“Work, finish, publish!“ – Michael Faraday
Dear readers,

The public has almost become a kind of used to the expectation that Horizoni scientific journal with its every new edition, to trace a new pathway towards its further establishment on the international educational and scientific-research areas.

In its pronounced strive to achieve an increased level of quality, the Horizoni that we know from before has been transformed and now it is coming out as two separate issues of the same brand name, but with an improved recognizability and an increased particularity in terms of the scientific-research contents it brings.

Starting with this issue onwards, the educational, scientific and research horizons are going to spread over two groups of scientific areas, one dedicated to mathematics and basic natural science, technical, technological, biotechnical and medical sciences, and the other dedicated to the social studies and humanities. This new classification is made with a single aim driven by the motivation of attributing the journal an increased degree of focus on the scientific thought.

One more significant moment that signified our determination to transform the existing journal and to divide it into two, equally important new series, has been detected in our aspiration to obtain scientific-research contents that would greatly influence the current social processes on local and international level, and generally speaking, would turn out to represent a powerful tool in the complex processes of internationalization and integration within the European academic milieu. We strongly believe that this can only be achieved through particular and focused targeting and correspondent treatment of challenges outlined in the specific and narrowly specialized scientific journals. By ‘splitting up’ Horizoni into two editions dealing with similar, related scientific fields, our hope is to realize this objective.

It is important to stress that, Horizoni will, for the coming period, just as it did previously, continue respecting the principles of scientific impartiality and editorial justness, and will be committed to stimulating the young researchers in particular, to select Horizoni as a place to publish the results of their contemporary scientific and research work. Also there is an emphasized need for those who, by means of publishing This is also in line with the need to provide place incorporated within the publishing activity for
all those who through publishing their papers in international scientific journals, such as the two new series of our University Horizonti, view their future career development in the realm of professorship and scientific-research profession.

The internationalization of our Horizonti journal is not to be taken as the further most accomplishment of our University publishing activity. Just as the scientific thought does not approve of limitations or exhaustive achievements, so is every newly registered success of the Horizonti editions going to give rise to new “appetites” for further objectives to reach. In this context, for the very first time papers published in Horizonti, from this issue onwards, will become accessible to the broader scientific public through the EBSCO database.

Taken from the aspect of quality gradation, it is well justified if we announce the publishing of the international scientific journal Horizonti with a significant quantifier – journal with impact factor. This initiative of “St. Kliment Ohridski” University – Bitola is given a substantial place in the future undertakings outlined in the plan for increasing the overall quality of organization and functioning of the University.

Last, but not the least, as we have made public our future steps, we would like to express our sincere appreciation for the active part you all took in the process of designing, creating, final shaping and publishing the scientific journal. Finally, it is with your support that Horizonti is on its way to attain its deserved, recognizable place where creative, innovative and intellectually autonomous scientific reflections and potentials will be granted affirmation, as well as an opportunity for a successful establishment in the global area of knowledge and science.

Sincerely,
The editing board
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THE EURO-DOLLAR EXCHANGE RATE OF YESTERDAY AND TOMORROW

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ABSTRACT

The dollar and the euro, as the most frequently used currencies, play important roles in the global economy. We analyze their relationship and the determinants that affect the euro-dollar exchange rate. Since the introduction of the euro in 1999, the exchange rate has gone through many changes, but mainly, we can identify three periods: the first period from the euro introduction until 2002 when the dollar appreciated against the euro; the second period from 2002 to 2008 when the dollar depreciated against the euro, and the third period from 2008 to 2011 when the exchange rate varied. We examine the changes in the exchange rate of the two world currencies, and identify the most important economic and political factors that influenced the exchange rate. Moreover, we pose the question about the future movements in the exchange rate euro-dollar, i.e., whether the euro will rise or fall against the dollar.

Key words: dollar, euro, exchange rates, prediction.
INTRODUCTION

Since the second half of the 20th century, the U.S. dollar has enjoyed the status of the most important and dominant reserve currency in the world. However, in recent years, more and more common is the question whether to expect a crisis of the dollar, due to the continuously high deficit in the U.S. balance of payments and the growing public debt. Until recently, there was an opinion that the dollar will lose its primacy in the global economy, and as its main competitor was considered the euro. The euro is a young currency, but in these years that exist, it has won a stable position and become the second world reserve currency. In this paper, we test the interrelationship between the dollar and the euro and the determinants which influence their exchange rate. At the beginning, we examine the conduct of the monetary policy by the two systems: the Euro system and the Federal Reserve System. Then, we pay attention on the euro dollar exchange rate, since the launch of the euro in 1999 till 2011. The exchange rate in the considered period has passed through many changes, but mainly, we can identify three periods: the first period from the launch of the euro until 2002, when the dollar appreciated against the euro, the second period from 2002 to 2008, when the dollar depreciated against the euro, and the third period from 2008 to 2011, when the exchange rate varied. At last, but not at least, we predict the future euro dollar exchange rate by applying theoretical and econometric model.

DIFFERENT INSTITUTIONAL STRUCTURES AND PROCEDURES OF MONETARY POLICY OF EUROPEAN CENTRAL BANK AND THE US FEDERAL RESERVE

Before the examination of the euro-dollar exchange rate, we offer a short overview of the conduction of the monetary policy by two systems, namely the Euro system chaired by the European Central Bank (ECB) and the Federal Reserve System (FED). These systems have a separate institutional structure and decision-making process, and different implementation of the policies that depends on the structure of the bodies.

The Euro system is composed of the ECB and central banks of countries in the euro zone. Its role is to prepare and implement decisions, which are adopted by the following authorities (1):

- Executive Board, which has to implement the monetary policy of the ECB, and to prepare the meetings of the Governing Council.
- Governing Council, which is the highest decision-making body.
- The General Council, which is considered as a transitional body and performs the functions that the European Monetary Institute performed.
The Federal Reserve System consists of the Board of Governors, which is based in Washington, twelve Reserve Banks located in major US cities, and the Federal Open Market Committee (FOMC) as the most important body for conducting the monetary policy. In particular,

- The Board of Governors(2) adjusts the discount rate and, together with the reserve banks, determines the level of required reserves. Also, the board has the responsibility to supervise the Federal Reserve Banks, to place limits on the use of credits when buying or holding stocks, and to provide smooth functioning of the payment system of the United States.
- The Federal Reserve Banks(3) constitute the network of banks that operate through the central banking system in the United States. The tasks of the reserve banks are many, such as providing loans and holding deposits of commercial banks, emission and buying of governmental bonds, distribution of banknotes and coins in circulation to meet the needs of banks, processing checks, and supervision of banks.
- FOMC is the most important body of the system, because it has the key role in the adoption and implementation of monetary policy(4). FOMC makes decisions for the open market operations, on which depends the access to money and credit in the United States, and directs the operations in foreign currencies.

There are many similarities between the two central banks, the ECB and the FED (5). Both have a main purpose to conduct the monetary policy, for which they mainly use the same instruments, such as open market operations, the discount rate and the reserve rate. Furthermore, both have the exclusive right to issue banknotes and coins, to make operations on foreign exchange markets, to promote the stability of the financial system, to manage the official reserves, and to enable the functioning of the payment system. Their differences are the following. The monetary policy of ECB is formulated by the Governing Council, while the one of FED is formulated by FOMC. The main objective of the monetary policy of ECB is to maintain price stability. On the other hand, FED has many goals, such as promoting stable prices, sustaining economic growth and maximizing employment. ECB’s monetary strategy is based on two pillars. The first pillar focuses on short-term economic and price developments, while the second pillar focuses on the long-term inflation expectations based on monetary analysis. FED’s monetary strategy focuses on the risk management by predicting the rates of inflation and the economic growth that has to be achieved, and on the adjustment of the monetary policy actions in order to
achieve the intended results. ECB has a decentralized implementation of monetary policy, which means that all national banks participate in the implementation, while FED has a centralized one, in which the Reserve Bank of New York has the major role. Both banks are characterized by institutional, functional, political, personal and financial independence. However, independence does not mean willful formulation and execution of monetary policy. Rather, they have a responsibility to report about their work. As transparency is a hallmark of both institutions, they regularly publish decisions and analyses conducted through speeches, monthly reports, etc. The way that the ECB and the FED conduct the monetary policy is the main factor that determinates the internal value of the euro and the dollar and their purchasing power. On the other hand, their actions affect the external value of currencies. The external value is influenced by the forces of supply and demand. In a given point, the demand and supply for the currencies are balanced and equilibrium is established. That point is where the exchange rate is formed.

**EURO-DOLLAR EXCHANGE RATE FROM 1999 TO 2002**

Since the introduction of the euro in 1999, the exchange rate of the two currencies, the euro and US dollar, attracted great attention. At first, the exchange rate was set at 1 euro equals 1.1747 dollars. Initially, the euro rose to the dollar and reached a level of 1.19. But that exchange rate did not last and in March the same year, the euro began to decline. In October 2000, the rate reached its minimum of 0.825 dollars for 1 Euro. Despite the initial rejection of the ECB to take measures and to protect the external value of the currency, the bank had to intervene several time later in time. The situation began to improve after the terrorist attacks in September 2001. At that time, the euro started to stabilize, and later, in February 2002, began to appreciate against the US dollar. The movement of the exchange rate of euro to dollar in the period 1999-2002 can be seen in Figure 1.
We note that the value of the euro in this given time interval is variable. It is characterized by depreciation of the euro to the dollar. There are different views for the causes that led to such an occurrence. Herein, we consider the factors which are prevalent in the scientific literature (6), (7), (8):

- The difference in economic growth between the US and the euro zone. At the time of the introduction of the euro and shortly after, the United States economy noticed faster growth than the European one. That led to an increase of the value of the dollar against the euro.
- The difference in the rate of inflation in the two economies. The inflation rate in the period 1999-2002 was higher in the US than in the euro zone. This fact leads to the conclusion that the dollar should fall against the euro, but despite higher inflation, the dollar appreciated.
- The difference in interest rates in the US and the euro zone. The difference in interest rates in the given interval should not be taken as a factor that had a significant impact on the exchange rate. Even through the difference in the (short and long) interest rates was constant in this period, the euro was continuously falling against the dollar.
- The difference in the capital account of the balance of payments in the two economies. The reason for the decline of the euro, during this period, might be due to the larger outflow of capital (in the form of foreign direct

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2 De Nederlansche Bank, http://www.statstics.dnb.nl/cgi-bin/grafieken/grafiek.cgi?fn=500&reeks=1&lang=eng&start=915404400&end=1009839600&action=valuta
investment, portfolio investment) in the euro zone, compared with the capital inflow.

- The difference in the trade account of the balance of payment. In the reference period, the United States had deficit in the trade account (9). This should have led to decrease in the value of the dollar. Instead of depreciating, the US currency appreciated against the euro. This phenomenon occurred because the demand for dollar-denominated assets exceeded the supply induced by the trade.

- Changes in the price of oil. In 1999, large part of the funds from the euro zone was transferred to countries exporters of oil which led to the depreciation of the euro. Because the United States is a producer of oil itself, this phenomenon had less negative impact on the dollar.

- Expectations of private investors for the US and the eurozone growth. Although the economic indicators showed the opposite, in 1999, the expectations for the future of the US economy were more optimistic compared with expectations for EU. According to De Grove(6), if the dollar starts to move up over a period of time, it is considered as an indicator of the strength of the United States. Subsequently, the good news for the United States would be taken into account, and the bad overlooked. On the other hand, bad news for Europe, dating from the period before the introduction of the euro, would be taken into account, and would influence the selection of information about the EU. Such a belief caused further increase of the dollar against the euro.

- The absence of notes and coins in circulation. Although the currency was introduced in 1999, it existed only virtually. This means that transactions in the financial markets were made in euro, but euro-zone countries still used banknotes of the former currencies for paying in cash. That had a psychological impact and created mistrust in the euro. The mistrust, however, led to a reduction of the demand for the single currency, which caused decline in its value. Shortly after the banknotes and coins were put into circulation (1 January 2002), the period of appreciation of the euro against the dollar began.

**EURO-DOLLAR EXCHANGE RATE 2002-2008**

Since February 2002, and until the beginning of the financial crisis in 2008, the euro continuously increased in value compared to the dollar. Only in 2005, slight raise on the dollar was noticed, but then the euro appreciated again. The situation is better reflected on the graph shown in Figure 2.
The economic factors listed above have an impact over the euro-dollar exchange rate. However, the economic growth, inflation and trade deficit were higher in the United States in the period until 2002, when the euro depreciated against the dollar, and after 2002 when the euro appreciated against dollar. Therefore, we seek the reasons for the attitude of the exchange rate during the period 2002 to 2008 in political factors. Firstly, the interest of the US for the dollar depreciation as a way to improve the US terms of trade and reduce the deficit, and secondly, the interest of ECB to maintain a strong currency as an indicator of the success of the integration and a symbol of the power of the EU.

The reason why the United States were interested in depreciation of the dollar was to make US products cheaper in foreign markets and to increase their exports. Increased exports should have reduced the US budget deficit, which would gradually lead to reduction of the public debt. So, despite the rhetoric about a "strong dollar" US currency needs to be strong enough to sustain the gained international position, but, in the same time, needs to be weak enough to remove distortions in the balance sheet.

On the other side, the preservation of a stable and strong euro was very important for the European Union, because for EU the euro represents much more than a common currency. It is a kind of symbol for the integration. However, in that period, despite the success of the EU's monetary union, there were large disproportions and structural disorders between the

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constituent countries. They have emerged as a consequence of the lack of integrity in fiscal policy. Balance of payment of some of the countries had large deficits, others had surpluses. In order to "hide" the weaknesses and imbalances in the eurozone, EU was trying to maintain the image of strong euro. Consequently, ECB did not take any measures to prevent the accelerated appreciation of the euro, although the high value of the currency was not always justified. However, it was seen as a positive phenomenon because it increased the people's confidence in the currency, and the international use of the euro as a mean of payment.

EURO-DOLLAR EXCHANGE RATE IN THE PERIOD 2008 -2011

After 2008, the exchange rate of euro to dollar is characterized by great instability, turbulences and variations. Main reasons for this trend are the credit crisis in the US, the crisis of indebtedness of EU, political unrest in countries exporting oil, etc. In the graph on Figure 3 are shown the changes in the exchange rate from 2008 to 2011.

As it may be seen, in the first half of 2008 the euro increased against the dollar and toward the middle of April reached a price of 1.59 US dollars. This trend took until the end of July when an upheaval happened, and the single currency began to depreciate. An important moment for the sharp decline of the euro represents the collapse of Lehman Brothers.

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*De Nederlandsche Bank, http://www.statistics.dnb.nl/cgi-bin/grafieken/grafiek.cgi?fn=500&reeks=1&lang=eng&start=1199142000&end=1301608800&action=valuuta*
The event led to risk aversion in the markets and increased the demand for assets denominated in US dollars as "save-heaven" currency. After the calm of the recession in the United States in the second half of 2009, the value of the single currency increased against the dollar.

In early 2010, the first doubts about the inability of Greece to pay its debt for the issued bonds appeared. This caused anxiety among investors and reluctance of markets. The single currency once again became very unstable and vulnerable. Its frequent changes in value were caused by the real economic factors but also under the influence of speculation. In order to prevent the crisis of indebtedness to threaten the common currency, EU countries took measures to help countries in the group PIGS (Portugal, Ireland, Grease and Spain). Measures contributed to palliate investors, and the currency appreciated against the dollar. However, the euro-zone countries must find permanent solutions to get out of the crisis, and, until then, there is a serious threat for the survival of the euro.

In the current socio-political and economic situation, the position on the dollar is not safe too. The reason lies in the high public debt of the United States, which accounted for 99.5% of Gross Domestic Product (GDP) in 2011. The question of the size of the US public debt attracted attention even before the crisis. During the recession, due to the measures for rescue of banks and other measures, the costs of US sharply rose. In 2010, the deficit amounted to 10.6% of GDP. The deficit has its implications in increasing the public debt. At this point, if we compare the situation of the US and the European countries, members of the group PIGS, the United States performance are worse than the ones of Portugal and Spain. According to the International Monetary Fund the total public debt of the United States by the end of 2012 will amount to 16.8 trillion dollars, while Greece 441 billion dollars. This means that the U.S. debt will be 53,400 dollars per person, and the Greeks 39,400 dollars per person (10). The U.S debt per capita is 35% higher than that of Greece and other "PIGS" countries. Unlike European countries, which take austerity measures in order to overcome the debt crisis, in the US, the supply of dollars increases and causes inflationary movements. The goal of such politics, on one hand, was to revive the economy and achieve employment growth, and, on the other, to gradually devaluate the dollar and improve the competitiveness of the US. These measures have proved ineffective. In future, the measures should be taken through fiscal policy by cutting the budget spending and introduction of progressive taxes. If US fail to reduce the debt over the next two years, "Standard & Poor's" will cut ratings on bonds of the United States that are now stacked with AAA.
THEORETICAL AND PRACTICAL OBSERVATIONS OF THE EURO-DOLLAR EXCHANGE RATE

The ratio between the euro and the US dollar is important for the current crisis period, but even more important for the years to follow. Therefore, we perform prediction of the future euro-dollar exchange rate. Thus, we use two approaches, fundamental and technical. At the beginning, a prediction is performed with a fundamental approach by using a model based on the theory of purchasing power parity. This economic theory takes into account the relationship between inflation in the two economies over a period of time, and the movement of the exchange rate between their currencies in the same period. The point is that if prices change, the exchange rate will change too in order to compensate the difference. Given the fact that the euro zone faces a crisis, we assume that the value of the euro would decrease by the end of 2012. For the purpose of predicting of the future euro-dollar exchange rate, we used data on the expected inflation in the US and the euro area (given in Table 1) and the balanced exchange rate at the time when the calculation was performed.

<table>
<thead>
<tr>
<th>Period</th>
<th>USA</th>
<th>Euro zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q1</td>
<td>0.7</td>
<td>1.4</td>
</tr>
<tr>
<td>Q2</td>
<td>0.9</td>
<td>1.3</td>
</tr>
<tr>
<td>Q3</td>
<td>0.9</td>
<td>1.3</td>
</tr>
<tr>
<td>Q4</td>
<td>0.9</td>
<td>1.2</td>
</tr>
<tr>
<td>2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q1</td>
<td>0.9</td>
<td>1.2</td>
</tr>
<tr>
<td>Q2</td>
<td>0.9</td>
<td>1.2</td>
</tr>
<tr>
<td>Q3</td>
<td>0.8</td>
<td>1.2</td>
</tr>
<tr>
<td>Q4</td>
<td>0.8</td>
<td>1.3</td>
</tr>
</tbody>
</table>

Marking symbols are given below:

- $\text{Ext}$: Current exchange rate dollar euro
- $\text{Ex}(t+1)$: Future exchange rate dollar euro
- $\text{Iea}$: Inflation in the euro zone
- $\text{Ius}$: Inflation in the USA
- $T$: Period (the computation is for Quartile so we use $T = \frac{3}{4} = 0.2$)

We supposed that the equilibrium exchange rate is 1.410. Then, we created a future balanced exchange rate by using the model of purchasing power parity. It is shown with the formula:

$$\text{Ex}(t+1) = \text{Ext} \times \left(\frac{1 + \text{Ius}}{1 + \text{Ius}}\right)^T$$
Calculations were made in Microsoft Excel, and we got the values for the future exchange rate, which are shown in Table 2. The corresponding graphical illustration is shown in Figure 4.

### Table 2–Prediction using the model of relative parity purchasing power

<table>
<thead>
<tr>
<th></th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ext</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
<td>1.4510</td>
</tr>
<tr>
<td>Ius</td>
<td>0.70</td>
<td>0.9</td>
<td>0.9</td>
<td>0.9</td>
<td>0.9</td>
<td>0.9</td>
<td>0.8</td>
<td>0.8</td>
</tr>
<tr>
<td>Iea</td>
<td>1.40</td>
<td>1.3</td>
<td>1.3</td>
<td>1.2</td>
<td>1.2</td>
<td>1.2</td>
<td>1.2</td>
<td>1.3</td>
</tr>
<tr>
<td>$Ex(t+1)$</td>
<td>1.4385</td>
<td>1.4441</td>
<td>1.4441</td>
<td>1.4457</td>
<td>1.4457</td>
<td>1.4457</td>
<td>1.4437</td>
<td>1.4421</td>
</tr>
</tbody>
</table>

It can be noted that the expected results for the exchange rate euro-dollar by the end of 2012 were confirmed, and that, in the given period, the euro would notice a slight decrease against the dollar. However, we are aware that the model has its limitations, such as the impact of other unmentioned factors, different from the price level, which may influence the exchange rate, then the use of expected future values for the inflation in the US and euro zone.

Apart from short-term prediction of the future ratio of the euro and the dollar by using purchasing power parity model, we used technical approach for a long-term prediction. In this case, the predictions were performed technically and were based on the past values of the exchange rate on an annual basis (Table 3).
Table 3–Exchange rate since the lunch of the euro till 2010

<table>
<thead>
<tr>
<th>Year</th>
<th>Exchange rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>1.0658</td>
</tr>
<tr>
<td>2000</td>
<td>0.9236</td>
</tr>
<tr>
<td>2001</td>
<td>0.8956</td>
</tr>
<tr>
<td>2002</td>
<td>0.9456</td>
</tr>
<tr>
<td>2003</td>
<td>1.1312</td>
</tr>
<tr>
<td>2004</td>
<td>1.2439</td>
</tr>
<tr>
<td>2005</td>
<td>1.2441</td>
</tr>
<tr>
<td>2006</td>
<td>1.2556</td>
</tr>
<tr>
<td>2007</td>
<td>1.3705</td>
</tr>
<tr>
<td>2008</td>
<td>1.4708</td>
</tr>
<tr>
<td>2009</td>
<td>1.3948</td>
</tr>
<tr>
<td>2010</td>
<td>1.3257</td>
</tr>
</tbody>
</table>

The econometric model is given by the following equation:

\[ Y = \beta_0 + \beta_1 t + u \]

With the software package Microfit 4.0 using the method of least squares, we tested the null hypothesis H0: there is no trend in the euro-dollar exchange rate. The results of the test showed that the null hypothesis should be rejected and we need to accept the alternative hypothesis Ha: There is a trend in the exchange rate. The chart of the trend is shown in Figure 5.

---

Figure 5–Movements of the euro dollar exchange rate in the next 10 years

According to the empirical tests, the model is statistically significant and shows us that each year the course will increase 0.047636 units. The coefficient of determination is 0.77601 indicating that 77.6% of the variability of the exchange rate is explained by the trend. The report of the evaluation of the model is given in the Appendix. The model provides useful information for predicting the future exchange rate. The results that we got from the test and the predictions for the future exchange rates could be useful for central banks, financial institutions, institutional investors and international companies. Central banks in most countries in the world require this kind of informational basis, when deciding on the level and denomination of the official reserves to hold. Financial institutions and institutional investors based on exchange rate expectations make decisions about the structure of their portfolios. International companies, on the other hand, are interested in reducing the risk from changes in foreign exchange rates when buying and selling in the international market.

CONCLUSION

In this paper, we analyzed the exchange rate of the US dollar, as the currency upon which for a long time rested the international trade, and the euro, which, despite being young, for a short time managed to become the world's second reserve currency. The paper covers the period from the introduction of the euro until 2011, and it also predicts the future trend of the exchange rate euro to dollar using theoretical and econometric methods. The elaboration shows that economic factors such as the difference in economic growth, inflation rates, interest rates in the US and the EU have an impact on
the movement of the exchange rate but the political factors also influence the ratio of the two currencies. Given the important role of the US and EU economies in the world economy performance, the perception of the relationship between currencies in the coming period is especially important. According to the empirical analyses, the euro will overcome the current crisis period, and in the long run, will increase against the dollar. The answer is obtained by using prediction models: the theoretical purchasing power-parity model for short-term and trend econometric model for long-term forecasts. The results show that the euro will decrease against the dollar by the end of 2012, but the trend shows an increase in the value of the euro against the dollar in a long-term. Findings represent a solid informational background that can be used by central banks, financial institutions, institutional investors and international companies in making important decisions, or formulating strategies how to deal with potential threats from changes in the exchange rate euro to dollar.

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**APPENDIX**

**Econometric analysis report**
Ordinary Least Squares Estimation

************************************************************
Dependent variable is Y
12 observations used for estimation from 1999 to 2010
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<table>
<thead>
<tr>
<th>Regressor</th>
<th>Coefficient</th>
<th>Standard Error</th>
<th>T-Ratio[Prob]</th>
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<td>C</td>
<td>.87930</td>
<td>.059564</td>
<td>14.7622 [.000]</td>
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<td>.047636</td>
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R-Squared                     .77601   R-Bar-Squared .75361
S.E. of Regression           .093664   F-stat. F( 1, 10) 34.6450 [.000]
Mean of Dependent Variable 1.1889   S.D. of Dependent Variable .19497
Residual Sum of Squares .093664   Equation Log-likelihood 12.0904
Akaike Info. Criterion 10.0904   Schwarz Bayesian Criterion 9.6055
DW-statistic              1.1189

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Diagnostic Tests

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* Test Statistics *   LM Version   * F Version   *

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A: Serial Correlation *CHSQ(1) = 1.0058[.316]*F(1, 9) = .82332[.388]*
B: Functional Form *CHSQ(1) = .15499[.694]*F(1, 9) = .11776[.739]*
C: Normality *CHSQ(2) = .69836[.705] Not applicable *
D: Heteroscedasticity *CHSQ(1) = .53579[.464]*F(1, 10) = .46736[.510]*

A: Lagrange multiplier test of residual serial correlation
B: Ramsey's RESET test using the square of the fitted values
C: Based on a test of skewness and kurtosis of residuals
D: Based on the regression of squared residuals on squared fitted values
APPLYING THE CONCEPTS OF AUDITING FOR EFFECTIVE EXECUTION OF THE COMMERCIAL AUDIT OF FINANCIAL REPORTS

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ABSTRACT

Materiality in the audit is one of the basic and main concepts. Revision standards say that the concept of materiality recognizes that, some things, either individual or aggregate, are relatively important for true and fair presentation of financial information for true and fair presentation of financial information in accordance with recognized accounting policies and practices. There is no set of rules of prescriptions that can be consistently applied to determine materiality in all circumstances. Materiality is certainly a relative term. It can be material one case, the letter may not be. The decision about what is and is not a material is a matter of professional decision and trial, and the experience of the auditor.

So, as I said, truth and fair presentation of financial statements depends among other things and the concept of materiality.

Key words: Financial statements, auditors, audit risk, revision

INTRODUCTION

International Auditing Standard 320 defines material significance as follows: “Information is materially significant if their emissions or misstatement could influence economic decisions of users based
Material significance depends on the size of the item or error estimated in specific circumstances of its discharge or misstatement. Thus, the material significance primarily provides a point of intersection or border point, rather than a primary qualitative characteristic which in formation must possess to be useful."

That is, material significance is assessed in terms of potential impact of possible misstatements on the decision of the users of financial statements in view of their future investment and other decisions depending on the type of users. For example, a person wants to buy shares of a company. If the company showed profit of 20,000,000 denars, the question is whether the person would invest money in buying shares of that company if the auditor for auditing the financial statements found misstatement that affects the profit amounts to not be 20 million but 15 million denars. Is the difference of 5,000,000 is material significant and whether it would influence the decision of a potential investor, it should determine the auditor. Because the assessment of material significance is left mostly to the professional judgment of the auditor, in practice it happens two auditors to determine different levels of material significance for the same client. This is primary because many auditors use their subjective professional judgment to assess the significance of each account of the financial statements. Even two auditors to determine the same amount of material significance, possibly because their judgment to determine a different significance in the structure of individual accounts of the balance sheet.

The answer to the above question depends primarily on professional the judgment of the auditor for the International Auditing Standards provides no guidance for determining the amount of material significance. In concept, Materiality in Macedonia first practically met the seminars were founded by USAID project, TRAINNG FOR AUDIT – a practical approach. The classes are held during the 1998, 1999 and 2000. As well as materials from these word 'Materiality' was translated as, significance. Significance as a concept and principle existed in the translation of international auditing standards published by the Association of Accountants, financiers and auditors of the Republic in 1998. This word was generally accepted by participants at the seminar because it was understandable and reflect the essence of the closest translation to the Macedonian terminology.

For the application of the significance of the revision are three basic steps: The initial assessment of material significance (step 1) represents the maximum amount to which the auditor believes that financial reports can be wrong and still not affect the decisions of users of
financial statements. However, the material relevance is more relative than absolute concept, that some smaller companies an amount of error may be significant, but it will be materially insignificant for the larger company. Also, if the auditor finds an insignificant material error, but that is done intentionally, it may cause suspicion for more such errors because they may be needed and change the initial assessment of the significance. As emphasized above, the audit standards are not given practical guidance for determining the amount of material significance, so that each audit firm has its own guidelines and policies for determining the level of significance.

THE CONCEPT OF AUDIT RISK

Audit risk is a term that is actually used in relation to audit the financial statements of certain entities. The primary objective of this review is to provide an opinion whether the financial statements are fair or unfair financial position and results of the entity.

Audit risk is the risk that the auditor provides inappropriate opinion on the financial statements. It can also be defined as the risk the auditor to express an inappropriate audit opinion when financial statements contain major inaccuracies. Introducing the activity of the client's process of gathering financial and nonfinancial information in function of the overall audit work to issue opinions on financial statements.

In accordance with International Auditing Standards (MRS) 315, the auditor should obtain an understanding of the entity and its environment, including its internal control that is sufficient for identifying and assessing risks of material misstatement of the financial statements, whether due to fraud or error, and enough for shaping and execution of further audit procedures. "A survey by Price water house Coopers, in the period up to 2012 internal auditors will need increasingly to direct its focus to continuous review in order to streamline the process. Given the fact that evaluation and monitoring of risks require incorporating dimension, real-time" (real time), the timing of the audit will become more dynamic. Research indicates that as the main challenges that are heads of departments of internal audit cited insufficient capacity and ability to cope with the new approach to auditing. Because audit committee would have to be mandated to regularly assess the adequacy of resources and skills of internal audit.
INHERENT RISK

Inherent risk is the auditor's assertion that there may be material false statements related financial reports without having to consider effective associated with internal control. If the auditor concludes that there is a large quantity of such false allegations ignoring the internal control, the auditor will conclude that in fact this risk is very high. Internal control is ignored in setting inherent risk because they are considered separate in the model of audit risk as a risk control.

It is an area that requires professional judgments about the work the auditor. For example, evaluating the assets consist of diamond is more complex than the assets consist of bikes, and thus is risky.

CONTROL RISK

Control risk is the engagement of auditor for the possibility that material related financial statements will not be prevented and detected on a time basis by internal control. This commitment includes questions about whether internal control is effective for the prevention of irregularities and auditor's intention to make the effort level under the part of the audit plan.

Internal controls include common enterprise supervision and review of reports by staff dependent of those who have made entries. Although the assessment of inherent risk is a relatively recent phenomenon, audits rely on internal controls to prevent or detect material errors.

DETECTION RISK

This risk is defined as the assertion that material errors related not be detected by the audit sustainable test. It is important to note that detection risk indicates that the auditor is willing to live with it. This means that detection risk is high, the auditor is willing to accept and make less substantive tests compared with situations when detection risk is low.

This risk occurs if supervision is inadequate or is deemed inadequate internal control structure. The risk exists independently of the other two risks because the auditor will accept less risk of detection.
THE CONCEPT OF AUDIT EVIDENCE PROCEDURES (METHODS) TO OBTAIN AUDIT EVIDENCE

Audit evidence is information that internal auditors provided by observing conditions, interviewing people and testing records. Audit records should provide a factual basis for audit opinions, conclusions and recommendations. Audit evidence can be characterized as physical, evidence of testimony, documentary and analytical.

In terms of compliance, the testing question: does control work? Detailed tests of transactions and balances and other procedures such as analytical review are those who try to provide audit evidence about the completeness, accuracy and validity of the information contained in the accounting records or financial statements. In these tests the question: are true? When auditors based on the nature and scope of their audit work on their assessment of internal control systems of the organization, this approach to auditing is called system-based approach.

Data must be analyzed in terms of material, reasons, causes, real and potential impact. The sample is only a first step towards a well-informed and based audit opinion. General audit software and other techniques can assist the auditor in a more efficient way to audit 100% of the population, but not to choose the right sample and review it.

This is especially true in all cases where the organization has full documentation in electronic format. With the growing use of information technology, the auditor must decide whether the method of selection of samples is the most efficient and effective way of providing audit evidence. The existence of huge databases and various opportunities to develop the necessary information in a different format, in some cases be more efficient to implement computer-aided testing of the entire population. Given that today's software covers all activities of enterprises and the existence of integrated software, the auditor selects the sample instead of the population can be solved for testing all 100 percent, respectively of the overall population. In some cases it is necessary 100% inspection. These include unusual or extraordinary items, such as large amount of the fines, categories which are small, but of great importance, such as land and buildings, categories of special importance, such as loans to directors or other areas with high risk.
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RISK-BASED SUPERVISION OF BANKS

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ABSTRACT

The banking sector has an essential role in any national economy. But, only a reliable and stable banking system can be an effective allocator of resources among economic entities, leading to greater prosperity and economic wellbeing in the economy. Therefore, the state is interested in establishing prudential supervision, which is focused on controlling the operations of banking institutions and early detection of weaknesses in their work. Regulators, as representatives of the state have a significant role in carrying out their functions through direct on-site controls and permanent off-site supervision. Changes in the banking industry have caused a change in models that supervisory institutions have used in performing their task. Supervisory institutions are focused on assessment of the risk profile of banks in order to determine their stability and reliability with ultimate goal of establishing and maintaining a secure and stable banking system.

Key words: banks, supervision, models of supervision, risk-based supervision

INTRODUCTION

Shareholders as owners of capital, depositors, borrowers, employees and management team are interested in successful operation of a bank. The specific role of the banking system justifies the concern about its stability. Banks are highly regulated institutions, which arises from their importance.
and role in the financial system of each country. There are two primary reasons for regulation and control of banks:  
1. to maintain public confidence in the integrity of the banking system and individual banks, and  
2. to protect depositors and ensure a stable banking system by protecting the collapse of banks.  

There are different types of regulation: systemic, business and prudential. The systemic control means all regulations and rules adopted by the state in order to minimize the risk for a bank to fail and cause systemic risk. Therefore, the systemic control includes regulations concerning the insurance of deposits in the banks and the role of the central bank as lender of last resort.  
The business control is focused on how the banks operate the business and it involves internal audit performed by the bank and external audit performed by the independent external auditing firm. Prudential supervision or control refers to control of the overall operation of banking institutions by the regulatory institution, which evaluates the risk profile of banks, and thus the reliability and stability of the banking system as a whole.  

In terms of imperfect market, undeniably it is necessary for regulation of banking. However, regulation can be limited by moral hazard, which is associated with systemic control. There is also risk, big banks to impose the regulatory process, starting from the fact that they have an important role in the banking system and can expect that the state will not allow them to fail (too big to fail) and cause problems in the banking system as a whole. Primary role in reducing the moral hazard is only effective and prudent banking supervision.  

THE ROLE OF REGULATORY INSTITUTION  

Strengthening the role of supervision is one of the most important issues for the purpose of providing and maintaining safe and stable banking system. Supervision has a dual task: to provide healthy and safe banks and protect the stability of the banking and financial system in general.  
Supervisory function is performed at three levels:  
a) the licensing function by issuing licenses and approvals of the banking institutions in accordance with the legislation in each country;  
b) control of the overall operation of banking institutions, and  
a) taking corrective measures and actions against banking institutions. The control of the operations of banking institutions is performed by:  

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9 Tome Nenovski, Evica Delova-Jolevska, Money and banking, University American College Skopje, 2012, p.404
- **Off-site supervision of the banks.** The supervision institution is continuously monitoring and analyzing the reports submitted by banks on a daily, monthly or quarterly basis. Based on monthly and quarterly analyses, the off-site supervision have assessed the bank's risk profile. By establishing a system of early warning signals, the off-site supervision tries to detect potential problems in the banks and to evaluate the compliance of their operations with legislation and supervisory standards;

- **On-site supervision** of the operation of banks, which consists of direct insight into the banks in their business premises. Through the examination of documentation and bank's internal regulations for daily business activities, as well as insight into the banks' risk management systems, regulators assess the riskiness of the institution and its compliance with legislation. On-site control can be comprehensive when it controls the overall operation of the bank or may be partial, when it is focused on a segment of the bank's operations. On-site control and continuous off-site monitoring of banks are interrelated and complementary and they comprise the supervisory cycle.

**SUPERVISORY MODELS**

Depending on the environment and changes in the banking industry, regulators, are constantly developing new models, which are based on numerous factors and indicators to evaluate the operations of the banking institutions, their success and profitability. The models represent a tool by which the regulatory institution follows changes in the financial position and estimates the risk profile of the bank institution. The models are an early warning system for taking corrective measures in case of worsening risk profile of the institution.

One of the many models used to assess the bank's operations and its financial condition is known as CAMELS method. It is an acronym of the six basic elements that determine the overall financial condition of a particular financial institution as follows: capital adequacy, asset quality, management, earnings, liquidity and sensitivity to market risk.

Each separate component of the CAMELS rating system is evaluated from 1 to 5 based on analysis of all relevant factors for each area. Scores from the individual components result in summary score that reflects the overall financial condition of the institution. Summary rating or composite score also ranges from 1 to 5. Thereby, the highest score is 1, the rating that indicates safe operation, excellent performance and best practices in risk management and assessment that produces the lowest level of concern among supervisors. The worst rating is 5, indicating the lowest rating, the highest level of attention and concern by supervisors.
The changes which have occurred in the banking industry in recent years require a change in the operation of regulatory institutions. Thus, in many countries supervisory institutions have modified their approach and have begun to use the concept of risk-based supervision (or risk-focused, risk-oriented). The essential difference doesn't exist, but the novelty is that risk-based supervision focuses on identifying risk and targeting their resources towards those activities that expose the bank to greater risk, performing the quantification of risk (determines the level of risk), but also evaluating the quality of risk management and internal controls.

The risk analysis, the quantity and quality of the bank risk management is the fundamental base on the activities of supervisory authorities. Based on the analysis, they are getting a comprehensive picture of the risk profile of the banking institutions. The risk profile of banks provides a basis for determining the supervisory strategy, planning supervisory cycle and opportunity for corrective measures in the banking institutions. The advantage of introducing risk-based supervision is the more effective utilization of human and technical resources of supervision. This is achieved by a greater focus on areas with the highest degree of risk that represent the greatest potential danger for the further operation of the bank. Also, supervisory attention is directed towards the larger banks (significant systemic banks) which have a significant impact on the stability of the banking system as a whole, rather than a small bank.

A sophisticated, accurate model to evaluate the performance of banking institutions doesn't exist. All methods are seeking to assess the risk profile of the banks to assess and monitor changes in financial position and on time to generate a warning to supervisors to take corrective action.

Regulation of prudential supervision varies from state to state. Each country has developed its own method of banking supervision. Although the titles of the models are different they all basically have one purpose—determining the level of the risk of the banking institution by analyzing the level of exposure to different types of risk and quality of their management. In addition, the goal is to get a picture not only of the current banking condition, but also assumes a broader perspective and future trends and changes that might occur as a result of anticipated level of risk present in the banking institution.

The following are some models for risk-based supervision, used in different countries.

**PATROL** 10 rating system for assessing the performance of banks was introduced by the Central bank of Italy and is the acronym of the

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components that are included in the analysis: Adequacy of capital (ital. PATrimonio), Profitability (Reddittività), Credit risk (Rischiosità), Management (Organizzazione) and Liquidity (Liquidità). Each component of the PATROL system is ranked on a scale from 1 (best score) to 5 (lowest score), on the basis of which is performed a composite assessment, also from 1 to 5, which includes all other qualitative and quantitative information found by the supervisor.

**ORAP rating system** (Organization et de Reinforcement de l’Action Préventive) was introduced by the French Banking Commission and it is based on analyses of several factors to detect potential flaws and weaknesses of the banking institutions and evaluate their risk profile. Risks that are subject to evaluation are: credit risk, concentration risk, market risk, operational risk, liquidity risk and interest rate risk. Each component is ranked on a scale of 1 (which is considered the best) to 5 (which is considered the weakest score), which is part of a joint assessment, also from 1 to 5. Each grade means the required corrective actions.

**BAKIS** is implemented by the supervisory authorities and the Central Bank of Germany. As components to predict the possible risk to the banking institution, BAKIS system analyzes the financial indicators (47 indicators) and groups of institutions with common characteristics (peer group analysis). The system represents an Early Warning System.

**ARROW** (Advanced, Risk-Responsive Operating frameWork) represents another approach to risk-based supervision in the form of a matrix that includes: identification of significant risks the bank is exposed to, measuring the exposure to these risks and their impact on the results of the bank, techniques for risk reduction, monitoring and reporting on risk management. The on-site supervision determines the risk assessment of the institution and program design to reduce risk (RMP- Risk Mitigation Programme).

**FIRM method for risk analysis** (Financial Institutions Risk analysis Method) is a method used by the Central Bank of the Netherlands (De Nederlandsche Bank of the Dutch National Bank - DNB) and includes analysis of: solvency, liquidity, organization and control and business integration. The method includes determining key indicators and

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11 Abbreviation for Bundesaufsichtsamtr für das Kreditwesen
characteristics that would help in improving the assessment of the risk profile of the institution and correctly identifying the meaning of the institution in the environment. FIRM method initially analyzes the most significant risks that financial institutions are exposed to. The probability of a risk to be materialized and the level of its influence is divided into 4 levels, from lowest to highest level of risk exposure. The analyses of quality management will be implemented by controlling the internal acts, transparent organizational structure, reporting system, quality management and transparency of the strategy of the institution.

**RISK-BASED SUPERVISION OF BANKS IN THE REPUBLIC OF MACEDONIA**

National Bank of the Republic of Macedonia, as a supervisory authority of banks and savings houses, has used two models of supervision in its assessments: CAMELS method and risk-based system. CAMELS method was in use until 2008 when it was replaced by the model of risk-based supervision. The process of bank supervision involves both on-site and off-site activities. Assessment of the bank's risk profile is a document that provides the basic information about the current position of the bank, aggregate risk analysis (qualitative and quantitative) and supervisory strategy.

National Bank assesses the risks on which the bank is exposed and its profitability position with on-site examination. The risk assessment is done to identify the risk level of each risk on which the bank is exposed in its operations, as well as the quality of risk management. The National Bank assesses minimum seven of the most important types of risk: credit risk, liquidity risk, market risk operational risk, IT risk, legal risk and strategic risk.

The level of risk is the level of the institution's exposure to certain risks in its daily activities, and quantitatively is defined as: high, significant, acceptable and low level of risk.

The quality of risk management of each of the individual risks is determined on the basis of how well and with what intensity the management identifies, measures and controls risks in its daily activities. This assessment is based on the following four basic elements that contribute to successful and solid risk management: the quality of governance by the supervisory board and board of directors; policies, procedures and limits that are defined and applied to manage risks effectively; establishment of appropriate and effective information system; establishment of internal
control and performance of internal and external audits, in order to detect any deficiency in the system of internal controls and risk management system. The quality of risk management can be assessed as good, satisfactory, with deficiencies and weak. Based on an assessment of the risk quantity and quality of the risk management on each risk is determined the bank's aggregate risk. From the aggregate risk depends the supervisory regime that can be: normal regime of supervision, closely monitoring and taking supervisory action.

CONCLUSION

Specific and significant role of the banking system nationally and internationally, justifies the care of the state for its stability. Only reliable and stable banking system that enjoys the confidence of economic agents can be effective intermediaries of the resources of the national economy in terms of intensification of economic development. There are different rating systems that evaluate the financial condition and safety of a particular financial institution. Numerous changes occur in the area of financial services, introducing new banking products and new models for risk management require improvement and adjustment of supervisory controls on new trends. Regulatory institutions are constantly improving and developing new models for bank supervision, in order to better evaluate the risk profile of banking institutions. They are trying to find better ways and means to address the supervisory issues in fulfilling their mission of maintaining stability and strengthening public confidence in the banking system.

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EUROPEAN CITIZENSHIP AND THE PRINCIPLE OF NON DISCRIMINATION

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ABSTRACT

This article aims to analyze the rights and obligations for the European citizens holding European citizenship vis a vis the status of the third country nationals. European citizenship was regulated with the Treaty of Maastricht thus giving new rights for the citizens of the Member States. Recently, European Union adopted several important directives for regulating the freedom of movement of the EU nationals and third country nationals. The number of third country nationals legally residing in the Member States of the Union increases over the year so the author searches for the deeper relations and meaning of the European citizenship for this category of citizens. Having in mind that European Union has one of the best developed antidiscrimination law in the world it is crucial to analyze how this is implemented for the third country nationals through the implementing of the European citizenship. The third country nationals legally residing on the territory of the Union and working in one of the Member State are important part for fulfilling the employment gap and raising the GDP of the country.

Key words: European citizenship, including, excluding, third country nationals, non discrimination law

INTRODUCTION

Establishing the European citizenship was seen as step forward closer integration of the European Union and creating new entity on the international scene. European citizenship was a condition sine qua non for approximating the Union to the real state functioning. This article aims to analyze the meaning and the scope of European citizenship for the European
citizens such as for the third country nationals. Special emphasis the author puts on the Lisbon treaty and the recent developments of the European citizenship. Introducing the European citizenship was in line with the principle of nondiscrimination and equality as one of the core principle in the European Union. The author analysis the relation of the European citizenship towards the status of the third country nationals in light of the core principle of equality.

Prior to the 1992 Maastricht Treaty, the European Communities treaties provided guarantees for the free movement of economically active persons, but not, generally, for others. The European Coal and Steel Community established a right to free movement for workers in these industries and the Treaty of Rome provided for the free movement of workers and services. There is no common EU policy on the acquisition of European citizenship as it is supplementary to national citizenship. Article 20 of the Treaty on the Functioning of the European Union states that Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

European Union introduced the European Year of Citizens 2013 which will provide and opportunity for the people in Europe to learn more about the rights and obligations established with the European Citizenship, stimulate debate about the obstacles that prevent from the using the rights and obligations, encourage people to participate in EU policies and issues.

INTRODUCING THE EUROPEAN CITIZENSHIP

The European citizenship was formally regulated with the Treaty of Maastricht which entered into force in November 2003. European citizenship means that every citizen holding a national citizenship of the Member States automatically possess the European citizenship. European citizenship is relation between the citizens of the Member States and the Union thus completing the national citizenship. The European citizenship was created for increasing the protection of the rights and interest of the citizens of the Member States.

What was the practical meaning of the European citizenship for the citizens of the Union vis a vis the third country nationals legally residing in the Member States of the Union? The citizens holding European citizenship enjoy certain rights and obligation such as:

- the right to live and work (article 18 TEU);
- the right to vote and stand in the elections (article 19 TEU);
- the right to diplomatic or consular protection, even of the authorities of other Member States when the citizens are not in a EU Member State (article 20 TEU)
- the right of petition to the European Parliament and the right to appeal to the European Ombudsman (article 21 TEU).

The EU Citizens also have a right to:
- contact and receive a response from any EU institution in one of the EU’s official languages;
- the right to access European Parliament, European Commission and Council documents under certain conditions; and
- equal access to the EU Civil Service.

European Court of Justice interpreted the above stipulated rights in compliance with article 12 of the TEU regulating the nondiscrimination based on nationality. The case Maria Sala15 was the first case on the meaning of the European Citizenship on the fundamental status of the nationals of Member States. The Court ruled that nationals of a Member State can rely on their European citizenship for protection against discrimination on grounds of nationality.

A residence permit can only have a declaratory and probative force with regard to the recognition of the right of residence. The possession of a permit may not be a requirement for the right to a benefit, if it is not required that own nationals produce any document of that kind. This would be unequal treatment.16 The principle of equality and nondiscrimination was high on the European Union agenda. The major improvements were made with the adoption of the Treaty of Amsterdam.17 The Amsterdam Treaty entered into force on 1 May 1999, thus broadening the rights and obligations of the citizens with special clause giving power to the institutions to take measures for forbidding discrimination based on sex, race or ethical ground, religion or belief, disability, age or sexual orientation (antidiscrimination clause).

The Member States stated that the equal treatment and respecting the differences of the citizens is the core basis for functioning of the European societies. The primary goal of the Article 13 of the Amsterdam Treaty is not to eliminate the discrimination in the economic area or to complete the Internal18 but to bring European Union closer to its citizens. The Amsterdam

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15 Case C-85/96, Maria Sala v. Freistaat Bayern (1998) ECR I-2691
16 Para 62
17 Treaty of Amsterdam amending the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts, was signed on 2 October 1997, and entered into force on 1 May 1999
18 B. Chavkoska, Gender equality: Law and politics in the employment in European Union and Republic of Macedonia, Faculty of Law, UKIM, Master Thesis, 2007, p.18
Treaty introduced new antidiscrimination clause\textsuperscript{19}, horizontal clause for gender equality\textsuperscript{20}, measures for fight against racism, respecting social rights stipulated in the European Social Charter.\textsuperscript{21} From the European Citizenship it is interesting to analyse the including of racial or ethnical origin as a new base for forbidding discrimination.

When the Lisbon treaty\textsuperscript{22} was adopted new legal form of public participation was introduced for the European citizens. European initiative regulates that one million citizens from the Member States can deliver initiative directly to the European Commission. The initiative concerns the questions in the framework of the competencies of the EU institutions. The Union should include in all its activities the principle of equality and non discrimination. The European Citizenship shall complement national citizenship. The Lisbon Treaty provides that on the proposal of the European Commission, the European Parliament and the Council adopted a new regulation which defines the rules and procedures for the application of this new instrument. In accordance with the Regulation, the European initiative started in the beginning of April 1, 2012.\textsuperscript{23}

The constitutions of the Member States regulate the basic rights for all citizens in their territory no meter the nationality. In Great Britain for example there is no formally difference in the status of the nationals and non nationals because Great Britain has no written constitution and human rights catalogue so every citizen enjoys equal protection of the rights and obligation

a) Civil rights- generally the citizen rights are based on the territory principle opposite the personal principle thus every citizen can enjoy this category of rights. Still, the Member States can limit the civil rights for the third country nationals.

b) Political rights-this category of rights are only enjoyable by the national citizens and almost in every member state are forbidden for the third country national. But when the Maastricht treaty entered into force the European citizens started to enjoy active and passive election rights.

c) Social rights- depend more from the right of residence then from holding the citizenship of the Member State. The basic social rights like health and social insurance generally are available for immigrant workers and foreign citizens.

\textsuperscript{19} Article 13 of the Consolidated version of the Treaty establishing the European Community, OJ C 325/33
\textsuperscript{20} Article 2 of the Consolidated version of the Treaty establishing the European Community, OJ C 325/33
\textsuperscript{22} Article 8, Title II of the Lisbon Treaty, 2007, C 306
Comparative studies analysis showed that the rights of free movement are the basic of the citizenship. The right of free movement is limited on the territory of the country vis a vis the right to move freely on the territory of the Member States of the European Union. The freedom of movement in compliance with the non discrimination principle based on the nationality of the citizens are regulated since the beginning of the integrative process. The European Court of Justice through the case law uses the concept of freedom of movement of workers as directions for further development of immigration policy rather than the hard law.

In the recent years the secondary law regulated the status of the migrant workers giving certain rights to the family members of the worker especially the right on family reunification. Establishing the European citizenship practically means realization of the historical development of the rights, starting form the civil, political rights and the social rights including the rights of health protection, such as insurance in the case of unemployment. European Court of Justice played important role in respecting the principle of equality. In the case P v. S Cornwall County Council, the general lawyer Tesau gave opinion that the Court should interpret extensively the principle of nondiscrimination legislate in the judicial systems of the Member States. In the case the applicant is employed in educational institution as a male worker, but later informs the employer that will undergo a sex change operation. After the operation the applicant is not allowed to return to the workplace. In doing so, the Court interpreted that the principle of equal treatment means that men and women should have equal conditions of employment without discrimination based on sex. Union law prohibits firing workers in such cases, which ultimately means that in this case the employer had violated the principle of the prohibition of discrimination and equality.

EUROPEAN CITIZENSHIP AND THE PRINCIPLE OF NON DISCRIMINATION

Still, the European citizenship in its essential meaning did not include the past or future migration of the third country nationals. The European

25 B. Chavkoska, Is there a free movement of Turkish and Macedonian workers into the European Union, p. 89-113 in the Code Turkish Albanian Macedonian Relations, Past, Present and Future, ADAM-ACTOR 2012
27 Case 149/77, Defrenne v Sabene No. 3 1978 ECR 1365
28 Case P v. S and Cornwall County Council C-13/94 1996 IRLR 374
citizenship did not regulate the status of the third country nationals. The fact that possessing national citizenship of the Member State is a condition for gaining European citizenship means that third country nationals are excluded from this rights. Thus, the European citizenship could be seen as including concept but only for European citizens and excluding for third country nationals who are legally resident in the Member States.

If the European Union gives this rights to the third country nationals the integration of the migrants would mean democratization of the European societies. European Union since the enlargement from the 2004 and 2007 include 27 different states with different languages, economies and political cultures. Next year, second country from the Western Balkan would also become a Member State of the European Union. European Commission in the Action plan in 1998 stated that the European societies are multicultural and multiethnic and that this is seen as positive and important postulate for creating Europe based on the principle of equality and respecting the differences. European Union has made important achievements in economic harmonization through the free movement of goods, services and capital in the Internal Market of the Union. In the area of the free movement of people and especially free movement of workers the Union created special rules for moving for the European citizens and different rules for the third country nationals/workers. Member States have different immigration politics and national rules for citizenship so it is a topic that still is specific for the Member States because it raises the question of sovereignty.

In the Germany, the national law on citizenship was changed in 2000 thus raising the number of the third country nationals who obtained German citizenship especially the Turkish nationals. The amendments of the Citizenship Law regulated that the third country nationals who have are long term residents in Germany for at least 8 years can obtain the German citizenship by the naturalization rules. Additional rules are the knowledge of the German language and the financial sources of the applier for the German citizenship. After the 2000 new 186 688 third country nationals gained the German citizenship mostly the Turkish nationals and the nationals from the Iran, Serbia, Montenegro, Afghanistan and Morocco. One of the most important condition for obtaining the German citizenship is giving up from the current citizenship. The exemption from this rule is only approved for the refugees who could not easy give up from the national citizenship. The refugees and the citizens with no citizenship could gain German citizenship

after 6 years on permanent residence in the Germany. After the French law was amended, the third country nationals could obtain French citizenship after 5 years of permanent residence in the country and in Italy after the 10 years of permanent residence. Thus, this confirms the fact that even in the Member States the question for obtaining the national citizenship is not unified and depends from the national legislator. Macedonian legislator regulates this matter with the Citizenship law.31

The status of the third country nationals is non consistent with the goals of the Internal Market and creating the area of freedom, security and justice. The third country nationals legally residing on the territory of the Union and working in one of the Member State are important part for fulfilling the employment gap and raising the GDP of the country. European citizenship should include the third country nationals who are legally residing in one of the Member State of the Union without applying for the national citizenship. If the third country nationals who are legally residing in one of the Member States of the Union enjoy the rights under the European citizenship, this would unify the current difference between the national policies for citizenship.

The third country nationals legally residing in one of the Member States of the Union enjoy the right for petition to the European Parliament and the right to appeal to the European Ombudsman. Thus, excluding the third country nationals from the European citizenship means that they are marginalized in the society especially the third country workers who are very important for the economic development of the Member States. If the migrant workers are useful for the economic benefit of the Member State then the question is how come they are not part of the decision making bodies.32

The third country nationals who are legally resident in the Union, have no rights to move freely only in case of family reunification or if they are citizens of EFTA, citizens of the European economic area or their family members or citizens of the states that have signed Association Agreements. If the European Union has created the important legal mechanism for forbidding the discrimination among its citizens the important question to be raised is the status of the third country nationals legally residing in the European Union. So the European citizenship form one side brings the people of Europe in a closer community with common values and beliefs but from the other side leaves the third country nationals aside.33

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The legal articles from the Maastricht Treaty regulating the European citizenship aim to bring the Union closer to the citizens thus gaining new rights and obligations. Still, there is part of the European citizens who are not so enthusiastic about integrative processes in the European Union and are not concerned for what next happens in Brussels. This can not be said about third country nationals who still face discrimination based on nationality especially after establishing the European citizenship.

CONCLUSIONS

Even though the European Union has one of the best developed legal model for protecting the citizens from any form of discrimination, the European citizenship deepens the status with the third country nationals. European citizenship can be gained only if the citizen holds national citizenship of one of the Member State of the Union, thus providing rights and obligation. This practically means that besides the integrative process of the Union, the third country nationals who are long term residence in EU are left aside no meter the benefits that this people bring for the country. The Member States have different legal rules for regulating the national citizenship and different rules for immigration policies. This situation is due to the fact that immigration politics are closely connected to the question of state sovereignty so the Member States have no unified rules.

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CONFIGURATIONS OF PRACTICES FOR STRATEGIC HUMAN RESOURCES MANAGEMENT AND EXPERIENCE OF THE REPUBLIC OF MACEDONIA

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ABSTRACT

The purpose of this paper is to identify patterns of strategic human resource management (SHRM) practices, that would lead to sustainable competitive advantage by implementing configurational approach and following the existing trends in the field of strategic human resources management. Specifically, coherent and internally connected systems of strategic human resources management practices form powerful connections that create positive synergistic effects on organizational performance, while inconsistent human resources management practices form combinations that create a negative synergistic effect which negatively affects on organizational effectiveness.

From this point of view, to improve organizational competitive performance on one small economy as Macedonian, it is necessary to define and convey highly focused strategies, politics and practices for human resources management. According to the concept of internal fit, skill development, job enrichment and stimulating compensation systems configurations are outlined orientations in human resource management strategy, which determined the usage of certain practices.

Key words: strategic human resources management, configurational approach, sustainable competitive advantage

INTRODUCTION

The strategic dimension of human resources management receives particular treatment by researchers, by incorporating two basic changes in
the literature: first, the transition from the old personal administrative approach to a new, modern concept of human resources management and second, the transition from generic strategic models to inner aspects of organization of this function.

Ideas for strategic fit or connection and synergistic effects of internal fit, exist in any research on strategic human resources management. Literature on strategic HRM, distinguishes what is called vertical or external fit and horizontal or internal fit. While external fit refers to the linkage of strategic HRM practices and specific organizational context (e.g., organizational strategy), the inner fit refers to coherent configurations of individual practices for strategic HRM that support each other. When researchers examined the concept of internal fit, they usually consider the arrangements of activities of human resources management (interrelated policies and practices), whether to call it these arrangements "systems" (Delery & Doty, 1996), "bundles" (MacDuffie, 1995) or "clusters" (Arthur, 1992).

**CONFIGURATIONAL APPROACH TO STRATEGIC HUMAN RESOURCE MANAGEMENT**

Configurational approach contributes to the explanation of strategic HRM and it presents useful view of the internal aspects of the function by means of analyzing and presenting synergistic integration of the elements of which it is composed. In this sense, the system of human resources management is defined as a multidimensional set of components that can be combined in various ways to form a number of possible configurations. From these mentioned configurations, researchers draw samples of management representing various ideal possibilities for the human resources management. Bearing this in mind, these systems must be consistent with the terms of the environment and organizational conditions, but also to be internally coherent.35

Researchers of this approach emphasize two important questions: first is the idea of HRM practices to be connected one with each other (horizontal integration) and the second is the idea of HRM practices to be linked to the wider context (vertical integration). This means that a set of human resources practices may be more suitable because they match one with each other for mutual support within a defined set of behaviors, motivations and

employees competencies, and therefore in turn are appropriate for specific organizational context.

As it is shown in Figure 1, it is possible to draw from elements of the complex system, multi combinations, equally effective, that will suit the organization and depend of its specific internal and external circumstances.

Table 1. CONFIGURATIONAL PERSPECTIVE OF SHRM


No matter of the type of internal fit, the basic assumption of this perspective is, that the effectiveness of any (individual) practice of human resources management depends on the effectiveness of other practices,\(^{36}\) coherent system of supportive practices have bigger effects on organizational performance than the sum of the effects of any individual practice.\(^{37}\)

The practical benefit of the configurational approach is two-fold:


First, it allows practitioners to bring together separate practices in the rankings, so they became important factors in locally organized system; Second, this recipe is probably difficult to imitate by competitors by copying or by "reverse engineering".

ANALYSIS OF EXPERIENCES IN FOREIGN COMPANIES

Research studies that focus on the impact of strategic HRM practices in achieving sustainable competitive advantage popularize in recent decades. After 1990, the attention of researchers is focused on specific patterns of practices for strategic HRM and the way they are integrated one with another in order to add value and impact on organizational performance.38

In the U.S., the theory and the practice of strategic HRM are closely related, but not integrated. If they are connect in a proper way, some practices can reinforce one another, and when there is no connection between them, they have negative effect on the performance.39 Alternatively, some of the practices may be substitutes.

By adapting the configurational approach to strategic HRM, Ichniowski40 explained that in situation when human resources management practices are combined in different systems, the effects on sustainable competitive advantage are greater than when the practices had individual application. Furthermore, Marchington and Grugulis,41 explain that HRM practices "cannot be implemented effectively in isolation and is that the combination of practices into a coherent package that matters." Taking this argument a step further, MacDuffie42 argues that the appropriate unit of analysis for studying the strategic link between different HRM practices and competitive advantage does not involve individual practices as much as interrelated and internally consistent practices, called "bundles." Considering

the similar arguments, Perry-Smith and Blum, suggest that employee behaviors (that are embedded in routine, complex interaction patterns and organizational-specific synergies) can create organizational capabilities that create value, are difficult to imitate, rare and irreplaceable.

Although the majority of the above frameworks and studies have been developed and conducted in the companies in the U.S, given framework and case studies can serve as a platform for further research, and emphasize the need for understanding of human resources from the European perspective, separately from the US. Although not homogeneous, the European Union serves as a collective context, certain enduring collective regulations, practices and norms. In fact, the European Commission by adopting the Lisbon Strategy in January 2000, has set a goal to make the EU the most competitive, knowledge-based economy, capable of sustainable economic development.

In this context, the establishment of various combinations of bundles of strategic HRM practices for sustained competitive advantage, could gradually help to establish common bundles of policies and practices of strategic HRM, applicable to all members of the European Union.

STRATEGIC HUMAN RESOURCES MANAGEMENT PRACTICES IN THE REPUBLIC OF MACEDONIA

Study of human resource management practices and the extent of their development in the Republic of Serbia (as a country like the Republic of Macedonia in terms of economic and political conditions and national culture), conducted Bogićević, Janićević, 2009, at a sample of 38 companies, indicates that the function of human resource management is underdeveloped compared to the European Union countries. The major drawbacks of the human resource management in the companies are listed as follows: 1) human resources management as a function, still hasn’t significant influence in the organizational strategy formulation; 2) in the most of the companies the general manager is responsible for decisions relating to the HRM; 3) low level of communication with staff management;

4) low level of employee participation in decision-making and influence on company's overall policy; 5) insufficient competence of HRM.  

The comparative analysis of HRM practices that are implemented in companies of Slovenia (as a member state of the European Union) and in Serbia and Macedonia (as countries in transition) indicates the existence of differences in the role of human resources management in companies in the following areas: process of strategy formulation, organizational level at which important decisions for HRM are made, systematic planning and organizing the training and development of the staff, performance appraisal, rewarding systems according performances, influence of trade unions and employee participation in decision-making.  

Taking into account the before mentioned facts, we conducted research in 45 companies from the private sector in Republic of Macedonia, where it is noticed an explicit and formal use of strategic human resource management practices. We have collected relevant data, using 1) metric checked and standardized instruments, 2) we have conducted an analysis of the degree of strategic competitiveness of a certain number of organizations, 3) we have made an attempt of action towards implementation on strategic systems of practices in the organizations, 4) attempt to raise the level of awareness among managers and employees for the importance of application of configurations of the strategic HRM practices for achieving strategic competitiveness of the organizations.  

Data collections have been done through the administration of structured questionnaires to a managers in selected companies. Review on some of the most relevant studies adapted from Ability-Motivation-Opportunity (AMO) model has led us by in determining areas that refer to

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46 Overall speaking, these features of HRM in Serbia illustrate the current situation of human resource management in the companies in the Republic of Macedonia.


48 Specified research was conduct during the period: September 2010 - May 2011 and it is a part of the doctoral dissertation: E. Tosheva „Configurational approach to the strategic HRM and its influence of the sustainable competitive advantage“ - Institute of economics – Skopje, 2011, pp192-234.

49 Organizations that satisfy these criteria were select from the Macedonian register of the companies and they are industrial and service companies, which are qualified as significant competitors in their field and having developed proactive, formal strategic human resource management practices. Analyzed companies are from various sectors such as telecommunications, banking, the electricity sector, tourism and catering, trade sector, food production, IT, consulting and insurance sector.

each dimension of the strategy. Supporters of AMO model suggested that the components of the strategic bundles of HRM practices have been grouped into three dimensions.

In our research, we concluded that the strategic usage of HRM practices entails the use of certain practices in the various areas of HRM (recruitment, training, performance evaluation and design of the work). Thus, we have been analyzing the influence of the following strategic HRM practices: employee involvement in training, the existence of the objectives of the training programs, the existence of long-term budgets for training, a comprehensive system for recruiting staff, the usage of performance appraisal systems, the determination of earnings depending on performances, developmentally based assessment, internal and external promotions based on performance assessment, design of the work according to the skills of individual employees, teamwork and employee participation in decision-making program.

Considering strategic use of human resources management practices, we conclude that the practices used in organizations in the Republic of Macedonia, were select for the foreseen managerial approach. Or, by saying in other words, the variation of shared set of practices for human resources management could represent latent, determined architecture, philosophy or character, which connects each set of practices for human resources management.

In summary, in our conceptualization of HRM, the strategy contains three configurations of practices, respectively corresponding to the each dimension of strategic HRM configurations: skill development, job enrichment and incentive reward systems. These three dimensions are treated in this study as latent factors that explain the correlation between practices that belong to any category. According to previous, we conclude the following:

**First,** organizations that adopt this approach placed emphasis on developing skills and abilities of its workforce. The skills development configuration means that the organizational human capital can be continuously improved through intensive training and comprehensive recruitment activities.

**Second,** the HRM strategy emphasizes job enrichment by encouraging teamwork, autonomy in operations and work design according to skills and abilities of individual employees.

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The third component of the strategy for HRM, incentive reward systems, focuses on providing adequate, equal and fair rewards that motivate employees to effectively contribute for achieving organizational goals.

CONCLUSIONS

As we already pointed out, configurations or systems of strategic HRM practices represent a certain coherent combination of practices, built according to the organizational logic. Configurations of human resource management practices (also known as systems, clusters or dimensions) represent basic concept of approach of internal fit or HR management strategy matching and has been base on the idea that the practices within the configurations are internally consistent. We have been explored the use of the configurational approach to strategic HRM by finding three strategic HRM bundles or configurations that have been applied in the Republic of Macedonia.

Following the samples indicated by a number of researchers in the field of strategic human resources management, we concluded that the system of human resources should be divided into the following functional areas: work design systems, recruitment, selection, socialization, evaluation of performance, motivation, reward, training and development, and management of reward / dismissal. Obviously, the choice of the policies and practices for human resources depends on the human resources strategy (whether explicitly or implicitly formulated), but also those activities are closely interconnected.

Specifically, strategic bundle of skill development involves monitoring and evaluation of the training, setting goals of training programs, setting budgets and systems for recruiting staff.

Compensation bundles have positive impact on performance and sustainable competitive advantage, if they are fairly set, externally competitive to attract and retain the best workers and motivate them to a better performance of their work and achieving superior business performance.

Work enrichment configuration is associated with providing greater job responsibilities at all organizational levels, job involvement, teamwork, broader job descriptions. Thus, through job analysis and work design according to the skills of individual employees emphasizes the importance of organizational flexibility and multi abilities that positively affect organizational performance and sustained competitive advantage.

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LEGAL ASPECTS OF THE INTERNATIONAL TERRORISM

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ABSTRACT

Terrorism and what comes out of it, has became one of the most dangerous phenomenon of modern time. From the fact that it is hard to predict it and the consequences that it brings with itself, terrorism becomes a political and moral problem that people from the 21 century have to deal with.

For many individuals, groups and organizations, terrorism has become a way of solving problems, no matter if they are political, religious or ethnical.

Modern terrorism brings the need of a constant fight with all the legal assets, because according its own primary definition terrorism represents illegal usage of power or violence from individuals or groups.

Terrorist attacks with all the brutality that they have established the need for an international fighting system against it, of course if we all want to bring justice and global safety and not leadership and a halo of peacekeeping above all of us.

Key words: Terrorism, UN, international law, international safety.

INTRODUCTION

Appearing since the XIX century as a means of conducting political struggle, at the end of last century, the terrorism is slowly taking shape of a highly developed international network of terrorist organizations with branches in almost all countries of the modern world.

According to the principle of connected vessels the organizational structure has increased by using more sophisticated methods and tools of terrorist activities. The development of the terrorist activities is also filled with increasing list of categories of people that find place on the black list of...
"fighters for justice." If half a century ago victims of international terrorists, as a rule were politicians, diplomats and businessmen, at the beginning of this millennium the dominant part of the victims have been civilians and innocent people, including elderly, women and children.

The perception of the international terrorism phenomenon is impossible without consideration of the "despised person," with whom the members of the international terrorist organizations are intimidated. These people - are usually the leaders of the terrorist groups, half mystic people, that nobody has ever seen them or haven’t seen them for a long time. This aura of mystery is often created by the media informing of such events.

Terrorism usually happens when society is facing a deep crisis in the first place - a crisis of ideology and national legal system.

September 2001 was marked by three vicious acts of terror carried out with the highest level of professionalism and extreme cruelty. Aircrafts flew by bombers of the most powerful (at that time and maybe even now) terrorist organization “Al Qaeda” attacked the World Trade Centre in New York and the building of the Ministry of Defence in Washington. These arrogant acts of terror caused a qualitative change of the international community towards terrorism. Following the events in 2001, an international coalition against terrorism has been created. A military action in Afghanistan has been carried out and a lot of political and economic measurements have been adopted in order to eliminate the international terrorism, that will be remembered as major events of the international political history in the first decade of the XXI century.

LEGAL DEFINITION OF INTERNATIONAL TERRORISM

Because of the different pre- ideological connotations there is no rule and no general definition for defining terrorism because of certain political parties, social groups, countries and relevant international organizations are treated differently in some particular segment of the previously elaborated actions. So at the same time we understand some of the organizations both as terrorist and as liberal.

The linguistic meaning of the term terrorism is derived from the Latin word terror which means fear or horror. The science uses more essential, but essentially similar definitions for this term.

In a political sense terror means violent actions undertaken with a political purpose for intimidation and uncompromisingly breaking the resistance against which it performs.54

Consequently, the term "Terrorism involves the systematic use of violence to create a general climate of fear among the people, which aims to achieve a political goal."  

Similar to this is the definition commonly used by the Ministry of Defense of the United States that the word terrorism means: "the premeditated use of violence or threats of violence to induce fear, intended to coerce or to intimidate the government or the society, to the extent of means to achieve political, religious or ideological objectives."

Starting from the existing basis for defining the notion of international terrorism is defined as: an act of violence that is executed on individuals or objects which at that point are being under the protection of international law (assassinations of presidents and prime ministers of state, diplomatic missions accredited to Heads missions sovereign states or international organizations) attacks in public places, streets, airports, train stations and more. Acts of international terrorism cause disruption of the stability of international relations.

Words terror, terrorism and terrorist act themselves have a generic meaning. However, some relevant international legal theorists who elaborate this sphere have different approaches on the need to define these terms. Thus, the authors: S.A.Efirov and A.V.Naumov, thought that it is much better not to determine a universal definition of terrorism because that would actually limit the certain aspects of this concept.

According to other authors like Russian theorist A.E.Zhalinski It would be useful to attempt to provide work defining of terrorism in a generally acceptable legal level.

One of the opposite concepts is the one developed by the authors V.Malison and S.Malison, who do not give definitions of terrorism and terror in the general sense of the term, but they give a wide possibility to determine the actual events that are directly or indirectly related to these terms.

Other relevant definitions that determine this phenomenon are the following: It is an organized form of a violent behavior in order to influence the policy or to intimidate the population to influence the government policy.
Symbiotic action directed to influence political behavior by applying extremely unusual means including the use of violence and the threat of violence;\textsuperscript{61}

It is a use of fear, violence or threat to achieve political goals through fear, intimidation or coercion;\textsuperscript{62}

Almost all illegal acts of violence carried out in order to achieve political goals by means of secret groups;\textsuperscript{63}

Intentional, deliberate systematic murder, heavy bodily injury or threatening the innocent to create fear and intimidation, for gaining political or tactical advantage, usually to influence a specific target group;\textsuperscript{64}

Politically motivated violence by small groups claiming to represent the masses;\textsuperscript{65}

Unlawful use of force or violence by a group (groups) of two or more individuals, against people or property to intimidate or coerce the government, civil population or any segment of their own, in order to achieve political or social goals;\textsuperscript{66}

From the vantage point of the object of abuse, terrorism causes harmful effects on life and health, property and legitimate interests and at the same time performs social disorganization. The violence is often accompanied by physical force that results in injury or death to the objectives of terrorist act. But on its own side it is accompanied by psychological effects and distortion of material values, especially when the terrorist act is followed by a ransom of people that are temporarily detained and are subject to blackmail.\textsuperscript{67}

Such things said the Geneva Convention from 1937 on preventing and prosecuting terrorism and the creation of the International Criminal Court. These documents were the first to define the concept of terrorism. However, the Geneva Convention of 1949 is well known, but still contains no definition of the word terror.\textsuperscript{68}

\textsuperscript{61} Thomas P. Thornton, \textit{Terror as a Weapon of Political Agitation: an internal war} (The Free Press, New York, 1964); str. 71-99
\textsuperscript{63} Lester A. Sobel, \textit{Political terrorism} (Facts on File, New York, 1975) str. 3-12
\textsuperscript{64} James Poland, \textit{Understanding Terrorism: Groups, Strategies, and Responses} (Prentice Hall, Englewood Cliffs, NJ, 1988) str. 11
\textsuperscript{66} US Department of Justice
\textsuperscript{67} International Convention for Combating Terrorism 1963
\textsuperscript{68} Дмитриева Г.К., Лукашук И.И. Становление международной нормативной системы. Москва, 1995. стр.128.
FEATURES AND ASPECTS OF INTERNATIONAL TERRORISM

Checked from another point - daily or relativistic terms, terrorism is expressed in material loss or destruction of goods, facilities of urban infrastructure, which have vital economic, social, cultural, and effective-media relevance to an environment that is the subject of a terrorist act. Such facilities are usually aircrafts, ships, buildings, office buildings, complexes of the infrastructure.

Often, the destruction of the material goods, although it does not cause human casualties, in theory it is reduced to a terrorist act.

International legal aspect of the fight against terrorism, has been completely analyzed by the bodies of the United Nations. The foundations on which the legal aspect is to be defined, are implemented in numerous conventions, resolutions, contracts, and publications that are the result of an extensive research. According to them, the legal aspect covers: the basics of the international law; the international criminal law, including the international cooperation in the field of criminal justice; international law relating to the issues of using force (jus ad bellum) and international humanitarian law (jus in bello); the international refugee law; the international law which is related to the international human rights and freedom.\(^9\)

Terrorism as a criminal act may be performed by an individual against another individual (of course if it is a public figure from the political, military and social life of a country), by an individual on a group of people by organized terrorist group against an individual or group of people, and by all the previously listed options on tangible goods.

Terrorism is linked to a number of international criminal acts. In turns, to such an interpretation a unique approach is required, leading to acceptance of the only international legal understanding, which allows an essential agreement to be obtained for the assessment of the actions that are needed to be taken against them.\(^7\)

Modern terrorism often carries a sign of an organized crime. This allows the terrorist act to be treated as criminal offense, and the applicable regulations of the national criminal codes to be applied to the terrorist organizations and their members.

But the usual method of the executive responsibility in the execution of a criminal offense in terrorist organizations and terrorist acts are not normally used, so in the most national legislations each member of a terrorist

\(^9\) International Law Aspects of Countering Terrorism, UNITED NATIONS OFFICE ON DRUGS AND CRIME – Vienna, UNITED NATIONS New York, 2009
\(^7\)Ляхов Е.Т., Политика терроризма, Москва. 1977. стр.217.
organization or terrorist group should be responsible for all criminal activities that are carried from its side. But by definition there is a clear distinction about terrorist groups, organizations, paramilitary formations, armed groups and military sides in a conflict, although often in reality we are aware that it is used in one way or another or some terrorist organization can become a military site, and thus not liable for the previously conducted terrorist acts.

In the circumstances of terrorist activities, the objective should be always professionally analyzed also about the organizers and not just the perpetrators of specific actions or activities. This opens the possibility for coordinated fight against terrorism internationally (rather loosely) level, and thus legal use of political, diplomatic and economic means available to states and communities at large.

From the standpoint of subjective characteristics of terrorism - it is a crime. A crime committed with a clear intent and premeditation, with the predetermined effects of it. So it is about performing an act with direct intent. In the case of terrorism there is a clear distinction of intent only to kill a person (then it comes to any of the crimes of murder). Normally at the crime of murder there are two sides: a killer and a victim, or rather doer (perpetrator, executor) of the crime and the victim as a subject on which the act is performed.

In the terrorist act, despite the two sides appears a third one and that is public community or media effect that would be caused by the act of the murder. From this perspective, the victim arising as an act of suicide in a terrorist act (people bombs, black widows, etc.) are not a target themselves but means, because their activities are directed towards achieving pre-set goals (consciously or unconsciously, or instructed by others), or disturbance of the public and intimidate the population or authorities in a country or community. Often the act of the victim of an individual is self promotion of the most religious, political or other beliefs. These living bombs at that moment become antisocial personalities because they manifest indifference to the victims, following by cruelty because in this kind of terrorist acts there could often be many innocent victims, or people die just because they found themselves in a certain time on a certain place.

However, the motives of the terrorism are not always so simple that they are not only reduced to violence, gain, revenge.

The notion of the so-called "state supported international terrorism" (State supported international terrorism), can be defined as any of the following acts that are conducted by a state:
- Delivery of weapons, explosives or dangerous materials to any people, groups or organizations participating or that will participate in the commission of an act of an international terrorism;
- Execution, preparation or interaction with individuals, groups or organizations who plan or intend to commit a specific act of international terrorism;
- Delivering or providing financial support to individuals, groups or organizations in planning and implementation at that particular moment in the future the specific act of international terrorism;
- Providing diplomatic protection to people who assist or participate in the performance of a specific terrorist act in the mode of international terrorism;
- Providing protection, asylum or avoiding an arrest of people on their own territory, who had previously committed any act which is reduced to the classification of international terrorism;71

But the international law treats this problem partially if certain centers of power believe that the action of certain countries or international organizations is legitimate and within the laws and contracts then it is not a crime (terrorism) or not reduced to the principles of the responsibility.

However, for such a thing there is no universal definition, because according to the military law: the use of military force of one (or group) against another state in order to occupy a particular territory is an act of aggression72. But the question that arises is whether it has also elements of terrorism, but of course at a higher level. In those circumstances there would be a so-called state terrorism, which is not that familiar to the international law and especially the notion of the international law.

The term “state terrorism”, received wide reflection in the international relations, as a consequence of the fact that this term was mentioned in certain international documents. Thus, the most widely accepted concept for the understanding of the term “state terrorism” is supported by the Resolution of the United Nation General Assembly 39/159, “For the not allowed policy of state terrorism and other acts of States, in order to cause undermining socio-political system in other sovereign state” adopted on the 39th session 1984. 73

However in this resolution there is no systematic determination of the state terrorism definition, because only in general terms it is defined as an action aimed at forcibly changing or undermining social and political

71 Антоня Ю.М., Тероризм, Москва, 2008, стр.20.
73 Грачёв С.И. Ретроспективно-правовой обзор понятия „Государственный терроризм“, Юридический мир.2007. Бр.10.стр.19.
constitution of a sovereign state, also destabilizing or changing the legally elected government. The term “state terrorism” is defined in more details in Geneva Declaration on Terrorism in 1987. It is referred to:

- The practice of the police state that is directed to its citizens through: surveillance, dispersing public gatherings, information control, torture, false arrests, mass detentions, false charges, public trials, murder;
- Armed aggression against the target state, thus endangering the civilians living in another country;
- Cancellation of civil rights and liberties, the Constitution and law, under the pretext of fight against terrorism;
- Disinformation campaign intended to destabilize other countries;

Considering all the above one of the main problems in the legal science, which has a striking methodological importance is the question of making clear definitions. The concept reflects the process of maturation of the source principle, conditions and historical changes that should clearly define the phenomenon. In this case, the definition of international terrorism, its occurring shapes and aspects is more than putting it into a simple theoretical framework.

CONCLUSION

The terrorism today is the most powerful weapon, a tool that is not only used against a particular government, but also the government takes advantages of the terrorism to achieve their goals.

The main strategic prerequisites for a successful fight against international terrorist organizations and the terrorism in general are:

- Restoration of sustainable peace;
- Blocking the terrorism at an early stage and prevent the formation and development of structures;
- Avoiding ideological justification of terror under the guise of "protecting the rights of the Nation," "defense of the religion", etc;
- Transfer of control of anti-terrorist activities of the surest security structures to avoid the possibility of interference in their work of any other organ of government.
- No concessions to terrorists, and no act to go unpunished, even if it may cause loss of hostages - because experience shows that any successful terrorist action provokes further growth of terror and increases the number of victims.

74 Государственный терроризм, Словари и энциклопедии на Академике, URL: http://dic.academic.ru/dic.nsf/ruwiki/192516
The line which separates the activities of the legal armed formations from terrorist actions and the actions of international terrorist organizations, groups and individuals must have a clear position on the separation. Otherwise, it will be difficult to create an affordable platform, supported by the majority of the international community to effectively combat the scourge of the modern world.

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The Article presents and analyzes notary’s authority in non-contentious proceedings in the Republic of Macedonia and in comparative law, as well as the chances to increase the scope of their authority regarding non-contentious proceedings, all in order to discharge courts from undisputed matters. As it is implied in the suggestions of this paper, citizens, economy, and courts would benefit from entrusting these matters under notaries’ jurisdiction, in the form of faster and more efficient enforcement of these rights and by liberating courts from indisputable matters.

Key words: Notary, non-contentious proceedings, process economy

INTRODUCTION

In contemporary law, the Notary is an Institute recognized by most legal systems throughout the World. The reasons for this are well known. They are the benefits for citizens, legal entities, state and legal systems, legal security in national and international commerce, etc. However, one can not talk about uniformity of power, status, rights and duties, ways and conditions of acquisition of the notary role etc., on the contrary, they all vary in different countries and they are adapted to the specifics of

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75 Review scientific paper
legal systems, tradition, history and impact of certain notary systems in the actual country.

It is a world trend and tendency courts to be discharged from undisputed matters, which only slow down and hamper their work, and instead these matters to be delegated to institutions of public trust, which may be even better, faster, more effective and efficient than courts regarding indisputable matters. These days, notaries, but only those who belong to the Latin notary system, enjoy a wider range of authorities, since former court’s non-contentious matters has been placed in their charge. In some of the modern legal systems, non-contentious matters of civil procedure, in which there aren’t any disputes between parties and they mostly come down to drawing up documents and others procedures of preventive justice, such as inheritance cases, are transferred to the notary’s jurisdiction and have become an integral part of their scope of work.

The necessity to discharge courts from the enormous number of indisputable matters, (in)efficiency, (none)quality procedures and dis(satisfaction) of the parties with the given protection by courts is more than evident. Statistics and comparative experiences have shown that this transfer of undisputed matters from courts to other public bodies or individuals with public powers, who are able to resolve these cases professionally and efficiently, is imminent and has to be done. According to the principles of process economy, procedures should be conducted without delay, within reasonable time, with less cost and preventing every abuse of the rights of the parties. Thus new solutions provided by the Notaries Act, Law on Non-Contentious Proceedings (LNCP) from January 2008, and The Act on Amendments to the Act on Obligations from July 2008, stipulated transfer of some of the court’s responsibilities regarding non-contentious procedure from their authority to notaries’ authority, which extended the scope of notary work significantly.

Besides the scope of primary notarial powers which remained same as those stipulated in the Act on Notary works from 1996, notaries today have transferred non-contentious proceedings’ powers in the following areas: Succession, in preparation of wills and other documents of special importance for the Institute of Inheritance (Agreement for lifetime support and Agreement for assignment of property rights during lifetime),

76In this way at the end of 2006 the total number of unsolved cases from all courts in Macedonia amounted to 855 000 cases. At the end of 2009, the Primary Court Skopje II has completed the year with 569 227 unresolved cases, the Primary Court Tetovo-46 800 unsolved cases, the Primary Court Kumanovo-42 757 unsolved cases, the Primary Court Prilep -42 061 unsolved cases, the Primary Court Gostivar-36 837 unsolved cases, the Primary Court Bitola 32 262 unsolved cases “Report of the Judicial Council of the Republic of Macedonia for 2009”-March 2010.
authorization in the process of division of joint objects or property as well as the procedure on ways to manage and use joint items as notary deposit and for storage of documents.

By the new Law on Non-Contentious Proceedings the authorities for dealing with succession proceedings and division of mutual object or property were transferred from the courts’ to the notaries’ jurisdiction, in the form of a notary act, if there is no dispute over the manner and conditions of division.

According to the Notary Law, notaries have jurisdiction to compose a notary act for last declaration of will – testament, taking the testament in storage, taking other documents, money, securities in storage and handing over – deposit. The notaries’ authorities regarding testaments and deposit are not exclusive, since in line with them, these same matters are also under the jurisdiction of Primary courts in non-contentious proceedings.

By the Law on Amendments to the Law on Obligations (LO) from July 2008, the verifying of the contract for lifelong support and contracts for assignment of property rights during lifetime are under notaries’ jurisdiction besides Primary courts.

The notaries’ authorization, in the form of a notary act, to compose contracts for regulating property relations between spouses and individuals who live in an illegitimate union indirectly indicates notaries’ authority in non-contentious proceedings to regulate the manner of governing and using mutual subjects.

The scope of notaries’ authorities is not fully closed here, since Article 134 of the Law on Notary Public leaves opportunity for courts and other bodies to entrust notaries with other matters regulated by specific law.

The experience of transferring legal authorities for non-contentious proceedings to the notaries, in the countries of Latin notary as well as in Macedonia, shows positive results that influence both the total legal system and the rights of citizens and legal entities, in the form of faster, more quality and more efficient way to access one’s rights. Still, since it is a relatively new solution in our law, the executed comparative analysis of the notaries’ authorities in non-contentious proceedings as well as the application of legal solutions in practice brings the conclusion that certain solutions of our legislation should undergo some changes and amendments, which would certainly be aimed at further consolidation of the notary’s role in the judicial system.

Future legal amendments would also go in that direction, or in other words the amendments to the stipulations of the non-contentious proceedings that will regulate the authority for taking negative legacy statement from the notary. According to the Law on Non-Contentious Proceedings
Proceedings, the positive legacy statement could be given in the presence of a notary, but in case of a negative legacy statement that possibility is not explicitly prescribed in the law. According to Article 170 Paragraph 3 of the LNCP, the statement for accepting legacy is given in court in the presence of an independent legal adviser, legal adviser and professional associate or at the notary’s and in a diplomacy-consular office in the presence of individual at least ranked as a consul, while according to Article 170 Paragraph 2 of LNCP, the statement for giving up legacy enters in a record in the presence of a judge, and in the diplomacy-consular offices of the Republic of Macedonia in the presence of an individual at least ranked as a consul. These legal provisions have caused many debates regarding whether the negative legacy statement can be given at the notary. Future amendments or additions to the law should cover the practical work of notaries and dismiss all debates that rise over the justification of that kind of notaries’ authority.

In favor of the rights of the participants involved in a procedure; there is a recommendation to the notaries that they shall be allowed to bring a partial decision for the part of the bequest that is not disputable. This kind of decision is part of the Law on Succession in the Republic of Croatia: “If the composition of bequest is only partially undisputed, the notary after determining the heirs and legators will bring a partial solution for the part of the bequest that is not disputed.” So, the procedure for the undisputed part of the bequest will finish earlier without participants expecting outcome of the litigation procedure, in other words, administrative procedure, which could sometimes “impede” the fulfillment of their legacy rights over the undisputed part even for years.77

Another possible direction in which the future changes in legislation could go, is by setting a time framework during which the notary, as a spokesman of the court, shall execute the non-contentious proceedings and reach a resolution, but if he overpass the boundaries set with the time frame, he needs to hand in notice to the court in order to explain the reasons behind his discrepancy. The Croatian Law on Succession puts forward a solution which is not included in our law. Strictly speaking, according to this law the notary, who is entrusted with the non-contentious proceedings, is obliged to settle the subject matter within a fixed period, determined by the court who gave the jurisdiction to the notary in the first place, on the contrary, the notary is compelled to explain the reasons why he failed to execute the subject matter within the time limit in a separate notice. Same solution as the

77 On the contrary, there is an attitude in our legal practice that a partial solution cannot be reached: “In LNCP it is not predicted for the notary to come up with a partial solution, and even more with a subsidiary application of the Law on Civil Procedure (LCP), Article 315 of LCP, it is allowed for the court, i.e., the notary to reach a partial verdict, but not a partial solution too. Questions and answers, question no. 14 Notarius no.14, Notary Chamber of the Republic Macedonia, Skopje 2009 pg. 49.
Croatian is provided in the Law on Non-Contentious Proceedings in the Republic of Serbia, while similar solution is offered in the Law on Non-Contentious Proceedings in Montenegro, where the notary is anticipated to settle non-contentious proceedings within 30 days after he receives the jurisdiction for execution of the procedure. With the implementation of this obligation the court has the power to withdraw the subject matter from the notary’s authority and to entrust it to another notary, i.e., to carry out the probate proceedings himself, and of course, as a must, here will be put forward the question on notary’s disciplinal responsibility too.

When it comes to passing a lawful resolution on the measures of assuring one’s inheritance, it can be only reached by court, but there is no particular reason as for why it cannot be done by notaries in emergent cases, in which bringing a quick solution is important in order to lower the danger of reducing the value of the estate. Thus, notaries in Croatia are entitled to take measures, to complete a death certificate - if it was handed to them unfinished, to index the legacy, as well as they are allowed to take steps for assuring the legacy, such as leaving the heirloom to someone in storage, taking temporary measures, naming a trustee, summoning an estate administrator – Article 157 of LNCP (which is different from the authorities of Macedonian notaries, as they can only come up with a suggestion on which measures to be taken but cannot reach a lawful resolution as well.) According to Article 1312 of the French code of civil action, measures for assuring the legacy are taken mainly by the court that is located in the same place as the legacy itself; however some of the responsibilities concerning these measures can be entrusted to notaries too. In this way, by passing some of the authorities to notaries, the path to justice will be much shorter, easier and faster, since the time span of passing the subject matter from notaries to court, which sometimes is enough to hurt the rights of the proposer to the temporary measure, will be cut down above all.

Positive comparative experiences regarding the implementation of a special electronic Entry - Register of wills, on central level, with a restricted entrance to its data, on the one hand show that the succession proceedings are more concentrated, the process economy is satisfied, and on the other hand show that the number of new-found wills is reduced. The positive comparative experiences related to the solution on implementing a Central Register of wills in which shall be recorded data of the testator, date and place of composition of the will, the fact that the will is put in storage, if the will is returned to the testator, the place, i.e., the notary who keeps the will etc.; it would be great if in future they become part of our legal system likewise. For example, the legislatives of Slovenia, Croatia, Bulgaria, France, and The Czech Republic are worth to be mentioned. The Notary
Chamber in Slovenia manages an electronic Central Register of wills. The Central Register keeps data of notary wills, wills composed by attorneys who put them in storage and other wills left to notaries in storage, coupled with data of wills under court’s authority. The notary shall issue a certificate to the testator that the responsibility for the storage of the testament belongs to the notary itself. Attorneys, notaries and courts that have drawn up wills or have taken them in storage, in addition to other data related to wills are under legal obligation within period of 15 days after they had received the will to send notification to the Croatian Register, managed by the Notary Chamber. In the Register of wills are recorded facts that the will is made (public or private), given reports on the needs of the non-contentious succession proceedings, the information that the will is given in storage, whether the testament is returned to the test administrator and/or whether the will is declared as valid and who made the declaration. In Bulgaria, each notary is obliged to keep special books and entries in which shall be recorded data about handing over in storage their own hand-written wills, the returning of the wills and their proclamation, books for notaries’ wills and their revocation. These entries and books from all notaries in Bulgaria are a constituent part of the informative system of the Notary Chamber, to which the entrance is limited and regulated by an appropriate act. In France, notaries are under obligation to register entrusted wills in the special entry of the Notary Chamber of France. Central entries of wills are present in the law of the Czech Republic too.

In this way, and all in effort to meet the key point - even the last wish of the testator to be fulfilled no matter where he lives or resides in conditions of increased migration of people and no matter where the testament is located, several European countries established “European network of registers of wills association” in July 2005.

In that direction would go the obligation of notaries, i.e., judges (if the act of composing the will remains under court’s jurisdiction and the court makes the will) in period of 24 hours from the completion of the will, i.e., putting the will in storage, to file a request for including the will in the Register. The Register shall be a public book managed by the Notary Chamber and all data recorded there shall not be available for public display until after the death of the testator, except for the testator himself and his proxy. In that way - with the use of such Register - the notary who is in charge of the succession proceedings can check very fast and easily, before he starts with the probate proceedings, if the heritage-owner has made a will under other notary’s jurisdiction throughout the state and in a fixed reasonable legal period he shall notify the notary, i.e., the court, that the administer of the test is dead or pronounced dead, after which the will shall
be officially declared. The transcript from the Register related to the declaration and the will within reasonable period of time shall be given to the authorized notary to carry out the succession proceedings. In cases when the heritage-owner have composed more wills, each will shall be declared by the court, i.e., the authorized notary who kept it in storage and after their delivery to the authorized notary within reasonable period of time, the notary shall decide the rights to the inheritance, furthermore, the heirs of the will and legal heirs according to the legal norms, especially taking into account the regulation from the Law on Succession (Article 118) which regulates the connection between the previous and latter will. Hence, not only the number of new-found testaments will be reduced, but there will be also regulated all estate relations between the successors, in a shorter period of time and in one proceeding, which of course meets the interest of the heirs.

By implementation of the above named corrections in legal regulations, procedures will become faster and the rights of the participants will be protected in the succession proceedings, through skipping the utterly unnecessary “moving” of the subject matters from notary to court and vice versa, plus the notary will be more responsible towards the cases etc.

Regarding the procedure for notary deposit, there are comparative solutions, especially the solution of Monte Negro and that offered in the Model law prepared for the Notary of Serbia, that leaves room for reasoning whether any future correction to the laws regulating the notary deposit (including the corrections made to the Law on Obligations that refer to putting forward and selling things that are owned (Article 316-324)) is more useful for extending the span of cases that can be trusted to notary deposit, hence notaries will be authorized to deal with other convenient subject matters. Our Law on Notary in Article 86 page 2 rules that the notary is obliged to take in storage money, bills of exchange, checks, public bonds and other securities. By the Law on Notary is not offered a chance for the notary to take precious metals or other valuables in storage, which is only unintentional negligence of lawmakers and this oversight, shall be fixed as soon as possible. In that course go changes and amendments of the Law on Notary from February 2007 in Croatia, therefore was allowed to be taken in deposit not only money but also, checks, bills of exchange, public bonds and other securities as well as other valuables. Law on Notary in Monte Negro allows better solution according to which notaries of Monte Negro are entitled to take in storage money, securities, other documents that can be monetized, precious metals and other valuables, as well as other stuff that can be taken to court by the debtor to fulfill his duty according to the law.

A question is raised whether the notary is obliged to compose agreements for life support and agreement for an assignment of property
during lifetime in the form of a notary act or whether notaries are only authorized to ratify these agreements and not to compose them by themselves, as it is implied by restrictive interpretation of Article 1023 and Article 1030 of LO (and by analogy with the court’s authority). From the fact that under notary’s authority is the act of passing notary acts which are public documents and the fact that the main reason for ratification of these private documents is to gain probative force as public documents, it is perfectly logical for both ratifying and passing of these documents in the form of notary acts to be set under notary’s jurisdiction. This also adds to the benefit of the participants themselves, since they will be able to finish the whole procedure at once by visiting a notary only, and they will be spared from visiting an attorney to draft an agreement for them, and heading to court or to notary again in order to ratify the agreement. Lawmakers use the term verifying an agreement, although in essence, taking in consideration the legal consequences following the “verification” of the agreement it is more suitable for them to use the term acknowledgement of public documents (solemnization). It will be perfect if in some future changes and amendments to the Law on Obligations, it is passed a straightforward authorization to the notaries which shall allow them to compose an agreement of a lifetime support and agreement of an assignment of property throughout lifetime in the form of a notary act, and in this way there will be cleared all the polemics that are often present among professional circles too.

There are also arguments for introduction of unique authorities to notaries that shall allow them to make wills\(^\text{78}\) and verify the agreements of lifelong support accompanied by those of an assignment of property throughout lifetime, which will additionally free courts from dealing with non-contentious subject matters or matters that do not cause any dispute or conflict.

As of today, there is no doubt and we can say with certainty that the Notary is one of the most eminent institutes of contemporary law which insures more extensive legal security, and disburdens courts from some of their duties. There is no doubt that the process of liberating courts from non-contentious proceedings is more than valid and it shall continue not only in direction of releasing courts from these proceedings, but also in the direction

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\(^{78}\) In the Bulgarian Law on Inheritance (The Law on Inheritance came into force on 30.04.1949) are put forward two forms of testaments: notarial and hand-written. The Bulgarian law doesn’t entrust courts with authority of making testaments. According to the German Civil Code (BGB, Bundesgesetzblatt 2 January 2002 I 42, 2909; 2003, 738; 2008 I 1188) courts are entitled to draw up testaments. The testator can give the statement of his last wish in the form of a regular public testament or to hand it to a notary as an unsealed or sealed document, or he can make his own hand-written testament. As the French Civil Code writes, the courts are not in charge of drawing up wills. In France, people who are allowed to make hand-written wills by themselves, can compose a will in public form - notarial or secret testament - Article 969 of the French Civil Code.
of exempting courts from subject matters that are indisputable or do not have clashing nature, and at the same time they can be regulated by other laws, other legal materials and areas, and thus having in mind the comparative solutions presented above and new trends of activity in our ever-changing world.

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THE EUROPEAN UNION, AN INTERNATIONAL ORGANIZATION OR A STATE

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ABSTRACT

The European Union is a global actor in today’s world. Very often authors that research the field of the European Union have different opinions of what the EU is. Is it an international organization, a state, federation or confederation or something else?

In order to receive the answer to this question first we need to present what international organizations are, how they work and thus the European Union fall under this category. In continuation, we will elaborate the theories of supranationalism, intergovernmentalism, functionalism and how they apply to the EU. The answers of this questions will lead to the conclusion that EU is something more than an international organization but it is less than a state.

Key words: European Union, state, international organization, supranationalism, intergovernmentalism.

INTRODUCTION TO INTERNATIONAL ORGANIZATIONS

There are many definitions that can be presented in order to explain the meaning of international organizations. One definition is that international organizations “in its most general form are a stable, clearly structured instrument of international co-operation, freely established by its members for the joint solution of common problems and the pooling of efforts within the limits laid down by its statutes…. [Such organizations] have, as a rule, at least three member countries. These may be governments, official organizations or non-governmental organizations. International
organizations have agreed aims, organs with appropriate terms of reference and also specific institutional features such as statutes, rules of procedure, membership, etc....” (Morozov 1977:30)

Therefore, international organizations are official organizations created among member states “with the aim of pursuing the common interests of the membership” 81. Their aims and activities are presented in Peaslee’s work, as described in Clive Archer’s International Organizations. The aims and activities of international organizations, firstly, are general, regional, political, economic, social, legal and defensive. They can also be part of fields such as agriculture, commodities, fisheries, food and plants. Under a third category, is education, culture, copyright, and under the fourth and fifth category are science, health, communications, transport and travel.82

Furthermore, international organizations have the following characteristics:

- They are permanent organizations that carry on a continuing set of functions;
- They have a voluntary membership of eligible parties;
- They have a basing instrument stating goals, structures, and methods of operation;
- They are broadly representative, consultative conference organs; and finally
- They have a permanent secretariat to carry on continuous administrative, research, and information functions.

Also to be added, international governmental organizations are established by treaties in order to safeguard the state sovereignty.83

**IS THE EUROPEAN UNION AN INTERNATIONAL ORGANIZATION?**

International organizations have three roles that they play and those are as instruments, as arenas and as actors.84 International organisations are created as instruments in order for the member states to be able to cooperate and they can also help calm the tensions in the global governance.

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82 Ibid., 52
Furthermore, international organizations are a forum, where global governance is formed, as well as the actors in that forum. They are supranational entities but it is expected from them to bring practical results on subnational level. International organizations can create a forum or an arena for the participants, and they act as facilitators at the negotiations, creating agreements between the parties in order to help in the articulation, gathering and mediation.85

Therefore, the EU plays the three roles of international organizations but still the question exists of what the European Union is, some authors say it is an international organization, others say that it works as a state or maybe it is something in between a state and an international organization.

Generally it can be agreed that the EU has political and economic origin and it is characterized by a big uncertainty, because the Union floats between politics and diplomacy, between the states and the market, and between the governments and the management.86

In order to understand better the question of what is the EU, we should first analyze the theory of functionalism, where the sovereign state can for the purpose of economical prosperity abandon its sovereign rights because it believes that it is easier to achieve faster progress when more countries are working together. In that case the authorizations are given to the central power (in this case the European Union) that exists above the national states, and the central power has the authority in its supranational institutional structure.87

On the other hand, we have the definition of intergovernmentalism which gives the explanation that the Union is made up from its member states, where the international organization is characterized as cooperation between states, and not as a free activity of independent bodies. The intergovernmentalism sees the integration as a process that is growing until the states allow that process to work as it does.88

The only explanation from comparing the two views is to better understand the EU, from one side we have the neofunctionalist who approve the independent and sovereign Union, and the intergovernmentalist who insist on the sovereignty of the member states. Therefore it can be concluded that the European Union has some elements of sovereign federation, because it has direct binding law, it has the court of Justice, “professional bureaucracy”, and its own legislative and executive process, and also the

86 Tanja Miscevic. Pridrživanje Evropskoj Uniji. JP Sluzbeni glasnik, 2009 pg. 41
87 Ibid, 42
88 Ibid, 42
idea of federalism is seen as a political and legal philosophy, which is adjusted to all political ideas.\textsuperscript{89}

Furthermore, international organizations play a big part in the global governance. Global governance as explained by Archer means “some form of control and management of activities across frontiers…”\textsuperscript{90} An example of what global governance covers within the EU are issues of world trade, commerce, international crime, drug smuggling, cross border environmental problems, internet, tourism and immigration. The system used for managing these issues is international regimes. Overall, “international organizations have found their place among the tools needed in international regimes to underpin global governance.”\textsuperscript{91}

All of the above stated aims, functions, and roles of international organizations describe and present the European Union, as an international organization, because it is “a formal and continuous structure’ which has been set up by the member states ‘with the aim of pursuing the common interest of the membership”.\textsuperscript{92} However, the European Union is not like other international organizations it has two sides: one is internal and the other is external. The internal side of the European Union it represents the requirements of the member states and the external side represents the Union jointly. “It aims to create an ever closer union among the peoples of Europe” (Common provisions, Treaty of Maastricht).\textsuperscript{93} All its resolutions and actions are based on the Maastricht treaty agreed by the members.

**THE EUROPEAN UNION AS A STATE**

In order to elaborate on whether the EU is a state or not first we need to elaborate on the terms nation, state and sovereignty. A nation is a philosophical idealism; it is stable, long lasting community of people, sharing a common language and territory, as well as common culture and history. Also every nation has the right for self-determination and it can co exist together with other nations in one multinational state.\textsuperscript{94} The term sovereignty of the state means supreme and independent power or authority in government as possessed or claimed by a state or community.\textsuperscript{95} The state

\textsuperscript{89} Tanja Miscevic. Pridruzivanje Evropskoj Uniji. JP Sluzbeni glasnik, 2009 pg.42
\textsuperscript{91} Ibid. , 108 –109
\textsuperscript{92} Ibid., 42
\textsuperscript{93} Ibid., 44

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that maintains its sovereignty guarantees the political independence of its nation and its members to fight for the right of self determination.\textsuperscript{96}

Therefore we return to the question of what kind of state is the European Union. Is it a federal, supranational, or confederate, intergovernmental, centralized or decentralized…Let\’s elaborate, the European Union has regular elections, its parliament issues laws and regulations, it has bureaucracy, it has a central body (the Commission, whose work is similar to those of the ministers in governments). Furthermore, the EU has a Council a Court of Justice and the Central Bank that safeguards the currency from 2002. The EU has embassies and signs agreements with states, and it has a geopolitical weight. To conclude, having all this features “the European Union is clearly, some kind of a public authority that looks, in some important respects, like a state”.\textsuperscript{97}

Saying that the EU is a state is one side of the theory. There many aspects that set the EU apart from the status of a state. Although the Commission can be seen as the government of the EU, still the EU has no executive machinery below the Directorates- General\textsuperscript{98}. The European Parliament is elected and it can be seen as the lower chamber of national assemblies, but these comparisons are misleading. “The EU has very limited powers in some policy areas that are most important to, and may be the defining characteristics of, modern states…like the powers of taxation and spending, as well as policies in realms of justice, law enforcement, and national defense and security. The EU, in other words, clearly does not have the powers that are adequate to those typically associated with modern states. Therefore, it is, in this sense that the EU is less than a state”.\textsuperscript{99}

In reality the EU is much more than an international organization because it has supranational elements. First it does not rely on intergovernmental cooperation of the states it has supranational characteristics: the member states give up some of their sovereignty to the EU, it has supremacy of European Law meaning that the laws are binding, the decisions made by the EU institutions act on the interest of the Union as a whole promoting the common good.\textsuperscript{100}

\textsuperscript{96} \textit{“The Nation State, Sovereignty and the European Union”}. Online. Available: http://spectrezine.org/europe/Coughlan.htm
\textsuperscript{97} Jozsef Borocz. \textit{The European Union and Global Social Change}. Routledge Taylor&Francis Group, London and New York. 2010. Pg 4-6
\textsuperscript{98} Ibid, 6
\textsuperscript{100} Ibid
CONCLUDING REMARKS

To conclude, the European Union is not a standard international organization. With the characteristics it possesses the EU can be placed somewhere in between the two theories. The EU is more than an international organization because it has supranational characteristics and it is a global and powerful actor. And it is not a state because the Commission of the EU cannot be compared with the roles of the national governments, and the Parliament will never be replaced as the second house. We need to add the fact that the EU has limited powers over specific political questions that lead to the conclusion that the European Union is supranational international organization.

BIBLIOGRAPHY

CONTEMPORARY CHALLENGES OF THE RIGHT TO PRIVACY AS AN INALIENABLE HUMAN RIGHT\textsuperscript{101}

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ABSTRACT

The right to privacy is an inalienable human right expressing the physical and spiritual integrity of each individual.

The contemporary society generates risks and potential dangers to the right to privacy.

This paper identifies the challenges that the right to privacy is facing in today's modern society and explores the influence of the contemporary tendencies on this right.

Key words: privacy right, contemporary challenges, human rights and freedoms.

INTRODUCTION

The right to privacy is the subject to the regulation of fundamental international acts, which regulate the area of human freedoms and rights. The right to privacy belongs to the group of personal rights, which express the physical and spiritual individuality of each person and represent a base for establishing new human freedoms and rights. The right to privacy is a universal natural right attained with birth and it only relates to the fact that the individual exists as a human a social creature. The core of the privacy protection is the concept of individual and his or hers relations with the society.\textsuperscript{102} The privacy is the area where the personal and family life of an individual, his home, personal data and communication intertwine with the remaining world.

\textsuperscript{101} Original scientific paper

\textsuperscript{102} Jankulovski, Z: Protection of privacy in the Republic of Macedonia: the freedom from ungrounded entering, searching and confiscation, Macedonian revue for penalty law and criminology, Association of criminal law and criminology of Macedonia, 1996, pg. 80
The right to privacy obliges all other individuals, institutions and the state to restrain from actions that can unlawfully in breach in the private sphere of the individuals. However, the right to privacy is not an absolute right. Under specific circumstances, when the protection of other rights of other individuals or securing higher social interests is concerned, the right to privacy may be limited.

CONTEMPORARY CHALLENGES OF THE RIGHT TO PRIVACY

The right to privacy as a special and independent right is related to the development of the contemporary society and the emergence of means where a person's private life segments can be exposed. The contemporary society generates risks and potential dangers causing erosion of privacy as a very sensitive sphere. These potential dangers can be identified in the sophisticated information systems for processing personal data, the expansion of electrical means of communication, the application of special measures for prevention and control of organised crime, terrorism and other types of major crimes, as well as in the sensationalist media.

INFORMATION SYSTEMS FOR GATHERING, STORING AND PROCESSING OF PERSONAL DATA

The technological development enabled a great concentration of personal data of individuals in the great information systems that are most often in the service of the official registry of the state apparatus. The personal data are being massively gathered, processed and used for different types of official registries, by a large number of users. The contemporary society in specific segments fully functions on a base of automated processing of personal data, which it collects and uses for different purposes. The personal data are a key to each person's privacy and through them one can determine his identity, education, family, financial or health state.

The consequences of computerisation and the dangers brought by the concentration of data and especially their transfer outside the national borders, has motivated the international community to create regulations that would provide a minimum amount of standards for the protection of privacy.

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103 Recognising the right to privacy is related to the publishing of the article „The Right to Privacy” in 1890 in Harvard Law Review, by the then estimated jurists S. Warren and L. Brandies. The authors were inspired by the invasion of the printed media in the private life of individuals. The article looks into the relation between freedom of expression and the right to privacy and it represents an attempt to turn the attention toward the person and the spiritual pain caused by the violation of the right to privacy.
through protecting the personal data and preventing a possible misuse.\textsuperscript{104} The regulations, among others, demand for gathering, processing, exploitation and storing of personal data in accordance with the national legislation and only for the purpose, they were collected for. The adopted regulations allow for an approach to the data file of the person to whom the personal data belong and their amendments or deletion if they are incorrect or not properly processed, processing of a specific category of data, as well as taking measures against authorised approach to the personal data.\textsuperscript{105}

The European perspectives for the protection of privacy in the sphere of personal data indicate changes whose implementation in the European legislation is expected for 2014/2015. The planned changes should give an answer to two still debatable issues regarding the fact to whom the personal data placed by the individuals on the net belong, and in what manner and how long could the posted data be used.\textsuperscript{106}

\section*{THE EXPANSION OF ELECTRONIC MEANS OF COMMUNICATION AND MONITORING OF MOVEMENT AND COMMUNICATION}

The development of advanced technologies enabled the expansion of sophisticated means of communication. The digitalisation of the communication process is a phenomenon that has made people almost addicted to the communication technology. The emergence of the internet as a global electronic communication system has erased the physical and political borders of the so-called cyberspace and thus represents a potential threat to the privacy of those people involved in the communication process.

Contemporary technologies also enabled the video surveillance, which became a part of daily life of almost every modern country. The static cameras register every movement of the individual. The instalment of cameras is justified with the need for security and prevention of undesirable actions on places or in buildings, which have high frequency and are thus exposed to potential threats. More and more often, they can be spotted on

\textsuperscript{104} The European countries' legislation in the area of private data protection is significantly harmonised. The basic binding international document is the Convention of the Council of Europe for the protection of individuals in relation to the automated processing of personal data. Especially important are the EU documents and thus the Directive 95/46/E3 on the protection of individuals in relation regarding the processing of personal data and freedom of movement of those data and the Directive 97/66/E3 on the processing of personal data and protection of privacy in the sector of telecommunications.

\textsuperscript{105} In the Republic of Macedonia, the standards are integrated in the legislation through the provisions of the Law on personal data protection, and their application is monitored by the Directorate for personal data protection.

\textsuperscript{106} ,,New EU regulations for the protection of personal data on the internet“, available at: http://www.dw.de/dw/article/0,,15691282,00.html
individual residential buildings, shop windows, desks, schools, and many other places. Probably, only time will show how much of the expected effects of their mass usage will be achieved. What remains as indisputable fact is the feeling of invaded privacy within each person who is aware of the degree his daily life is being monitored.\textsuperscript{107}

Potential threat to privacy and communication secrecy is the generally low social consciousness in respect of the meaning of privacy, as a person's right and integrity.\textsuperscript{108} Its protection in the context of rapid technological progress is an issue, whose answer is searched not just by legal theoreticians and practitioners, but as well by the theoreticians and practitioners in the area of safety, informatics, ethics and naturally the supporters of human rights and freedoms. Almost all of them are unanimous in their standpoint that in the communication process, individuals must be careful and must conscientiously adapt to the risks of privacy violation, which exist in the real and in the so-called virtual world.

\textbf{THE APPLICATION OF SPECIAL MEASURE FOR THE PREVENTION AND CONTROL OF ORGANISED CRIME AND TERRORISM}

Within the last twenty years, the global security and safety have been facing serious threats, such as international terrorism and organised crime. In such circumstances, the countries started seeking a way for efficient prevention, intercepting and processing of organised crime and terrorist activities. In the search for efficient means, the countries started legalising the application of new and so called ,,unconventional" special means or special investigative measures in the fight against organised and other type of major crimes.\textsuperscript{109} These measures are applied for the purpose of collecting

\textsuperscript{107}In R. Macedonia, within the frames of the project of the Ministry of External Affairs called Safe City, 100 traffic spots are covered with cameras. Most of the installed cameras are static, some of which can record even the tiniest details. The Ministry of Health was also announced that cameras will be installed on 150 counters in 72 public health institutions.

\textsuperscript{108}The recent cases of unauthorised tapping in our near surroundings, which were revealed through the media (Bulgaria, Croatia, Serbia) once again imposed the fear that even despite the existence of formal legal mechanisms, still, in circumstances where there are contemporary systems involved, it is almost impossible to fully provide an adequate protection against unauthorised breach in the privacy and communication secrecy.

\textsuperscript{109}In the criminal procedural legislature of the R. Macedonia the special investigative measures were introduced in 2004. The application of the measure that encompasses monitoring of communication was conditioned by an amendment intervention in the article 17 paragraph 2 from the Constitution of R.M. which, previous to the change, was prescribing aberration only in the case of secrecy of letter, and not any other form of communication. After adopting the amendment XIX from the Constitution (in 2003), the procedure for intercepting communication for the purpose of preventing and detecting criminal acts and for the country's safety and security interests, was regulated by a separate Law on interception of communication passed in 2006.
data and information related to the involvement in criminal activities, which could not be provided in any other manner. The collected material has the value of evidence in a criminal procedure. 110 Criminal procedural reforms that were introduced through new procedural and evidential rules and special investigative measures for discovering and persecuting, it is without a doubt the only possible response to the increased danger from organised crime and its paralysing effects in relation to the criminal justice system. 111

This refers to measures that entail the interception of unofficial communications, recording with appropriate devices, entering homes or work spaces with the purpose of creating conditions for the interception of communications, as well as other actions through which evidence material for a criminal procedure can be procured. The application of the greater part of the special investigative measures is in collision with some traditionally protected human rights. They directly violate privacy of personal and family life, the right to secrecy in communication, the right to inviolable home and personal data. The special investigative measures invasively penetrate not just the privacy of those individuals towards which those actions have been aimed, but some of them penetrate the privacy of others in their surroundings. Even though their application is tolerated only under firmly determined conditions, precisely prescribed procedure and in the context of the specific circumstances, still the possibility of their misuse cannot be excluded. Also notable is the trend for creating legislation through which under the pretence of national and public safety their is a potential of violating the right to privacy. 112 In such circumstances, the states are facing the challenge of providing balance (fair balance) between the public interest demanding an efficient response to the serious forms of crime, on one hand, and to remain consequent in respecting the human rights, on the other hand. In that direction, the Council of Europe encouraging the countries to apply special investigative measures, in the same time, recommends that every response to crime should be an acclamation of the basic principles of a democratic state through the rule of law and respect toward human rights, and the application of special investigative techniques should be in the form necessary for a democratic sociality and appropriate for an efficient criminal

110 These special investigative measures are new in the sense of their legitimacy, and not in the sense of their practice, since the same are practised in almost each country in the world, as an exclusive right of the so called secret (intelligence-security) services. The legalisation of tapping and other „new” methods, actually meant their legal regulation through prescribing the circumstances and procedures in their application.
111 Камбовски, В. Организиран криминал, Скопје, 2005, стр. 350
112 This trend is present in the American and European legal systems, and it is especially expressed after the terrorist acts of 2001 in USA, as well as those similar to them which happened later in London and other states.
The countries are obliged by an appropriate legal act to determine the circumstances and conditions under which the special investigative measures (principle of legitimacy) can be applied, their application should be in a form necessary for fulfilling the purpose (principle of proportion), one should approach the application of measure as *ultima ratio* only if the same goal cannot be achieved with other less intrusive means and methods (principle of subsidiarity, which demands gradualism in application, from less to more intrusive measures).

**SENSATIONALIST MEDIA**

The freedom of media arises from the freedom of expression, which is guaranteed with international acts and represents a freedom to express a personal opinion, receiving and sending information and ideas. The free media, without a doubt, is one of the most significant gains of democratic society and represents a relative indicator of the level of democracy of each state. The media are free to announce any information they have obtained and are considered to be interesting for the readers. Journalist freedom means a certain amount of exaggeration and other provocations. The court practice is protecting not just the freedom of expression „in respect of information and ideas used with favouring....“, but also in respect of those „who insult, shock or disturb the country or any other part of the population.”

Due to its nature, the freedom of expression and the right to privacy are in a latent conflict. This is especially evident when the publicised information is about the private and family life of the individual or other segments of privacy. In the case of a dispute „the margin of what is allowed" still dictates that information, purposely provocating pain and suffering to the people it refers to, is not to be used.

The mediums inclined toward sensations are perceived as a potential risk to the privacy of individuals, because they leave the impression that in the race for profit they neglect the fact that each person hast the right to a minimum privacy and intimacy in personal and family affairs.

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116 Disputable is the fact that some states in the USA for example in every major city within the frames of the television channel have mobile groups that conduct a „constant monitoring” over the ER medical teams, police officers and fire-fighters while they perform their duties. Not rarely does a news crew and cameramen happen to barge in on an event that they later place in the public as a sensation.
to privacy seems to be thrown in the shadow of publishing a sensation. In respect of the issue of conflict between the right to privacy and the right to freedom of expression, the issue of the right to privacy of public figures arises. 117

Very upsetting is the fact that the sensational mediums are not just interested in the life of public figures. The so called scandal of Hacked phones, from July 2011, exposed the practice of the editors and journalists in the printed medium „News of The World”, who through intercepting the voice mail and SMS messages, collected and published information from the private life of public figures, but also of people who have experienced a personal misfortune, for which they thought would increase the sales. This bizarre scandal imposed the question of the limits of ethics and the responsibility of the journalists toward the international and national regulations that quarantine and protect the right to privacy. The scandal left a strong feeling of suspicion that by misusing the freedom of expression, journalism is more and more often resorting toward sensationalism, thus setting low standards, instead of professionalism and objectivity.

CONCLUSION

The sophisticated information system for processing personal data, the expansion of electronic means of communication, the application of special measures for prevention and control of organised crime, as well the sensationalist mediums, represents potential threat to the right to privacy as an inalienable human right.

The protection of privacy should be ensured through efficient legislation in which the international standards guaranteeing the right to privacy are incorporated, as well as by raising the public awareness for the significance of privacy as an expression of physical and spiritual integrity of each individual.

117 On 9th and 10th October 2012 in Skopje a workshop was held, on the topic „Privacy of public figures and freedom of information”, which was organised by the Directorate for the protection of personal data from Skopje and TAIEX. The general attitude on this event is expressed in the conclusion that specific persons that are publicly present, raise an interest for their private life. However, public figures still have the right to a certain degree of privacy in respect of their home, family and intimate life. Publishing information from segments, without their consent should be treated as a violation of the guaranteed right to privacy.
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MAKING THE RIGHT DECISIONS WHEN SIGNING A HOTEL FRANCHIZING CONTRACT

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ABSTRACT

One of the main characteristics and moving forces of the contemporary world is the process of globalization. One of its results was the emergence of same products, enterprises and firms, services and so on in different countries all over the world. These results have created the need for the franchise. The main topic of this paper is how to make the decision to sign a franchising contract for hotel enterprises. Special attention will be given to identifying the gains from joining a hotel chain, how to make the real choice and what are the preparations needed to be done before the contract is made. The main goal of this paper is to help the reader in making the decision to (or not to) sign the contract for hotel franchising.

Key words: franchise, franchisee, franchisor, hotel chain, hotel industry

INTRODUCTION –FRANCHISE AND ITS ELEMENTS

The main instrument of the franchising is the contract for franchising, which is done by at least two contracted sides –franchisor (the main company) and franchisee (the user of the franchise). The franchise contract is a contract by which the person giving the franchise is obliged to give the rights of the brand of his product and/or
service to the user of the franchise, while the user of the franchise is obliged 
to pay the agreed fee for using those services. The **franchisor** is the main company that is giving out the right of using its product and/ or services. Besides the actual product and service transfer of knowledge is done, giving out the right of using the logo and brand of the main company, standards about the product and service are established, the right of using the colors of the company are given and so on. Besides this the franchisor may give services of training and education of the employees. For all the services that the franchisor provides to the franchisee he is being paid certain **compensation**. The fee can be pay once (by the signing of the contract a certain amount is given as a compensation only this once), multiple compensation (when additional compensations are paid for specific services that are being used) or a continuous compensation (when the fee is paid in a time period –monthly, quarterly, yearly etc.). **Franchisee** is the person or enterprise that will be using the already built image of the franchisor, where his costs are based on the compensation fee and the additional costs to adapt to the requirements and standards of the franchise agreement.

**REASONS FOR INVESTING IN HOTEL FRANCHISE**

The hotel franchising, although one of the new forms of franchising, offers huge possibilities for those who are ready to invest in franchise offered by some of the world known hotel chains. This is a big investment, but the same is very lucrative. There are few reasons why investing into a hotel franchise should be considered:

- The hotel industry is big and very profitable industry which currently is in a growing cycle. The growth of the income and profit is stable and continuous, so today it is almost doubled compared to the 90s. In 2006 the incomes of the hotel industry were 133.4 billion USD, and around 52% of the marginal gross profit was made by hotels belonging to a hotel chain.\(^{119}\)
- The hotels are real estate that is real potential for accumulating capital. Although the hotel are a big investment in real estate, still they do provide a continuous and long-term wealth increase, and by that they provide heritage for those who are investing for the future generations.
- The hotel franchisors are bringing guests. The advantage of the hotel franchise compared to the other types of franchise is the fact that the franchisor by through the unified system of reservation is bringing work directly to the doorstep of the franchisee, without him doing anything.

\(^{119}\) Gross operating profit for Chain-Affiliated hotels published by Smith Travel Research included in April 1, 2007 UFOCs
There is no other form of franchise that is offering this unique possibility of a direct business.

- The hotels are contributing to the development of the society. Even the opening of the smallest hotel means new employments. Besides that the hotels are in need and buying different goods and services from many person and enterprises in the society. This way the hotels are contributing to the development of the community.

- The use of the world wide web –internet. Today the internet is the most massively used media, which is more often used as a main source of information. Even more, today the internet can be used to buy different goods and services, and that includes making a full hotel reservation. This means that not only that the modern tourist can inform himself about the hotel he is willing to visit, but also he can make a reservation over the internet through “on-line booking”, stating all his desires and preferences. To this we can add the fact that 66% of the regular leisure travelers that have been using hotels, are now visiting the internet when they are planning a trip, while 57% are making on-line reservations.120

RESEARCHING THE OFFERED FRANCHISE

Making a decision of choosing one of the offered possibilities can be really hard. The research is the real method that should be implemented because it is very important to do “your homework” before making the decision.

In a situation like this, when the decision of becoming part of a hotel chain should be made, besides the big excitement, the decision must be made systematically by previous researches and analysis. Being rational is a must, because the decision lead by the excitement of joining a hotel chain may not give the expected result.

Open options. The secret of researching the alternative franchises is in their previous analysis and keeping all the options open. Even when being faced with a case when the hotel chain that is favored is an option of the offered franchisors, still focusing on that option only is a mistake. The best way is to review at least two to three different offers of franchises so that a comparison with one another can be made. After that the main question is which one will suits the best according to the opportunities and possibilities, and which one is the best from long term point of view.

Before finishing the franchise agreement the different types of offered franchise should be reviewed. If they are available openly and without any prejudices then there is a certainty that the real choice will be made. After a list of few interesting franchise will be made they should be looked to

120 Trends and facts about hotel franchises, www.franchisedirect.com/travelfranchises/hotelfranchises/112
carefully and be compared with the franchisee idea of business. In this case the decision won’t be made starting from the name (brand) of the franchisor only.

**Asking though questions.** An interesting and significant part of the research is asking questions. Talking to as many franchisers from different areas as possible before making the decision is preferable. This is the easiest way to get to the area of activity that suits ones wishes and economical needs, style of working and skill the best. The questions should penetrate the core of each and at the same time taking the problems to the surface. This way the decision of entering and starting a new business will be rational.

When asking questions you should be bold, no matter if the answer you are going to get is positive or negative. The goal of asking questions is to be well informed, because that is the only case when the chances of success when entering a new business are maximized.

**Selectivity.** Hastening a research of all the list of offered franchises shouldn’t be done. A selection should be made and then an analysis of two to three possibilities. This way the research will be deep and detailed, that can’t be achieved when analyzing all the possibilities.

**Repeating the process.** The process of research should be repeated as many times as necessary so that the most suitable franchise to our need should be find. Big sums of money and even more time is invested before entering a franchise and beginning the new business, while the future and happiness of the investor depend on the made decision. Therefore the process of research shouldn’t be short and it should be repeated as long as we get the information we need.

**HOW TO CHOOSE THE REAL HOTEL FRANCHISOR**

After the decision of signing the franchise contract, next step is choosing the most suitable franchisor. That means that special attention should be given to the choice of hotel chain that we like to join, especially because of the broad options ahead. The choice isn’t simple at all –the best hotel chain doesn’t necessarily means that it is the most lucrative alternative. Therefor being careful during the decision is imperative. It should also be considered that the both sides should have gain from the contract. That’s why the decision should be made based on what the franchisee should and can expect from the franchisor:

- Hotel chain devoted to franchising. Some hotel franchisors may view the franchise as simple increase in their business, and following this view they can make many franchise agreements with more franchisees on
small distances. This may increase the competition between them, and that means that everyone may lose. This isn’t a good choice.

- Previous results. If and how many failed or terminated franchise agreement does the hotel chain have? (if the answer is “yes” then the reasons should be looked into) Does the hotel chain meet the expectations of the investor?

- Already known name (brand) and/or possibility for growth. It is very important to consider whether and if the hotel chain is known to the tourists and travelers. If a chain of hotels that are not known at all is chosen, than that would be same as if we didn’t have the franchise.

- Fear franchise agreement. The franchisee is the one who is making all the investments – the franchise itself, but also for building and adjusting the facility. That is why it is advised to consult a lawyer who would look into each part of the agreement to check if it is fear.

- Answering questions before signing the contract. A franchisor ready to answer any question given by the franchisee associating the conditions, rights and responsibilities of the franchise contract, is a franchisor ready to help the franchisee in need if a problem occurs.

- The degree of selectivity of the franchisor. The attitude of the hotel chain concerning whom it is ready to make a contract with speaks about their seriousness. Those that stand to the attitude that everyone interested is welcomed, although it is friendly; it speaks about their low standards required from the franchisees. That enlarges the possibility not to be identified with the main company, which means a lower gain from the contract.

After these elements are well analyzed the choice can be made.

**PREPARING THE HOTEL FOR JOINING A HOTEL CHAIN**

If we decide to join a specific hotel chain following the previous detailed analysis and compares, than the next step is to prepare the hotel for accepting and applying all the standards that the hotel chain requires.

**Analyzing the market.** The first step when preparing, before choosing the location, is creating a preliminary market analysis and feasibility study. This study should have the following components:

- Surroundings profile analysis – the municipality (business climate, transportation, education, attractions, cultural and other events, as well as the quality of life);
- Location surrounding evaluation (accessibility, visibility, competition etc.).
• Retrospective (of few years back) analysis on the results of the market, as well as the future trends in the demand and offer and the use of the accommodation facilities;

• Preparing for five or ten years analysis of outflow and income of money;

• Final, summary report of the information, analysis and recommendations gathered.

Location analysis. When hotel location is being chosen, the following positive and negative attributes should be considered:

- Positive attributes: growing economy, population growth, business growth and its relocation in the area of interests, enlarging the number of airplane travelers, as well as the enlargement and improvement of the airport facilities, restaurants, traders, tourist attractions and so on, forthcoming projects (commercial, industrial, hotels, buildings) and infrastructural activities and improvements.

- Negative attributes: market stagnation, population decrease, high unemployment rates, low level of tourism development.

Each of this attributes should be analyzed in details, so that a comparison can be made between the influences of the positive against the influence of the negatives attributes. This process should ease the location choosing decision.

Architecture, construction and design. Before starting the construction process, few other decisions and plans should be made. The preliminary location planning includes the number of rooms that the object can have in according to its location; creating a construction project; building orientation; parking lot planning and number of floors.

Creating a concept plan has a goal to underline the specifications and programming (the dimension and space needed) that are necessary so that the interior design process can begin. Besides these, few more plans considering the architecture can be made, that must be done by an architect, preferably someone who has experience with hotel designing. This activity starts with predicting the costs that will be needed to do so. This way the most suitable entrepreneur will be chosen.

When making the decisions about the hotels interior design, first of all we should start from the standards that have been given by the hotel chain that we like to be part of. If they have been clearly and precisely stated we need to stick to those standards, if not the following should be considered: objects brand, price, material that they are made of, expiry date, color etc.

The hotel project basically depends on if we are talking about building a new hotel or adjusting an already existing one. Depending on the standards required by the hotel franchisor these activities can be perform by an outside -independent person, an inside person from the hotel or an inside person.
from the hotel chain. No matter who will be performing these activities, the hotel project should include:

- necessary activities needed for the hotel to be opened on time (ordering and placing the interior elements; planning and training the employees etc.)
- identifying the products needed to be bought and the supplier of the same
- selecting project entrepreneur
- finalizing the documentation needed
- installations, computers, and employee training.

**Hotel functioning.** The main part of these decisions are about the hierarchy of the employees in the hotel, as well as the departments that will be functioning in the same. During this decisions attention should be given to the capacity and the needs of the hotel. Special thought should be given to the choice of employees on the higher hierarchy structures of management, especially to their managing skills of this type of hotel, but their personality as leaders that will lead the employees to the accomplishment of the given goals. After the managers are being selected (or manager) for each workplace (reception, kitchen etc.) a work specification should be made about the skills needed from each employee to perform the tasks flawlessly.

For successfully hotel functioning the human resources by themselves are not enough. Therefore a budget preparation (financial plan) should be made. This means predicting the incomes and revenues that the hotel will have from the beginning of its functioning till a specific time period.

**Public relations.** One of the most powerful weapons for conquering the market and enlarge the number of visitors in the hotel are the public relations. These activities can better the projection of the hotel in the public, especially if the manipulation of these activities is well known. If not, the opposite effect will be achieved. That’s why it is very important that the media coverage should be done at the right moment and that the right mediums are used (TV, radio, internet etc.), while ensuring that these activities will attract the attention of our target, but also keep their attention, and also informing the target and giving them opportunities for further information and contacts.

The serious approach toward the preparatory activities for constructing or adopting an already existing building will provide on time functioning of the facility according to the plans. Besides that our hotel will be known as part of a specific hotel chain and by that can successfully maximize the benefits from that accompany the franchising contract.
CONCLUSION

The importance of the franchise and joining a hotel chain is of most importance in the hotel industry. It is an asset that can make the job of the hotel much easier, that can improve the financial outcome by increasing the number of visitors, that can provide improved development, and use the know-how of the franchisor etc. But the being part of a hotel chain also has its financial expenses, changes and adaptations that the hotel should make. That is why this paper has given special attention on the process of decision making. The most important decision is made at very beginning, and that is the decision to sign the franchising contract. This decision should be made considering the many advantages that are provided by the franchising, compared to the financial and opportunity expenses that come with the contract.

The further process of decision making is directed toward choosing the franchisor that we would cooperate in the future. In this faze it is very important to be objective and to look into and analyze more hotel chains without any presumptions. When making the decision to sign the contract, a franchisor that doesn’t support and create competition between his franchisees should be chosen, also one whose current franchisees have positive working results in the past (especially compared to the period before becoming part of a hotel chain), one who helps the investment process (helping the changes and adaptations and/ or construction), whose standards aren’t too low; and most important of all franchisor whose image and name are well known to the future tourists (target group). These are the most important decisions that need to be made, because the future success of the hotel as part of a specific hotel chain depends on them.

The process of decision making than continues with the decisions about construction, building, adapting and changes that are made according to the standards given by the franchisor. The decisions in this preparatory faze are easier to be made because they simply need to follow the directions given by the franchisor who was chosen in the previous process.

In conclusion if the given direction in the decision making process about the hotel franchising are being followed, starting from the decision whether to join a hotel chain or not, through choosing and preparatory activities, than we can be certain that we have made the right decisions and got the best out of the franchising contract using all its advantages.

When we are considering the state of Republic of Macedonia on this field, it should be considered that Macedonia has just started to be discovered as tourist destination by a big part of the international tourist market. Proof for this are the organized groups that are visiting Macedonia from the
Netherlands, Austria, Germany, China, Japan and other countries. Because of this conditions we think that it is the right time for joining a hotel chain, especially someone which is well established and known, whether it is an investment in new hotel or adopting an already existing one. A good proof for this is the existence of “Holiday Inn” in Skopje, by joining the former “Гранд хотел” to this hotel chain. By joining a hotel chain that is well known a bigger confidence and security about the quality of the accommodation and other services will be gain with the foreign tourists, by which the world image of our country as a tourist destination will be also established. We would also like to state that the given directions about the decision making process for making an agreement for hotel franchising in this paper are universal, and therefore can be applied by any hotel (in R. Macedonia as well) that would consider joining a hotel chain.

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Tourism is one of the most growing branches and engine of the national economies. In the recent years every country around the world takes any steps to increase the number of visitors in their country. To attract visitors - tourist successfully and to satisfied their needs you need to implement many strategies to properly segmented tourism market and to apply marketing in tourism at the best way.

Satisfaction of the tourists is the most important thing for companies because they are their most powerful weapon in the struggle of market competition and therefore companies should aspire to the concept of total customer satisfaction which is a sure way of creating loyal customers, which difficult waive the company's products.

**Key words:** tourism, tourists, tourist satisfaction

**INTRODUCTION**

Nowadays, every company absolutely needs to focus on the consumers, i.e., satisfy their needs and desires. The success of the company depends on the stage of consumers satisfaction, means if a consumer is totally satisfied of the company product or service he will difficulty decide to change his choice and became loyal consumer of that company, and most the company profit will be made of the loyal consumers. Also satisfied and loyal consumers is the best marketing mean for attracting other consumers, especially in tourism, because tourists use a complex string of products and services and their recommendation and experience are particularly significant for the potential consumers. After the shopping if the consumer’s needs are not satisfied or he is less satisfied it is assumed that the satisfaction will affect on the potential decisions how, where and what he will buy.

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A basic aim of the company marketing activities which affect in the sphere of the tourism industry despite the development of services, providing appropriate service atmosphere, internal and external communication and attendance the novelties in the surrounding and competition, is satisfaction of the tourists desires and needs in a manner that provides their satisfaction, and with that enlarges the marketing of the tourist product and achieving profit for a long period.

**TOURISTS SATISFACTION AND MEANING**

Satisfaction is feeling that results with comparison between the expected and real i.e. final values of the good [1]. To denote, satisfaction is feeling that happens in the post shopping stage with consumption of the product, using and perception of the same. Because satisfaction is an emotional state, their post purchase reactions can involve anger, dissatisfaction, irritation, neutrality, pleasure, or delight [2].

“Tourists satisfaction” is one of the most discussed concepts in the spheres such as tourism marketing and sociology of tourism [3]. It is not surprising, because most of the tourist industry depends on the levels of the tourists satisfaction. The formal social analysis of “Tourists satisfaction” may help to policy creators in the “area of destination” and “provider countries” in construction of more creative marketing policies, as well structure and infrastructure of tourism which will be stronger and more competitive.

Consumer satisfaction in tourism can be manifested on several ways and that: a) such as receipt that is bought a good tourist product or service; b) such as satisfaction of performances of bought product or service and at the end, c) admiration for the characteristics. Frequently satisfaction may denote release from the negative assumptions, for example, we did not have to wait at the airport for a long time. The consumers made particular expectations before buying the tourist product or service. The expectations can be relative with the nature and performances of the product or service, costs and efforts that precede the immediate benefit from the good or service and the direct benefits and costs of the consumers. The expectations are based on the previous experience, family opinions, friends and informations and promises from the company and competition promotion instruments [4].

The research has shown different indications, and that: the older consumers are expecting less, and they are satisfied of the bought product: the higher level of consumer education associates with a higher level of satisfaction: while men are more satisfied of the bought good in relation to
the women. All consumers are satisfied when the good and the service fulfill or exceeded their expectations.

Satisfying the consumer in tourism is important for three main reasons:

- It leads to positive word-of-mouth recommendation of the product to friends and relatives, which in turn brings in new customers.
- Creating a repeat customer by satisfying them with their first use of the product brings a steady source of income with no need for extra marketing expenditure.
- Dealing with complaints is expensive, time-consuming and bad for the organization’s reputation. Furthermore, it can bring direct costs through compensation payments.

While service quality is concerned with the attributes of service and the development of positive perceptions of service, satisfaction refers to the psychological outcome deriving from service experience, or customer’s feelings and emotions developed in response to an evaluation of service and service experience. Usually a high quality of service, which develops positive service perceptions, results in high satisfaction, whereas poor quality of service develops negative perceptions of service and dissatisfaction. Thus, service quality determines customer satisfaction, and both are vastly dependent upon the perceptions of the quality of service encounter.

Often, the service providers attitudes to the customer, verbal skills, knowledge of the customer needs and wants may give the customer more satisfaction than the pure mechanistic delivery of service. Thus, positive social interaction between a service provider and customer may generate high satisfaction with service, and compensate the low quality of mechanistic service.

In future marketing mix will must to adapt to tourists and to develop new forms of competition that will exceed the expectations of tourists. Also, it’s important to balance standardization and diversification, and the quality to have a crucial role in terms of price.

THE CONCEPT OF TOTAL TOURISTS SATISFACTION

In the first plan the recent researches in the marketing and the behavior of the consumers emphasize that for business success on the market is needed to accomplish i.e. total consumer satisfaction. The concept of TSC - Total consumer satisfaction implies a situation in which the product or the services fully fulfill the consumers needs and the desires. The concept is
defined from the view of consumers needs and desires, it means outside the company. At the same time the concept corresponds with the concept of the total quality management TQM that is created inside and for the company needs. In common for these two concepts is that a standard or the market measure for company success is placed on the highest possible level of satisfaction and fulfillment of the consumers needs and desires [7].

The concept of total consumer satisfaction is an ability and company effort on the terms of the competitive market better to satisfy the consumer needs and desires. It is about higher level of satisfaction of the consumers needs and desires, that in the developed societies is included increase in the quality of life. In case of market practice it happens offered goods to be technically and functionally perfect, but even did not accomplish or in less degree satisfy consumers needs and desires. This from the company requires to be “better from the best” in satisfying and fulfilling the consumers needs and desires. So mission of the modern travel agencies is that they must create and deliver additional value (plus value) for the consumers. Business activities are the process that creates value, and the creation of the value marks the root and the objective of the existence and development of the company.

To create value, the companies have to incorporate significant attributes and elements in their offer (product/ service). This can be accomplished with promotion of the quality, innovations, adjustment of the product/ service on the specific demands, warnings, guarantees, service and etc. As well as, the values are required with the price policy, payments terms, exclusive demand, personal communication and etc [8].

As an illustration of the tourist activity we can use the next examples [9]:

- West elaborated strategies long ago, how a hotel room “can reconstruct the home intimate atmosphere”. In this context, the presence of television, musical appliances and opportunity to use a computer in a room are not comfort things, but things that significantly symbolize the domestic triviality of the guest.
- The slogan “Every Hilton is little America”, directly emerged from the mentioned needs (television, musical appliances and etc) but recently they are present tendencies to found out optimal solutions for their satisfaction, but not to disturb the key characteristic, the local culture. In that concept, of great importance is the communication and behavior of front desk clerks to guests: beginning with the knowledge of foreign languages, to the efficiency to encounter the guest desires and significantly to affect on diminishing the fears of unknown environment.
The stage of consumer satisfaction - the tourist shopping indirectly made influence on the repeated choice in the same service process and making loyalty. According to Kotler [10], costs for attracting new consumers are significantly bigger than the costs for maintaining the present consumer satisfaction. It is sad to say, that bigger number of marketing theories and practical activities are more focused on attracting new consumers, than to keep the present. The lost of profitable consumers can influence the overall working and because the companies did not have choice, so they have to implement management program of total quality. The total quality is a key for creating consumers values and satisfaction.

**CONSUMERS SATISFACTION OR DISSATISFACTION FACTORS**

During the post purchase stage, customers continue a process they began in the service encounter stage-evaluating service quality and their satisfaction/dissatisfaction with the service experience [11]. In evaluation, the satisfaction can be followed on the scale from total dissatisfaction to impression. Consumer satisfaction precisely can not be anticipated, but can be followed, with an aim of discovering the possibilities for improving and planning the quality. Inefficient processes, undesirable characteristics and the product low quality are factors that generate dissatisfaction and their existence and failure affect on decrease the consumers satisfaction.

The large tour operators in Britain typically hand out self-completion customer satisfaction questionnaires to all travelers returning from holidays abroad, generally on the flight home. Such questionnaires request rating of all aspects of the holiday, using numeric scales such as 4 = excellent, 3 = good, 2 = fair and 1 = poor [12]. Such questionnaires are evaluated efficient operation of companies and reveal the factors that cause satisfaction or dissatisfaction of customers.

The factors that generate satisfaction are positive characteristics of the product or service and positively affect the consumer satisfaction. For example, with decrease the price of the product the buyer realizes bigger value for him and with that he is more satisfied. As well as, wider selection and bigger possibility for choice are consumers factors. But, the factors that generate satisfaction can not compensate the dissatisfaction factors. For example, the low price and fast delivery are quickly forgotten in case the good is damaged after the delivery.

Many factors can affect the consumer satisfaction. National tourist administrations do not have control over some of them, although we have certain factors that can be controlled or simply affected. All this factors are grouped in four categories:
1. Factors that can not be controlled:
   - World economical increase and monetary crisis,
   - The slow increase of the consumers incomes on the main tourist service markets,
   - Independent variables which affect the fiscal and cultural environment in the country of the tourist destination.

2. Factors that can be controlled:
   - Publicity
   - Better information

3. Factors on which can be affected:
   - The prices of the hotel and restaurant service, their classification,
   - The creation of new products
   - The maintenance
   - The consumers security and protection
   - Fun

4. Competitive factors

Source: (Horner and Swarbrooke, 2007, p. 218)
There are two important personal factors which affect a consumer’s satisfaction, these are stress and arousal. Stress caused by any aspect of the vacation experience tends to lead to tourist dissatisfaction. This stress can result from a variety of sources, as we can see from Figure 1.

In tourism, a vital role is performed by the marketing intermediaries, most notably, travel agents. Their service is of great importance to most tourists and has a major influence on their ultimate satisfaction or dissatisfaction because they:\[^{13}\]:

- provide advice on destinations and hotels, and their suitability for the client
- handle bookings and the issue of tickets
- advise the tourist on health issues and immigration formalities in the destinations
- take the client’s money on behalf of the tour operator
- deal with complaints on behalf of the client.

Each of these factors can either enhance or diminish the quality of the tourist experience.

**CONCLUSION**

The tourist satisfaction is one of the most discussed concepts in the tourist marketing. The satisfaction is important for the company in order to know if with the product or service performances and quality satisfy the tourists expectations and to what degree. Consumers satisfaction of the product or service performances and quality for the travel company results with bigger loyalty of the consumers and positive verbal propaganda and that is one of the biggest values of the company. The concept of total satisfaction implies a situation in which the product or service totally fulfill the consumers needs and desires. Many factors affect the tourist satisfaction or dissatisfaction of the bought product or service. Some of the factors can be affected, some can be regulated, but some simply can not be controlled.
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Investigative interview is one of the most important research tools that police have in preventing and suppressing crime. As a result of scientific research, this method is constantly changing and evolving in police practices. Investigative interview with the suspect is a dynamic and interactive social process, which is affected by numerous factors such as: characteristics and type of criminal act, the skill of the police officer and the individual characteristics of suspects. Gathering the useful information depends mainly on the ability of the police officer to establish efficient and effective contact with the suspect and to use criminological and psychological knowledge to lead and manage the interview.

This paper deals with the principles, procedures, and knowledge and skills which is necessary for police officers to effectively lead the interview, identified in several scientific research, especially research that shows investigative interviews as police method.

Key words: investigation interview, suspect, police investigation, confession

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INTRODUCTION

One of the primary duties of the police involves the detection of crime. They are responsible for investigating criminal offences and as a part of this process they commonly have to interview suspects, witnesses, victims and complainants.

Contacts and communication between the citizens and the police are very important for police work and security in the society and therefore should be built on the basis of mutual respect, dignity and human freedoms and rights even in the case of people for which they are suspicions for criminal acts or other delinquent behavior. In Macedonia this topic are normatively regulated in the Law on Criminal Procedure, the Law on Police and other bylaws. In a democratic society the police are expected to be neutral, professional, efficient and legal. Often, the police desire (as well as the expectations of citizens, politicians) to do their work effectively. It neglects human freedom and rights and ethical values.

Investigative interviewing is the team that is currently being used in England (CmV, 1992a, 1992b; Williamson, 1993a) to describe the police interviewing of suspects, witnesses, victims and complainants. The main purpose of the investigative interview is to gather information and factual accounts from interviewees. The purpose, scope and nature of the interview will depend on the case being investigated and its circumstances as well as who is being interviewed. Traditionally, the main purpose of interviewing suspects has been to obtain a confession, which was then used as evidence in court against the suspect (Gudjonsson, 1992).

Police uses investigative interview different than other professions, mainly because the topics of the conversation between police officers and the suspect is confidential and related to the privacy of the person (Roso Z., 1988).

When we speak about interviewing from police perspective it means conducting conversation with suspected person for achieving relevant facts, creating the database about criminal act, and obtaining evidence and answers on nine golden questions of criminalistics (Dimovski Z. 2007/2008).

Known interrogation technique that is frequently uses in police work is minimizing or maximizing of the crime and responsibilities of the suspect. In cases when minimization it's used to make an attempt to reduce the responsibility of the suspect, resulting in the decision to confess the crime. In cases when maximization is used by the police, the aim is to
inappropriate increasing the consequences of the criminal act, and therefore the suspect is imposed strong sense of guilt (Kassin & McNall, 1991). That practice in Macedonia is not overcome, testifying several cases of the European Courts of Human rights (such cases as, Geladinov and others against the Republic of Macedonia; Jashar against the Republic of Macedonia)\textsuperscript{123}. In the report of European Comity for Prevention of Torture (in 1998 and 2001) was concluded that the police of the Republic of Macedonia used investigative interviews without establishing public and lawful procedure. Situation about this issue is still the same, and CPT emphasized that this is a serious problem for strengthening the human rights of suspected persons (Katerina Krstevska, 2007/2008).

But when the police have grounds to suspect a person, when they have that sufficient data, information, material evidence, relevant witnesses, have interest to established communication with the suspect, and to encourage the conversation. The answer is undoubtedly yes, because the suspect has the right to present his truth (of course, he can stay silent and defend himself using that way) which may explain his behavior and provide evidence to indicate thrust that the police does not have. The ones who give an alibi must be excluded from the criminal justice process. Indeed, underlying the criminal law in that sense and criminal procedural law is the one who is innocent should not be fed in a procedure conducted against him by the state. The same applies to police conduct during investigation of offenses and the possible suspects or perpetrators. If police obtain relevant evidence that the suspected person is not related to a crime, police proceeding against him should be immediately stopped.

The general approach to interviewing in America during the past 50 years, according to Leo (1992), has moved away from utilizing physically coercive techniques to psychological manipulation and deception. Such techniques can be highly effective in breaking down suspects’ resistance during interviewing (Inbau, Reid & Buckley, 1986). Unfortunately, these techniques are not without danger (Leo, 1992) and it is the purpose of this paper to draw attention to some of the undesirable consequences of coercive and manipulative interviewing techniques recommended in some police interrogation manuals.

In order to overcome the aforementioned shortcomings, England prepare and put in practice Police and Criminal Evidence Act (PACE) (Home Office, 1985a) and it’s Codes of Practice (Home Office, 1985b, 1991). PACE has ad

\textsuperscript{123} The Court in both cases found that violation of Article 3 of the Convention relating to the failure of the authorities to ensure effective investigation into allegations that the applicant was subjected to inhuman and degrading treatment in police.
major implications for the ways in which police interviews are conducted and used in gendering of evidence (Gudjonsson, 1992). The two most innovative changes to strengthen the reliability and fairness of police interviews are relate to the introduction of tape recordings of interviews and the use of ‘appropriate adults’ to protect vulnerable individuals (e.g. the mentally disordered and juveniles) against giving misleading statements to the police. Persons acting as appropriate adults may be relatives of the suspect or independent persons, such as social workers, psychologists or psychiatrists. Their function is to ensure that the interview is fair, to advise the suspect as appropriate, and to facilitate communication. The interview approaches recommended in that law are principally non-confrontational, where the emphasis is clearly on gathering information rather than obtaining confessions per se.

The recommended interview model consists of a series of operations using the mnemonic PEACE, which stands for:

P - preparation and planning (i.e. pre-interview procedures); E - engage and explain (i.e. at the beginning of the interview there is an attempt made to establish; rapport and to provide an outline for the reasons for the interview); A - account (i.e. the stage in which the recollection of the interviewee is obtained and the interview approach utilized); C - closure (i.e. interviewees are given the opportunity of asking questions, the interview is terminated in a planned rather than an unexpected way, interviewees are informed of what is going to happen next); E-evaluate (i.e. after each interview the information obtained is fully reviewed within the context of the case and its legal position).

A review of the literature on investigative interviewing reveals at least three major benefits of PEACE. First, it does not make use of coercive or manipulative strategies. The removal of coercive techniques reduces the chance that a statement will be deemed inadmissible (Marin 2004) and the possibility that police officers will be subjected to disciplinary measures or even civil liability for conducting negligent investigations. Ethical interviewing can also reduce the incidence of the following: offender resentment, disregard of legal rights, undermining of public confidence in police, and the “boomerang effect” (the tendency of some suspects who have attempt to confess deciding not to because they believe they are being manipulated or treated inappropriately).

The following basic principles with regard to the approach might be more appropriate to be used with planning of interviews are recommended:

1. Fully co-operative interviewees while conversation management gives the interviewer greater scope to interview uncooperative interviewees;
2. Outlining the objectives of the interview;
3. Recognizing and understanding
the legal points to prove (e.g. intent as well as actions); (4) Analyzing evidence that is already available; (5) Assessing what evidence is needed and where it can be obtained; (6) Understanding PACE and its Codes of Practice; and (7) Designing a flexible interview approach (Gudjonsson, 1994). There is clearly a strong emphasis on proper preparation prior to interviews and on fairness and personal integrity during interviewing. The reliability or credibility of evidence is determined by a large number of factors which can be classified into two groups related to: (a) motivational factors; and (2) vulnerability factors. Motivational factors refers to the willingness of the person to tell the truth, whereas vulnerability factors refer to inherent characteristics of the person which may, under certain circumstances, render his or her explanation, unreliable. There are a number of different vulnerability factors which may render a person’s account unreliable during a police interview (Gudjonsson, 1992). Gudjonsson classifies these into three groups. First, those interviewees who suffer from some kind of mental disorder at the time of the police interview. Secondly, those who suffer from an abnormal mental state during confinement and the police interview, such as severe anxiety, a phobic reaction to the confinement, bereavement or drug withdrawal, which may impair their ability to cope satisfactorily with the police interview. Thirdly, personality characteristics, such as undue suggestibility or compliance, may render some interviewees susceptible to giving unreliable information when they are asked leading questions, placed under pressure, or psychologically manipulated by the police. (Gudjonsson, 1994)

**OBTAINING CONFESSION USING INVESTIGATE INTERVIEWS**

Obtaining a confession still remains an important part of the police interview process, although in England there has been a shift of emphasis towards general information gathering and the use of less coercive interviewing techniques as a result of recent cases of miscarriage of justice. In addition, with the introduction of the Police and Criminal Evidence Act in 1986, there has been increased legal protection for suspects detained at police stations. Police investigative interview aimed at obtaining a confession form the suspect is often influenced and often determined by historical, cultural, political, legal and other circumstances and factors specific to a particular environment or situation.

A confession typically results from a combination of factors. However, the single most important reason why suspects confess relates to their perception of the evidence the police have against them. Suspects are often reluctant to confess because of the perceived adverse consequences of doing so,
especially when they know that police have little or no evidence against them.

Recognition of the crime is a complex psychodynamic phenomenon. By admitting the suspect is leaving his defense which means surrender, confession of defeat. But from a moral perspective, recognition is re-establishing a bridge to society through moral purification; from the psychological aspect with recognition comes reduction of mental tension and achieve mental calm. It is known that keeping a crime secret which is unfavorable from a moral aspect, leads to a state of extreme mental tension. Therefore, there is a need for relive, which is achieved by confessing "The suspect achieves only with full recognition of his confection and relieve feelings of guilt" (Bender, Roder, Nack: Tatsachenfeststellung vor Gericht, Band II, според Симоновиќ, 2004).

HOW TO GET CONFESSION-OPENING OF MORAL DILEMMAS

David Ross in his book: The Right and the Good (1930) wrote that no one activity is not necessarily good because the moral values that have different characteristics at the same time make them good and bad, and value at the same time to someone doing well and to another bad. Many, authors following this thought, sometime justifying cheating (fraud), although they agree it is immoral, as acceptable in certain circumstances, such as saving human life. Such extreme situations that can occur as a moral dilemma in the life of every man become problematic when the state is involved and its institutions such as police.

Several surveys conducted in Britain showed that the numbers of biggest accomplishments are given during the initial interview and in a short period of time. Baldwin came up with the result that 600 men suspected of crimes such as theft, grand theft, inflicting bodily injury and similar criminal acts were made confession in less than 30 minutes. (Baldwin, 1993). On the other hand, often at the beginning of questioning suspect refuses to accept any connection with the crime for which is charged. Gudjohnsen followed and described 20 interviews related to rape, arson, attacks, robbery and murder in which police used special techniques for interrogation, some of them in the beginning refused to give confession. In these cases the police covered up data, used threats longer period and in 8 of 20 cases received recognition but with psychological harassment. However, according Gudjohnsen such interrogation techniques could lead to a false confession.
that he is legally and morally inadmissible (Gudjonsson, 2003). The suspects were questioned by police using psychological pressure, fraud or unrealistic promises, the suspect sometimes confess to a lesser crime which makes them work for the police as informants, telling on other offenders, offer cooperation with the police as informants for other serious crimes in order to meet expectations of the officers and to disrupt psychological and sometimes physical harassment against them. Extortion of confession by the police officer leads to adverse consequences, and in extreme cases, to false confessions. Judge usually such confessions consider invalid and excluded from evidence. Such confessions undermine public confidence in the police and judiciary, and the suspect, however, who is forced to make a false confession, long after that remains hostile to the police. As a consequence of false confession, the suspect in prison conditions may suffer posttraumatic stress disorder. Probably fraudulent confessions are impossible to eliminate completely, as part of a complicated social process and occur for different reasons and motives. Investigative interview is fair reduces the risk of false confession.

**IMPROVING THE INTERVIEW TOWARDS GETTING CONFFESION**

More research is conducted to identify ways in which interview with sexual offenders will be more effective and to determine factors that may increase the likelihood of confession. Holmberg and Christianson (2002) surveyed 83 men convicted of murder or sex offences. They found that aggression, hostility, and insulting and condemning behavior by the interviewer, which they labeled ‘dominance’, reduced the likelihood of a confession. However, friendliness, with the suspect feeling acknowledged and respected as a human being, and having a feeling of cooperation, which they labeled ‘humanity’ were associated with increases in the numbers of confessions. The fact that the humanity approach can be successful could be explained by offenders feeling more comfortable with the officer, and more able to reduce their guilt by confessing and getting things off their chest, particularly if compared with an officer who displays dominance. Suspects persons are likely to be particularly sensitive to the way in which they are interviewed, and this should be borne in mind when devising effective and ethical police interviewing techniques. In this research, the variable of ethical interviewing is characterized by factors such as neutrality, and allowing the suspect time to comment (Milne & Bull 1999). The responses of the participants in this research show that about one half of suspect persons decided to give confession at the beginning in
the interview. This suggests that police officers have a significant impact on whether a suspect to confess or deny the crime. In qualitative study of Australian Institute of Criminology of perceptions of convicted sex offenders’ about police interviewing, participants were asked about the feelings they experienced during their most recent police interview, and their reasons for confessing or denying. (Kebbell, Hurren and Mazerolle 2006). Participants’ own reasons for confessing were similar to those reported by Gudjonsson and Petursson (1991) with a greater number of participants mentioning feelings of guilt. Concerning reasons why an offender should confess, participants emphasized the importance of confessing to receive a more lenient sentence, that it was easier than denying, and that they would feel less guilty afterwards. They suggested that for police officers to obtain more confessions, interviews should follow a fair, compassionate, non-aggressive, and honest approach. When participants were asked for reasons for denying, the most frequent reason stated was to avoid being convicted of crimes they have or have not committed, suggesting that police officers should be cautious of accusing individuals of crimes where there is little evidence. The most frequent response concerning what the police could do to make people less likely to confess was behaving aggressively (Kebbell, Hurren and Mazerolle 2006). These studies show that both suspects and police officers believe that the ethical approach ives better results than unethical and authoritarian approach in the police investigations.

CONCLUSION

Investigative interview is one of the most important tools of the police in the prevention, detection and cleanup of the crime. It is a dynamic and interactive social process through which they can collect useful data and information, if the police officer lead possesses of the interview with the skills to establish communication with the suspect, but it is important to have knowledge of criminology, criminalistics and psychology in order successfully to lead and manage the interview in different criminal cases and suspects. Often the police are trying to influence the decision of the offender to confess the crime, but it should be in compliance with the legal framework of the dignity and rights and freedoms of the suspect, which means implementing procedures based on professional police ethics. Using deception and even violence in certain cases can produce results, and in others cause completely contradictory reaction to the suspect, depending on his personality, the type of crime, and numerous other factors of psychological, sociological and cultural nature. The results of the research interview police officers may achieved with adequate training to conduct the
interview, which comply with statutory provisions and have a professional and ethical treatment to all people for whom there are grounds for suspicion that they may have committed crimes, without abuse of authority the state and society given to the police. Confession obtained by using unethical methods and tools is sometimes false, after which innocent people are being pulled into a difficult and exhausting criminal procedure that harms the individual and the criminal justice system in general.

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MEDIATOR IN VICTIM-OFFENDER MEDIATION PROCESS

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ABSTRACT

Mediation is a form of alternative dispute resolution or resolve disputes directed to assist two (or more) parties to the agreement, with the help of a mediator who uses appropriate techniques to improve the dialogue between the parties to reach agreement. In the criminal justice, that process is represented as a measure alternative to punishment, attempted mediation and reconciliation between perpetrator and victim, a third way to achieve the objectives of punishment and the needs of the victim. In the process, the victim and offender meet in a safe environment in the presence of a trained mediator who facilitates discussion between the parties and allows reaching a mutual agreement to resolve the dispute.

That is one of the important issues that get rightful place in this paper: who can be a mediator, the question of training of mediators, as well as his rights and responsibilities.

Key words: mediation, victim, offender, mediator

INTRODUCTION

Mediation is a form of alternative dispute resolution or resolve disputes directed to assist two (or more) parties to the agreement, with the help of a mediator who uses appropriate techniques to improve the dialogue between the parties to reach agreement. In the criminal justice, that process is represented as a measure alternative to punishment, attempted mediation and reconciliation between perpetrator and victim, a third way to achieve the objectives of punishment and the needs of the victim. In the process, the victim and the offender are meeting in a safe environment in the presence of a trained mediator who facilitates discussion between the parties and allows reaching a mutual agreement to resolve the dispute.

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a trained mediator who facilitates discussion between the parties and allows reaching a mutual agreement to resolve the dispute.

One of the important issues that gets deserved place for discussion is the question **who can be a mediator**. That question opens up a theoretical discussion of the need for setting appropriate standards for selection of mediators in terms of possessing special skills and knowledge. Dilemma “professional or volunteer mediators” depends on the mentality and development of volunteerism as a concept that is accepted in society. For training of mediators, as an inevitable and integral part of the selection process is given a special place in the paper. Since the success of the mediation process depends on the competence and skill of the mediator to lead and facilitate communication between the parties, he should know what are his rights and responsibilities. Therefore, this issue is treated in detail in the text bellow. However, this paper makes a modest attempt to actualize the question of certain aspects related to the role of mediator in criminal cases, without getting into all the issues in detail.

**WHO CAN BE A MEDIATOR?**

The person who leads the mediation-mediator is defined as a third neutral, independent party in the mediation process. First question to be answered is who can be a mediator and any qualifications, knowledge and skills you need to possess to be able to apply for the position of mediator, which is a public function. Second, and equally important question is what kind of training and competence should be acquired to obtain a license or certificate for certified mediator.

The first question is related to the discussion of professional mediators or mediators from the community? Arguments exist on both sides, and states have different priorities regarding this issue. In the first case, there is a possibility of a new bureaucracy composed of formally trained professionals who can become new “thieves” of conflicts and in the latter case, the risk of unsuccessful mediation process lies in the possible inability of volunteer mediators to competently mediate the serious and complex cases. The issue of de-professional system of control is a major theme in the work of Christie, according to him specialization is the main enemy in the resolution of conflicts. He said that there should be **court equal that will represent themselves**. In essence, it is one of the ways through which the community can participate in restorative programs because closing the door on people without formal qualifications necessarily causes closing the door to the community as a subject in process. Similar to

125 Christie, N. “Conflicts as property”, The British Journal of Criminology, Vol. 17 No1, 1977
the previous claim, Pranis states: "when members of the community are involved in solving these actions, they typically take out other problems of the community." For example, in one case of vandalism by 12 boys from Minenapolis, community became aware of the need for young people to have places where they will spend their free time.

**STANDARDS FOR SELECTION OF A MEDIATOR**

As with any position, for mediator function, potential candidates must meet certain general and special conditions. Request for meeting quality standards for mediators should be a priority because of their expertise and competence depends on the successful use of mediation. Interesting approaches to this question have Umbreit and Greenwood in the Guidelines for mediation between victim and perpetrator. In them, preference is given to the volunteer mediators (representatives of the community) because, as stated, they can serve as a bridge between the community and the judicial system. Also, the advantage is seen in the different cultural values and perspectives they own because they facilitate communication with different profiles of people and can more easily establish and maintain relationships with other mediation programs and community services. Therefore, greater importance is given to the initial selection, as part of the application process before a team of efficient and competent mediators. Basic conditions that are commonly asked are: applicants to have a professional and volunteer history and to indicate the motives and reasons for their interest to work as mediators. As stated in the recommendations of the Guidelines, the correct selection of applicants should include an assessment of their perception of victimization and possible predisposition to damning attitudes toward offenders as a result of prior victimization.

Recommendation no. R (99) 19 of the Council of Europe states that mediators can be professionals or volunteers, but should be representatives of all structures in society, according to existing communities and should possess a good understanding of local culture and community. It does not require special educational qualifications as necessary elements for selection of potential mediators.

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126 Wright, M. Restorative justice outside the criminal justice system: How far have we come?, Paper to Second Conference of the European Forum for Victim/Offender Mediation and Restorative Justice: Restorative justice and its relation to the criminal justice system, Ostende, Belgium, 10-12 October 2002
127 Umbreit, M. & Greenwood, J. Guidelines for victim-sensitive victim-offender mediation: Restorative justice through dialogue, US Department of justice, Office of Justice Programs, 2000, p. 20
128 Restorative Justice Juvenile Victims/Offender Mediation Program, Volunteer Application Form, The Center for Dispute Resolution Training, Missouri State University, Department of Communication
129 Mediation in penal matters, Recommendation No. R (99) 19, adopted by the Committee of Ministers of the Council of Europe on 15 September 1999 and explanatory memorandum
The role of a mediator volunteer has **strengths and weaknesses**. The advantage consists in the fact that victims are more likely to establish closer relations with members of the community. On the other hand, those members (mediators) can better educate the public about mediation programs that stole public support. However, we can not deny the need for extensive training and greater supervision of volunteer mediators from the community.130

European countries have different practices regarding recruitment and selection of mediators. The **Norwegian** mediators are volunteers and do not require special qualifications. **Austria** seeks professional mediators. In some countries the type of education is restricted to legal science; in other encompass social, psychological sciences. The key issue of internal politics is who will be given priority, in which profession in the selection process. Therefore, despite the higher education and other general conditions, the first selection process should require additional criteria.

According to the **Law on Juvenile Justice**131 in the **Republic of Macedonia** the higher education which should possess mediators under the legal conditions is limited, except as required bachelor's degree in seventh grade or 300 credits according to European Credit Transfer System.132 Besides education, a requirement for certification for certified mediator and enrollment in the Chamber of Mediators is spending training for mediators and five-year work experience after graduation. Article 75 of the LJJ that regulates the conditions that should be met by the mediators authorized to resolve disputes with juvenile offenders, despite the general conditions stipulated in the Law on Mediation provides special conditions: **Mediator may be an attorney, lawyer - specialist, social worker, teacher, psychologist or a person from another profession who completed training as a mediator for minors and which fulfills following legal conditions: ... have at least five years experience working with juveniles.**

The statutory text shows that mediators should be of special profiles or, despite the general training, to have undergone special training in mediation in juvenile justice.

**TRAINING OF MEDIATORS**

The training of mediators is among the first conditions that must be met for successful introduction and application of mediation. Therefore, it is

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130 Coates, R., Vos, B. & Umbreit, M. Obstacles and opportunities for developing victim offender mediation for juveniles: the experiences of six Oregon counties, 2001, p.8
131 Law on juvenile justice,
subject to secondary regulation and consideration of numerous domestic and international professional meetings. Council of Europe in its Guidelines for Implementation of the Recommendation no. R (99) 19 pay particular attention to the competences and qualifications of mediators. They recommend training for mediators designed to include education on the principles, objectives and phases of the process of mediation, of codes of conduct for mediators, basic knowledge of formal criminal proceedings and the legal framework of mediation. Special emphasis should be placed on development of skills and techniques to communicate and work with victims, perpetrators and other participants in the mediation process, including basic knowledge of the reactions of victims and perpetrators, the specific skills of mediation in the case of serious crimes and when as perpetrators appear minors or other vulnerable persons.\textsuperscript{133}

Mediators through training acquire knowledge and skills. Each mediator must have at least five basic principles: to be independent, neutral, trusted, to accept the role of mediator and to ensure that participation in the process is voluntary. During the mediation process is required to show empathy towards the victims, to create a safe environment, to organize the practical work and, if necessary, to cooperate with other governmental or nongovernmental organizations.

According to the Code of Conduct for Mediators adopted by the Chamber of mediators in the Republic of Macedonia, professional principles to which individual mediators should adhere are: competence, confidentiality, neutrality and objectivity. The mediator should be competent and have knowledge of the mediation process. This includes proper training and continuous upgrading and practicing skills considering international standards, and culture, mentality, general economic conditions in the country, the spirit of the people. Also, neutrality and impartiality of the mediator, means that there must be no personal interests in respect of the outcome of the dispute and favoring one side. He can not take the case or proceed with the procedure prior to uncover the circumstances that may affect its independence or lead to conflict of interest. They are: personal or business relationship with any party, direct or indirect, financial or other interest that would arise following the mediation. In such cases the mediator accepts to continue the process only if it is agreed by the parties and when he is sure that can complete mediation neutrally and impartially and can guarantee full objectivity. In addition to his impartiality, Article 11-b of the Law on mediation provides that the parties can not impose a solution, to make promises and to guarantee specific results of the procedure.

\textsuperscript{133} Mediation in penal matters, Recommendation No. R (99) 19, adopted by the Committee of Ministers of the Council of Europe on 15 September 1999 and explanatory memorandum
Under the **Code of Ethics for mediators, confidentiality** is an important feature of mediators which mean that they can not disclose information obtained during the mediation process, unless the parties agree or unless it is allowed by certain law or other public document. Any information submitted to the mediator by one party can not be disclosed to the other party without permission, nor can be used as evidence in subsequent proceedings.

Special part for training and education of mediators is dedicated in the **Ethical guidelines of VOMA (Victim-offender mediation association)**. They stated that the mediator should have knowledge and skills for conducting mediation/dialogue between the offender and the victim (the sensitivity of the victim, offender, local sources, judicial procedure, mediation process, professional ethics), to participate in continuing education and upgrading their own knowledge, because they need to be personally responsible for their own professional development.\(^{134}\)

In this part of the paper I will pay particular attention to the recommendations for training that are regulated in the **Guidelines for VOM (Victim-offender mediation)**. They pay special attention to the **experimental learning through playing games** and sharing personal experiences during the training. Potential mediators should play the roles of victim or perpetrator, and have the opportunity to observe court hearings when both sides are present. The training is required to be much more authentic and realistic and for these purposes attend persons who were really involved in mediation process. For better acquaintance with the needs of victims, offenders, justice system and youth culture, during the training are invited representatives from relevant services (services to assist and support victims, probation services, and judicial authorities) which can provide useful information. Also, during the training they are asked to consider options for tackling the mediators in different situations. For example, if the parents of the perpetrator threatened to leave the session, if the offender refuses to speak, if the victim gives up from the compensation.\(^{135}\)

Despite these guidelines, **Umbreit**, as an active member of the Center for Conflict Resolution Minnesota, for the purposes of VOMP (Victim-offender mediation programs) has prepared a **Manual for training of mediators** in which in detail and clearly presents all aspects of application of mediation.

The United States is conducted interesting research on the reasons for refusal by victims and offenders to participate in the processes of mediation. The survey covered 45 VOM programs between 2001 and 2003. According

\(^{134}\) Victim-Offender Mediation Association Recommended Ethical Guidelines  
\(^{135}\) Umbreit, M. & Greenwood, J. Guidelines for victim-sensitive victim-offender mediation: Restorative justice through dialogue, US Department of justice, Office of Justice Programs, 2000
to research results, both positive factors affecting the successful mediation are: the style of the mediator, his ability to show empathy towards the victim and the offender and his competence to understand the intentions of the parties and help them reach an acceptable solution. The mediator acts as a catalyst and advisor to both sides and his openness evokes positive feelings between the victim and the offender. Negative factors, according to the perceptions of the parties are: the unequal power between victim and offender and the absence of effective balancing strategies that need to be taken by the mediator, poor motivation of any party in reaching agreement and the absence of further monitoring of the offender to achieve the agreement.136

Starting from practical examples and indicators, we can conclude that a successful mediation process depends on proper development and competent application of skills and techniques for resolving disputes, which should possess the mediators, of their knowledge and awareness, of the philosophy of restorative justice in general as well as of the manner how that philosophy in operational in practice. The role of the mediator is constructive when he had informed the parties about what is expected of them and helps them stay within their roles.

Considering the specifics for conducting mediation between juvenile offender and victim, in 2010, the Chamber of Mediators of the Republic of Macedonia conducted special training for mediators for minors. In terms of basic training, in accordance with Article 11/2 of the mediation law, the Ministry of Justice in June 2006 enacted Rulebook for initial and advanced training of mediators and the Chamber adopted a Code of Conduct for mediators.

RIGHTS AND OBLIGATIONS OF MEDIATORS

The role of mediator, in particular the rights and obligations are subject to statutory regulation and laws relating to mediation. Guidelines for VOM and Ethical Guidelines VOMA provide an excellent framework and roadmap for mediators in fulfilling their function.

The instructions for VOM, the responsibilities of the mediator in the approach to the victim and the perpetrator is specifically regulated and related to its neutrality, independence and equal treatment. During previous meetings with individual parties, the mediator should hear their individual stories, provide information, answer questions, and help in the decision.

136 Ruth-Heffelbower, D. ili Montanez, J. Victim-offender Mediation Refusals – a study of mediator perceptions
Information should be related to mediation program, which should always be free for victims, to its purpose, the court system, the rights of the victim and certain circumstances connected with the perpetrator. Special emphasis in the Guidelines is placed on the responsibility of the mediator for careful preparation of the victim and using understandable language and sensitive communication with her. Victims also need to be informed of the possibility of state compensation or other public funds intended to compensate for losses. Reconciliation and forgiveness as central components of the mediation process should occur spontaneously, and not to be imposed because it can cause the opposite effect among participants. It is, also, of great importance to be performed quality control over the work of mediators and to be allowed continuous communication with staff of mediation services.\(^{137}\)

One way of quality control of mediators is to review the cases that were subject to mediation in order to overcome any problems in conducting the mediation process. Among the numerous responsibilities of the mediator stated in the Guidelines, specifically highlighted are: help and support for offenders with job search, coordination between the offender and the community in pursuit of work in the community, providing opportunities for rehabilitation of offenders to develop empathy for victims, improve their family relationships and connections.

**Ethical Guidelines of VOMA** recommends that training for mediators should include acquiring special skills for vulnerability of the victim and offender to certain things that are emotionally connected. Appropriateness of the case, the ability and willingness of the offender and the victim to participate and their safety are assessed before the beginning of each mediation process. Recommended application of the humanistic model of mediation aimed at establishing dialogue between the parties rather than agreement. The obligations of the mediator are: removal of prejudices of participants, review of potential risks and benefits of the offender during the preparatory meetings, reviewing the needs of the victim, provide information and answer of questions related to the mediation process, the judicial system, the rights of victim, provide information about the principles of confidentiality and neutrality of the mediators and certain circumstances connected with the perpetrator. After reaching an agreement, its execution and evaluation should follow.

**Ethical guidelines** also recommend to the mediator and participants previously to agree on certain issues relating to confidentiality of

\(^{137}\) Umbreit, M. & Greenwood, J. Guidelines for victim-sensitive victim-offender mediation: Restorative justice through dialogue, US Department of justice, Office of Justice Programs, 2000
information, the possibility of using legal aid, the inclusion of other parties in the proceedings, and conditions under which mediation may be terminated. Guidelines regulate also the right to an independent mediator to provide assistance, information and advice to the parties to protect their rights and interests before they formally sign a mediation agreement.

In terms of costs and rewards of mediators, the Guidelines recommend: firstly, the prize and any other expense to be explained to the parties who should arrange payment, secondly, the amount of the award to be clear, fair, reasonable and to be appropriate to given advise and aid, third mediator may not condition the amount of the award according to the result achieved and, fourth, awards or other payments should not give any priority regarding the referral of the parties to the mediation process.138

The Law on Juvenile Justice indicated that the mediator for his work has right to reimbursement of costs under the Tariff of remuneration and reimbursement of expenses of the mediators. The award of the mediator is determined by effort and time spent in the procedure, the type of dispute and the number of parties. Also, according to tariff, the mediator has the right to request an advance from the parties to cover the administrative and technical costs of the procedure and, as stated in the Statute of the chamber passed in November 2006, may waive the written statement of the procedure mediation if the parties do not pay in full advance payment within eight days of his request.

CONCLUSIONS

Based on above mentioned, we can conclude that in terms of knowledge and skills of the mediators, generally, there is consensus that the success of the mediation process is mainly a function of the competence of the mediator in the preparation and conduct of the process. Conversely, dissatisfaction and secondary victimization is the result of poor practice associated with inadequate training. Therefore, mediators need to undergo the relevant training and to gain knowledge and skills to prepare the meetings and the process of mediation and communication between the parties.139 Proper selection of mediators depends on the fulfillment of three basic criteria: possessing personal qualities, acquiring the appropriate knowledge and skills during the training of mediators.

Inadequate training of mediators is considered as one of the main reasons for the unsuccessful mediation process. Specifically, ignorance and

138 Victim-Offender Mediation Association Recommended Ethical Guidelines
incompetence lead to vague goals and policies, references of inappropriate cases and, consequently, the "unhappy" participants.

Recommendations for training mediators in criminal matters adopted by the European Forum for Restorative Justice are an excellent basis and guide for establishing good practice and training program for mediators in the Republic of Macedonia. It is important to establish a **training center within the Chamber** of mediators who will provide continuing education and professional training of mediators. Besides Training Rules for mediators issued by the Ministry of Justice, the Chamber and the Ministry should pay special attention to organizing continuous courses for mediators for maintaining existing and acquiring additional knowledge in the course of work.

Also, consideration should be given to creating funds in the budget of the Chamber of Mediators for reimbursement of administrative and technical costs of the proceedings and the award of the mediator for certain categories of offenders and victims who are unable to pay those costs.

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SCIENTIFIC AND THEORETICAL DETERMINATION OF CONCEPTS INTELLIGENCE SERVICES AND INTELLIGENCE ACTIVITY

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ABSTRACT

Modern nation states are faced with risks and threats to national security that manifest themselves through illicit arms trafficking, drug trafficking, corruption, terrorism, organized crime, possession of large quantities of illegal weapons, nuclear threats with low intensity, computer crime, etc. If we add and change the geopolitical map of the world, globalization, non-military threats and pressures, inevitably condition the new systematic approach to defining, determining the organizational structure and functioning of the intelligence services, but are a clear call to boost intelligence and intelligence activity. The objectives of the formation and activities of intelligence services is a function of performance that are important for maintaining and improving national security, they are necessary to protect the country from risks and threats directed at its security and defense, and are the basis for running the external and internal policy and management with military and economic affairs of the country. Intelligence is a very sensitive area of research, and it is characterized by very secret and special features. Difficulties in defining intelligence activities and services they performed, stems from the fact that the intelligence services as a specialized part of the state apparatus are legal organizations legally established scope of work, but they also illegally working against other countries, and this requires high expertise, professionalism, specialization and work of its staff in complex environments and monitoring the latest achievements of science and technology.

Key words: intelligence service, intelligence activity, intelligence.
INTRODUCTION

As a permanent and specialized state body with the intelligence function, intelligence, occurs at the transition from the middle of the century, the period of developed feudalism and absolute monarchy. The process of transforming intelligence into a special state body lasted several hundred years and completed in full even in the 19th century with the creation of national security-intelligence systems. This led to the institutionalization of intelligence activities\textsuperscript{141}.

Available information on the development of intelligence activities in the old century, that the original community and slave society, and in medium Ages to the Renaissance period, show that they were purely political or military nature poltichka. Mainly manifested in the forms of classical espionage, including placing misinformation and using primitive tools (for Secret words, shifruvanje, signaling, etc.). Holders of intelligence activities have been largely motivated individuals with adventurism, and who also had other functions, primarily military, diplomatic and police. Permanent and professional qualified organization that deals exclusively with intelligence work was not defenirana, and methods of intelligence work to reduce the skills of disguise, subtlety, wit and the like. Intelligence problems, rulers and generals settled according to the given need, and most immediate eve of battle.

Next feature of the intelligence activities of the period is their connection to war, because it was confined exclusively to military espionage. Intelligence activities are used not only in battles against other states, but in the suffocation of internal strife and insurrection. Their role in other areas were peripheral. Intelligence work was not continuous and systematic, but assumed from case to case, usually in times of armed conflict. And in the Peace time intelligence activity was within the immediate preparations for war expeditions\textsuperscript{142}. Also in Old and Middle Ages intelligence activities are

\textsuperscript{141} In the broadest sense, intelligence phenomenon consists of intelligence activities and organizations that conduct. In fact, intelligence activities occur with long-term evolutionary process, and therefore can not accurately determine either the time nor the place of their occurrence. But we can say that old as human civilization itself, as they witness numerous monuments of material and spiritual culture. There are theorists intelligence activity accepted as a historical category, but among them there is no complete agreement on when the weather intelligence activity actually occurs. Some authors emergence of such activities often linked to the creation of state law, specifically the fourth millennium BC. According to other beliefs (and are backed by

\textsuperscript{142} During this period, intelligence activities are used extensively as a means to a political struggle (court intrigue, dynastic struggles), individuals and certain groups.
conducted illegally, because they are thought not worthy to speak with a knighthood\textsuperscript{143}.

With the development of human history until today intelligence activity as an important component of overall human activity, carried out primarily through secret and covert operations. The first known written source for any kind of intelligence activity dating from 4000 BC, written on clay tablet found in archaeological excavations in the area of present-day Syria, and it binds the name of Banum, the most famous "spy" in history\textsuperscript{144}.

The process of transformation of the intelligence activity intelligence-as a separate, permanent and professional state body with the intelligence function begins in the 13th and lasts until the 19th century. Strong intensity of this process gives great geographical discoveries and the first colonial conquest in the 15th and 16th century which expanded and strengthened commodity monetary relations and trade ties with Western Europe, particularly in the Netherlands, Spain, Portugal, France and England\textsuperscript{145}.

Until the overall development of intelligence aktinosti, their institutionalization and the creation of classical intelligence, for the first time in history is accomplished during the bourgeois revolution in England (1640-1660). Namely chancellor Oliver Cromwell with his orchestra in 1647 vljanie year, to establish the first intelligence service under the authority of parliament. It was taken as the date when accrued intelligence in the right sense, because then for the first time its scope of work in the field of intelligence and security affairs has regulated highest body of state.

During the period of colonialism and later imperialism comes to class antagonism and conflicts in the late 19th and early 20th century appear strong antikolonialistichki and national liberation movements. It influenced the development of even stronger razuznavachkit activities in order to preserve the interests of the ruling classes internally, while the outer plane realization of political interests that often have a character occurrence from position of power and use of force in international intercourse. In that period begins to create powerful and effective organized intelligence and security systems, which with certain modifications exist in many countries today. Intelligence of the time develop into strong state institutions, with good logistical and material support. Because it is safe to conclude that in the period between two World Wars and immediately after that, during the so-called cold war, gradually complete the process by which intelligence got its modern organizational form and scope of work.

\textsuperscript{143} In terms of criminal law that activity is considered an act of treason and severely punished. For example, in ancient Greece intelligence activities (espionage) is sankcionirana the death penalty with confiscation of property celovkupniot and throwing the body of the condemned outside the country.

\textsuperscript{144} Lubomir Stajich, Basic safety, Police Academy - Belgrade, 2004, pp. 201

\textsuperscript{145} For this, see more at Dr. Milan Milosevic, "National Security System"
From then until today, the intelligence service as a specialized part of the state apparatus contributes to the successful functioning of the state apparatus of the inner and outer plane, and its primary purpose is to preserve their own, and also reveal the secrets of other countries. Its overall activity, activities and tasks are strictly accorded with the objectives and tasks of the state or its governing bodies. As part of the state apparatus, the same shall provide information and data on political, military and economic conditions in neighboring and other countries. Thus the intelligence service of each nation state and allows expedient to lead foreign policy and matches all kinds of international relationships.

DETERMINATION OF CONCEPTS INTELLIGENCE SERVICES, INTELLIGENCE ACTIVITY AND INTELLIGENCE ON SCIENTIFIC AND THEORETICAL LEVEL

In science and in other literature there are many beliefs and point determinations of what constitutes intelligence activities that are its domains and that the authorities, bodies and agencies that do. The essence of intelligence activity and service as a socio-political phenomenon and state product is not yet enough scientific and theoretically explained and determined. Many of these beliefs do not include the actual content of this activity, and some simplify the subject of her research. Thus, some identify it with the institution for collecting data and information. Others think that a public authority performing some technical things. Others define the content of the work of intelligence services based on visible manifestations of its activity or by law prescribed competencies\(^{146}\). Today there are considerations that business intelligence is an area of state activity in which all holders of the required high accuracy, timeliness, efficiency and analytical skills. Any intelligence information and action must meet the following standards: fairness, accuracy, usability, fitness, completeness, accuracy and relevance\(^{147}\).

Difficulty in defining the concepts of intelligence activities and intelligence occurs for several reasons: First term intelligence is used double-sided, to denote the activity and to indicate the holder of the activity. Second, in the English language, for example, the term intelligence is used for data or information (information/information) and intelligence activity: as an activity of collecting secret data for other countries or secret actions of

\(^{146}\) Kotovchevski M., Secret services, Macedonian civilization, Skopje, 2000, pp. 55

\(^{147}\) Joint Publications 2-0: Joint Doctrine for intelligence Support to Operations, Joint Chiefs of Staff, Washington, 1995, pp. 4-15.
individual groups within the state or, as a state organization that collects such data.\textsuperscript{148}

Roy Godson, a professor at Georgetown University, who is also president of the National Center for Strategic Information and chairman of the NGO Consortium for the study of intelligence, intelligence describes as "knowledge, organization and activity that results in: (1) collection, analysis, product distribution and specialized exploitation of information associated with any other government, political group, party, military force, motion or other association who are believed to be related to the safety of the group or government, (2) and neutralization resistance of similar activities of other groups, governments or movements and (3) covert activities undertaken to influence the composition and behavior of such groups or governments.\textsuperscript{149}

Based on the definition, Roy Godson sets out four elements of intelligence:

1) Secret collection that represents getting important information through the use of special, usually secret, human and technical methods;

2) Counter representing identify, neutralize and exploit other state intelligence services;

3) Analysis and assessment or evaluation of other data collection and delivery to policy makers finished product that is clearer than it can be in the data itself;

4) Covert action as an attempt to influence the politics and events in other countries before they reveal their own involvement.

The term "intelligence activities" means a specific social activity directed against external and internal opponents, or to actual or potential enemies of certain countries or social groups whose interest is subject to the most subtle and best kept secrets of foreign countries and other social entities, and undertaken in order to realize the vital interests of states, or other social groups.\textsuperscript{150} The main objective of the intelligence activity is coming to specific information, a rule of secret (hidden) character, and only exceptionally and public character, or more accurately put, the goal of aktivonost intelligence, the intelligence services represents a coming to specific confidential information from importance for the realization of other strategic interests of a State or other appropriate entity.

\textsuperscript{148} The content of the notion of intelligence, equally applies to the activity and organization that operates, and so make up one whole. Lubomir Stajich, basic safety, Police Academy - Belgrade, 2004, pp. 201


\textsuperscript{150} Batkovski, Tome, Batkovski, T., Intelligence, security and counterintelligence tactics, Skopje, 2008.
The complexity of the intelligence field and dynamics, variability and adaptability of the activities of intelligence services in accordance with the requirements and needs of society, explains the difficulty to find relevant scientific references, so in that context to make the selection of individual determinations definiciški the importance of intelligence.

A number of authors have established the importance of intelligence, dropping socio-economic conditions of their occurrence and initial organizing. These authors "Intelligence" is defined as collecting data that might be easier for government to achieve an advantage over an opponent or intelligence is the process which determines the usability and reliability of the information that allows to overcome the opponent.\(^{151}\)

In the seventies of the XX century Encyclopedia Britannica defines the tasks of the intelligence services of a particular state as "constantly collecting and analyzing data for position, opportunities and likely policy decisions of other states" and "to observe, report, analyze and summarize, and continuously executes the process.\(^{152}\)

The term intelligence service has its broader and narrower meaning: the nuclear mean national intelligence-security system that consists of specialized organizations and institutions in some states, while the broader meaning that includes holders of the overall intelligence activities undertaken by other institutions, organizations, groups or individuals of a particular state.\(^{153}\)

Sherman Kent, intelligence brings in correlation with information, and determines that the basic task of the intelligence services is collecting information, their systematization and distribution to interested users. Basically many authors genesis and existence of the term intelligence has linked the emergence of secrets. So in that respect, S. Rodić you define intelligence as a public authority has a basic task to inform about the secrets of the opponent. For this purpose, intelligence develops specific activity is very diverse, consisting of a number of different specific activities and each of them closer to realizing goals boil down to common, common and ultimate goal consists in intelligence opponent.\(^{154}\)

Hans Born defines intelligence as government departments responsible for collecting, collating and providing information to ensure the safety of society and freedom of its citizens.

Hans Born to define intelligence as a tool in the hands of state institutions that can be used in two approaches - good and bad. The positive meaning of

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intelligence is explained by the determination of the intelligence services as instruments in the hands of responsible democratic leaders, and then perform well. When intelligence agencies were instrumental in the hands of people who are interested in conflicts and adjustments, then these services are used for bad purposes.\(^{155}\)

In Handbook on Parliamentary Oversight of the Security says intelligence services are a key component of each state, providing independent analysis of information regarding the security of the state and society and protect its vital interests.\(^{156}\)

The American Encyclopedia says that "at the request of the political council of a state intelligence service running activity of collecting information about opportunities and intentions of foreign governments or concerned with collecting any other information."\(^{157}\)

According to Dr. Milan Milosevic under intelligence means a specialized organization of the state apparatus, that the specific methods and means running intelligence, security, and other subversive activities, in order to protect internal and external security and realize the strategic goals of their own country, and protection of the service.

According Masleša intelligence should be defined as a specific, specialized, highly professional and relatively autonomous social institution in accordance with statutory powers given by using special legal and covert methods and means of protection system collects relevant information and other information about the plans and intentions of other states or their respective institutions, which are necessary for designing, creating and running a global policy especially on foreign policy plan. At the same time the duty of intelligence is to protect the vital interests of their own country so that it detects, monitors, studies and prevents actions of foreign intelligence services, and other structures primarily are thus dealing with various types of illegal activities.\(^{158}\)

According to Dr. Lubomir Stajich, intelligence is defined as a specialized, relatively autonomous institution of the state apparatus which is authorized by legal but by secret means and methods to collect relevant intelligence and information to other states or their institutions and possible internal opponents the state needed to guide public policy and taking other actions in


\(^{156}\) See: Parliamentary Oversight of the Security principles, mechanisms and practices, IPU DCAF, Goragraf, Beograd, 2003, pp. 64


war and peace, with its own activities, alone or with other state agencies to enforce some national and political goals of the country. According to Dr. Alexa Stamenkovski, intelligence services are a key component of each state, providing independent analysis of information regarding the security of the state and society and protect its vital interests.

According to Dr. Mitko Kotovchevski, intelligence is an important national organization that specializes in the collection, analysis and assessment of intelligence data and information on other countries for their military and ekonomski potentials, the political situation, monitoring the intentions of other states, scientific discovery, mediation between states (and secret diplomacy) and other data vital to the successful functioning of the state. He also points out that today the intelligence services deal "with the prediction of the future" of particular interest to national security. They represent the "eyes and ears" of modern states and their appreciation inevitably makes states "blind and deaf" questioning their national survival. Intelligence service represents a specialized part of the state administration that collect, classify, analyze, evaluate and present the state leadership, data, assessments and proposals for political, military, economic, cultural and other information, relating to vital national interests and objectives, engages execution of other tasks provided by state officials, and relate to achieving national strategic goals and protect their interests from the opponent.

In fact we can conclude that the term intelligence is multidisciplinary. This is due to the specifics of the intelligence services in different countries and the difficulties in defining the concepts of intelligence activities and intelligence arising from the fact that the intelligence services as part of the state apparatus, are legal organizations, based on legal and other provisions the state, but they also illegally working against other countries. This requires high expertise, professionalism and specialization of staff employed in the intelligence service, monitoring the latest achievements of science, technique and technology etc.

Abovementioned definitions highlight fundamental aspects of the work of intelligence services, and based on them we can conclude the following:

- Intelligence Service is a specialized part of the state apparatus;

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159 Dr. Lubomir Stajikj, basic safety, Police Academy - Belgrade, 2004, pp. 201
160 Dr. Alexa Stamenkovski, Fundamentals of Intelligence, NIP Gjurgja, Skopje
161 Dr. Mitko Kotovchevski, Sovremeni intelligence, Skopje, 2002, pp. 41
162 Batkovski, T. Batkovski, T., Intelligence, security and counterintelligence tactics, Skopje, 2008.
The intelligence service headed narrowest political leadership of the state (head of state, Prime Minister, a committee of parliament, etc.). Intelligence Service is relatively autonomous in relation to other structures of government; The legal and the secret means and methods to collect the necessary data and The law authorized to carry out their tasks. As the characteristics of intelligence in modern terms we can define the following:

♦ Intelligence Service is one of the instruments aimed at realizing the vital interests of the real holders of power (political, economic, etc.), country to which they belong. Regardless of whether their role in the present case is direct or indirect, these services have a prominent part in creating internal and external policy. As specialized institutions of the state apparatus and operate within the existing national security-intelligence systems, it is clear that its function is performed exclusively at the national level.

♦ A basic element of existence and action of intelligence represents secrecy, which constitutes the basis of subject intelligence activities (Secrets in interpersonal relations). On the other hand, the intelligence in his work, applied varied covert resources and also keep the most secret of rival intelligence services. Secrecy is no such principle and the realization of the tasks received from the holders of power, regardless of whether it comes to protecting the vital values and secrets of their own countries or disclosure of secret opponent.

♦ Intelligence Service is characterized by specialized, professional and teamwork, which are reflected primarily in the planned direction of its activities in a particular area (issues) and continuous professional training of its staff. Concomitant intelligence processing a number of issues of professional character, requires narrower professional approach to the general category of problem. To enable them to effectively and promptly respond, it's a team action at all levels and in all phases of the intelligence process.

♦ Basic types of action of intelligence in intelligence and subversive activities, and other ancillary activities;

♦ Use of specific methods and tools in the implementation of intelligence and subversive activities, which are characteristic of action of other facilities and services within the state apparatus, but also greater use of legal opportunities (resources and funds) for intelligence work. Develop new means of intelligence practice and innovative solutions in the tactics and methods of operation;
Preventivnost as main activity or activities of the intelligence service area of prediction and warning of the many activities of the opponent against the vital interests of their country. By continually expanding and intensifying its activities in new conditions, modern intelligence both realized and protective and informative feature. Because rightly considered that the activity of modern intelligence in scope and goals beyond the framework of protecting state security.

Application of latest scientific and technological advances (assets) in realization of both types of activities of IS.

Fixing the terms "intelligence" and "intelligence activity", theoretically we can define the term "intelligence".

Basically intelligence is obliged:

- To protect the sovereignty, independence, territorial, integrity of a country;
- Ensure protection of the constitutional legal order, protection of human rights and fundamental freedoms;
- To carry out intelligence activities (to take destvija directed against external and internal opponents, or to actual or potential enemies of certain countries or social groups whose interest is subject to the most subtle and best kept secrets of foreign countries and other social entities, which are undertaken in order to realize the vital interests of states, or other social groups), to ensure national security of the state;
- Carry out counterintelligence activities to identify, prevent and eliminate intelligence actions of foreign intelligence services or organizations or individuals involved in espionage, sabotage, subversion of terrorism;
- To ensure the security structures of the country as President, Government and Parliament with information necessary to solve certain problems associated with achieving security in the area of domestic and foreign policy, social and economic development, scientific and technological progress;
- To fight terrorism, organized crime, corruption affecting the interests of national security, and to identify, prevent and eliminate other threats;
- Ensure protection of senior government officials and foreign diplomats, protecting the government and its bodies, to protect foreign and public figures during their stay in a particular state.

Intelligence or intelligence capabilities of one country representing a decisive instrument for achieving an integrated national security. The intelligence provided data and information necessary to protect the country from risks and threats directed at its security and to defend its other interests, providing data and information, primary and processed, which serve as the basis for conducting internal and external policy and management of
economic affairs of the country and for helping policy can anticipate threats directed at its security and to inform the security structures to successfully perform their tasks.

CONCLUSION

The complexity of the intelligence field and dynamics, variability and adaptability of the activities of intelligence services in accordance with the requirements and needs of society, explains the difficulty to find relevant scientific references, so in that context to make the selection of individual determinations definiciski the importance of intelligence services and the exercise of intelligence activities. Above definitions in some sense explain the essence and character of the work of intelligence. Abovementioned definitions highlight fundamental aspects of the work of the intelligence service, which specializes part of the state apparatus that collect, classify, analyze, evaluate and present the state leadership, data, estimates and proposals for political, military, economic, cultural and other character on vital national interests and objectives, engages in performing other tasks provided by state officials, and relate to achieving national strategic goals and protect their interests from the opponent. Its main task is to identify risks and threats as external, and internal and to provide analysis and information about them and deal with them.

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ABSTRACT

Considering the current developments on the world art scene, very obvious is the tendency for globalization of art and culture in general. But in such a situation, the relations of traditional local elements with the broader global values, does not indicate their opposition. Rather, art tradition and cultural heritage are the foundation upon which contemporary art will be built. In this paper the issue of the relationship between innovation and art tradition has been questioned. The subject of this study is the process of creation and development of innovations in art i.e. the role and projections of the tradition in that process. The first section deals with the socio-cultural aspects of innovation and tradition, in the second part a concrete example is given by the rise of modern art through the discovery of "old art" and the third part talks about the creation of the Macedonian artistic identity through the traditional artistic values.

Key words: tradition, innovation, art, painting

INTRODUCTION

The national culture exists (is manifested), primarily as a specific cultural system of values (moral principles, beliefs, customs, language, art, religion etc.), that arise from their long coexistence, i.e. from tradition. Along with the historic character, it should be noted that the national values...
find expression in the social needs and interests, that members of a given
nation emotionally perceived as something different, special and worthy of
respect, preservation and defense, something that connects the community.
This kind of experience is subjective, but since it is experienced from all
members of one nation, obtains inter-subjective nature, character of
collective consciousness, that is especially apparent throughout the crisis, or
during the period of solving the existential questions of the nation. The
values of each national culture are specific, but it does not mean that they are
inconsistent with the values of the other nations, or with the universal values,
although there are cases where the values of one nation are perceived as the
only respectable and the values of the other nations are underestimated,
something that results with the appearance of nationalism, chauvinism, and
even fascism. In such cases, the coexistence among nations in one or more
countries, their mutual respect and cooperation are prevented. Hence the
national culture in the full sense of the word is a set of economic, customary,
moral, political and spiritual values which, although specific, fit into the
system of universal values.

In this sense culture appears as one of the distinguishing features of
the identity of every people and nation.

Generally, culture is understood as a set of inherited and newly created
material and spiritual values, with purpose to facilitate the maintenance,
renewal and progress of the mankind in general. This means that the culture
contains two important components:
- Tradition - the transfer of already established cultural values and
- Innovation - creation of new values or progress.
These two elements of culture are in constant dialectical relationship,
mutually are complementing and conditioning each other. These issues are
so important because the tradition as a phenomenon in the modern
conditions of life shows two opposite trends:
- Either appears as a starting point and base in the achievement of a
  positive social development, especially when the cultural heritage, in a
  creative manner is maintained, nurtured and handed down from generation
to generation;
- Either appears as an obstacle of the social development, impeding,
slowing down and hindering the progress and the creation of new cultural
values, aims to maintain a state of status quo, especially when tradition is
understood as something rigid and unchangeable, as a value of which should
be enslaved, regardless of changing social conditions.

Which of these two opposite tendencies will predominate in a given
social moment depends on the way it will be understood, especially in which
way the traditional values will be incorporated in the contemporary social
framework, which on the other hand is conditioned by the degree of
democracy, the degree of development of the social consciousness, social
tolerance, development of the productive forces, enlargement of the number
of methods for meeting human needs etc.

In this paper the issue of the relationship between innovation and art
tradition has been questioned. The subject of this study is the process of
creation and development of innovations in art i.e. the role and projections of
the tradition in that process. The first section deals with the socio-cultural
aspects of innovation and tradition, in the second part a concrete example is
given by the rise of modern art through the discovery of "old art" and the
third part talks about the creation of the Macedonian artistic identity through
the traditional artistic values.

SOCIO-CULTURAL ASPECT OF INNOVATION AND TRADITION

Tradition may be defined as a component of culture, whose essential
feature is the acceptance and transfer of already created values and goods. Therefore, the tradition is conservative (but not retrogressive) force because it preserves (keeps) what already exists as a positive result of the social and cultural life. But aiming to maintain and hand down the cultural values from generation to generation, it shouldn’t be understood as a static and unchangeable value, a value that should retain by all means. Rather, through the time, it changes and adapts in accordance with the underlying social relations and conditions. It is always under reconsideration in front of a new landmark. Tradition will become only those social values that will withstand the pressure of the modern time, and will endure a long period of time, that will succeed to be applied in the demands of modern life and in several lifetime trials of generations will confirm its usefulness. The traditional values are a kind of selected, valuable (best of) cultural experiences created through the history of the ancestors, which the young generation accepts through the process of learning and socialization. That complex of traditional values, in the social life and in the need for further creation, provides to young generation an opportunity to start from established level of experience, and to create a new cultural values that will occur as a step forward from the acquired. 164 This means that the tradition is a necessary precondition and foundation that allows people, starting from there, to create new values and in such a way to ensure continuity in culture.

It seems that the social progress is impossible without involvement of the tradition in the cultural life of man, although it is known that the tradition

could be a conservative force, burden to society or individual, closing their cognitive horizons.

Innovation, from a lexical acceptation of the word usually means novelty, introduction of something new, something that is created recently and differs significantly from the previously existing, from old.

From a sociological perspective, though the occurrence brings something new (no matter whether it is a new structure, function, etc.), to get treatment of innovation, it has to be:

- In a service of the progress - which means that no matter how perfect and new a phenomenon is, if it is not in the function of improvement of the living conditions, and more in the function of the humanity, it is not innovation. Nationalism for example is a qualitatively new phenomenon, differs significantly from the structure of the society before its appearance, but considering that it is a negative social value and does not offer anything good and progressive, it cannot be innovation;165

- Social, not individual, i.e. to be available and in the function of a larger group of people and of the society in general;

- Socially meaningful, socially and historically adequate, rational and dynamic, which means to lead to fulfillment of the social interest in a new way or to open a new social interest, its social "cost" to be acceptable, i.e. in accordance with the other positive social functions, to enrich hitherto existing experience, its practical social implications to respond to the actual historical features of the community, to provide the most effective way of meeting the social needs, to be modified in accordance with the social changes and to yield to better innovation, i.e. not to become an obstacle of the social development.166

Considering the above mentioned basic features of the innovation, it can be defined as a socially meaningful, reasonable and adequate historical phenomenon that has a close date of occurrence or inherent (essential changes) or the contact has been made recently and in the social environment is not widespread to saturation.

In the scientific literature there are different attitudes about the relations between tradition and innovation, especially about the question of their coherence and causality.

According to the metaphysical attitude, a mutual exclusion exists between the traditional and the new knowledge. Aim of the science is to create a new knowledge and the tradition is just upgrading the old examples, i.e. the existence of tradition from this viewpoint contradicts to the scientific activity.

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165 G. Petrovich, Mogishnosti choveka, Zagreb, 1969, стр. 30-31
166 Види пошироко Dzhurich d-r Vojislav, "Inovacii u društvu", Zagreb, 1975 год., стр. 33-35
From a scientific point of view these two phenomena are not contradictory and exclusive but furthermore, they are interrelated and mutually conditional. In the society there is always need for preservation of what is old, but also a need for creating something new. In this sense, the relationship between tradition and innovation should not be seen as historically divided social aspirations, but as a dialectical relationship of two opposite trends that are in a parallel existence, like the relationship between past and future and as a legitimate need to change the existing values in accordance with fundamental social transformations. Historically, the society cannot give up of its positive experience created through the generations, even in the most distinguished social transformations. That, however, does not mean that all newly created values should coexist with the constant values. Even the newest social values cannot completely "avoid the warm embrace of the past." In this way the tradition becomes more prevalent process of integration continuity and social transformation of the positive experiences that are realized as a completely new. Therefore the tradition and innovation make every culture and civilization hybrid. Today we don’t recognize completely old nor completely new cultures. Moreover, we can say that the tradition in which is accumulated a rich amount of knowledge, creates historically a better conditions for new creations, i.e. for innovations.

The epistemological meaning of the tradition follows from the fact that it is very often a starting point in the mastering of a new knowledge. Often, the traditions in which is accumulated a rich amount of knowledge and experience from the previous generations, are opening a wider cognitive horizons and create a historically improved conditions for new creations. Moreover, from epistemological aspect, the tradition has numerous features that stimulate scientific knowledge of objects and phenomena and knowledge in general. In this way, the non-public knowledge is characteristic feature of the positive tradition, also the intuitive obviousness, conservativeness of the opinion and knowledge that is limited within the capabilities of scientific and research methods and achievements of the previous period. It incorporates unproved and intuitive knowledge, but also a network of knowledge, fundamental for a given area, constructed in a way that allows a particular specific approach to the scientific research. Hence, the tradition appears not only as a conservative force, but as a rich source of scientific hypotheses and a starting base in the mastering (acquisition) of a new knowledge. In the scientific knowledge, the tradition acts as a conceptual basis, "it is a logical framework, a skeleton of knowledge that later during the research work will get its blood and flesh". In other words, new ideas do not emerge (do not sprout) in a deserted place, but always
appear as daughters or as an offspring of the values that previously existed.167

THE RISE OF MODERN ART COINCIDES WITH THE DISCOVERY OF OLD ART

Seen from the perspective of Fine Arts, considering the current developments on the world art scene, very obvious is the tendency for globalization of art and culture in general. But in such a situation, the relations of traditional local elements with broader global values, does not indicate their opposition. Art tradition and cultural heritage under these circumstances are constantly re-evaluated and acquire a new meaning. They are a question of present interest and a foundation upon which contemporary art will be built.

Boris Petkovski in his symposium of reviews, papers and essays "About Macedonian Art", referring to the specificity of contemporary art in Macedonia (relying on the attitude of Arnold Hauser "Sociology of Art", 1972 i.e. on one of the basic principles of historical standpoint in art) would say that “the present state of art has its past and its tradition that are constantly re-evaluated acquiring aspects and values unknown during the time of their appearance. The significance of the past in the present is the most essential indication about the historical development, it is a result of overcoming its past stages in the interests of the future ... As a connection between past, present and future, tradition is a tool to overcome the past development and the benefits of culture that are in a danger to fade".168

The exact defining of what is actually avant-garde in art is quite problematic and this term is of quite relative meaning. However, generally speaking, avant-garde refers to experimental and innovative creations, particularly in art and culture. You could say it represents a hallmark of modernism of XX century. Classical avant-garde is represented by artists, painters, sculptors, graphic etc., who made a big revolution in art in the first decades of XX century: fauvists, dadaists, surrealists, expressionists, cubo-futurists, as a whole the early XX century is heroic period for artistic avant-garde, everywhere in Europe and in the world.

But the rise of modern art coincides with the discovery of "old art" everywhere in the world: Arts of Africa, the ancient cultures of Maya and Aztec, medieval art of Byzantium, etc. Illustrative and as a concrete example here i would like to point out the work "Les Demoiselles d' Avignon (The

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167 А. Н. Антонов, „Научные традиции и диплатика, развити науки‖, Традиций в познании и культуре, Москва, 1986, стр. 8
168 Б. Петковски. За македонската уметност. Скопје, 1989, стр. 281
Young Ladie
s of Avignon)" (1907), a masterpiece of Picasso which is a revolutionary point in the development of modern art. In the extensive edition dedicated to the history of art "The Visual Arts: A History", the authors Hugh Honour and John Fleming consider this work of art as a new approach to the problem of form and space in painting. “You can find various influences: the painting of El Greco, a late work of Cezanne, Iberian sculptures etc. Again, African art is the ultimate instigator and catalyst in the process of creation of this artwork. The influence of African art consists in a radical change of form and structure in painting”.169

Of course, Picasso is not the only artist who rediscovers African art, but he may be the strongest example of how ancient arts and traditions can cause creative revelation as a source of creative energy. Primitive art in this case creates a new way of perception of the visual world and that’s why it underlies the modern artistic movements. That's because it is conceptually structured, more subservient to the idea and meaning, rather than visual aesthetic.

From there comes the abandonment of a single point of view and normal proportions, as well as the reduction of the anatomy to simple geometrical shapes. This way of thinking is quite different from previous, conventional approach in Western art. But intellectual breakthrough is not only in the treatment of form and space. Here we are talking about new state of a mind, about rejection of "comfortable" representational art.

Avant-garde ever since the time of Dadaism is determined as a herald of the "wind of discontent and the necessary rebellion." You will all agree that "good negativism" in time of crisis and destruction is good, even if it is considered as a transitional stage to the emergence of a new order. Dadaism emerged not only as a reaction to the war at that time, but as a necessary state of mind, a symptom that appears always during the time of crisis. Or as Noel Arno said: "Dada testifies about refusal, about the inability of people with high morale to hold certain values, certain frame in which they were born."

In recent decades we talk about postmodernism, the end of avant-garde even about new eclecticism. In one word, the war between avant-garde and supporters of tradition did not end with victory of one party, but with victory of a tolerance. Today, the interest in ancient art is greater than ever, especially thanks to the Internet and the distribution of millions of reproductions. But, at the same time, again a newly developed art appears (happening, actions, performance) which terminates the relationships with the "elitism in museum art" in many cases giving up of the physical existence of artworks. This does not mean that the interest towards the old

art does not exist. Now just the idea of artistic creation has changed as a result of a historical and intellectual maturity. Today we can perform a reassessment of any period of history of art, but in accordance with our epoch. In a word, we alter our viewpoints of perception and evaluation in the communication with artistic creations.

**CREATION OF THE MACEDONIAN ARTISTIC IDENTITY THROUGH THE MEDIUM OF TRADITIONAL ARTISTIC VALUES**

In Macedonian contemporary art, from its appearance until today, we can say that art tradition is of a great importance. Just through tradition, Macedonian authors find their "modernity" and above all their creative identity. Different cultural and historical conditions mean different understanding of innovation and tradition i.e. in different periods of time in a different way the tradition is incorporated into the modern creations. But as a general feature is the fact that the artistic tradition is a basis for creation of modern artistic vision.

The beginning of the Macedonian modern painting is somewhere after 1920, realized in the artworks of Dimitar P. Avramovski, Nikola Martinoski and Lazar Lichenoski. These authors completed their art education at the art academies in neighboring countries, but also mastered their artistic concepts in Paris under the influence of Paris School. But what is of a particular importance to be mentioned about these authors, as Boris Petkovski has written in many of his works about contemporary painting in Macedonia, is that the impact of the world art scene is incorporated in their artworks together with the impulses arising from Macedonian artistic and cultural tradition. The main feature of the founders of the Macedonian modern painting and the generations after them who will create an artistic paradigm is that their relationship with the global trends in fine art does not only represent a passive acceptance of ideas and styles. These authors very carefully made choice of what will be in accordance with the actual historical needs in Macedonia, in order to create an authentic modern painting as part of ongoing developments on the world art scene.

Speaking about the creation of artistic paradigm in Macedonia, it is required to be mentioned the appearance of the intellectual and creative being of Peter Mazev, which will inject new energy into the Macedonian modern painting. He was and will remain the paradigm and spiritual leader of many Macedonian authors to this day. His artworks, so-called "Macedonian icons of the 20th century" are symbol of the revival of the virtue in Macedonian art and painting. Considering his artworks, Boris Petkovski would say that “everything that Macedonia represents as a history,
cultural heritage and artistic tradition become a part of his system as a permanent structure”. 170

The creation of artistic paradigm on the other hand will result with refined attitude towards the issues of local and global. Gligor Chemerski is a proof of how art should be created outside the generally accepted stereotypes, painting which is built on wide spiritual and cultural frameworks, contemporary painting which establishes a dialogue with the imposing art epochs of the past, especially with Byzantine art idiom.

And not only in his artworks, one of the most important specificities of Macedonian contemporary art in general is the establishment of various relations with the religious and sacred context of the Middle Ages. Anyway, we should note that Byzantine art idiom is an inspiration for the art creations of many great artists in Europe. Frescoes from Macedonian monasteries (Nerezi, Kurbinovo, St. Sophia, Peribleptos etc.) is a momentum and impulse for their artworks and this traditional art is transposed into a modern artistic language that deals with the drama of the existence of the human being.

Here we are speaking of philosophical understanding of this art paradigm, fully study and establishment of a level of communication over the standard patterns of recognition.

In brief, the achievements of medieval art in Macedonia have found continuation in modern Macedonian sacral painting, regardless of whether this painting by its status belongs in the realm of the religious art. We can say that this contemporary art represents a visual counterpart to the tradition, according to the spiritual horizons of time in which we live.

Religious paintings on the other hand, remain on a “craftsman’s” level and in this manner are created almost all of the icons and murals in the newly built churches in Macedonia. They just apparently remind about the great medieval paradigm, without succeed to rise an equally exalted contemporary aesthetic structure. Today we need to stop on one hand to consider the icon just as immutable canon (it is a visual aspect of the icon) and on the other hand, to consider the religious art just as craft that should be evaluated only in its current time frame. In this case we are speaking about shallow understanding of the tradition, and i will corroborate it in the words of professor Pere Aslimoski (in his work “Culture, traditions, defense”). In his words, in the consideration of tradition, very often are present these shallow insights. In terms of social progress, particularly dangerous is the dogmatic understanding of tradition as something permanent, unchangeable, as a solid belief in their value, regardless of the demands of modern time. This understanding of tradition in literature is known as traditionalism.

170 Борис Петковски. За македонската уметност. Скопје, 1989, стр. 293
Tradition is basically a phenomenon of the process, continuously, lasting, but also of self-surpassing. The progressiveness of tradition depends on how society will manage to turn the cultural heritage of the past into ground on which to fertilize and sprout new cultural values and goods. It means that society should not literally, in apologetic sense of the word, slavishly follow the traditions.

Another, no less dangerous extreme is the valuation of tradition only in the current timeframe. Such reasoning neglects and depreciates the connection of the present and future with the past and undervalues the influence of conceptual and practical cultural and historical values in the development of modern thought. From a national perspective, this approach leads to depreciation of the national genesis, national depersonalization and discontinuity. Instead of speaking about the consequences of this limited view, we will use the words of a thinker who said that "people who do not respect the past, will lose the future" or "we can only then predict the future, when we shall understand the past".\textsuperscript{171}

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