which the goals of prosperity will be achieved for entry into NATO, where it is a full member, but also on the road to accession negotiations with the European Union for participation with organising crime and corruption. In that direction, activities are constantly undertaken for reforms and harmonization of national legislation in the direction of improving laws, establishing certain state institutions and bodies, but also implementing problems with the detection of

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criminal cases and the prosecution of perpetrators, especially the perpetrators who abused their position, power or contributed to the high level of corruption. In recent years, several researches have been carried out on financially motivated crime, where knowledge has been obtained that the structure of this crime is dominated by crimes against official duty and crimes against public finances, payment transactions and the economy (Arnaudovski, Nanev and Nikoloska, 2009), and the criminal offenses "Abuse of official position and authority" and "Tax evasion" (Nikoloska, 2013 and 2015). In the published Report on the conducted assessment of the risk of money laundering and financing of terrorism published by the Financial Intelligence Authority in 2020 for the research period 2016 - 2018, it is presented that the listed crimes have a high degree of risk of connection with money laundering.

This research is aimed at collecting data on the scope, structure and dynamics of the mentioned crimes based on the statistical data published by the Ministry of Internal Affairs and the Financial Police Administration as directly competent state authorities, as well as data on the amount of damage caused, that is, the illegally acquired property benefit, as an indicator of the need for a financial investigation and enabling its confiscation.

FINANCIAL INVESTIGATION

Every organized state should work on developing concepts and work on the application of efficient means and methods for dealing with organized crime by revealing criminal structures, forms and forms of criminal activity, the spread of the criminal network, and especially on clarification of the involvement of "officials", their criminal roles and especially to determine the type, amount and flows of criminal proceeds in all forms of money, movable and immovable property, property rights, etc.

The international community, especially the international bodies, in their documents emphasize the issue of financial investigation, which is necessary for the full disclosure, clarification and provision of evidence for the crime from which the criminals result in high criminal profits. The need for recognition of the value of financial information and its provision, analysis in the direction of discovery, timely provision and enabling the confiscation of criminally acquired proceeds, regardless of their amount, shape, etc., is increasingly highlighted, as well as the work of international cooperation and securing and confiscating property and other proceeds "sheltered" abroad. The non-identification of criminal profits is a "victory" for crime and a sufficient motive for the perpetrators to develop their criminal activity by acquiring new riches. Of course, a part of the funds is used for corrupt

activities against civil servants and politicians who support the realization of the criminal activities of organized criminal groups and individuals. (Nikoloska, 2022)

The financial investigation is a specialized criminal investigation that aims to determine and document the criminal profits, that is, to find the entire illegally acquired property and property benefit that is the result of committing a crime and to confiscate it in a prescribed legal procedure. As part of the general prevention to prevent the commission of crimes, where economic profit is the leading motive of the perpetrators, and the leading motive for the investigators is finding, securing and enabling the confiscation of all criminal property and other proceeds of crimes, as the main demotivation to the perpetrators should be the confiscation. (Simonovski & Evgo: 2022)

FATF Recommendation 30 defines a financial investigation as: "an investigation of financial matters related to criminal activities with the aim, among other things, of identifying and tracing the proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation".

The financial investigation is undertaken in parallel with the criminal investigation in order to promptly take measures to secure the illegally acquired property, money and other financial returns in the early stages of the procedure, which is key to the efficient and complete investigation of the criminal case, especially in cases of organized crime, but also of individual financially motivated crime.

The foundations of the financial investigation derive from the provisions of the international conventions that provide recommendations for the incrimination of money laundering as a separate crime, as well as recommendations for legal provisions for enabling the monitoring, securing and confiscation of criminally acquired proceeds. The Vienna Convention recommends the incrimination of money laundering with multiple criminal activities, especially in the part of "hiding or concealing the true nature, source, place, disposition, movement, rights in relation to ownership or over property, which originate from crime. The Strasbourg Convention specifies some of the provisions of the Vienna Convention, and one of its goals is to facilitate international cooperation in the investigation, seizure and confiscation of proceeds from all types of crime. The Palermo Convention provides recommendations for dealing with organized crime, and especially money laundering as a crime that is connected to predicate crimes, and in order for them to be fully clarified, in addition to the charge for first-degree crime, a charge for money laundering is also recommended, as the investigation should focus on providing evidence of financial flows from which the origin of the money and the connection to the predicate crimes can be established. International conventions for proving knowledge, intent or purpose according to objective factual circumstances, should be strictly legally elaborated and specified, in terms of determining which circumstances should be considered as elements of such relevant

factual situation (the manner, the place, the subject, the amount of the payment, the basis for the executed transaction, etc.) (Nikoloska, 2015).

The financial investigation is a problem that is continuously paid attention to, so that there is more and more talk about the financial investigation and connection with the financial flows, i.e. "path of financial transactions" through legal financial flows in the country and abroad and strengthening of international cooperation. Almost all international acts emphasize that the monitoring of financial flows should be focused on the proceeds generated from criminal activities (tax evasion, illicit drug trade, corrupt crimes, money laundering, etc.) and from proceeds generated by organized and serious crime such as violent property crimes, illegal human trafficking and illegal migration, etc. This is highlighted in the "Coherent policies for combating Illicit Financial Flows" adopted by the UN and OECD in 2016 (Coherent policies for combatting Illicit Financial Flows, https://www.un-.org/esa/ffd/wp-content/uploads/2016/01/Coherent-policies-for-combatting-Illicit-Financial-Flows_UNODC-OECD_IATF-Issue-Brief.pdf).

At the United Nations Conference on Trade and Development (UNCTAD) in collaboration with the United Nations Office on Drugs and Crime (UNODC) at the Expert Meeting on Setting Indicators for Determining Illegal Financial Flows, held in December 2017, two elements were identified that reflect the illegal capital of illegal financial flows (that which is generated based on the misuse of state funds and the proceeds of crime) and the legal capital of illegal financial flows (that which is generated from tax evasion and tax avoidance or misuse of regulations). According to them, measuring the amount of illegal financial flows is problematic, because the common element among the types of illegal financial flows is not illegality, but the use of financial secrecy that remains unnoticed by the public and regulatory institutions. (Simonovski & Evdo, 2022)

In many cases, financial investigations are necessary to develop evidence against sophisticated high-level criminals in order to dismantle transnational and organized crime networks. Financial investigations can also contribute to a jurisdiction's National Risk Assessment, as it provides knowledge of crime patterns. Its benefits are evident in assisting the criminal investigation against all serious and organized criminals through:

- Identifying motives, associations and connections with people and places.

- Identifying the use of other services such as telephones, transport and amenities relevant to the case.

- Locating or identifying suspects, witnesses or victims.

- Providing information on the suspect's movements (proactive, covert use of financial information).

- Providing information to address the problem of prolific and priority offenders where no previous method has been successful.

- Tracking of persons, including the missing persons. (https://home-affairs.ec.europa.eu/financial-investigation_en)

The forensic investigation of organized, as well as other forms of property-motivated crime, can be improved by the selective use of various methods of financial investigation, with which, as a modern achievement of forensic science, it is possible to come to:

- Information that makes it possible to identify, send and value property that can be subject to seizure (confiscation).
- Information on the investment of illegally acquired funds in legal business operations.
- Information about legal entities that are used as a "cover" for criminal activities.
- Additional relevant evidence contained in the documentation on the economic activity of criminal organizations.
- Disclosure of evidence of existence or concealment of illegally acquired property.
- Detection of evidence of previously unknown activities of criminal organizations or individuals.
- Discovery of previously unknown witnesses, as well as other persons and business entities involved in criminal activity.
- Information relating to other crimes committed, which may help to clarify the wider criminal activity of individuals and criminal organisations.
- Discovery of international financial links and operations between criminal organizations located in different countries.
- Discovery of high-quality evidence contained in various financial documents, on the basis of which the method of transfer, the time of transfer and the place of investment of the illegally acquired funds can be determined.
- Information that enables the application of freezing measures due to the prevention of any handling, transfer or placement of illegally acquired property.
- Other information important for the criminal processing of cases with organized, i.e, property-motivated crime. (Bošković & Marinković, 2010).

The national criminal legislation of the Republic of North Macedonia (Criminal Code and the Law on Criminal Procedure) provide for a series of measures according to which temporary confiscation, i.e. freezing of property or property benefit is enabled. These provisions allow the financial investigation to be conducted in parallel with the criminal investigation. All these measures for seizure of property and property benefit for the purpose of security are imposed by a

court order passed on the proposal of the public prosecutor, and they can also be imposed on third parties.

In order to achieve effectiveness in the prevention and fight against all forms of crime, the financial investigation should be focused on four basic postulates:

1. Monitoring the flow of money.
2. Freezing.
3. Forfeiture and
4. Confiscation of the proceeds generated by all forms of crime.

Financial investigations are aimed at identifying financial flows that can become illegal in three ways: from the beginning, when they are earned by a predicate crime, when legally earned money is transferred through the financial system in ways that make it illegal, and when they are used for the purposes of corruption or tax evasion, or when, through a series of bank transactions, a process of money laundering is carried out through the domestic or foreign financial system. (https://globalinitiative.net/wp-content/uploads/2020/08/)

Asset tracking and identification involves the process of criminal and financial investigation to find, locate and secure money, assets or other proceeds of the suspect or members of his family, as well as other persons involved in any way in the criminal situation.

A financial investigation is a secret procedure and should always be conducted without drawing attention to the suspect/s. According to the Law on Criminal Procedure, the Public Prosecutor is responsible for the implementation of the criminal and financial investigation, while the investigative authorities, through an order received from the Public Prosecutor, take measures and activities in the direction of providing evidence for a criminal offense, proceeds that are generated from the crime, as well as a process of money laundering through which criminals seek to distance illegally obtained proceeds from their true source.

After tracking and identifying the property and after the case moves into the open phase of the investigation, the property should be subject to freezing, seizure or retention, in order to prevent its movement in the period until confiscation, that is, before a final judgment is passed. If the property is not frozen or seized, the suspected perpetrator may move the property in an attempt to conceal or dispose of it. The measure of freezing and confiscation is carried out by a court order after an Order submitted by a competent Public Prosecutor and after a financial analysis and investigation and also locating the proceeds of crime. When property is subject to a court freezing order, it stays where it is, for example, the subject of the freeze could be a bank account. When the property is subject to a court order of

seizure, it is taken into the ownership of the state; for example, the subject of seizure may be a car. Freeze and seizure are also known as "sequestration". The term "retainer" is used to describe the temporary prohibition of the transfer, conversion, sale or movement of property owned by a particular person, also by court order. In that case, the property usually remains with the owner. A restraining order is usually issued for a person, not property, although the property may be referred to as "retained" or the subject of a restraining order. "Freeze" or "seizure" shall mean the temporary prohibition of the transfer, conversion, sale or movement of property or the temporary assumption of supervision or control of property, pursuant to an order issued by a court or other competent authority. (https://archive.rai-see.org/wp-content/uploads/2020/02/Handbook-int-coop-MK-web.pdf)

An effective financial investigation assumes that the competent authorities involved in the financial investigation have the opportunity to obtain a complete financial picture of the suspected natural and juridical persons and their close relatives and other persons connected with them. It is imperative to enable the widest possible access to state databases for police officers, by raising the level of cooperation with the competent state authorities and institutions whose databases contain precisely the data on movable and immovable property and property rights.

The priority in that cooperation is the protection of personal data and respect for human rights, and in that direction is the Platform for Interoperability with the aim of exchanging information in a systematic, simple, safe and functional way. According to the Platform, financial investigations should be proportionate, conducted without discrimination and be justified in view of the suspicion of a crime committed. There are two activities particularly important:

- Recording the movement of property during the execution of the crime
- Sharing information with other authorities involved in the financial or criminal investigation of the specific crime or suspect.

An effective financial investigation aimed at the confiscation of illegal assets assumes that the competent authorities involved in the financial investigation have the opportunity to obtain a complete financial picture of the suspected natural and juridical persons and their close relatives and other persons connected with them. The full picture implies insight into databases related to ownership of vehicles, engines, vessels, aircraft, real estate, securities, employment data, bank account data, share of ownership in legal entities, etc. All these data are located in certain electronic or written databases, which are managed (collected, updated and processed) by certain institutions. At the same time, for the efficient implementation of the actions that constitute the financial investigation, two aspects are relevant:

- The way in which the authorities conducting financial investigations obtain data from the institutions that manage the databases

• The speed of obtaining the data.

The scope of the financial investigation must include investigative and analytical activities relating to:

• Searching and identifying a property benefit and discovering the type, value and recipient of the property benefit.

• Identification of all possible transfers of property benefit by suspects or other recipients of property benefit to close relatives or other related persons and all circumstances related to those transfers.

• Discovery of other property in the possession of the perpetrator of the crime and the recipient of the property benefit.

• Disclosure of the circumstances of the action and behavior of the suspect or the recipient of the property benefit, which would indicate a danger that the property benefit will be used for further incriminating action or that there is a specific danger that the confiscation of the property will be impossible or difficult after the completion of the criminal procedure.

The financial investigation should result in the discovery of other property corresponding to the unlawfully acquired property benefit that would be subject to confiscation, in the event that the property acquired by the crime is not found. For a successful and effective financial investigation, it is necessary to define the cooperation, which must imply targeted, coordinated and efficient work of the bodies that deal with criminal investigations and conduct financial investigations, under the direction of the public prosecutor. The goal is to discover the crimes and their perpetrators and gather enough evidence needed for a reasoned public prosecutor's decision. (Strategy for strengthening the capacities for conducting financial investigations and confiscation of property for the period 2021 - 2023 with an action plan.)

MEASURES AND ACTIONS OF THE FINANCIAL INVESTIGAION

The financial investigation is carried out in parallel with the criminal investigation and they are intertwined in the sense of taking concrete operational-tactical measures and actions, especially with the review of parts of buildings and insight into business documentation, relevant data and facts about economic-financial documentation and connection of juridical entities, natural persons in the country and abroad and based on that, the financial investigation monitors the flow of money, especially its generation and the existence of elements of money laundering.

The complexity of criminal cases and the use of new methods and tactics of criminal action require the need for new criminal tactics and methods of criminal investigation, but the old traditional tactics and methods should not be neglected and appropriate operational combinations should be made. Criminal cases can be simpler, but also quite complex, and the provision of relevant evidence is a complex procedure in which new methods developed by forensics should be applied, for this criminality the forensic audit is significant, which has its own specific methods and tactics for securing of evidence of this criminality. (Cvetković & Kešetović, 2018)

In order to obtain relevant data on financial transactions and bank accounts, Article 200 of the Law on Criminal Procedure provides for the investigative action "Handling of data that is a bank secret, property in a bank safe, monitoring of payment transactions and account transactions and temporary suspension on the execution of certain financial transactions" (The Official Gazette of the Republic of Macedonia No. 150/10) and the same is implemented at the request of the public prosecutor and with a decision of the court if there is a well-founded suspicion. In the preliminary and in the investigative procedure, a decision is made by the judge of the preliminary procedure at the request of the public prosecutor, and after the indictment is filed, the court before which the investigation will be held.

SEIZURE AND CONFISCATION OF PROPERTY

In recent years, the trend of reaffirmation of confiscation of property as a measure that has the property of the offender, together with the special confiscation consisting in confiscation of objects that have been used, occurred or are the object of a criminal attack, has begun in European legislation. It is about a new trend of criminal prosecution in the sense of searching not only for the crime and the perpetrator, but also for the criminal income created by illegal activities, as the most effective instrument in the fight against organized financially motivated crime.

The confiscation of property is the final phase, the realization of which is conditioned by a successful financial investigation and provided data on the type, amount and location of the property, other types of property, such as the proceeds of a criminal offense, most often from predicate crimes and the determination of elements of money laundering and the existence of legal grounds for security in terms of freezing and confiscation of criminally acquired proceeds,

Article 202 of the Law on Criminal Procedure (The Official Gazette of the Republic of Macedonia No. 150/10) provides for the measure "Temporary confiscation of property or objects for the purpose of security" as a measure that can be taken

in the preliminary and investigative procedure at the request of the public prosecutor, and the decision is made by the judge in the preliminary procedure or the judicial council, where the deadlines are 12, that is, 24 hours. In cases of urgency, the criminal or financial police may seize property or objects, seize them or take other necessary temporary measures to prevent any use, alienation or disposal of them, but the same must be immediately informed to the public prosecutor, and the measures taken must be approved by the judge of the preliminary procedure within 72 hours of their taking.

The base for confiscation is the direct and indirect property benefit obtained by a criminal act and it is confiscated by a court decision which determined the commission of the criminal act under the conditions provided by law. Also, in accordance with the ratified international agreements, the confiscated property can be returned to another country. (The Official Gazette of the Republic of Macedonia No. 19/04)

In addition to the immediate property benefit from the offender, the indirect property benefit will also be confiscated and it is consisted of:

- The property into which the benefit obtained from a crime was transformed or converted.
- Property acquired from lawful sources, if proceeds of crime are mixed, in whole or in part, with such property, up to the estimated value of the mixed proceeds of crime, and
- Income or other benefit arising from the benefit obtained from a crime, from property in which the benefit obtained from a crime has been transformed or converted, or from property in which the benefit obtained from a crime has been mixed, up to the estimated value of the mixed benefit obtained from a crime.

The property benefit is also confiscated from members of the offender's family to whom it was transferred, if it is obvious that they did not provide compensation corresponding to the value of the property benefit obtained, or from third parties if they do not prove that they provided compensation corresponding to the value of the object or property the acquired property benefit. Objects that have been declared cultural heritage and natural rarities, as well as those to which the injured party is personally bound, are confiscated from third parties regardless of the fact that they did not know or could not or were obliged to know that they were obtained by a criminal act. (Articles 97 and 98 of the Criminal Code of the Republic of Macedonina, "Official Gazette of the Republic of Macedonia" No. 19/04 and 114/09)

A legal provision has also been introduced for extended confiscation, and from the perpetrator of a crime, on the basis of the law, property is also confiscated from third parties to whom it was transferred when it is obvious that they did not

provide compensation corresponding to its value, or from third parties if they do not prove that for the object or property provided adequate consideration.

Confiscation is provided for legal entities when the property is acquired in the name and on behalf of the legal entity, but it can also be confiscated from the legal successors of the legal entity. (Article 96 - k of the Criminal Code of the Republic of Macedonia, "The Official Gazette of the Republic of Macedonia" No. 114/09).

The confiscation of property, property benefit and confiscation of objects in the Macedonian criminal law is a separate measure from the system of sanctions, with the imposition of which the indirect or immediate property benefit obtained by the crime is forcibly taken away.

ANALYSIS OF THE SITUATION WITH THE ORGANIZED FINANCIAL CRIME FOR THE PERIOD 2017-2021 IN RNM

For the investigated period 2017 - 2021, data presented in the Annual Reports of the Ministry of Internal Affairs, the Financial Police Authority and the Financial Intelligence Authority have been analyzed in terms of the amount of illegally acquired property, primarily in predicative crimes, with the aim of making a comparison in relation to how many of them have been charged with the crime of "Money laundering and other proceeds of crime".

The analysis is focused on the crimes "Abuse of official position and authority" and "Tax evasion" as crimes where the financial motive is the most prominent, but also for them data is shown on the amount of the illegally acquired benefit that can be determined in the process of the criminal investigation. and the financial investigation, and those data are published in the analyzed reports.

In the Report on the assessment of the risk of money laundering and terrorist financing for the period 2016-2018, published in 2020 (Financial Intelligence Administration, https://ufr.gov.mk/wp-content/uploads/2020 /05/NRA-Izvestaj-za-web-19-05.pdf) year and on the basis of the presented data certain decisions are based, especially for the formation of special organizational units for the implementation of financial investigations. The report is the work of a project on which several scientific, expert and professional persons from several institutions worked with the application of an appropriate methodology of securing, processing and analyzing data. As part of the team, I was actively involved in the analysis of the data on detected crimes, the amount of illegally acquired property and the degree of risk of connection with money laundering. As an indicator of connection is definitely the amount of criminal profits that are subject to legalization, i.e. money laundering. A total of 226 crimes were detected for the crime of "Tax Eva-

sion", with illegal property benefits amounting to 1 (one) billion and 150 million denars. In the case of other crimes ranked with a high degree of risk, the amount of the illegally acquired property benefit is shown, which is much lower compared to the listed ones.

The data from the Annual Reports of the Ministry of Internal Affairs on detected cases by group of crimes and the amount of criminal proceeds were also analyzed. Only the economic crimes have been analyzed because in them the amount of illegally acquired property has been declared, which is the result of an analysis of the economic and financial documentation. While for other crimes, these data were missing due to the unmade assessment, i.e. the unconducted financial investigation that can determine the total criminal proceeds in the form of property as well as complete clarification of the financial flows, i.e. the movement of the finances of the suspected perpetrators.

In the researched period 2017 - 2021, data on total economic crime and especially on the crime "Abuse of official position and authority" were analyzed according to Article 353 of the Criminal Code of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 114/09...248 /18) according to which it can be noted that this crime dominates in all years, except in the years of the "Covid 19" pandemic, when the execution of economic health crimes intensifies. The highest criminal proceeds were obtained from this crime, or out of the total 8 billion and 475 million denars, 4 billion 457 million denars are almost half of the total illegally acquired proceeds. The acquired illegal property benefit is usually to the detriment of the State Budget, joint stock companies and limited liability companies. Money laundering as a second-degree crime in the researched period is represented both through detected crimes and through reported perpetrators and the amount of "laundered" money. According to the analysis of cases from the criminal practice, especially in the part of money laundering, it is mostly connected with abuse of official position and authority, falsification of documents, etc. (https://mvr.gov.mk/Upload/Editor_2020.pdf)

Table no. 1 *Volume, structure and dynamics of detected crimes, reported perpetrators and amount of illegally acquired property according to the data of the Ministry of Internal Affairs of the RSM for the period 2017-2021*

Year	Total economic crimes			Article 353			Article 273		
	Crimes	Perpe-traitors	Amount	Crimes	Perpetr.	Amount	Cr.	Perpetr.	Amount
2017	851	1112	2,7 000 000 000,oo	195	341	1.9 000 000 000,oo	6	17	179.5 00 000,oo
2018	1079	1506	1,9 000 000 000,oo	274	454	1.4 000 000 000,oo	20	23	1.1 00 000,oo
2019	1050	1351	2,9 000 000 000,oo	207	363	890 000 000,oo	33	49	84.3 00 000,oo
2020	5335	6387	693,3 000,oo	152	217	451,9 000 000,oo	9	11	
2021	3857	4440	282,5 000 000 ,oo	129	222	115,4 000 000,oo	6	10	27.3 00 000,oo
Total	12 172	14 796	8. 475 000 000,oo	957	1 597	4.457 000 000,oo	74	110	292.2 00 000,oo

The annual reports for the researched period were also analyzed, but due to the different methodology of keeping the data, they show the total illegal property benefit for all detected crimes, but according to the number, the two crimes mentioned are the most represented, so it is assumed that from the same ones in the largest percentage is also the displayed illegal property benefit.

In 2017, a total of 72 crimes were detected, 111 perpetrators were reported, of which 22 crimes are for tax evasion, 14 for Abuse of official position and authority and for other crimes, and the total amount of illegal property benefit is 5 895 129 935,00 denars.

In 2018, a total of 107 crimes were detected, 167 natural persons were reported as responsible persons in juridical entities and against 64 juridical entities, with a total amount of MKD 3,013,217,645.00 illegally acquired amount. Of the total crimes, 42 are for tax evasion and 14 for abuse of official position and authority.

In 2019, a total of 122 criminal acts were detected and 129 natural persons were suspected as responsible persons in juridical entities and against 66 legal entities, which caused damage to the Budget in the total amount of MKD 9,315,337,006, the most numerous being tax evasion with 55 criminal acts , abuse of official position and authority are 10 criminal acts.

In 2020, a total of 109 crimes committed by 137 natural persons as responsible persons in juridical entities and against 51 legal entities were discovered, which caused damage to the Budget in the total amount of MKD 1,176,170,845, the most numerous being tax evasion with 57 criminal acts. 11 of which are abuse of official position and authority.

CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis made using the normative method, statistical methods and the method of content analysis, several conclusions can be drawn, namely:

The Republic of North Macedonia is continuously working on the harmonization of the national penal legislation, but also on the adoption of strategies and protocols for the implementation of financial investigations.

The goals for the need to intensify the financial investigations are also derived from the conducted research, first of all, about the amount of the illegally acquired property benefit and from which criminal acts most often originate.

According to the research and analysis of the data for this paper, the indicators confirm that the crimes "Abuse of official position and powers" and "Tax evasion" are crimes from which the perpetrators obtained huge financial returns expressed in billions and they are mostly to the detriment of the Budget of The state, thereby indicating the need for timely financial investigations and based on relevant data through a legal procedure for seizure and enabling confiscation.

The legal procedures are an important prerequisite for the realization of the financial investigation, and the created protocol elaborates the elements and phases of the investigation, but time will show how effective they will be, because the period for obtaining relevant indicators is still short.

In the Republic of North Macedonia for the past two to three years, several legally binding court decisions have been made for the confiscation of property, but their implementation has been difficult or is ongoing.

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COMPENSATION FOR DAMAGES DUE TO BREACH OF TRADE SECRET

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THE CONCEPT OF TRADE SECRET

Trade secrets are confidential information that may be technical in nature, such as drawings and designs, prototypes, manufacturing processes, unpatented or unpatented inventions, know-how, formulas or recipes, genetic materials and fragrances. In order for the information to be considered as business secrets, it is necessary for them to meet the following requirements:

(1) they are secret because they are not as a whole, or in terms of the structure and set of their constituent parts, generally known or easily accessible to persons who normally come into contact with such information in the course of their activities,

(2) have commercial value because they represent a secret,

(3) the person lawfully controlling them has taken reasonable steps in the circumstances to preserve their secrecy.

The category of business information that is kept secret does not always have to be information that could be qualified as trade secrets in terms of intellectual property. Namely, other types of confidential business information are included within the broader concept of trade secrets. Trade secrets and economic activities are inextricably linked and have existed since man began to earn economic gain.

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Through the obligation of the taxpayer to cooperate with the tax authority, to submit data for tax purposes, as well as to declare them, a space has been created for the taxpayer to reveal information and data from his personal, family and professional life. Hence, there is a need for legislation to protect taxpayers' rights to data confidentiality. Taxpayers in Serbia have the right to confidentiality of data.

In order to be considered trade secrets, the information in question must not be generally known to the public or to persons outside the company who have been informed of the substance of the information. For a trade secret to be truly a trade secret, the information must be confidential enough to provide real or potential economic and business advantage or benefit to the person who possesses the information.

A trade secret is any information that has commercial value because it is not generally known or available to third parties that could be of economic benefit by its use or disclosure, and which is protected by its holder by appropriate measures in accordance with law, business policy, contractual obligations or appropriate standards in order to maintain its secrecy, and the disclosure of which to a third party could harm the holder of a trade secret.

All trade secrets are confidential information. However, some business information will not reach the level of trade secret, but it can also be considered confidential. This may include those documents, physical objects, categories of documents that have been marked as confidential. Furthermore, these can be physical areas (parts of the building, rooms, cabinets, etc.) that are marked as confidential. Procedures, processes and methods, computer programs and all other information, objects, locations and other things that the company wants to treat in such a way - can also be marked as confidential.

The law provides a more precise definition of trade secrets in relation to the previous Law on the Protection of Trade Secrets, especially by introducing measures that the holder of trade secrets must take to preserve the secrecy of information.

The law defines this measure as "reasonable measures to preserve the secrecy of information", which include, among other, the drafting of an internal act on the handling of trade secrets and the circle of persons and their rights and obligations when handling trade secrets, or measures of physical or electronic protection of accessing and handling trade secret. In that sense, in relation to the earlier formulation of "appropriate measures" prescribed by the Previous Law, which was not precisely determined, the Law provides concrete examples, stating *exempli causa* what is considered to constitute reasonable measures. Despite the fact that the measures for maintaining the secrecy of information in the Law are just examples, it seems that the implementation of some of the listed measures by the secret holder in a possible dispute would facilitate proving that some information or

data is a trade secret. Another novelty of the Law is that it prescribes certain situations when it will be considered that obtaining, using and disclosing information considered a trade secret is legal:

- if the information was obtained through independent discovery, or
- by exercising the right of workers or workers' representatives to information and consultation in accordance with special regulations or regulations of the European Union, the General Law retains the general wording that obtaining, using and disclosing information will be in accordance with the law if done in good business customs.

Documents and data that represent a trade secret are technical and technological solutions and procedures applied in production (projects, research results, tests, samples, designs, models, inventions, patents and licenses, etc.) as well as data on the adoption of new and improvement of existing production, business policy programs, data on capacities, volume and structure of production, data on purchases of goods and data on possibilities of payment of obligations, on the state of debts and receivables, on loans and financial condition.

DESIGN/METHODS/APPROACH
TRADE SECRETS AND PATENTS

Patent law is dedicated to the promotion of inventions, while ensuring the protection of socio-economic interests. The financial aspects of research and the lack of alternative investment protection impose the need for their patent protection (Damjanović, 2021: 457). Patent protection is expensive, especially the patent granting procedure which can take up to a decade! Inventors face the challenge of protecting an invention with a patent or keeping a trade secret? A secret carries with it the risk of discovery, and the inventor has no subjective right to it as in the case of a patent. The solution to this problem, which is most often applied in practice, is a combination of patents and trade secrets. Inventions are protected by a patent, and the accompanying technical knowledge, which does not meet the requirements for patent protection, is protected as a trade secret.

The conditions for the protection of an invention are novelty, inventiveness and applicability. Novelty is examined by comparing submitted patent to concrete, defined, technical solutions that are explicitly chosen from the overall state of technology, which means that the novelty is "overthrown" by the existence of one document or one product from the overall state of technology that has the same characteristics as the submitted invention. In determining the current state of technology, we can conclude from all of the above that the patent offices mostly limit

the volume and content of previous technology state to the subset of technology states that are defined in relation to the field of the invention. A patent can be acknowledged as an invention only in cases where the details of it were not previously published. Since institutional and personal work of researchers was until recently valued solely based on scientific work, publishing was considered more important than the attempt to provide patent protection. However, after submitting a patent, researchers can publish an invention without violating its patent protection. The research of the European Commission for Internal Market and Research shows that in most cases there is no postponement of publishing that could relate to the previous admission of the patent application; so, the practice of combining patents with publishing papers is increasingly applied (Damjanović, 2020: 326).

Filing patent applications and monitoring possible infringements involves significant costs. Therefore, companies with limited financial resources may choose methods of protection that require lower costs, such as secrecy. The most important reason why small start-ups and small high-tech companies refrain from patenting is the costs associated with it. Research based on UK data from 2013 found that companies that claim to have limited financial resources for innovation activities prefer secrecy over patenting, while larger companies often take advantage of patents. However, global legal and economic trends suggest that the growth in the use of trade secrets is outpacing the growth in patents.

Trade secrets play an important role in the exchange of knowledge between research institutions and companies, especially SMEs. They provide the most jobs and create new ones, making the greatest contribution in added value, turnover, profit and in the most developed economies and exports. Today, in the conditions of dynamic development competition, companies are looking for their chance to survive, grow and develop their business based on knowledge and skills, flexibility, inventiveness and speed of reaction to market signals and changes in the business environment. In this process, it is increasingly difficult for SMEs to develop in isolation, without cooperation with knowledge centers (universities, institutes, laboratories), advisory service providers, public institutions and at the same time with other SMEs, often joining various forms of business associations. Considering the different stages in the development of products or services and the number of actors in the business environment, intellectual property and its protection have an increasing weight in the daily operations of SMEs.

The current Law on the Protection of Business Secrets of the RS was adopted with the aim of ensuring adequate protection of business entities that keep certain business information secret from their unauthorized acquisition, disclosure or use. Unauthorized publication or use of this information may cause serious material damage to economic entities. It is also used to protect inventions during the patent application process, as well as non-patent or non-patentable data (e.g.

lists of business partners and clients, business strategies, advertising campaign strategies, etc.).

The issue of trade secret protection in the European Union (EU) was the responsibility of national legislations, whose solutions differed from each other, even to a significant extent. The unequal level of trade secret protection in the single market is not conducive to legal certainty, which is why the European Commission prepared and in 2013 adopted the Proposal for the Directive on Trade Secrets. The main goal that the Commission had in mind when drafting the aforementioned proposal is to standardize the national regulations of the member countries with regard to two key issues: determination of business secrets and minimum means of protection. The proposal of the European Commission was adopted on June 8, 2016 in the form of Directive 2016/943 of the European Parliament and the Council on the protection of undisclosed knowledge and experience and business information (trade secrets) from illegal acquisition, use and disclosure. that globalization, mass use of electronic communications as well as increasingly long supply chains are the causes of increased risks of illegal acquisition, abuse and disclosure of trade secrets. Such abuse harms the legitimate holders of trade secrets because they cannot benefit from innovations that they were the first to come up with (Jovicic, 2018:13).

The Directive provided for a two-year period within which member countries were obliged to implement the provisions of this Directive in their legislation, which they did by implementing provisions on trade secrets into already existing laws or by passing special laws. Thus, Austria added a number of new provisions for the implementation of the Directive to the already existing Unfair Competition Act. The new provisions require companies to take appropriate measures to protect trade secrets from disclosure and in order to take advantage of the expanded catalog of sanctions introduced by this act, which means that companies must recognize their knowledge and practices and take active steps to protect them, such as to ensure that employment contracts contain an obligation of confidentiality after employment. Belgium has also implemented these provisions in already existing laws (The Code of Economic Law, The Judicial Code and The Act on Employment Contracts) in such a way that it defined business secrets, legal and illegal actions in connection with trade secrets and products dealing with violations of the law and introduced certain protection measures. Bulgaria, the Czech Republic, Poland and Italy followed this example, i.e. the implementation of provisions from the Directive into already existing laws and regulations, while member states such as Germany, Hungary, the Netherlands, Luxembourg, Croatia and, as we have already mentioned, our countries, adopted new laws on the protection of trade secrets, which regulated the very definition and character of trade secrets, provided for the measures that holders of trade secrets must take

in order to protect them, as well as the protection procedure itself and the means available to them in order to protect trade secrets (https://advokatskafirmasajic.com/blog/bs/zastita-poslovne-tajne-u-skladu-s-direktivom-eu-2016-943-i-pozitivnim-propisima).

FINDINGSEGAL FRAMEWORK FOR THE PROTECTION OF BUSINESS SECRETS

Jurisprudence and legal doctrine have different views on whether the protection of trade secrets should be implemented within the framework of contract law, or within the framework of property and even criminal law. The answer to this question regularly starts from the fact that trade secrets are part of the most valuable assets of legal entities and that the law should protect these assets in order to prevent those who have abused the trust of trade secret holders from obtaining economic benefits. Therefore, the first explanations for the legal protection of trade secrets refer to abuse of trust, and bearing in mind that the violation of trade secrets most often refers to the employment relationship, this trade secret should be considered a breach of contract.

However, the protection of trade secrets goes beyond the relationship between the employer and the employee, because the injury can be caused by a third party who obtained the secret illegally, for example by theft. In this regard, there have been opinions that the right to professional secrecy should be protected as a property right. However, the trade secret right cannot be treated as a classic property right, rather it is more of an intellectual property right. It is, however, significantly different from patent rights, similar to copyright, which protects certain intellectual creations from unauthorized copying. If the invention qualifies for patenting, the company will be faced with a choice: keep the invention as a trade secret, protect it with a patent, or ensure that no one else can patent it due to its disclosure to the public.

The trade secret is the result of many years of research and investment by legal entities. Very often, trade secrets and confidential information are their most valuable assets, which is why they make significant efforts to protect them from competitors, corporate insiders, hackers, suppliers and disgruntled employees. The fact that the violation of trade secrets is more frequent indicates an increase in the number of requests for their legal protection. Systematic evidence of the value of trade secret theft for an advanced settlement-based economy puts the value of annual theft on the order of 0.0005 percent of US GDP (about $100 million on a 2020 US GDP of about $20 trillion) Many analysts who have as their subject of analysis the theft of business secrets, believe that the real figure is much higher and amounts to about one to three percent of GDP. (Ciuriak, Ptashkina, 2021: 11)

Factors in the increase in trade secret litigation include the increasing use of digital technology, increased labor mobility, the growing value of intellectual property, including trade secrets, increasing international threats, but also the enactment of trade secret laws and the willingness to seek protection.

The protection of trade secrets in the Republic of Serbia is regulated by the Law on the Protection of Trade Secrets, which determines in which cases the acquisition, use and publication of a trade secret is considered legal, and in which cases illegal. In addition to this law, the protection of trade secrets is realized within the Law on Business Companies, while the Criminal Code makes the disclosure of trade secrets a criminal offense.

Protection is most often achieved before the court in proceedings in which it is determined whether the information whose protection is sought is a business secret, but also whether measures have been taken to protect it. A request for judicial protection implies that one party requests the protection of rights from the court, and the court orders the other, against her will, to do or not do something, in order to protect the violated or threatened rights (Petrović, 2020: 257). The proceedings before the court are initiated by the action of the holder of the trade secret. A lawsuit may require;

- determination of violations;
- termination of infringement, or, depending on the case, prohibition of use or disclosure of trade secrets;
- prohibition of production, offering, placing on the market or use of infringing goods, or prohibition of import, export or storage of infringing goods for the purpose of production, offering, placing on the market or use of goods;
- determining appropriate measures in relation to the infringing goods, including the withdrawal of the goods from the market, the removal of property representing the infringing goods or the destruction of the infringing goods, or if justified, their withdrawal from the market, provided that the withdrawal of the goods does not endanger protection of business secrets to which the action relates;
- destruction in whole or in part of documents, objects, materials, substances or electronic documents that contain a business secret or which represent a business secret or, if necessary, hand over these documents, objects, materials, substances or electronic documents in whole or in part to the plaintiff.

The lawsuit is filed within one year when the holder of the trade secret became aware of the violation of the trade secret, i.e. no later than within five years from the date of the violation or from the date of the last violation if the violation was committed continuously. The lawsuit may demand compensation for damages and the exclusion of the person who violated the obligation to keep secrecy, if that

person is a member of the company. Filing a lawsuit therefore does not exclude the possibility of termination of the employment relationship in accordance with the law governing the employment relationship. The filing of a lawsuit and initiation of court proceedings by entities whose rights have been violated or threatened is realized in conditions where the expected value of the lawsuit is greater than the costs of the court proceedings. In addition to this basic condition, numerous factors influence the initiation of the decision-making procedure and the choice of the parties to the dispute to resolve the dispute through the courts (Petrović, 2020: 261). The law stipulates that the license holder is actively legitimized to file a lawsuit, if he is authorized to do so based on the contract or the law.

In addition to the lawsuit, the law also provides for a fine for an economic offense. Violation of trade secrets will be sanctioned as a commercial offense if it is committed by a company or a responsible person in it. The range of the fine is from 100,000 to 3,000,000 dinars for a legal entity, while the amount of the fine is from 50,000 to 200,000 dinars for the responsible person in the legal entity. In the case where the injury was caused by a person, it is treated as a misdemeanor and is punishable by a fine of 20,000 to 150,000 dinars (Article 21 of the Law on the Protection of Business Secrets).

Given that the illegal disclosure of a trade secret can have a very negative impact on the economic and other interests of the trade secret holder, it is possible for the court to order temporary measures if the trade secret holder makes it probable that the trade secret has occurred, or will occur.

TRADE SECRETS IN COMPARATIVE LEGISLATION

The protection of trade secrets within the legislation of EU member states is realized within the framework of the law on unfair competition, criminal, civil and other laws, and only in a small number of countries also the law on the protection of trade secrets. The forms and range of penalties provided for by law differ, which will be discussed in more detail later in the paper.

There is no special trade secret law in German law, but trade secrets are protected by various laws and regulations (German Unfair Competition Act (UVG), German Criminal Code, German Fiscal Code, German Civil Code (BGB) and other laws). An important role in the protection of trade secrets in Germany is played by the Federal Office for Cartels (FCO), which has special powers to protect trade secrets from disclosure and can impose fines of one million euros for natural persons, up to 10% of the last total turnover, as part of the misdemeanor procedure for companies in cases of serious violations. For minor violations, the fine is up to 100,000 euros.

In Portugal, in accordance with Article 331 of the IPC, in case someone commits an act of unfair competition, including the disclosure of confidential information, he is punished with a fine of 3,000 to 30,000 euros in the case when the offense was committed by a legal entity or from 750 to 7,500 euros if it is an individual. In addition, the violation of a trade secret can be the basis for civil lawsuits for damages, for the initiation of which it is necessary to prove the existence of a trade secret violation, the damage caused, but also the cause-and-effect relationship between the disclosure of information and the presumed damage (Articles 487 and 563 of the Civil Code).

In Polish legislation, the violation of trade secrets is listed among the offenses that fall under the Law on Liability of Collective Entities for Prohibited Acts (Article 16 of the Law on Liability of Collective Entities for Prohibited Acts). A fine ranging from PLN 1,000 (approx. EUR 237) to PLN 5,000,000 (approx. EUR 1,186,515) can be applied in case of criminal liability of the company. However, such penalty cannot exceed 3% of the company's revenue in the fiscal year in which the offense occurred.

In Romania, fines of 5,000 RON to 50,000 RON are provided for trade secret violations that fall under the Law on Unfair Competition, when trade secret violations are committed by legal entities, and from RON 5.00 up to 10,000 RON when it was done by a natural person (Article 4(1)(2) of the Law on Unfair Competition).

In Austria, the Cartel Court plays a significant role in the protection of trade secrets, which can impose a fine of up to 10% of the total turnover of the company in the last financial year of the company (or association of companies) that committed the violation.

The Greek Criminal Code punishes breach of trust with a prison sentence of three months to 10 years; breach of an official secret which refers mainly to state and non-business secrets with a prison sentence of at least three months or, if the breach is committed with the intention of obtaining benefit or advantage for another, a prison sentence of at least one year and a fine of 100,000 to 500,000 euros. The law also provides for a penalty for breach of trade secrets, which refers to secrets entrusted to lawyers, doctors, notaries, etc. due to the nature of the work, fines from 150 to 15,000 euros or imprisonment from 10 days to one year.

The above shows that the penalties for breaching trade secrets are high, which should have a preventive effect due to reduced willingness of individuals to potentially violate trade secrets.

ORIGINALITY/VALUEDAMAGES DUE TO BREACH OF BUSINESS SECRETS IN THEORY AND PRACTICE

The existing legal regulations in the Republic of Serbia enable adequate protection of business secrets and achieving protection requires effective application of legal rules. For the violation of a trade secret, that is, the illegal acquisition, use or disclosure of a trade secret, the holder of the trade secret or the licensee may demand compensation for damages caused by the violation from the person who committed the violation (Article 8 Law on the Protection of Trade Secrets). Damages mean loss of property value, loss in general, missed pleasure or inconvenience experienced.

The holder or licensee has the right to compensation for material and non-material damages if the person who violated the trade secret knew or should have known that he was participating in the illegal acquisition, use or disclosure of the trade secret (Article 8, Law on the Protection of Trade Secrets). Material or property damage can be manifested as ordinary damage or as lost benefit (Article 189 of the Law on Obligations). Ordinary, real (*damnum emergens*) or simple damage is the reduction of the damaged property caused by the illegal action of the damaging party, which can be manifested in action or inaction. Thus, the pest can cause damage intentionally or carelessly, while inaction can cause damage if the assumed obligation is not fulfilled. Ordinary damage occurs to the property, rights or personality of the person who suffers the damage. The scope of the damage is determined by comparing the value of the property before and after the damage and includes the value of the property for which the injured party was impoverished after the harmful act (Radišić, 2017: 221). Lost benefit (*lucrum cessans*) represents the profit that the injured party would have achieved if the damage had not occurred. It is not about reducing the existing property, but about preventing its increase in the future, which would have happened according to the regular course of events, if no harmful event had taken place.

While material or property damage refers to what the injured party has, non-property damage refers to what the injured party is: his life, health, honor and reputation, dignity, name, physical and psychological integrity. Violation of any of the listed non-property rights constitutes non-property damage. Non-property damage can be caused by injury to the body, destruction of things or an attack on moral property that is not an integral part of bodily integrity (Stanković, 1978: 483). Non-material damage can be caused by the execution of a civil tort, violation of a contractual obligation or violation of a pre-contractual obligation in accordance with the principle of conscientiousness and honesty. Therefore, non-property damage can be considered either in terms of non-contractual rules or according to contractual rules, or according to pre-contractual liability rules for damage (Baretić, 2006: 461-500). The recognition of the right to compensation

for non-material damage is based on the substantive legal assumptions of the existence of physical pain and psychological suffering inherent in natural persons. Given that a legal entity is unable to endure such pain and suffering, there is no legal basis for a claim for non-material damages (Петровић, 2019: 95).

Compensation for non-material damage (moral damage) due to the violation of a trade secret is not provided for in the legislation of all EU member states. Thus, compensation for non-material damage on this occasion can be requested in Bulgaria, the Czech Republic, the Netherlands, Hungary, Portugal, Greece, France, Italy, Latvia, Luxembourg, Slovakia, Sweden. The criteria for determining the amount of non-material damage compensation differ. In Italy, it is determined by the court on an equitable basis, while in Hungary, the courts take into account several factors when determining non-material damage: the severity of the injury, the degree of responsibility, the impact of the injury on the injured party and whether the offence was committed once or not more than once.

The number of cases in which compensation for non-material damage was awarded is not large. We highlight one in which the Supreme Court of Greece ordered the defendants to pay moral damages to the plaintiff because their conduct damaged the plaintiff's commercial reputation and trust. The plaintiff was a company engaged in the production of pastries, import and retail in the country and abroad. The company had invested a lot of effort and done extensive research to create a significant distribution and customer network in Greece. A confidentiality agreement was concluded with the first defendant whom she hired as a sales manager for an indefinite period of time for the duration of the employment relationship and two years after its termination. The contract stipulated that in case of breach of contractual obligations, the employee will have to compensate the employer for damages and lost profits. After 10 months of employment, during which the employee was familiar with the business secrets of the applicant, the employee left the company and was employed by a competing company (the second defendant) to whom he disclosed the key business secrets (list of foreign suppliers, list of clients, invoices) of the former employer. Having this information, the second defendant approached all of the plaintiff's customers and obtained favorable prices from its suppliers (prices with the same discounts as those given to the plaintiff). The plaintiff filed a civil action seeking 200,000 euros to be awarded for non-pecuniary damage (and reserved the right to claim actual financial damages).

The Supreme Court determined that the submitted claims and evidence are sufficient to prove that the tort (which is also a criminal offense under the same provisions) of illegal communication (by the first defendant) and illegal use of trade secrets (by the second defendant) are sufficient grounds for recognizing moral damages. Since the Supreme Court was not competent to calculate and award damages, the dispute was returned to the Court of Appeals for reconsideration.

Increasingly frequent requests for compensation for damages due to trade secrets and exercising the right to compensation in court proceedings contribute to the development of judicial practice in this area and represent the basis for the improvement of legislation.

CONCLUSION

The main driving force of companies to innovate is the expectation that an improved product or process will allow them to increase their profit. The realization and completion of the innovation is not a guarantee that the profit will be made. In order to reap the fruits of its labor, the company must protect the innovation and disable competitors, but also others who can abuse the information that present business secrets. The country's prosperity depends on research and development in the commercial world and the protection of intellectual property, including trade secrets, is one of the vital contributions to that goal. However, only a subset of trade secrets is potentially patentable; care should be taken that the trade secret policy is not based on an implicit relationship with patents. Instead, trade secrets should be considered in the context of their broad scope of applicability, their interaction with process, product, marketing and organizational innovations, and their appeal to different sectors. Awareness of the importance of trade secrets is increasing and business support in this area could encourage the effective use of trade secrets and enhance their positive innovation impacts. Adequate protection of secret affairs contributes to this, which implies the effective application of existing laws and their continuous improvement.

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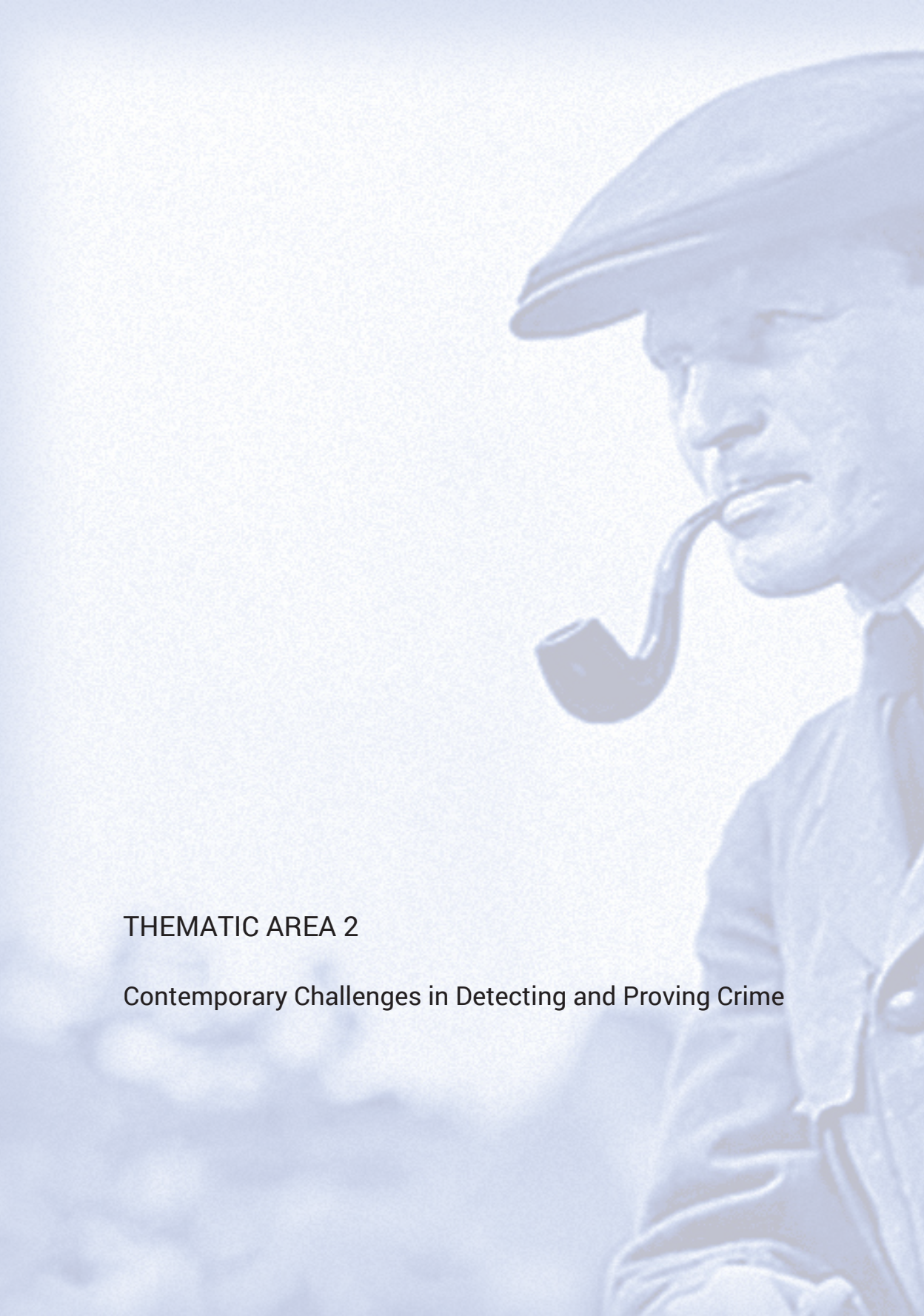

THEMATIC AREA 2

Contemporary Challenges in Detecting and Proving Crime

PHOTOGRAPHY AND ITS IMPORTANCE IN CRIMINALISTICS

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INTRODUCTION - PURPOSE

Criminalistics photography has ceased to be a matter of only a narrow circle of experts in police practice when solving individual criminal offenses, especially recently. The advent of digital automated recording and mobile phones in particular opens up some possibilities for wider use of photography in documentation and scientific research in criminalistics. Therefore, it is necessary for a wide range of police officers to understand its scientific and technical foundations, but the problem is also precisely defined its content, place and possibilities in criminalistics. Only mastered theoretical knowledge provides a prerequisite for effective use in practical criminalistics activity. Emphasis must therefore be placed on the readiness of the personnel substrate, state-of-the-art photographic technology, sensitive photographic materials and their effective use in forensic and security practice. In the past, forensic photography was carried out only in very difficult cases, which was mainly caused by the small number of photographic laboratories and the lack of professional photographers. Gradually, however, it became one of the most objective criminalistics methods of capturing the relevant event and information necessary for the next procedure in the examination room. Photography, as in a number of other scientific disciplines, has occupied a very important place in criminalistics for more than last 140 years. Even in the current era of advancing technical possibilities and work procedures, it is an important

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means of capturing and documenting criminalistics relevant events. It represents a source of relevant information and therefore has been irreplaceable in the actual documentation of the progress and results of tactical methods and investigative actions. Also, the created photographic images allow people who did not have the opportunity to personally participate in the inspection of the investigated objects to create a vivid idea of the given object or the place of the inspection in this way. All of this is important, above all for the further procedure in the investigation of a specific crime and possible identification of the perpetrator. It is also possible to detect facts or signs on the images that were not recorded or documented by a person performing a normal visual inspection. This concept of preference for the documentation role in criminalistics has long prevailed in criminalistics practice, but unfortunately also in Slovak and foreign theory (Porada, at al. 2007, Straus, at all., 2017, Krajnik et al., 2006).

THE PURPOSE AND CONTENT OF CRIMINALISTICS PHOTOGRAPHY

Criminalistic photography is still, in its essence, a highly qualified branch of criminalistics, despite its huge expansion and seemingly simple operation thanks to the automation of many photographic activities, from starting, through setting parameters, to the realization and selection of a shot or its processing. Therefore, quite often we can also come across the claim that photography has ceased to be a matter of only a narrow circle of experts in police practice when solving individual criminal offences. Undeniably there is wide need for documentation in its image form in police practice, it is therefore necessary to master its basics by a wide range of members of the police force. Only theoretical knowledge mastered in this way gives us the prerequisite for the effective use of photography in the practical activities of practically every police officer. Emphasis must therefore be placed in practice not only on the most modern photographic technology, sensitive photographic sensors or other supporting materials, but also on their effective use in criminalistic and security practice. Photography, as in a number of other scientific disciplines connected with criminalistic and forensic sciences, occupied a very important place in the past. In the current era of the expansion of technical possibilities and work procedures, photography in its entirety is an important means of capturing and documenting criminalistics relevant events, their signs and traces (Porada, Straus, 2012, Straus, 2017). But also, dynamic processes that are related to criminal activity, have significance for her investigation. It represents a source of relevant information and therefore has been irreplaceable even in the actual documentation in the course and results of investigative actions, in addition to its preferred role in practice - securing evidence and its

value. The significant informative and interpretive value of the photograph lies in the fact that the photographic images taken allow persons who did not have the opportunity to personally participate in the inspection, search, or other criminalistic methods and procedures of the investigated objects, to create a visual image of the given object or place in this way. Also, in the inspection procedure, which is important above all for the further procedure in the investigation of a specific crime and possible tactics, not only in the identification of the perpetrator. It is also possible to detect facts or signs on the images that were not registered by a person performing a classic, usually visual crime scene investigation, inspection or other method or procedure, but are documented on the documentary material. This approach of ours goes beyond the historical classic perception of criminalistic photography, which at one time had its current meaning (Gross, 1914), but nowadays it can be quite clearly considered to be outdated. We claim this despite the fact that we highly respect the classics of criminalistics, who at the current time solved the appropriate conceptual apparatus of criminalistics photography at the current level of knowledge. As a classical approach, the concept focused on the purely documentary value of photography can be evaluated, primarily with a focus on investigation. This, of course, corresponds to the original concept of criminalistics, which is not focused on its essence - traces, but on a broader approach through investigation methods (nor methodology) and evidence as an object of criminalistics, not on a criminalistic trace (Laca, 2017).

BASIC TERMS - DESIGN/METHODS/APPROACH

Criminalistic photography (Pješčak 1976) – "represents a summary of various special methods of photography, used in investigative actions and in criminal investigation of evidence". The term is formulated very broadly and includes, in the classical sense, all photography applied in criminalistics - i.e. photographic criminalistic-tactical documentation, as well as criminalistic-technical photographic investigation/search (from time to time known as forensic). From the point of view of the division of criminalistics as such, criminalistic photography as an investigation/search method is included among the methods of criminalistic technique. But practically all classical approaches do not present this concept and always concentrate on the documentary value of the photograph, thereby slipping into confusing the content, goals and methods of criminalistics technique with criminalistics tactics. Because the documentary value of photography belongs to tactics (Metenko, 2012). One of the comments, for example, prefers that "the essence of its usability lies in the creation of image a criminalistics trace with photographic snapshot (by which we mean images)" (Šimovček et al. 1999). We consider a criminalistics trace (Krajník et al., 2002) to be a material change that is

directly related to a given event and that can be examined by criminalistic methods. Criminalistic photography takes pictures of material (known by human senses) traces that are located at the scene of a criminalistics-relevant event (Fenyvesi, 2009). These are primarily traces of the external features of objects that are created by reflection in their surrounding material environment in such a way that their external features are transformed into the environment. These traces are captured by using individual methods of criminalistic technics (forensic technology). Legal rules have their significance in this process too (Bjelovuk et al., 2020). As a rule, criminalistic photographs are created at the scene of a criminalistically-relevant event primarily from traces such as footprints, scratches, depictions of objects and placement of objects, imprints of objects, etc. This approach does not take into account the technical value of criminalistics investigation/search at all and gives the photograph only a documentary value. In this spirit, the entire concept of photography continues logically in the classic understanding of criminalistics as a part and process of criminal investigation, while the authors talk about the goals of criminalistics photography: "the use of methods and means of criminalistics photography is a way to increase clarity, to draw some conclusions, to objectify and to provide higher informational value documentation. At the same time, it is a way of knowing such objects and phenomena the nature of which does not allow a person due to the limited possibilities of his perception". Only the conclusion of the concept points to the possibility of criminalistics-technical search and investigation. Criminalistic photography allows us to get to know things and phenomena in a different way. Such is, for example, the way of quick knowledge, accurate, permanent, and economic capture of such information, which was initially not considered necessary to register, and whose significance will become apparent only after evaluating the records of the real environment through criminalistic photography. Criminalistic photography was created by the development of classical photographic methods, and it is specialized for the needs of criminal investigation and clarification in all their forms and applications (Ivančík, 2022). Criminalistic photography has expanded the documentation methods of classical photography, primarily with cognition and recognition methods, which allow not only documentation but also criminalistic investigation and identification (Šišulák, 1998). The subject of criminalistic photography is the informational value of an image taken at the scene of a criminalistics relevant event or on another object (Fenyvesi, 2008), regardless of whether it is of documentary or research value, it has the character of a permanent record of the course of the event, or important phases of criminalistic and forensic methods, investigations actions. For criminalistic purposes, in addition to the geometric shape of the objects, it is necessary to record the size, structure, and relief, which is possible only by using special methods of criminalistic photography - photograph with oblique lighting, photograph with attached scale. However, they do not require special material

equipment and are rather procedures given by the possibilities of ordinary photographic equipment (Metenko et al., 2013) As a rule, many scientific fields use only a narrowly defined area of documentary photography when creating images, on the other hand, criminalistic uses it in its entire breadth. From the photogram method through landscape photography, portrait, technical, reportage, reproduction, stereoscopic, aerial photography to special fields, such as photography in all types of invisible radiation, special types of lighting of the photographed object and phenomenon, through macro and micro photography and, last but not least, colour or a black and white photo. Individual photographic methods were gradually adopted and adapted for criminalistic needs. All this applies equally to static and dynamic records. The latter is popularly known as video recordings.

The scientific basis of criminalistic photography is the knowledge of physiology about the spectral sensitivity of the human eye, the knowledge of optics about the observation and discrimination abilities of the human eye, and the ability of optical systems to transmit and to the necessary extent transform the optical transformation of information into a form perceptible by human vision. In addition, there is knowledge of classic photography, whether black-and-white or ccolor knowledge of the possibility of recording a projected image on a photographic sensitive layer, and knowledge of the basic and complementary colours of sunlight in the entire richness of the spectral range. Criminalistic photography has expanded the documentation methods of classic photography in criminalistics with cognitive methods.

One can fully agree with the concept of Šimovček and his colleagues that the criminalistic -cognitive significance of photography (1999) consists in the fact that:

• expands the observation capabilities of the human eye by increasing the viewing angle of images,

• expands the spectral sensitivity of the eye through photographs in the UV, IR and X-ray and gamma radiation regions, using appropriate transformation methods,

• adjusts the spectral sensitivity of the human eye, by adjusting the contrast, it allows to increase the distinguishing ability and increases contour sharpness with suitable filtering methods.

For a better understanding of the entire issue of criminalistic photography as a separate method, a proper explanation of the term method and what its goal and task are is necessary.

When trying to define the method, we will start from Pješčak's classic interpretation: criminalistic method (1976) is a system of theoretical instructions, principles, laws (scientific regulations) that characterize the investigated/searched

object and the process of its knowledge. The very determination and selection of a suitable method depends on the set goal, that is, what we want to achieve or verify by using the given method. Every method used in criminalistics must meet demanding criteria:

- it must not contradict the legal norm - it is the main prerequisite for the usability of the obtained evidence in the investigative process and before the court,

- it is based on a scientific basis - it uses the most modern knowledge of scientific, technical and social progress; individual knowledge is first put into practice in the implementation of special methods of criminalistic photography,

- it is verified by criminalistic practice - it represents a kind of insurance in the validity of the criminalistic method, i.e. in the longterm of its scientific verification, it is recognized by criminalistic practice,

- it is closely related to the verification of the method of criminalistic practice, while not only the influence of theory is taken into account, but also the applicability of the given method in criminological practice.

In principle, one can agree with Pješčak's concept (1976) in the part where the research process is discussed, but in our opinion, the object of research is not a part of the method, although it determines the choice of method, and the resulting procedure. However, it is not possible to mix the method as a cognitive process and the object of the cognitive process, that is, in our case, a criminalistic trace. Similar concepts oriented only to the documentation role are preferred by Mancini and Sidorjak too (Mancini & Sidoriak, 2018).

Criminalistic photography as an independent method of criminalistics investigation/search, it is not only an auxiliary field for the documentation of a certain current but at the time of processing an already passive state or event as part of the criminalistics-tactical method of documentation, but very often it is also a part of physical events and processes that are the object of investigation/search and therefore also determine its goal and the resulting appropriate methods in the criminalistic-technical method of criminalistic photography (Meteňko & Meteňková, 2021), which also includes the examination of all image records outside of topography. On the other hand, in the implementation of individual practical criminalistics-expert processes (other branches of criminalistics-technical investigation) (Alamoreanu, 2000), photographic methods are often the only way of capturing the investigated phenomenon and often the result of the investigation in terms of documentation value (Bjelovuket al., 2020)

FINDINGS - METHODS

Based on this knowledge, we can divide the methods and technologies (some authors still use the term techniques) used in the field of criminalistic documentation, but also for the direct examination of a photographic object, into:

- common criminalistic-technical photographic methods used primarily for the documentation of traces, the location of a criminalistic relevant event, but also the course and results of a criminalistic investigation/search; Krajník et al. (2002) use the simplified and imprecise term photograph with a dimension scale, photograph using a suitable angle of illumination of the photographed object (Krajník at al., 2002), by which they mean the documentation method of criminalistic photography.

- special "forensic" - technical photographic methods used primarily in criminalistics search/investigation. This mainly includes macro photography and micro photography, infrared photography, photography in ultraviolet radiation, X-ray or gamma radiation photography, methods of photographic colour discrimination, photography in special lighting methods, photographic method of oblique relief lighting, in transmitted light, photographic colour discrimination, increasing contrast by repeating method, other special methods and methods such as super projection method, method of projectile shell investigation, contact diffusion sensitization method, fast diffusion method, spectrozonal photography, colour photography with a selection filter, holography, and other types of scientific photography by methods of detail filtering, holocopy, method equidensimetry and many others (Hupka, 1997).

The methods of special forensic photography enable a faster and richer transfer and recording of information about the course and results of an expert investigation than any other methods such as: descriptions, drawings, records of special measuring techniques and the like, help to objectify the course and results of expertise and make them available to a wide range of people. They are an important prerequisite for the objective assessment of expert opinion conclusions in the sense of the principle of free evaluation of evidence by the court and other law enforcement authorities. But in principle, they are used for the actual examination of the photographic record, whether original or realized for documentation purposes. The term "special criminalistics photography" as understood by Porada (1981) refers to the field of criminalistics photography for the needs of criminalistics techniques, which deals with the scientific development of new photographic methods, but also the practical application of already known photographic methods, exclusively for the needs of various criminalistics or forensic technical and expert examinations, while using a whole range of appropriate procedures and means that document the course and result of the expert activity, stationary fix

adequate optical phenomena, or are an indivisible functional component of the expert examination process.

In this context, it is possible to classify the methods used into those that:

1. serve exclusively for documenting the results of the investigation, which were determined in a way other than photographic, that is, as a part of the criminalistics-tactical method - possibly also the tactical branch of documentation, and

2. they are an indivisible part of expert investigation, that is, the results cannot be arrived at when choosing such a method without the application of photography, and they are therefore a part of the criminalistics-technical branch of criminalistics photography.

However, in many cases, a situation can arise when the obtained photographic images are of poor quality, are not drawn enough, have little contrast, etc. This may not always be the fault of the current negative shooting conditions, but it may also be related to low-quality technical equipment, for example the quality of the photographic device on today's popular smartphones, the materials used from lighting, sensors, and optics, or an unprofessional and inappropriate way and choice of methods of realization criminalistics photography in the everyday routine activities of members of basic units. But it also happens quite often to criminalistics technicians. These are primarily errors in the quality of documentation of tactical methods, the procedure and content of investigative actions, especially reviews, where deficiencies are often the reason for returning the case for completion. Many times, however, these errors cannot be removed, because they are images whose creation was a unique act.

In criminalistics and security practice, the widest field of application of photography is represented by photographic images taken for the purpose of documenting the progress and results of patrols and investigative and operational search actions and procedures, extraordinary events and other events related to criminalistics relevant events. We often find that all information is comprehensively displayed on the listings of images taken at the scene of a criminalistics-relevant event. However, the disadvantage is that when they are processed and presented as evidence in an investigation, this criminalistics-relevant information partially or completely disappears due to the effect of light, contrast or shadow, or even the range of the set sensitivity, ISO value and the like (Meteňko & Meteňková, 2021). A typical case is a walking path - footprints impressed into the snow, which is irradiated by the sun's rays. In such cases, even the forensic technician is faced with the problem of how to display this information in a suitable way in the shot, because it is suppressed by the intense reflection of light rays and high-contrast shadows. With each attempt, the quality of the image as a carrier of criminalistics information decreases. A suitable use known from the past was the control of contrast, which

could be achieved by a suitable procedure of working with the negative for the desired result. It was implemented using the following procedures:

• reducing the contrast using soft contrast light settings, etc.,

• increasing contrast by appropriate choice of settings and materials, use,

• photographing a situation with a high range of contrasts twice, or three times (while each picture must be taken under different lighting: first maximum brightness, second medium brightness, third minimum brightness).

Based on the facts mentioned above, we can include the following modern methods among the necessary photographic methods of a criminalistics-relevant event, intended for extracting information from images (Hupka, 1997):

• contrast control with increased contrast in details – "FD method". It is used primarily in situations where, for various objective reasons, the captured object could not be evenly illuminated or repeated photography was not possible, because the object was damaged, destroyed, lost, etc.

• reproduction of large ranges of brightness intensity

• with this method, it is possible to obtain all adequate information even for heavily covered areas. The intensity of UV radiation is mainly used.

• transformation of the photographic record in homogeneous parts of the image – "Equidenzometry"

• transformation of the photographic record in contrasting parts of the record – "Large-area photometry"

• contrast control without increasing the contrast in details, etc.

Some of the procedures and methods are suitable and usable even in contemporary digital photography and allow controlled contrast and image improvement by digital processes. Unfortunately, they are often not managed by the implementers themselves and are often recognized in terms of legal certainty. It must be said that they are not justified, because they do not change the informational value of the recording, they only improve its readability in a controlled manner, especially if we use photographic standards such as HDR. The individual methods do not require any special costs for equipment or materials, only the relevant software, although they cannot do without a high-quality digital SLR camera. Despite this, the results achieved in practice are surprisingly weak, therefore these results can be used in criminalistics and security practice both in the field and in the laboratory, for the needs of evidence in investigations, but also for the fixation of operational or evidentiary information that "was" apparently lost.

THE STRUCTURE OF CRIMINALISTICS PHOTOGRAPHY

Criminalistics photography is characterized above all by its wide range of applicability in police practice. While the applicability of criminalistics technical methods and branches - for example dactyloscopy, trasology, defectoscopy, mechanoscopy and the like is limited only to a narrow circle of investigation of defined traces, or only to a specific part of documenting a relevant event within the tactical method of documentation, with the aim of obtaining and preserving informational value traces, criminalistics photography is characterized by its wide applicability (Meteňko et al., 2019). The very use of criminalistics photography must be understood primarily in connection with the crime scene investigation, inspection of the scene of a crime, possibly a search and for the purposes of its subsequent documentation, identification and registration of living persons and corpses. The methods, processes and means of scientific photography applied for expert work in the framework of criminalistics are a completely separate field. In addition to these areas, knowledge, methods and means of general and scientific photography are used in all areas of police and security practice.

From the point of view of the frequent use of criminalistics photography in police practice, these are primarily photographic images made for the purpose of documenting the progress and results of inspection of the crime scene and other tactical methods (Staggs, 2014), but they are applicable in investigative and operational-search actions, extraordinary events and other criminalistics relevant processes.

The documentary value of the photography (Krajník at all, 2002) mainly consists in the fact that it supplements and provides information that can be used to complete the report on the inspection of the scene of the crime, irrespective of the criminalistics-relevant event (in the following text also KRU) (Lofler & Kočan , 2012), replaces the descriptive parts of the minutes, simplifies the description, objectifies the overview and improves the imagination of the place of the event, as well as enables additional clarification of the situation (Hejda, et al, 2003). Based on the facts mentioned above, we can characterize policing/documentation criminalistics photography as a means of objectively capturing the information we obtain during documentation activities:

- during the inspection of the crime scene,
- during the criminal investigation in general,
- to capture information about the results of a criminalistics search and criminal investigation.

If the criminalistics documentation is to be carried out correctly, it must meet the following basic conditions (Metenko et al., 2013):

• faithfully and plastically depict the actual material situation of a criminalistics-relevant event, both overall and individual characteristic parts or features of the event,

• enable a visual representation of all the documented circumstances of the entities that will continue to monitor the documentation,

• enable the restoration and ensure the conformity of restored situations with the original situation, if it is necessary to restore this situation,

• to provide an image of the progress and results of the performed actions and activities in time, space, or other specific conditions,

• the documentation must also fix the processes, methods, and means of the performed actions and work procedures.

However, in order to ensure the correct procedure and achieve an effective result, it is also necessary to remember the basic principles of the processing of the documentary work (Polák& Kubala, 2010), because it is the observance of individual principles that contributes to increasing the informational value and usability of criminalistics photography in further police activities. Basic principles include (Metenko, 2012):

• timeliness and durability of information storage as well as their irreplaceability,

• objectivity of documentation processing,

• the effectiveness of the documentation methods used,

• completeness and complexity of the processed documentation.

Criminalistics has developed various methods and ways of fixing traces and documenting the situations of investigative sites of criminalistics processes and criminal events, also taking into account the types of investigated objects (Stieranka, 2006). Various technical means are used to secure information, based on knowledge it is possible to determine some forms of fixation as a documentary expression of all the facts found in the process of detection, investigation and prevention of criminal activity. These include the following different forms of records mentioned by Meteňko, we select from them (2012):

• minutes,

• written record,

• opinion,

• photographic still recording,

• photographic dynamic (video) recording,

- topographic sketch,
- special methods of 3D optical recording (Spheron, 3D laser scanning, ….),
- audio recording,
- or other documentation based on the principle of electromagnetic sensing,
- special methods of fixation, many of which are under intensive development.

Even at the present time, it is possible to adopt a suitable characteristic of the complex of criminalistics photography from the authors Hupka and Hlava, as "a scientifically developed system of special methods of photography, which are applied in photographic activity and investigation/search of criminalistics relevant objects and phenomena" (Hupka & Hlava, 1981).

The place occupied by criminalistics photography in the current criminalistics technical and tactical activities of the police can be divided into several areas for photographic documentation (Meteňko et al., 2019):

a. according to crime scene investigation and inspection of objects providing criminalistics information:

- photo of the crime scene,
- photo of individual traces and corpses,
- photograph of living persons and their body parts,
- photograph of skeletal findings,
- a photo of things related to criminal activity.

It represents a significant specific criminalistics-informational value. This is primarily about taking photographs of stationary, static objects captured as they were discovered after the arrival of the investigation exit group at the scene of the crime, but they also respond to changes left as a result of the first intervention, the provision of first aid, the arrest of the offender on the spot, etc. and they can also have the character of a dynamic recording - a video recording that continuously documents the situation and details on the spot.

b. according to the documentation of tactical methods and investigative actions:

- a photo of the interrogation, investigation attempt, verification of the statement of the accused, witness at the scene of the crime,
- photo of recognition, reconstruction, reconnaissance,
- photo of home search, personal search, etc.

Due to the observance of the objective truth principle, as well as for tactical reasons, it is necessary to document the course and results of the procedures of tactical methods and investigative actions, while it is necessary to observe all the conditions, i.e. those that are the most favourable of all possible for the perpetrator. Therefore, in the case of repeated events, documentation of all circumstances is necessary based on the requirements and proposals of the prosecutor, the defence attorney and the accused himself. Only in this way can criminalistics photo documentation become an important piece of evidence in the further process of clarifying the crime. In this case, it is more appropriate to use a dynamic recording - video, and still images will complement the details of the documentation.

c. according to the documentation of criminalistics-relevant events:

• a photo of a violation of public order,

• photo of the progress of extraordinary events,

• operative and intelligence purposes of creating images, for example from publicly or domestically realized records, surveillance records, and other operational and intelligence actions.

Among the criminalistics-relevant events, we can include mass violations of public order as well as extraordinary events such as explosions, fires, air disasters, or other accidents. Such photo documentation serves the police not only to document perpetrators, witnesses, organizers, and last but not least for the study and analytical activities of the police when evaluating the intervention.

d. photographic documentation of living persons for registration and identification purposes:

• a three-part photo and full figure,

• photographing during events and actions for identification purposes (e.g. the above-mentioned news photo documentation).

It is intended for quick and complete capture of the form of living persons in order to determine the true identity of the person, even in cases where natural or intentional changes in the form of a living person occur. Photos can serve as an aid in the search for persons or as evidence of perpetrators of known crimes (Kloknerová & Meteňko, 2008)

e. photographing corpses for the purposes of their identification

In cases where it is necessary to find out or verify the identity of the corpse, documentation recording the position of the dead body, damage to the dead body, etc. is also prepared. For the purposes of identifying the corpse, it is necessary to take pictures of not only the face but also body marks, post-operative scars, tattoos,

congenital or acquired defects, limb amputations, which can be of great importance for the needs of correct and quick identification.

f. photographic documentation of expertise.

Individual knowledge of general as well as scientific photography within criminalistics-technical activity is used in addition to criminalistics documentary photography in the area of criminalistics relevant events by all fields of criminalistics-technical expertise, even the one that examines directly the results of photographic activity and which was established in the last century under the name "Forensic photographic expertise" (Hupka & Hlava, 1981) All fields of criminalistics-technical expertise deal with the examination of their own objects - a specific type of criminalistics traces. However, they also very often use the examination of documentary photos, photographic and cinematographic (video) images and their copies and the means by which they were made, as long as they are significant for clarifying criminal cases. As part of this research, photography helps individual expertise to expand the possibilities of how to detect, secure and investigate traces of all kinds, as well as to expand the observational and cognitive abilities of human senses.

PHOTOGRAPHIC EXPERT EXAMINATION

Above all, the knowledge of scientific photography, but also the knowledge of general photography applied outside of criminalistics knowledge as well as within criminalistics activities, is used in addition to documentary criminalistics photography by the field of photographic criminalistics-technical expertise. It was established in the last decades of the last century under the name "Criminal photographic expertise". It deals with the examination of photographs - objects on paper, synthetic, analogue and digitized media, photographic video and cinematographic records, including negatives and film copies as well as the means/carriers by which they were made, complete technical and technological equipment, as long as they are significant for the clarification of criminal cases (Viktoryováet al., 2011). As part of this expertise, it is also possible to find out the place from where a specific picture was taken. Above all, the technical and spatial parameters of the recordings, the alternatives of the used technical classifications – apparatuses/cameras, the parameters – optical and light conditions of the shots and many other required values are examined. In the last decade, the importance of evaluating static and dynamic images for the purposes of biometric identification and authentication of persons, as well as marked technical devices, has grown significantly. This trend is already going beyond the original framework of photographic expert investigation.

Considering the number of requirements resulting from the fact that a huge number of records that can be used in this way are created in a person's living space, the result of our research is the statement that a new field of forensic-technical expertise is emerging in the framework of photographic expert examination – "Identification of objects on the basis of their external and dynamic signs recorded on technical devices" (Ivanovič et al., 2012) In the area of interest, today we can include various sources of images from amateur photographers, through recordings of private or city cameras, images from car cameras, up to satellite images. Everywhere there, it is possible to identify persons and things with the necessary degree of accuracy and usability in criminal investigation and identification (Žarković et al., 2010)

USABILITY OF CRIMINALISTICS PHOTOGRAPHY THEORY IN POLICE PRACTICE

Criminalistics photography must give us a clear idea of the location of the photography location in the field and the overall surrounding situation. Therefore, it is required that all the necessary details and their layout are captured. The photos must also give us an idea of the sizes or dimensions of objects and traces. When photographing, it is necessary to realize it as far as possible in its original state, while eliminating persons and objects that are not related to the scene of the crime (Žarković & Ivanović, 2014)

However, it is often not possible to carry out criminalistics photography of the scene in its original state, because if there are injured persons on the scene, it is necessary to provide them with medical treatment first. In such cases, the given places are marked with a criminalistics mark, while it is also necessary to distinguish between traces related to criminal activity and traces left by persons providing the first aid. The creation of criminalistics photography must therefore be carried out not in an arbitrary order, but in a precisely determined order and succession of shots so that the minimum number of shots provides us with the maximum informational value. We can therefore divide our own photography into two phases (Kurilovský, 2018).

In the first phase, an overall survey of the crime scene will be carried out, as well as of those places where it is assumed that they will be manipulated during the inspection of the place.

In the second phase, the shots are taken after a detailed inspection. These are images of those parts on which criminal traces were found, or important objects were found for the further progress of the investigators. Each trace must be

marked with a criminalistics mark - a traces mark with the serial number of the documented trace, which must be visible in the photo - even before the image is taken. If it is not possible to capture all marked traces in one shot, it is necessary to take multiple shots from different locations. The marking of the crime trace must match the marking of this trace in the minutes of the inspection of the crime scene or in the topographical plan of the place. Criminalistics photography, which records facts usually seen with the naked eye at the scene of a criminalistics-relevant event, must meet the following basic requirements (Hupka & Hlava, 1981) similar (Meteňko & Meteňková, 2021):

• to give a clear idea of the situation of the site of the crime-relevant event in the field and of the overall situation,

• record the situation with all the necessary details, including their location,

• provide an idea of the dimensions of discovered objects and traces,

• to document the situation at the place of the criminalistics-relevant event, as far as possible in the original state to eliminate the participation of persons and things that do not belong there.

In police work, the activity of experts in the field of photographic imaging represents a lengthy process of documenting knowledge, which, however, is characterized by a high information value. It is primarily about the documentation of the scene of the crime, where we can divide criminalistics photography according to the captured object into (Metenko, 2012):

• indicative photo of the crime scene,

• overall situational / transparent / crime scene photo,

• a detailed photo of the crime scene,

• a semi-detailed photo of the crime scene.

Orientation photograph (Pješčak, 1976) informs about the relationship of the location of the criminalistics-relevant event to the surroundings, its integration into the space and describes its character. Such an image would ideally be an aerial image or from an elevated position. Basically, it is about documenting a place from a kind of perspective. The goal is to capture not only the place of the criminalistics-relevant event itself, but also the access roads, places of possible hiding in the immediate vicinity, and the like. For this purpose, it is possible to use not only natural conditions, but also artificially created elevated sites, for example, the roof of a family house, the roof of a bus, the body of a truck, a bridge, a mast, and the like. In the case of closed spaces, it is necessary to take a picture from the point of entry to the space where the crime was committed. If the subject of documentation is a traffic accident, orientation photos are taken from the place

from where the individual participants of the traffic accident could watch the entire process. In this way, it is possible to capture the visibility of the participants, traffic signs and the like. However, it is often necessary to document the location of a criminalistics-relevant event under reduced light conditions - at night, in fog, rain, etc. As a source of light, you can use a hand-held reflector, lighting the place with a motor vehicle, using a flash or moonlight. However, photos made in this way do not always provide us with sufficient informational value. Therefore, it is necessary to frequently return to the scene of a criminalistics -relevant event in daylight and additionally take a criminalistics photograph of the scene. A normal or wide-angle lens can be used to take an orientation shot.

General situational photographic images of the crime scene informs us about the situation at the scene of the criminalistics-relevant event. If possible, it is necessary to capture the entire place in such a way that it is possible to assess the relative position of individual traces and other inspection objects. Only in this way is it possible to achieve that the observer at the place of the criminalistics-relevant event knows how to orientate himself and find out the location of all objects as they could be observed after arriving at the place of the Criminalistics-relevant event before the inspection itself. And under no circumstances should persons and objects appear in the picture that were not originally there (official motor vehicles, witnesses, spectators, stretchers, etc.).

If possible, the photo should be taken before the on-site intervention itself. If it is not possible to capture the situation at the site of the criminalistics-relevant event, the unevenness of the terrain, the building, in one shot, it is necessary to take several situational images in such a way that the spatial relationships between them can be assessed in the complex. If we take overall situational shots of the place from different sides, it is necessary to always capture one of the most important motifs in the images and then the others in relation to it, or place the images in the photo documentation so that each subsequent image contains at least one of the motifs of the previous image. It is also possible to use point-of-view photography, where lenses with a longer focal length are used. Their use is especially useful when photographing places with a risk of explosion, places with radioactive radiation, during a fire, etc.

A semi-detailed photograph from the scene of the crime is the most frequently used type of footage when inspecting the scene of a criminalistics-relevant event, and its task is to show objects of investigation and inspection, sets of individual objects and significant parts of the place. However, attention must be paid to the relationship to other important objects so that it is possible to assess the exact position of these objects, to find out the spatial relationships or their size. Examples include a photograph of the entire corpse on a bed, the extent of damage to the vehicle due to a traffic accident, a photograph of a corpse in a vehicle after

a traffic accident. Semi-detailed photographs are taken before a detailed inspection of individual objects, because their spatial relations with other objects and the environment are disturbed by inspecting them, which can lead to undesirable changes.

A detailed photograph from the scene of the crime (Pješčak, 1976) shows individual traces, details, signs of objects of interest, individual small objects with high information value, isolated from their surroundings. The essence of this shot is to faithfully capture the shape, size, dimensions, the most typical properties of the object, the structure of the object and so on. Taking such a shot in some cases is the only way to document a certain object. These are cases when, due to its dimensions, solid connection with other objects, or due to other specific physical properties, it is not possible to secure it as a whole *in natura* - for example, an imprint in an asphalt surface, a footprint of human shoes in melting snow, etc. We also include images of the control elements of various mechanisms that could have had an impact on the course of the accident or act - weapons, motor vehicles, switches, images of traces and parts that must be handled during the first intervention - damage to hinges, locks, seals, etc. It is specific to taking a close-up shot that the dimensions of many objects cannot be assessed from the close-up shot, and therefore it is necessary to take a close-up photo with an attached scale, which is placed longitudinally in the image field in the same plane as the part of interest of the photographed object, and which is simultaneous with the sensing plane.

Especially in the last decade, there has been a significant deviation from the classic securing of traces in nature, towards ensuring the display of external signs, but also dynamic and functional signs, precisely with the help of visual - especially photographic records. The approach to securing *in natura* remains intact with traces of the internal structure of objects, even there but it is at the beginning and securing and researching in the course of photographic recording. We want to point out that in our image we understand forensic photography in the same way as a static as well as a dynamic record, regardless of the type of carrier, of the captured information (Metenko, 2012).

In addition to the above-mentioned images of the site of the criminalistics-related event, other types of images that are important for crime-related activities are also taken during the inspection. These are mainly the following two types of shots:

- overall clear photo,
- reportage photography.

Those means include static or dynamic shots (known usually as photo and video), both are photographic forms for the photographic method of documentation (Metenko, 2012).

Overall overview photo serves to capture the condition after the inspection, supplementing the information that can be obtained from the overall situational photo taken before the inspection. Such a photo is taken from the same place as when taking a situational photo, from the same position, while the individual inspected objects are already marked with tables and a number. Currently, tables of 4x6 cm, 10x14 cm and 13x21 cm sizes respectively are preferred. The individual plates are recorded on a photographic device and the numbers indicating the individual traces must correspond to the fact with the number of the same object in the report on the inspection of the site of the criminalistics-relevant event.

Reportage photo provides information about objects that were in motion before the start of the crime scene investigation, inspection, and others tactical and investigation methods or during the processes. The images show us the initial actions at the scene of a forensically-relevant event, such as extrication of the wounded, other rescue work with the aim of eliminating damage and the consequences of an undesirable situation, the use of modern mechanisms, explosives, fire extinguishers and foams, defrosting units, etc. In police practice, it is often possible to prevent an incorrect assessment of the situation at the scene of a criminalistics-relevant event precisely by using the method of producing a reportage photograph. These images are important primarily for the further need for experts, for the court's decision-making and last but not least for the correct calculation of the damage caused. A police officer taking a reportage photograph must be able to quickly orient himself in the field, correctly choose a suitable place to capture the scene of a criminalistics and crime-relevant event, choose a suitable photographic device, lenses and sensor sensitivity settings (Kloknerová & Meteňko, 2008).

CONCLUSION - ORIGINALITY/VALUE

Even more than other branches and methods of criminalistics, contemporary criminalistics photography suffers from the lack of clarity of the concept and, in practice, often insufficient stratification of content and concepts. Mixing goals and content and methods lead to confusion of forensic/criminalistics-technical value and methods at criminalistics-tactical level, i.e. its documentation value. Photography itself and its development have long since overcome this problem, but it has still not been sufficiently reflected in criminalistics theory and practice. Therefore, in the presented study, the authors attempt to analyse some of the basic attributes that have influenced the current state and development of criminalistic photography. They present for discussion some contexts of the state and development of the methods of criminalistics photography, but also photography as one of the methods of investigation and, consequently, separate criminalistics

branches. They also indicate the applicability of knowledge of criminalistics photography, but also the basic concepts, purpose and content of criminalistics photography. Currently, this concept of criminalistics photography as a method of criminalistics investigation and its content is often presented very broadly and confused with the documentary value and meaning of photography (Meteňko et al., 2019) For this reason, it is necessary in the future to distinguish between the documentary and scientific criminalistics nature of photography - that is, a separate branch of criminalistics-technical investigation/search. In the last decade, the importance of evaluating static and dynamic images for the purposes of biometric identification and authentication of persons, but also of marked technical devices, has grown significantly even more. This trend is already going beyond the original framework of photographic expert investigation. Considering the number of requirements resulting from the fact that a huge number of records that can be used in this way are created in a person's living space, the result of our research is the statement that a new field of criminalistics/forensic-technical expertise is emerging in the framework of photographic expert examination - identification of objects on the basis of their external and dynamic signs recorded on technical devices.

This study is based on the long-term research task "9/2008 - Methods and procedures of work at the crime scene".

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LAWFUL HACKING – TECHNICAL ISSUES IN LAW

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PURPOSE

Several recent trends in technological development have challenged law enforcement agencies' (LEA) ability to lawfully access and examine data at rest and data in transit, especially the increase in use of encryption, wireless networks, cloud services and mobile computing (Going Dark Phenomenon) (Pisarić 2020a:612). This has inevitably urged legislative intervention. In order to restore the balance between the criminal investigation and these technological developments, i.e. to strengthen the LEA position in the fight against IT-enabled crime, in several countries in recent years legislators have introduced amendments in criminal procedure rules, thus creating regulatory framework for new digital investigative measures. One of these measures, and the one of particular controversy, is lawful hacking, i.e. the power of LEA to secretly access a computer device or network in order to gather data to be used as digital evidence. Namely, the legitimacy, necessity and efficacy of empowering LEA to hack back is the subject of political, expert and scientific debate[2] (Pisarić, 2021)[3]

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2 Although the use of hacking techniques by LEA evolved organically to solve the challenge of Going Dark problem, it is not only the part of the encryption debate but goes beyond, since these techniques may also be applied to devices protected by security mechanisms other than encryption.

3 Justification for legal regulation of lawful hacking lacks a quantitative analysis, since there is no publically available and/or accurate and precise data on the number and proportion of cases in which LEA did not have the ability to conduct criminal investigation because they could not access communications or a device and did not have an exploit; the number and proportion of cases in which LEA relies on technology vulnerabilities to obtain evidence; in cases in which LEA used hacking, whether obtained evidence is more crucial compared to other case evidence; whether alternative ways to obtained relevant data other than to obtain this evidence exist; the financial

Lawful hacking

It is not news that, as a part of criminal investigations, LEA have been using hacking techniques for accessing IT system,[4] in order to uncover and gather information relevant to a case that otherwise might be inaccessible. The LEA have been conducting these activities sporadically, while methods and techniques have gradually evolved over the years. Firstly, they used keylogging programs to obtain encryption keys and subsequently access devices, and over time they commenced to rely on exploits of software and hardware vulnerabilities in order to bypass software/hardware protections (via specially designed malware, so called policeware, govware), and even to induce vulnerabilities in software designed to secure data and limit access to information (Quinlan & Wilson, 2016). In this article the author is only interested in the analysis of LEA's use of software tool for hacking.

The hacking tool is a software usually based on some vulnerability - a flaw in software or hardware of a target IT system, that alone, or combined with others, enables unauthorized party to covertly perform activities on the target IT system. Consequently, the essence of hacking technique, as investigative measure, is in LEA using such a tool and exploiting some of these vulnerabilities, specific for targeted IT system, in order to gain access to the system and somehow manipulate it, without knowledge and consent of the user.

The hacking tool may be installed on a target's IT system either remotely, or in situ, after gaining physical access to the system itself (in this case, a vulnerability might not be exploited to install malware or access data on the device, e.g. if the passcode is known). This article considers only hacking tool that enters the target IT system remotely.

The use of hacking tool in the context of criminal investigations may serve different purposes, namely (i) remote access to an IT system, in order to conduct online search and seizure of data stored within the system, or monitoring and interception of data transmitted within/through the system), and (ii) in situ forensic examination of a seized device, in order to conduct search and seizure of data stored within the system (e.g. after breaking into an encrypted phone). Although vulnerabilities may be also the basis for forensic analysis tools, the author refers only to the tools that use vulnerabilities for security bypassing, in order to gain remote access to the IT system, and further conduct some activities within the system, primarily, to extract data and send them to LEA IT infrastructure. The remote investigation in IT system with technical tool consists of two phases. The

cost of developing or purchasing vulnerability exploits, etc. The analysis of these data could help designate the possible effectiveness of using, or exploiting vulnerabilities. Further argumentation on this issue is not the purpose of this paper.

4 This term refers to both devices and network.

first phase concerns the remote secret intrusion into the IT system. The second phase concerns the performance of certain investigative actions in penetrated IT system, in order to access and collect data that may serve as digital evidence. The purpose of this paper is only to consider the LEA use of hacking tool for remotely accessing IT system and conducting further investigative activities, primarily electronic communications surveillance (Pisarić, 2021) and online search and seizure (Pisarić, 2022).

The controversy with state hacking lays in its risks. On the legal side, there might be a negative effect on integrity of digital evidence and potential privacy violations. In order to address these significant risks properly, the appropriate legal conditions and mechanisms governing law enforcement hacking should exist, since in the absence of clear legal and procedural framework they will intensify. Hence, starting from the principle of legality, the legal framework for the use of hacking techniques by LEA for the purpose of criminal procedure should not be too broad and general, but clear, specific and precise instead. General consideration of a legal framework governing hacking as special investigative measure is not the subject of this article (Pisarić, 2020b)

On the technical side, there is the issue of informational security weakening. The risks associated with LEA use of hacking tool, due to intrusiveness and scope of this investigative measure, includes: creating a disincentive to disclose vulnerabilities that should be disclosed because other attackers might independently discover them; cultivation of a market for surveillance tools and 0-days; risking that vulnerabilities exploited by the malware will be identified and used by other attackers, as a result of either LEA losing control of the hacking tools, or discovery by outsiders of law enforcement's hacking activity; creating an incentive to push for less-secure software and standards; and risking that the malware will affect innocent users (Pfefferkorn, 2018: 2). These risks should be taken into consideration, as well, when regulating the technical side of lawful hacking. So, the purpose of this research is to consider regulatory framework for lawful hacking, primarily the regulation of technical side of this digital investigative measure.

DESIGN/METHODS/APPROACH

In this article the author uses normative and comparative legal method.

Integrity of digital evidence acquired by lawful hacking during criminal investigation is accomplished by following standard operating procedures and principles of digital forensics. Still, the law should properly address several technical issues, mainly by prescribing requirements for hacking tools. In order to diminish the se-

curity risks to the minimum, the law should also set limitations for the use of vulnerabilities and their destiny after the use. During research, the author considers these requirements, in general, and explores the main technical issues that should be tackled in establishing a proper legal framework for lawful hacking, primarily regarding hacking tools and vulnerabilities.

Deployment of technical measures in order to covertly and remotely infiltrate an IT system, collect data from it, and electronically transmit them to LEA for the purpose of criminal investigation, is explicitly regulated only in a few countries. So, parallelly, the author analyses how technical means and techniques used by LEA for the purpose of criminal investigation are regulated in two countries, with explicit norms on LEA hacking powers - Germany and the Netherlands.

Scope of hacking power

Since 2017 the German Code of Criminal Procedure (Strafprozeßordnung BGBI, 2022)[5] empowers the LEA to use special *technical means* to gain *covert access to devices and data* as a part of criminal investigation, with regard to telecommunications surveillance (Article 100a) and covert remote search of information technology systems (100b). In other words, regarding its functionalities, a hacking tool may be used for the *purpose* of conducting surveillance of telecommunications on source or remote online search of IT system. As for *surveillance*, the Code envisages that, if certain conditions are fulfilled, telecommunications may also be intercepted and recorded in such a manner that technical means are used to interfere with the information technology systems used by the person concerned, if this is necessary to enable interception and recording in unencrypted form in particular (Article 100a, paragraph 1, sentence 2). Also, the content and the circumstances of the communication stored in the person concerned information technology systems may be intercepted and recorded if they could also have been intercepted and recorded in encrypted form during ongoing transmission processes in the public telecommunications network (Article 100a, paragraph 1, sentence 3). As for *covert remote search*, the Code envisages that, if certain conditions are fulfilled, technical means may be used even without the knowledge of the person concerned to gain covert access to an information technology system used by the person concerned and to extract data from that system (Article 100b, paragraph 1).

Since 2018 the Dutch Code of criminal procedure (Wetboek van Strafvordering)[6] stipulates that *investigation in automated work* may be conducted with the aid

5 After being amended by the Law to make criminal proceedings more effective and practical (Gesetz zur Effektiveren und Praxistauglicheren Ausgestaltung des Strafverfahrens, BGBI, 2017).
6 After being amended by so-called Computer Crime Act III (Act of 27 June 2018 amending the Criminal Code and the Code of Criminal Procedure with regard to improving and

of *technical means* (Article126nba CCP). Namely, if certain conditions are set, hacking power may be used for several *purposes*: A) in the event of a suspicion of a serious crime (as described in Article 67, paragraph 1), in order to: a) determine certain characteristics of the automated work, or the user (such as identity or location), and record them; b) execute an order as referred to in Article 126l (recording of telecommunications) or Article 126m (monitoring of telecommunications); c) execute an order as referred to in Article 126g (systematic observation); B) in the event of a suspicion of a crime, which is punishable by a prison sentence of eight years or more, or a crime that has been designated by order in council, in order to: d) record data stored in the automated work, or stored only after the time of issue of the warrant, to the extent reasonably necessary to reveal the truth; e) make data inaccessible, as referred to in Article 126cc, paragraph 5. These measures are enforceable also in investigating organized crime (Article 126uba) and terrorism (Article 126zpa), since Article 126nba applies *mutatis mutandis*.

Based on these provisions, if procedural requirements are met, the German and Dutch LEA may use hacking tools as a part of criminal investigation. The author further analyses these provisions with connection to provisions regulating technical aspects of lawful hacking.

FINDINGS

As a result of the research for the purpose of the article, the author demonstrates a proper regulation of technical issues for lawful hacking in a legal framework, primarily regarding (i) hacking tools; and (ii) vulnerabilities.

Limitations regarding vulnerabilities

Vulnerabilities exploited in lawful hacking are the ones either previously known but not yet patched by software/hardware vendors (n-days vulnerabilities), or previously unknown to the developer and general public, undisclosed and hence unpatched (0-day, or zero-day vulnerabilities). LEA may also rely upon known vulnerabilities that may be patched but users may continue to rely on outdated, unpatched versions. Regarding vulnerabilities, the legislator should consider at least two issues, as the most important and relevant: the type of vulnerabilities LEA could use, and vulnerabilities disclosure.

strengthening the investigation and prosecution of computer crime - Wet tot wijziging van het Wetboek van Strafrecht en het Wetboek van Strafvordering in verband met de verbetering en versterking van de opsporing en vervolging van computercriminaliteit, Staatsblad 2018).

Type of vulnerabilities

Giving that acquiring and retaining unknown vulnerabilities comes with an extensive set of critical challenges, especially because exploiting an unknown vulnerability always carries the risk of exposure, and therefore degradation of its operational value, it might be only legitimate that LEA hacking operations are limited to the use of known vulnerabilities. However, although it is justified to allow only the use of malware based on the existing vulnerabilities due to security risks, using zero-day exploits might be also regarded as necessary and preferable. Nonetheless, there should exist a proper policy response that would responsibly govern the use of zero-day exploits and limit potential damage, including: the implementation of technical defences to prevent rediscovery of the vulnerability; the requirement for law enforcement agencies to report the vulnerability when it is discovered and to gain a warrant to continue (barring emergency circumstances); the deletion (or ignoring) of any additional information discovered not specified in the warrant; and the regulation of exploitation tools under 'dual-use' restrictions (Bellovin, et al., 2014: 64).

The only example of a legislative response towards zero-day vulnerabilities is found in the Netherlands. Namely, Dutch Code recognizes the term 0-day vulnerability, defining it as a vulnerability in an automated work of which it is plausible that it is not known or can be assumed not to be known to the manufacturer of the device or of the program on the basis of which computer data is automatically processed, and that can be used to penetrate that automated work (Article 126ffa, paragraph 2). The Code permits the use of zero-day vulnerabilities, while dictating that law enforcement must not purchase zero-day vulnerabilities and must report any exploited vulnerabilities.

Disclosing Vulnerabilities

The process leading vulnerability from 0-day to n-day is called vulnerability disclosure. Currently one of the most difficult regulatory challenges with regard to lawful hacking is considering the question whether LEA should retain, or disclose zero-day vulnerabilities that they discover/obtain, i.e. report them to vendors, targeted individuals or the general public. The need for disclosure of vulnerabilities discovered, or received is essential because unpatched vulnerabilities needlessly perpetuate global risks to IT infrastructure and users. Although non-disclosing 0-days bears a much higher risk, n-days can be as damaging - WannaCry and NotPetya ransomware are example of lack of proper vulnerability management. On the other hand, disclosed vulnerabilities, if patched, may render them useless to

LEA, for a subsequent investigation. That is why LEA should not stock vulnerabilities, but disclose them properly, while delay in disclosure should be time-limited and extraordinary.

Handling, maintaining or disclosing vulnerabilities in LEA possession is of utmost importance. For this purpose, the *vulnerability equities policies* (VEP) are useful to be defined, as it may help LEA to access reasons for, or against retaining a particular vulnerability from disclosure. Several factors may be taken into consideration when deciding whether or not to disclose vulnerability,[7] and if the cons outweigh the pros, the policies should detail how to disclose vulnerabilities responsibly to minimize the potential harm to the public. Only a few countries have so far developed or publicly released such policies. One example is the VEP being implemented in the USA since 2008, for deciding whether or not to disclose a vulnerability, in case LEA discovers or obtains a newly discovered vulnerability.

The Dutch Code does not only permit the use of zero-day, but it envisages the *possibility of delaying the notification of unknown vulnerabilities*. It is stipulated that public prosecutor may, on the basis of an important investigative interest, and after prior written authorization by examining magistrate, order that disclosure to producer of an unknown vulnerability used for penetrating an automated work (as referred to in Aricles 126nba, 126uba and 126zpa) is postponed. An order is in writing and it should state: a. the vulnerability, and b. the weighty investigative interest (Article 126ffa, paragraph 1).

Requirements for hacking tools

Notwithstanding the type, or source of vulnerability, or the origin of the tool based on its exploit, the technical means must serve its purpose, which is to collect data, otherwise not accessible, that are to be used as digital evidence. In order for the collected data to be accepted as evidence in legal proceedings before the court of law, in addition to procedural requirements concerning this investigative measure, the hacking tool must be reliable and relevant as a standard of digital forensics. In addition, certain technical requirements should be met, so IT security and privacy risks are reduced to minimum.

7 Namely: the scope of the use of the vulnerable system in critical infrastructure systems, economy, and/or in national security systems; degree of the risk imposed by unpatched vulnerability; possibility of harm caused if the vulnerability is used by adversaries and probability of knowledge about the use; degree of need for information that is to be gained from exploiting the vulnerability; alternatives to gain this information; possibility to use the vulnerability for a short period of time before disclosure; probability of someone else discovering the vulnerability; alternatives for the vulnerability to be patched or otherwise mitigated.

The origin of hacking tools

Depending on the type and complexity of IT system to be accessed, vulnerabilities may be rare and difficult to find in some cases, only temporarily useful (since, once discovered, there is an urge for them to be patched) and expensive - especially when it comes to zero-day vulnerabilities. LEA may gain knowledge of vulnerabilities in various ways – they could use publicly available information on pre-existing vulnerabilities,[8] or purchase exploits of vulnerabilities off-the-shelf from third party in vulnerabilities marketplace, or develop exploits in-house, tailored to suit specific needs (Ohm, 2017: 314-315).

As for the option of purchasing vulnerabilities, or more often, hacking tools based on vulnerabilities, from third parties, it should be borne in mind that the state's participation in the vulnerabilities market could contribute to its growth and cultivation, by increasing incentives against disclosure of the vulnerability or by increasing the market for vulnerabilities and thus encouraging greater participation in it (Pfefferkorn, 2018). Namely, some public reporting have shown recently the grey market for zero-days and government hacking technology is developed, with several prominent private companies selling software vulnerabilities and exploits along with surveillance capabilities, such as spyware and other services to government actors (Antis, 2021:4). In order to avoid LEA reliance on individuals and companies connected to governments, or other entities that have been reported to conduct unlawful government hacking or violate human rights, like in case of the FinFisher (Deutsche Welle, 2020, October 14), or NSO group Pegasus (New York Times, 2022, January 28), LEA should purchase hacking tools, vulnerabilities, and services only from third parties which are transparently vetted, according even to the UN (Associated Press, 2021, August 12). Also, these off-the-shelf products and services may not be useful to law enforcement who need to customize them for legal use.

Instead of purchasing external hacking tools, the LEA might develop its own tools. However, in-house developing of hacking tools faces several challenges: cost, complexity, lack of technical and human resources.

Unfortunately, LEA rely too much on commercial software and vendors' capability to validate their own tools (like with other digital forensics tools) which often do not fulfil basic security requirements. That brings us to another important issue.

8 An example of the option of using publicly available information is National Vulnerability Database (NVD) in the USA, which is the repository of standards based vulnerability management data, which enables automation of vulnerability management, security measurement, and compliance.

Standardization of tools

In deploying methods and techniques of digital forensics in order to gain digital evidence, LEA should follow rigorous standardized procedures. Still, even when closely following predetermined digital investigation steps and recommendations, errors can be made. For this reason, it is essential that digital investigators develop appropriate skills, and certifications are a good way to develop them. Also, one of the main standard requirements concerns the tools. As for other tools used in digital investigation, the software tool based on vulnerability, with the functionality to remotely access IT system and acquire data, should be used in legal setting. Besides that, in order to maintain the integrity of the digital evidence, hacking tools need to be reliable and relevant, hence thoroughly developed and tested, and secured in line with state-of-the-art guidelines. This is, unfortunately, not always the case (Horsman, 2019). The Daubert standard[9] may be useful in the court of law, but it is not enough. In order to improve standards of evidence, the required level of reliability should be prescribed by the law, and connected with tool-testing. Since each tool needs to be tested before it can be used in the field, the tool-testing should be obligatory and systematically arranged at state level. The essence of this requirement is the guarantee that when an approved tool is used in conducting investigative activities, it can be assumed that the legal requirements regarding the reliability, integrity and traceability of the data have been met. The German and Dutch approach towards standardization of the tools may be regarded as examples of good practice.

In **Germany** the software products used to carry out source telecommunications surveillance on source and online searches are tested before they are released for use and comprehensively checked for compliance with legal requirements set in 2018 by *Standardized service description for system for performing measures of source telecommunications surveillance and online searching*. This Act concretizes the specifications resulting from the legal provisions of the Code, and it is meant to serve as a guideline to ensure the development, procurement and use of a software system within a uniform framework. This system consists of various components that work together as an overall system: access and monitoring software, which is applied to the target system, where data is collected and forwarded to the LEA; control and recording unit: a software unit used by LEA to control the access and monitoring software, to make the recording and evaluation of data and to log all activities; and network connection, with function to forward data from target system to control and recording unit, and back.

9 Daubert test utilizes four guiding questions to assess reliability of tools (with regard to testing: can and has the procedure been tested; error rate: is there a known error rate of the procedure; publication: has the procedure been published and subject to peer review; acceptance: is the procedure generally accepted in the relevant scientific community.

Chapter 3 sets *technical requirements* that should be met, so three essential basic values of IT security (availability, confidentiality, integrity) are addressed. In order to maintain confidentiality, all data[10] transmitted between a target system and the LEA control and recording unit are protected against unauthorized access by appropriate procedures. In addition, monitoring software must be protected against detection and disclosure. As for integrity, data collected must be protected against changes using suitable procedures, and any manipulation of data must be recognizable. Regarding availability, it is stated that appropriate security measures must be taken to avoid loss of exported data, as well as other failures and disruptions.

A software is accepted on the basis of a defined *test procedure*, the results of which are documented as a part of the overall acceptance process. Besides, before each use of the software onto specific target system, compliance with the legal requirements adapted to the specific conditions of use is carried out.

Providers of the software should be carefully selected with regard to their professional competence and trustworthiness, while the providers contractually ensure compliance with the requirements and framework conditions resulting from the legal standardizations, and also guarantee that they: comply with the state of the art in secure software development; restrict physical access, as well as logical access, and access to the development environment to the persons authorized; procure external components from verified sources and certify their security properties before they are used; inform the LEA immediately about security incidents, identified security deficiencies or other events that endanger the safe, lawful and proper implementation of investigative measures.

In the **Netherlands**, based on Article 126ee of the Code, *Decree on investigation in a computerized work* is published in 2018. The Decree contains technical rules on the exercise of the power to penetrate an automated work and to conduct an investigation: 1) *rules about the expertise and authorization of the investigating officers* who conduct investigations in a computerized system and the cooperation with other investigating officers (Chapter 3);[11] 2) rules on the recording of data for

10 E.g. control commands to the target system, update the monitoring software on the target system, the data transferred from the target system.

11 The Decree also prescribes functional separation between technical and tactical investigation officers, since the order is executed by specifically designated and expert technical investigation officers, while the collected data is analyzed by officers investigating the case (Article 126nba, paragraph 8, item b). An investigating officer may be appointed by his employer for penetrating automated work and carrying out investigative acts, only if he is a member of a technical team, and he may be designated as a member of a technical team by the chief of police, only if he has met the qualifications designated by Minister of Justice and Security (Article 3 of Decree).

the execution of an order (Chapter 4), 3) rules on standard tool requirements and its inspection (Chapters 5 and 6).

A technical tool is regarded as a software application that contains functionalities which allow data to be detected, recorded and transported. In order to guarantee the reliability and integrity of technical tools, the reliability and integrity of the data recorded with them and the traceability of the data, the Decree in Chapter 5 sets various *technical requirements*. Chapter 6 contains *rules on the prior inspection* of a technical means, which, before used to carry out an order, must be approved by an inspection service. During the inspection, it is checked whether the means complies with the technical requirements set out in Chapter 5. The part of the National Unit of the National Police, the Inspection Service of the National Operational Cooperation Service, is designated for the inspection of technical means used for carrying out investigative actions in an automated work. In order to guarantee the quality and consistency of the inspection, an inspection service draws up an inspection protocol, which requires prior approval of the Minister of Justice and Security. A report is drawn up of the inspection, stating in the case of approval that the technical means meets the technical requirements set by the Decree. The report of an approved technical tool states, at least: a) that it satisfies the requirements of Articles 8 to 13; b) a reference number; c) a description of the operation of the technical tool; d) an indication of the functionality or functionalities of the technical tool; e) relevant mandatory replacement guarantees with which one or more requirements referred to in Articles 8 to 13 can be met; f) relevant information regarding the operation of a functionality or functionalities of the technical tool; g) the period for which the inspection applies, as long as the functioning of the technical tool is unchanged.

However, the rules of Chapters 5 and 6 are *relativized*, because Article 21 of the Decree states that the public prosecutor may order that investigative acts are performed with an unapproved technical means, if the investigative interest requires so. If an unapproved technical aid is used for the execution of an order, the public prosecutor also states the outcome of the inspection or re-inspection after use in the procedural documents. However, an inspection or re-inspection may be omitted after use, if, in the opinion of the public prosecutor, the nature of the technical means precludes this. In that case, the public prosecutor states in the procedural documents that Article 21(4) has been applied and which additional safeguards have been taken to guarantee the reliability, integrity and traceability of the data recorded with the technical tool.

Logging Requirement - transparency and traceability

First of all, as vulnerability used in the hacking operation, combined with the software and hardware, could tamper with integrity of evidence, it should be allowed that an independent, outside expert audit them. In order to do so, disclosure of some relevant information is of clear interest for the defence in a criminal procedure. The core information sought by the defence, in order to consider the integrity of digital evidence acquired by the hacking, is the complete source code of the hacking tool, including the exploit and payload – the so-called Graymail tactic (Bell, 2018). However, when using a tool purchased from a third party, the complete source code is protected by a non-disclosure agreement. There are examples that defence lawyers have requested the source code for the exploit and sought judicial compulsion for these requests – e.g. in the PlayPen case, at least one magistrate judge has ordered the government to produce the source code, and the government has decided to drop the charges instead (for examples, see: ACLU Foundation, Electronic Frontier Foundation, National Association of Criminal Defense Lawyers, 2017). The prosecution should disclose not only the hacking tool, but also the attack vector and the method used for hacking, which devices were targeted, and what digital evidence was accessed (Kaleigh & Aucoin, 2018: 26).

Secondly, since lawful hacking is a covert measure, it is of particular importance that the processes for acquiring information is traceable without any doubt at a later stage of the procedure, hence hacking tools need to be equipped with a tamper-proof logging mechanism, which guarantees the integrity and authenticity of digital evidence, by enabling judiciary and others to retrace and comprehend the operation of data collection, evaluation and processing by LEA.

In **Germany**, the Code requires that each time technical means are used (both with regard to telecommunications surveillance on source and with covert remote search of information technology systems), a record needs to be made, containing information about the designation of the technical means and the time of their use, information required to identify the information technology system and changes made which are not only transient, information enabling the identification of the data captured and the unit implementing the measure (Article 100a, paragraph 6). Additionally, Standardized service description requires that the software should contain a proper logging mechanism that serves to prove that the data actually originate from the target system, that they are complete and have not been modified. In order to ensure traceability, the software should also contain archiving functionality (Chapter 5).

In the **Netherlands**, the *automated recording* of data collected in the course of execution of the order is obligatory (Article 126nba, paragraph 8, item b). More precise rules are set in Chapter 4 of the Decree, regulating recording data in log

files**.** Firstly, during the execution of an order, data is continuously and automatically recorded in log files, about: a) acts performed in the execution of an order;[12] b) access to a technical infrastructure; c) data recorded on the technical infrastructure; d) the functioning of the technical infrastructure (Article 5). The recording of data in log files should take place in such a way that it can be established, both during the period stated in the order and after its expiry. Also, a record must be made on whether an irregularity that affects reliability and integrity of data recorded has occurred on a technical infrastructure during the execution of an order. In case of such an irregularity, an investigating officer of a technical team draws up an official report, which is sent to the public prosecutor (Article 6). The contents of log files should not be changed, and they may be accessible only to the officials designated by the chief of police. When recording data in log files, measures are taken to prevent log files from being changed, or accessed by unauthorized persons, and to enable afterwards whether changes during, or after inspection occurred (Article 7).

Additionally, after target IT system is accessed, a *registration officer records*, at least: an indication of technical infrastructure to which access is granted; time of access; the indications in the order of the nature and functionality of a technical tool; period specified in the order within which the order must be executed; an indication of the investigating officer of a technical team requesting access (Article 22). After automated work is accessed, the investigating officer who places a technical tool, draws up an official report of the placement, which is sent to the public prosecutor. Any irregularity occurred during installation of a technical means, or in the course of investigative acts, is reported in the official report (Articles 23-24). Also, the official report of complete or incomplete removal of the technical tool is to be created (Articles 25-26), and sent to the public prosecutor.

Additional requirements - protective measures

Since the data obtained through lawful hacking possibly includes a large amount of sensitive and private information, the law must contain the appropriate safeguards. First of all, the *functionality* of tool needs to be limited and precisely indicated. In order to ensure privacy protection, the collected data not relevant for the case need to *be deleted* immediately, with state-of-the-art software that ensures that once deleted, the data cannot be restored. Additionally, the fact that information is deleted needs to be properly logged. Because smart devices are equipped with various *sensors* (e.g. biometric sensors), which upon accessing the device, reveal LEA private information on the user, and may be generated, stored, and/or

12 If these data cannot be recorded automatically due to their nature, an investigating officer manually records the actions.

manipulated, hacking power enabling LEA access these sensors should be limited by the legal restrictions and properly addressed in a warrant (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2017).

In this sense, the **German** Code in Article 100a, paragraphs 5 and 6 prescribes *certain protective measures* that apply to telecommunications surveillance on source and covert remote search of IT systems. Namely, the technical mean is installed so that: 1. only the following can be intercepted and recorded: a) ongoing telecommunications, or b) content and circumstances of communication which could also have been intercepted and recorded from the date on which the order was made, during ongoing transmission processes in the public telecommunications network; 2. only those changes are made to information technology system which are essential in order to capture data; and 3. the changes made are automatically reversed once the measure is concluded, insofar as this is technically possible. Additionally, using methods reflecting the state of the art, technical means should provide protection against unauthorized access, while the copied data should be protected against modification, unauthorized deletion and authorized inspection (Article 100a, paragraph 5).

Further, standardized service description requires that before introducing monitoring software, it must be checked and documented that only an impairment of the target system that is limited to the unavoidable is to be expected, since the security and stability of the target system is affected by installing, operating and the deletion of the monitoring software. Additionally, the software should be set in such a manner that it causes only the necessary changes. At the latest, when the ordered measure has expired, the software must be deleted immediately. Changes to the system and other files on the target system must be reversed as far as technically possible, and as long as the target system can be reached by the control and recording unit. For this purpose, the software must have the appropriate functions (Chapter 5).

The **Dutch** Code envisages that the order allowing the use of technical means for the mentioned purposes must, among other, state an indication of the nature and functionality of the technical means that is used for the execution of an order; and part or parts, with a view to which an order is given and a clear description of the actions to be performed (Article 126nba, paragraph 2, items d and e). The Code further requires that after an investigation has ended, a technical mean should be removed. If it cannot be removed (completely), and this poses risks to the functioning of the targeted automated work, the public prosecutor informs the administrator of an automated work thereof and provides necessary information for the complete removal (Article 126nba, paragraph 6), while the investigating officer charged with removal terminates the transport of data registered by technical tool to technical infrastructure of LEA (Article 26 Decree).

Additionally, in order to guarantee the lawfulness of its deployment, the Decree requires that the tool must be set up in such a way that it is possible to enable only the functionality(s) as specified in an order, and only to detect and register data for the purpose of this functionality. A technical tool must be able to record data in such a way that the content is identical to the data detected in an automated work, and to provide the registered data with the date and time of registration, with their unique characteristics. This enables that, when data are recorded on storage location and are recognized, the origin of data can be determined at any time. Further, integrity is safeguarded by setting the requirements for security of a technical tool and the data registered and transported by a technical device. Also, a technical tool should automatically transfer the registered data to a technical infrastructure, and during that transfer it should protect the registered data against alteration and unauthorized access. In addition to technical requirements for technical tool, the Decree also lays down the requirements with regard to the quality of technical infrastructure on which the data, registered with a technical device, are recorded (Chapter 5).

ORIGINALITY/VALUE

If legislative action regarding hacking techniques for the purposes of criminal proceedings is deemed necessary, the legislator should regulate their use as a special evidentiary act, by establishing a mechanism that consists of certain, specific ex-ante and ex-post elements of the normative framework (Pisarić, 2022). Alongside, the guidelines for handling digital evidence should be designed and implemented, while digital evidence needs to be gained, transferred, analysed, stored, and presented in a tamper-proof chain of custody (Herpig, 2018: 13).

As for legal regulation of the technical side of lawful hacking, special attention should be primarily paid to defining legal rules that would govern the use of hacking tools and vulnerabilities. In this paper the author discussed how technical means (i.e. hacking tools and vulnerabilities) should be addressed in law, and analysed relevant legal provisions in Germany and the Netherlands. Based on the analysis, several elements of legal framework, regarding technical side of lawful hacking, are proposed:

Rules governing hacking tools - an adequate regulation should contain certain provisions that act to help manage the risks posed by law enforcement hacking, by addressing technical requirements for the tools:

a. Tool development and purchasing - the law should define the appropriate steps that should be taken to effectively monitor the development of hacking tools, ei-

ther in-house, or by third parties; special attention should be paid to purchasing hacking tools from third parties so as to avoid legitimizing the growth and cultivation of a "vulnerabilities market";

b. Tool requirements - reflecting the state of the art, the law should define standardized technical requirements, as safeguards ensuring reliability, integrity and traceability, at least with regard to:

- *Functionalities minimization* - the tool should be used only for the functionalities allowed;

- *Changes minimization* - the tool should be set in such a manner that it causes only necessary changes;

- *Data minimization* - the tool should be configured in a way that ensures the data collected are minimized to the greatest extent possible;

- *Handling and storage of data during an investigation* – the tool should be configured in such a way that protection against unauthorized access is provided, while the copied data are protected against modification, unauthorized deletion and authorized inspection;

- *Logging details of a hacking operation* - key information related to the tool should be logged, including, at least: the designation of the technical means and its date of use; the organizational unit implementing the action; and information related to the identification of the target system and the collected data;

c. Tool testing - the law should define procedure, so the tool may be approved after determining its compliance with legal requirements;

d. The future of used tool once the operation has ended – the law should stipulate that, after the operation, the hacking tool *needs to be removed* from the target device. Additionally, if it cannot be (completely) removed and removal poses risks to the functioning of the hacked computer, *the device owner/administrator* should be informed and provided with sufficient information to enable them to completely remove the tool;

RULES GOVERNING VULNERABILITIES

a. Establish a national vulnerability assessment and management process - Since mitigating and patching vulnerabilities is crucial for protecting IT security, a proper vulnerability assessment and management process (vulnerability equities policies - VEP) should be defined and implemented.

b. Define vulnerability disclosure – If after policy and technical considerations, it is decided in favour of vulnerabilities disclosure, there are still a few issues that the

law should address: 1. the moment of disclosure (right after its exploitation for the investigation, or right after the end of the investigation), 2. the manner of disclosure (finding the most secure way, to avoid malicious misuse before disclosed vulnerability is patched), 3. the parties informed (who the vulnerability is disclosed to – the software/hardware vendors, or others as well).

If the legislator chooses to empower LEA to exploit vulnerabilities in software and hardware products in order to gain remote access to IT system and to remotely search and monitor user activity in order to collect the data to be used as digital evidence in criminal procedure, the presented finding should be used as guidelines for creating the appropriate legal framework.

During the research the author has noticed that information on techniques and methods used are mainly classified and not publicly available, and this non-disclosure is comprehensible, in order to preserve operational effectiveness. Nevertheless, and because of that, the legislation should contain as much as possible specific and precise provisions governing the technical side of lawful hacking.

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LEGAL INITIATIVES IN THE FIELD OF INFORMATION SECURITY (ON THE EXAMPLE OF RUSSIA)

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The need for an in-depth study of legal initiatives in the field of information security is due to the fact that Russian special legislation in the field of the Internet is at a very early stage of development.

Today the state is in need of new specialists in law enforcement, government and administration. The new reality dictated by a special military operation on the territory of Ukraine and unjustified sanctions against the Russian Federation, with the full support of Russia from the People's Republic of China, can plunge the world into a serious crisis associated with food shortages (Redko, Osipenko, Nasonova, Vekhov, Nikonovich, 2019: 509-515), which will lead to even more crimes. Given that the modern criminal is not particularly eager to leave the house today, it is possible to predict with a high degree of probability an avalanche of Internet crimes.

Criminal communities use all new technologies dictated by rapid scientific development, taking advantage of the lag of middle and older age groups and certain groups of low social status (those suffering from alcohol or gambling addiction, the disabled, partially capable or limited in legal capacity) in computerization and integration of advanced technologies in everyday life. The situation is developing in such a way that each of us (including you, dear reader of this scientific article) repeatedly receives phishing calls from scammers pretending to be bank employees, special voice assistants (bots), and if until recently they needed the necessary knowledge of psychologists, basic skills financial transactions and the charter of the legal entity on behalf of which they are presented, then today their only task is

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to receive from you the maximum number of voice commands (phrases, theses). This is due to the fact that almost all financial services applications have built-in voice assistants that recognize voice and allow you to make transactions without Face-ID or papillary identification.

While the whole world is considering legislative initiatives on how to counteract these forms of fraud, the Internet information and telecommunications network has been replaced by such a phenomenon as the messenger, which is a symbiosis of clips and short informational texts. In fact, this is a symbiosis of ISQ and YouTube. Efficiency, dynamism, and general accessibility of instant messengers such as WhatsApp, Telegram, and Signal make it possible to effectively influence the life of society, the consciousness of the broadest masses of the population. They can help to arouse public opinion in support of certain goals, a particular political course. At the same time, they can perform integration functions, persuading people to favorably perceive and assimilate the prevailing socio-political values. The leaders of many countries of the world, including Russia, as well as individual leaders of the constituent entities of the Russian Federation, are active users of Facebook, Instagram, WhatsApp, and Telegram. Their position, spread through accounts to millions of people, cannot but be reflected in the formation of public, political and legal consciousness and inspire confidence among citizens who regard these sources as official, which gives enough advantages to commit new types of crimes. In particular, the most common is the collection of funds for the fictitious treatment of children, the disabled, combatants, humanitarian aid for various purposes, etc. Using special programs to cheat the audience, attackers create fictitious accounts for themselves, the photos (avatars) of which display famous people, the account name in one way or another duplicates well-known names, for example: MrMakron__official@gmail.com, and then enter into correspondence with several hundred potential victims at once. There are still no ways to counteract, detect, suppress, disclose, prevent such crimes, and the implementation of the principle of the inevitability of punishment remains at an extremely low level.

At present, there is virtually no experience of legal regulation of this newly emerged sphere of public relations. Unfortunately, this is not only about criminal activity; along with it, Russia's civil law relations, administrative and security, criminal procedure and others are not regulated. The need to develop and implement a scientifically based state strategy in this area is dictated not only by the interests of strengthening democracy, but also by the objective needs of Russian society (the world community as a whole) and the state in protecting the foundations of the constitutional order, morality, and other constitutionally recognized values.

Nowadays the world is developing at such a speed that lawyers are not able to engage in law-making activities on their own due to the fact that they do not have special technical knowledge that allows them to capture and understand the

meaning of the necessary algorithms of behavior in the field of public relations. In today's society, people are more and more dependent on receiving information via the Internet. The United Nations recognized free access to the global network as one of the basic human rights (Rikke, 2013). Obviously, the number of crimes in the virtual environment will increase.

Conventionally, there are two key approaches to the prevention of cybercrime. The first of them relies on preventive measures: moderation, traffic control, blocking of nodes containing "undesirable" information, as well as entire services. A similar practice exists in China (Redko and others, 2019), Iran, Kazakhstan, and a number of other countries. In connection with the popular unrest in Egypt, the Internet was simply turned off. Another approach involves the creation of a monitoring system for the appearance of illegal materials.

At present, the law enforcement and judicial practice of detecting and preventing crimes committed in a virtual environment is still in its infancy: the audience of Internet users is growing, new technical devices are being used and the role and place of certain methods and methods of committing crimes is changing. A vacuum of specialists in the law enforcement sphere who could give a reasonable forensic characterization of a criminal act of this type has formed. It is necessary to recognize at the state level that the middle and older generation of investigators and operational police officers directly or covertly avoid these themes, as they are afraid of demonstrating their incompetence. At the Volgograd Academy of the Ministry of Internal Affairs of Russia, an attempt was made to obtain grant support from the Fund of the President of the Russian Federation for the development of civil society under the Cyber-Policeman project, the essence of which was to carry out preventive measures on an ongoing basis, to prevent the negative impact of prohibited content on Internet users. In case of harm to Internet users affected by illegal actions, the provision of comprehensive assistance aimed at rehabilitation, restoration of rights, freedoms and reputation has been provided. Protection of minors from the negative impact of prohibited content (terrorist, extremist, sexual nature) and measures to prevent and suppress the implementation of illegal actions against them, as well as creating conditions for obtaining reliable information about persons engaged in illegal activities and obtaining information about resources that serve to disseminate illegal information and sending this information to the competent authorities for decision-making in accordance with the law have been provided for (Crystal&Yakushev, 1999: 17).

While using the Internet, citizens constantly receive offers to join extremist organizations, they are subjected to actions aimed at corrupting and inducing suicide, as well as committing various crimes. This is confirmed by the statistics of law enforcement agencies. Frequently, information from instant messengers and information and telecommunication networks is absorbed by adolescents and adults

faster and deeper than face-to-face communication with people. There are entire groups and even communities that openly distribute child pornography, engage in molestation of minors, bullying, sell drugs through digital resources, recruit into extremist organizations, call for participation in illegal rallies, overthrow the state system and commit other illegal actions. Offenders feel their impunity and do not feel controlled by the state and the public. In support of this, it is necessary to cite statistical data that Russia occupies one of the leading places among the countries with the highest number of suicides per 100,000 people in 2020, a significant part of which were pushed to suicide on the Blue Whale Internet platforms, in the form of quest games with tasks and RPG games, as a result of bullying.[2], among countries with the highest number of sexual offenses committed via the Internet among minors [3], the sale of narcotic drugs via the Internet has also increased many times over recently [4].

The forces and means of law enforcement agencies, in view of the quantitative composition and complexity of detecting such crimes, as well as the lack of relevant legal norms, do not allow taking control of this area. Civil society, represented by public organizations, actively participate in counteracting the commission of these crimes. However, a situation is emerging that public organizations are good at detecting, but cannot fight on their own, and state bodies can fight, but poorly identify and practically do not disclose cyber-offenses. As a rule, law enforcement agencies begin to deal with these types of negative phenomena only when terrible consequences have already occurred, and the system for detecting, preventing and suppressing is not effective. This problem secretly develops like a cancerous tumor, but its consequences can come on suddenly and it will be quite difficult to correct the situation.

Therefore, in the considered social, legal and political problem, a symbiosis of society and law enforcement agencies is necessary. There is a need to develop a state policy of the countries of the world to ensure the protection of human and civil rights and freedoms in the information and telecommunications network, which would include law enforcement, judicial, rule-making, law-educational, propaganda, as well as administrative, managerial, supervisory forms of implementation. First of all, legal initiatives are needed in the legislative environment, since in the course of work law enforcement agencies are faced with new types of crimes, a characteristic feature of which is the almost complete absence of regulatory regulation. For example: the activities of online stores selling nasvaem and snus, school-shooting and bullying groups, the distribution of various kinds of

2https://openbase.online/ctatistika-samoubijstv-po-stranam/, https://psihomed.com/siniy-kit-zadaniya-kotoryie-ubivayut/?ysclid=l8wy35vc6z196140007

3https://ria.ru/20200529/1572152411.html;https://www.gazeta.ru/social/2019/10/16/12758942.shtml

4 https://news.ru/society/mvd-chislo-prestupleniya-s-ispolzovaniem-interneta-v-rf-vyroslo-na-91/

synthetic salts, and much more. Without the capabilities of special subjects, they quickly come up with a legal initiative to resolve the problems that have arisen, develop forensic characteristics and law enforcement practices, criminals will be ahead of law enforcement officers by 5-10 years. Law enforcement agencies simply do not have the opportunity to timely include in their competence the newly emerging negative trends among young people.

Secondly, there is a need for an international exchange of materials of law enforcement and judicial practice on the issue under consideration. It is necessary to conclude a number of international agreements and programs for the exchange of experience and specialists since these crimes are committed all over the world using the same algorithms. For example: cannabis (for narcotic purposes to obtain psychotropic pleasure) is banned in Serbia, but it is allowed in the Netherlands (it is even added to confectionery), so a criminal who sells drugs over the Internet in another country has nothing to fear except extradition (if such a legal institution exists). The Russian Federation today is literally flooded with reports of mining places of mass gathering of people. Despite the fact that this is a serious crime in many countries, we understand that the citizens of Ukraine will not be held accountable for this. Moreover, in most cases the criminals committing an act remotely are in other states and are confident in their own impunity. The Russian Federation today is literally flooded with reports of mining of places of public gathering of citizens[5]. Therefore, without the active work of the Interpol Bureau, Consulates, Ministries of Foreign Affairs, embassies and other international bodies, the effectiveness of prevention, disclosure and investigation will be significantly reduced.

It is also a matter of concern that the Russian Federation has not ratified CETS 185 (the Convention on Cybercrime or the Budapest Convention on Cybercrime) for 20 years. It is obvious that cybercrime is most effectively dealt with within the framework of international law. Because of this, the tendency to expand international cooperation in the field of high technologies is noted in the activities of many international organizations. One of them is the Council of Europe according to which the growth of computer crime requires a coordinated approach by States to develop regulations aimed at combating it. A number of recommendations adopted by the Council are devoted to this problem in which an attempt is made to define the concept and outline the range of crimes related to the use of computer technology[6]. Unfortunately, the advisory nature of these documents did

5https://gorsite.ru/news/gorod/236_soobshcheniy_o_lozhnykh_minirovaniyakh_poluchili_sluzhby_v_novosibirske_/?utm_source=yxnews&utm_medium=desktop

6 Recommendation No R (89) 9 of the Committee of Ministers of the Council of Europe to member States for the Computer-Related Crime and Final Report of the European Committee on Crime Problems (adopted by the Committee of Ministers on 13 September 1989 at the 428 the meeting of the Ministers' Deputies). – Strasbourg, 1990; Recommendation No R (95) 13 of the Committee

not contribute to resolving conflicts and gaps in the sectoral federal laws of modern countries that arise in practice.

Due to these circumstances, the Committee of Ministers of the Council of Europe in February 1997 was tasked to study the legal problems arising in the investigation of computer crimes. Based on the results of its work, it developed a draft Convention on Cybercrime. This is a comprehensive document containing norms designed to have a significant impact on various branches of law: criminal, criminal procedure, copyright, civil, information.

The norms of the Convention are aimed at regulating three main issues:

- convergence of criminal and legal assessment of crimes in the field of computer information;

- convergence of national criminal procedural measures aimed at ensuring the collection of evidence in the investigation of such crimes;

- international cooperation in criminal procedural activities aimed at collecting evidence of the commission of such crimes abroad.

A significant feature for the criminal legal sphere was that it was proposed to be included in the legislation of the countries participating in the Convention uniform norms on criminal liability for cybercrimes, the list of which includes acts directed against computer information (as the subject of criminal encroachment) and using it as a unique instrument of committing a crime, and acts whose subject of encroachment are protected by the law of good. The object of cybercrime, according to the Convention, is a wide range of public relations protected by law that arise during the implementation of information processes regarding the production, collection, processing, accumulation, storage, search, transmission, distribution and consumption of computer information. Among them, legal relations arising in the field of confidentiality, integrity and availability of computer data and systems, the legitimate use of computers and computer information, copyright are emphasized.

The reaction of human rights organizations to the proposed ratification of the Convention in the Russian Federation was quite expected. Human rights organizations argued that it contradicts basic human and civil rights, does not correspond to the natural law theory of law, restricts constitutional permissions, unjustifiably strengthens the powers of national governments, undermines the development of information security methods and reduces the responsibility of the state before the law.

of Ministers of the Council of Europe to member States for the concerning problems of criminal procedural law connected with Information Technology (adopted by the Committee of Ministers on 11 September 1995 at the 543rd meeting of the Ministers' Deputies). – Strasbourg, 1995.

As a result, the number of cybercrimes in Russia in 2021 has risen by a third. In January 2021, this indicator increased by 32% compared to the figures for 2020. In the first month of 2021 alone, 37.2 thousand crimes in the field of information and telecommunication technologies were registered. At the same time, attackers were 39% more likely to use mobile networks to achieve their goals, and the Internet was 51.3% more likely[7]. Over the past seven years, the level of cybercrime has risen 20 times, and the actions of attackers in this area are becoming more aggressive. This was announced by the official representative of the Investigative Committee of Russia: "Today, every seventh crime in Russia is committed with the help of information technology or in cyberspace."[8]

Thirdly, the state, both at the external and internal levels, must include mechanisms for legal education, the formation of legal creation and legal culture. At the same time, the time of wall newspapers and motivational speeches of the boss who was under pressure of a more authoritative boss has passed. This causes extremely negative emotions and a desire to counteract, or at least harm them with inaction or imitation of the fact that they did not understand anything. The state should unobtrusively and covertly influence the consciousness of the population through information messengers, modern bloggers, shows, online streams and RPG games. It is necessary to use the misconception of citizens that state bodies do not care about this area.

Fourthly, the entire branch of the judiciary should be involved in such work. Despite the fact that the Russian system of legislation is attributed to the Romano-Germanic legal family, the judicial precedent is becoming more and more important in modern objective reality. This includes the Plenums of the Supreme Court and various interpretive acts. So, in the case where the regulatory legal framework demonstrates its gaps or conflict of laws, courts of various instances should come to the rescue, which are authorized to eliminate negative factors based on their experience and the use of the analogy method, and law enforcers can focus on them.

Fifthly, an administrative and managerial decision and a political lobbying for serious changes in the structure of law enforcement agencies are needed. In particular, it is proposed to establish the Main Directorate for Combating Cyber Crimes in the system of the Ministry of Internal Affairs of Russia, which will include the following departments:

a) The department for combating extremist and terrorist activities;

b) The department for the prevention and detection of crimes of sexual nature;

7https://news.rambler.ru/sociology/45978985-chislo-prestupleniy-v-internete-v-rossii-v-2021-godu-uvelichilos-na-tret/?ysclid=l8y6vn7d7a279380302

8 https://www.rbc.ru/rbcfreenews/6000f7b39a7947863c0244d2

c) The cyber fraud department;

d) The department for combating bullying, suicidal inclination, shooting and dissemination of deliberately false, defamatory information;

e) The department for the control of online and RPG games and applications;

f) The department for the suppression of illegal circulation of digital currency, monetization, mining.

Sixthly, there is a need for sufficient control and oversight of this area of public relations, both on the part of authorized bodies and on the part of public organizations and associations of citizens. The advantages of new means of mass communication and their rapid development provided interested persons with qualitatively different opportunities for manipulating public consciousness and group behavior (Kara-Murza, 2015). The essence of these processes is still little studied, and practice in this area is far ahead of legal theory and legislation. Today, it is necessary to realistically assess the role of these instruments, exercising timely control and supervision.

Currently, there is a rapid growth of the Russian segment of the global information network Internet, both in quantitative and qualitative terms. "Like the legal systems of other countries, including the US and the countries of the European Union, Russian special legislation in the field of the Internet is at a very early stage of development. At the same time, to a large extent, we can talk about the absence of an effectively operating regulatory framework in this area, despite the existence of general norms of constitutional and civil law and a number of other legislative acts. The reasons for this are both the insufficient theoretical study of certain fundamental regulations, and the subjectively wary attitude towards the Internet on the part of law enforcement agencies and persons working in them" (Crystal & Yakushev, 1999).

An analysis of the current legislation that forms the legal foundations of the Internet shows that the rules governing the implementation of its activities may have a different industry affiliation. Currently, the following legal acts are in force on the territory of the Russian Federation that directly or indirectly regulate public relations arising in the Internet environment - the Constitution of the Russian Federation, the Civil Code of the Russian Federation, the Federal Law on Information, Informatization and Information Protection, the Federal Law on Communications, the Federal Law on Mass Media, the Federal Law on Trademarks, Service Marks and Appellations of Origin, Criminal Code of the Russian Federation, the Federal Law on State Secrets, the Federal Law on Advertising, the Federal Law on operational-search activity in the Russian Federation. All of them, one way or another, cover individual features that must be taken into account when investigating crimes and offenses committed in the information and telecommunications

network or by means of instant messengers, but they were not considered in their totality in their conflict and gaps.

Specialized legislation regulating relations in the global network is actively developing all over the world and Russia is no exception. In the criminal and criminal procedural legislative regulation of Internet crimes, several obvious problems associated with objective reality can be identified. Fundamentally new theoretical approaches are needed to the forensic characterization of crimes committed through the information and telecommunications network. We are talking about the formal composition of the crime, we need methods that allow at least elementary to establish the place of the crime and describe the procedural and actual sequences of its conduct, compiling photo tables (possibly using the Print Screen shortcut keys, taking pictures of the screen, etc.), establishing the location of the offender and the effect of this or that legislation in relation to him in accordance with the theory of the distribution of law in space, time and circle of persons. This is the controversial issue of the actual possession and the possibility of disposing of certain funds of the victims, the features of compensation for harm, procedural measures, the difficulty in determining the exact damage, given that the bitcoin or u-money exchange rate is constantly changing. It remains a separate task to determine the persons responsible for the commission of an illegal act, given that the dark web allows them to mirror escape routes and mask VPN devices. Additional difficulties are created by the lack of national borders on the Internet.

Lawyers, scientists, political scientists have been saying for decades that it is necessary to take preventive measures, to prevent or anticipate the appearance of gaps and conflicts in law. Aware of the fact that modern society is dynamically developing and there are more and more social relations that need statutory regulation. At the same time, it is necessary to provide sufficient opportunities for self-regulation and legal initiative to persons who, due to their professional experience, are faced with this kind of crime. Only they are able to streamline the procedural and criminal legislation in such a way that the rule of law corresponds to the real situation of cases in practice, since the legal initiative provided for by legal prescriptions (rules of law) or the possibility of subjects of legal relations arising from their general meaning to cause (initiate) by their lawful actions certain positive changes in the system of current law, various areas of legal practice and individual legal regulation, improve the functions of the state, adjust the work of state bodies, as well as actual activities (behavior) implement this opportunity (Redko, 2021).

Taking into account the specifics of the global network, it should be noted that in some cases, real prevention of violations can only be carried out using the capabilities of providers, i.e. organizations providing communication services. There is an objective need to develop a corrective criminal and criminal procedural legislation of the Federal Law, the structure of which contains both general and special

parts, which would take into account special terminology and specific emerging legal relations, as well as measures of state coercion for non-compliance with prescriptions. Attempts to regulate only some aspects of the legal regulation of the Internet can hardly be considered justified.

The goals of developing Russian criminal substantive and procedural legislation in the field of cybercrime can be:

1. Providing conditions for the participation of the Russian Federation and operators of the Russian segment of the Internet in the development and adoption of international standards governing both technical and technological, as well as organizational and legal aspects of the development of the regulatory legal framework in this area;

2. Consolidation of state guarantees of protection in relations related to the Internet, the rights and legitimate interests of Russian citizens and organizations, public interests, state interests of the Russian Federation, constituent entities of the Russian Federation and municipalities;

3. Development of fundamentally new legislative and other regulations that take into account the specifics of the functioning and development of instant messengers.

According to the results of a sociological study by RBC-online, the share of Internet users aged 12 to 24 in Russia approached 100% and amounted to 97.1% in February-November 2020, following from Mediascope data (available to RBC). In other categories, the number of those who spend time online decreases with increasing age: in the category from 25 to 34 years of age, 95.8% of Russians used the Internet at least once a month, in the category from 35 to 44 years of age - 93.7%, from 45 to 54 years of age - 84.2% and in the category over 55 years of age - almost half (49.7%). In total, from February to November 2020, 78.1% of the country's residents over 12 years of age went online at least once a month. Most often, Russians access the Internet from mobile phones. So, at least once a month, 70.8% of citizens used a smartphone for this purpose, 50.8% used a computer. At the same time, 27.1% of Russians used exclusively a mobile phone to access the Internet in 2020. Most exclusive mobile users in Russia are in the category from 25 to 34 years of age (36.1%)[9]. "Technological tools available to a significant part of Russian society significantly increase the number of available information channels, thereby increasing the level of pluralism and transparency in the functioning of public authorities. The audience of the Internet, as a rule, consists of people who take an active life position, and therefore is quite influential" (Monks, 2003: 55). In addition, all sociologists who have studied the audience of Internet users agree on one

9https://www.rbc.ru/technology_and_media/12/01/2021/5ffde01e9a79478eb5230426?ysclid=l4ih2jlicg847763244

thing - every year it will only increase. Thus, it can already be reasonably assumed that the governments of countries that do not pay due attention to the prevention and suppression of crimes in the information and telecommunications network are depriving their citizens of a secure future. Do not forget that today the existence of truly independent media is possible only in the Internet space. Since with the development of political technologies media have become a powerful factor influencing the formation of electoral priorities, their activities are subject to separate regulation. In the implementation of the relevant norms, acute problematic issues arise related to the establishment of a balance between the freedom of the mass media and the freedom of expression of the will of voters. Unfortunately, the normative regulation of relations in this area can hardly be considered sufficient both in terms of volume and quality.

In our opinion, a competent and timely legal initiative will allow correction of the current circumstances, which on the one hand is part of the inalienable right to free will of collective and individual subjects, explicated in the possibility of correcting the rule of conduct that regulates public relations or a group of public relations with the aim of "effective solution in a relatively new way of an urgent socially significant task" (Kharin, Bogdanova, Kaptyugova, 1986: 110). In this case, the initiative is a response to the needs of social development - it expresses the need to resolve contradictions without overcoming the progress of society (Marx, Engels, 1954). The approach to a legal initiative as a law presupposes the presence of a creativity moment, the preservation of a creative position in the process of vigorous activity. The author of the initiative is able to evaluate his actions by socially significant criteria - he must have the ability to search for tasks, problems, new ways of action (Zatonsky, 2006: 15–18). On the other hand, a legal initiative in this sense acts as a form of vigorous activity of subjects in the legal space aimed at protecting the rights and legitimate interests. However, with all the interdependence and interpenetration, the legal initiative is not identical to the legislative initiative and has features inherent only to it, which in the forensic issues under consideration will also be significant advantages:

1. Unlike other types of social initiative (political, economic, scientific, etc.), a legal initiative is regulated (provided for) by the current law, and its implementation is associated with the onset of certain legal consequences. This sign is leading in the sense that it allows a fairly clear line between legal initiative as a specific phenomenon of legal reality and other types of social initiative.

2. The legal initiative demonstrates itself in the legal system of society in the form of two interrelated and interdependent parties: formal-legal (material or static) and active-practical (procedural or dynamic). In the formal legal dimension, a legal initiative appears as a specific right (authority), which is a structural component of the legal status of a collective or individual subject of legal relations.

In this case, it is nothing more than the type and measure of legally guaranteed possible behavior, it belongs to the category of subjective rights or public powers. In the active-practical aspect, a legal initiative is a form of socially active behavior of subjects of legal relations or, in other words, a form of realization of a subjective right (public authority).

3. According to its functional purpose, the legal initiative is aimed at introducing new principles and norms of legal regulation of social relations, forms of legal activity, the emergence of new legal relations, etc. Thus, it is a necessary means of innovative development of the legal system, a way to stimulate and introduce relevant legal changes (innovations).

4. In terms of content, i.e. from the position of ensuring the interests of the individual, society and the state, the legal initiative serves as a means of introducing progressive legal changes. This, of course, does not mean that any initiatives put forward in the legal sphere automatically lead to legal progress. The progressiveness of the legal initiative should be understood in the sense that, according to its purpose in the legal system of society, it is designed to improve, and not worsen, the legal status of citizens, various social groups, society and the state as a whole.

5. From the point of view of its place in the system of modern Russian law, the legal initiative is a complex (inter-sectoral) legal institution that combines the norms of public and private, substantive and procedural law.

6. The implementation of a legal initiative is associated with compliance with the requirements established by law, an agreement or other sources of law regarding the composition and eligibility of the subjects of the corresponding initiative, their number, the subject of the initiative, the time of its submission, form and other parameters. In particular, the Constitution of the Russian Federation (Article 104) defines an exhaustive list of subjects of legislative initiative and limits the subject of the legislative initiative of the Constitutional and Supreme Courts of the Russian Federation only to matters within their jurisdiction. The Labor Code of the Russian Federation (Article 81) does not allow the dismissal of an employee at the initiative of the employer during the period of his temporary disability and vacation. The Family Code of the Russian Federation (Article 17) limits the husband's right to initiate a divorce during the wife's pregnancy and within a year after the birth of the child. The Federal Constitutional Law on the Referendum of the Russian Federation regulates in detail the procedure for implementing the initiative to hold a referendum, which belongs to the citizens of the Russian Federation.

7. Legal initiative is, first of all, the ability of the relevant subjects to exercise their actions granted by the state, international norms or norms of natural law the authority to change, terminate or create mechanisms to protect their rights and le-

gitimate interests. Legal initiative is the most developed form of socially active lawful behavior.

8. Legal initiative is inextricably linked with the realization of the rights and freedoms of man and citizen, manifestations of creativity, social and legal activity, while it is associated with the observance of certain procedural requirements.

9. The legal initiative is a kind of reflection of the level of democratization of society, by the degree of involvement in the legal initiative of collective and individual subjects, as well as by the number of initiatives put forward in the country, one can judge its openness to dialogue with the population, the degree of democracy in political and legal processes, level of development of the legal paradigm as a whole.

Legal initiative is a kind of social initiative and, unlike religious, customary or moral initiatives, must be conditioned by natural law or positive law or authority. A legal initiative cannot exist outside of law, and over time when social, economic, political circumstances arise, its goals and objectives may change.

An initiative is a creative, independent process of comprehension, creation, development, introduction, promulgation and implementation of any socially significant, useful proposals, projects, concepts, technical innovations (inventions), etc., carried out on the basis of free will. Legal initiative is always an active, but at the same time a voluntary process of the relevant subjects, it cannot proceed in the form of compliance or execution, the main form of its implementation is use, except when it comes to legislative initiative, which is the official responsibility of a certain circle of subjects.

The expected results of the development of the institution of legal initiatives are the creation of a permanent mechanism for the prevention of offenses on the Internet among citizens, the provision of comprehensive assistance to victims in rehabilitation, the restoration of their rights, freedoms and reputation, the creation of a platform for operational interaction with law enforcement agencies, the scientific support of this problem and the development of effective methods countering this problem.

Thus, objective reality strongly recommends that we take into account the initiatives of collective and individual subjects of law, for a timely legal response building a human rights system in such a way that it meets the requirements of science and technology.

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IMPACTS OF ORGANISED CRIME ON CITIZENS AND NATIONAL SECURITY

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INTRODUCTION

Unlike former times, when organized crime was primarily interested in gaining profit, today's criminals have other aspirations, too. Financial power and positions in the political, economic and local sector are being used for exercising non-institutional, non-legal, unethical and other influence on the state, i.e. in order to achieve a good position and status within society, as it cannot be achieved by participating in the regular democratic processes. The connections between organized crime and the political and business elite, but also new centres of financial power (so-called tycoons) are noticeable, resulting in certain types of political, economic and environmental crimes. Such connections are used for legalizing illegally gained profit, which makes it necessary to have contacts at all levels of power (government, ministries, police, judiciary, prosecutor, business structures), which help criminal groups in return for money.

Hence, it is clear that organized crime strives to infiltrate the political system of many countries by means of financing election campaigns, corruption, or intimidation of the voters and political parties. Thus, economic power is transferred into political power, and the achieved political position can be used for increasing economic power, while the dirty capital gets laundered and grows.

It has been noted that organized crime uses media to carry out destructive psychological and propaganda activities (radio, television, social networks). They found,

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finance and control those media in different ways, thus exerting a certain pressure on the public opinion, as well as the legislative, the executive and the judiciary power as well as to rival criminal groups and organizations or potential witnesses.

Organized crime is particularly destructive regarding business and finance security. The capital of some criminal organizations is larger than the national budgets of several states together, which allows them to contribute to hindering the transition to democracy, restricting personal rights and freedoms, hampering open economy and legal foreign investments, restricting the freedom of choice and press freedom, and financially threatening countries.

Organized crime is also often linked to terrorism. Although, according to a thesis, terrorism is one type of organized crime, their connection should rather be described as relatedness than as congruence.

Today, the number of offences with a transnational dimension committed by organized crime is increasing. Hence, the international community has an interest in preventing all types of organized crime at a global level. Defining organized crime is the first and probably the most important step on the way to establishing a prevention strategy. In the broadest sense, organized crime describes a group of persons who have agreed on committing crimes together. An important element of this definition is that action is coordinated among a group of people. In a stricter sense, organized crime refers to offences committed by a criminal organization (a gang, group or criminal association) with a hierarchic structure, realized by an organizer and at least to more members.

Professional criminals are ever more often organized in different groups, gangs and other kinds of associations who cooperate in the process of committing crimes as their regular occupation. In such constellations, they often connect to officials responsible for implementing laws, which provides them with a huge advantage compared to criminals who do not enjoy such protection. Thus, organized crime developed is a special form of professional crime.

Criminal organizations can be distinguished according to various criteria: their tradition and the time of their existence, their character and origin, area of interest, level of organization, etc. Well organized groups of criminals who have been working together for years according to their own norms often have a solid hierarchic structure of organization that allows them broad operability in their action. Such organizations are led by a boss who directs the actions and activities.

He can be linked to two or more such organizations. All activity is based on strict discipline, obedience and personal loyalty, all the more if the group is strictly organized and integrated. These organizations usually have a broad radius of activity, they are highly operative and can rapidly manoeuvre and broadly relocate their activities, which is why their societal dangerousness is so sought after. Criminal

organizations make use of all means at their disposal: bribery, threatening, menacing, political connections, only to reach their goals and to thwart the impact of the laws. They often agree and coordinate actions among themselves, but can also be at war against each other, which sometimes leads to killings.

The general scope of action of organized crime is very wide, while the organizations themselves tend to have narrow specializations. Some specialize in organizing prostitution, others smuggle intoxicants, organize contract killings or blackmail, etc. Organized crime does whatever offers the possibility to gain money, like smuggling, prostitution, bribery, gambling, drug trafficking (heroin, cocaine, marijuana), arms smuggling, recruiting contract killers, carrying out terrorist actions, etc., but also crimes like organized art theft.

THREATS FROM ORGANIZED CRIME

Today's organized crime is becoming more and more international, which allows it to influence the security and stability of states from outside. The organized crime of the 21st century is characterized by the following features:

› networking among criminal groups within state borders, i.e. criminal cooperation;
› internationalization of criminal activities (from national to international level);
› partnerships between criminal groups and networks from different countries, i.e.
internationalization of criminal cooperation;
› creation of transnational illegal markets of organized crime, i.e. globalization of the
criminal market;
› increasing destructiveness with regard to values and interests of individuals, society,
states, and the international community.

Apart from a wider geographical scope, the former narrow specialization on separate types of crime has now given way to the so-called criminal corporations which represent different criminal groups who carry out different types of crimes. The criminal corporations offer "different illegal services in one place", like a "one-stop shop".

There are numerous types of organized crime. The main types are economic and corporate crimes, the drug mafia, arms smuggling, human trafficking, smuggling of migrants, the sex mafia (prostitution and pornography), the car mafia, art and antique theft and smuggle, the gambling mafia, the urban and building mafia, the organ mafia, the baby mafia, the pharmaceutical mafia, the funeral mafia,

counterfeiting of money and bonds, extortion, robbery, crime within the military structures, the education mafia, the road mafia, the bankruptcy mafia, the customs mafia, the tobacco mafia, the oil mafia, the energy mafia, the waste mafia, etc. Since organized crime has infiltrated almost all spheres of society, it is realistic to expect the "development of new criminal businesses".

THE REGIONAL SITUATION

Organized crime has a long history on the Balkan peninsula. It contributed to crushing the state structures in different parts of the former Yugoslavia, in different ways that have not been sufficiently cleared up to date. At certain times, the underground cooperated with political elites in order to destroy the foundation of the very state. Abuse of office with criminal aims and political motives included murders of political adversaries, government ministers and renowned dissidents, kidnappings of well- known persons and similar crimes, in which the security agencies of the then republics were involved, all for the sake of the so-called patriotism.

By means of cooperation with the political elites, the Balkan organized crime penetrated state structures and in that way improved its strategic positions and gradually took control over certain parts of the state apparatus, first and foremost the repressive structures, thus paving its way to long-term political and actual influence on society.

With regard to drug trafficking, there cannot be the so-called Columbian scenario in the Balkans, since it is not an initial but rather a transit region for drugs on the route from the Near East to Europe. Marijuana, however, is produced in Albania and transported everywhere via the Balkan region. In the last few years, via European ports, more and more cocaine from Latin America has been ending up in the Balkans.

Serious criminal organizations engaged in human trafficking, killings, cigarettes, antiques and money laundering, but also in activities in the area of politics, media, and public life have been disclosed in the Balkans. Investments and transfers of illegally gained money in real estate, casinos and banks (money laundering) have been registered, as well as the transport of cash money in cars. Criminal clans have been noticed to be linked to various persons, especially from politics and the security structures. The Balkan criminal organizations strive to legalize the profit from their illegal activities (money laundering) by feeding it into the legal financial system of the region.

There are at least three dimensions of organized crime negative impact:

› the human dimension: violating the human rights of direct and indirect victims of
organized crime;
› the economic dimension: impacts of organized crime that worsen the unfavorable
factors of economic transition;
› the security dimension: threats to national security, slowing down the democratization process.

In the area of foreign policy, organized crime can indirectly provoke disintegration by hampering and making impossible the integration of the state into international institutions and organizations, which in turn can lead to sanctions and interventions by the international community, due to the incapability of the government to stand up against organized crime. The effects of organized crime on internal policy are highly complex and latent, representing a strategic risk to the security of the state. Possible effects are:

› destabilization of the economy and the legal markets;
› threats to the operability of some state portfolios;
› networks of organized and other types of crime, most often political crime;
› infiltration of the political system by organized crime;
› economic destabilization of the state due to money laundering and tax avoidance;
› less influx of funds into the state budget;
› demographic destabilization due to degradation of the environment and disruption of the economic and social security of families;
› increased racism and xenophobia;
› increased corruption in the public sector;
› destabilization of the family as the basic entity of society; etc.

Organized crime represents the most severe danger to security. Like terrorism and corruption, it is a complex phenomenon present in all phases of a society's development. It makes the progress of society impossible, creates distrust of citizens towards the state and its institutions, blocks reforms, causes financial harm, destroys the economy, etc. Hence, it is indispensable to fight organized crime with all means that the state and democratic society have at their disposal. Activities need to be planned, organized and based on realistic premises, as well as agreed on by all state institutions and political stakeholders.

While organized crime was developing and becoming international towards the end of the 20th century, the security systems of many states were not able to react appropriately. When the special services for the fight against organized crime were established, irreversible damage had already been done. Hence, reforms of the security sector have to be continued. Back then, groups of organized crime took advantage of the situation and infiltrated all levels of society. Relations with representatives of political and economic power were particularly

destructive. Networks of criminal groups on a national level and partnerships with groups from other countries followed, resulting in the creation of transnational illegal markets of organized crime. A preventive measure in the fight against organized crime is the seizure of illegally gained profit, with the aim to make organized crime and corruption useless. This measure is targeted at the very peak of the criminal pyramid.

Meanwhile, we have to bear in mind that today's organized crime is tightly linked to different types of international crime, mainly economic and financial crime, as well as illegal production and trafficking in drugs, weapons and other dangerous materials, human trafficking, money laundering, and financing international terrorism. In close relation to corruption, new types of highly profitable organized crime are developing, such as cybercrime and trafficking in hazardous waste, one of the most dangerous types of environmental crime.

THE CHARACTER OF SECURITY RISKS[2]

Risks have always captured our attention and shaped our everyday behavior. For the last few decades, we have been witnessing serious, maybe even dramatic shifts in our understanding of the relation to risks. In most contemporary societies, risks are almost entirely understood and defined as security risks or potential dangers. Today, under the conditions of globalization and postmodernism, the modern, or neutral concept of risks, which characterizes modern societies and their rational economic world view, is being replaced by the so-called negative concept of risks, or security risks, as we name them in security studies.

Additionally, not only the very character of today's risks has changed, but at the same time the general understanding of the relation and handling of security risks within contemporary security studies is changing. The shift from repression to prevention as a primary approach within security studies and as a security practice is mainly caused by security risks being the most significant security phenomenon, which requires intervention as early as possible. Every well-devised and successful security policy should be mainly focused on the correct determination, assessment and handling of security risks, prior to being concerned with the threats and dangers to security.

Today, we are living in a time of globalization and a postmodern understanding of society (Waters 2003; Scholte 2008). The dynamic of development is non-linear and characterized by many ambivalent processes, such as the paradigm change concerning security and freedom as core values, which might even be key. Conditions within societies create an atmosphere and culture of life in which people

2 https://fb.uklo.edu.mk/wp-content/uploads/sites/10/2021/12/Securiy-Risks-and-Threats-ENG.pdf

strive to maximize their freedom, and the realization of individual liberty is seen as a social, cultural and societal achievement. Nevertheless, in these times of globalization, the complex network of social relations and interdependence, which has greatly contributed to the breakthrough of freedom, at the same time has led to a security boost, in particular to a worriedness concerning security risks. (Bauman 2016; Bauman 2005; Beck 2001; Giddens 2002; Giddens and Hatton 2003: 14-21; Lyotard 2007; Godard, Henry, Lagadec and Michel-Kerjan, 2002; Svendsen 2010).

Today, not only security institutions, but also citizens themselves are permanently preoccupied with understanding, assessing and coping with security risks. Some of the most prominent scholars, such as Ulrich Beck and Anthony Giddens, have defined this phenomenon as *risk culture*. For societies in which risks are omnipresent and define relations within society, they coined the term risk society. Today, we can assume that most societies and cultures, including the Macedonian one, are affected by these contemporary changes and processes to a certain degree. The true question is whether and to what extent that impact can be observed. Most often, the answer depends on the involvement of the society or culture in question in the process of globalization and today's postmodern neo-liberal society. The views of Beck and Giddens are laid out in their theoretical paradigms which form part of the so-called reflexive risk theories (Gerasimoski, Nikolovski, Gjurovski, 2018: 1-8; Gerasimoski, Mojsoska, Trajkovska, 2013: 214-225).

We have to differentiate between research on the public opinion, views and perceptions of citizens concerning security risks, on the one hand, and research on opinions, views and perceptions concerning security risks within security institutions, on the other. Basically, we can assume that the results of both kinds of research will differ, mostly because security professionals with their everyday experience in working with security risks can have different opinions, views and perceptions on security risks. Therefore, the research on security risks carried out within security institutions has advantage as well as downsides. A realistic picture of the character of security risks could be achieved by comparing the data on opinions, views and perceptions from within security institutions, on the one hand, and the broader public, on the other. Hence, the research on security risks as viewed by Macedonian security institutions carried out by the team from the Faculty of Security is no exception to this general statement, which the research results will further confirm. The limited possibility of generalization of the findings with regard to a broader statistical mass and the descriptive character of the statistical data processing are the most serious restrictions to the research at hand. Nevertheless, the significance of its primary findings, quantitative and qualitative, is not lessened by these restrictions.

The character of a risk can be defined as the contents and appearance of a risk in a given society or culture, the consistency of its characteristics with regard to its

origin and type, its predictability, scale, and intensity. Defining the character of security risks as seen by Macedonian security institutions will allow us to gain direct insight into the specifics of security risks in North Macedonia, their features and structure. After defining their character, the security risks can be ranked according to the importance of the values which they are related to, and the most adequate means of prevention and management can be determined.

Contemporary security studies and theories on coping with, managing and assessing risks focus on the primary significance of correct detection of security risks and their prioritization (ranking by importance). The latter is carried out with regard to the values that the security risks are related to. Hence, the importance of the value determines the extent of the security risk, and thus its significance and its handling in reference to other security risks. Prioritization is important in order to define the priorities of security policy concerning security risk management if we are facing various security risks at the same time. Prioritization of security risks is followed by analysis (assessment and forecast), and then by handling (Vogan 2014; Gemović, 2011; Gerasimoski, 2018: 327-338; Keković, Bakreski, Stefanovski, Pavlović 2016).

In the framework of the study at hand, security risks were determined and prioritized, based on a specific approach defined by the research team. Namely, the questionnaire, which was distributed among public, state and private security institutions, included a semi-open-ended list of security risks, which included 18 security risks, with the possibility for the respondents to add risks that were not included. The respondents were free to choose as many options as they wanted as an answer to question No. 4, the aim of which was to find out which security risks get the most mentions from the respondents. In the next question No. 5, the respondents were asked to compile a priority list, i.e. a list of the security risks they had chosen in question 4 according to their importance. Based on these two questions, we could sum up the security risks from all 151 questionnaires, i.e. respondents, and received a list of security risks according to their priority as seen by security institutions. Thus, we could prioritize the security risks (list them according to their significance, starting from the significant one).

As an answer to the question "Which security risks affect security most?" the respondents could tick as many security risks from the given list. Based on the respondents' choices, we could single out the top five out of the 18 security risks from the list. Out of 151 respondents, 53 (22%) chose the option "terrorism", 52 (21%) "deteriorated system of societal values", and, as high as third, "inappropriate security policy", chosen by 48 respondents (20%). 47 respondents (19%) considered the option "corruption", and 43 (18%) "danger of an inter-ethnic conflict" as the most important threats to the security of North Macedonia.

From the answers to this question, we can see that manufactured security risks, i.e. risks that follow from inappropriate decisions and interventions in society, prevail over a much smaller number of external risks, i.e. security risks that we cannot influence, or that we can influence only to a minor degree. Thus, we can see that with the exception of the risk that was chosen by most respondents, terrorism which is originally external, all most significant risks are manufactured (Gerasimoski, 2018: 14). This accounts for the fact that we are actually facing a shift from external to manufactured risks, while according to the impressin of the research team the basic distinction of risks and the shift which is taking place are not sufficiently recognized by the respondents from the security institutions. The high rank of terrorism can be attributed to two factors, which have to be further analyzed in future research. The first factor is the very perception of terrorism as a risk, i.e. the fear and subjective dimension linked to it, which does not necessarily correspond with the actual threat and danger. The second factor is quite clearly professional bias, or the professional prejudices typical of persons who work with security institutions all around the world, which have to be more sensitive to some types of security risks because they are dealing with them every day. The subjectivity of this factor can be determined and overcome only by means of a comparative research on the opinions, views and perceptions of the public, on the one hand, and security professionals, on the other.

Another striking feature of the answers is that "inappropriate security policy" came in third. Some security incidents that happened during the last few years bear witness to the fact that there is a strong correlation between inappropriate security policy and our reality. Those incidents showed that inappropriate security assessment and security policy, which are tightly linked, were among the main factors that lead to a relatively unsuccessful handling of the risks in question.

INSTEAD OF A CONCLUSION

The character of the risk defined under the circumstances of globalization and postmodern societies has an impact on the character of security risks in today's Macedonian society and state. Globalized and postmodern definitions of the character of risks as negative (security) risks have an impact on the definition of the character of risks as security risks in today's Macedonian society and state. The complex globalized and postmodern societal relations contribute to the so-called privatization of security risks in today's Macedonian society and state. As a result of modern globalized and postmodern changes in the character of risks, manufactured security risks are predominant over external security risks in today's Macedonian society and state.

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CONTEMPORARY INTERNATIONAL POLICE COOPERATION

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INTRODUCTION

Consideration of what police cooperation means is almost impossible without a complex multidisciplinary and multi-level analysis of the crucial international procedures, agreements and external procedural justice that have led to the process of cooperation. Developments in international police cooperation can serve as useful foundation for exploring the political dynamics of policing, police system reforms, police relations to state and civic society, their contribution to the improvement of security, democratization process, legitimation of political and security structures and police capacity for autonomous action.

Information and communication technology (ICT) has not only changed the way of communication between people, but also introduced changes in almost every aspect of human life. Technological development and rapidly growing use of ICT contribute to evolving criminal techniques. In contemporary society there is an enormous risk of modern forms of crime such as: transnational organized crime, terrorism, cybercrime, cyber terrorism and other forms of crime. Accordingly, international police cooperation presents imperative for the survival in the modern world.

In this paper, we do not seek to offer a detailed overview of international police cooperation. That would be too big a task to comprise in one paper. We will focus on global police cooperation studies that already exist and crucial international

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police procedures, agreements and external procedural jurisdiction to formulate a coherent explanation of international police cooperation framework. We believe it is important for police executives, researchers, policy and jurisdiction makers to understand the actual functioning of the international police cooperation. This study has been conducted to better understand police cooperation on all three levels: national, regional and international and to direct the literature on policing towards two areas. First, this research offers clear understanding of the international police cooperation framework. Second, provided material is a basis for evaluation of existing procedures and debate which may lead to improvement in future.

International police cooperation primarily takes place in the fight against criminality, but it also has other aspects. Criminality is one of the most dangerous social phenomena, especially criminality with foreign elements. Technology development and globalization enabled quick and easy communication between people regardless of distance between them. In contemporary society criminality acquired a cyber dimension. The terms "cybercrime", "computer crime", "computer related crime" or "high-tech crime" are synonymous and often used interchangeably (Luknar 2022b, 149). Cybercrime may involve a wide range of attacks. According to the European Commission, cybercrime refers to the: 1) "crimes specific to the internet", 2) "traditional" crimes that are committed online, and 3) "illegal online content", such as: pornographic and child sexual abuse material, glorification of violence, terrorism, racism and xenophobia etc. Besides, cybercrime, organized crime and terrorism (also: cyber terrorism) are among the most serious forms of crime that threaten contemporary society.

INTERNATIONAL POLICE ORGANIZATIONS AND AGREEMENTS

Police are regarded to be an essential organization for maintenance of the order and crime-fighting practices. Given the unique nature of work of the police as one of the most important organizations for state and society, studying international police cooperation requires multiple levels of analyses and use of different methodologies, approaches and theoretical frameworks.

Criminal activities go beyond existing state boundaries. Technology development and its use has accelerated in recent decades. Information-communication technologies (ICT) offer possibilities for rapidly increasing the number of the users and account for the softening of some regional borders. The computing technologies have become indispensable part of our lives. Criminals expand their activities on cyber space and use of ICT, which makes crime more complex. As information and communication technology power grows exponentially, the range of illegal cy-

ber activities continues to grow (Luknar 2020). Contemporary circumstances have shown that the majority of future crimes will contain a cyber-component which will require police and other agencies cooperation on the international level.

International police cooperation is dynamic and complex. "Police cooperation refers to the intentional or unintentional interaction between two or more police entities (including private and public agencies) for the purposes of sharing criminal intelligence, conducting investigations, and ultimately apprehending suspects." (Leieux 2010, 1) The main purpose of international police cooperation is to allow sharing of the information with other countries in order to better understand and prosecute the perpetrators of crime and to maintain the order. Reaching successful international police cooperation is a difficult process because nations differ in several factors that may complicate developing of an effective international police cooperation framework among nations. These mentioned differences between nations include:

a) the justice system structure (different procedures, standards and rules that determine how their justice system works; also, behaviours that are recognized as a violation of criminal law may differ between nations, etc.);

b) cultural values (different values regarding the role of the police in the lives of the citizenry and police interactions with the community, values related to civil liberties and human rights, etc.)

c) political system (varying levels of the role of government in community may differ across nations; political ideas and values may vary from nation to nation, as well as the way in which the government legitimizes its authority, etc.)

d) economic capacities (different financial possibilities to fund police, national security operations and public safety).

After World War II (1946), the first post-war conference was held in Brussels as an initiative for organization reform and on this occasion, states renewed their membership (Nikač, 2003). International police cooperation is based on the reciprocal nature of networking. Much of support for reforms in international police cooperation originates from those countries that consider themselves to be democratic. But this may lead to Western hegemony in the criminal act standardization process (Gerspacher, 2002). Despite these numerous challenges, police forces make efforts to establish effective cooperation on the international level. Interpol, Europol and IPA may serve as best examples in practice. They provide important lessons to ensure more effective fight against crime on a multilateral basis. Besides them, a few words will also be said about Eurojust, Frontex, and SELEC as important organizations in international police cooperation.

International Criminal Police Organization (Interpol) has great importance in the fight against organized crime, terrorism and other forms of crime. It is a very important entity in international police cooperation. This organization provides

inter-governmental fight against crime. It was officially established in 1923. Its main goal is to make the world a more secure place. Interpol offers to its 195 member countries technical and operational support and access to data on crimes and criminals through three main crime programmes: counter-terrorism, organized and emerging crime and cybercrime (Interpol 2022). Interpol is a leader in the international police cooperation. This has been confirmed by a series of successful projects, such as: BESA, I-24/7, Red Road, Pink Panther, etc.

Europol has its origins in the Trevi group. Established in 1970, it was the first step towards cooperation among European police forces. Central European Investigation Office (Europol) was established in 1991. In the beginning, its main purpose was to fight against international drug trafficking and organized crime. Later The European Union Agency for Law Enforcement Cooperation began to extend its activities to many other areas. Over time, as crime was gaining more international form, Europol expanded its field of activity. Europol drugs unit was established in 1993. Then in 1995 Europol continued its work under Agreement of the Convention under Article K3 of the Maastricht Treaty. Europol Information System was set up in 2000. The first cooperation agreements with Third Parties (Iceland and Norway) were signed in 2001. Then in 2002 Europol made its Cooperation Agreement with the United States. In 2010 Europol became an EU agency. As crime began to gain the cyber form, Europol established the European Cybercrime Centre in 2013. In 2015 Joint operational team was launched. In 2016 the European Migrant Smuggling Centre and European Counter Terrorism Centre were established in 2016. In 2020 the European Financial and Economic Crime Centre was established. Contemporary Europol recognizes: terrorism, international drug trafficking and money laundering, organised fraud, the counterfeiting of euros and trafficking in human beings as biggest security threats in contemporary society (Europol 2022). "The principal tasks of Europol consist of:

1. facilitating the exchange of information between the Member States,
2. obtaining, collating and analysing information and intelligence (including the preparation of annual reports on organized crime),
3. notifying the competent authorities of the Member States of information concerning them and of any connections identified between criminal offences,
4. aiding investigations in the Member States by forwarding all relevant information to the national units, and
5. obtaining a computerized system of collected information" (Joutsen, 2002: 396).

European Union Agency for Criminal Justice Cooperation (Eurojust) is also an important entity in the process of international police cooperation that was established with the purpose to "reinforce the fight against serious organized crime" (Eurojust 2022). The idea for the establishment of such an entity came from the 1999 summit in Finland, when all the parties agreed on the need for such an en-

tity. "Eurojust's unique and unprecedented structure represents an important step forward to enhance multilateral co-operation in EU criminal matters. It is also at the heart of its added-value as it allows Eurojust to assist Member States in a way they could either not achieve, or achieve with difficulty and slowness, on their own" (Thwites 2006: 294). Over time, Eurojust has grown along with its operational tasks and today it deals with "a wide range of serious cross-border crime, such as: drug trafficking, serious fraud, terrorism, money laundering, murder, human trafficking, child pornography, cybercrime, criminal offences affecting the European Community's financial interests and participation in a criminal organisation" (Thwites, 2006: 294).

The European Border and Coast Guard Agency (Frontex) was established in 2004 as the organization primarily responsible for coordinating border control efforts. It has great importance in the fight against crime on the international level.

The International Police Association (IPA) is also an organization which plays an important role in international police cooperation. It is a friendship non-governmental organization, and one of the biggest police associations in the world with more than 372,000 members. Its main purpose is "to create and strengthen bonds of friendship between members of the police service, promote international cooperation in social, cultural and professional fields, encourage peaceful co-existence between peoples and preservation of world peace, improve the public image of the police service and enhance recognition of the IPA by international bodies" (IPA 2022).

Schengen group was established as a fast solution based on the Schengen Agreement of 1985 and the Schengen Convention of 1990. Its main purpose was to eliminate internal frontier controls and to provide a more comprehensive data-sharing system for police. "Police cooperation within the framework of Schengen includes cross-border supervision, 'hot pursuit' across borders into the territory of another Member State; and controlled delivery (i.e., allowing a consignment of illegal drugs to continue its journey in order to discover the modus operandi of the offenders, or to identify the ultimate recipients and their agents, in particular the main offenders)" (Joutsen 2002: 398). Schengen has been subject of criticism mostly because of non-EU members and practical difficulties. The Schengen group currently consist of "the EU countries, except Ireland and the countries that are soon to be part of Romania, Bulgaria, Croatia and Cyprus. Although not members of the EU, countries like Norway, Iceland, Switzerland and Lichtenstein are also part of the Schengen zone" (Schengen visa 2022).

International police organizations and agreements are part of a transnational police collaboration system that was established to facilitate communication and information exchange among police worldwide. For better understanding of the nature of transnational police cooperation, we have briefly mentioned here some

of the very first agreements which were the foundation of contemporary international police cooperation:

- the Second additional protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959;
- the Protocol to the European Convention on Extradition (1957);
- the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988);
- the United Nations Convention against Transnational Organized Crime (2000);
- the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000;
- Council Framework Decision of 13 June 2002 on joint investigation teams;
- the United Nations Convention against Corruption (2003);
- the Police Cooperation Convention for South East Europe (2006);
- the Agreement on Mutual Legal Assistance between the European Union and the United States of America (2010);
- INTERPOL and International Organization for Migration agreement to enhance border security (2014);
- the model agreement establishment of a joint investigation team (JIT) (2017) which has been developed 2021;

International documents are divided into: bilateral and multilateral documents and agreements. For efficient transnational cooperation, harmonised legislation is necessary. Joutsen mentions the following information, which we present in Table 1.

Transnational police fight against crime unfolds through many concepts, which differ from each other, but they are complementary. For the purpose of this paper, we briefly mention the following:

"1) Mutual Legal Aid- as the oldest and most efficient concept the mutual legal aid is prominent throughout the countries around the world, through searching and delivering help in collecting facts and evidence available in one country with the aim to help another country.
2) International Police cooperation which occurs with the help of a single, standardized, centralized, and coordinated international police body.
3) International judicial assistance as the third concept of international cooperation in the fight against organized crime between the courts and the public prosecutions of specific countries and cooperation with ECHR.
4) International customs cooperation as one of the concepts of international cooperation.
5) Lastly, there is Direct operational assistance in the investigation phase (Trajkovski, Životić & Pekić, 2020, 46).

Table 1. Framework for specific international issues (Joutsen 2002: 411)

Issue	Framework
Fraud and counterfeiting	• fraud and other crimes against the financial interests of the Communities (Convention of 26 July 1995, protocols of 27 September 1996 and 19 June 1997)24 • fraud and counterfeiting of non-cash means of payment (framework decision on 28–29 May 2001) • counterfeiting of the euro (framework decision on 28–29 May 2001)
Drug trafficking	• illicit cultivation and production of drugs (Council Resolution of 22 November 1996) • "drug tourism" (Council Resolution of 22 November 1996) • sentencing for serious illicit drug trafficking (Council Resolution of 6 December 1996) • drug addiction and drug trafficking (Joint Action of 9 December 1996)
Trafficking in persons and related offences	• trafficking in human beings and sexual exploitation of children (Joint Action of 21 January 1997) • combating illegal immigration (Council recommendation of 22 December 1995)
Corruption	• corruption (Convention signed on 26 May 1997) • corruption in the private sector (Joint Action of 22 December 1998)
Other offences	• racism and xenophobia (Joint Action of 15 July 1996) • football hooliganism (Council Resolution of 28 May 1997) • money laundering (Joint Action of 3 December 1998) • arms trafficking (Council Recommendation of 7 December 1998) • participation in a criminal organization (Joint Action of 21 December 1998)
Procedural issues	• interception of telecommunications (Council Resolution of 17 January 1995) • protection of witnesses in the fight against international organized crime (Council Resolution of 23 November 1995) • individuals who cooperate with the judicial process in the fight against international organized crime (Council Resolution of 20 December 1996)

The Republic of Serbia belongs to South East Europe region where regional cooperation has great importance for the survival of states. Nikač and Juras have mentioned important mechanisms, forms and organizations of regional police and judicial cooperation: "a) The Southeast Europe Police Chiefs Association (SEPCA) and its projects, b) Network of Police Officers (NETPOL), c) Police Forum, d) Migration, Asylum and Refugees Regional Initiative (MARRI), e) Regional Anti-Corruption Initiative (RAI-SEE), f) Southeast European Law Enforcement Center (SELEC), etc." (Nikač & Juras, 2015, 288). Integral part of cooperation are

numerous other initiatives and processes such as: South East European Cooperation Process (SEECP), Stability Pact for Southeastern Europe (CERP), Regional Co-operation Council (RCC), etc. (Nikač, Simić & Aritonović, 2014).

INTERNATIONAL POLICE COOPERATION FRAMEWORK

The police efforts for international cooperation date from the middle of the 19th century. The beginnings were largely rooted in European governments' efforts undertaken in order to modernize and professionalize policing and security services and protect the status quo. To consider the form under which the process of internationalization of the police takes place, many authors (Deflem 2002, 3; 241) mentioned globalization as predominant form of the change.

The globalization process connected the world in global network (Castells 2010) and at the same time increased interdependence between geographically distinct social units (national states). Accordingly, there is increasing importance of surrounding concerns which are no more someone else's concerns. In a networked society consequences may overflow easily from one place to another. For example, due to capital flows and global networking, the war in Ukraine has caused a worldwide multi-level crisis (energy, economy, etc.).

We are living in the age under the pressures of multiple crises: health crisis, economic and energy crisis, the war in Ukraine and migrations (Luknar 2022a, 117). The COVID-19 pandemic push forward ICT and Internet use (Luknar 2021) and expended policing space on to cyber domain. As contemporary society is threatened by new risks and vulnerabilities, transnational police cooperation has great importance in contemporary circumstances.

Many authors wrote about international police cooperation and suggested good practices. We summarized those theories in several main elements (law, economy, political and situational) that effective international police cooperation framework should concern.

One of the theories that have been developed to analyse police organizations under conditions of increasing globalization is the theory of bureaucratization (Weber [1922]1980; Deflem 2000, 2002). This theory is based on the work of Max Weber who mentioned that real authority in the modern state "rests necessarily and unavoidably in the hands of the bureaucracy" (Weber 1922, 126). Due to "the increasing need, in a society accustomed to pacification, for order and protection ("police") in all areas" (Weber 1922: 561), police appear to be the state's most visible and concrete means of coercion. "As state bureaucracies always remain related to the political power of governments, the degree of a police institution's

institutional autonomy will vary and have variable implications, depending on social conditions, especially attempts by governments to politicize police activity during periods of intense societal upheaval." (Deflem 2006, 242). Relying on Weber, Deflem specifies two prerequisites of bureaucratic autonomy of international policing: "1) as a structural condition for cooperation across national borders, police institutions must have gained a sufficient degree of independence as specialized bureaucracies from their respective governments; and 2) international police cooperation plans can be operationalized when participating police institutions share a system of knowledge on international crime, including information on its empirical state and expertise for its control" (Deflem 2002: 19).

Some authors see compatible laws as the premise for international police coordination (Andreas & Nadelmann 2006). Lemieux mentioned three essential elements that foster police cooperation:

1. a geo-political consideration – "Cooperation rests on the ability of nation-states to create that environment through the negotiation of bilateral agreements, regional accords, and intergovernmental and/or supranational organizations "(Lemieux 2010, 3);
2. material criteria - Existence of sophisticated police international bodies (Europol, Interpol etc.): "A judicial environment that either recognizes the procedures of other states or is standardized is another important material criterion" (Lemieux 2010, 3); diplomatic and political actors' efforts to encourage and facilitate international police cooperation;
3. organizational element - The level of organization, "structural factors that nation-states must develop through compromise, standardization, and a mindset that embraces the internationalization of policing" (Lemieux 2010, 3) and the legitimacy of agreements.

All the above-mentioned elements need to be considered in the creation of the sophisticated framework of international police cooperation. International police cooperation depends on many factors: "strategies, bureaucracy priorities, and/or particular interests pursued at specific moments in specific issue areas" (Lemieux 2010, 3). Benyon offers a vertical model of three interrelated levels (macro, meso and micro), where each level consists of various set of actors that are involved in international police cooperation. Macro level implies constitutional issues and consists of policy and agreements makers. Meso implies operational issues and it is link between micro and macro level. Micro level implies police activities of specific forms of crime (Benyon 1996).

Efficiency of transnational police cooperation, among other things, depends on the political element, which refers to "reforms of policing systems, the relations of the police to state and civic society, and the effects of policing on the enhancement of security, processes of democratization, and the legitimation of new political

and security structures" (Marenin 2005, 100); which non-local policing system models can be created; what means and processes are to be applied; what are the role and the effects of policing systems in the processes of governance legitimation, development, reproduction of the state and democratization.

Marenin (2005) noticed three common requirements for democratic policing:

a) professionalism, refers to particular occupational orientations, values, skills and principles while providing effective security (commitment to police service and to the law, concern for human rights, fairness, integrity, impartiality, etc.);
b) accountability, refers to "transparency, democratic and civilian oversight and control, and separation from the military (although this last assertion can be contested" (Marenin 2005, 109)
c) legitimation.

Situational element refers to the conditions (socio-political, public opinion, economy situation, etc.) that have led to various conceptions, procedures and communication in international police practices. Deflem mentioned significance of the conditions that impact police and its bureaucratization, such as periods of societal change. "Intense social disturbances typically lead to attempts to redirect bureaucratic activity to again play a role intimately related to the political goals of national states (politicization). In the case of policing, periods of societal upheaval are seen to affect the institutional autonomy of police institutions in functional and organizational ways" (Deflem 2006, 243).

International police cooperation is complex. Good cooperation with the NGO security sector is also important (Životić, 2018). Some authors suggest "fair policing from the inside out framework" (Van Craen, 2016) in both internal and external police work and cooperation. The mentioned approach is a part of the broader "work relations framework". Fair policing approach may be implemented into international cooperation. "The dimensions of procedurally fair policing include neutrality (even-handedness in decision making and equal treatment), voice (giving citizens an opportunity to tell their side of the story and formulate suggestions about tackling problems), respect (treating citizens with dignity and acting politely), and accountability (giving reasoned explanations for the decisions officers have made)" (Van Craen & Skogan, 2016: 2). There are three main factors of fair policing that are interrelated: internal procedural justice, external procedural justice and trust in citizens.

Giving the importance to fair policing is a necessity in democratic societies, because it can be taken for granted. "Internal procedural justice (i.e., fair leadership) stimulates police officers to produce external procedural justice (i.e., fair policing)" (Van Craen, 2016: 4). International police cooperation takes time because all procedures require patience and commitment of all parties to achieve successfully

completed actions. Van Craen mentioned four mechanisms to underpin and clarify aspects that should be concerned in achieving fair policing approach:

1. supervisor modelling – a mechanism that relies on social learning theory which explains that people's behaviours are the result of the behaviour models that have been learned as appropriate or rewarded in the past. So, "employees learn how to behave in a work context by observing and imitating other people in the organization" (Van Craen, 2016: 5)
2. indirect influence through negative emotions (such as frustration and anger) -interactions which take place in a negative emotion setting may serve as a trigger for aggression toward less powerful targets (Van Craen, 2016: 7-8).
3. indirect influence through officers' job satisfaction and morale – "When officers' morale and job satisfaction are low because of unfair supervision, they will not be inclined to make many efforts. They will only do the minimum." (Van Craen, 2016: 8);
4. indirect influence through officers' trust in citizens (Van Craen, 2016: 8-11)

Combining all of the abovementioned elements of the international police cooperation and their shortcomings and advantages, we have offered a better understanding of the process. We hope this paper will inspire future theorization and research.

CONCLUSION

It is true that we have the right to expect high-quality international police cooperation. After all, we are facing considerable increases in crime with a transnational dimension. The main contemporary changes, such as the ICT development that has brought about a lot of changes in transportation and telecommunications, massive impoverishment, multi-level crises, natural disasters, international relations conflicts related to the war in Ukraine and fundamental political changes in many parts of the world, all have led to new forms of crime and criminal groups that try to remove legal barriers at the transnational level and take advantage of these uncertainties.

As a result, international police cooperation is recognized as necessity in order to better prevent and control crime worldwide. This study provides useful information for all of the parties (police executives, researchers, policy and jurisdiction makers) that have a crucial role in international police cooperation. We believe that the methodological approach we advocate here (multi-level, multidisciplinary analysis) has several potential implications including: a) improved understanding

of international police cooperation; b) offers a view of different theories about main dimensions of the cooperation process, and c) future research directions.

The main theoretical perspectives on the topic that have been developed showed that strengths and effectiveness of the international police cooperation lie in all included parties (organizations, procedures, agreements) and each element of that cooperation (economic, political, material, situational and bureaucratic). Evaluation of contemporary international police cooperation remains a challenge because it is difficult to show a clear cause-and-effect relationship, while large extent of international crime remains difficult for processing. We still have a long way to go in the area of international police cooperation. However, first steps have been taken, and past practices and experiences can help in charting out the possibilities as well as obstacles on the road ahead. We recommend continuous communication and exchange of best practices among police worldwide and strategic planning of such activities. Continuous evaluation of the existing framework and achieved results in the field of international police cooperation can take us a step forward in international police cooperation development.

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USE OF FORCE BY THE POLICE IN SERBIA AND CROATIA: STATE AND TENDENCIES

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INTRODUCTION

When the ancient Romans were confronted with the fact that the Praetorians (the emperor's bodyguard), already accustomed to seeing them as powerful tools in the emperor's hands, began to impose rulers at will, they asked the inevitable question: Quis custodiet ipsos custodes - Who will guard the guards themselves? Thus, even at that time, it was clearly seen that the power given to armed police bodies cannot only be taken away from the citizens, but also that the police, instead of the expected support of the system, can serve completely different purposes - to undermine influence, power and survival of political authorities. The police role can be reduced to an ordinary instrument in the hands of political power, and police institutions identified with the holders of that power (Ganija, 2010: 59-64).

Coercion carried out on behalf of the state has a legal character (i.e., the character of coercion permitted by law) and differs from impermissible or unlawful coercion which is prohibited and punished by law. The legal character of coercion is reflected in its purpose and conditions for application. The general goal of state coercion is to make the state capable of ensuring compliance with prescribed legal rules. These legal rules contain orders for the conduct of other subjects of the association and citizens, as well as the sanctions for non-compliance with these orders (Milosavljevicć 1997: 206).

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The state as a social creation has a monopoly of coercive measures, the direct implementation of which it entrusts to state bodies, limiting respect for human and minority rights and civil liberties guaranteed by the constitution and international legal acts, the principles of legality, proportionality, restraint and subsidiarity. The possibility of using coercive means is one of the most important elements of distinguishing the police from other authorities, according to which it has a great responsibility in the application of law and authority (Nikač, 2017: 191). In Western European and Anglo-American literature, a single name is used for all means of coercion, and that is force or coercion (see: Terrill, 2005). Modern democracies are characterized by the delegation of the apparatus of force, i.e. the delegation of the possibility of using force. In addition to the police, the security services, the army, customs, communal militiamen, security officers, private detectives and stewards also have the opportunity to use coercive means (Leštanin, 2021: 107-109).

The police are one of the law enforcement agencies and, according to many, probably the most important, because they perform difficult operations and, as a rule, are not popular in society. This is understandable when it is known that it is in human nature that man (individual) does not tolerate prohibitions and authorities, that he/she simply needs to be free and liberal. This is especially the case today in the 21st century and among young people, so the principles of freedom and necessary prohibitions are often confronted. The police therefore have an important social status and a great responsibility in the community, especially today in the developing and countries in transition. Of course, the role and importance of judicial and other bodies, as well as independent corrective factors, should not be diminished (Nikač, 2013: 1685). On the one hand, the police, due to their essentially authoritarian activities, can be said to be an anomaly in a democratic society, because their work seriously encroaches on the sphere of human rights, while, on the other hand, their existence is inevitable because it ensures respect for these same human rights and freedoms. In other words, the police are at the same time a symbol of protection of freedoms and rights of citizens, but also a source of their endangerment. The most indicative example of this is the use of coercive means (Kesić, Bikarević, 2018: 245-258).

The use of force by state representatives (in this case police officers) is limited not only by regulations (constitution, law, etc.) but also by the exercise of basic human rights and respect for civil liberties. A modern approach to security issues implies that the police are a service that develops an advisory role and provides assistance to citizens, especially by getting acquainted with information relevant to personal and property security. The condition is that it is not in conflict with the law and that it does not jeopardize the performance of (policing) police work (Nikac, 2016: 196).

DATA

In order to perform a legal analysis of use, the domestic literature on the use of coercive means is relevant. For the purpose of this paper, the data on the use of coercive means by the police were collected and stored in the database of the Unified Information System of the Ministry of the Interior, in the software application "Use of coercive means". Only the means of coercion in which the procedure of assessing justification and regularity was completed were taken into account. The data from the Statistical Office of Republic of Serbia relating to the number of inhabitants were used (https://www.stat.gov.rs/sr-Latn/oblasti/stanovnistvo/procene-stanovnistva). When it comes to Croatia, the data from the Statistical Surveys of Basic Safety Indicators and Results of Work in the Period 2016-2020 were used (https://mup.gov.hr/pristup-informacijama-16/statistika-228/statistika-mup-a-i-bilteni-o-sigurnosti-cestovnog-prometa/283233), as well as the data on the number of inhabitants (https://www.dzs.hr/). Based on the obtained data, the tables were made from which the figures were derived.

METHODS

First, the normative method was used to analyse the legal norms that regulate the use of coercive means in Serbia and Croatia. Taking into account the subject of research, it was necessary to apply the methods of social sciences and humanities. Thus, the method of analysis of the content of documents containing statistical indicators on the use of coercive means in Serbia and Croatia for the period 2016-2020 was applied. The collected data were first processed and then presented by graphical models in the paper. This area was analysed in spatial and temporal frames, and certain conclusions were drawn by the method of synthesis and on the basis of the performed analyses.

LEGAL-THEORETICAL ASPECT OF THE USE OF FORCES

We can observe police coercion in a broader or narrower sense. In a broader sense, police coercion implies the means of coercion and their use, while in a narrower sense it implies only the means of coercion. Coercion is applied directly to persons or objects, but the ultimate goal is to force a person to obey. The use of force by the police is exclusively a possibility and not an obligation where the conditions for their use are prescribed by law, and the manner and technical characteristics are determined by bylaws (Leštanin, Nikač, 2016: 233). In a broader

sense, the term coercion can be understood as the use of physical or mental force to achieve a certain goal, to force someone to do something, not do or suffer, of course, against their will (Arlov, 2020: 35).

Some American theorists view the issuance of verbal orders as a means of coercion, which it essentially is, because the order also exerts force on the person and directs his/her behaviour in a certain desired direction (see: Garner et al., 2004: 109-125; Hickman et al., 2008: 563-604; Terrill et al., 2008: 57-76).

In addition to the legal classification of the (use) of coercive means, from a theoretical point of view, depending on the criteria, coercive means can also be classified a) according to the consequences they produce on non-lethal and deadly outcome; b) according to the type of force, verbal and physical; c) according to the degree of expertise in use, correct and incorrect, and e) according to the final assessment and compliance with the law, justified (legal) and unjustified (illegal) (Nikač, 2019: 167-180).

Means of coercion should be distinguished from coercive measures. Coercive means are used and coercive measures are applied. Direct police coercion is the action on persons or objects through the application of coercive measures or the use of coercive means. Police coercion is a part of coercion that belongs to law and the state. Its application is the most direct expression of state power and at the same time the sharpest form of encroachment on human rights. It is an expression of the state monopoly of power, but as such it is a necessary evil (Miletić, 2009: 195).

The Constitution of the Republic of Serbia (the Constitution) guarantees the right to life and considers human life inviolable (Article 24 of Constitution of Republic of Serbia, *Official Gazette*, 98/2006). In the categorization of basic human rights, the right to life occupies the first-class place. Such a status of this right logically derives from life itself as a value, without which there are no other guaranteed rights. Hence, the right to life as a kind of both logical and legal source is connected with all other human rights (Orlović, 2014: 161-162). In addition, the Constitution guarantees the inviolability of human integrity, both physical and mental, where it prohibits any torture, inhuman or degrading treatment or punishment (Article 25 of Constitution), and protects human dignity (Article 23 of Constitution). In that context, slavery, a position similar to slavery, and forced labour are prohibited (Article 26 of Constitution), the right to liberty and security is guaranteed with additional guarantees for persons deprived of their liberty (Article 27-31 of Constitution), the right to equal protection of rights and remedies (Article 36 of Constitution) and other rights. The Constitution of the Republic of Croatia gives the same guarantees (See: Articles 16, 21, 22, 23 and 25, Official Gazette 56/90, 135/97, 113/00, 28/01, 76/10 и 5/14).

When the basis for police use of coercive means is analysed in principle, two models are possible. The first treats a police officer as a 'citizen in uniform', recognizing only those rights that every other citizen has, while on the other hand, a special normative structure is possible (Veić, Martinović, 2019: 453-467). Serbia and Croatia have adopted a second model and regulated the use of coercive measures by the police through special laws. National regulations prescribe the use of coercive means, ranging from almost unlimited powers to use coercive means, including firearms, to extremely restrictive regulations limiting the use of coercive means to extreme necessity and necessary defence, and even narrower (Škrtić, 2007: 211).

The Serbian Police Law (Official Gazette No. 6/2016, 24/2018 and 87/2018; hereinafter: SPL) lists a total of 13 means of coercion, so that in the first place it is the mildest (physical strength) and in the last place the most difficult means of coercion (firearms) (Nikač, 2019: 167-180). The Croatian Law on Police Affairs and Powers (Official Gazette no. 46/09, 92/14 and 70/19) also lists 13 means of coercion by weight. Apart from positively determining the means of coercion, the laws also regulate the general and special conditions for their use, while the technical characteristics, manner and tactics of application are in the domain of bylaws, which is a very rational solution from the point of view of legality (Leštanin, Nikac, 2016: 233).

As a necessary precondition for the use of coercive means there is the existence of a certain 'harmful' event that threatens the basic values in society, such as life, body integrity and property of greater importance. For example, in Serbia, a police officer has the right to use physical force to repel an attack from himself or another person or an object or space he secures, to overcome the resistance of persons disturbing public order to be brought, detained or captured, and to prevent self-harm of some person (Leštanin, Nikač, 2016: 233).

The form and amount of force (degree of control) that a police officer will use is dictated by the current situation as: security of police officers and others, resistance to be overcome, type of offense, constitution, presence of weapons, available forces and possible reinforcements, place of intervention and environment, etc. Control is the force that a member of the police uses against a person in order to neutralize illegal physical actions of a person in order to manage (control) a certain situation. The use of force is an action performed by a member of the police in order to manage the situation, i.e. to control the resistance of persons or to neutralize illegal physical actions of persons. When a police officer decides which level of control is reasonable, his decision depends on the activities of the person he is acting against (verbal disobedience, passive resistance, active resistance, assault on a police officer) and he is allowed to use only as much force as necessary to achieve a legitimate aim. The degree of control and the level of force reflect the

degree of their possible effect. A higher degree of control is allowed only if a lower degree is not sufficient to perform an official task (Amanović, 2003: 426-427).

In addition to meeting the legal requirements for the use of coercive means while using these means, certain principles must be respected. In accordance with international standards and provisions of the national law, the basic principles and the principles of the use of coercive means have been established: legality (means, conditions and manner of use are strictly provided by the law and bylaws), protectionist-humanistic principle (the protection of human life), respect for personal dignity treatment of all persons with respect, without discrimination and endangerment of dignity, proportionality (gradation of funds according to type and intensity), gradualness (use from mild to severe, in the function of task performance), the principle of functionality (the use of funds only if there are reasons), safety and efficiency (safe use by the person against whom it is used, other persons and the police officer, fast and precise), economy and expediency (execution of the task using coercive means with minimum harmful consequences), etc. (Nikač, 2012: 346-347).

FINDINGS

Serbia

The use of coercive means was monitored in the five-year period (2016-2020) on the territory of Serbia through 11 identified parameters: 1) Total number of uses of coercive means; 2) Coercive means used in accordance with the law, i.e. not used in accordance with the law; 3) Means of coercion used by type (physical force, baton, means of restraint, etc.); 4) Means of coercion used according to the lines of work of the Police Directorate; 5) Coercive means used according to the territorial division of the Police Directorate; 6) Number and structure of persons against whom means of coercion have been used; 7) Type of police work in which the use of coercive means occurs; 8) Types of police powers during the application of which the use of coercive means occurs; 9) Consequences for citizens arising from the use of coercive means; 10) The reason for the use of firearms; and 11) Measures taken against persons against whom coercive means have been used.

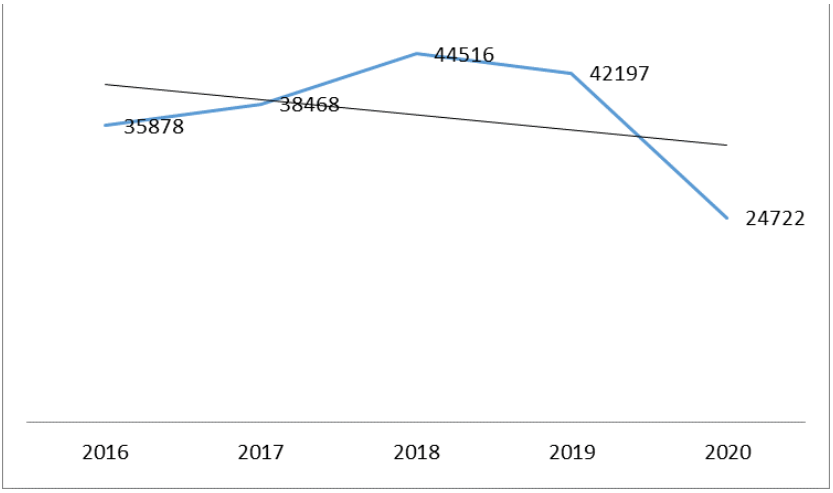

Figure 1 – *Total number of uses of coercive means in Serbia*

Figure 1 show the declining trend in the use of coercive means in Serbia, where a slight increase was recorded in the first three-year period and then a sharp decline. In the observed period, a total of 185,773 coercive means were used, of which only **eight** were assessed as illegal and incorrect (0,004 %).

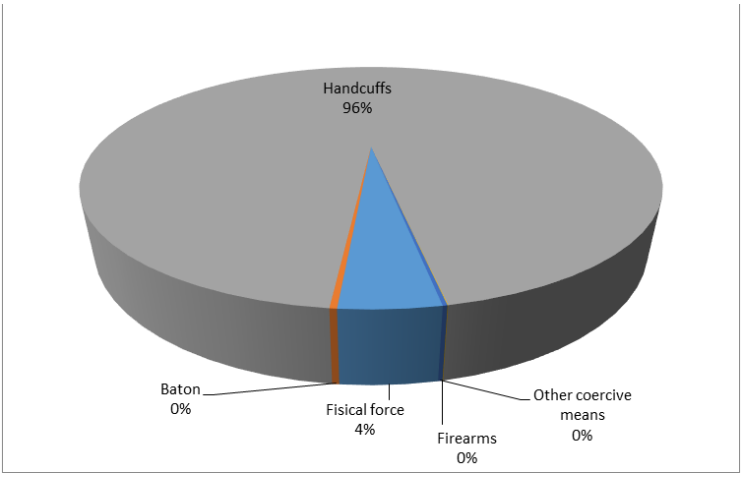

Figure 2 – *Number of coercive means according to type*

If we look at the means of coercion by type (Figure 2), we see that in most cases handcuffs (178,758 - 96%) were used, followed by physical force (7,645 - 4%), baton (553), other means of coercion (357) and fire weapons (44).

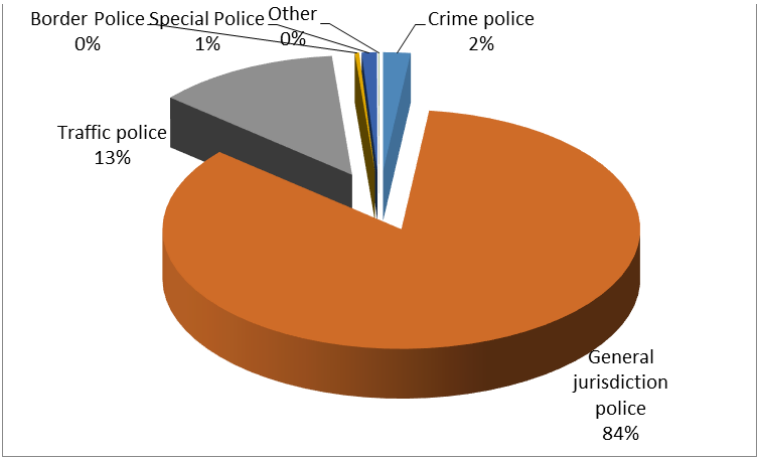

Figure 3 – *Use of coercive means by lines od police*

Looking at the means of coercion used according to the lines of work of the General Police Directorate (Figure 3), we see that the police of general jurisdiction (84%), traffic police (13%), criminal police (2%), and special units (1%) used them the most. Other lines of policing participated insignificantly in the use of coercive means.

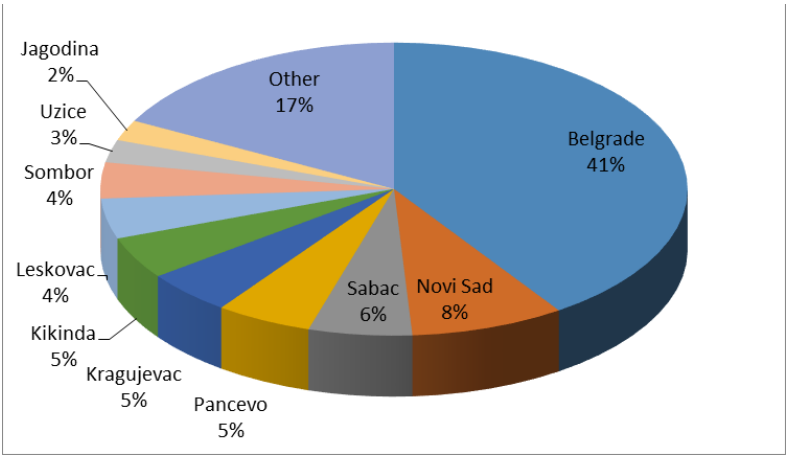

Figure 4 - *Territorial distribution of the use of coercive means*

Analysing the territorial distribution of the use of coercive means (Figure 4), we see that the highest use was in the Police Department (PD) for the city of Belgrade (41%), PD Novi Sad (8%), PD Sabac (6%), PD Pancevo, Kragujevac and Kikinda (5%) and other police departments have a share below 5%.

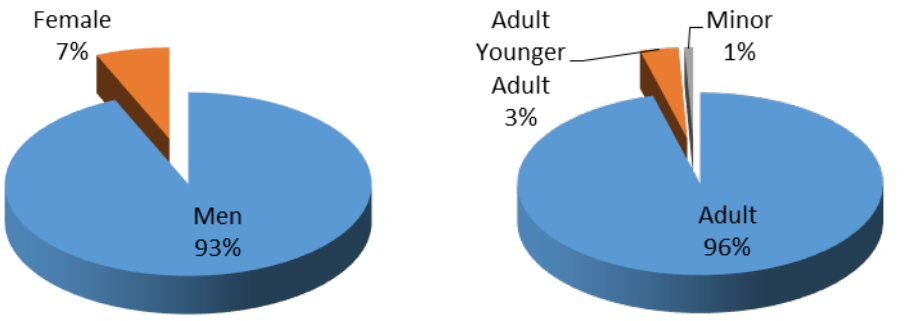

Figure 5 – *Structure by gender and age*

The analysis of the number and structure of persons according to whom coercive means were used (Figure 5) shows that in 93% of cases they are male and only in 7% of cases they are female. According to age, 96% are adults, 3% are younger adults and only 1% is minors.

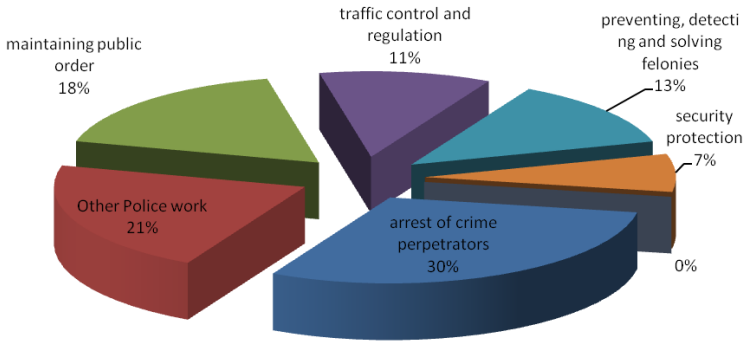

Figure 6 - *The police work in which coercive means were used*

If we look at the use of coercive means through the prism of the police work in which they were used (Figure 6), we see that coercive means are most often used in detecting and apprehending perpetrators (30%), maintaining public order (18%), preventing, detecting and solving felonies 13%, traffic control and regulation (11%) and in security protection 7%.

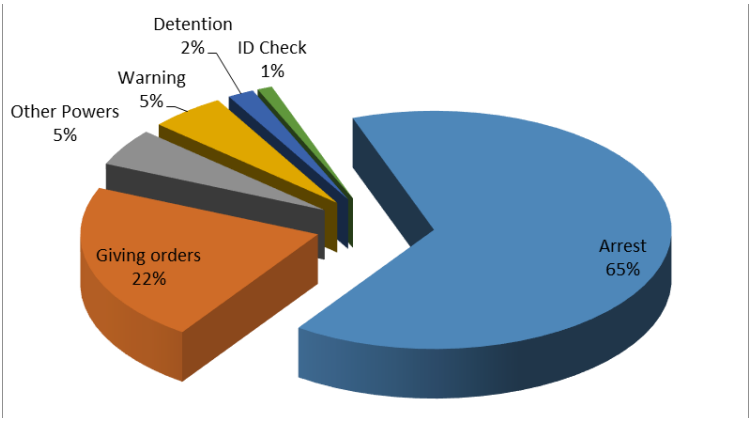

Figure 7 - *Type of police powers during which coercive means were used*

The analysis of the use of coercive means according to the type of police powers during which coercive means were used (Figure 7) shows that coercive means are most often used when arresting persons (65%), giving orders 22%, warnings 5%, detention 2% and 1% identity check.

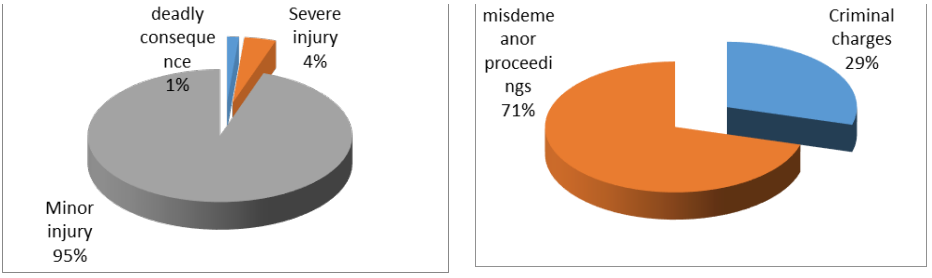

Figure 8 - *Consequences for and measures against citizens*

When we look at the consequences for citizens from the use of coercive means (Figure 8), we see that the majority suffered minor bodily injuries (95%), severe bodily injuries 4% and 1% deprivation of life (fatal consequences). From the measures taken against citizens against whom means of coercion were used, we see that in most cases misdemeanour proceedings were initiated (71%) while in 29% of cases criminal charges were filed with the competent public prosecutor.

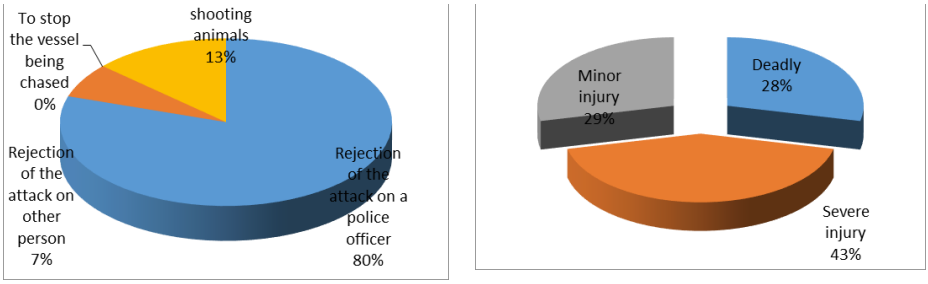

Figure 9 – *Reasons for using firearms and consequences*

Firearms are a means of coercion that causes the most severe consequences on the persons against whom they are used. Considering the reasons why fire was used (Figure 9), the rejection of attacks by a police officer is the most common, followed by the use of animals and the rejection of attacks on another person. According to the type of consequences for a person from a firearm, we see that the most common is a serious bodily injury (43%), a minor bodily injury 29% and a fatal consequence in 28% of cases.

Croatia

The use of coercive means was monitored in the five-year period (2016-2020) on the territory of Croatia through 10 identified parameters: 1) Total number of use of coercive means; 2) Coercive means used in accordance with the law, i.e. not used in accordance with the law; 3) Means of coercion used by type (physical force, baton, means of restraint, etc.); 4) Means of coercion used according to territorial division; 5) The reason for the use of firearms; 6) Type of police work in which means of coercion are used (reasons for use); 7) Number and structure of persons against whom means of coercion have been used; 8) Consequences for citizens arising from the use of coercive means; and 10) Consequences for police officers resulting from the use of coercive means.

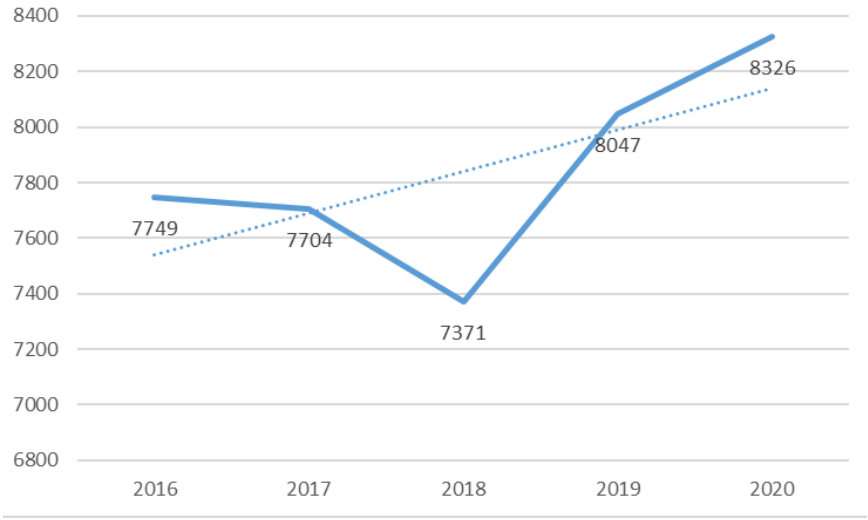

Figure 10 – *Total number of uses of coercive means in Croatia*

In Croatia, in the observed period, there is a trend of increasing the number of uses of coercive means, except in 2018, when there is a decline (Figure 10). In the observed period, a total of 39,197 coercive means were used, of which only 12 were assessed as illegal and incorrect (0.03%).

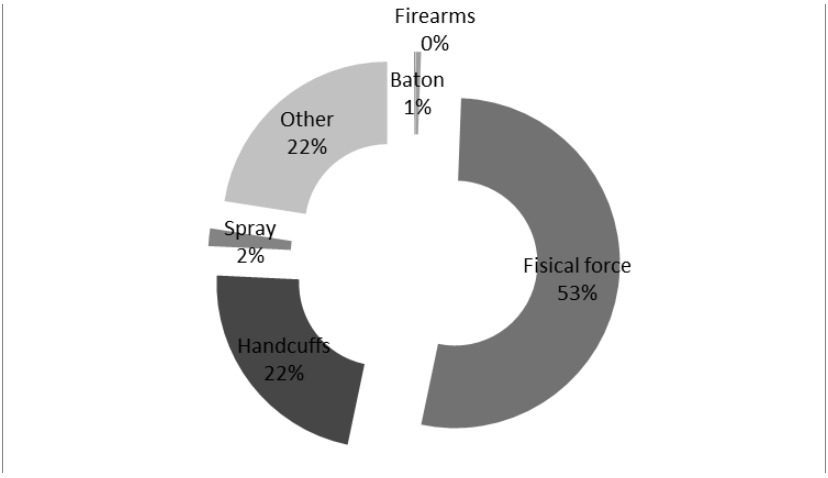

Figure 11 – *Using coercive means by type*

Observing the means of coercion by type (Figure 11), it is noticed that physical force is most often used (20,656 - 53%), followed by other means of coercion

(8,828 - 22%), handcuffs (8,804 - 22%), gas spray (675 - 2%), baton (208 - 1%) and firearms (26).

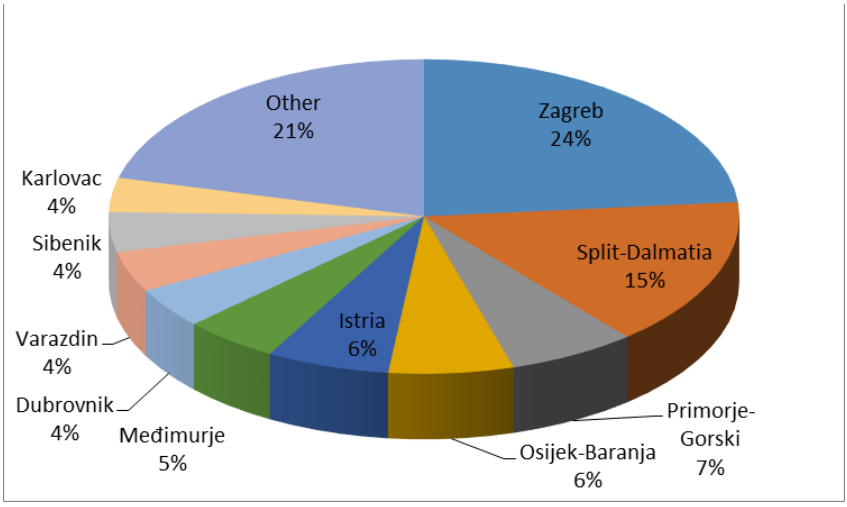

Figure 12 - *Territorial distribution of the use of coercive means*

If we analyse the territorial distribution of the use of coercive means according to police departments (Figure 12), we see that the Zagreb police mostly resort to its use (24%), Split - Dalmatia 15%, Primorje - Gorski Kotar 7%, Osijek - Baranja and Istria 6%, Međimurje 5% while others participate with a percentage below 5%.

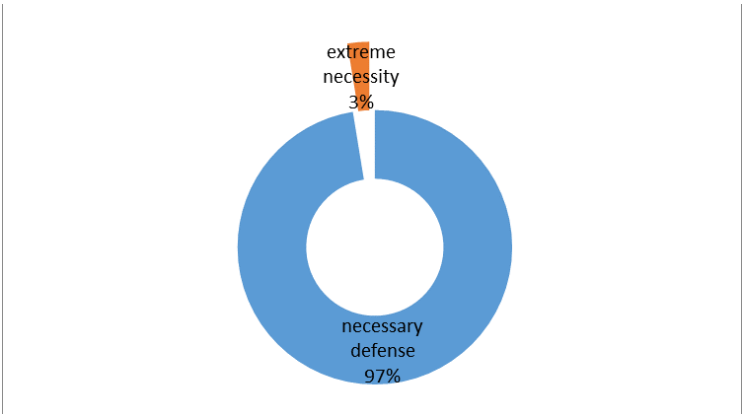

Figure 13 - *Most common reason for the use of firearms*

The most common reason for the use of firearms in Croatia in the observed period was necessary defence (97%), while extreme necessity occurs in only 3% of cases (Figure 13).

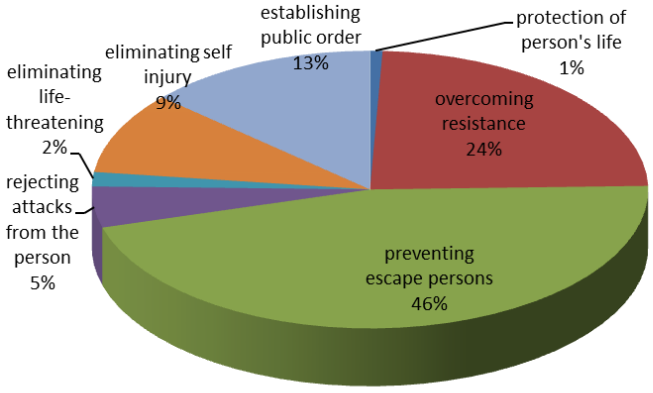

Figure 14 – *Reasons for the use of coercive means*

Analysing the type of police work and the reasons for the use of coercive means (Figure 14), it is noticed that preventing the escape of persons is the most common reason (46%), overcoming the resistance of persons 24%, establishing public order 13%, preventing self-harm 9%, repelling attacks from persons 5%, elimination of dangers 2%, and protection of life 1%.

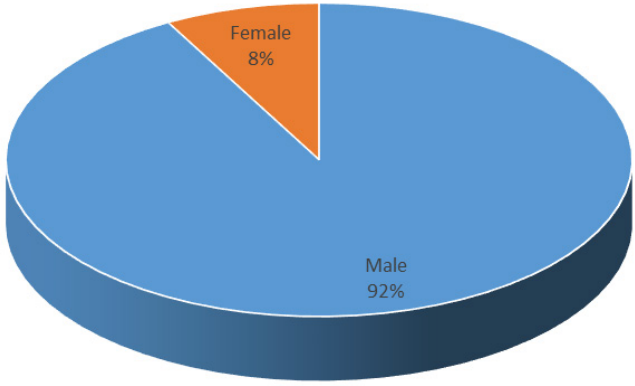

Figure 15 – *Use of coercive means by gender*

Coercive means were used against a total of 20,653 Croatian citizens, of which 92% were male and only 8% were female (Figure 15). When we look at the police officers who used it, we see that the share of police officers is only 4.5% of the total number of police officers who used coercive means.

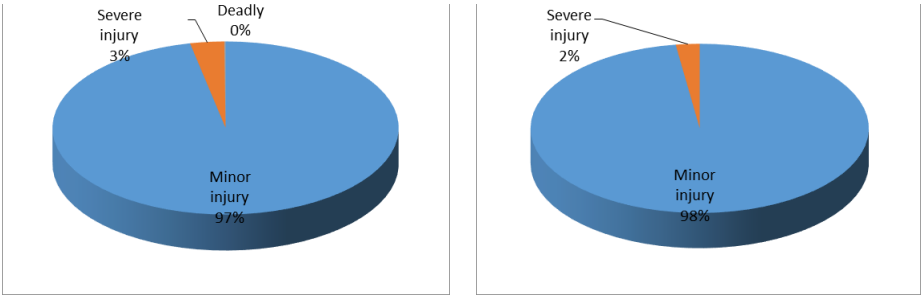

Figure 16 – *Consequences for citizens and police officers*

Citizens Police officers

When we look at the consequences for citizens from the use of coercive means and the consequences for police officers in the events that took place, we see that most of them are minor bodily injuries. Only three citizens died in the observed period as a result of the use of coercive means.

DISCUSSION

Serbia and Croatia have different trends in the use of coercive means. On the one hand, in Serbia there is a decline in the observed period, while in Croatia there is an increase in the total number of uses of coercive means. In absolute numbers, Serbia records a much higher number of means of coercion used than Croatia, so the absolute numbers have been linked to the number of inhabitants in order to obtain the rate of use of means of coercion per 100,000 inhabitants. In addition to the fact that this was done at the state level, the rates were set aside in the capitals of Belgrade and Zagreb.

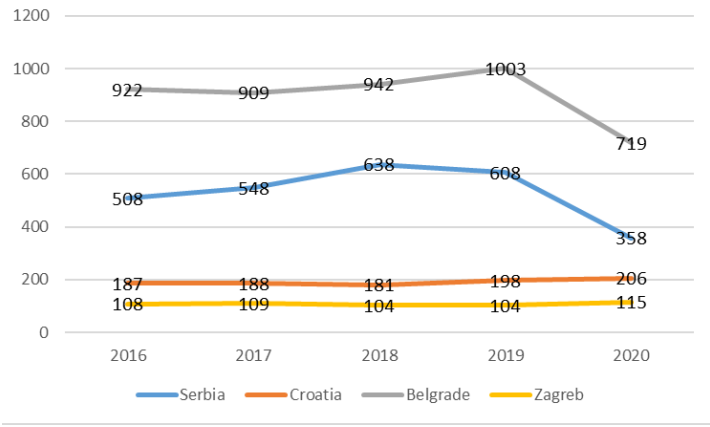

Figure 17 – *Trends of using coercive means*

As we can see, the trends in the capitals are equated with the state trends but the situation is different (Chart 17). Croatia has a much more favourable rate of use than Serbia and it is relatively even, while Serbia recorded a slight increase in the first three years, and later the rate of use of coercive means decreased, but it is still much higher than Croatia. Belgrade, as the capital of Serbia, has the most unfavourable rate of use of coercive means, while Zagreb has the most favourable rate. The rate of use of coercive means in the previous period in Serbia increased (Nikač, 2019: 167-180).

Of the total number of coercive means used during the procedure of assessing the justification and regularity of use in Serbia, only 0.004% was assessed as illegal or incorrect, while in Croatia the percentage is higher and amounts to 0.3%. In both observed countries, the percentage of unjustifiably used means of coercion is relatively small, which is favourable from the aspect of exercising human and minority rights. In previous years, Serbia recorded a slightly higher number of unjustified uses, but that is negligible. There are no firearms among the unjustifiably used means of coercion, which is very good from the aspect of exercising the rights and freedoms of citizens and protecting basic values in society.

Looking at the type of coercive means used, a significant difference can be noticed. In Serbia, handcuffs are most often used, while in Croatia there is physical force. When it comes to Croatia, such trends have been recorded in the past. Analysing the territorial distribution in both countries, the means of coercion are mostly used in the capitals. The same trend was noticed in the earlier period. The most common reason for the use of firearms in Serbia is the attack on a police officer, while in Croatia it is necessary defence. This is just a matter of language difference, and the same reason applies.

Coercive means are most often applied to adult men when performing activities related to the suppression of crime. It is less commonly used when performing preventive tasks. As far as Croatia is concerned, such trends have been recorded in the past (Pavić, 2010: 167), as well as in Serbia. The analysis of injuries sustained from the use of coercive means shows us that in most cases these are minor bodily injuries and less often there are serious bodily injuries, i.e. the death of the person against whom the means of coercion were used.

CONCLUSION

Although coercive means are an 'attack' on the most basic rights of citizens (the right to life and the right to bodily integrity), coercive means remain the most effective means of combating the most extreme forms of endangering the legal order of a state. This especially refers to the fight against crime and the maintenance of stable public order and peace. The basic precondition is their legal and correct use. Legitimate means that all legally prescribed conditions for their use must be met before use, and correct means respecting all procedures and techniques of use.

In the end, the question can be asked, which state is more repressive? Only for the needs of this research and from its results, we conclude that it is Serbia. Although it must be acknowledged that recently (the last three years) Serbia has seen a decline in the number of means of coercion used, which can be considered a good trend.

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AGAINST DIFFERENT FORMS OF CRIME - MAIN DIRECTIONS OF THE DEVELOPMENT OF HIGHER EDUCATION IN THE FIELD OF LAW ENFORCEMENT IN HUNGARY

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INTRODUCTION

Preparing for the police profession is a complex task for all training institutions, everywhere in the world. The system, which prepares police officers for the police profession, may differ from one country to another, but most of the police officer's competencies should be the same. The tasks of police officer's candidates are similar in most states and police organisations. The Hungarian police training system could be a good practice, as the ten modernised training systems developed have generally proved successful. Police officers graduating from the Faculty of Law Enforcement are fit for everyday work. The Faculty of Law Enforcement has entered a new phase of development. The implementation of the tasks envisaged in the strategic plans does not require significant financial resources and the upgrading can be carried out on a low budget. The changes will be implemented within 1-3 years and are expected to further improve the quality of law enforcement training. Kovacs, G (2017)

The tasks defined by the Dean's Office in 2021 are in line with the Institutional Development Plan (UPS Rector's office: University of the Secure Future 2020-2025, (2020) 36).

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THE HUNGARIAN POLICE OFFICER TRAINING SYSTEM AT THE FACULTY OF LAW ENFORCEMENT, THE SYSTEM OF TRAINING OF OFFICER CANDIDATES

The first stage of the preparation of officer candidates is the acquisition of the knowledge of the Basic Knowledge Module of Internal Affairs (Basic Tasks of Law Enforcement) in the intensive phase of basic preparation, which includes a 5-week period. The majority of the subjects covered in this training are practical skills, general service skills, for example: shooting training, public order, police physical training and self-defence, for a total of 196 hours. (Kovacs, G 2020) After the intensive phase, the teaching of the other subjects of the module continues in the first semester.

For the police specialisations, this course also includes the subject of general patrol duties. After the first semester, the officer candidates take a complex (theoretical and practical) exam. (Faculty of Law Enforcement Dean's Office, 2021).

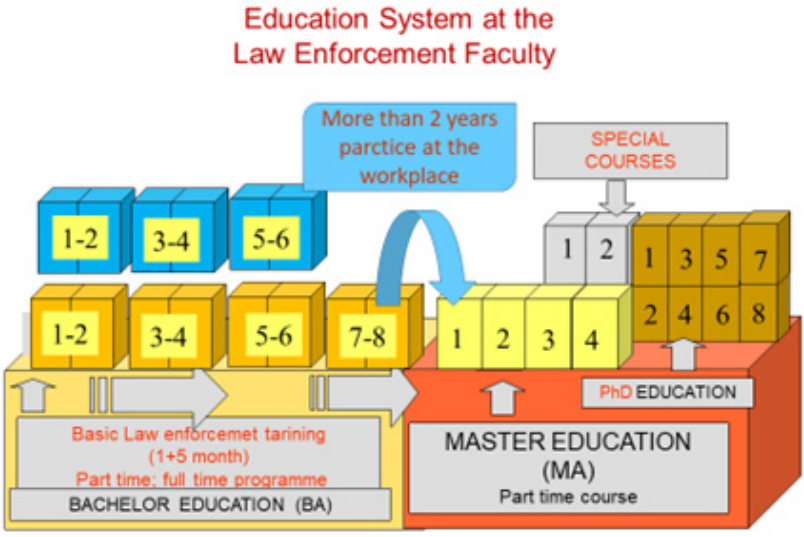

Figure 1. *Education system at the Faculty of Law Enforcement*

By focusing on the curriculum, the University has ensured that police officer candidates after completing the first semester and passing the officer candidate exam, can be deployed to police patrol duties in an internship or in other extreme situations provided by law. This method is useful, as the officer candidates were required to perform practical duties alongside police officers to counter the ef-

fects of the Covid-19 and the Russian-Ukrainian conflict, which required patrol training.

The results of continuous training development have been the introduction of new courses and new training. The training documents for the four-year basic training in the various disciplines have been developed, while the three-year basic law enforcement training has been retained, which provides training and promotion to officer for "talented non-commissioner officers" who have already filled non-commissioner officer posts at the Hungarian National Police.

After obtaining a Bachelor's degree (BA), applicants can start a two-year Master's degree (MA) after a minimum of two years of professional work.

At the Faculty of Law Enforcement, it is possible to pursue a PhD at the Doctoral School of Law Enforcement, where the duration of training is four years. Kovacs-Schweickhardt, (2014)

These training developments have led to a qualitative improvement and up-to-date and modern training documents in the teaching work of the Faculty. For each subject, the subject structure and its internal content have been extended and redefined by different competences (knowledge, ability, attitude, autonomy and responsibility).

ASSESSMENT OF STUDENTS' COMPETENCES AND IMPACT ASSESSMENT

In all training, including officer training, competency-based preparation has great importance. The Minister of the Interior ordered a questionnaire to be completed in relation with the opinions and experiences of command and leadership of those junior officers who graduating in the Faculty of Law Enforcement of the University of Public Service between 2015-2020. The questionnaires were to be completed by the deputy commanders of police forces and all other senior officers. The questionnaire was only to be completed by managers who had employed junior police officers who graduated between 2015 and 2020. A total of 394 people completed the questionnaire.

After processing the data, the ranking of the competences of the junior police officers in their on a scale of 10 gave the following results: compliance with rules, discipline 8.05; cooperation: 7.85; communication skills: 7.34; emotional intelligence: 7.23; taking responsibility 7.02; psychological resilience 6.83; decisiveness, assertiveness 6.60; conflict management 6.46; effective professionalism 6.47; problem solving skills 6.47; autonomy 6.25; decision-making ability 6.03.

The highest scores were given to compliance and discipline, followed by a very good performance in the cooperation competence. The commanders rated communication skills, taking responsibility, psychological resilience and intellectual intelligence as above average. The lowest scores were given for autonomy and decision-making, which competencies are expected to be fulfilled in the field. (Kovacs, G. 2022.1.)

THE CURRENT RECRUITMENT SITUATION, THE SUPPLY OF OFFICER CANDIDATES, RECRUITMENT, ADMISSION RESULTS OF APPLICANTS TO THE FACULTY OF LAW ENFORCEMENT

Analysis of data on admissions to higher education shows that some young people are finding it increasingly difficult to make the decision to enrol in professional police training. In Hungary, career guidance already starts in the specialised secondary schools of law enforcement, where secondary school pupils interested in the profession can study subjects related to the law enforcement profession. They can take the "law enforcement studies" exam, which can be counted towards their admission scores. The University carries out a significant recruitment throughout the year, which results in a similar overall number of applicants each year.

Table 1. Research on the UPS Faculty of Law Enforcement

Faculty of Law - admission application numbers				
	Year of application: 2021		Year of application: 2022	
	Total number of applications	Number of first place applicants	Total number of applications	Number of first place applicants
UPS Faculty of Law Enforcement (all applications)	3692	1382	3352	1290

In 2022, the number of applications for the Faculty's courses was 3353 (one applicant can apply for more than one place), a 10% decrease compared to 3692 applications in 2021. In terms of the number of 18-year-olds, the national decrease is 3.2% compared to the previous year, so the recruitment campaign was successful.

There were 1671 applications for full-time courses. Approximately 50% of all applicants enrolled in full-time courses. Last year, 1781 applications were received for these courses. The decrease here is 7%.

A total of 287 applications were received for the five Master's programmes (Law Enforcement Officer: 88; Criminalistics (Law Enforcement): 49; Criminalistics (Civil): 26; Disaster Management: 57; Civil National Security: 65; Security Organiser: 36). In 2021, the number of applications for MA courses was 343. There is a decrease of almost 16%. Kovacs, G. (2.2.2022)

Overall, it can be concluded that the Hungarian higher education "market" is becoming increasingly competitive in attracting applicants.

ORGANISATION OF CANDIDATE/STUDENT ROADSHOWS

The coordination of the recruitment roadshows was organised by the Law Enforcement Section with the involvement of the collaborating university organisations. Voluntary applicants, preferably second year students, who are studying at the Faculty of Law Enforcement. These students personally (or by e-mail or telephone) contacted the director of their former high school (admissions officer, former head of department) to get the opportunity to present the courses at the Faculty of Law Enforcement in particular.

During the students visit to their former high school, they take a short film with them including a video compilation presenting the University and its undergraduate courses. After the visit, students fill in a one-page form about their experience of the visit and hand it in to the Head of the Office of Education Issues (by the end of January). These will be used as a basis for evaluation and planning for the following year's visits. Statistically, it can be shown that where there has been a recruitment tour, the number of applicants to our courses is significantly higher.

PARTICIPATION IN OPEN DAYS

The University and the Faculty receive a number of requests from secondary schools to arrange participation within the Faculty. It is the intention of the management to maximise the number of people taking advantage of the opportunities to present themselves at the Open Days.

TEACHER RECRUITMENT (TEACHER ROADSHOW)

In the secondary schools (partner schools) where there is a law enforcement faculty, in addition to the presence of students, we also provide a teaching presence.

In addition to the 2 main officer candidates/students, one instructor who has volunteered and registered in advance and has been selected and trained by the administration will also be present.

TARGETED RECRUITMENT DAY

A personal briefing will be held for the directors of secondary schools offering law enforcement training. Here we offer the opportunity to participate in the Central Open Days and to hold briefings at targeted school recruitment days. During these recruitment days (in December and January) the faculty teachers and students show all law enforcement profession for the guest.

LAW ENFORCEMENT SUMMER CAMP FOR THE FUTURE STUDENTS

The leadership of the faculty for the students of secondary schools offering a "Law Enforcement Summer Camp" in the University Campus. The whole program is strong connection with the different law enforcement profession. These participants can apply on the next year to the different training of the Faculty of Law Enforcement. This camp is very popular among students, the success of the camp is year by year increasing.

FEATURED FACULTY RESEARCH

One of the main tasks of the Faculty of Law Enforcement is to establish a research base in the field of law enforcement. The task is to ensure that as many of its lecturers as possible obtain the PhD degree and subsequently the associate professor's degree, and then fulfil the requirements for the habilitated doctorate and the professorship. (Act of 2015. XLII of The employment status of the professional staff of bodies performing law enforcement tasks. 112. 285-286.)

It is a strategic objective to include adjunct professors with outstanding academic activity in the academic work. The management has organised an eight-session online training series on specific research methodology issues and on directions to promote international academic visibility. The results so far have provided a clearer outline of the kind of people we can expect to see in scientific research.

Our experience shows that scientific (research) work can be strengthened by providing targeted and readily available opportunities for practical knowledge. To this end, the management operates a separate interface on the website, the content of which is constantly being expanded. Our slogan is "Research what we teach and teach what we research".

The organisational aim is to create new research workshops, which will be primarily integrated into the professional and scientific profile of the training. Kovacs-Horvath, (2014) The Faculty already has a "Research Workgroup in Criminological Psychology". A future task is to create a "Research Workgroup on Internal Security", in view of the interdisciplinary nature of police science.

BUILDING THE BRAND OF THE FACULTY OF LAW ENFORCEMENT

Brand building as a priority task aims to increase the visibility (public awareness) of the University and the Faculty of Law Enforcement in both the professional and civil society environment. The objective is to establish even closer links with law enforcement agencies and citizens, using innovative tools and methods. In addition to innovation, brand building naturally also includes the cultivation of the traditions of law enforcement officer training. Kovacs, G. (2014). Main tasks: maintenance of the website, digital and print publications, film production, organisation of national and international law enforcement professional competitions.

CREATE AND MAINTAIN A SOCIAL MEDIA PROFILE

Law enforcement training and education has always been of interest to those interested in a career in law enforcement. By running a stand-alone social media profile, we are targeting this audience. Through these short films, we will be able to provide a credible introduction to the public aspects of law enforcement training for those who have not yet decided whether they would like to pursue their studies in law enforcement higher education in the near future. A separate faculty Facebook page is an excellent way to do this, the RTK Facebook page was launched in early February 2022. The Facebook page has been regularly updated since then. (https://www.facebook.com/nkertk)

Two first-year students have been appointed as the "faces of the faculty" and produce regular video posts on the page. The two students have been trained and content production issues are regularly discussed.

SUPPORT OF CHARITY ORGANISATIONS

The idea of making student participation in charity events more effective was raised. This involvement would further strengthen the responsibility and public engagement of our students. Through charity, volunteer-based activities, our students undertake tasks that facilitate the lives of disadvantaged groups, individuals and families and their integration into society, thus promoting the popularity of our organisation.

PRODUCE PROMOTIONAL VIDEOS LAW ENFORCEMENT SESSIONS OF LAW ENFORCEMENT FACULTY

The open day system can be complemented by the publication of lessons and special law enforcement sessions in a pre-recorded and edited format, explained by a host. We currently do this work by focusing on 1-minute "reports" with regular posts on social media. These are short videos that are quickly uploaded to social media following the event. These are highly effective communication tools.

TALENT MANAGEMENT FOR STUDENTS, THE STUDENT COLLEGE SYSTEM

The "Saint George College" and the "College of Disaster Management" are the most important elite training workshops at the University. Here, in addition to the compulsory curricula, interested students have the opportunity to broaden their knowledge with specialised professional skills, participate in professional programmes and research. In order to strengthen the role of the specialised colleges, we plan to develop the following:

- making the student recruitment system of the colleges digitally accessible,
- the digitalisation of the student recruitment system to make it digitally accessible,
- the development of a mentoring system (individual support for talented students),

- strengthening the network of partnerships between the specialised colleges (with research institutes and bodies).

THE CAREER OF TEACHERS, THE DEVELOPMENT OF AN ATTRACTIVE AND COHERENT CAREER PATH FOR TEACHERS

The current system of career development for teachers is quite favourable. This is coupled with university performance assessment requirements. (Kovacs, G. 2021) The task in this respect is to bring university and law enforcement requirements closer together, examine the necessary legislative sources, and, if necessary, propose amendments.

DEVELOPING A PROFESSIONAL PRACTICE SCHEME FOR TRAINERS

The planning and organisation of lecturers professional practice needed to be reviewed under the competence of the department. The lecturers participate in one professional day every month and once a year they study the daily practice in the police for a whole professional week. The end of the school year all of the teacher is compulsory a one week long field practice. During these practice the teachers collect a best practice of the law enforcement organisations everydays life.

FOLLOW-UP OF SCIENTIFIC PROPOSAL WINNERS/RECIPIENTS

The follow-up of the winners of scientific applications is managed in the scientific follow-up system. The details of previous student academic award holders are entered in the subsequent academic succession register.

ORGANISATION OF TRAININGS, PROFESSIONAL TRAINING FOR LECTURERS

The faculty organises monthly professional development training for lecturers on various topics. Lecturers choose and attend the courses according to their own interests. Centralised records of these courses are under progress.

CONTINUOUS IMPROVEMENT OF THE QUALITY OF COURSES

The University's management is committed to renewing the whole system of teaching and learning through the "Creative Learning Programme". (UPS Rector's office: *University of the Secure Future* - A biztos jövő egyeteme *2020-2025.* 2020**).** The University is reforming its teaching with a view to 21st century methods and student needs (small group teaching, reform of seminar courses, use of digital tools, introduction of new teaching methodologies, etc.). All these tasks present new challenges to education and education management organisations.

The introduction of digital technology is inevitable in the modernisation of university education, as the digital world and "smart technologies" are already part of everyday life. Technology must serve the individual, and the interests of students and teachers must be taken into account, while respecting data protection rules.

An important task for the faculty is the development of multimedia software packages to illustrate the curriculum and cover the whole range of subjects, including the creation of tutorials (tutorial packages) for self-learning on the Internet (intranet). The use of digital books will be promoted.

The further promotion and development of teaching in a foreign language (English) is a task for the near future. In addition to the courses for Erasmus students from abroad, it is necessary to develop the provision of courses in foreign languages for Hungarian students. The aim of this is to enable native Hungarian students to take certain subjects in a foreign language, thus improving their foreign language competence.

In the near future, the preparation of an English-language Master's degree in "International policing" is planned.

STRATEGIC OBJECTIVES FOR THE OPERATION OF THE FACULTY OF LAW ENFORCEMENT

In the coming periods, an important task will be to renew the various operational action plans derived from the University Strategy (Strategy) and prepared on the basis of expectations. To this end, it has become necessary to define the following strategic objectives for the Faculty:

- The smooth running of the organisation: the management aims to provide a controlled and relaxed working environment and conditions that provide optimal opportunities for the further development of all staff and students.

- Promoting scientific research: priority is given to research and development and innovation, bringing closer the joint activities of the educational institution and the organisations which provide the training. Scientific research should become a strategic priority for the departmental community in the coming years.
- Tasks of university, faculty image and branding: the main objective is to further increase the visibility and recognition of the faculty in the professional and civil society environment. A key task is to foster close relations with law enforcement agencies.
- Establishing a system of evaluation tests: constant monitoring of the quality of police training is an important task. This feedback is essential to define future development objectives. With the help of the Ministry of the Interior and the Education Office, we are actively involved in the evaluation and follow-up of former students.
- Ensuring the supply of new students: ensuring the number of first-choice applicants for courses is an additional task, which can be achieved by using the network of partner schools, roadshows, professional and open days.
- Student talent management tasks: the quality of applicants to courses now ensures that truly talented students are selected and given special attention. They are included in the university's student excellence programmes.
- Teaching and working excellence: to teach excellent students, you need excellent teachers. A further challenge is to improve the proportion of professors, to introduce innovative teaching methods and to further improve the quality of training.
- Continuous updating of training courses, processing and incorporation of foreign experience: the faculty's bachelor's, master's and specialised further training course supervisors must continuously analyse and develop training documents, incorporating up-to-date knowledge and knowledge material into the training courses. To this end, it is essential to learn from international experience and to adopt and adapt good practices to local conditions, and then to introduce them into the training courses.

CONCLUSION

The Faculty of Law Enforcement is one of the important organisations of the University, which uniquely represents the field of law enforcement higher education in Hungary. The management has recognised the importance of modernisation and is working consciously to meet the requirements of the 21st century. The tasks defined are closely linked to the University's strategy. The implementation of the tasks described is a daily task, the results of which will be measurable in the short term. The ideas contained in this essay may provide inspiration for other higher education institutions abroad to further improve the quality of their courses.

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THE INFLUENCE OF IDEAS OF CIVIL REVOLUTIONS ON THE ESTABLISHMENT OF THE MODERN POLICE IN SERBIA

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PURPOSE

The end of the 18th and the beginning of the 19th century represents in many ways a turning point in the development of European societies. For some societies, such as the French, this turning point implied a break with old ideas, values and socio-political heritage, a break so radical that the French Revolution is rightly called a typical "revolution in blood". In some other societies, such as English, socio-political and economic changes were carried out much more peacefully and evolutionarily, through principled compromises of dominant social groups and gradual adaptation of the government system to new social circumstances, forces and ideas.

The reconstruction of social life in Europe at this time rested on the ideas of the leading thinkers of the Enlightenment, primarily Locke, Montesquieu and Rousseau. Their political and philosophical ideas represented a kind of spiritual revolution that came before the political one, which at the end of the 18th century officially ended the old era and began a new era, the era of the liberal democratic state.[2] On the ruins of the old feudal order, a new creation arose whose physiog-

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2It is rightly pointed out that the political revolution in France was preceded by a revolution in spirit, which experienced its culmination with the publication of Rousseau's Social Contract in 1762. (Basta, 1994).

nomy was outlined by the ideas of equality, freedom, brotherhood (the French tricolor), national sovereignty, the division of power and the limitation of state power by laws based on reason and the principles of natural law. The Enlighteners, as Tocqueville points out in his work The Old Regime and the French Revolution, made the masses believe that many of the institutions of the 18th century had ceased to have any value and that society should be reorganized on a completely new basis (Peri, 2000, 212).

Establishing society on those new foundations was neither easy nor quick. Especially the first half of the 19th century was the time of great turbulence, conflicts of revolution and reaction. The process of creating a new society, institutions and values started by the civil revolutions and normatively confirmed by declarations on the rights of man and citizens, however, could not be stopped. In that process of fundamental social reconstruction, the changes did not bypass the police either. As a part of the state apparatus of government, the police went through changes both functionally and organizationally. New ideas and values reflected on the role of the police in society, its tasks, work methods, value orientation and a significantly different organization adapted to the demands of the new society. Bearing in mind that in the previous period the police was one of the main pillars of the absolutist government, it is quite clear why, in the new circumstances, the question of police reform was among the priorities. Criticism of the previous society was mostly directed against the police and what was meant by the police state. On the other hand, due to the special importance of the police for the new regime, the authorities and the police themselves stubbornly resisted the introduction of newspapers, especially those that meant limiting police powers. This conflict of interests is precisely the main reason why the ideas of the rule of law slowly penetrated the domain of the police (Milosavljević, 1997, 82).

METHODS

Increase in the crime rate due to accelerated industrialization, increase in the number of urban population and the poor, weakening of informal social control systems, accelerated development of traffic, etc. further encouraged police reforms in Europe. It was not possible to give an adequate response to the demands placed on the police by the new era under the conditions of the old police model from the period before the revolutions. European police reforms were inevitable, and the reform process can be seen on the example of the English and French police. The reform of these police forces is an excellent example of realizing the idea of the necessity of functional and organizational transformation of the police force. The outcome of those reforms was the emergence of two police models with their

specific characteristics and mutual differences that have survived to this day - the French continental and English Anglo-Saxon police models.

Key changes in the French police occurred immediately after the revolution. The French Ministry of the Interior was established in 1796, and soon as the old institution of the *mareshaussaee* was reorganized into the National Gendarmerie. A significant number of police powers were being returned to city police authorities as police commissioners were appointed by voters.[3] In cities with more than 5000 inhabitants, the central government appoints a police commissioner who has the function of a supervisory body of local police authorities (Clive, 1999, 8). A very significant moment for the further development of the French police was the appointment of Joseph Foushe as Minister of the Interior. Fouche was a dominant figure in the process of police reforms and the establishment of the post-revolutionary model of the French police. During Napoleon's reign, this model received its full physiognomy in the characteristics that in the opinion of certain authors also characterize the modern French police. These are the centralization of decision-making and control established under the jurisdiction of the Ministry of the Interior and the Minister of Police himself, the dual structure of militaristic-civilian elements, the distinction between the police forces of the city of Paris and other parts of France, and a high level of monitoring of citizens in combination with a criminal justice system that slightly favors the state at the expense of citizens (Stead, 1977, 64). By the end of Fouche's mandate[4], all the key characteristics of the French police of that period were profiled, above all the extension of the power of the central police force to the provinces. The entire administrative area was divided into six parts for the purpose of easier police work. Fouche's staff consisted of his cabinet, the General Secretariat and six divisions. The first was in charge of tasks reserved for the minister and those that were forwarded by Fouche's personal secretary. The second division dealt with general security and the secret police, the third was in charge of the press and individual liberty, the fourth for emigration, and the fifth and sixth for accounting and archives (Ibif, 76). The police organization continued to develop even after the fall of Napoleon and the departure of Fouche. The changes went in the direction of further organizational improvement. Thus, in 1829, uniformed city guards were introduced, who were recruited from among former soldiers with the task of taking care of order, peace and security on the streets of the city. Two decades later, the Paris Republican Guard was formed and from 1851 central commissariats responsible for the entire local police were established in large cities, and later they were all united in the General Security (Milosvaljevic, 1997, 83). The functional separation of the

3 By the edict of 1667, the supervision and maintenance of order, public safety, food and cleanliness of the streets were taken away from the city municipalities and entrusted to a special royal official, the lieutenant de police (Alimpic, 1905, 8)

4 With several interruptions, Fouche's mandate lasted until September 1815.

French police into judicial and administrative was particularly important. The judicial police was in charge of conducting the investigation and was considered an auxiliary organ of the judiciary, while the administrative police was in charge of maintaining public order and peace, security and public health (Ibid, 84).

The main problem of the English police at the end of the 18th and the beginning of the 19th century was its inefficiency, i.e. its inability to cope with the growing social problems in the conditions of an extremely large industrial and urban development of English society. The rapid social and economic development also had its dark side in the increase of criminality and the complication of its basic forms. One of the first proponents of reforming the English police system, Henry Fielding, compared London from the 18th century to a vast forest where skilled thieves can find their shelter like wild beasts in the deserts of Africa or Arabia. He was among the first to recognize and publicly criticize the inadequacy of the existing police system, proposing a new, unique and flexible police system that would be much more centrally managed (Rubinstein, 1977, 33). It was this idea that was met with the fiercest criticism and challenge by those who in the centralization of police decision-making saw a great danger to the freedom of citizens and the abandonment of the traditional system that was based on a high degree of autonomy of local authorities.

After Fielding, the contribution to police reforms in Britain was made by Patrick Colquhoun. In his study, A Treatise on the Police of the Metropolis, he first of all defines what he means by the term "police": "By the term police we mean all those regulations in the state that can serve as comfort, convenience and security to all citizens, whether directed in the direction of their security against the misery of poverty, or those effects which arise as a product of moral and criminal offences." (Stead, 1977, 51). His vision of British police reform rested on the ideas of a much more humane criminal legislation, a well-regulated and efficient police force, and an understanding of the police work as a duty to detect crimes and prevent crime. He believed that for this purpose, it is necessary to give the police adequate legal powers and provide for the protection of individual freedoms.

The ideas of the mentioned authors represented the announcement of necessary reforms. The reform was initiated by Sir Robert Peel, thanks to whom the Metropolitan Police Act was passed in 1829, which established the Metropolitan Police Force (Metropolitien Police Force) in London, better known today as Scotland Yard. The jurisdiction of the police becomes unique for the entire area of London and its surroundings, excluding the old city center (City of London), the police become uniformed and begin to receive a regular salary for their work. The strategy of the fight against crime and disorder is fundamentally changed by placing an emphasis on preventive work and preventive patrol activity, as well as on a num-

ber of other services of a service nature (responding to citizens' calls, preventing fires, lighting street lights, etc.) (*The Encyclopaedia Britannica 2001).*

In the beginning, the citizens were reserved towards the police, considering the police profession to be a low-ranking profession, but over time this has changed. The police becomes much more open to the public, its service activity creates the trust of citizens in it, and the term *bobby* becomes a designation for an English policeman who does his job with the power of authority, and not with the threat of weapons and force. The results of Peel's reform were the establishment of the foundations of modern English policing, which rest on several basic principles - the first is the emphasis on preventive, not repressive, work and the second, command and control of police work through a centralized, quasi-military organizational structure. Third, the police become patient, impersonal and professional (Ibidem). Ultimately, British police authority now derives primarily from three primary sources – the Crown, the law and the police-community partnership. In addition, thanks to Peel, the first forms of civil control over the work of the police were established in the form of County Police Committees, which were made up of prominent citizens in the counties.

FINDINGS

The influence of the ideas of the French Revolution on Serbian society in the 19th century was gradual and slow. As a result of the multi-year Turkish rule, Serbia as a society remained immune to the processes of modernization that swept Western Europe at the beginning of the 16th century. In fact, at the same time when the wave of modernization engulfs Europe, when humanism and the Renaissance, and soon the epoch of enlightenment, spread ideas that prepared the ground for the coming civil revolutions - at the same time, Serbia as a society enters a period of total regression, losing its independence and freedom. In other words, at the same moment when the process of modernization and liberation of libertarian consciousness started in Western Europe, at the same time Serbia, thanks to the Turkish rule, enters a kind of dark middle ages interrupting the rich national tradition, culture and art that it had inherited until then. However, after the civil revolutions, and thanks to the advanced spirits of Serbian culture, primarily Dositej Obradović, the beginning of the 19th century, the final revival of the Serbian state and the path by which Serbia managed to regain its full independence by the end of this century(see more, Zekavica, 2016).

The beginning of that path is connected with the so-called Serbian revolution, i.e. the outbreak of the First Serbian Uprising in 1804. This uprising also marks the beginning of the creation of the basic institutions of renewed Serbian statehood,

including of course the police. The formation of police authorities in charge of public and state security even in the first year of the uprising was of great importance for the process of building a domestic apparatus of government instead of the suppressed Turkish one. The insufficient differentiation of military and civilian power in the uprising Serbia, however, caused the organizational and functional intertwining of police and military power. The appointment of Jakov Nenadović as the first minister of the interior in 1811 was an important step for the development of the Serbian police. The collapse of the uprising unfortunately thwarted its institutional formation through a ministry that would have unified police affairs of central importance (Milosavljević, 2004).

The insurgent leaders paid great attention to public safety in the liberated territory, entrusting the exercise of police powers to newly formed domestic bodies. In the insurgent Serbia, there was no complete police organization, because the state organization itself was not completed, but there were bodies that exercised police power, as well as projects for the complete organization of the police. The main tasks of the police in this period included maintaining the established order, preserving the security of the border, protecting the state from espionage and other similar activities that threatened its security, informing about the intentions of Turkey and other countries towards Serbia and conducting propaganda in order to gain support and possibly spread the uprising. Apart from the security of the state, the police authorities also took care of the personal and property safety of citizens (Milosavljević, 2000, 110).

At the assembly of elders held at the end of March 1804, police power was given to voivodes (court princes), princely princes and village serfs. They took care of maintaining public order and peace, personal and property safety, executed the orders of the Leader, the Governing Council and the courts, and were also in charge of collecting taxes. The police function was also performed by lower military authorities, captains or buljubashes, podbuljubashes and armed boys of voivodes, the so-called bejars and sanculottes. In May 1804 at the Ostružnica assembly a decision was made to establish courts in nahijas, the so-called magistrates, composed of two judges and one scribe. The first magistrate was established on May 15, 1804 in Valjevska nahija (Алимпић, 1905, 27-28; Ненадовић, 1951, 94), and from 1807 they were formed in other nahijas as well. Each magistrate was accompanied by a certain number of cops (usually two) making him the holder of not only judicial, but also police functions. Magistrates were responsible for issuing passports, supervising foreigners, issuing police orders, supervising bakeries and shops, setting taxes for food, issuing instructions on catching hajduks, and detecting slaughterhouses (Novaković, 1907,234). Since 1807 in Belgrade, Valjevo, Smederevo, Požarevac, Užice and Šabac, police directorates with city policemen subordinate to magistrates were established. The network of police authorities of

the insurgent Serbia was completed by numerous customs and border authorities that performed certain police tasks.[5]

The efforts of the insurgent elders to limit the power of Karađorđe were conceptually based on the principle of the separation of powers. The draft of the organization of the Soviet, made by Teodor Filipović (alias Boža Grujović), provides that the Soviet will consist of 12 members, elected representatives of the nahijas, who would choose six ministers from among themselves for certain branches of the state administration. (Јанковић, 1954; Ненадовић, 1951)[6]. Among them was the minister of "peace and order", in charge of "internal peace and order". The preserved sermon (the so-called Slovo) shows that Grujović designed the state organization of Serbia based on the ideas of separation of powers, freedom and legality, outlining it as a legal state in which legality will rule.

In the uprising Serbia, the constitutional issue arose in the form of a struggle for supreme power, in which two tendencies present in the country's political life throughout the entire 19th century were clearly manifested. The bearer of the first absolutist tendency was Karađorđe (that is, the later rulers), while the second oligarchic tendency was represented by the largest elders who demanded greater participation in government. The attempts to resolve the issue by compromise were made on two occasions - in 1808 and in 1811 at the session of the Assembly in Belgrade when the reorganization of the state administration was carried out. The Soviet was divided into six trusteeships and the Great Vilayet Court.[7] In the elaboration Draft of the structure of the police authority in Belgrade dated March 8, 1811 (Ђорђевић, 1911, 7), the desire to place Serbia among the "enlightened nations" and to bring the Serbian race closer to the nations of the whole of Europe can be seen. The draft contained the first provisions on the legal organization of police authority, in which the main ideas of the civil state were presumed. For the first time the difference between the military and police authorities, on the one hand, and the police and judicial authorities, on the other, was clearly highlighted - the police were called upon to protect order and disturbed peace. The replacement of the head of the city police (police master), the legality of the application of physical

5 See more in: Krstić-Mistridželović, I: Development of Police authorities in Serbia in the first half of the 19th century, The structure and functioning of the Police organization – tradition, state and perspectives (ed. G. Milošević), I, Belgrade 2013, 53-77.

6 In the unspoken Word of Grujović, it is written, among other things, this: "The law is the will of the vilayet, which commands the whole vilayet and everyone good and forbids evil. The first master and judge in the vilayet is the law. Under the law, the lords, leaders and the governing council, the clergy and the military and all the people must be."

7 The following councilors were appointed as first ministers: Mladen Milovanović (military affairs), Milenko Stojković (foreign affairs), Dositej Obradović (education), Jakov Nenadović (internal affairs), Petar Todorović (grand vilayet judge, i.e. minister of justice) and Sima Marković (finance).

coercion, and the only permitted form of income for police officers, a certain salary, which basically prohibits them from accepting bribes, are also foreseen.

After the military collapse of Serbia in 1813, all results in the construction of the state apparatus were canceled and the Turkish administrative system was re-established. The unbearable situation in which the Serbian people found themselves in the Belgrade Pashaluk under the administration of the new Belgrade Vizier Sulejman Pasha Skopljak resulted in the outbreak of the so-called Hadji-Prodan's rebellion in 1814, which was suppressed in blood. Since the terror did not abate, the people rose up again in the spring of 1815 under the leadership of Miloš Obrenović, one of the few elders who remained in the country after the collapse of the First Serbian Uprising. The Second Serbian Uprising ended in the summer of 1815 with an oral agreement between Prince Miloš and Marashli-Ali Pasha, confirmed by the Sultan's decrees the following year.[8] This marked the beginning of the period of dual rule in Belgrade Pashaluk, i.e. the existence of a mixed Serbian-Turkish administration, which would last until the formal recognition of Serbian autonomy by Hatsheriff in 1830.

The principle of dual power was also applied to the police. The supervisory police power was held by the Turkish muslim, and de facto by Serbian princes of nahijas and princely princes and village serfs appointed by Prince Miloš. Miloš took advantage of the permission given to the Serbs to keep their weapons[9] in order to carry out the work of the internal administration and began to organize units in the personal service of the prince and units in charge of guarding public order and imperial roads from haiduks. With the introduction of courts in the 1820s, they took over part of the police responsibilities (surveillance of foreigners, issuing passports, etc.), and also received the right to elect city police officers and the right to supervise their work. After Đak's Rebellion in 1825, Prince Miloš started organizing military-police units in nahijas (the so-called registration cops) and formed a network of informers with the task of informing him about the mood of the people.

Serbia was recognized with the right of independent internal administration by Hatisherif from 1830, and Miloš, as supreme prince, was granted the right to "maintain armed forces for the purpose of eliminating unrest and disorder and for the purpose of national police". From the acquisition of autonomy to the adoption of the Constitution in 1838, the state administration in Serbia, including its

8 "That's how the Serbs shared the government and the lordship with the Turks." Pasha remains the master in the cities over the Turks and over the Muslims, and Miloš in the country over the people and over the princes" (Стефановић-Карацић, 1947, 376).

9 Allegedly, Marashlija, during the negotiations on the Serbian request to keep their weapons, said this: "You should only be obedient to the Tsar, and if you want, carry the cannons on your belt." (Ibid, 376).

police, underwent frequent organizational changes. In 1830, principalities were renamed captaincies and then counties; In 1834, the country was divided into five large serdarstaves, nahijas called districts with "ispravničestva" as administrative bodies; in the same year, Miloš appointed five trustees (among them of internal works), whose functions were not sufficiently specified (Petrović, 1901, 557). Based on the decisions of the Sretenje Assembly in 1835, despite the repeal of the first Serbian Constitution created by Dimitrije Davidović based on the modern European constitutions, a more detailed organization of the state apparatus was carried out and a minister of police was appointed with the task of maintaining personal freedom, public peace and order (Milosavljevic, 1997, 95), and on August 10, 1835, the Soviet passed the Rules for Policemen and the Police according to which the police were obliged to make sure that "peace, quiet and order are generally maintained", to keep an eye on cleanliness, watch out for vagrants, to make sure that the night patrols are well spread out and the patrolmen fulfill their duties as accurately as possible, to check passports, to make sure that fire orders are followed, to keep an eye on trade measures and the accuracy of measurements and to see "that no meetings or agreements are made in which anything is done against the Government or against other authorities or generally against the general well-being" (Alimpić, 1905, 52-53).

The following year, the country was administratively divided into four military districts headed by military commanders, who represented "supreme guardians of public peace and order, and ... chief policemen in the command entrusted to them" and supervised the exercise of police authority by county elders and correctional officers. In the preservation of peace and order, the county elders were assisted in the villages by village serfs, and in the towns, as separate administrative units, there were town policemen. Although the Law on the duties of military commanders, correctional officers and county elders of November 11, 1836 determined the scope of local administrative bodies in Serbia for the first time, it also established the supremacy of the military over the civil administration (Nikić, 1927, 70-74). That organization was confirmed in 1837, when the Military-Police Office was established, which unified military-police affairs (Petrović, 1901, 574-577). The establishment of such a system of mixed military-civilian administration with the predominance of military authorities, which lasted until the adoption of the so-called Turkish Constitution in 1838, was a step backwards on the way to building a modern Serbian state and its police. To that extent, the merits of the defenders of the constitution for the introduction of a detailed state organization on the basis of laws drafted with respect for the most important ideas of the civil state including its police will be more significant. It was during the 20 years of the government of the constitutional defenders (1838-1858) that a key shift was made in the constitution of the police, as well as the state administration in general. The Constitution of 1838 clearly demarcated military from civil power and divided it

into legislative, executive and judicial. The defenders of the Constitution carried out a comprehensive reform of the state administration with extensive legislative action, striking the foundations of the modern Serbian state. The police power was first properly separated from the military power, and then embodied organizationally and functionally.

According to the organization of the central state administration of May 29, 1839, the Ministry of the Interior was divided into police-economic, medical with quarantine and military departments.[10] The police department, in charge of maintaining order, peace and security in the country, was subordinated to the district chiefs with their police, and to them again the county chiefs with their police. According to the Organization of District Chiefs and the Main Duties of County Chiefs from May 12, 1839,[11] the district chief was obliged to carry out the orders of the central state authorities relating to all matters of internal administration and to report to the Minister of Internal Affairs on the situation in his district every 15 days, while the county chief with the scribe and a certain number of cops was obliged to protect the people from crime, to guard the village property, to inspect the passports of everyone entering or leaving the county, to supervise the work of the courts in the villages and to send reports to the county chief on the situation in the county.[12] Particularly important for the construction of a modern police force in Serbia was the introduction of control over the legality of the work of the police authority. In the Instructions to district, county and municipal authorities for the performance of police service from July 8, 1839,[13] the duty of district chiefs to control the work of county chiefs, who were made directly responsible for improper performance of their duties, was prescribed.

The law against disturbing public peace and order from 1843, the Decree on replacing corporal punishment with a fine from 1845 and the Criminal Code for Banditry and Theft from 1847 tightened the penal policy and at the same time deprived the police of their right to punishment, which greatly reduced its effectiveness and undermined its authority[14]. The situation was somewhat improved

10 *Зборник закона и уредаба за Кнежевину и Краљевину Србију*, књ. I, 1835-1858

11 *Полицијски зборник закона, уредаба и расписа у Краљевини Србији*, Београд, 1905, 6.

12 The head of the district had the right to detain a person for a maximum of 24 hours. He delivered all police crimes to the district chief, and crimes outside the police scope to the district judge. Although the district and county chiefs were executive bodies that performed all administrative tasks, police duties prevailed over all others, and they became synonymous with the police.

13 Continuation as an addition to the police decrees issued so far in: Police collection of laws, decrees and notices in the Kingdom of Serbia, 10.

14 As the most extreme example it stated the case of a peasant in the Užice district, which lay down on the ground and did not want to move when the cops came to take him to the captain. (Јовановић, 1991, 54)

in 1846 by giving the police authority the right to physically punish "those who will not come, nor allow themselves to be brought"[15], and with the adoption of the Police Regulation[16] and the Police Criminal Code in 1850[17] at the proposal of the Minister of the Interior Ilija Garašanin, the police were given the right to impose punishments for police offenses (imprisonment, fine, corporal punishment, suspension of the right of guild or shop for a certain time, exile from the place of residence to another and expulsion from the country), and thus sufficient authority to maintain order and security in the country. This is precisely why the provisions of these police regulations from 1850, despite criticism that they gave the police force to keep the people in submission to the government, remained in force until the first decade of the 20th century.

ORIGINALITY

As we have seen, the constitution of the Serbian police went along with the constitution of the modern Serbian statehood. The basic question that this paper was supposed to answer was whether and to what extent the ideas of civil revolutions had an impact on the creation and formation of the police in Serbia in the 19th century. Of course, we are talking about ideas that got their basic meaning in the works of key representatives of the Enlightenment era, especially the works of Jean-Jacques Rousseau, John Locke, and Charles Montesquieu. It was the ideas of these thinkers that contributed to the maturation of the awareness of the necessity of social changes based on the equality of people (at least in formal and legal terms), respect and protection of the natural rights of individuals, especially the rights to life, liberty, and property, as well as to the creation of the necessary conditions for the democratic participation of citizens in election and finally the exercise of political power.

The influence of these ideas on the emergence and formation of new century institutions of Serbian statehood and the police itself should not be overestimated. At the beginning of the 19th century Serbia was still enslaved by the Ottoman Empire. Nevertheless, even as such a society, Serbia relatively quickly, already in the middle of the 19th century, got the police whose organization and mission took on the contours of the modern police of European societies. Thus, the regulations passed during the period of the government of the defender of the constitution

15 *Зборник закона и уредаба у Кнежевини и Краљевини Србији*, III, 106

16 Decree on how the police authorities will deal with and punish police criminals, Collection of Laws and Decrees issued in the Principality of Serbia, V, 187. See more. in: Krstić-Mistridželović, I: Adoption and significance of the Police Ordinance of 1850, Bezbednost, 1-2/2009, 414-432.

17 *Казнителни законик за полицајне пресупке*, *Зборник*, V, 129.

brought order and established stricter discipline within the police organization. Establishing a strong and stable police was one of the priorities of the defenders of the constitution, which is understandable because the police in Serbia at the time, as well as in other European countries of that time, was almost the same as the entire internal administration. Legal and by-laws define its competences, specify the way of performing tasks and create a basis for controlling the work of police authorities, which enables it to work more efficiently and reduce the possibility of abuse. The most important accomplishments of the government of the defenders of the constitution, which had other numerous flaws, were the establishment of a significantly more coherent state organization, the passing of numerous laws on which it relied on, the elimination of legal (especially property) insecurity of citizens and the creation of institutions whose work was based on written laws, and not on the arbitrary will of the ruler. In a word, the defenders of the constitution decisively contributed to the legal and institutional constitution of the Serbian state, including its police as the most important segment of state administration.

State administration reforms implemented by Mihailo Obrenović during his second reign through the so-called constitutional laws from 1861, 1862, 1864 and 1866 were also the last major development in the development of police authorities in Serbia in the 19th century. The lack of the necessary political consensus and unfavorable economic conditions in Serbia, in the conditions of the unresolved international status of the country, hindered any attempt to further transform the police. Hence, in the development of the police in Serbia in the last decades of the 19th century, there is a tendency to gradually lose the authority of the police authority and the Ministry of Internal Affairs. The importance of this ministry, the backbone of the state administration and almost the only effective instrument of Serbian state power until the vice royal constitutional reform in 1869, over time suppressed the authority of other state institutions (courts, municipalities, army, etc.) and various interest groups. Due to the complication of social relations and the further specialization of the state administration in Serbia, the police began to lose their primacy becoming only one part of a complex and politically unstable state organization. The final result of this process was a kind of transformation of the police into the culprit on duty, the scapegoat guilty of almost all evils in the state and society. The professionalization of the police and its depoliticization was particularly difficult after the formal organization of political parties in 1881 and the constitutional reform in 1888, which tried to reduce political life in Serbia to parliamentary frameworks. On the other hand, numerous changes caused by technological progress made influence on Serbia as well. The application of new technical and scientific achievements in the work of the European police increased the efficiency in the fight against crime. Talented Serbian police officers started to be referred to the experts employed by the police forces of developed European countries for training, in order to improve and adapt the police work in Serbia to

the new demands and needs of society by applying the acquired specialized knowledge. With these contradictions, the Serbian police entered the 20th century.[18]

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18 More about the development of the Serbian police in the period of the 19th century, see: Jovanović, 2005; Zekavica, 2005.

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PUBLIC SECURITY IN KRALJEVO - RANKOVIĆEVO (1944-1955)

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INTRODUCTION

The expulsion of foreign occupation troops and their associates from Kraljevo and the surrounding area was not the end of all tasks for members of the Yugoslav People's Liberation Army (NOVJ), their sympathizers, as well as sympathizers and members of the Communist Party. Shortly after the liberation, the organization of new authorities began and an intensive struggle for its consolidation took place. The expulsion of the occupiers from the area of central Serbia did not mean the end of the war. The civil war thus continued between ideological opponents (Davidović, 2018: pp. 141) through the sporadic struggle of NOVJ units, on the one hand, and the remnants of JVuO units, on the other. In such circumstances, the absolute priority of the new government was to strengthen the regime and thwart even the slightest danger to the newly established order and ruling ideology.

FORMATION OF INTERNAL AFFAIRS BODIES IN KRALJEVO AT THE END OF 1944

After the liberation of Kraljevo[2] on November 29, 1944, all tasks in the field of security were under the jurisdiction of the garrison unit of the NOVJ (Simijanović,

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2 In the period 1949-1955. Kraljevo was called Rankovićevo.

Gučanin, 2018: pp. 251-252), and on December 1, at the suggestion of the party leadership, the Command of the place in Kraljevo was established. Savo Vajić was appointed commander, Milovan Majstorović deputy, Simo Simović was appointed political commissar. The intelligence officer at the command was Raka Vukajlović. On the same day, the garrison duty was transferred from the 4th Proletarian Montenegrin Brigade to the 28th Serbian Brigade of the 47th Serbian Division. From the partisan detachment *Jovo Kursula* a crew company was formed, and then a battalion. On December 3, 1944, Blagoje Bogavac, a high-ranking party official, formed the Department for the Protection of the People (OZN) on behalf of the leadership of the Kraljevo District. Milan Djoković was appointed head, Draginja Marinović secretary and Mijat Jovanović, Ljubiša Pribaković, Raka Vukajlović, Milan Čučković and Branko Milovanović were appointed for investigative and other operational duties (Milićević & Čović, 1990: pp. 439-441; Davidović, 2018: pp. 141; Simijanovic, 2018: pp. 64-65).[3]

In mid-May 1944, the Security Service of the Department for the Protection of the People (OZN) was formed within the NOVJ. This organization performed intelligence tasks, at the same time performing the role of political, i.e. party police, and representing, at the same time, striking forces for the fight against ideological opponents. In August of the same year, the Yugoslav People's Defense Corps (KNOJ) was formed, which had the task of maintaining order and peace and persecuting the enemies of the newly established government, forming a kind of internal army under the command of OZN officers. In the fall of 1944, the first units of the People's Militia in Serbia were formed, which were under the control of the competent People's Committee. The People's Militia performed almost the same tasks as the KNOJ units, except that the tasks were limited to micro levels, i.e. municipal and urban environments. In the first half of 1945, the Departments of Internal Affairs were established. At the same time, the People's Militia is growing into a stronger and more organized formation. Thus, detachments remain within the county and district departments of internal affairs, and one or more police stations had been formed in the municipalities. The bodies of internal affairs functioned within the District Boards, but at the end of 1945, the Ministry of Internal Affairs put into practice the directive on the separation of internal affairs bodies from their authority. Thus, the militia was separated as an executive service. The characteristic of the then People's Militia, which was otherwise mobilized by people from the local field, was low motivation and a more tolerant attitude towards the fighters of Ravna Gora (Davidović & Timotijević, 2002: pp. 169-170; Dimitrijević, 2003: pp. 6, 10-14, 32- 34, 39-40).[4]

3 Historical Archive in Kraljevo, hereinafter: IAK, Fund of the Municipal Assembly of Kraljevo, hereinafter: SOK, kut. 211, GNOO Minutes of December 10, 1944. until December 28, 1945.

4 IAK, Fund of the District Committee of the League of Communists of Serbia, hereinafter: SK SKS

The OZN mandate for the Čačak district, to which the Žička district will join after the liberation, was established as early as October 17, 1944. After the liberation of the entire territory of the district, powers of attorney were created for Takovski, Ljubićki, Dragačevski, Trnavski, Kačerski, Moravički, Studenički and Žiča county (Hadžipopović & Marinković, 1984: pp. 131; Davidović, 2012: pp. 209-244; Davidović, 2018: pp. 142). Thus, shortly after the liberation from German units, on December 3, 1944, the District Committee of the KPJ for the Kraljevo District established the OZN Plenipotentiary. Since this district was abolished on December 10 of the same year, the Plenipotentiary continued the activities within the Žiča district (Milićević & Čović, 1990: pp. 441; Davidović, 2018: pp. 142).

ESTABLISHMENT OF THE PEOPLE'S MILITIA IN THE DISTRICT OF ŽIČA AND THE CITY OF KRALJEVO

Based on the act of the National Committee for the Liberation of Yugoslavia (NKOJ), dated December 14, 1944, the District People's Liberation Committee (ONO) in Čačak issued on December 25 of the same year an Order on the Establishment and Instruction on the Organization of the People's Militia in Žiča, as well as in other counties in the district. The instruction ordered that the People's Militia be formed as a matter of urgency with each People's Committee. The military command was entrusted with the obligation to provide assistance with regard to the organization of the People's Militia, and at each people's committee one of the councillors was given the duty to take over the administrative department, under whose jurisdiction the internal affairs were. [5]

Acting on the order, the District People's Liberation Committee (SNOO) in Kraljevo submitted a proposal for the formation of a district militia detachment on January 16, 1945. It was emphasized that only those older than 30 can participate in the militia detachment, and members of this detachment had the right to carry a

Kraljevo, kut. 74, Report of the District Committee of the County of Žička to the District Committee of the KPS in Čačak dated 30 June 1945.

5 In addition to more detailed instructions on competencies and duties, the Order also contained instructions on the attitude towards the broad masses: »The attitude of the People's Militia towards the people should be such that the masses of the people understand the duties of the People's Militia as their duties. By their attitude and proper performance of duties, the People's Militia should gain love, and then the people will show them and hand over forgers, greengrocers, traffic offenders and murderers; in a word, the People's Militia should gain the sympathy of the people to such an extent that the masses of the people become its collaborators and active executors of government decisions. » - Inter-Municipal Historical Archive of Čačak, (hereinafter MIAČ), Fund: District People's Committee of Čačak, (hereinafter ONO Čačak) kut. 1, Order of the ONOO in Čačak of 25 December 1945.

rifle in public.[6] By March 1945, the district militia had 290 members, and a total of 161 rifles and five automatic weapons. However, the estimated number was still not filled, because another 116 police officers were missing (Davidović, 2018: pp. 151).

The city militia was established after the session of the City People's Liberation Committee (GNOO), on March 8, 1945. The building of the bishop's lodgings, across from the Church of the Holy Trinity and the building of the gymnasium (today's city museum)[7] were designated for its accommodation. On the 19th of the same month, a building owned by the merchant Miroslav Vuković, on the banks of the Ibar, was designated to house the fire company.[8]

THE FIGHT AGAINST THE REMAINS OF JVUO UNITS IN THE ŽIČA DISTRICT

The most important and most difficult task of the newly established security services was to deal with the remnants of the ideologically opposed JVuO movement, whose not insignificant number of members and sympathizers at the end of 1944 and 1945 were in the wider area of Žiča County and the city of Kraljevo. The traumas from the just-concluded war were fresh, so that the ideological fervor was in full swing, which is confirmed by the words of the vice-president of the SNOO, Momčilo Radović: "The houses of the hideouts and the houses of the Chetnik couriers will soon be on fire because all the requests did not help. Yes, everyone knows where the dugouts are, but they are nowhere to be found."[9] There were also proposals to take the families of inaccessible members of the Chetnik organization hostage, but the SNOO did not make an official decision on this issue,[10] except that fifteen days later it adopted a general wording to take harsh measures against the families of Ravna Gora village commanders, i.e. "to make them feel a firm hand."[11]

Although the new government firmly controlled the city, the surrounding area, and the most important traffic routes, the rural and mountainous part of the Žiča district, as well as other neighboring districts, became a refuge and field of activity for numerous groups of the Ravna Gora movement. At the end of 1944, the largest number of members of the 1st, 2nd, and 3rd

6 IAK, Fund of the Assembly of the District of Kraljevo, hereinafter: SSK, inv. no. 1, Minutes from the plenary session of the SNOO of 16 January 1945.
7 IAK, SOK, kut. 211, vol. 1, Minutes of the twelfth session of the GNOO of March 8, 1945
8 IAK, SOK, kut. 211, vol. 1, Minutes of the thirteenth session of the GNOO dated 19 March 1945
9 IAK, SSK, inv. no. 1, Minutes from the plenary session of the SNOO of 16 January 1945
10 Ibid
11 IAK, SSK, inv. no. 1, Minutes from the session of the Executive Board of the SNOO of February 1, 1945.

Žiča Brigade returned to the area of their district. Some of these units returned to their homes, many of them were recruited into NOVJ units, and there were many who persisted in their ideological struggle and were outlaws of the new government years later. Their outlaw status counted on the living tradition of *hajduk*, as a form of struggle against the Ottoman Empire. At first, the outlaws lived in the belief in strong and growing support against the new "anti-traditional" ideology, which, in their opinion at the time, could not come to life in Serbian society (Davidović, 2018: pp. 146).

Aware of the fact that the remnants of the Ravna Gora movement could continue to become a threat to the new ideology and order, the party and state leadership tried to organize a sufficient number of units and members for the KNOJ units. Serbian Division, i.e. the 5th Division of KNOJ was founded on January 10, 1945, with its headquarters in Kragujevac. The total number of the division was 22,000 armed fighters. Somewhat later, in March of the same year, the 4th Brigade of this division was formed, with its headquarters in Kraljevo (Joksimović, 1985: pp. 63-64; Davidović, 2018: pp. 142).

The leadership of the 2nd and 3rd Žiča brigades of the JVuO was liquidated in January and February 1945.[12] According to the number and strength in the area of the Žiča district, two larger groups of members of the Ravna Gora movement stood out. While the first group under the command of Milorad Vasić operated in the area of the Gledić Mountains, the second was a group led by Lieutenant Hristifor "Krca" Milošević, which was located in the Podibar area. According to the estimates, in the area of Kraljevo there were a total of 199 people in the outlaw status by the end of February (Joksimović, 1985: pp. 63-64; Davidović, 2018: pp. 147, 148). For the sake of more efficient fight against outlaws, and on the initiative of the District Committee of the KPJ, at the beginning of 1945, the Auxiliary Command of the place in the village of Godačica was formed, which was assigned the Third Company of the Crew Battalion. In the next few months, this command, in cooperation with the village militia, managed to capture or liquidate about 70 members of Draža Mihailović's movement. A symbolic success was the seizure of the flag and archives of the 1st Žiča Brigade of the JVuO. In the same period, great successes were made in revealing the secret and intelligence network, and a large amount of money was seized (Milićević & Čović, 1990: pp. 444 - 445; Davidović, 2018: pp. 147 – 148).

12 The commander of the 2nd Žiča Brigade, Captain Vlastimir Antonijević, born in 1916 in Vrba, was captured in January and shot on February 19, 1945, based on the verdict of the Military Court-Chamber of the Čačak area; Captain Ljubiša Andjelković, commander of the 3rd Žiča Brigade, born in 1912 in Konarevo, was killed in January 1945 on the ground, and the internal affairs authorities managed to win over a Chetnik from his entourage, who killed him. - (Milićević & Čović 1990: pp. 445; Davidović, 2018: pp. 147).

Although the JVuO units were practically without command staff at that time, the general security situation in the wider area of the Žiča district, during the spring and summer of 1945, from the perspective of the new government, was not stable. The new county government has not established full control over all parts of the county. In the spring of 1945, it happened several times that groups of members of Mihailović's movement came to the immediate vicinity of the city. A report from May 1 states that one of the two leaders of Mihailović's movement, a certain Krcun[13], was killed together with 11 other comrades-in-arms. [14] (Other sources confirm that the killed lieutenant Hristifor" Krca "Milosevic is the commander of the 3rd assault battalion of the JVuO.) Milošević was killed in a clash in early April, and some former members of Milošević's battalion surrendered voluntarily and joined the People's Militia).[15]

At the beginning of May, reports state that Milorad-Mile Vasić, commander of the brigade of the Ravna Gora movement, is still alive and on the periphery of the district, as well as that he often resides on the territory of the surrounding districts. It was also stated that 58 members of the Serbian State Guard, fifteen Chetniks, eight from Ljotić, three members of the Russian Corps and one member of the Gestapo left the country together with the Germans. It is estimated that there were 77 military refugees from the area of the county, that Vasić's group numbered sixteen people, as well as that there were nine equals in the northern part of the county, and fifteen in the south. At the same time, eight Chetniks surrendered and two were captured. About 350 "landlords' sons" were forcibly mobilized and sent to the Yugoslav Army (JA). [16]

During the summer of 1945, the remnants of Mihailović's movement, organized into four larger groups, were still hiding in the more inaccessible mountainous and wooded regions of the county. The most numerous was the group of lieutenants Vasić with a total number of about 160 fighters. This group moved and acted in the area of Gledić mountains. At the time of more intensive pursuits, Vasić's group often moved within a wide territory, which included the more inaccessible areas of the Trstenik, Gruž and Levač districts. Zivota "Keker" Todorović's group was often in cooperation and joint movement with Vasic's group. The third group with a total number of about 10-15 fighters was led by Milorad Ostojić "Gorilo". The area of

13 This is about Lieutenant Hristifor 'Krca' Milošević, commander of the 3rd Assault Battalion of the JVuO, whose headquarters in the summer of 1944 were in the village of Cukojevac. - IAK, ZRPNOB, corner. 10, book, 3, »Enemy formations - Chetniks«, Vasko Radunović, (manuscript), p. 20-21, 28, 32, 79.

14 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 1 May 1945.

15 MIAČ, ONO Čačak, kut. 1, Weekly Report of the Department of Internal Affairs of ONOO Čačak, dated 15 April 1945.

16. IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 1 May 1945.

movement and activities of this group was the smallest, it included the wider area of the villages of Bukovica, Samailo, Roćević, Lasca, Mrsać and other villages in that part of the Žiča district. During the more intensive pursuits, this group moved to the Studenica and Ljubićko-Trnava districts (Davidović, 2018: pp. 153).

The district committee made estimates of the numbers of these groups, which were probably not entirely accurate. From the Report of the District Committee, the situation is seen from their perspective, data on the number of killed and dead are provided, but most often without more detailed descriptions of events and identification of victims and participants. Thus, in a report of the County Committee to the District Committee for June 1945, it is stated that "Chetnik gangs" in the area of the village of Gruža, in early June, killed seven people, two of whom were councillors in the People's Liberation Committee of Gruža. However, the report does not state their names. Furthermore, the same report states that one "bandit" was killed in the same month but neither identity nor circumstances are stated. The report also adds that due to the uncertain security situation, it was not possible to successfully organize conferences or any public gatherings in the area of the village of Gruža and its surroundings. According to the same report, the new militia was poorly armed, mostly with old, worn-out and broken Italian rifles, many of which were without extractors, and each member was given up to ten bullets while going on a mission.

Poor weapons were cited as the reason for the militia avoiding entering remote hilly and mountainous parts of the county, especially those where the remnants of the opposing movement were suspected. It was also pointed out that there was no lack of will and courage among SKOJ members and USAOS members to join the militia in "exterminating bandits", but there were simply not enough weapons to equip them. The same report then presents data that inadvertently denies the existence of unreserved enthusiasm among young people, since it goes on to say that in remote parts of the county at that time hid, according to the District Committee, about 40 deserters (persons who avoided mobilization in JA and District militia), while 14 deserters were known to be armed, but also that they were not connected with members of Mihailović's movement. In order to increase the efficiency of the district militia, reduce the possibility of desertion and assistance on the basis of family and friendly ties, the district militia was reorganized by sending militiamen from opposite parts of the district on assignments. [17] By the end of June 1945, the district militia had liquidated 27 outlaws from Ravna Gora, nine had been captured, and as many outlaws had surrendered voluntarily. [18] In July, three members of a family were killed in Gračac. Namely, one woman whose

17 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 30 June 1945.

18 IAK, SSK, kut. 693, List of enemies of the people who were liquidated or captured by our army, dated 18 June 1945.

identity was not known was killed and buried in a "mysterious way". The report does not provide more detailed explanations or data. [19]

According to the report of the District Committee, the situation in the district militia improved by the end of July in terms of organization and number. It is stated that there were over 500 police officers in the district. [20] However, the number was not enough in itself, by the end of July, 300 policemen were fired, and only the "best" were kept in the service. Village guards were being formed, and the main problem in the work of the militia was still the lack of professional, managerial and command staff. [21] Using the mentioned omissions and weaknesses, the renegade members of Draža Mihailović's movement carried out attacks in the immediate vicinity of the city in July, and also carried out attacks on prominent city officials in the new government who lived in villages within their reach. Thus, the group under the command of Milorad Ostojić aka "Gorilo" raided the house of Ljubiša Kolarević from Mrsać, a sergeant of the City Militia in Kraljevo, on July 10, at 10 o'clock in the evening. Zvezdan Nikolajevic, president of the MNO and head of the village militia, was killed in a conflict with the group of Rafail Karavesovic "Fife" and Momcilo Radovic "Čukura", which took place on July 12 in the hamlet of Zmajevac, Ribnica village (then a village near the town). On that occasion, policemen Stevan Savić and Slavko Lazarević were severely wounded, who later succumbed to his wounds (Davidović, 2018: pp. 155).

At the end of November 1945, the District Committee estimated that there were 86 "Chetnik bandits" in the area of the Žiča County. To this number, 56 people were added who deserted or did not respond to the mobilization, so that the other 30 were really in Mihailović's movement. During the action of General Amnesty and Pardon, in August 1945, judging by the Report of the District Committee from November, only a dozen deserters applied, while no member of Mihailović's movement applied.

The report also states that from October 1 to November 17, Mihailović's movement killed Todosije Sretović, councillor of the municipality of Miločaj, Dimitrije Pedović, member of the JA, Žarko Vulićević from Samailo village. Milorad "Gorila" Ostojic's group was suspected in the murder of Vulićević, and the same group was also suspected in the murder of the seven-member Milutinović family in Musina Reka on November 10. This group, led by "Gorilo", was liquidated on November 29 (Drašković, 2020: 122 - 123). [22] It is stated that an ambush was organized on

19 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 30 July 1945.
20 Ibid
21 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 31 August 1945.
22 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Cacak, there is no date, end of 1945.

the Kraljevo-Gruža road on the truck of the 42nd JA Division, in which an entire family of six died (the exact identity is not stated). On the other hand, in the same period, four members of the Ravna Gora movement were captured: Borislav Žarbenac from Samail, then: Radenko Antonijević, Sofronije Starčević, Ilija Milojević, all from Vrdil. It is also stated that eight members of the royalist movement were killed in the fighting (without giving names). The report also states that 23 families were forcibly displaced on the territory of the county at the same time.[23]

In December, according to the report of the District Committee, 15 members of the JVuO and military fugitives were killed, 12 were captured and 19 surrendered. Among those who surrendered was Isidor Živković, a pre-war radical MP, major and district commander in Mihailovic's movement. [24] Zivkovic was then sentenced to 6 years in prison, which he served in Sremska Mitrovica, and he died in 1974 (Drašković, 2020: pp. 34).

While at the beginning of October 1945, the number of the District Militia was reduced to a total of 120 militiamen, the City Militia numbered another 40 men.[25] The numbers were rapidly declining, and the unpopularity and avoidance of this duty was widespread. At the very end of the year, there were only 80 members of the militia in the entire county. Most of them dropped out of this year's 500 in the meantime due to various shortcomings, omissions, unprofessionalism, corruption. For example, only in December, five members of the militia were arrested for cooperating with Mihailović's movement. At the same time, there were 25 policemen in the city, and the auxiliary militia still existed only on paper. At that time, the duty OF the district and city militia brought with it great risks to life and uncertainty regarding the creation of revenge among the local population. The persecution of groups of Mihailović's movement, accustomed to hiding and guerrilla warfare, was a military task to which mobilized, untrained, unarmed and unmotivated local residents, mostly young people aged 15 to 18, were simply not up to the task.

Even among the party membership and SKOJ members, there was no excessive enthusiasm for participating in the work of the district and city militia. At that time, there were 5 party members and 65 SKOJ members in the ranks of the police. Also, another task of the People's Militia that has encountered a number of problems in practice is the organization of lookout patrols. From several reports of the District Committee, it can be seen that the population tried to avoid participating in that duty. There have been frequent cases of residents refusing to take

23 The report states surnames, place of residence and place of relocation - IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Cacak dated 17 November 1945.

24 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Cacak dated 31 December 1945.

25 IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Cacak dated 1 October 1945.

up arms and weapons. The duty of the village patrols was to organize guard duty in shifts. Due to the lack of rifles, it was the practice for several guards to share one rifle, which they would borrow from the previous one when going on patrol duty. The task of the guards was also to disarm, with the help of the police, all those who were known to have possessed weapons, and who avoided the obligation to participate in the village guard. Weapons were confiscated even from those who had properly registered hunting rifles. [26]

At the beginning of 1946, the district police officer was Mile Luković, a former active lieutenant of the Yugoslav Royal Army, who arrived from captivity. He replaced Ilija Kaličanin, who, according to the District Committee, could not answer the task entrusted to him. [27] Kalicanin was then expelled from the party membership on February 23 due to, as stated, multiple mistakes, omissions, embezzlement and immoral life. This was the first conflict in the District Committee after the liberation of the city, which ended with the expulsion of one member from both the District Committee and the party membership. After being expelled, Ilija Kalicanin moved to Banatski Karlovac. [28]

According to the report of the District Committee, at the beginning of 1946, of the remains of members of the former JVuO Draža Mihailović who were still renegade, only the group of Vasićs, numbering about 25 members, remained. During the same period, the OZNA of the 42nd Division arrested a dozen people in the city, who were accused of "acting hostilely in the city" and collecting donations for "butchers". The report also states that during that month, three people were killed, two were captured in the area of the County, and that only five "bandits" surrendered. [29] At the end of July, the report mentions that 18 "bandits" remained on the territory of the district, not counting Dušan Vasović, who escaped from the District Prison.[30]

In April 1946, in the Report on the work of the party organization in the Žiča district, the problem of prostitution was mentioned. It was noted that the sexually transmitted diseases were increasing and that one of the main reasons for the in-

26 IAK, SKS Kraljevo, kut 24, SK Working Meeting of 6 December 1945; IAK, SK SKS Kraljevo, kut. 74, Report of the District Committee to the District Committee dated 31 December 1945.
27 IAK, SKS Kraljevo, kut 24, SK Working Meeting of 30 January 1946; IAK, SK SKS Kraljevo, kut. 53, Report on the work of the District Party Organization for the month of January 1946, dated 30 January 1946.
28 IAK, SK SKS Kraljevo, corner. 74, Report of the Zice District Committee to the KPS District Committee in Čačak on March 11, 1946; IAK, SK SKS Kraljevo, corner. 74, Characteristics of the District Committee for Ilija Kaličanin dated 14 September 1945.
29 IAK, district Committee of the League of Communists of Serbia - Kraljevo (hereinafter IAK, SK SKS Kraljevo) kut. 53, Report on the work of the District Party Organization for the month of January 1946, dated 30 January 1946.
30 IAK, SK SKS Kraljevo, kut. 53, Report on the work of the District Party Organization for the month of July 1946, dated July 26, 1946

crease in prostitution was the small number of police officers in the city i.e. only 10 of them [31]. By 1946, the area of the Žiča district was almost completely pacified, although some outlaws resisted arrest or liquidation until 1949.[32]

THE FIGHT OF THE NEW AUTHORITIES AGAINST SUSPECTED COLLABORATORS AND IDEOLOGICAL OPPONENTS IN THE CITY OF KRALJEVO

After the end of the war there were a groups in the city of like-minded people who still wanted to preserve the legacy of democratic pluralism that existed in Serbia since the 19th century (Terzić, 2018: pp. 19-31; 54-73). As everywhere in Serbia at that time, there were still people who believed in the legal continuity of the pre-war government of the Kingdom of Yugoslavia (Terzić, 2022: pp. 87-89). In the area of the city itself, after the end of the war, there were smaller anti-party and anti-ideological groups whose activities were of negligible scope. In Kraljevo, at the beginning of August 1945, the OZN unit discovered an illegal group, the *Ravna Gora Youth Organization.* The main organizer of the group was Vera Petrović, the daughter of the Kraljevo industrialist Miljko Petrović Riža (Milićević, 2004: pp. 84-86; Davidović, 2018: pp. 160 - 161). Nevertheless, the possible oversizing of this group's subversiveness for the purpose of further discrediting the family of the said pre-war industrialist cannot be ruled out. The emergence of subversive groups continued later in the circle of high school and university students. [33]

Along with the armed struggle against the renegade members of the former JVuO, during the winter of 1944 and the whole of 1945, an intensive investigation was conducted against all persons suspected by the then authorities of having ties to the occupying army, quisling organizations and the regime. Those who had connections, or were suspected of supporting or belonging to Draža Mihailović's movement, also suffered pressure. One of the most important forms of struggle to build a new social order was confiscation. The commission for the confiscation of the property of the people's enemies was elected on May 26, 1945. It included the director of the National Liberation Committee, a representative of the De-

31 IAK, SK SKS Kraljevo, kut. 53, Report on the work of the party organization of the Žiča district for the month of April 1946, dated 26 April 1946.

32 Vladimir Žarevac, an outlaw from Ravanica, was arrested no sooner than October 5, 1949. - (Davidović, 2018: pp. 160 - 161).

33 In mid-July 1949, the illegal organization »Democratic Youth Party« was discovered in Kraljevo, whose main organizer was Dušan Jaraković, a law student. The members of this group were mostly high school graduates from Kraljevo. Many years after the war, deep in the era of inviolable power and authority of the KPJ, in June 1950, the illegal reading organization »National Committee of Yugoslavia«, organized by Desimir Todorović, was discovered. - (Davidović, 2018: pp. 161).

partment of Internal Affairs, or a member of the GNOO Plenum Assembly and a citizen, who should, if possible, be as close as possible related to the person being confiscated. [34] At the session on September 11, 1945, the GNOO stated that there were a considerable number of war winners in Kraljevo and that they had to report to the war gain officer as soon as possible. [35]

The arrests and executions did not bypass Kraljevo immediately after the liberation. After the accumulated traumas, years of pain and immeasurable suffering, the members of the new authorities did not miss the opportunity to use their role as winners in order to deal with those whom they considered to be collaborators of the occupiers. They did not have a much milder attitude against ideological opponents and those who they thought could be harmful to the new order. Types of reckoning had non-violent and violent methods, depending on the case and circumstances. Emotional charge and ideological fervor were certainly important factors, and the existence of personal animosities in certain cases that led to retaliation in which innocent people were killed cannot be ruled out.

To this day, the circumstances and facts regarding the number and identity of those executed during 1944-1946 remain unclear. According to the testimony of a former member of the OZN, Miodrag Mišo Jovićić, 72 people from Kraljevo were shot at that time. The executions were carried out in a stream near the Farmers' School and on the banks of the Ibar. According to Jovicic, 27 prisoners were shot in just one round, including mayors Dušan Krstić, Momir Savic from Ribnica and Uroš Miloradović from Konarevo. Priests Dragoslav Obućina and Milan Sretenović were also shot at that time. While Obućina was sentenced for helping and complicity with the Germans during the 15-20 October 1941 shooting, Sretenović was liquidated without trial (Džomić, 1997: pp. 253-255; Simijanović, 2018: pp. 66). The prison was located in the then headquarters of the OZN for Kraljevo, in the house of Milica Knežević; later in that house was the seat of the District Committee of the KPJ, and then the municipal board of the SPS. Jovicic also testified that there was a prison in the house of Jelena Vuković on the Ibar quay (Džomić, 1997: p. 224; *Politika,* 2007, august 23; Cvetkovic, 2015: p. 224; Simijanović, 2018: pp. 67).

From April 1945, when he was appointed head of the OZN district, Ratko Dražević was directly responsible for all the activities of this organization, and he personally testified about his actions: "We shot in the winter in the Ozna basement in Kraljevo. We couldn't drag them anywhere, so we lined them up one over the other in one shelter, and due to the cold, bitter winter, their bodies froze. When we

34 IAK, SOK, kut. 211, vol. 1, Minutes of the nineteenth session of the GNOO dated 26 May 1945; IAK, SK SKS Kraljevo, kut. 74, Report of the Žiča District Committee to the KPS District Committee in Čačak dated 30 June 1945.

35 IAK, SOK, kut. 211, vol. 1, Minutes of the twenty-ninth session of the GNOO of September 11, 1945.

left that shelter, we dropped bombs, so the wooden carriers would fall on everything and hand it over to oblivion forever. Today, some 500-600 people live in that building, and no one knows how many innocent people, sincere democrats, were built into its foundations, just because they were not to the taste of us communists. " (Lopušina, 1997: pp. 137; *Novosti,* 2012, December 12).

Some of the well-known victims of the shooting were engineer Zoran Marković, who was in the organization of *Youth Protection* within the National Service, as well as Stevan Savić, reserve major, holder of numerous decorations, mayor of Raška; he helped supply the Javor Corps of JVuO, but did not directly participate in combat operations. On the eve of the Second World War, Ratko Dražević was an apprentice in Savić's shop, on whose orders Savić was shot on January 9, 1945, and his remains have not been found to this day. He was rehabilitated before the High Court in Belgrade in 2006 (Cvetković, 2014: pp. 33; Cvetković, 2015: pp. 224 - 225; Simijanović 2018: pp. 67).

The priest Antonije Dragović is also considered a victim of persecution during 1944 and 1945, who, according to eyewitnesses, was taken away by some partisans in 1945 and to this day all trace of him is lost (Džomić, 1997: pp. 189 - 194) .

In the register of victims compiled by the State Commission for Secret Tombs of Those Killed after September 12, 1944 in Serbia, 268 persons listed by name and surname refer to Kraljevo. Through subsequent verification, reducing the above number for those victims outside the territory of Kraljevo, double enrollment and after adding 104 newly discovered victims, Dragan Drašković reached the number 335, emphasizing that this number is not final (Drašković, 2020: pp. 140 - 141).

CRIME IN KRALJEVO 1950 -1955

It was not until the end of 1949 that first-class sources on public safety and general crime became more widespread. Until then, the priority security issue dealt with by the authorities was within the political confrontation with the suspected collaborators, members of the JVuO and the "reaction", while since the summer of 1948, the focus has been on "cleaning up one's ranks". Nevertheless, that process took place within the party organization and its organs. In that case, the militia only had an executive function.

General crime becomes more visible in the sources only after all the previously listed priorities went out of focus. Sources that provide a more detailed insight into the problem of crime became more numerous only in the early 1950s. Thus, during the year 1950, the overall crime rate rose. While in 1949 a total of 95 cases of various crimes were registered, during 1950 (until December 18) as many as 225 were registered (Simijanović, 2018: pp. 264).

Type of crime	1949	1950
Theft of public property	20	38
Theft of private property	31	77
Speculation and economic sabotage	29	52
Crimes against human life and health	5	12
Other crimes	10	44

[36]

In 1950, the District People's Court consisted of five judges, only one of whom was a member of the Party. Other judges and officials were characterized as reactionary so that the KP district committee was not satisfied with their attitude. The building in which the court was located was small and unconditional. The situation in the public prosecutor's office was reversed, of all the prosecutors, only one was not a member of the Party, while all other employees were members. The report of the District Committee especially praised the practice that in connection with all "stronger" problems, prosecutors first turn to the District Committee for opinion and instructions and consultations with the Secretary of the District Committee. The prosecution was also praised for prosecuting "speculators" and other criminals on the issue of Peasant Labor Cooperatives and ransom (Simijanović, 2018: pp. 265). [37]

During 1950, 1,197 criminal charges were filed in the District Court in Rankovićevo, in the following year, in 1951 - 1,705, and in 1952 - 2,040 new cases. By far the largest number of criminal charges related to acts of insult and slander, followed by acts of inflicting light bodily injuries. Thus, in 1952 alone, 827 criminal charges for insult and defamation and 308 charges for minor bodily injuries were filed. By far the most common causes of insults, slander and light bodily injuries were quarrels and misunderstandings over private property. A significant number of these cases was created during the celebrations and festivities. The share of the city itself in these percentages is smaller compared to the rest of the county. Thus, since 1952, there had been a total of 827 criminal charges for insults and defamation, of which only 103 cases concerned city residents. Out of a total of 308 reports of minor bodily injuries, only 45 cases concerned perpetrators from the city. The mass appearance of reports of defamation and insults significantly burdened the work of the judiciary, and early public appearances began with appeals to stop the practice of "suing for trifles". In one text from Ibarski novosti, there is a free estimate that judges in the District Court in Rankovićevo in 1952 dedicated

36 IAK, SK SKS Kraljevo, box 22, Minutes from the VI District Party Conference held on December 18, 1950. Annual Report of the District Committee of the KPS of the Žiča County for 1950, p. 17.
37 Ibid

as many as 5,000 working days to "minor criminal cases". In 350 "petty criminal cases", the average sentence was 1,000 dinars, while the total cost of the trial was 2,000 dinars (*Ibarske novosti*, No. 6. dated 10. 4. 1953. pp. 2).

In later years, especially since 1954, there was an increasing number of mass fights among young people, mostly high school students on the city streets. This phenomenon disturbed and preoccupied the public, and there were frequent reactions and protests on the pages of the local newspaper. The public mostly blamed the young members of the boxing club as leaders and main responsible (*Ibarske novosti*, No. 46, dated 12. 2. 1954, pp. 3).

Poaching in fishing was an increasingly common phenomenon that came to full expression in the early 1950s. The almost daily practice of fishing on the Ibar and Zapadna Morava with the help of explosives, most often dynamite, has become a special problem. This practice, in addition to being harmful to the ecosystem, also posed a threat to human safety. There had been numerous appeals to eradicate this phenomenon, but in practice suppression has been difficult (*Ibarske novosti*, No. 49, dated 5. 3. 1954, pp. 4; *Ibarske novosti*, No. 115, dated 29. 7. 1955, pp. 2)

Great attention was paid to the problem of alcoholism. Alcoholism was considered a serious social problem, which should be fought resolutely in the new socialist society. *Ibarske novosti* often published articles about the harmful effects of alcoholism. In the same way, it had often been called for the stricter application of the point of the Law on Prohibition of serving alcohol to persons in an alcoholic state within the Law on Misdemeanors against Public Order and Peace. Problems in practice most often occurred when the staff of catering facilities refused to serve customers under the pretext of applying the point of the Law on Prohibition of Drinking Alcohol to Persons in an Alcoholic State (*Ibarske novosti*, No. 36, dated 20. 11. 1953, pp. 4; *Ibarske novosti*, No. 37, dated 27. 11. 1953, pp. 5; *Ibarske novosti*, No. 38, dated 11. 12. 1953, pp. 4; *Ibarske novosti*, No. 50, dated 12. 3. 1954. pp. 5; *Ibarske novosti*, No. 82, dated 5. 11. 1954. pp. 2).

The social norms of "socialist morality" imposed moderation and exemplary habits in accordance with the norms of social acceptability. However, the norms of social acceptability were not sharply defined. When it comes to the attitude towards the phenomena of alcoholism in the party ranks, there were various examples. The very vice of alcoholism was by no means the only cause of party condemnation and exclusion, because in addition to this "weakness", irresponsibility, poor work discipline and the like were always cited. Due to traditional, folklore social habits, the authorities sometimes had a very benevolent attitude towards alcohol consumption. In the post-war years, in many villages in the district and in the city itself, the attitude towards alcohol of domestic production "*rakija*" as a universal medicine and auxiliary means in the household was maintained. [38]

38 One report of the District Committee deals with the tradition regarding the use of alcohol: »it is

CONCLUSION

The end of combat operations at the end of the Second World War, the expulsion of foreign occupation troops and their associates from Kraljevo and the surrounding area did not mean the end of all tasks for members of the NOVJ, their sympathizers, as well as sympathizers and members of the Communist Party. Immediately after the liberation, the priority task of the Party was the establishment of new authorities that led an intensive struggle to strengthen the new social order. The civil war continued between ideological opponents in the form of the continuation of sporadic fights between the units of the NOVJ and various security units of the new victorious government against the remnants of the JVuO units. The struggle took place mainly in the form of minor clashes with smaller and smaller groups in the rural parts of the Žiča district, which was almost completely "cleansed" by mid-1946, and the last groups of JVuO members were destroyed in October 1949.

At the same time, there was a showdown with the suspected collaborators in Kraljevo itself. Known or suspected members and sympathizers of JVuO were under pressure. In the first days after the liberation of Kraljevo on November 29, 1944, a number of people were killed, disappeared or were executed, the definite number of which has not been reliably determined until today. During 1945, a trial was held, in which some people were convicted of treason and aiding the occupying forces.

It was not until 1949 that sources on peacetime crime became more numerous and illustrative. From the mentioned 1949 to 1955, the trend of increasing the number of registered criminal acts is noticeable. The most common were acts of physical confrontation, insults and slander. The increase is also visible in the area of petty crime - theft. At the beginning of the fifties of the XX century, there was a trend of fights among younger residents - high school students. In that period alcoholism was also on the rise and was clearly marked as a social problem in perspective.

SOURCES

Inter-municipal archive Čačak

Kraljevo Historical Archive

often seen (Konarevo, Ravanica, etc.) that many children from primary school are used to having a small glass of *rakija*; the parents feel that this is useful for health. There have been many cases of children being drunk.« - IAK, SK SKS Kraljevo, box 76, Assessment of the political situation of the SKS District Committee sent to the SKS Central Committee on 4 September 1953.

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VIRTUAL TEAM LEADERSHIP SPECIAL CHALLENGES FOR MANAGERS

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INTRODUCTION

The necessity of working more in virtual teams arises on the one hand against the background of the "special situation" of the Corona pandemic, and on the other hand, within the "general situation", a change in the population structure has already been observed for a few years: The potential and demands of the new labour force (Huber & Rauch, 2013: 10) are changing. While for earlier generations a secure job and a good salary were enough to stay with an employer for a very long time, this is no longer enough for the younger generations (Klingelhöfer, 2019). Where tight leadership was the norm in the past, young employees today demand explanation, transparency and participation (Huber & Rauch, 2013: 10). Employees between the ages of 20 and 35 expect good jobs, assume high material standards, demand a work-life balance and family-friendly conditions from the employer. They want to participate and be asked for their opinion (Huber & Rauch, 2013: 14).

The young generationers will increasingly be given the choice regarding their employer and choose the offer that convinces them the most (Hansen & Hauff 2019: 38-39). The design of a successful work-life balance strategy, flexible working time models and targeted training opportunities are essential components of an attractive "employer branding" (Hansen & Hauff 2019: 43). The flexibility in workplace design expected by the new generations of employees to ensure a subjectively individual work-life balance means that teams no longer work and exchange ideas

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in shared offices as they did a few years ago, but increasingly perform their work on a mobile basis or in a home office.

The German police forces at federal and state level must also face up to this development in order to continue to be attractive employers in the future and to be able to hold their own against innovative competitors on the labour market. The Corona pandemic acted as a kind of catalyst for this development and triggered an enormous innovation push towards more flexible work. Organisations, employees and managers were forced to deal with the issue of virtual working in a very short time in order to strengthen the crisis resilience of the organisation and to remain fit for work and the future. In addition to this aspect of increasing flexibility and the associated virtualisation of workplaces, the Federal Criminal Police Office (BKA) is also faced with the organisational challenge that various departments and groups are distributed across the Berlin, Meckenheim and Wiesbaden locations, and department and group heads do not have direct, analogue access to their employees. This means that for certain hierarchical levels, the requirements of leadership at a distance have existed for a long time. Virtual working is more and more perceived as a way to build a bridge between the demands of new employees and the needs of the organisation. Through a more flexible design, not only new employees can be gained, but also employees who were forced to reduce their presence work due to family situations can be integrated more flexibly. In this way, their wealth of experience can continue to serve as a resource for the organisation (Schwöder, 2021).

PROCEDURE

In the Master's thesis on which this article is based, the effects of the increasing virtualisation of work on leadership performance were examined (Langmaack, 2009). Since the concept of leadership performance is sufficiently vague, leadership performance was subdivided into the following three points, based on Ruth Cohn's model of "theme-centred interaction" (TCI):

I Performance/Task completion

II Caring for the individual employee

III Group cohesion

The division of leadership performance into a task-related, an employee-related and a group- related aspect also formed the core of guideline-based interviews with experts. The interviews were conducted with management trainers and consultants with expert knowledge in the field of "virtual leadership" in order to find out how leadership should be designed within a virtual environment. The interim

result of an extensive literature research conducted in advance and the result of the evaluation of the interviews with experts in the field of "virtual leadership" were brought together in the much more extensive master's thesis to form a TARGET status. This interim result is reproduced below. The results of the interviews with the managers of the Federal Criminal Police Office were also an essential part of the master's thesis, but they are not published because of the partly very personal views and experiences of the interview partners.

THE RESULTS OF THE INTERVIEWS WITH THE MANAGEMENT TRAINERS

a) Performance/Task completion

In order to be able to delegate tasks in a targeted manner, it is necessary for the manager to create technical, organisational and interpersonal conditions that enable employees to complete tasks in the required quality and within the required time. Within a virtual working environment, in which there is usually a physical separation between managers and employees, technical requirements play a greater role in the context of communication than in an analogue working environment, since the possibilities for direct contact and feedback are lacking. According to the management trainers, managers are challenged to ensure within the framework of delegation that employees receive all the necessary information to complete the task and that the individually required competence and the necessary time capacities are available. Furthermore, the manager must constantly monitor the process in order to ensure that the completion of the task develops in the desired direction. This observation is more difficult in the context of virtual leadership due to the physical distance and requires a demand-oriented communicative accompaniment of the task assignment or delegation. In the opinion of the management trainers, the challenge here is to design control loops on the part of the manager in such a way that, on the one hand, they are appropriate to the importance of the task and the abilities of the employee, but on the other hand, they are not set so tightly that the employee feels a sense of mistrust and is possibly demotivated as a result. As in the analogue environment, the type and extent of delegation should be based on the employee's level of maturity, for example. The main difference to the ana- logue environment is based on the type of accompanying communication. In the opinion of the management trainer, it is therefore necessary for the manager to take into account not only the maturity level of the employee, but also the individual communication needs and the personal circumstances of the employee, which are largely determined by the individual environment. Within an analogue office environment, it is much easier to develop this empathy and to establish and maintain appropriate social contacts.

The topic of "supervision and control" is closely linked to the delegation of tasks. Therefore, the recommendation of the management trainers is to also align supervision with the maturity level of the employee. The art within virtual leadership is to find the right time and the right medium for regular contact with the employee in order to exercise supervision and control to the above-mentioned appropriate extent. Identifying the right time intervals is more difficult in the virtual environment than in an analogue environment, as the manager lacks the possibility of constant and occasion-related observation. In the virtual environment, it is hardly possible to get an indication of the state of affairs in short "hallway conversations". Therefore, from the management trainer's point of view, it is important for managers to develop sensitivity and so-called "remote skills"[3] in order to find the right time to make contact. This contact should be based on "relationship management", which takes into account both personal competences and skills as well as the individual communication needs of the employee. As also described by the experts of the BKA, the necessary communication with the employees within the virtual environment requires more time than is the case in an analogue working environment. The reasons for the additional effort are, in particular, the spatial separation, the lack of face-to-face meetings with individual employees or the team and difficulties in accessibility, which can be traced back to different daily routines within the framework of the flexibility gained and personal environmental conditions. Therefore, it is necessary to review work processes for their suitability with regard to virtual requirements and to update them in order to be able to use resources for additional communication needs. This presents the organisation with two challenges: On the one hand, the existing processes are already subject to a constant review with regard to existing optimisation possibilities, and on the other hand, due to the virtual isolation of the employees, creative cooperation, which is necessary within the framework of the constant improvement processes, is more difficult to organise.

According to the observation of the management trainers, optimisations within the framework of a continuous improvement process are mostly generated from within the team during joint work on topics. Due to the spatial separation and the resulting impeded creative collaboration, there is currently often an innovation backlog. These negative effects of virtuality with regard to creative collaboration within the framework of task completion were also attested to by the BKA experts. According to the management trainers, innovative solutions and, if necessary, a paradigm shift are needed to create space for new forms of virtual cooperation using available communication media in order to enable and establish creative processes and teamwork in the virtual environment. On the basis of this creative

3 "Remote skills" are key qualifications that are helpful for successful virtual leadership. These include, for example: empathy, adaptability, digital competence, time management and communication skills.

cooperation, existing work processes must be further developed and restructured in order to reduce the workload of managers so that resources for communication in the virtual work environment can be released and used. This requires an input of time and personal resources, combined with intrinsic motivation on the part of the employees and courage on the part of the organisation to allow innovations within established processes. Without a corresponding culture of change, existing processes will be maintained, in which no freedom can arise that is necessary to meet the requirements of virtual leadership.

From the interviews with the management trainers and from the literature analysed, it emerges that trust between employees and managers is built up in particular through mutual, positive experiences. Positive experiences result, among other things, from transparency in everyday decisions and from the fact that the manager also represents the interests of the employees vis-à-vis higher hierarchical levels. Transparency within virtual leadership can only be achieved through additional communication with the team and the individual. Trusting cooperation always has to do with openness and a positive culture of error. This is particularly evident in the reaction of the manager when mistakes are made within the work process. Especially in critical situations, open discussions and, if necessary, appropriate support in finding a solution must precede any sanctions. Trust is also created through professional closeness. This closeness is generated within an analogue working environment through presence and responsiveness. Within the virtual environment, it must therefore be constantly signalled that one is available as a leader for discussions, concerns and issues. Constructive praise and criticism of work are further means of establishing closeness with employees, both in the analogue and in the virtual working environment. In the context of virtual leadership, trust can also be built by explaining in an appreciative way why the assignment is being delegated, why the employee is being delegated, and why the employee is being delegated the right person for the job and why the task is important.

But even apart from factual communication, regular conversations are important, for example, to inform the manager about the personal situation. Through the resulting bond, the manager signals a genuine interest in the employee, which leads to professional closeness and a positive feeling of appreciation and promotes trust. According to the experience of the management trainers, it is important for many employees to have regular personal contact with other employees and the manager, especially against the background of increasing social isolation within the virtual working environment, in order to be able to build trust in the team and the management. This is also confirmed by the BKA experts. On the other hand, in order to strengthen the trust of managers in employees, it is necessary that a positive basic assumption is anchored in the personality of the manager or at least that the potential for this is present. On the other hand, it is important to estab-

lish structures and rituals that allow transparency with regard to the availability of employees and the processing status of delegated tasks. These rituals could be attendance lists, morning e-mails, short "dailies/check-ins" or video-based after-work rounds. These rituals must be initiated by the managers and maintained by the employees themselves. This builds up a two-way flow of communication, creates transparency and strengthens mutual trust.

According to both the management trainers and the literature analysed, the delegation of over- and under-demanding tasks is one of the greatest de-motivators. Therefore, as a manager, it is important to consider the employee individually and to assign him or her tasks that correspond to his or her abilities or that challenge him or her in such a way that he or she can develop in a feasible way with the task. As already described in connection with delegation, according to the assessment of the management trainers in the virtual environment it is important to accompany the distribution of tasks in a communicative way and to point out the meaning and connections of the assignment. Creating a positive environment in which it is fun to work also has a motivating effect. To this end, discussions should also be held with the individual employees to find out which factors contribute to demotivation and how these factors can be positively influenced together. Within a virtual environment, the technical component plays an outstanding role. According to the management trainers, non-functioning technology, interrupted video conferences due to line problems or slow data exchange with the company server have a strong demotivating effect.

In this respect, it was also described by the BKA experts that due to insufficient technical framework conditions, one has to resort to communication media that transport the factual level but disregard the non-verbal channels of communication. Especially in a virtual environment, media should be used that can transport non-verbal aspects of communication and thus promote social presence. This is the only way that managers can pick up on the mood, the state of mind and the reactions of the employees in order to be able to assess the motivational situation in the team and in the individual team member. This is only possible to a very limited extent on the basis of a written report. Here, for example, tighter control loops (see above) must be established in order not to "lose sight" of these employees. Particularly in the context of virtual leadership, there is a danger that intrinsically motivated employees are assigned more tasks by the leadership than more inconspicuous employees. This is due, on the one hand, to the proactive attitude to work and the constant willingness of these employees to take on tasks and, on the other hand, to the communication that takes place within the framework of delegation and the associated easier access to the employee. This leads to an imbalance in the distribution of tasks. In extreme cases, this could lead to an overload of the top performers and an underload of the other employees, which would lead to demo-

tivation in both groups in the medium term. High performers would possibly feel overtaxed and exploited and the other employees would possibly feel less valued and successful. In spite of limited communication and perception possibilities, it is important for managers to ensure a balance, even if this means an additional effort in terms of communication and controls within the framework of delegation. If the established work and communication concepts continue to be adhered to, which do not take into account the additional communication requirements, the motivation of the employees will decrease and the commitment will diminish, which will lead to a loss of performance in the medium term (Schwöder, 2021).

b) Caring

As has already been shown in the topic area of "task completion", the key to successful delegation, as well as to building trust and motivation, is a communication concept that is geared to the requirements of the virtual environment. According to the management trainers, this orientation refers to the media mix to be used, the communication needs of the individual employee and the team as a whole, as well as the establishment of fixed deadlines and fixed time budgets. The choice of communication media must be based on the content to be conveyed and the result to be achieved. Purely factual messages and information can be conveyed by using asynchronous media such as e-mail or synchronous communication such as telephone conferences. As long as the purpose of the communication is limited to this type of message, there is therefore the possibility of making it less onerous channels that are necessary. Since successful communication should not be limited to the purely factual level, this concept should also include space for personal communication with the team and individual employees. For messages that contain more than just factual information, media should be used that also allow non-verbal information to be sent and received. Here, the focus is on media such as video conferences or video telephony. Experience from coaching and consulting shows that in order to develop a needs-based communication concept, it is often necessary to initiate behavioural changes in managers in order to break down entrenched ways of acting and mental barriers. Communication needs are occasion-related, time-bound, but also spontaneous. In order to meet these needs, a mix of media should be used that takes into account the employees' own resources on the one hand and the needs that arise from the social isolation in which they find themselves in the home office on the other. This brings us full circle to the necessity of reviewing and optimising existing work processes in order to create more resources for needs-based communication.

The topic of "personal care" is closely linked to the topics of "trust", "motivation" and "motivation". "Communication practice" is linked. As described above, an appropriate communication concept also includes planning with regard to communication with individual employees. It is crucial that the concept takes into

account the personal communication needs of the individual. Is the employee a "close person" who lacks the routines of the analogue work environment and feels the personal responsibility gained through mobile working as a stressor, or is the employee a "digital native" who has already completed parts of his or her training virtually and attaches less importance to regular interpersonal contact with the manager. Regular contact between managers and employees should become ritualised and integrated into the daily work process as a matter of course. This establishment of communication routines is important because within a virtual working environment it cannot be assumed that everything is fine unless the manager hears something to the contrary. It is the manager's responsibility to follow up and bring about a change in communication culture. Depending on the needs, the management trainers consider a communication cycle of 6 to a maximum of 10 days to be appropriate, in which employees and managers get in touch to have an opportunity to discuss the current situation, motivators / demotivators as well as personal sensitivities beyond the factual task. These communication rituals should provide structure, which is often lacking within the virtual task completion and contribute to the manager getting a well-founded impression of the employee.

The employees' state of mind, personal feelings and work performance. These aspects of care have a direct impact on motivation and mutual trust. According to the management trainers, individual staff development in particular is currently faltering because there are hardly any "remote" offers and face-to-face seminars can only take place to a very limited extent due to the current Corona situation. Here, the pan- demy has generated a clear acceleration effect and an innovation push with regard to remote training, webinars and other virtual training offers. It is now up to the managers to interest the employees in these offers and to reduce possible resistance to using these new formats. With regard to the fixed and regular cooperation and appraisal meetings, not much changes within the virtual performance of tasks. These formats should be conducted, if not within a direct conversation in the office, at least face-to-face via a video call, if necessary supported by a written deposit. Especially in these conversations, it is necessary to also exchange non- verbal signals, which is not possible via a telephone call or a purely written exchange.

c) Team building / group cohesion

The interviews with the management trainers shed light on the fact that, in addition to the dissolution of boundaries (see point 4b), the topic of "integrating new employees" into the team represents another major challenge within the virtual working environment. The integration of new team members is longer and more difficult at a distance. The formation of fixed learning and integration mentors facilitates the familiarisation and arrival in the new team, even in a dislocated

position. According to the BKA experts, a similar approach is already being taken by appointing "bear leaders" within the BKA. If direct on-site familiarisation is not possible, the management trainers are of the opinion that integration can only take place through a lot of face-to-face communication and close ties to the "bear leaders", despite the appointment of corresponding mentors.

Communication with the team that is needs-based, topic- and employee-oriented is a critical component of a communication concept to be established in virtual cooperation. According to the management trainers, team meetings should also be held at least once a week in the virtual working environment. If there is the possibility of video conferencing, this medium should be used despite the additional effort involved, because the team is the focus of this form of communication. Therefore, it should be avoided that only the manager passes on information during team meetings. This can be achieved if there is a the team member is enabled to make a contribution, for example through the method of circle moderation (or moderation circle). Another possibility is that topics are put on the agenda directly by the team members and implemented in a leading role, results are presented and findings and information are exchanged. This strengthens networking within the team and promotes the assumption of responsibility by the staff. It can be helpful for the team rounds to be moderated. This moderation should support a climate of openness within the meeting, in which each member is also happy to contribute. This can also take place in a kind of cycle, be based on voluntariness or be done by the manager. As was reported during the survey of the BKA experts, the size of the teams in particular poses problems for the video conferencing system. In this regard, the management trainers recommend that larger teams should be split into focus groups or honeycomb structures. This would still allow the use of video systems and at the same time increase the team members' willingness to participate due to the reduced number of participants. The use of a face-to-face medium in the context of team meetings is particularly important for the manager in order to have the possibility of assessing moods and dynamics. It is also possible for factual information from the leader to be taken out of team meetings. This information should be passed on to the team in advance of the meeting so that only consequences and options for action need to be discussed during the meeting. The advantage of this would be that the meetings could be shorter, the manager would have less time to speak and there would be no more "supervised reading". In preparation for the meeting, each team member could prepare individually for the meeting and within the meeting there could be a focus on the needs of the team.

As already mentioned in the context of team communication, it should be possible to bring up personal or extraneous topics during team meetings. The interviews with the management trainers revealed that virtual meetings can also be initiated

after work as an "afterwork event" to strengthen the "we-feeling" of the team and to further promote networking within the team. These rituals can also be initiated by the "leader" if this does not happen from within the group, but should not be organised exclusively by the leader.

In order to be able to recognise conflicts within the virtual environment in time, it is necessary to plan as many face-to-face meetings as possible within the communication concept. According to the management trainers, conflicts are most likely to be identified in the context of face-to-face communication, as this creates a holistic and complete picture of the person(s) and the situation, which enables the leader to grasp all facets for a satisfactory conflict resolution. For this, the leader must also recognise whether there are avoidance strategies within the work processes or whether not all necessary parties have been involved. It requires empathy on the part of the manager to be able to recognise whether it is a real conflict within the team or whether it is a temporary situation of an employee due to the "remote situation" and the personal environment. However, if it really is a conflict within the team or between two employees, it is the manager's task to address this in a timely manner among those affected. Just as in the case of recognising conflicts, this should also be addressed using a face-to-face medium. In the opinion of the management trainers, the actual handling of recognised conflicts, the necessary consequences and the search for solutions are the same in the analogue and virtual world.

OTHER ESSENTIAL TOPICS

In addition to the results of the interviews with the management trainers, the essential topics of "hybrid leadership" and "dissolution of boundaries" can also be taken into account when looking at the topic area of "leadership". "Virtual leadership" should not be disregarded. In particular, the remarks on the "hybrid leadership" show what a "new normal" could look like on the one hand and what challenges are associated with it on the other. The topic of "dissolution of boundaries" also represents one of the greatest dangers of increasing flexibilisation.

d) Hybrid leadership

Due to the broad range of tasks of the BKA, especially in operational or investigation- supporting areas, it is necessary for employees to continue to work in offices within the BKA's premises or in the context of assignments on site. This brings with it the necessity to manage parts of the staff virtually as well as employees in the office. This mixed form of leadership is called hybrid leadership. Even after the pandemic, staff will continue to work partly from home. Although the proportions between home office and office will recalibrate, there will be no return to

the "old normal". Therefore, the importance of hybrid leadership will continue to increase in the future.

Hybrid leadership can be defined as a leadership style that combines analogue and digital working worlds. Hybrid leadership is a style of leadership that meets the changing needs of employees and managers, in that the manager can combine his or her understanding of the world of work with that of the digital world.

The situational orientation to the work environment refers to the fact that the manager in the context of hybrid leadership must be able to adapt flexibly to the changing demands of analogue and virtual leadership. The situational orientation to the work environment refers to the fact that the manager in the context of hybrid leadership must be able to adapt flexibly to the changing requirements of analogue and virtual leadership. Similar to virtual leadership, the challenges of hybrid leadership are in the area of communication and team building. "Communication is a fundamental part of modern team leadership. Ensure regular exchange. As a leader, you should communicate with your team two to three times more often in this transition phase than you did during presence times" (Holl, 2020). Especially against the background that the "short official channels" is possible within hybrid leadership, it must be ensured that the flow of information continues to reach all employees. The challenges within hybrid leadership, especially in the area of caring and motivation, are very similar to those of virtual leadership.

Hybrid leadership is also relevant for the Federal Criminal Police Office, since at some point a return to the "new normal" is imminent and the freedoms initially owed to the pandemic should be sensibly integrated into regular operations. In the context of hybrid leadership, it is important to take into account that all employees are assigned tasks and information to the same extent. Meetings and regular exchange of information must be organised by the manager in such a way that employees in the home office and employees on site are at the same level of knowledge. The physical proximity to the manager must not lead to employees experiencing advantages with regard to the distribution of information and tasks. If such an "elite formation" were to occur within hybrid teams, this could lead to a disadvantage for dislocated employees, which could have a pull effect on the office. This would lead to a process of weighing up on the part of employees whether mobile working could lead to disadvantages with regard to their own position within the team and their possible career prospects. In the case of employees who have a limited scope for decision-making regarding the location of the performance of their tasks and who are dependent on the mobile workplace due to various social circumstances, such unequal treatment could lead to a loss of trust in the manager and the organisation, which could lead to a loss of motivation and, in the medium term, to a loss of performance. In order to counteract such a "disconnection" of the dislocated employees, the determinants of virtual leadership must also be tak-

en into account in the context of hybrid leadership, even if some of the employees work in the office on site.

e) Dissolution of boundaries

Both in the context of virtual and within hybrid leadership, there is a danger of the dissolution of boundaries between work and private life for employees and managers due to the increasing demands for flexibility. The term "dissolution of boundaries" is used to describe the dissolution of boundaries between work and private life. Voß defines the dissolution of boundaries as the opening up and flexibilisation, if not the dismantling, of the structural separation and functional distinction between work and private life in many occupational fields (Voß, 2010). This dissolution of boundaries brings with it the risk that breaks and rest periods will not be respected or will be insufficiently respected. There is also the risk that the blurring of work and private life will lead to employees no longer being able to switch off and recover sufficiently (Paridon, 2020: 1). The danger of the dissolution of boundaries presents managers with the challenge of developing strategies at an early stage to counteract these negative consequences of a dissolution of boundaries for themselves and their employees. Neglecting this aspect inevitably has a negative impact on the entire individual and family life of employees and managers (Schier et al, 2011). A cornerstone of such a strategy is seen in the arrangement of synchronous communication times and the increased use of fixed, revolving appointments for telephone or video conferences. Another aspect of setting communication time frames is to determine daily accessibility. In addition to the many advantages of working in virtual teams, stress factors have also become apparent with the increasing duration of the Corona pandemic. A comparison between workers in the office and in the home office shows that this stress could be caused by a lack of demarcation between professional and private life (dissociation).

The figure shows that the flexibilisation brought about by mobile working means that a large proportion of employees in the home office postpone working hours to the evening or the weekend. It can also be seen that managers also make calls or send e-mails outside of "normal" working hours.

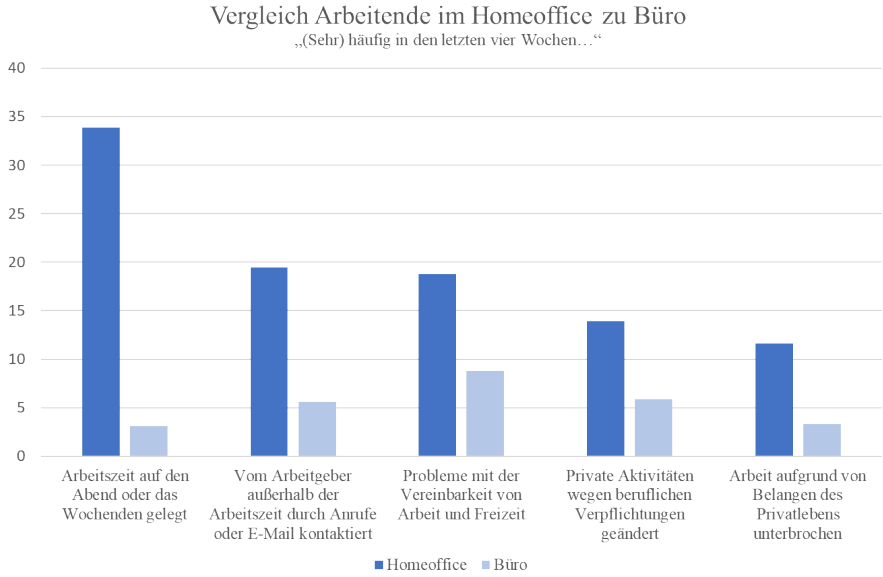

Figure: Comparison *of home office workers with office workers (Badura et al, 2019)*

These negative consequences of flexibilisation can lead to health restrictions due to increased stress levels and lack of recovery. Therefore, it is necessary that managers of virtual teams not only consider the requirements of synchronous and asynchronous communication within the communication concept when choosing the media (Resch, 2011), but also clearly communicate limits regarding accessibility in order to counteract the dissolution of boundaries. Managers have a duty here to act as role models themselves. Furthermore, Konradt & Hertel describe that specific moderation and coaching techniques are also indispensable within this communication process in order to recognise the irritations and misunderstandings described above, which can occur due to insufficient face-to-face exchange, at an early stage and to be able to counteract them in a targeted manner (Konradt & Hertel, 2002). Paridon, too, sees the agreement of working hours and availability as well as a combination of behavioural and relationship preventive measures at the centre of a corresponding strategy. In particular, the creation of good technical and organisational framework conditions and the empowerment of employees to use these framework conditions form a further core of the strategy against the dissolution of boundaries (Paridon, 2020: 4).

SUMMARY

It can be summarised from the management trainers' statements that appropriate, needs- oriented communication is the key to building motivation and trust among individuals as well as teamwork and networking within groups. Therefore, it is necessary for managers to develop communication concepts that take into account the individual needs as well as the respective maturity level of the employees within the framework of "relationship management", adapted to the environment, and include a media mix that sufficiently serves the different levels of communication. In particular, the need for regular face-to-face communication must be given special attention within this concept. Communication with the individual as well as with the entire team must be integrated into the work process and ritualised as much as possible in order to be internalised as a structure within the virtual work environment. In order to be able to implement an appropriate communication concept, it is necessary to critically examine existing work processes in order to identify optimisation possibilities in order to use freed-up resources for the "more" in communication. Managers in particular are required to first initiate a change in their own behaviour, to critically review often entrenched ways of acting and to adapt them to the requirements of virtual leadership. In this way, it is possible to "bring along", connect and accompany the employees in the virtual environment.

In order to be able to find free resources within the existing work processes, a constant improvement process is needed, which mostly results from creative processes from the team. Creative processes in particular are currently difficult to initiate due to the virtual isolation, which requires further communication effort and new ideas to promote creativity on the part of the manager. Another challenge is the integration of new members into the team.

Rapid integration is "remote" is difficult to realise and requires the appointment of fixed contact persons and a close exchange of information. One of the most serious consequences of the virtual working environment is the increasing lack of boundaries. To counteract this danger, clear agreements and rules are needed regarding availability and working hours, as well as the unconditional perception of the role model function by the manager. This again requires an individual consideration of the employee and his or her personal environment. A real "mind- change" is necessary in training and personal development. Prompted by the Corona pandemic, numerous employers have developed training and further education offers on the remote channel. The use of these virtual offers is not only a good alternative to pre-session events in times of the pandemic, but also enables employees to quickly and un- derstand the impact of the pandemic complicated access to expertise and networking. Part-time workers in particular can thus be offered flexible access to training opportunities in the future.

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THEMATIC AREA 3

Natural and Applied Sciences in Forensics, Cybercrime and Security

SOME ASPECTS OF FORENSICS IN DIGITAL FUTURE

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INTRODUCTION

Forensic concepts related to growing digitalization process should continue to keep focus on providing support for legal proceedings, following defined and adopted guidelines. The application of technology has become dominant in many aspects of everyday life, having been enabled by the digitalization of processes and the application of information and communication technologies in all spheres of life.

In an era of digitization of processes all over the world and an evident increase in data and information available in digital form, law enforcement agencies around the world are facing significant challenges. Accordingly, it is necessary to build capacities to apply techniques and technologies in conducting investigations, and applying forensic methods. It is of utmost importance to adopt new approaches to address such challenges. This paper analyses the current stage of development

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of the digitization processes from different points of view and the circumstances surrounding it in the area of forensics, contributing to this area by identifying and analysing challenges to be considered by law enforcement agencies. It also suggests future directions of research, which may contribute to the adoption of a new approach in addressing these challenges (Montasari, 2017; Montasari et al., 2020, Stojičić et al., 2022). According to the prosecutor for high-tech crime, 5,274 criminal acts were reported in 2021 only to the Special Prosecutor's Office, concerning something that could be deemed to constitute cybercrime. That is an increase of about 11 percent in relation to the number of crimes committed in 2020 (RTS, 2020).

The technological advancements include, but are not limited to: high volume of data, different digital devices, hardware and software technologies, anti-forensic techniques, video and media, encryption, communication infrastructures, wireless, virtualization, borderless services and dark web tools. Also, the lack of standardized tools and methods has been identified, as well as usability and visualization, raising interest of scientists to overcome these challenges. It is evident that technologies such as communication networks, mobile devices, Internet of Things (IoT) solutions, cloud-based services, cyber-physical systems bring many benefits but also challenges. At the same time, they bring new threats to cyber security, and it is an emerging issue.

The use of the Internet of Things (IoT) is growing exponentially, but the security aspects for IoT projects and their implementation are still not at a satisfactory level for many organizations. Device identification is more complex than simply using a certificate, especially considering that one of the basic components of IoT security is providing functionality so that devices and services have reliable identification methods so that they can achieve secure communication within their environments. However, there is a little information on how to build in forensic capabilities for it. The IoT forensic procedures might be related to data, service and/or architecture, all of which might be connected to the other external systems. This is an open area for research, innovative actions and work to make it easier, quicker and more reliable for the investigator.

Identification of persons was, is and will be a challenge as it involves efforts to provide adequate technological responses, especially based on the use of biometric data in electronic form and application of the principles and experiences of the best practices of electronic business in general. From the forensic aspect, as a response to potential violations and non-compliance with legal norms, this requires the development and application of new procedures and tools. Today, the need for constant monitoring of the development and application of new technological solutions and methods for the identification of persons, especially those that can be related to forensic aspects in the digital world, is evident (Stojičić et al., 2022).

Accurate and efficient identification has become crucial for forensic application as an answer to diversity of criminal activities. An advancement in biometric technology together with techniques of computational intelligence is replacing traditional identification processes in forensic science. The effectiveness of biometrics systems lies in different recognition processes, which include transferring data in digital form, extracting standardized characteristics and feature matching. The forensic biometrics covers a wide range of applications for physical and cybercrime detection. In a way, forensic biometrics also overcomes the loopholes of traditional identification system that were based on personal knowledge and competence (Saini & Kapoor, 2016).

DESIGN/METHODS/APPROACH

Achieving continuity in the development of forensic methods is an imperative in modern society. Monitoring the development and enabling the application of new technological solutions for dealing with evidence in digital form as well as in the field of determining the identity of a person, requires significant resources and adjustments while preserving the existing systems in accordance with the normative framework. Certain relevant references were reviewed and analysed in detail and a general assessment was made regarding the application of new technologies.

FINDINGS
CURRENT STATUS AND TRENDS

We have entrusted the backbone of civilization to machines and the Internet. Digital technologies, although they are an essential need of modern society, have always been a double-edged sword. Their application provides us with many benefits that we gain a lot in everyday work and life, but we also lose just as much.

Because of the IT development, almost all of data in the real-life is processed by electronic information. To this end, a tremendous amount of digital information is being made daily (Manyika et al., 2011). Nowadays, users tend to utilize multiple digital devices and access tenths of digital services per day (Purnaye & Kulkarni, 2021). The digital footprint of our everyday life has become enormous, and accordingly, the probability that illegal activities may leave digital evidence behind is very high.

Access to digital evidence has become a key element in police investigations, not only when it comes to prosecuting cybercrime, but also any other kind of crime. According to the European Commission, electronic evidence in any of its forms is relevant in about 85% of total criminal investigations and, in almost two thirds (65%) of these, the service providers to whom the requests are directed are located in a different jurisdiction. The combination of the two previous percentages results in fact that 55% of the total investigations include a request for cross-border access to electronic evidence (European Commission, 2018).

The diversity of digital devices is constantly increasing, data storage capacity is growing exponentially as well as the need to process ever-larger datasets with ubiquitous time imperatives (Yaacoub, 2021).

Nowadays, users tend to utilize multiple digital devices and access tenths of digital services per day (Purnaye et al., 2021). The digital footprint of our everyday life has become enormous, and accordingly, the probability that illegal activities may leave digital evidence behind is very high (Nance et al., 2010). One of the problems in obtaining and securing evidence in digital form is the nature of it as well as the use network environment, as it is the Internet itself. It poses serious challenges as jurisdiction is usually linked to the territory of the state, but the Internet has no borders. The intermediary that has the information may not necessarily be established in the same country where the criminal investigation is being carried out or, even if it is the case, the data may be on servers abroad. The characteristics of electronic evidence in itself add more problems, such as dynamic changes in cloud environment, since data are stored, duplicated or moved between servers somewhere in the cloud, in possibly multiple or unknown jurisdictions (Kleijssen & Perri, 2016).

CLOUD ENVIRONMENT CHALLENGES

Data collection techniques play a major role to identify the source of problems related to the attacks by acquiring evidence from various sources such as cloud storage, cloud log analysis, Web browsers, and last but not least, through physical evidence acquisition processes. Cloud computing enabling moves application software and databases to large data centres, where challenges arise such as the outsourcing of sensitive data and services that might not be trustworthy (Sree and Bhanu, 2020). It might be an entry point for various security threats and attacks in the cloud. As previously stated, Cloud forensics is a contemporary application of scientific principles, practices, and methods to reorganize the events through identification, collection, preservation, examination, and reporting of digital evidence (Zawoad and Hasan, 2013). From the forensic science perspective, the

need has been identified for developing a solution to preserve and acquire cloud data. It might be done by developing a library of forensic methodologies for the various cloud platforms (Montasari et al., 2017; Montasari et al. 2019, Yaacoub, 2021). The approach for this should be multidisciplinary effort and it should include legal and technical point of view in an exploratory manner. Developing new methodology should also include guidelines for cloud customers and incident handling in the cloud environment.

In order to identify the evidence, it has to be taken from trusted third parties, which in the case of cloud computing is a cloud service provider. In cloud forensics there are numerous techniques that arise on the basis of cloud service models and deployment models. In the Software as a Service (SaaS) and Platform as a Service (PaaS) models, as in these cases the users do not have any control of the hardware, have to depend on Cloud service provider (CSP) for collecting the evidence, whereas, in the case of Infrastructure as a Service (IaaS) model, users can acquire the virtual machine image and logs. The forensic examiner isolates the incidental system in the virtualized environment and analyses it based on the artifacts left by the perpetrator of the criminal offence (Dykstra and Sherman, 2012; Marty, 2011) in order to find information as to *where*, *why*, *when*, *by whom*, *what*, and *how* it has happened.

These indicate the need for both applied and theoretical published research consideration. It might help to get an early start in researching new techniques because of the increasingly stringent accrediting requirements for any new technique from the forensic perspective. The tools and procedures to ensure those data from a forensic point of view need to be identified and developed. There is certainly a need to develop tools which include both operational and infrastructural readiness and it can help with forensic investigations in the cloud. They may relate to the preservation of regular records of warehouse status, log authentication and access. Follow up log of user activities in a virtual environment requires specific knowledge, and it can be difficult especially if the structure of the virtual environment is disrupted.

IOT FROM THE FORENSIC POINT OF VIEW

The majority of IoT technologies have built-in flash memory to run a simple form of operating systems or real-time applications, therefore data from analysed devices need to be accessed and extracted using well-defined forensic methods. Moreover, to deal with the forensic methods related to IoT-connected devices, cloud cyber security will need to be reviewed as each IoT device produces data that is stored in the cloud (Montasari et al., 2020). Furthermore, investigations involving IoT

devices can be even more difficult than those in the cloud investigations due to the constant emergence of new and diverse devices with different operating systems, using different communication channels and protocols. As a consequence, more complex procedures are required for research on these devices. Therefore, IoT forensics must include the identification and extraction of evidentiary artifacts from smart devices and sensors, hardware and software that facilitate communication between smart devices and the outside world as well as hardware and software which are outside the network environment under investigation (Montasari et al., 2020).

Forensic investigation of IoT devices requires specialist knowledge related to the handling and knowledge of the detailed technical specifications of the device in order to obtain the necessary data. Also, forensic challenges, related to IoT devices, include issues such as availability, authenticity and non-repudiation which are essential for forensically sound use of data (Lillis et al., 2016). Persistency of data is also under question because of IoT devices' limited memory or no persistent data storage. Because of that, data stored for longer periods is likely to be stored in in-network hubs or to be transferred to the cloud for more persistent storage. Thus, we come to the problems associated with Cloud forensics.

BIG DATA FORENSIC

The main challenges of big data are so-called the 3Vs: volume, variety, and velocity, in certain circumstances, it might not be satisfactory to alter the conventional principles and procedures, meaning that all data must be extracted as it is to be unamused according to forensic principles (Montasari et al., 2020, Manyika, 2011, Montasari, 2017, Soni, 2019). Therefore, techniques related to the main phases of standardized forensic processes, related to identification, acquisition, and analysis, have to be adapted to the context of a big data. In order to conduct forensic processes in a way as possible effective might approach with a proper prioritization or triage can be conducted is through visualization, both for low-level file system analysis and higher-level content analysis (Montasari et al., 2020).

EMERGED METHODS AND TECHNIQUES

From the judge's trail processes perspective, the standardization is an important tool to ensure that the evidence acquired during the investigative process are valid and acceptable. When comes to dealing with mobile devices, it is of special importance to be standardized and followed for the procedures from the forensic

point of view, due to very quick development of mobile devices and related technologies. Forensics of mobile devices, today, is an essential part of nearly every criminal investigation (Pawlaszczyk, 2022). Standardization should allow for quick adjustment of the necessary forensic procedures and in many cases saves the time needed to obtain evidence (FORMOBILE, 2022). Furthermore, keeping adherence to the standards during all steps of investigation is of critical importance for the evidences being regarded as reliable and accepted for the court, and development of standard is of utmost importance to secure the successful outcome of the investigation.

Through the FORMOBILE project was identified 61 standards, among them only 10 standards describe procedures in mobile forensics, and in addition, there was identified 18 non-formal standards (FORMOBILE, 2022).

BIOMETRIC DATA IN FORENSIC

Still, biometric data are increasingly used in a variety of contexts. According the assessment (Lunter, 2022) it is expected that between 2020 and 2025, the global biometric technology market will to grow at a compound annual growth rate of 10.5%. With respect of this the investment in research and development in this sector is also skyrocketing. Users like airports are ramping up their investments, the interest and tech partnerships are increasing too in area of the global biometrics ecosystem. It seems that in future this ecosystem will compound and correlate with all other technologies developing nowadays. However, with the expected increase in application, it is important to simultaneously implement activities to raise awareness about the challenges that biometric technologies bring, especially from the aspect of building trust in technological solutions (AEPD, 2020). Also, at EU level, processing of biometric data has been more and more used in the context of EU large-scale information systems. These systems more and more relay on biometric data, what might be seen through ongoing development of new systems and interoperability framework. The ongoing technological and societal developments, form the aspect of biometric systems should be able to provide the most accurate results in different circumstances and conditions. However, no less important aspect of the application of biometric systems is public acceptance.

Establishment of a systematic description of the concepts in the field of biometrics standardization (ISO) is all the time actual, although there is difference in solutions supporting work with biometric data pertaining to recognition of human beings.

Artificial intelligence (AI), shows that, although identification is main aim for biometrics, there is development aimed not primarily at identification, but at

the categorization of individuals. Directed to recognize individual according to different categories, it might be for instance on the basis of age or gender. It is however not always clear how the processing occurring for the purposes of categorization is linked to identification, or to what extent such practices can always be separated. Sometimes stay unclear, whether the data processed for categorization purposes concern an identified or identifiable person at all. Also sometimes is unclear whether the collected data (biometric or not) might be used for the identification of the individual, even if they are already processed for the purpose of categorization. Furthermore, sometimes the categorization of individuals, is in practice, a step taken towards identification.

Biometric technologies that enable artificial intelligence contribute to general safety and security, but also bring risks from the aspect of fundamental rights. The most talked about topic today is related to technologies that enable remote identification and tracking of individuals in public spaces, which can potentially negatively affect their rights to freedom of expression, freedom of assembly and association, changing the way individuals and groups can express themselves his social and political opinion (European Parliament, 2021). An example of this is the use of facial recognition technologies. Different uses of biometric technologies can have different specific types of impact. For the application of remote biometric identification in public spaces, solutions are sought, because it concerns the processing of a large amount of data about individuals without their consent, cooperation or knowledge.

Due to its critical role in cyber security, digital forensics has received significant attention from researchers and practitioners alike. The ever-increasing sophistication of modern cyber-attacks is directly related to the complexity of evidence acquisition, which often requires the use of several technologies.

THE CONCEPT OF DIGITAL FOOTPRINT

The concept of 'Digital footprint' including the meta data and content is linked with topics such as digital identity, privacy and trust, online safety, information management. As a picture says more than a thousand words, in picture 1, the current situation is shown, as one of the results of analyses, according to knowledge and analysed literature.

One of the most common Internet uses is communicating with others through social networking platform. This leads to an individual's Internet identity and creation of a person's digital footprint which is traceable data and information that a user generates when they go online (Thatcher, 2014).

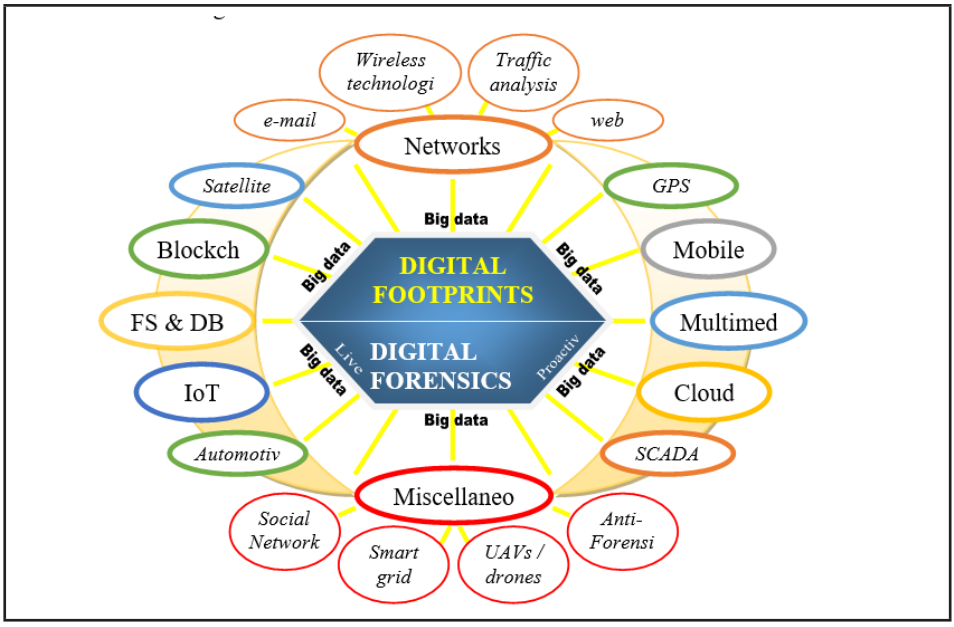

Figure 1: Everything digital leaves a footprint and to everything digital is applied forensics

THE SOCIAL NETWORK INVESTIGATION

Social network acts as a good platform as a matter of fact which afford many simple user actions, such as liking, favouriting, following, or commenting which are not necessarily considered active participation but nonetheless contribute to a digital footprint (Büchi, Lutz & Micheli, 2017). Although young individuals are often online, they do not consider deliberately how their Internet usage impacts their digital identity, instead, concentrating more on the short-term advantages of being able to network with friends (Oxley, 2010).

Mostly *netizens* use social networks as new media to document their lives effectively (Büchi, Lutz & Micheli, 2017). However, this may cause more harm rather than good. For example, cyber bullying. Englander et al. (2017) conclude cyber bullying as sending, posting or sharing negative, harmful, false or mean contents about someone else causing embarrassment or humiliation online. As to avoid that, it is important to educate people not only kids, but also includes all categories especially parents. This leads to awareness of digital citizenship to pay attention towards the improper behaviour that may lead to dangers of cyber bullying and other social-media events (Martin et al., 2018).

Digital footprints originate from active content creation, passive participation, and platform-generated data what we presented at Figure 2.

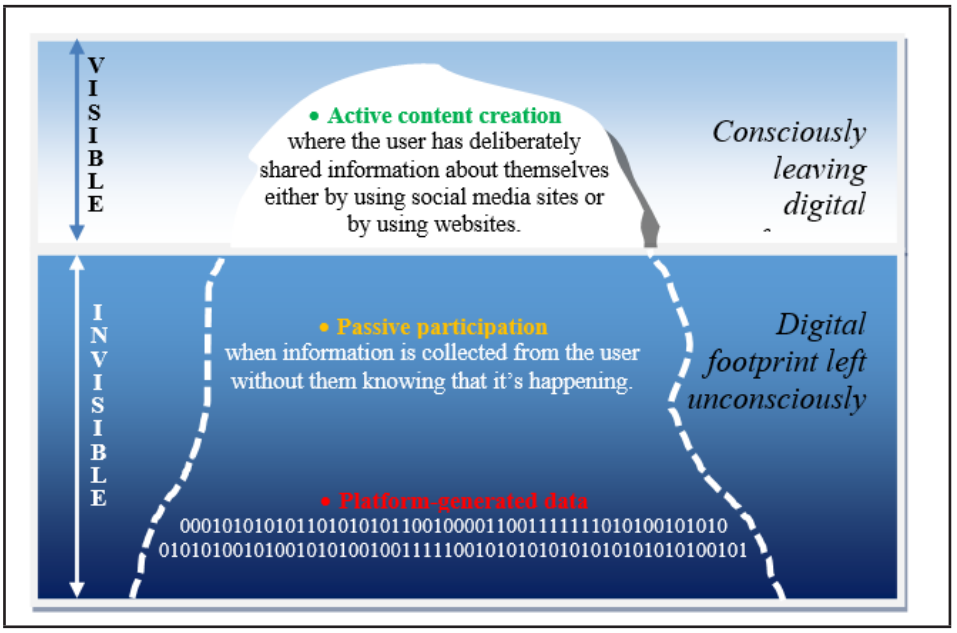

Figure 2: The iceberg, visible and invisible levels of digital footprints

The field of digital forensics still lacks formal process models that courts can employ to determine the reliability of the process followed in a digital investigation. The existing models have often been developed by digital forensic practitioners, based on experts' personal experience and on an ad-hoc basis, without paying attention to the elements relevant for establishment of standardization (Montasari et al., 2019).

The international standard, Information technology - Security techniques - Incident investigation principles and processes (ISO/IEC 27043:2015, IDT), provides guidelines based on idealized models for common incident investigation processes across various incident investigation scenarios involving digital evidence. It includes processes from pre-incident preparation through investigation closure, as well as any general advice and caveats on such processes. The guidelines describe processes and principles applicable to various kinds of investigations, but not limited to, unauthorized access, data corruption, system crashes, or corporate breaches of information security, as well as any other digital investigation. In summary, this International Standard provides a general overview of all incident investigation principles and processes without prescribing particular details within each of the investigation principles and processes covered in this International Standard (ISO/IEC 27043:2015, IDT).

It should not be forgotten that the success of forensic science depends on human reasoning abilities. Although we should not forget that Human thinking has strengths and weaknesses. In this sense, the main challenge is to avoid biases arising from foreign knowledge or from the comparison method itself.

SOME SOLUTIONS FOR RESPONSE TO THE NEW CHALLENGES

In a case that crime occurs in cloud environment, it is very difficult to identify evidence. Moreover, the evidence collection plays a vital role to identify and access to data from various sources in the cloud environment for forensic investigation, as there no longer evidence stored in a single physical host, and data might be distributed and settled across different geographical locations.

Similarly, the evidence stored in Web browser cache at the root directory of a Web application might be used to identify the source of an incident. The reviews of collection process and recovery methods for various Web browsers can be found in literature (Sree and Bhanu, 2020).

As response for challenges in digitalization era, there are many tools developed and still developing to identify, collect, and analyse the forensic data for investigation. Juel and Kaliski developed the tool for the identification of online archives (Juels and Kaliski, 2007). Dykstra and Sherman proposed a forensic tool for acquiring the cloud-based data (Dykstra and Sherman, 2012). Moreover, Encase and Access data FTK toolkit might be used for the identification of trusted data to acquire the evidence. Similarly, tools such as evidence finder and F-response are used to find the evidence related to social networks. Dykstra and Sherman proposed an open-source OpenStack cloud tool for the identification of evidence from virtual disks, API logs, and firewall logs, etc. (Dykstra and Sherman, 2013). Some of the tools that might be taken in consideration regarding the forensic investigation are presented in Table 1 with reference links, according to the analysed sources of authors' choice. Bearing in mind the growing needs of the digital era, further investigation might be directed to analyse content based on some predefined criteria using tools that can be applied, and - wherever it might be possible - some practical testing.

Table 1 An overview tools (online services and software packages), solutions that might be used for forensic investigation

Tool	Purpose / link
Have I Been Pwned	Allows searching across multiple data breaches if a specific email address or phone number has been compromised. https://haveibeenpwned.com
IntelligenceX	An open-source Intelligence and forensics tools, many features and tools are available, including the 'email' tool that can help identify if leaked passwords and additional information is associated with a specific email. https://intelx.io/tools
Whois Lookup	A large database of whois information on DNS, domain names, name servers, IP addresses, registrar and owner data, and so on. https://whois.domaintools.com/
ViewDNS	A multi-tool on website can help to identify all the sites hosted on a given web server, including domain and IP, reverse whois lookup, finding domain names and their owners, and so on. https://viewdns.info
Sherlock	A tool that can find valid accounts on target websites given a specific username or email address. As its authors say, it can "hunt down social media accounts by username across social networks". https://github.com/sherlock-project/sherlock
Instant Username Search	A tool capable of checking more than 100 social media sites and verifying if a specific username is available. It can be very useful for obtaining additional details on the target usernames. https://instantusername.com/
Spiderfoot	An open-source intelligence (OSINT) automation tool. It integrates with just about every data source available and utilizes a range of methods for data analysis, making the data easy to navigate. https://github.com/smicallef/spiderfoot
Paraben Suite	Forensic platform with support for desktop forensics, Email forensics, Smartphone analysis, Cloud analysis, IoT forensics, from acquisition to analysis and result visualization. https://paraben.com/
DomainTools	Allowing to connect with nearly every active domain and IP address on the Internet. It is a proprietary threat intelligence and investigation platform that combines enterprise-grade domain and DNS-based intelligence with an intuitive web interface. https://www.domaintools.com/

Tool	Purpose / link
CloudNine Discovery	A cloud-based eDiscovery automation platform that streamlines the litigation discovery, audits, and investigations by allowing users to review, upload, and create documents in a central location, include discovery consulting, computer forensics, managed review, online hosting, information, governance, litigation support, and project management. https://cloudnine.com/
PassMark Software	Extract forensic data as it is passwords, decrypt files and recover deleted files quickly and automatically from Windows, Mac and Linux file systems, identify evidence and suspicious activity through hash matching and drive signature analysis features. https://www.passmark.com/
MailArchiva	MailArchiva is a professional enterprise grade email archiving, e-discovery, forensics and compliance solution. https://www.mailarchiva.com/
Cyber-Triage	Forensics software for incident response, automated incident response software for fast, comprehensive, and easy intrusion investigations (malware, ransomware, account takeover). https://www.cybertriage.com/
Quest	Dedicated to collecting and reviewing from a variety of sources, both on premises and in the cloud, makes it easier than ever to reduce the complexity of searching, analysing and maintaining critical IT data scattered across information silos. https://www.quest.com/
Truxton	Solution, easy-to-use, with analyst-driven interface allowing to get up to speed quickly, without mastering specialized code or techniques, has open architecture that allows to take data into other tools for verification and reporting. https://truxtonforensics.com/
SandBlast	SandBlast Network and Harmony Endpoint utilize Threat Extraction technology to eliminate threats and deliver safe, clean content. Allowing to remove exploitable content, reconstruct files to eliminate potential threats, and deliver sanitized content to users in a short time to maintain business flow, with threat extraction supports of the most common document types used today. https://sc1.checkpoint.com/documents/R80.40/SmartEndpoint_OLH/EN/Topics-EPSG/Forensics.html
X-Ways	An advanced work environment for computer forensic based on the WinHex hex and disk editor and an efficient workflow model. https://www.x-ways.net/

Tool	Purpose / link
Cellebrite	Allowing to conduct in-depth analysis and generate custom reports, with advanced searching with filtering capabilities, and built-in AI media categorization, supporting investigators to find Internet History, Downloads, Locations, Recent searches, and so on. https://cellebrite.com/en/home/
Barracuda	A powerful delivered-email search and rapid deletion from all inboxes, identify anomalies that may indicate threats, based on insights gathered from analysis of previously delivered email by using intelligence gathered from previous threat responses to block future emails from malicious actors, and to identify your most vulnerable users. https://www.barracuda.com/
CrowdStrike	It is a comprehensive data collection while performing triage analysis during an investigation. Allowing faster response to investigations, conduct compromise assessments along with threat hunting and monitoring. Represent a single solution to analyse large quantities of data both historically and in real-time to uncover vital information to triage an incident. https://www.crowdstrike.com/
CyFIR	A digital security and forensic analysis solutions provide unparalleled endpoint visibility, scalability, and speed to resolution. Allowing cyber risk solutions to identify, analyse, and resolve active or potential threats. https://sourceforge.net/software/product/CyFIR-Investigator/
TIBCO	It provides the industry's first enterprise class, end-to-end log management solution, providing possibility to find and act on critical information hidden inside volumes of machine and log data. https://www.tibco.com/
Imperva Analytics	It provides automatic detection of non-compliant, risky, or malicious data access behaviour across all of organisation databases, enterprise-wide, automatically uncovers data access behaviour whether accidental, poor practice or deliberately malicious. It enables visibility into a broad range of risks from accidental exposures to persistent attacks by an evasive exploit. https://www.imperva.com/products/attack-analytics/
Omnis Cyber Investigator	It is an enterprise-wide network threat and risk investigation platform that helps to detect, validate, investigate and respond to threats. Reduce the impact of cyber threats with an analytics system that also integrates with popular Security Information and Event Management platforms. This cloud-first approach helps to manage threats across complex digital infrastructures and to deal with cyber threat security with visibility across physical and hybrid-cloud infrastructure. https://www.netscout.com/product/cyber-intelligence

Tool	Purpose / link
Qintel CrossLink	Search results from six synergistic verticals of network and actor-centric data and provide key information that can be assembled and shared. Data verticals include an unparalleled range of actor profiles, communications, historical Internet registration records, IP reputation, digital currency records, and passive DNS telemetry that jump-start investigations into actors and incidents. https://www.qintel.com/products/crosslink/
Xplico	It is installed in the major distributions of digital forensics and penetration testing: Kali Linix, BackTrack, DEFT, Security Onion, Matriux, BackBox, CERT Forensics Tools, Pentoo and CERT-Toolkit. Xplico allows concurrent access by multiple users. It can be used as a Cloud Network Forensic Analysis Tool by provision of extract from an internet traffic capture the applications data contained. https://www.xplico.org/
Parrot-OS	It includes a full portable laboratory for all kinds of cyber security operations, from pentesting to digital forensics and reverse engineering, but it also includes base to develop own software or keep data secure. https://www.parrotsec.org/
EnCase-Forensic	The Gold Standard in Forensic Investigations – including Mobile Acquisition. Improve investigation efficiency with the release of optical character recognition support that seamlessly extracts embedded text from scanned images, documents and PDFs as part of the evidence collection workflow. Also expands social media artifact support and includes an enhanced workflow. https://security.opentext.com/encase-endpoint-security
ProDiscover	It addresses a wide range of cybercrime scenarios encountered by law enforcement and corporate internal security investigators. It is also support for diagnostic and evidence-collection tools for corporate policy compliance investigations and electronic detection. Contains a wide range of tools to explore the evidence disks and extract artifacts relevant to the investigation. It was one of the first products to support remote forensic capabilities. https://prodiscover.com/
AD-Enterprise	Provides support to respond quickly, remotely and covertly while maintaining chain of custody, and facilitates focused forensic investigations and post-breach analysis, without interruption to business operations. Allowing to perform collections from endpoints in multiple locations. https://accessdata.com/knowledge-library/product/ad_enterprise
Quin-C	Quin-C, works seamlessly with the AccessData solutions, already know and trust, and provide maximum control over the way to collect, process, review, analyse and report on key pieces of data. https://www.quincforensics.com/

Tool	Purpose / link
SmartEvent	This event management provides full threat visibility with a single view into security risks. Take control and command the security event through real-time forensic and event investigation, compliance, and reporting. Respond to security incidents immediately and gain network true insights. https://www.checkpoint.com/quantum/event-management/
Cado Security	Represents a response platform, takes the complexity out of cloud and helps to focus on what's most important. It provides detailed detection for malicious files, suspicious events, and financial information. Cloud systems disappear quickly, and automated data collection allows to secure incident data safely before it is gone. https://www.cadosecurity.com/
Change Auditor	Change reporting and access logging for Active Directory and enterprise applications is cumbersome, time-consuming and, in some cases, impossible using native IT auditing tools; it helps to get complete, real-time IT auditing, in-depth forensics and security threat monitoring on all key configuration, it also tracks detailed user activity for logons, authentications and other key services across enterprises to enhance threat detection and security monitoring. https://www.quest.com/change-auditor/
FireEye	Combines heuristics, code analysis, statistical analysis, emulation, and machine learning in one solution. Enhances detection efficacy with frontline intelligence derived on the frontlines of the world's biggest breaches. Provides possibility to choose from a complete set of deployment scenarios, including in-line and out of band, on-premise, hybrid, public and private cloud, and virtual offerings. Consolidate network security technology stack with a built-in Intrusion Prevention System and Dynamic Threat Intelligence. https://www.fireeye.com/
Agari	Use unique AI with machine learning model updates method. Global intelligence powered by trillions of global email messages provide deep insights into behaviours and relationships. https://www.agari.com/
IBM-Security-QRadar	Intelligent security analytics for insight into the most critical threats. Provide a comprehensive insight to quickly detect, investigate and respond to potential threats, a comprehensive visibility into enterprise data across on-premises and cloud-based environments. Detect known and unknown threats, go beyond individual alerts to identify and prioritize potential incidents, and apply AI to accelerate investigation processes. https://www.ibm.com/qradar

Tool	Purpose / link
BloxOne-Threat-Defense	It operates at the DNS level to see threats that other solutions do not and stops attacks earlier in the threat lifecycle, protect network and automatically extend security to digital environment, including SD-WAN, IoT and the cloud. It powers security orchestration, automation and response solutions, slashes the time to investigate and remediate cyber threats, optimizes the performance of the entire security ecosystem and reduces the total cost of enterprise threat defence. https://www.infoblox.com/products/bloxone-threat-defense/
FORST	Open stack cloud computing platform to acquire Api's logs, Virtual disk and guest firewall logs. FROST is the first forensics tool built into IaaS model. https://www.openstack.org/

However, good forensic analysis often requires forensic scientists to look at and evaluate some evidence independently of everything else known about the case. It is certainly necessary for individuals and laboratories to make continuous efforts to improve their capacities, find ways in which they can develop procedures to facilitate analysis, constantly follow the development of technologies and new solutions in order to avoid the limitations that they bring and find a way to keep up with the challenges that it brings (Spellman, Eldridge & Bieber, 2022).

ORIGINALITY/VALUE

Presented paper gives an overview and analyses, from the authors' perspective, current challenges that forensic science is faced with. In respect of general trends in digitalization processes in all spheres of life, an attempt has been made to identify the effects that these have on forensic methodologies that might be used for person identification. Given the fact that urgent needs for identification have been recognized, new technologies and measures have to be taken into consideration in order to be able to properly respond from the forensic point of view. The surveys carried out to date have identified various areas within the field identification where it would be valuable to direct further efforts and to engage in research. Due to its critical role in cyber security, forensics dealing with evidence in electronic form represents a challenge for both researchers and practitioners.

Given the ever-increasing prevalence of modern technology, there is a corresponding increase in the likelihood of digital devices being pertinent to a criminal investigation or civil litigation. It can be anticipated that the number of cases dealing with evidence in the digital form or converted into digital form that need to be analysed will significantly increase in the future.

Identified and presented topics are relevant and in line with both the researchers' point of view and their professional experience, including different fields of expertise and confirmed multidisciplinary nature of forensic science.

Therefore, in order to keep pace with the new challenges, what is required is a multi-faceted approach in which evidence can be collected and analysed from a variety of sources.

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COMPARATIVE ANALYSIS OF PHYSICOCHEMICAL CHARACTERISTICS OF CHEMICAL WARFARE AGENTS AND THEIR SIMULANTS

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INTRODUCTION

The modern security environment is characterized by several different classical security threats but also asymmetric and hybrid threats. One of the classic threats accessible to by both state and non-state actors is the use of a chemical weapon. Chemical weapons are among the most destructive weapons of mass destruction, as evidenced by their consequences, unpredictability, and diversity of action.

During the 20th century, humanity witnessed the devastating effects of chemical warfare agents (CWA) used as a means of mass destruction. Historically speaking, it has always been treated as a dishonourable means of warfare, but after the horrors that occurred due to its use in the middle of the twentieth century, it was finally banned. The reason prevailed and the Chemical Weapons Convention (CWC) (Articles | OPCW n.d.) entered into force in 1997, prohibiting the development, production, stockpiling, and use of chemical weapons. CWA have been used on several occasions in the last three decades (Picard et al. 2019), raising a necessity for scientific research and technological development of means for their detection, decontamination, and protection of human lives and the environment, as well as developing proper security procedures and protocols.

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The CWC includes three schedules (list of chemicals), each associated with legally binding obligations for the signatory countries. Chemical compounds directly usable as CWA (or CWA precursors) and having no peaceful purpose are listed in Schedule 1, toxic chemicals which may be used as CWA (or precursors) with commercial application not prohibited under this Convention but not produced in large quantities are listed in Schedule 2, while those chemical compounds which may be used as CWA (or precursors) with significant commercial application not prohibited under this Convention produced in large quantities are listed in Schedule 3. Due to associated legal limitations and the fact that they are extremely hazardous and lethal, CWA can be used in a strictly controlled environment – licensed laboratories and isolated platforms with strict safety measures and protocols by trained personnel.

However, despite all prohibitions, non-state actors such as terrorist groups are determined to find ways to acquire and use it. The basic characteristics and the hidden period of action give a great advantage to chemical weapons over conventional weapons. On the other hand, in order to provide an adequate response, professional services need to have training that is as similar as possible to real conditions. In the case of a chemical weapons threat, this is not an easy task.

RELEVANT PHYSICOCHEMICAL PROPERTIES OF CWA

The CWA have different characteristics and belong to various classes of chemical compounds. The classification can be done by their volatility, chemical structure or physiological effects (Ganesan et al., 2010). If volatility is chosen as a classification criterion, one can distinguish between persistent (less volatile agents such as HD and VX) and non-persistent agents (more volatile agents such as phosgene, chlorine, GB, etc.). The more volatile an agent, the quicker it evaporates and disperses. Based on their chemical structure, they can be classified as organophosphorus, organosulfur and organofluorine compounds and arsenicals. If physiological effects that CWA produce on humans are taken into consideration, they can be classified as nerve agents, vesicants (blistering agents), blood agents, choking agents, riot-control agents, psychomimetic agents and toxins. VX and G-series agents are nerve agents and affect the functioning of the nervous system. They belong to a group of organophosphorus compounds and act as irreversible inhibitors of the enzyme acetylcholinesterase (AChE). This enzyme is responsible for hydrolyzing neurotransmitter acetylcholine (ACh) which can be found in the synaptic cleft (neuromuscular or nerve-gland junction). During transmission of nerve signals through synapsis, a small quantity of ACh is continuously liberated and hydrolyzed by AChE. Inhibition of AChE, by the creation of permanent phos-

phorus bond with nerve agent causes accumulation of ACh, leading to overexcitation or paralysis. HD and L are blistering agents or vesicants. Vesicants are toxic compounds that produce skin injuries resembling those caused by burns. These agents - on inhalation - affect the upper respiratory tract as well as the lungs, producing pulmonary edema. These agents can also cause severe eye injuries. There are two forms of vesicants: mustards and arsenicals.

Table 1. *Physicochemical properties of CWA*

Physicochemical property	Sulphur Mustard HD	Lewisite L	Sarin GB	Soman GD	Tabun GA	VX
[a]Colour	colourless to pale yellow liquid	colourless to brownish liquid	colourless	colourless to brown liquid	colourless to brown liquid	colourless
[a]Odour	garlic or horseradish	varies, may resemble geraniums	almost none when pure	fruity, camphor when impure	faintly fruity, none when pure	none
[a]Molecular weight (g/mol)	159.08	207.35	140.1	182.18	162.3	267.38
[a]Density (g/cm^3)	1.27	1.89	1.09	1.022	1.073	1.0083
[a]Vapour pressure at 20°C (Pa)	11.5	69.3	331.52	46.9	4.92	0.016
[b]Volatility at 25°C (mg/L)	0.92	5	22	4	0.61	0.011
[c]Melting point (°C)	14.5	-1.2	-57	-42	-50	<-51
[c]Boiling point (°C)	218	196	157	198	248	292
[b]Dynamic viscosity at 20°C (mPas)	4.49	2.19	1.55	3.69	2.6	/
[b]Persistency relative to water at 15°C	67	/	3.13	18.3	58.9	/
[b]Vapour density relative to air	5.5	/	4.86	6.33	5.6	9.25
[b]Latent heat of evaporation (J/g)	393.9	243	355.7	328.9	/	375
[b]Surface tension (mN/m)	42.88	/	26.65	26.51	/	31
[c]log Kow	2.41-2.55	2.56	0.3	1.78	0.394	2.09
[c]Solubility (mg/l) at 25°C	684	500	1x10^6	2.1x10^4	7.2x10^4 (20°C)	3x10^4
[a]LD_{50} (mg/kg)	100	30	24.28	0.71	21.42	0.071
[a]LC_{50} (mg/m^3)	900	1400	35	35	70	15

a-(OPCW, n.d.)
b-(Bokan et al., 2004)
c-(Bartelt-Hunt et al., 2008)

Application, dispersion methods, persistency, identification, detection, toxicity, medical treatment, protection, prevention, decontamination, storage, etc. can all be subject of scientific research or training activities. They are strongly dependent on different physicochemical properties of CWA. The most significant physical properties for the application of CWA are state of matter, colour, odour, vapour pressure, boiling and melting point, viscosity, relative vapour density, diffusion, latent heat of evaporation, aerosol formation and surface tension (Bokan et al., 2004). Chemical properties of interest include: molecular structure, hydrolysis, chemical reactivity with acids and bases, oxidizing and reducing agents, reactions with different materials, thermic stability, etc. (Bokan et al., 2004). Toxicity of CWAs is usually given as LD_{50} or LC_{50}. LD_{50} is the amount of a toxic agent, given at once, which causes the death of 50% (one half) of a group of test subjects. LC_{50} is the concentration of a toxic agent in mg/m^3(air), which applied for 1 minute causes the death of 50% of a group of test subjects. Some of the CWA properties are presented in Table 1. Finding data common to all CWA proved to be a demanding task. The data have been collected from different sources (Bartelt-Hunt et al., 2008; Bennett, 1984; Bokan et al., 2004; USAMRICD, 2007).

CWA SIMULANTS

One way to avoid accidents and achieve adequate safety levels during scientific research, testing equipment and training of different personnel is to use CWA simulants. CWA simulants are less or not at all toxic chemicals that resemble the agent in molecular structure or physicochemical properties of interest. It must be pointed out that there is no such simulant that would possess all of the corresponding aspects and properties of an agent. If that were the case, it would be toxic as well. Since there is no ideal CWA simulant that can represent all targeted properties of CWA, a number of different chemicals have been used for particular tasks. This is not a definite number: as the research, testing and training activities in CBRN field grow, so does the list of possible simulant compounds.

The simplest and the most obvious criteria to classify them is the type of CWA for which they are used as simulants. In this manner one can distinct between HD, L, GA, GB, GD, VX, etc. simulants. In this paper the focus will be on HD, G-series, and VX simulants.

HD simulants: Chloroethyl ethyl sulphide (CEES) is widely used and recognized as its most relevant simulant: its half-mustard (HM) molecular structure makes it suitable for a wide scope of applications (Picard et al., 2019)[2], 2-chloroethyl methyl sulphide (CEMS), 2-chloroethyl phenyl sulphide (CEPS), methyl salicylate (MS), diethyl adipate, diethyl malonate (DEM), dimethyl adipate (DMA), diethyl

pimelate, have all been used in the investigation of the environmental fate of HD (Bartelt-Hunt et al., 2008).

G-series simulants: Organophosphonates diethyl cyanophosphonate (DCNP) and diisopropylfluorophosphate (DFP) have been regarded, for a long time, as analogues of choice; phosphonates isopropyl nitrophenyl methyl phosphonate (NIMP) and ethyl nitrophenyl methyl phosphonate (NEMP) have gained in popularity due to UV analysis possibility [Picard]; dimethyl methyl phosphonate (DMMP), diethyl ethyl phosphonate (DEEP), diisopropyl methylphosphonate (DIMP), triethylphosphate (TEP), trimethylphosphate (TEM), 1-butanethiol (BUSH), diethyl ester phosphonic acid (DEHP), diethyl malonate (DEM), diisopropilfluorophosphate (DFP), bis(2-ethyl hexyl) phthalate (DOP), dipropylene glycol monomethyl ether (DPGME), ethyl chloroacetate (ECA), diphenyl chlorophosphate (DPCP), pinacolyl methylphosphonate (PMP), diethyl phosphoramidate (DEPA) have all been used in the investigation of environmental fate and detection (Bartelt-Hunt et al., 2008; Kanu et al., 2005).

VX simulants: there is currently no commercially available molecule mimicking the -S-(CH2)2-N(i-Pr)2 key-motif involved in VX's bio-activity (this side chain simulating acetylcholine). In this sense, the phosphonothioate LG 61, phosphorothioates Demeton-S18 (and its methoxy analogue Demeton-S-methyl), Tetriso and PhX have been used as simulants, PhX being the closest alternative to VX [2]. For determining the environmental behaviour, detection and training purposes, amiton (VG), O,S-diethyl phenylphosphonothioate (DEPPT), malathion, parathion, diethylphtalate (DEP), diethyl sebacat (DES), 2-(butylamino) ethanethiol (2-BAET), etc. have also been used (Bartelt-Hunt et al., 2008; Kanu et al., 2005).

Some of the stated simulants, such as DMMP, DIMP, VG, etc. are sufficiently toxic to be used as chemical weapons themselves, and some are used as precursors to CWA. Those compounds have been listed as Schedule 2 substances in the Chemical Weapon Convention and should be treated cautiously.

The molecular structure of some typical simulants and corresponding CWA are given in Fig.1 Different physicochemical properties of all possible simulants can be found in the literature (Bartelt-Hunt et al., 2008; Bennett, 1984; Bokan et al., 2004; Kanu et al., 2005; Lavoie et al., 2011; Matatagui et al., 2011; McKenna et al., 2017; Moshiri et al., 2012; Picard et al., 2019; USAMRICD, 2007). Obtaining all these data is a more difficult task than for the CWA. Some significant physicochemical properties of typical simulants are given in Table 2.

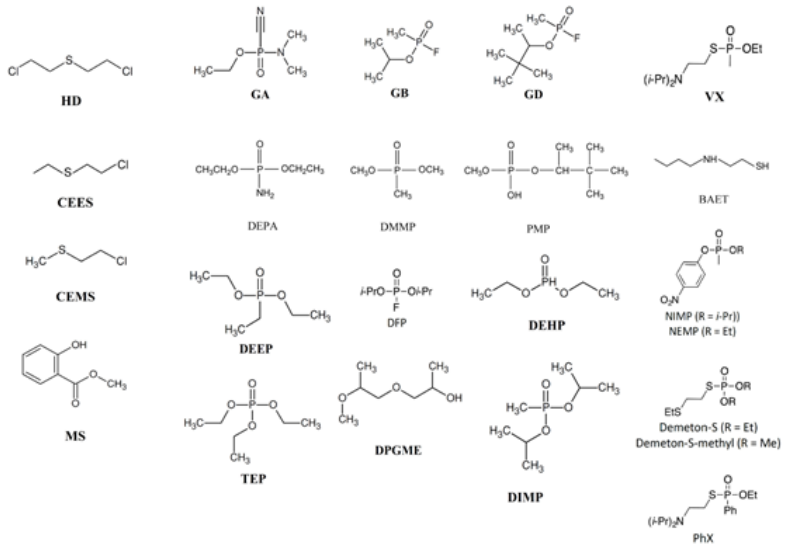

Figure 1. *Molecular structure of common CWA and their simulants*

Table 2. *Physicochemical properties of common CWA simulants*

Simulant	CWA	CAS number	Molecular weight (g/mol)	melting point (°C)	boiling point (°C)	vapour pressure (Pa)	Log K_{ow}	LD_{50} (mg/kg)
[a]CEES	HD	693-07-2	124.63	-48.6	156.5	453.3	2.2	252 (rat oral)
[a]CEMS	HD	542-81-4	110.6	-61	132	1197.2	1.62	ND
[a]MS	HD	119-36-8	152.15	-8	223	5.33	2.55	887 (rat oral)
[a]DEEP	GA,GB	78-38-6	166.16	-13	198	42	0.66	2330 (rat oral)
[a]TEP	GA,GB	78-40-0	182.16	-56	215	52	0.8	1180 (mouse oral)
[a]DEHP	GD	762-04-9	138.1	<25	138	1493.2	3.01	3900 (rat oral)
[a]DFP	GB,GD	55-91-4	184.15	-82	183	77.3	4.3	5 (rat oral)
[a]DMMP	GB,GD	1445-75-6	180.19	<25	121	37	1.03	8210 (rat oral)
[a]Amiton	VX	78-53-5	269.34	<25	110	0.036	3.94	3.3 (rat oral)
[a]Malation	VX	121-75-5	330.36	2.8	156	$4.5x10^{-4}$	2.36	290 (rat oral)
[b]BAET	VX	5842-00-2	133.26	<25	242.7	0.0±53.3	1.697	/
[c]NIMP	VX	3735-97-5	259.196	<25	362.5±34	0.0±106.6	1.5	0.45 (rat oral)

(Bartelt-Hunt et al., 2008)
(2-(Butylamino)Ethanethiol 97 5842-00-2, n.d.)
(Grigoriu, 2019)

SELECTION OF A SIMULANT

In practice, however, there is no need for the absolute resemblance between an agent and a simulant. Depending on a phenomenon of interest, simulant will be chosen among a number of different chemical compounds according to specific molecular or physicochemical features, e.g. similarity in kinetic viscosity, density and colour if used for visual inspection of its interaction with various substrates, or similarity in molecular formula (presence of specific atomic groups) and volatility if used for studying detection techniques. These data for both CWA and potential simulants can be found in the literature. Investigations that utilise simulants give a strong indication of CWA behaviour regarding the phenomenon of interest and usually are not identical to CWA. However, in most cases, it is more than enough for adequate extrapolation on targeted CWA behaviour. Figure 2 schematically represents the process of choosing the simulant for a specific task.

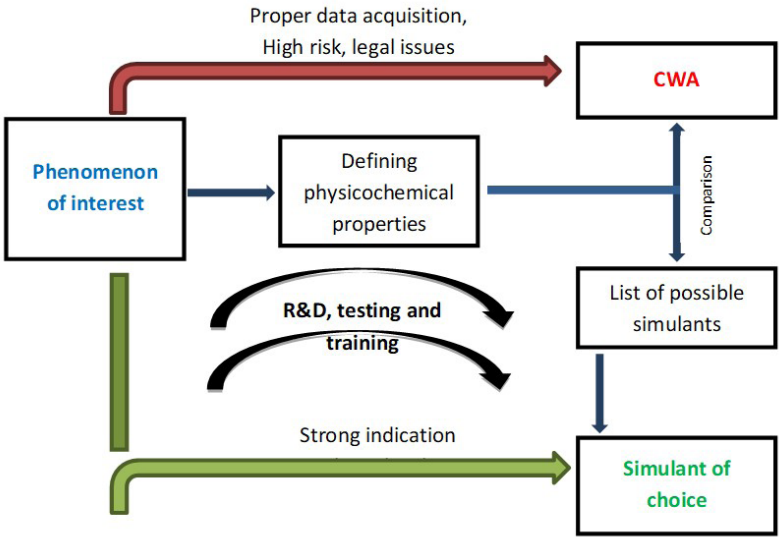

Figure 2. *Selection of a CWA simulant - schematic representation*

Usually, appropriate simulants have been chosen by experts, depending on a task in front of them, mainly by their intuition and similarity in physical properties, as already explained. However, there have been a number of attempts to automate the simulant identification process by computational methods based on chemical similarity software and algorithms used to search through databases of agents and simulants' molecular structures and physicochemical properties (Lavoie et al., 2011). This approach has been routinely applied in the pharmaceutical industry and medical research in

drug discovery. Furthermore, once experimental data on simulants and reference materials have been gathered, the same computational approach can be used to address the behaviour of the targeted CWA.

Bartelt-Hunt et al. gave a thorough review of CWA simulants' application in investigations of CWA environmental behaviour (Bartelt-Hunt et al., 2008). Potential fate pathways for CWAs in the environment include different physicochemical and biological processes, such as volatilization, sorption, hydrolysis, photolysis, and microbial degradation. These processes have been widely utilised as remediation techniques and decontamination procedures for different toxic industrial chemicals (TIC) and have been a focus of scientific research for decades (Aćimović et al., 2017; Nikolić et al., 2017). As significant environmental pollutants TICs, such as polycyclic aromatic hydrocarbons (PAH) and a number of volatile organic compounds (VOC), pesticides, pharmaceutics, etc. have similar molecular structures and similar environmental fates as CWA. This makes the research data on TICs a good starting point in both choosing a proper simulant or prediction of CWA behaviour. Depending on the investigated phenomenon, different simulants have been applied in a vast number of scientific investigations. For the sake of simplicity, sorption/desorption and hydrolysis will be presented in this paper as a phenomenon of interest for the process of choosing a proper simulant.

Prompt, sensitive and selective detection is crucial for minimizing the impact of undesirable CWA applications on both human lives and the environment. There are different types of commercially available hand-held detectors used by first responders. They are based on ion-mobility spectrometry (IMS), flame photometry (FP) and colorimetric methods. The first step in detector testing and detection techniques training is the application of CWA simulants. Again, for the sake of simplicity, we will focus on a selection of simulants for the investigation of IMS detection as an example of the process of choosing a proper simulant. Handheld IMS units are used by first responders to help determine the nature and magnitude of the chemical threat to the responders, the public, and the environment. IMS is a method for detecting and identifying volatile and semi-volatile organic compounds. This technique is based on the determination of mobilities in electric fields of gas phase ions derived from constituents in a sample. IMS analyser may be used over a large range of conditions (ambient pressure, air as drift gas) while exhibiting fast response and reliable performance (high sensitivity, recording of ion mobility spectra.

Sorption/Desorption

If the phenomenon of interest is sorption and desorption of CWA on a sorbent (e.g. active carbon), the choice of simulant should take into consideration properties such as the n-octanol/water partition ratio or coefficient - log K_{OW} and molecular size (Table 2). Sorption/desorption processes are governed by the log K_{OW} values, while their rates are governed by the diffusion of sorbates through the intraparticle polymeric matrix and/or porous structure of the sorbent (Bartelt-Hunt et al., 2008). According to Bartelt-Hunt if these criteria were taken in consideration, the best choice for HD simulants would be CEES and CEMS. For GA and GB simulants the best choice would be DEEP and TEP and for GD, DEHP. For VX the best match is malathion.

Hydrolysis

Hydrolysis, as a phenomenon of interest, depends primarily on the presence of the bonds at which the hydrolysis reaction occurs in the CWA agent, which means that the main criteria for simulant choice should be similar molecular structure (Bartelt-Hunt et al., 2008; McKenna et al., 2017; Moshiri et al., 2012). The chosen simulants should also form the same or similar hydrolysis products. GB and GD hydrolysis occurs at the P-F and P-alkoxy bonds resulting in the formation of methylphosphonic acid. In this case, Bartelt-Hunt et al. state that the best choice for a simulant is DFP, due to the presence of P-F bond and overall structural similarity. By the same criteria, CEES is the best simulant choice for hydrolysis of HD, due to the presence of the ethyl chloride functional group, and DEPPT is the best as the simulant for VX due to the presence of P-S and P-O bonds and similar distribution of products originating from the bond breakage.

IMS detection

Portable, handheld IMS (Ion mobility spectrometry) detectors are widely used for field detection of CWA. Since these instruments are limited to gas phase samples, the choice of simulants should take into consideration the properties such as volatility, vapor pressure and vapor density, as well as the similarity in molecular structure. For instance, Kanu et al. (Kanu et al., 2005) have investigated IMS detection of CWA and their degradation products on the surfaces utilizing dimethyl methyl phosphonate, DMMP; pinacolyl methylphosphonate, PMP; diethyl phosphoramidate, DEPA; 2-chloroethyl ethyl sulfide, CEES; and 2-(butylamino) ethanethiol,

BAET). DMMP was chosen as a simulant for the presence of a P=O, P-CH_3 and P-OCH_3 functional groups that are found in both GB and GD. PMP was chosen as a simulant because its structure is identical to that of GD, except that the fluorine atom in GD is substituted by an OH group. DEPA was chosen as a simulant because it contains a P=O, P-NH_2 and P-OCH_2CH_3 functional groups which are found in GA. Similarly, 2-BAET was selected as a simulant because it possesses both C-S and C-N bonds found in the functional groups of VX which are attached to the phosphorus atom. One of these simulants, CEES, was used as a structurally identical simulant for HD with the exception of a missing chloride atom.

CWA MIMETICS

As it was already stated, the main reason for the utilisation of simulants is that they are less or not at all toxic, implicating no legal issues for their application. However, in some cases toxicity itself is the phenomenon of interest or is closely related to it. For instance, in the process of training the first responders, the use of CWA and toxic industrial chemicals makes the exercise scenario more realistic and more stressful. This builds trainees' confidence more effectively than training with simulants (Tasić, Ćurčić, Lazović, 2021). Any substance that can be legally used and still exhibit a sufficient level of toxicity for the specific task can be referred to as CWA mimetic and thus be distinguished from the other simulant compounds.

Comparison of toxicity levels of CWA and some typical simulants/mimetics in terms of LD_{50} or LC_{50} values can be done by data given in Table 1 and Table 2.

MIXTURE SIMULANTS

All CWA simulants presented in previous chapters are single compound simulants. One specific compound has been chosen as a simulant depending on a task in front of researchers, educators and engineers. Molecular and physicochemical features of a simulant differ more or less from those of the targeted CWA which makes the extrapolation of CWA behaviour correspondingly uncertain. The more similar the properties of interest in the simulant and CWA are, the more precise prediction of the CWA behaviour can be made.

One way to overcome this obstacle is to use specifically designed simulants as a mixture of different compounds in order to obtain the desirable level of similarity in certain physicochemical properties with simulated CWA. This approach has

been used by some CBRN companies and militaries. The composition of simulants is usually considered a trade secret or classified data. For instance, the company OUVRY from Lyon, France produces the SIM-KIT® with HD, GB and VX simulants with the same physicochemical characteristics as the real agents in terms of persistence, colour, viscosity, volatility and behaviour in water, which makes them suitable for realistic CBRN trainings, colorimetric detection (detection on papers such as CALID3) and flame or ion mobility spectrometry (detection and identification by devices such as AP2C, AP4C, LCD3). The main component for HD simulant is methyl salicylate, for GB is dipropylene glycol monomethyl ether and for VX is polypropylene glycol monobutyl ether. Each simulant contains a proper solvent, colouring agent and additional compounds to adjust the above stated properties.

The mixture simulants are more similar in targeted properties to CWA than any single-compound simulant; they are easy to use, safe for users and the environment, and biodegradable. The disadvantage is the limited scope of application since they have been designed for specific tasks. Sometimes they cannot be detected properly by standard detection techniques, or the detection time is prolonged.

CONCLUSION

In order to provide an adequate and complete response to the threat of the use of chemical weapons, first responders must undergo training that is as similar as possible to the real-life situation. Legal and safety issues related to CWA research, training and testing activities can be avoided by the use of CWA simulants. A comparison of literature data shows that there is no unique simulant for specific CWA, but rather a number of different compounds which can be used as simulants depending on the phenomenon of interest and related physicochemical properties. Comparison of CWA's and simulants' physicochemical properties relevant to the phenomenon of interest is a desirable method for simulant selection. CWA behaviour regarding the phenomenon of interest can be extrapolated from the behaviour of corresponding simulants. The more similar properties of a CWA and a simulant are, the better prediction of the CWA behaviour can be made. Chemical compounds which could be used as CWA simulants can be classified by the type of CWA they mimic. If the property of interest is toxicity, then any substance that can be legally used and still exhibit a sufficient level of toxicity for the specific task can be referred to as CWA mimetic. The desirable level of similarity in certain physicochemical properties with simulated CWA can be achieved by simulants designed as a mixture of different compounds. However, they have a limited scope of application since they have been designed for specific tasks.

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