UNIVERSITY OF NIŠ

ISSN 1450-5517 (Print)
ISSN 2406-1786 (Online)
COBISS.SR-ID 138066439

FACTA UNIVERSITATIS

Series
LAW AND POLITICS
Vol. 17, Nº 1, 2019

Scientific Journal **FACTA UNIVERSITATIS**
UNIVERSITY OF NIŠ
Univerzitetski trg 2, 18000 Niš, Republic of Serbia
Phone: +381 18 257 095 Telefax: +381 18 257 950
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The Cover Image Design: **Vladimir Blagojević**, University of Niš, Faculty of Law
Publication frequency – one volume, four issues per year.
Published by the University of Niš, Republic of Serbia

Printed by "UNIGRAF-X-COPY" – Niš, Republic of Serbia

ISSN 1450-5517 (Print)
ISSN 2406-1786 (Online)
COBISS.SR-ID 138066439

FACTA UNIVERSITATIS

SERIES **LAW AND POLITICS**
Vol. 17, N^{o} 1, 2019

UNIVERSITY OF NIŠ

FACTA UNIVERSITATIS
Series: Law and Politics (M53)

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General notes	The paper shall be processed in *MS **Word*** (*doc, docx*) format: paper size A4; font ***Times New Roman*** **(*Serbian-Cyrillic*)**, except for papers originally written in *Latin* script; font size 12 pt; line spacing 1,5.
Paper length	The paper shall not exceed 16 pages. **An article** shall not exceed 40.000 characters (including spaces). **A review** shall not exceed 6.000 characters (inclusing spaces).
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Type of work	**References**	**In-text citation**
Book (a single author)	Goldstein, A., (1994). *The ecology of aggression*, Plenum Press, New York.	(Goldstein, 1994:80)
Book (a number of authors)	Konstantinovic-Vilic,S.,Nikolic-Ristanovic, V., Kostic, M., (2009). *Kriminologija (Criminology)*, Nis, Pelikan print.	First in-text citation: (Konstantinovic-Vilic, Nikolic-Ristanovic, Kostic, 2009: 35). A subsequent in-text citation: (Konstantinovic-Vilic, et all., 2009: 77)
Joint authorship (a group of authors)	*Oxford Essential World Atlas* (7th ed). (2012). Oxford, UK: Oxford University Press	(Oxford, 1996: 100)
An article or a chapter in a book with an editor	Kostic, M., Miric, F., (2009).Ustanove za izvršenje krivičnih sankcija-pozitivno zakonodavstvo i strana regulativa-stanje i perspektive,(Facilities for execution of criminal sanctions -positive legislation and international regulations, state and perspectives) / In Djukanovic, P. (ed), *Proceedings of penology* /. - Banja Luka, Penological organization of KPZ, 2009, Vol.1, No.1, pp. 10-32.	(Kostic, Miric, 2009: 295)
Journal article	Papageorgiou,V., Vostanis, P., (2000).Psychosocial characteristics of Greek young offenders, *The Journal of Forensic Psychiatry*, Vol.11., No.2., 2000, pp.390-400	(Papageorgiou et all, 2000: 397)
Encyclopedia	(2009). *The Oxford International Encyclopedia of Legal History*. Oxford, UK: Oxford University Press	(Oxford, 2009:33)
Institution (as an author)	Statistical Office of the Republic of Serbia, Monthly statistical bulletin, No. 12 (2013)	(Statistical Office RS, 2013)
Legal documents and regulations	Execution of non-custodial sanctions and measures Act, Official Gazette RS, No. 55 (2014)	Footnote: Article 1. Execution of non-custodial sanctions and measures Act, Official Gazette RS, 55/2014
Court decisions	Case Ap.23037/04 *Matijasevic* v. Serbia	Footnote: Case Ap.23037/04 Matijasevic v. Serbia
Online sources	Ocobock, P., Beier, A.L., (2008). *History of Vagrancy and Homeless in Global Perspective*, Ohio University Press, Swallow Press, Retrieved 31 November, 2015, from http://www.ohioswallow.com/book/Cast+Out	In-text citation: (Ocobock, Beier, 2008)

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, No 1, 2019, pp. i - iii

EDITORIAL

Dear Readers,

The *first issue* of the scientific journal ***Facta Universitatis*: Law and Politics** for the year 2019 contains articles from different fields of law, social sciences and humanities.

Dijana Janković, LL.D., Judge, Court of Appeal in Niš, submitted the paper titled **"*An Overview of the International Scientific-Professional Meeting at the Appellate Court in Niš within the project "Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia" Niš, 4th December 2018***" where she analyzes the fact that in the broadest sense, alternative sanctions are criminal law measures that substitute a prison sentence. They are practically parapenal sanctions considering that they lack the actual effectiveness inherent in classical punishment, which is expressed as a complete restriction of some rights or material values. The paper provides an overview of an international scientific-professional meeting of experts held at the Appellate Court in Niš, within the project "Strengthening the Probation and the Alternative Sanctions System in Montenegro and Serbia". Participants of the meeting were members of the Dutch delegation, as well as Serbian judges, public prosecutors, and probation officers. During the presentation of the project and the exchange of opinions and experiences on the application of alternative sanctions in both Netherlands and Serbia, numerous essential questions have been raised regarding the purpose of punishment, the achieved results, and the problems arising in everyday practice in the application of alternative sanctions.

Apostolos Tsiouvalas, K.G. Jebsen Centre for the Law of the Sea, UiT The Arctic University of Norway, 9037 Tromsø, Norway, submitted the paper titled **"*Potentials for the protection of Pikialasorsuaq in the shadow of contemporary maritime industries***" where he analyses that the Pikialasorsuaq or North Water Polynya is a polynya that lies between Greenland and Canada in northern Baffin Bay. For centuries, small scale family-based markets had been developed between the Inuit on the two sides of the bay based on cross-border transportation. However, the emerged modern maritime industries have posed serious challenges for the polynya, where the free cross-border transportation is nowadays banned, and the environmental threat has become a reality deteriorated further by climate change. Indigenous participation and Free Prior and Informed Consent are crucial for the conservation of the polynya. Accordingly, this article was designed as a descriptive study of the current situation in Pikialasorsuaq, providing the legal framework for the protection of the region and highlighting the existing system's shortcomings.

Igor Vukonjanski, Associate Professor, Faculty of Law, University John Naisbitt, Belgrade, Serbia submitted the paper titled "***Characteristics of human resources management model in public administration of Republic of Serbia: Contemporary trends and challenges***". The author emphasizes that this paper provides a description of the current state of affairs and opens certain questions: whether the modern human resources (HR) management in Serbia's public sector is understood and accepted in the right way; and whether it is possible, by means of applying specific methods, to strengthen awareness of public employees concerning their actual position and responsibility to establish a new

public administration, adjusted to the citizens' needs, requirements and expectations. Relying on a decade-long personal engagement in this field, the author analyzes the current circumstances and provides critical remarks and recommendations.

Mile Ilić, **LLD. Full Professor**, Faculty of Education in Vranje, University of Niš, **Milan Jovanović**, Independent Cosultant, Assembly of the City of Niš; **Aleksandra Ilić Petković**, **Assistant Professor**, Faculty of Occupational Safety, University of Niš submitted the paper titled "***Electoral systems: a special review of the local-self government in Serbia***". They examine the electoral system as a part of the broader election law, which also includes an electoral form, constituencies, electoral competition, voting, methods of converting votes into mandates, as well as election threshold. When it comes to the Republic of Serbia, as well as many other countries of Central and Eastern Europe, the initial dominance of the majority electoral system in almost all the countries in the 1990s was gradually replaced by a proportional electoral system. When it comes to the electoral systems and the parties of national minorities, the laws of the Republic of Serbia provide significant measures for the participation of this type of political organization in the distribution of mandates, subject to special conditions, even when they receive less than 5% of the total number of votes.

Darko Dimovski, LL.D., Associate Professor, Faculty of Law, University of Niš, **Iva Popović Knežević**, Judge of the Basic Court in Niš, **Miša Vujičić,** Judicial Assistant, High Court in Niš, submitted the paper titled "***The relationship between courts and media***"**.** The paper explains that the judicial authorities have a difficult task to deal with the undermined public confidence in the judiciary and to reverse this trend in favor of general appreciation of their work by citizens. Constant communication between the representatives of the judiciary and journalists, which would eliminate any doubt that the prosecution and the courts "are hiding something", is not only a requirement but also a necessity. In particular, the authors point to the delicate boundary between the justified public interest in obtaining relevant information and the abuse of freedom of expression by crossing the line which implies the violation of the rights of others. In this paper, the authors point out the causes of this unfavorable environment, as well as the obstacles that occur daily in communication between the courts and the media.

Žarko Dimitrijević, LL.D., Public Enforcement Officer appointed for the area of the High Court and the Commercial Court in Niš, **Prof. Jelena Petrović, PhD,** Associate Professor, University of Niš, Faculty of Science and Mathematics submitted the paper titled *"**The "negative" impact of a growing number of tourists on the security of energy supply market in Niš Region"***. The basic precondition for the increase in the number of tourists is the improvement of tourism potentials: accommodation capacity; additional contents including arts, entertainment and festival programs; development of infrastructure (roads, railways, airports), etc. Available data indicate that there has been a significant increase in the number of tourists in the last ten years. However, the increase in the number of tourists does not correlate with the increase in the production of total electricity. Considering the constant growth of economic activity and increased number of residents, the analyzed data show that the increase in the number of tourists actually has a negative impact on the security of energy supply market. In this paper, the authors analyze the available data and point to the need for urgent planning of the security of energy supply, bearing in mind that the results indicate a huge increase in electricity consumption directly caused by the growth of consumers, where the growing number of tourists actually represents a variable that is itself a risk to the security of energy supply.

Žarko Đorić, PhD Student, Faculty of Economics, University of Niš, Republic of Serbia submitted the paper titled "***Declining trust is one of the central problems in modem politics***". Trust declines in collective action arrangements. Trust is one of the "big questions," and "one of the normal obligations of political life." Embedded within it are fundamental issues of politics and democratic theory. This article discusses different conceptions of trust and its relations to democracy. The first part of the paper focuses on the conceptual and theoretical definition of trust. The second part provides an overview of one of the basic classifications of trust present in the contemporary literature. In the third part, the author discusses and provides appropriate argumentation on the relationship between trust and democracy.

Marko Krstić, Police Directorate in Šabac, Ministry of Interior Affairs, Republic of Serbia submitted ***The book review: Koehler, Daniel (2016). Understanding Deradicalization: Methods, Tools and Programs for Countering Violent Extremism, Oxon/New York: Routledge.*** Daniel Koehler is Director of the German Institute for Radicalization and De-Radicalization Studies (GIRDS) in Berlin. In his book "*Understanding Deradicalization: Methods, Tools and Programs for Countering Violent Extremism"* (2016), Koehler provides a comprehensive study of different aspects of deradicalization, including the most relevant deradicalization theories, programs, methods and tools.

We hope you will enjoy reading the results of scientific research on the legal, economic, social and policy-related other issues that the contributing authors have chosen to discuss in their theoretical and empirical research. The multidisciplinary nature of the submitted papers and the authors' choice of current legal issues indicate that our scientific journal ***Facta Universitatis: Law and Politics*** is open to different approaches to the legal matter under observation and committed to publishing scientific articles across a wide range of social sciences and humanities. In that context, we invite you to submit research articles on topics of your professional interest.

We would like to extend our appreciation and gratitude to our distinguished reviewers whose professional attitude to double-blind peer review has significantly contributed to the quality of our scientific journal.

Editor-in-Chief
Prof. Miomira Kostić, LL.D.
Niš, 23th March 2019

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 1-22
https://doi.org/10.22190/FULP1901001J

Original Scientific Paper

AN OVERVIEW OF THE INTERNATIONAL SCIENTIFIC-PROFESSIONAL MEETING AT THE APPELLATE COURT IN NIŠ WITHIN THE PROJECT "STRENGTHENING THE PROBATION AND THE SYSTEM OF ALTERNATIVE SANCTIONS IN MONTENEGRO AND SERBIA" Niš, 4th December 2018

Dijana Janković

Court of Appeal in Niš, Republic of Serbia

Abstract. *In the broadest sense, alternative sanctions are criminal law measures that substitute a prison sentence. They are practically parapenal sanctions considering that they lack the actual effectiveness inherent in classical punishment, which is expressed as a complete restriction of some rights or material values. The paper provides an overview of an international scientific-professional meeting of experts held at the Appellate Court in Niš, within the project "Strengthening the Probation and the Alternative Sanctions System in Montenegro and Serbia". Participants of the meeting were members of the Dutch delegation, as well as Serbian judges, public prosecutors, and probation officers. During the presentation of the project and the exchange of opinions and experiences on the application of alternative sanctions in both Netherlands and Serbia, numerous essential questions have been raised regarding the purpose of punishment, the achieved results, and the problems arising in everyday practice in the application of alternative sanctions.*

Key words: *alternative sanctions, imprisonment, parole, public interest, court, prosecution, probation.*

Received March 3rd, 2019 / Accepted March 11th, 2019
Corresponding author: Dijana Janković, LL.D., Judge, Court of Appeal in Niš, Vojvode Putnika nn, Niš, Republic of Serbia; E-mail: dijankovic@gmail.com

1. INTRODUCTION

Modern trends in combating crime are increasingly directed towards organized social activity of a preventive nature. This is reflected in strengthening and developing the attitude towards the perpetrators of criminal offenses in an attempt to resocialize them, strengthening special criminal law prevention, weakening the classical retributive element in punishment and, in general, and introducing changes in understanding the meaning and content of the awarded sentence. The notion of punishment, which used to be perceived as pure retaliation (i.e. punishment without a further aim) has evolved into the penalty aiming to achieve socially useful goals – protection of the society from crime through the reintegration of perpetrators and compensation of the victim.

The concept of alternative sanctions is based on the realization that multiple goals can be achieved through the implementation of these sanctions: the pronouncement of sanctions, the rehabilitation of the perpetrator, reparation of the damage done, as well as an active policy of assistance provided by society to a delinquent (McNeill, 2012: 12). It can be said that one of the essential goals of alternative sanctions is the suppression of recidivism, because they basically include measures and actions of a society that are aimed at the personality of the perpetrator, the perpetrator himself, his family and social environment, and deterrence (Bewley-Taylor, et all, 2018: 67). According to prior experience, recidivism commonly occurred after certain criminal behavior, which had been preceded by various criminal influences, when the personality of the perpetrator had already been largely affected by the severe consequences of earlier life, drug abuse and severe social conditions, as well as by the consequences of the committed crime and ultimately by prison conditions during the execution of the sentence.

Alternative sanctions entail a completely different idea. First of all, they provide an opportunity for the perpetrator not to be subjected to institutional treatment, which is very important for maintaining the sense of personal dignity and avoiding potential negative impacts. In this way, the community does not create resistance towards the perpetrator, and it is possible for the perpetrator to remain with his/her family, to perform regular business activities and earn income during the execution of an alternative sanction. At the psychological level, alternative sanctions have numerous positive effects on the perpetrator; they generate a sense of integrity in the community, develop a sense of responsibility, reintegration without isolation, active participation of the community in the execution, and securing the compensation of damage to the victim (Maruna, 2011: 673).

The ultimate accomplishment of the alternative sanctions application is to ensure that the measures of criminal law protection minimize the violation of human rights and one's dignity, and enable the maximum degree of restitution and elimination of harmful consequences of the criminal offense that affect both the victim and the entire society. In other words, it is to provide a balance in exercising the rights of the perpetrator, the rights of victims, and the interests of a society in safety and prevention of crime (Pitts, et al, 2014: 132). Contemporary views on alternative sanctions indicate that a global penal policy focuses on the perception that deprivation of liberty should be a sanction or a measure of the last resort (Global Prison Trends, 2018), which should apply only in case a prison sentence is really necessary (in felonies, crimes with elements of violence, minor victims, etc.).

Imprisonment is, therefore, considered as an option for the perpetrators who are at risk of recidivism, in serious criminal offenses, and in case of a need for treatment over a longer period of time. On the other hand, alternative sanctions should be applied to less-

at-risk first-time perpetrators of minor offenses (Bergeron, 2017: 15). Alternative sanctions are one of the measures that are in line with what is described as "the third strike" in the modern criminal law science; they introduce the so-called consensualism into criminal law, in the sense that certain criminal cases are resolved in a non-custodial manner, by ensuring communication among three parties: the perpetrator, victims, and the court.

The term "alternative sanction" refers to any sanction imposed by a judicial or administrative authority, and any measure taken before or instead of a decision on a sentence, as well as to the means of enforcing the sentence of deprivation of liberty outside the prison facilities. There is a range of reasons in favor of alternative sanctions and against prison sentences in relation to the effects of crime and the community (UN Commission on Crime Prevention, 2018). Alternative sanctions:

- provide an opportunity for the perpetrator not to undergo institutional treatment,
- contribute to the preservation of a sense of personal dignity,
- reduce the occurrence of recidivism,
- enable avoiding the potential negative impacts of the prison environment,
- enable avoiding stigma and community resistance after the imprisonment,
- provide the opportunity to the person to remain within his family, and carry out his regular activities related to the workplace and earning income (Zeleskov et al, 2014: 25),
- create a sense of integration in the social community on a psychological level,
- develop a sense of responsibility and reintegration without isolation,
- enable active participation of the community in the execution of sanctions and decrease of the negative attitude towards the perpetrator of the criminal offense,
- provide a more secure compensation of damage to the victim,
- reduce community costs.

The judicial and prosecutor's office should be closely involved in the design and implementation of direct alternatives to imprisonment. This is provided in Recommendation (2000) 22 which recommends that judicial authorities should be involved in the process of devising and revising policies on the use of community sanctions and measures, and should be informed about their results, with a view to ensure widespread understanding of their nature in the judicial community (Rec (2000) 22, Appendix 2, point 7). [1]

According to the abovementioned basic course and respecting the basic principles of alternative sanctions in accordance with the intended purpose of punishment, an international scientific-professional meeting was held at the Appellate Court in Niš. The idea to hold the meeting of experts came from Dutch Project Manager Eva Erren, Center for International Legal Cooperation (CILC), and Koen Goei, Program Manager, Netherlands Helsinki Committee (NHC), as well as from judges and public prosecutors from the Netherlands. The meeting was held on the premises of the Appellate Court in Niš. This paper outlines the content of the meeting and the statements of the participants, with specific reference to the content and specificities of the Serbian and Dutch probation systems, the application of alternative sanctions in the two countries, as well as the conditions and opportunities for further improvement of the application of alternative sanctions in Serbia.

[1] Recommendation Rec (2000) 22 of the Committee of Ministers of the Council of Europe to member states on improving the implementation of the European Rule on community sanctions and measures, adopted, 29. Nov. 2000, Appendix 2 to Rec (2000) 22, Guiding principles for achieving a wide and more effective use of community sanctions and measures (point 7)

2. THE CONTENT OF THE INTERNATIONAL EXPERT MEETING AT THE COURT OF APPEAL IN NIŠ

The international expert meeting on the application of alternative sanctions in court practice and probation services was held at the Appellate Court in Niš on 4th December 2018.

The participants of the meeting were members of a delegation from the Netherlands, including: Tamara Trotman, Judge of the Appellate Court in the Hague (Netherlands); Marina Beun and Jan Hoekman, Public Prosecutors in the Hague; Koen Goei, Program Manager, Netherlands Helsinki Committee (NHC); and Eva Erren Project Manager, Center for International Legal Cooperation (CILC), as well as a number of domestic judges, public prosecutors, and probation officers, including: Dragan Jocić, President of the Appellate Court in Niš; Dijana Janković, Judge of the Appellate Court; Milica Zlatković, Judge of the Appellate Court in Niš; Jelena Miladinović, Judge of the Higher Court in Niš - Special Department for Combating Corruption; Mirko Drašković, Milica Grujić and Olgica Papović, judges of the Higher Court in Niš; Ivana Milovanović and Ana Vukotić, judges of the Basic Court in Niš; Andrija Ivić and Aleksandra Vujisić, public prosecutors at the Basic Public Prosecutor's Office in Niš; Aleksandar Stevanović, Public Prosecutor at the Special Department for Combating Corruption in Niš, Srećko Luković, Probation Officer at the Probation Agency in Nis (Execution of alternative sanctions at the Administration for execution of alternative sanctions of the Ministry of Justice of the Republic of Serbia), and Jelena Veselinović, a trainee at the Judicial Academy.[2]

The occasion for the meeting was the project titled "Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia", sponsored by the Dutch Ministry of Foreign Affairs and Partners from the Netherlands (CILC). The project

[2] The European Program for Human Rights Education for Legal Professionals (HELP) was created within the European Council of Europe's program for the education of legal practitioners to use the HELP methodology in the field of human rights. The presentation of the HELP course "Alternative Measures to Detention", dealing with alternative sanctions, was held on the premises of the Appellate Court in Niš on 22nd May 2017. The course presentation at the Appellate Court in Niš was supported by the Council of Europe and the Human Rights Trust Fund (HRTF) within the framework of the Western Balkan Program in cooperation with the Judicial Academy of the Republic of Serbia. The course presentation was moderated by Dijana Janković, judge of the Appellate Court in Niš, HELP national mentor and lecturer. On this occasion, participants were presented with the HELP program, as well as the training resources available on the HELP e-Learning platform. The course presentation was attended by 70 judges and public prosecutors from the territorial jurisdiction of the Appellate Court in Niš, the Judicial Academy trainees, and representatives of the non-governmental sector. The introductory address was given by President of the Appellate Court in Niš, Judges Dragan Jocić, and Jasmina Krstenić from the HELP Advisory Board. After the opening remarks, the participants were addressed by Valentina Boz from the Directorate General for Human Rights and Rule of Law (DGI) of the Council of Europe, who introduced the participants with the methodology and training materials, and James Mec Manus, a member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) from the United Kingdom. Then, Dijana Janković introduced the participants with the syllabus of the HELP course "Alternative Measures to Detention", developed in cooperation with the UN Office on Drugs and Crime (UNDOC), which is aligned with the Serbian legal system. The presentation also marked the opening of the online course, which was accessed via the HELP e-learning platform. The course was interactive and contained various practical exercises to enable the acquisition of relevant knowledge and skills.
On 25th April 2018, the Appellate Court in Niš hosted the opening of another HELP course for judges and public prosecutors, within the Council of Europe HELP Project titled "Explanation of Criminal Judgments". The event was attended by Mirjana Lazarova Trajkovska, Judge of the European Court of Human Rights from Macedonia, who introduced the participants with the practices and standards of the European Court of Human Rights. The course lasted seven weeks, and it was facilitated by Dijana Janković, Judge of the Appellate Court in Niš.

included the following project participants: the Netherlands Helsinki Committee (NHC), the Center for International Legal Cooperation (CILC), the Civic Alliance (CA), Juventas, the Belgrade Center for Human Rights (BCHR), Neostart, the Minister of Justice in Serbia, the Judicial Academy in Serbia, the Minister of Justice in Montenegro, the Judicial Training Center in Montenegro, the Dutch Prosecution Service, the Dutch Probation Service, the Council for the Judiciary. The overall objective of the project is to contribute to the efficient and professional functioning of the criminal justice sector in Serbia and Montenegro.

The moderators of the meeting were Eva Erren Project Manager (CILC) and Dijana Janković, Judge of the Appellate Court in Nis, who had previously completed the training course in the Hague on the topic "Detention and Alternative Sanctions".[3]

The aim of the meeting was to review the possibilities and modalities of applying alternative sanctions in criminal proceedings and in the procedure for the execution of criminal sanctions, to familiarize the participants with the project, and to enable exchange of practical knowledge and experience between judges and public prosecutors from the Netherlands and Serbia.

In the introductory address, Dragan Jocić, President of the Appellate Court in Niš, opened the meeting, greeted the participants, and presented the basic postulates and results of the penal policy in Serbia.

On behalf of the Center for International Legal Cooperation (CILC), the participants were addressed by was Eva Erren, Project Manager (CILC), who co-managed the project "Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia“ with Koen Goei. In her introductory speech, Eva Erren emphasized that probation officers, prosecutors and judges, as well as lawyers, should work together. She focused on the basic purpose and goals of the project, stating that the proposed project aimed to enforce the judiciary and the rule of law in Serbia and Montenegro by stimulating and supporting the probation services and the alternative sanctions system to be more effective and widely used. The intended long-term project impacts include a viable reduction of overcrowding in correctional institutions through a more proper use of alternatives to imprisonment, as well as a decrease in recidivism as a result of more efficient pre- and post-penal supervision and active support for successful reintegration.

The Probation Services have a very limited time for supervising conditional sentences (probation) and conditional release (parole), and for implementation of community service sentences. More specifically, the overall objective of the project is to contribute to the effective and proficient functioning of the criminal justice sector in Montenegro and Serbia, where the main actors in the judicial chain (probation, penitentiary, prosecutors and judges) cooperate with each other and with civil society organizations (CSO's). This is closely related to the objectives of the Matra 2017-2020 framework, which aims to strengthen the rule of law, and is also in line with the Copenhagen Criteria. The action is partly a follow-up of the project "Support to the Probation Service and the Alternative Sanctions System in Montenegro", implemented by the NHC and the CILC from 2014 to 2017.[4]

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[3] The course “Detention and Alternative Sanctions“ was organized by the Leiden Law School, the Netherlands Helsinki Committee, and the Hague Academy for Local Governance. This course was held in the Hague, from 4th to 11th October 2018, and it was facilitated by the Netherlands Ministry of Foreign Affairs under the Matra Rule of Law Training Programme.

[4] The Netherlands Helsinki Committee (NHC), Center for International Legal Cooperation (CILC), Project Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia -Summary, Duration 01.09.2017 – 31.12.2020.

In the introductory remarks, Dijana Janković, a judge of the Appellate Court in Nis, emphasized the importance of alternative sanctions in penal policy. She pointed out that alternative sanctions had primarily been applied in cases involving the commission of minor criminal offenses, in cases involving primary perpetrators (first-time offenders) and in cases involving perpetrators from the so-called "vulnerable groups" (women, children, persons with mental illness, drug addicts, elderly prisoners, foreign prisoners, persons with disabilities). She also pointed to a large number of short-term imprisonment sentences in Serbia, instead of which alternative sanctions could have been claimed. According to the latest data from the Department for treatment and alternative sanctions at the Administration for the Execution of Alternative Sanctions of the Ministry of Justice of the Republic of Serbia, about 18,692 alternative sentences were pronounced in Serbia in the period from 2006 to 2017. The data show a rise in the number of alternative sanctions imposed in Serbia, although some alternative sanctions were imposed in a far greater number than others. Thus, the statistics show that there was a constant increase in the "house imprisonment" since the time it was introduced in the legislative system in 2011 until 2017 (a total of 394 sentences in 2011; 882 sentences in 2012; 1101 sentences in 2013; 1934 sentences in 2014; 2498 sentences in 2015, 3136 sentences in 2016; and 3362 sentences in 2017). Janković welcomed the attendees, especially the guests from the Netherlands, wishing them successful work and a pleasant stay.

After the introductory statements, Andrija Ivić, a Public Prosecutor, Mirko Drašković, a Judge of the Higher Court in Niš, and Srećko Luković, a Probation Officer, presented their experiences in the application of alternative sanctions in the Republic of Serbia, the problems they encountered in their practice and the achieved results.

Then, the representatives of the Dutch delegation Tamara Trotman, a Judge of the Appellate Court in the Hague, and Marina Beun and Jan Hoekman, Public Prosecutors in the Hague, introduced the attendees with the basic settings of the application of alternative sanctions in the Netherlands, their results and work methodology. Eva Erren, Project Manager (CILC), briefly presented the Project and the results expected after its implementation.

Andrija Ivić, Deputy Public Prosecutor in Niš, introduced the participants with the Basic Public Prosecutor's Office in Niš and the application of alternative sanctions in the pre-investigation proceedings.[5] He noted that, according to the Criminal Procedure Code (CPC) of of the Republic of Serbia, the pre-investigation stage begins with filing a criminal complaint and is supervised by the public prosecution. The Criminal Procedure Code mandates that prosecutors assume responsibility for conducting criminal investigations. Their involvement in the early stages of decision-making, especially their decisions on issues concerning detention, has the potential to ensure that only the strongest cases proceed to investigation; most importantly, it demonstrates a more thoughtful use of detention, which could reduce the overcrowding in penitentiary facilities, and a more efficiently

[5] The current trend in Serbian criminal procedure system obviously concerns the leading role of public prosecution services in out-of-court settlements. The Serbian Criminal Procedure Code (hereinafter: CPC), *Official Gazette RS*, 72/11, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, came into force in 2011 but has been applied in courts of all jurisdictions since October 2013. The CPC sets forth 3 basic stages of the Serbian criminal procedure: (1) Pre-trial Proceedings (Pre-investigation, Investigation and Indictment); 2) Main Hearing in First Instance Proceedings (Preparatory Hearing, Main Hearing, Pronouncing and Proclamation of the Judgment); and 3) Legal Remedies Proceedings. Notably, this classification does not include the procedure for extraordinary legal remedies and special procedures.

streamline criminal matters through the continuum of the process. The public prosecutors decide on individual cases. However, by applying new powers, such as transaction fines, public prosecutors to a large degree create and implement criminal policies relating to general approaches adopted for certain types of crimes.

Andrija Ivić also pointed out that, in the field of alternative sanctions in the pre-investigative phase, the Public Prosecutor's Office mostly applies the provision of Article 283 CPC, stipulating the conditions for the application of the institute of deferring criminal prosecution.[6] Deferring criminal prosecution is applied only in the pre-trial process in the pre-investigation stage. The prosecutor has a considerable discretion over crimes punishable by less than five years and may defer prosecution upon the defendant's agreement to compensate for any harm that he has caused and to satisfy other law-abiding life conditions that the prosecutor may propose (Article 283 paragraphs 1 and 2 CPC). However, there are still many open questions regarding the most important issue: sentencing discount and the size of discounts that can be offered in exchange for consenting to out-of-court proceedings.

According to the practice of the Basic Public Prosecutor's Office in Niš, the most common criminal offense in the application of the institute of deferring criminal prosecution is causing danger in public traffic (Article 289 CC), in cases involving minor bodily injuries. A total of 70% of orders for deferring criminal prosecution were issued for the commission of this criminal offense, as compared to the total number of cases in which criminal prosecution was postponed during 2013 and 2014.

In particular, Ivić pointed out that the obligation to undergo psychosocial treatment in order to eliminate the causes of violent behavior proved to be most effective in criminal offences of violent behavior and domestic violence. In this respect, the program implemented in the Social Work Center in Niš yielded very good results. Unfortunately, this program has been suspended due to the lack of funds for its further implementation. In addition to the institute of deferring criminal prosecution, the public prosecution offices have been applying the institute of a plea bargaining agreement to a considerable extent.

Mirko Drašković, Judge of the Higher Court in Niš, pointed out that the legal institute of alternative sanctions was a relatively recent development in domestic criminal law. For example, the penalty of community service was introduced into Serbian criminal law on 1st January 2006. Prior to that, domestic criminal law did not recognize either this type of punishment or a number of other alternative sanctions. At first, the introduction of alternative sanctions was not followed by adequate legislation that would enable the enforcement of new types of criminal sanctions, even if the courts pronounced them. Practically, alternative sanctions have begun to be implemented more intensively in Serbia since 2010. Given that alternative sanctions can be imposed on minor offenses, the

[6] Article 283 para.1 CPC provides:
"The public prosecutor may defer criminal prosecution for criminal offences punishable by a fine or a term of imprisonment of up to 5 years if the suspect accepts one or more of the following obligations:
1) to rectify the detrimental consequence caused by the commission of the criminal offence or indemnify the damage caused;
2) to pay a certain amount of money to the benefit of a humanitarian organization, fund or public institution;
3) to perform certain community service or humanitarian work;
4) to fulfill maintenance obligations which have fallen due;
5) to submit to an alcohol or drug treatment programme;
6) to submit to psycho-social treatment for the purpose of eliminating the causes of violent conduct;
7) to fulfill an obligation determined by a final court decision, or observe a restriction determined by a final court decision." (CPC, *Official Gazette RS*, 72/11, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014)

High Court in Niš (which is responsible for adjudicating the most serious crimes) does not have many opportunities to impose alternative sanctions. However, the High Court is competent to deal with juvenile perpetrators of criminal offenses and thus the High Court is a relevant forum for the application of alternative sanctions. Judge Drašković especially emphasized the application of Art.14 para. 2 of the Act on Juvenile Offenders and Criminal Protection of Juveniles, which prescribes obligations that can be imposed on juvenile criminal offenders in conjunction with the pronounced court reprimand, or independently. He noted that the use of alternative sanctions is useful and important because their pronouncement reduces not only the costs of the state but also the prison population, the prisoners' stigma (who in this case do not break their relations with their family, work, school, or everyday routine). He also emphasized the need for better education of the judiciary and the general public alike. It happens that the public, in some cases, reacts violently and with disapproval if an alternative sanction is imposed instead of a sentence of imprisonment. In addition, it would be significant to create conditions for greater application of community service penalties.

Srećko Luković, Probation Officer in Probation Agency in Niš, informed the attendees that the Probation Office in Belgrade was first office which started operating in 2010. It is one the seven probation offices which were later established in the territory of all High Courts in the Republic of Serbia. In Niš, there is only one probation officer, employed on a full-time basis. The Probation Office in Niš also employs three prison officers, who concurrently work at the Criminal Correctional Facility in Niš.

Luković noted that the most commonly awarded alternative sanction he had encountered in his practice was the so-called "house imprisonment"[7], stating that 80 of these sentences were being executed at the time (31 by using electronic surveillance and 49 without the use of electronic surveillance). However, a total of 200 judgments in which a "house imprisonment" sanction was pronounced are still pending enforcement, while 20 of them are processed as "urgent cases" because the judgments were pronounced in 2015 but still have not been enforced. The reason for this procrastination is the lack of electronic surveillance devices. The number of electronic surveillance devices at the disposal of the Probation Service in Nis is insufficient for the number of cases pending execution. The judges have been informed about this problem and now this criminal sanction is most often pronounced without the use of electronic surveillance. From the point of view of achieving the purpose of punishment, the delay raises the question of the effectiveness of the execution of these alternative sanctions three years after being pronounced.

As for the security measures aimed at ensuring the presence of the defendant in court and uninterrupted operation of criminal proceedings,[8] the prohibition of leaving a dwelling

[7] When defining the punishment of imprisonment in Article 45, the Criminal Code RS (hereinafter: CC), *Official Gazette RS*, 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, specifies that this punishment may also be executed in the premises where the offender lives, provided that it does not last for more than one year and that his personality, previous life, behaviour after the commission of criminal offence, degree of guilt and other relevant circumstances suggest that the purpose of punishment can be accomplished in that way. This modality of execution of prison sentence cannot be applied to an offender who committed an offence against marriage and family if the offender and the victim live in the same household.

[8] It is possible for the court to utilize measures other than detention to secure the presence of the defendant and to ensure the unobstructed conduct of criminal proceedings (Article 188 CPC). The Criminal Procedure Code of the Republic of Serbia provides: prohibition of approaching, meeting or communicating with a certain person; prohibition of leaving a temporary residence; bail; the prohibition of leaving a dwelling (house arrest).

or so-called "home detention" (house arrest)[9] has been increasingly imposed. Since 2010, a total of 44 measures of "home detention" have been imposed. Currently, there are 3 home detention measures are being executed, 2 of which are without electronic control.

When it comes to community service,[10] 11 community service sentences are currently underway, while 40 sentences[11] are pending. Since the establishment of the Probation Office in Niš, a total of 220 community service penalties have been executed. The Probation Office in Niš has agreements on cooperation with public utility companies and institutions in the territory of the City of Niš. As a curiosity, Luković notes that the Basic Court in Aleksinac has not awarded any community service penalties, as compared to a considerable number of pronounced sentences of "home detention" (house arrest).

In case of a conditional release[12] with supervision[13], Luković pointed out that probation officers have the highest competences when executing this measure because they are actively involved in the case at issue.

Considering that the application of the conditional release with supervision began in 2018, nine cases have been received for enforcement so far, five of which have been enforced. There were problems in the enforcement in the remaining cases. In particular, post-penal acceptance is difficult to implement, although there is a pilot project that is in stagnation now. Luković stated that they were currently supervising a measure of prohibition of approaching, meeting or communicating with a specific person. Regarding the enforcement of alternative sanctions, their work has been slowed down to some extent due to personnel and equipment problems reflected in an inefficient number of probation officers, an inefficient number of electronic surveillance devices, irregular communication with prosecutors and the court, etc.

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[9] To ensure compliance with the prohibition of leaving a dwelling (house arrest), the court may also decide to order the wearing of a location tracking devices, or reporting to the police (Article 19 CPC, on house arrest), or seizure of driver's license or travel documents (Article 199 CPC, on the prohibition of leaving a temporary residence).

[10] Article 52 CC prescribes that community service may be imposed on the offenders who committed criminal offences punishable by a term of imprisonment of up to three years or a fine. It defines community service as any kind of socially acceptable and useful work that does not offend human dignity and that is not performed with the intention to obtain material (financial) benefits.

[11] When deciding whether to impose this punishment, the court is obliged to take into account the purpose of punishment (i.e. general and special prevention), the type of committed criminal offence, the personality of the offender and his willingness to perform community service. It is important to mention that community service cannot be imposed on the offender without his consent. If the offender fails to fulfil all the obligations imposed within the punishment of community service, the court is entitled to replace this punishment with imprisonment.

[12] Conditional release (parole) can be implemented if the prisoner has served two thirds of punishment, provided that his behavior has improved during the enforcement of punishment to the extent that it may be reasonably expected that he will behave properly after the release and that he will not re-offend, particularly in the period before the punishment is served. Other circumstances suggesting that the purpose of punishment has been accomplished are also taken into consideration. The prisoner who attempted or managed to escape from prison cannot be granted conditional release. The decision on conditional release is made by the court. When deciding on conditional release, the court takes into account the following circumstances: behavior of the prisoner during the enforcement of prison sentence, fulfillment of his working obligations depending on his capacity as well as other circumstances showing that the purpose of punishment has been achieved. In the decision on conditional release, the court may order the offender to fulfill some other obligations, such as those referring to conditional sentence with intense supervision. If the court does not revoke conditional release, it will be considered that the offender has served his punishment in total (Article 46 CC).

[13] Article 44 of the Act on Execution of Non-Custodial Sanctions and Measures (*Official Gazette RS*, 55/2014, 87/2018) stipulates that the supervision of a suspended person is carried out by the Probation Service if the court has determined in the decision on conditional release that the convicted person is obliged to fulfill one of the following obligations:1) report to the authority competent for the execution of the protective supervision, 2) complete a training program for a particular occupation; 3) accept employment corresponding to his abilities, etc.

Dijana Janković, Judge of the Appellate Court in Nis, noted that communication between courts, prosecutors and commissioners was very important. The practice of providing judges and prosecutors with reports on the defendant's personality in the course of criminal proceedings does not exist. It would be useful for the court to obtain such reports (e.g. from the probation service) before deciding on the type and degree of the sentence (i.e. before the completion of the main trial) and before the decision on conditional release.

With regard to conditional release (parole), the current practice in the Republic of Serbia is that courts decide on conditional release on the basis of: 1) reports of a prison institution in which the convicted person is serving a prison sentence; 2) extracts from the criminal records of the competent Police Directorate on the previous convictions of the perpetrator; 3) examining the case files including a final judgment on the basis of which the convicted person serves a sentence of imprisonment and on the basis of which the decision on conditional release is to be made; and 4) recommendation of the public prosecutor regarding conditional release (whereby it is common practice of public prosecutors in Serbia to give a negative opinion in terms of conditional release, and suggest the rejection of the application of conditional release). However, in some cases, the aforementioned reports and the available information to the court when deciding on a request for conditional release are not sufficient for the court to attain a true picture of the current situation of the convicted person, his/her personal circumstances and his/her personality. In the absence of additional information, it appears that the court is more guided by the information related to the previous period. The reports and information about the convicted person related to the period when the request for conditional release is taken into consideration would be more relevant to the court. This is important in terms of the assessment of the influence of the conducted treatment on the convict during the enforcement of the prison sentence and the extent of the risk of recidivism after release from the prison institution.

Eva Erren, Project Manager (CICL), thanked the presenters for the insightful accounts into the state of affairs in the Republic of Serbia regarding the application of alternative sanctions. Then, members of the delegation from the Netherlands gave a brief overview of the application of alternative sanctions in the Netherlands.

Tamara Trotman, Judge of the Appellate Court in the Hague, expressed gratitude for the meeting with colleagues from the Republic of Serbia. She said that the Netherlands had 17.1 million inhabitants, twice as much as the Republic of Serbia, and 2.500 judges. The Criminal Procedure Code of the Netherlands prescribes that the judgment should state the reasons for the suspension of the sentence, or why an alternative sanction is pronounced. As compared to the Dutch legislation, the purpose of punishment in the Republic of Serbia is more fully described in Article 42 of the Serbian Criminal Code, which obliges the judge to consider the purpose of the sentence for a particular person in a particular case.

Therefore, Trotman considers that it is important to be provided with relevant information about the accused person (his personality, family and social circumstances). In the Netherlands, the reports on the personality of the defendant are received from the competent prosecution service and the law allows the prosecutor or judge to use the data thus obtained before deciding on the type and amount of the criminal sanction. The Probation Service provides data in a specific format, which allows them to easily review the report and notice the most important information. The report also lists the risks and safeguards that the Probation Officer observed from the interviews with the convicted person and persons from his immediate environment, as well as the issues of accommodation, education, social relations, employment, etc. Dutch judges consider probation reports useful information.

Probation officers have more time than judges to obtain relevant information about the personality of the accused. Relevant information considers: risk factors, relation problems, mental disorders, financial situation, work, alcohol/drug abuse as well as the attitude of the accused, motivation to change, risk of reoffending.[14]

In 2017 alone, suspended sentence and community service penalty were pronounced in more than 20,000 cases. Likewise, out of 1,020 judgments, the sentence of imprisonment was pronounced in 36% of cases, while the sentence of community service was pronounced in 32% of cases.[15] The recommendations given by the Council of Ministers of the European Union on the community service sentence that could be used in terms of resocialization are applied in the Netherlands. Since 2001, community service is one of the main penalties, which according to the law cannot last more than 240 hours and must be executed within 12 months from the moment of pronouncing the sentence.

Since 2012, restrictions have been imposed on pronouncing the community service for violent and sexual offenses (which are subject to higher sentences); before that, there were no restrictions, unless this sentence was combined with the sentence of the imprisonment. Also, community service cannot be pronounced if, after a conviction on community service, the offender commits a new criminal offense within a period of five years. Therefore, in case of recidivism after the enforcement of the community service sentence, this sentence cannot be re-imposed within 5 years.

Regarding the suspended sentence, Tamara Trotman clarifies that in the Dutch legislation it can be completely or partially suspended, whereas the judgment specifies the conditions which are to be fulfilled within the period of time not longer than 3 years (but in the practice it is usually 2 years). This type of punishment is mostly pronounced in case of serious bodily injuries and, under the law, a suspended sentence may be imposed for crimes punishable by a sentence of imprisonment of up to 4 years. Of course, there is always a general requirement not to commit a new criminal offense, while the probation officer and his report have a significant role in imposing special conditions.

Marina Beun, Public Prosecutor in the Hague, notes that the Probation Service in the Netherlands is in charge of enforcing both protective surveillance measures and alternative sanctions. The prosecutor's office and the probation service are in constant contact. The probation service contacts the prosecutor's office if a problem in the realization of the sentence occurs. Each prosecutor's office has a department for suspended sentences, where the most favorable solution for each convicted person is discussed. Sometimes more support is needed for the successful enforcement of alternative sanctions and imposition of obligations, and if a person fails to comply with the set conditions and obligations, the alternative sanction

[14] On 10th October 2018, at Matra Rule of Law Training Programme in the Hague, Nico Tuijn, Deputy Chief of Justice at Court of Appeal, Senior Justice Court of Appeal, Hertogenbosch, the Netherlands, pointed out that probation is often viewed as a "soft option". A deprivation of liberty implies not only imprisonment but also many obligations of a conditional sentence (treatment, geographical restrictions)". Community sentence entails 240 hours of work, a deprivation of liberty for many weeks and a strict regime of working for the good cause.

[15] In his lecture on the topic "An introduction to the Dutch probation practice" given at the course „Detention and Alternative Sanctions (Matra Rule of Law Training Pregramme) in Veenhuizen, the Netherlands, on 7th October 2018, Frans Clobusa, the Dutch international probation trainer, pointed out that the probation service in the Dutch system, as an independent service, in cooperation with the prosecution, represents a permanent link in the judiciary sistem. He stated that, in 2017, the Netherlands courts pronounced a total of 28,613 community service sentences and 17,313 suspended sentences, protective supervision, and conditional release orders. He also noted that the purpose of the sentence of electronic surveillance is not imposed to influence the perpetrator's behavior but only as a measure of the enhanced control.

is replaced by imprisonment. The prosecutor is the one who makes recommendations, and the judge decides on the sentence. Protective surveillance measures usually last for 3 years and the probation officer informs the prosecutor whether the measure has been enforced and whether the conditions determined by the court in the judgment have been completely met. If there are problems and the convicted person does not fulfill the given obligations, the alternative sanction is replaced by a prison sentence but the convicted person has the right to object to that decision and then the objection is discussed.

Jan Hoekman, the Appellate Public Prosecutor in the Hague, introduced the participant with his experience in working at the Probation Department for long-term imprisonment. He notes that about 2,000 people are employed in the probation service in the Netherlands, or more precisely, 1,900 officers working on reports, not including administrative staff. He obtains all the data on a particular case on the basis of reports received from the probation service. The reports contain even suggestions on further treatment of a particular person (specifically proposals regarding the type of measure or sanction), for example, whether a measure of medical treatment should be imposed, and alike. Every month, he receives reports on sensitive cases, whether or not conditions for release are fulfilled. Hoekman presented a particular case from his practice and explained the procedures as well as the steps taken to solve the case in the most favourable way for the convicted person.[16]

Hoekman also states that the probation is not recommended to be granted in only 10% of cases, due to the offence circumstances or risk assessment. He points out that it is incomparably easier to deal with the conditional release when the person is under surveillance. The Netherlands has a service dealing with this issue. The Probation Officer notifies the competent authority of any offense committed by a person while on conditional release. In short, the probation service takes care of the convicted person and sends notifications to the prosecution. The Prosecution also gives a proposal on the measures that a convicted person released on parole is obliged to fulfill.

Srećko Luković, Probation Officer in the Republic of Serbia, notes that in the Republic of Serbia there are 20 probation officers and 10 administrative officers, who are assisted by other 50 administrative officers from the criminal correctional facilities and district prisons. The Probation Service in Serbia does not have special cooperation with the Prosecutor's Office, nor does it provide the Prosecutor's Office with reports. The number of cases

[16] In his lecture on the topic "The Dutch Probation in European Perspective" at Matra Rule of Law Training Programme - Detention and Alternative Sanctions, held in the Hague on 8th October 2018, Leo Tigest, Consultant in Community-based Justice, pointed out that the functions of a pre-sentence reports are to provide courts with objective information about the offender and about the suitability of various sentencing options, to contribute to the fairness of the decision by the court as perceived by the offender, to enhance the acceptance of a sentence and contribute to a lower reconviction rate, to help the justice system to make optimal use of the array of sentencing options, and to contribute to economic savings if the right offender is matched with the least costly and most effective sentence. Likewise, the minimum content of the reports usually contain: offence analysis and pattern of offending: relevant offender's circumstances as either a contributing factor or a protective factor of offending behavior; risk of harm and likelihood of reoffending analysis based on data and clinical judgment: outcome of pre-sentence checks with other agencies or providers of probation services; address of any indications of possible sentence provided by the court; an integral conclusion on the crime-related factors and what has to be done: sentence proposals commensurate with the seriousness of the offence, addressing the offender's assessed risk and needs, and what kind of sentence will work. For Dutch and UK judges and public prosecutors, the work process is unimaginable without pre-trial reports reports from the Probation Service. They do not feel comfortable to make a decision without the information on risk (crime related and protective factors), opportunities and suitability of alternative sentencing options. ("Am I making the right decision?"). Pre-sentence reports are a pathway for judges to use cheaper, more effective, proportionate alternative sanctions.

arriving for enforcement to the probation service is progressively growing, but the enforcement is complicated because there are only 1,200 electronic surveillance devices, 300 of which are constantly out of use due to repair. The role of the probation officer in Serbia is to inform the court about the enforcement of the sentence at the end of the enforcement procedure; besides that, there is no other communication either with the courts or prosecutors.

Ivana Milovanović, a judge of the Basic Court in Niš, notes that one of the problems in the execution is that a person sentenced to the so-called "house imprisonment") in Serbia is not subjected to any institutional treatment program in the process of execution of the sentence (in his dwelling place), whereas each convicted offender serving a prison sentence is obliged to participate in such a program. In practice, the opinion of the probation service on a prisoner in "house imprisonment" is reduced to whether such a person has left the dwelling place or not; the other mechanisms for this alternative sanction do not exist.

Milovanović also notes that Serbia has adopted the Action Plan for Implementation of the Strategy of Developing the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020.[17] She points out that the Action Plan is a set of precisely defined activities aimed at the implementation of the measures from the Strategy related to: legislation and regulations, infrastructure, respect for the human rights of persons deprived of their liberty, protection of particularly vulnerable categories, treatment and health protection of persons deprived of their liberty, security, training and professional training of the convicted offenders, alternative measures and sanctions, social reintegration and post-penal acceptance, professional training of employees in the system of execution of sanctions, etc. Human resources and their initial and ongoing trainings are also envisaged.

In relation to the aforesaid, Milovanović addressed the question of restorative justice. She emphasized that restorative justice today finds its application in various areas, contexts and situations: in the field of criminal justice, for resolving conflicts in schools, at the workplace, at the local community level; in family, commercial and property disputes, etc. From the point of view of the criminal justice system, restorative justice can occur in several forms: as a form of diverting criminal proceedings (diversion measures), as a type of sanction (alternative sanction) or part of existing criminal sanctions, and as part of the treatment of persons serving institutional sanctions. Thus, one of the possibilities of applying restorative justice is the introduction of restorative approaches to prisons or other institutions where institutional criminal sanctions are being implemented. She believes that restorative justice can bring more humanity into the penal system and help in the treatment of convicted persons and their preparation for the release. In addition, the involvement of victims in restorative programs contributes to increase of the victim visibility, which is often marginalized in the criminal justice system. She referred to a restorative justice program developed at a prison in Hamburg, Germany (Hagemann, 2003: 224-229). It is intended for adult perpetrators of more serious crimes, such as murder, drug trafficking, robbery, fraud and severe forms of assault on other persons. She also mentioned another program aimed at raising the awareness of prisoners about the

[17] The Action Plan for Implementation of the Strategy of Developing the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020, *Official Gazette RS*, 85/2014. On 23rd December 2013, the Government of the Republic of Serbia adopted the Strategy of Developing the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020.

impact of crime on the victim and the community, as well as their empowerment to accept responsibility for their actions - the Sycamore Tree program (Van Ness, 2007: 313; Johnstone, 2014: 6-7). This program is applied in about 40 prisons in England and Wales, to both juveniles and adults, as well as to persons of both sexes. In 2011, this program was implemented in prisons in 27 countries around the world. She asked the guests from the Netherlands about the program on the treatment of persons serving a "home prison" sentence in the Netherlands, what kind of novelties the program offered, and whether the restorative justice was applied.

Tamara Trotman, Judge of the Appellate Court in the Hague, stated that the program of restorative justice was something new in Dutch practice. There were several pilot programs on mediation in criminal legislation.

Koen Goei, Program Manager (NHC), noted that there is an organization dealing with restorative justice and mediation, but it deals with victim assistance and is separate from state authorities. In the Netherlands, restorative justice is something that deals with social organizations rather than a judicial system. He asked the colleagues from Serbia to explain how mediation was organized in Serbia.

Milica Zlatković, Judge of the Appellate Court in Nis, informed the participants that the Basic Court in Niš and the High Court in Niš are the only courts in Serbia that apply mediation and that they have good results, even in those cases that are in the process of appeal. They also had one case of a criminal offense that was subject to mediation, which was successfully resolved by Dijana Janković, who acted as a mediator in the case.

Dijana Janković, Judge of the Appellate Court in Niš, mentioned that the mediation procedure was regulated in Serbia by a special Act on Mediation in Dispute Resolution.[18] Mediation is particularly possible in property lawsuits (involving the performance of an obligation), in family matters, commercial disputes, administrative matters, and in all other disputes where mediation is considered to be suitable, given the nature of the dispute. Pursuant to the Act on Mediation in Dispute Resolution, mediation is applied in criminal and misdemeanor cases in respect of property claims and claims for damages.

The parties may initiate the mediation procedure before or after the court proceedings have been initiated. In practice, after the court proceedings have been initiated, it is most frequently the judges adjudicating civil and criminal matters in the courts of ordinary jurisdiction who refer cases to mediation. In such a case, mediation is carried out by a mediator, who holds a license from the Ministry of Justice and is registered in the Mediators Register of the Republic of Serbia. The parties have the right to choose a mediator from the list of mediators of the Republic of Serbia. A mediator may or not be a judge. In the Basic and Higher Court in Niš, the Mediation Center has been very successful and has achieved significant results. The intention is to include not only civil cases but also e criminal cases in the mediation process. In criminal cases, the mediation procedure is carried out primarily in cases where the procedure is initiated by filing a private criminal complaint (i.e. a complaint of a private prosecutor for minor offenses, and not at the request of the public prosecutor). On the other hand, the Criminal Code of the Republic of Serbia includes the institute of "Settlement of the offender and victim"[19], which deals with minor offenses.

[18] Act on Mediation in Dispute Resolution, *Official Gazette RS*, 55/2014.

[19] Article 59 CC, "Settlement of the Offender and Victim", stipulates that the court may remit from punishment the perpetrator of a criminal offence punishable by up to three years' imprisonment or a fine if the offender has fulfilled all his obligations from an agreement reached with the victim. The Serbian criminal law is consistent with Rec (2000) 22, par.1 in relation to the introduction of the provisions in Art. 58 par. 3 CC which provides

Over the past decade, the reforms in the criminal (substantive, procedural and enforcement) legislation and juvenile legislation in Serbia have resulted in numerous novelties regarding the attitudes towards perpetrators of crime, including setting the foundation for the introduction of elements of restorative justice as a response to the crime of adolescents and juveniles. As Judge Ivana Milovanović mentioned, we are familiar with the experiences of other European countries that apply the principles of restorative justice, especially during the enforcement of prison sentences. For example, since 2000, each prison in Belgium had a "restorative justice advisor" (Aertsen, 2006: 73). The essence of this approach is that the entire prison system is supported to "develop culture, skills and programs that provide space for the needs of victims and restorative responses". This should be considered in the future development of penal and prison systems. Judge Milovanović also added that, in criminal matters, mediation may be used in crimes prosecuted on a private complaint for minor offenses; thus, judges of the Basic Court in Niš practice this because these cases concern personal (private) disputes (which are not prosecuted by the prosecutor), where mediation can lead to the settlement of a dispute.

Tamara Trotman, a judge at the Appellate Court in the Hague, raised the question whether the legislation of the Republic of Serbia allows for the application of the institute of deferring criminal prosecution or the imposition of the community service sanction for the criminal act of domestic violence.

Andrija Ivić, a Deputy Public Prosecutor in Niš, noted that the Criminal Code of the RS generally allows the implementation of these institutes for the basic form of domestic violence (taking into account the prescribed punishment for the criminal offense of domestic violence Article 194 par. 1 and 2 CC and the general conditions prescribed by the provision of Article 283 of the CPC for the deferring of criminal prosecution). However, the Act on the Prevention of Domestic Violence and the General Obligation of the State Prosecutor explicitly exclude the deferring of criminal prosecution, psychosocial treatment and community service. For severe (qualified) forms of criminal offense domestic violence, it is not possible to apply the institute of deferring criminal prosecution or community service punishment because stricter penalties are stipulated for these forms of offences.

Aleksandar Stevanović, a Deputy Public Prosecutor in the Special Department for Combating Corruption, specified that a prosecutor is subject to disciplinary responsibility if he does not act in compliance with the Instruction. These institutes were applied in 2012 and 2013, and 80% of beneficiaries of psychosocial treatment did not appear as recidivists.

Srećko Luković, a Probation Officer, presented the statistics that the sentences of the home imprisonment ranged from 4 months to 8 months on average, while the length of "home detention" (house arrest) was significantly longer. There were cases in which the measure of "home detention", which is only a measure that secures the defendant's presence in the criminal proceeding, lasted for 2 or even 3 years. With regard to alternative sanctions, community service may last up to 360 hours in the Republic of

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exemption from penalty and Article 59 CC which provides for settlement of the offender and victim. Likewise, Article 59 par. 3 CC, „Remittance of Punishment", stipulates that the court may also remit from punishing the perpetrator of a criminal offence punishable by imprisonment of up to five years, provided that after the commission of the offence and before learning that he has been uncovered, he should eliminate the consequences of the offence or compensate damage caused by the criminal offence. There is great scope for mediation, reconciliation and reparation to play an important part in the implementation of alternative sanctions in Serbia.

Serbia. He asked how the probation service was organized in the Netherlands, and whether it included individual work with the offender.

Koen Goei, Program Manager (NHC), said that probation officers in the Netherlands may be psychologists or pedagogues, but a vast majority of them are social workers, all of whom have regular professional trainings at work.

Eva Erren, Project Manager (CICL), introduced the participants with the project aimed at increasing the use of alternative sanctions, which is to be carried out in 2019. The basic idea underpinning the project is the Theory of Change: IF there is a capable and effective probation service and capacitated penitentiary workers, THEN the cooperation of these bodies with the judges and prosecutors will be enhanced and they will use their information and issue alternative sentences. However, if judges and prosecutors are not aware of the work done by probation workers and penitentiary workers, and how they can use this work for their benefit, then they are unlikely to seek cooperation with them. If municipalities do not know about the opportunities offered through conditional sentences and community service, they are unlikely to accept the (former) convict in the community or provide community service placement.

Finally, if the general public has a negative attitude towards community service and reintegration, then decision makers will be hesitant to let the whole system develop fast, judges and prosecutors will not increase the issuing of conditional sentences and community services, and the Ministries of Justice will not provide more funding for increased probation staff and facilities. Eva Erren also noted that there is a wider framework of trainings which will be organized, including a possibility of organizing educational training in Serbia by visiting Dutch experts (judges, prosecutors, commissioners). She also announced a new visit by the Dutch delegation, on which occasion the meeting could be held only with judges or only with prosecutors, or with both of them together. She thanked all the participants for attending the meeting and encouraged further contact and prospective cooperation.

3. Conclusions and Recommendations of the Meeting

The meeting drew attention to several issues regarding the application of alternative sanctions. In general terms, the application of alternative sanctions through the engagement of the social community, civil society, victims and other social actors has changed the way in which interpersonal relations in the field of criminal sanctions work. On the other hand, the legal system has also been largely altered in this area, and now it encompasses criminal law, the execution of criminal offenses, legislation on the implementation of alternative sanctions and competent services, and many other legal relations. Thus, criminal sanctions (their determination and pronouncement), which were traditionally part of the criminal law and criminal procedure (court and prosecution), have expanded beyond these frames and they now encompass much wider segments of society.

The final discussion yielded significant conclusions which may be summarized and presented in several key recommendations for improving further application of alternative sanctions in Serbia. In some parts, these conclusions and recommendations exceed the Project framework and scope of activities because they refer to wider social segments which are closely related to different legal areas mentioned in the open discussion. In a broader sense, the outlined recommendations express the needs and directions that would

foster a better penal policy in Serbia in accordance with the envisaged targets concerning the purpose of punishment. Such a criminal policy inevitably involves alternative sanctions. We can summarize the recommendations as follows:

1) There is a need to improve and strengthen the services responsible for pronouncing and execution of alternative sanctions (courts, prosecution offices, probation services, and prison staff), and to develop mutual cooperation and cooperation with the civil society.

- The probation service should be obliged to submit reports on the defendants' personal, family and social circumstances to the court and the prosecutor's office before the decision on the type of criminal sanction and degree of punishment is made.
- Courts and prosecutors should develop close professional cooperation and efficient collaboration with probation services
- Probation officers should provide support and assistance to detainees during their preparation for conditional release.
- Probation services should provide relevant information to judges and prosecutors on the advantages of alternative sanctions in general and in individual cases (on the perpetrator's personality, significant personal and social circumstances, etc.).
- In order to develop their "professional competence", probation officers should receive further training, and their work should be subject to supervision and assessment.
- The quality of probation services should be improved by establishing a quality assurance and control system.
- There is a need to develop an institutional framework for implementing solutions comprising the elements of restorative justice, especially in terms of confronting the victim and the perpetrator.
- Competent state authorities and institutions should establish closer cooperation with the civil society in order to ensure a wider application of alternative sanctions.
- It is vital to improve communication between all relevant actors in the application of alternative sanctions (courts, prosecution offices, probation services, prison staff).

2) There is a need to provide for a more extensive application of conditional release (parole).

- Relevant institutions should be obliged to submit to the court more complete reports on the convicted offender prior to the decision on conditional release; such reports should be submitted by the prison institution where the convicted offender is serving a sentence and by other state institutions and services (social service, psychologist, etc.).
- It is essential to establish more efficient cooperation between institutions/organizations and persons in charge of custodial treatment prior to releasing the convicted person on parole, as well as providing for their post-penal assistance and support.
- The courts should more actively propose and impose some measures in conjunction with conditional release. These measures are stipulated in Article 44 of the Act on the Execution of Non-Custodial Sanctions:[20] obliging the offender to regularly report to the authority in charge of the enforcement of protective supervision; training the offender for a particular occupation; providing employment that corresponds to the offender's abilities; obliging the offender to refrain from visiting certain places, clubs

[20] Act on Execution of Non-Custodial Sanctions and Measures, *Official Gazette RS*, 55/2014, 87/2018.

or events if they are likely to create an opportunity or an incentive for re-offending; timely notification of change of the place of residence, address or workplace; refraining from the use of drugs or alcohol; visiting certain professional and other counseling centers or institutions, and acting on their instructions.

3) There is a need to provide for a more intensive application of the community service.

- Judges and public prosecutors should be instructed on the advantages of pronouncing this alternative sanction, both for the perpetrator and the society.
- It is essential to increase and intensify the application and enforcement of the community service penalty.
- It is essential to create conditions and develop capacities for the application of the community service penalty (to the greatest possible extent) in different enterprises, institutions and organizations where convicts may perform the community service.
- It is essential to inform/educate the public and obtain support from the community and the environment for the application of the community service penalty.
- Convicted offenders should be informed about the benefits of the community service in order to eliminate any personal resistance against this sanction; considering that community service is often perceived as degrading or humiliating, the convicted offenders should be made aware that the community service is not aimed at undermining their dignity, honor and reputation but that it involves socially useful work acceptable to every person and that it has numerous advantages and positive effects both for the person serving the sentence and for the community.

4) There is a need to develop and organize trainings on alternative sanctions for judges, public prosecutors and probation officers.

- The education of judges and public prosecutors on the application of alternative sanctions should particularly focus on determining custodial sentences and their replacement with other milder measures, as well as on a more extensive application of the community service and conditional release (from the aspect of proposing conditional release, deciding on conditional release, the need to pronounce the prescribed measures in conjunction with conditional release, etc.).
- Judges and prosecutors should be trained to better understand the purpose of imposing alternative sanctions in accordance with the established legal framework.
- Judges and public prosecutors should be also introduced to the standards set by the Council of Europe in the field of alternative sanctions
- It is essential to consider introducing guidelines for judges and prosecutors for the purpose of achieving standardization and uniformity of criminal policy, especially with regard to alternative sanctions.

5) There is a need to inform the citizens about alternative sanctions and strengthen the public confidence in the judicial system.

- Citizens should be informed about the relevance of alternative sanctions that may be used instead of detention, particularly the importance of community service penalty and the ultimate purpose of detention.
- In order to gain public confidence and familiarize the citizens with the concepts of alternative sanctions and restorative justice, it is necessary to organize public presentations, round tables, workshops, or impart information through media.

- The public confidence in alternative sanctions may be promoted by:
  - improving relations between the public and the persons in charge of the application and execution of alternative sanctions;
  - conducting public opinion polls on the topic of alternative sanctions;
  - organizing conferences, seminars and other activities on a regular basis in order to raise awareness about the need for the general public participation in the implementation of alternative sanctions;
  - developing a constructive public attitude towards these sanctions through media;
  - promoting the reputation of probation services, courts and public prosecution offices in public.

6) There is a need to ensure relevant support to both victims and perpetrators in the application of alternative sanctions.

- The victims and perpetrators should be informed about the concepts of alternative sanctions and restorative justice.
- The victims and perpetrators should be provided assistance and support in the process of application of alternative sanctions.
- It is of vital importance to ensure the sustainability of services that provide assistance and support to victims and perpetrators in these processes.

7) Alternative sanctions should be given priority in the process of determining the type and degree of punishment for minor criminal offences, first-time offenders and vulnerable groups (women, children, persons with mental illnesses, drug addicts, elderly prisoners, persons with disabilities, foreign prisoners).

- The rights of women in criminal proceedings need to be protected. In the process of imposing criminal sanctions on female offenders, the court should take into account the degree of victimization, child care, the responsibility and the circumstances under which the crime was committed, and priority should be given to alternative sanctions.
- Prosecutors and judges should increase the application of alternative sanctions in cases involving minor offenses.
- As for juvenile offenders, detention should be imposed as the ultimate measure aimed at ensuring the minor's presence in criminal proceedings, when such a measure is truly necessary and in case another milder measure cannot achieve the same purpose; instead of detention, priority should be given to the alternative measures.
- It is essential to prescribe and conduct regular assessments (in shorter periods) on the needs of long-term prisoners, including rehabilitation, reintegration and health care, as well as to adopt mechanisms or supplement legal regulations on early release of long-term prisoners (in addition to regular legal provisions on conditional release) and to consider replacing the rest of a prison sentence with an alternative sanction.
- It is necessary to collect data on the number of persons with disabilities in prison institutions, assess their needs and inform the competent services, personnel and government authorities about it in order to ensure adequate treatment of these persons in compliance with the international standards. It is also essential to envisage a possibility for early release on a suspended sentence for these offenders, and substitute the sentence of imprisonment with an alternative measure. Related activities should

include the training of prison staff, judges and public prosecutors, probation officers, as well as informing the wider community in order to prevent discriminatory treatment and abuse of persons with disabilities.

8) There is a need to improve the legal framework of alternative sanctions and the quality of positive law provisions.

- The legislator should continue the reform of the criminal justice system and improve the legal provisions relating to alternative sanctions already prescribed by law.
- The legislator has to provide more precise definitions of restorative justice processes (mediation, out-of-court settlement), which have already been recognized and prescribed in our legislation, in order to explicitly regulate the process of referral, the course of the restorative justice process, and its correlation with the existing criminal justice system. This may be achieved by amending the Mediation Act, which should precisely regulate the mediation procedure in criminal matters.
- There is a need to provide explicit legal norms clearly defining the position and role of the victim, in cases involving the application of alternative sanctions, measures and types of treatment.
- It is essential to harmonize the legal terminology on this matter because relevant legislative acts and by-laws contain different legal terms, which are not always and fully synonymous.
- Legal provisions on the execution of "house imprisonment" should be amended by prescribing relevant forms of treatment to be carried out in the course of serving the alternative sanction of a "house imprisonment".
- The legislator should also consider introducing legal restrictions for imposing short-term imprisonment.
- The Criminal Procedure Code provisions on the application of the principle of opportunity (deferral of prosecution) should more precisely define the role of the victim, and particularly the victim's consent to the implementation of all the envisaged obligations. It would provide a more efficient control of decisions made by the public prosecutor in terms of the principle of opportunity.

After the discussion, the participants of the meeting attended the closing ceremony. In the closing address, the host and the organizer thanked all the attendees and particularly the respectable delegation from the Netherlands for their active participation in the meeting and significant contribution to the exchange of knowledge, experiences and best practices on the application of alternative sanctions in the Netherlands and Serbia. While looking forward to hosting another expert meeting on this subject matter, the host and the organizer expressed their enthusiasm to embark on the implementation of the project "Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia".

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PRIKAZ MEĐUNARODNOG NAUČNO-STRUČNOG SASTANKA ODRŽANOG U APELACIONOM SUDU U NIŠU POVODOM PROJEKTA "JAČANJE POVERENIČKIH SLUŽBI I SISTEMA ALTERNATIVNIH SANKIJA U CRNOJ GORI I SRBIJI" (Niš, 4. decembar 2018. god.)

Alternativne sankcije u najširem smislu su krivičnopravne mere koje se javljaju kao zamena za kaznu zatvora. One praktično predstavljaju parapenalne sankcije u tom smislu da im nedostaje ona stvarna efektivnost svojstvena klasičnoj kazni, koja se izražava kao potpuno ograničenje nekih prava ili materijalnih vrednosti. U radu je dat prikaz međunarodnog naučno-stručnog sastanka u Apelacionom sudu u Nišu povodom projekta "Strengthening the Probation and the System of Alternative Sanctions in Montenegro and Serbia" (Jačanje povereničkih službi i sistema alternativnih sankija u Crnoj Gori i Srbiji). Učesnici sastanka su bili članovi holandske delegacije, kao i domaće sudije, javni tužioci i predstavnici povereničkih službi. Tokom predstavljanja projekta i razmene mišljenja i iskustva u primeni alternativnih sankcija u Holandiji i Srbiji su pomenuta brojana suštinska pitanja, koja se tiču svrhe kažnjavanja, postignutih rezultata, kao i problemi koji se javljaju u svakodnevnoj praksi u primeni alternativnih sankcija.

Ključne reči: *alternativne sankcije, kazna zatvora, uslovni otpust, rad u javnom interesu, sud, tužilaštvo, probacija*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 23-32
https://doi.org/10.22190/FULP1901023T

Review Paper

POTENTIALS FOR THE PROTECTION OF PIKIALASORSUAQ IN THE SHADOW OF CONTEMPORARY MARITIME INDUSTRIES

UDC 341.224:347.79
502/504

Apostolos Tsiouvalas

K.G. Jebsen Centre for the Law of the Sea, UiT The Arctic University of Norway

Abstract. *The Pikialasorsuaq or North Water Polynya is a polynya that lies between Greenland and Canada in northern Baffin Bay. For centuries, small scale family-based markets had been developed between the Inuit on the two sides of the bay based on cross-border transportation. However, the emerged modern maritime industries have posed serious challenges for the polynya, where the free cross-border transportation is nowadays banned, and the environmental threat has become a reality deteriorated further by climate change. Indigenous participation and Free Prior and Informed Consent are crucial for the conservation of the polynya. Accordingly, this article was designed as a descriptive study of the current situation in Pikialasorsuaq, providing the legal framework for the protection of the region and highlighting the existing system's shortcomings.*

Key words: *Pikialasorsuaq, Inuit, contemporary maritime industries, cross-border transportation, Marine Protected Areas, FPIC.*

1. INTRODUCTORY REMARKS

The Pikialasorsuaq, or "Great Upwelling," is the largest polynya in the Arctic and the most biologically productive region northern of the Arctic Circle, located between Greenland and Nunavut (Inuit Circumpolar Council, 2017). A polynya is a semi-permanent area of open water surrounded by sea ice that remains ice-free during the winter due to ocean and wind currents (Encyclopædia Britannica, 1998). Polynyas are incredibly rich, diverse areas teaming with marine life, in part as a result of the upwelling of nutrient-rich waters (Encyclopædia Britannica, 1998). Since time immemorial, the Inuit from both Greenland and Nunavut had been using Pikialasorsuaq for subsistence activities based on free traveling, without custom clearance across each other borders

Received October 16th, 2018 / Accepted February 6th, 2019
Corresponding author: Apostolos Tsiouvalas, K.G. Jebsen Centre for the Law of the Sea, UiT The Arctic University of Norway, 9037 Tromsø, Norway ; Email: apostolostsiouvalas@gmail.com

exchanging goods and services and developing cultural and spiritual bonds (Inuit Circumpolar Council, 2017). However, since the dawn of the new millennium, the free cross-border transportation has been prohibited, interrupting the communication between the Inuit of the two states. Moreover, Pikialasorsuaq is nowadays seriously threatened by rapid changes in the region including increased shipping activities, tourism, oil and gas exploration and development which are also driven by the ongoing climatic and environmental change that demands urgent decision-making (Inuit Circumpolar Council, 2017). In response to these emerging challenges, in January 2016, the Inuit Circumpolar Council of Greenland (ICC Greenland) together with the Inuit Circumpolar Council of Canada (ICC Canada) established the Pikialasorsuaq Commission in a project funded for 3 years (Pikialasorsuaq Commission, 2016). The author, inspired by the recent report of the Pikialasorsuaq Commission, attempts to illustrate the current reality in Pikialasorsuaq through the lens of international law. In particular, the first part offers a bird-eye's view of the recent ban of cross-border transportation among the two regions. The second part of the article addresses the environmental challenges that arose in the region due to the rapid emergence of modern maritime industries during the last decades. Finally, the third part of this study sketches the legal background of the two previous chapters, concluding with recommendations for the environmental protection of the polynya and its habitants as they derive from Canadian, Greenlandic and international law sources.

2. Banning Traditional Cross-border Shipping

The Pikialasorsuaq polynya has always been providing food security for regional communities and comprising an enduring cultural and spiritual cornerstone linking the Inuit across borders to each other and to their shared history (Inuit Circumpolar Council, 2017). For centuries, cross-border activities had been traditionally conducted with dog-sledding through the northern ice bridge in Kane Basin and kayaking though the ocean, while the habitants of both regions had always been traveling and migrating across the ocean unobstructedly without passports, something that was obvious and necessary, due to the region's large distance from the closest administrative metropolis (Hastrup *et al.*, 2018:169). For centuries, a local small-scale family-based industry had been developed in the area based on trade relations of the Inuit of both sides (Pikialasorsuaq Commission, 2017: A-9). Besides the subsistence activities of hunting, fishing, sealing and trading, cultural and spiritual relations had been formed between the two sides being an indivisible part of the region's wellbeing, constituting traditions that predated the arrival of settler colonists by thousands of years (Pikialasorsuaq Commission, 2017: A-9).

The northern ice bridge in Kane Basin that connects Umimmaat Nunaat (Ellesmere Island) and Avanersuaq (Northwest Greenland) is symbolic for the strong ties between the Inuit from Canada and Greenland and their present desire to cooperate and to arrive at a common vision for shared resources, as the Commission describes (Pikialasorsuaq Commission, 2017: A-9). Nowadays, in the era of climate change, the bridge that influences the formation of the polynya has become less stable than ever before in the past and, as a result, the most reasonable way of communication with the opposite edge is the ocean (Dumont et al, 2007). However, the tragedy of 11/9/2001 and the resulting increased security led to the cessation of free transit for Inuit families, pausing their economic, spiritual and cultural exchange (Pikialasorsuaq Commission, 2017: A-6). In addition, the travel between

Canada and Greenland now requires customs clearance on both sides of the Pikialasorsuaq (Pikialasorsuaq Commission, 2017: A-6). In fact, taking into consideration the high latitude where the polynya lies, the remoteness of the place, the lack of infrastructure and the tremendous distance from the main administrative centres, these measures seem to be out of reach for the limited number of the Inuit that reside around the polynya.

3. Environmental Challenges in the Polynya

Simultaneously, together with the ban of free cross-border shipping in Pikialasorsuaq, there was a rapid change in the region including climatic and environmental alterations, increased shipping activities, development of tourism, oil and gas exploration, seismic testing, and military activities which pose further risks to the indigenous communities that live around the polynya (Heide-Jørgensen *et al*, 2013:52). Due to the exposure to the unpredictable climate change, the region has become more accessible than ever before in the past and new modern maritime industries have nowadays come to the forefront raising numerous issues for discussion (Pizzolato *et al*, 2016:152).

Indeed, a modern and efficient maritime infrastructure at sea and on land is critical to the world's security and economic well-being. However, despite the potential benefits that the multidimensional industrial development has offered to the region, many challenges have come to the fore following the ban of cross-border transportation. The increasing number of large ships, whether commercial or touristic, contributes to the reduction of sea ice, driven by the climate change, which has rendered the ice bridge in Pikialasorsuaq more vulnerable than ever before increasing the risk for accidents (Shadian, 2018:283). Recently, the Greenlandic authorities issued a significant number of licenses for offshore exploration in the western part of the country where the polynya is located (Mineral Licence and Safety Authority, 2015). Besides the danger of pollution that cargo and cruise traffic has already posed, the chances of an accident or an oil spill would be also devastating for the sensitive marine life of the region. With ship transportation picking up pace, the environmental effects of it are now surfacing. Among them, the effects of noise pollution especially on marine life are highly prominent (Weilgart, 2008:4). It has been noted that approximately all 55 marine species have been noted to have suffered due to exposure to sound of varying frequencies (Weilgart, 2008:4). Such species include the sperm whale, grey whale, mink whale, pygmy sperm whale, killer whale, sea bass, pink snapper, cod, haddock and other species that can be identified in Pikialasorsuaq (Weilgart, 2008:4). Migration trends, adaptation challenges and trophic chain disturbances on marine mammals' behaviour are constantly increasing in the region, posing dietary risks to the Inuit, as those mammals constitute their main source of food (Tsiouvalas, 2018:66). Moreover, long time ago human security challenges have arisen in the Greenlandic high-north due to long-range pollution (Dietz et al, 2018:3). For instance, residents of communities located close to the polynya have been identified with exposure to Hg, due to biomagnification of Hg mainly across marine top predators, which are essential food resources for them (Dietz et al, 2018:2).

In addition to the marine commercial development of the region, the expanding traffic of military vessels is also present in Baffin Bay (Pikialasorsuaq Commission, 2017: A-16). The historical emergence of new sea lanes has strongly impacted the international balance of power in the Arctic region in general and the increase of military traffic has also become a reality in the ocean around Pikialasorsuaq, attracting both Canadian and Danish vessels

(Pikialasorsuaq Commission, 2017: A-6). In order to manage these changes in appropriate ways, by providing services and infrastructure, all levels of government require a good understanding of the patterns and trends based on evidence of historic temporal and spatial trends (Dawson *et al*, 2017:24). Additionally, a Marine Protected Area (MPA) close to Pikialasorsuaq has not been determined yet, despite the rich biodiversity and the wildlife refuge that the region forms (Naalakkersuisut, 2018).[1] Furthermore, the Commission's report provides that, due to the limited force of the Greenlandic and Canadian coast guard in this remote and huge region, concerns exist as well with regard to the application of international regulations as the Polar Code or even concerning cases of unregulated activities, such as illegal, unreported and unregulated (IUU) fishing (Pikialasorsuaq Commission, 2017: A-12).

As illustrated above, in January 2016, in response to these trends the Inuit Circumpolar Council (ICC) established the Pikialasorsuaq Commission (Pikialasorsuaq Commission, 2016). After one year of research and negotiations, the Commission concluded to a document that addresses the concerns of the Inuit of both sides of the polynya. The Commission, being aware of the so far emerged challenges in the region, provided recommendations to the states of Canada and Greenland aiming to the recognition of Pikialasorsuaq as a Marine Protected Area where the Inuit will control the environmental management of the Polynya and continue to travel without passports and customs clearance during the exercise of their traditional activities (Pikialasorsuaq Commission, 2017b).

4. The Legal Framework for the Reinforcement of Pikialasorsuaq

Before elaborating further on the legal framework revolving around the case based on both domestic and international regimes, it has to be clarified that the Inuit are indigenous peoples. For indigenous peoples, the most appropriate definition so far is the working definition of the former Special Rapporteur on the Rights of Indigenous Peoples, José Martinez Cobo, in which indigenous peoples are described as follows:

> *Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural, social institutions and legal systems (Cobo, 1986: para. 379).*

Accordingly, relevant international legislation with respect to the world's indigenous peoples provides different remedies for the Inuit case. First of all, with respect to the claim for free cross-border shipping, the Kingdom of Denmark (including Greenland) is part of the Indigenous and Tribal Peoples Convention of the International Labour Organization.[2] Article 23 of the ILO 169 Convention reassures this right mentioning that:

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[1] *See also* Government of Canada, (2018). *Marine protected areas (MPAs) and their regulations*, Retrieved 15 October, 2018, from http://www.dfo-mpo.gc.ca/oceans/mpa-zpm/index-eng.html

[2] International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

> *"Rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted".*[3]

There is no doubt that the Inuit free transportation has been built on subsistence activities, while it plays a crucial role for their cultural and economic self-reliance and development, as well. Furthermore, the Kingdom of Denmark has also adopted the recent United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), in which Article 36 provides indigenous peoples who have been divided by international borders with the right to maintain and develop contacts, relations and cooperation across these borders, while the state is responsible to reassure and protect these rights.[4] Though non-binding, the UNDRIP remains the most comprehensive international legal document concerning the rights of indigenous peoples and has been used as the lever by indigenous peoples in their ongoing struggle for self-determination and recognition (Barelli, 2009: 964). Therefore, it seems reasonable for Denmark to implement the recommendation of the Pikialasorsuaq Commission and regulate the free cross-border shipping in the area. Nevertheless, this approach is problematic for the Canadian authorities because Canada is not a party to any of these international regimes that aim to ensure the legal protection of indigenous peoples, and such a regulation demands concurrence or bilateral agreements of both states. Therefore, the Inuit from the eastern coast of Nunavut cannot claim rights that derive from the legal instruments mentioned above (ILO, UN General Assembly, 2018).[5] However, by arguing that the free cross-border travel has been taking place in Pikialasorsuaq since time immemorial, based on traditional activities and relations, the Inuit could also claim the existence of historic rights in the region. The doctrine of maritime historic rights is included in customary international law outside the ambit of, and unaffected by, the UNCLOS[6] and other international law regimes. In its terms of reference, the two States need to investigate the Inuit customs and the Inuit legal perceptions to find out to what extent these might have a range of application over Pikialasorsuaq, in general.

With regard to the Commission's claims for the conservation of Pikialasorsuaq and the establishment of a Marine Protected Area around the polynya, the legal arsenal of the Inuit is more than sufficient. First of all, both states are parts of the UN Convention on the Law of the Sea. The UNCLOS provides coastal states with exclusive sovereign rights

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[3] Article 23, International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

[4] Article 36, UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007. *See also* UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 3 February 1992, A/RES/47/135, Retrieved 15 October, 2018, from http://www.un.org/documents/ga/res/47/a47r135.htm. Article 2(5) provides that: "Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties."

[5] *See also* UN Division for Inclusive Social Development, (2018). *United Nations Declaration on the Rights of Indigenous Peoples* Retrieved 15 October, 2018, from https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html.

[6] UN General Assembly (1982). Convention on the Law of the Sea, 10 December 1982

according to their continental shelf and their Exclusive Economic Zone (EEZ).[7] This means that Canada and Greenland should be aware of the protection and conservation of the part of their EEZ which extends to the polynya. Additionally, Canada and the Kingdom of Denmark are both part of the International Maritime Organization (IMO) while they have also ratified the International Convention for the Safety of Life at Sea (SOLAS)[8] and the International Convention for the Prevention of Marine Pollution from Ships[9], which commit states to protect further their waters and the shipping activities conducted within them. Canada and Greenland, as members of the IMO, could also establish a Particularly Sensitive Sea Area (PSSA) in Pikialasorsuaq including ship routeing measures, reporting requirements, discharge restrictions, operational criteria and prohibited activities.[10]

The principle of Free, Prior and Informed Consent (FPIC) is of vital importance in the case. The normative framework of FPIC consists of a series of legal international instruments including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Labour Organization Convention 169 (ILO 169), and the Convention on Biological Diversity (CBD), among many others, as well as national laws. First of all, both states are members of the Convention on Biological Diversity (CBD).[11] In particular, Article 8(j) of the CDB guarantees further safeguard of the region related to the needs of the Inuit since it binds the states to take into consideration the indigenous and local communities·applying their traditional knowledge when it comes to region's conservation and protection of biodiversity.[12] Therefore, prior to the beginning of industrial development in Pikialasorsuaq including licensing for exploration, international law requires free prior and informed consent (FPIC) of the Inuit (Fontana et al, 2016:256). Correspondingly, the ILO Convention 169 provides that the requirement for consultation constitutes an obligation of the Government of the state and not of private persons or companies (ILO, 2013). Although this may be delegated, the responsibility rests ultimately on the government (ILO, 2013). The need for consultation of indigenous peoples is written throughout the Convention a number of times and is referred to in Articles 6, 7, 16 and 22.[13] Article 6(1), for instance, states that governments should:

> *"Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly".*

Article 6 (2) adds that this consultation will be carried out in good faith and in a form that is appropriate to the circumstances.[14] The aim of the consultation process is to reach

[7] Article 56. UN General Assembly (1982). Convention on the Law of the Sea, 10 December 1982.
[8] International Maritime Organization (IMO), International Convention for the Safety of Life At Sea, 1 November 1974, 1184 UNTS 3.
[9] International Convention for the Prevention of Marine Pollution from Ships, 12 ILM 1319 (1973); TIAS No. 10,561; 34 UST 3407;1340 UNTS 184.
[10] International Maritime Organization, Resolution A.982(24), 6 February 2006.
[11] Convention on Biological Diversity, 1760 UNTS 79; 31 ILM 818 (1992).
[12] Article 8(j). Convention on Biological Diversity, 1760 UNTS 79; 31 ILM 818 (1992).
[13] Articles, 6, 7, 16, 22. International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.
[14] The general principle of good faith implies that consultation respect for Indigenous peoples' values and interests. Peoples concerned can be defined as the potential people affected by any measure, and appropriate procedures means that consultation is meaningful.

an agreement or consent to a purposed development prior to any processes.[15] Additionally, Article 19 of UNDRIP states:

> *"States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."*[16]

Articles 10 and 32 of UNDRIP also provide the same right.[17] However, despite the relevant extensive legal framework, the lack of the Inuit consultation in the specific case is apparent based on the Commissions' statements in the report.[18]

As it was mentioned above, Canada might have never become part of the ILO Convention 169 or the UNDRIP concerning the protection of Indigenous Peoples. Therefore, the Canadian authorities are committed to the FPIC principle only through the State's participation to the CBD and its domestic law;[19] however, the Canadian domestic legislation provides potentials for the establishment of Marine Protected Areas. In particular, the government of Canada has issued the Oceans Act,[20] the Wildlife Act,[21] and the National Marine Conservation Areas Act[22], which provide the right for the establishment of either MPAs or even of National Marine Conservation Areas (NMCA). Moreover, the recent Canada's Federal Marine Protected Areas Strategy binds the State to cooperate with the affected Aboriginal Peoples for collaboratively planning, establishing and managing marine protected areas (Government of Canada, 2005:12). Similarly, the Greenlandic government (being responsible for its own environmental policy since the 2007 Self-Government Act)[23] has issued the Nature Protection Act[24] and the Marine Environment Protection Act,[25] which both provide the right for establishment of MPAs whenever reasonable.

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[15] Scholars usually make a distinction between FPIC and consultation concerning the role and the extent of indigenous participation decision making by States on issues which impact and affect their lives. *See* Margherita Poto, 'Participatory rights of indigenous peoples: the virtuous example of the Arctic region' (2016) 28 ELM, pp. 81-89.

[16] Article 19. UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007.

[17] Articles 10, 32. UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007.

[18] At this point, it has to be noted that the potential secession of Greenland from the Kingdom of Denmark will raise serious concerns regarding the indigeneity of the Greenlandic people and the compatibility of their status to the aforementioned international agreements. As a result, the application of FPIC in Greenland will potentially be contested at the moment when Greenland succeeds independence as sovereign state.

[19]The duty to consult and accommodate is the closest principle to FPIC in the Canadian constitutional law. For a comprehensive analysis of the FPIC characteristics in the Canadian law, *see* Sasha Boutilier, "Free, Prior, and Informed Consent and Reconciliation in Canada: Proposals to Implement Articles 19 and 32 of the UN Declaration on the Rights of Indigenous Peoples'' (2017) 7:1 online: UWO J Leg Stud 4 <http://ir.lib.uwo.ca/uwojls/vol7/iss1/ 4>.

[20] Government of Canada, Oceans Act, SC 1996, c.31.

[21] Government of Canada, RSC 1985, c. W-9.

[22] Government of Canada, SC 2002, c.18.

[23] *See* 'List II' in Act on Greenland Self-Government, 12 June 2009, Act no. 473. <http://naalakkersuisut.gl/~/media/Nanoq/Files/Attached%20Files/Engelske-tekster/Act%20on%20Greenland.pdf>

[24] Greenland Assembly Act No. 29 of 18 December 2003 on Nature Protection.

[25] Citation not available at time of writing. For the content of the act see <http://naalakkersuisut.gl/en/Naalakkersuisut/Departments/Natur-Miljoe/Miljoe-og-beredskabsafd/Havmiljoe>

In conclusion, it has to be mentioned that there are several global examples of bilateral or multilateral agreements that have abrogated similar travel restrictions in the past. For instance, the Jay Treaty between the US and the UK,[26] which was signed in 1794, includes an objective that addresses similar cultural connections. Another example is the Torres Strait Treaty between Australia and Papua New Guinea, which addresses the freedom of travel for indigenous peoples in a specially designed area.[27] Finally, the example of free transportation in the European Union within the Schengen zone is also an exemption from the general restrictions of free travelling.[28]

5. CONCLUSIONS

To sum up, the regulatory solutions suggested by the Pikialasorsuaq Commission are certainly remarkable and promote the indigenous peoples' engagement to the broadest extent. However, so far, the states have not imposed any relevant measures based on the strategic plan of the Pikialasorsuaq Commission, which will continue to be funded until 2019, raising doubts about the existence of a future advocate for the Inuit of the polynya. Up to that date, there are various ways and legal remedies through which the Pikialasorsuaq Commission can continue urging the two states to seek legal protection and rights for the Inuit as a response to the latest exclusionary transportation measures and the on-going development of marine industries in the Baffin Bay. The Commission's claims for environmental protection and the designation of a Marine Protected Area in Pikialasorsuaq are essential and based on a sufficient legal background. However, as it was illustrated above, the revocation of the ban of free-shipping in the polynya among the indigenous residents of the two sides is more difficult to succeed, since Canada's participation in the international instruments that provide the corresponding legal basis is deficient. Therefore, only a court decision could potentially grant customary rights to the Inuit of Nunavut for free cross-border use of the polynya. On the other hand, the Commission carries a more tangible legal armoury concerning the international and domestic obligations of Greenland.

It is safe to say that for the coming decades the presence of commercial and cruise ships will undoubtedly continue in the region until the states decide to regulate these activities in depth. Climate change will further deplete the existing ice-bridge while the fauna revolving around the Pikialasorsuaq shall not cease to be exposed to dangers. Together with these trends, new species migrating from warmer regions would soon reach the Arctic, influencing the current nexus of biodiversity in the polynya. Urgent actions, security measures and environmental policies are indispensable in order to avoid further disturbances in the region, until international law provides the basis for interpreting and implementing their dynamics. The FPIC processes, as crucial mechanisms for the expression of the indigenous right to self-determination, are necessary for the protection of Pikialasorsuaq, leading gradually to the establishment of long-term, sustainable structures

[26] Treaty of Amity, Commerce, and Navigation, between His Britannick Majesty; and the United States of America, by Their President, with the advice and consent of Their Senate, 19 November 1794 (entered into force 29 February 1796)

[27] Australian Treaty Series 1985 No 4, Torres Strait Treaty, signed in 1978 – Fact Sheet 258.

[28] European Union, Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders ("Schengen Implementation Agreement"), 19 June 1990.

for participation at the local, regional, national and international level, where it is the Inuit and not the majority society that defines both the indigenous matters in hand and measures required to deal with them.

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POTENCIJALI ZA ZAŠTITU ARKTIČKE POLINIJE *PIKIALASORSUAQ* U SENCI SAVREMENE POMORSKE PRIVREDE

Polinije (rus. polynya) su prirodno formirane otvorene vodene površine u ledom okovanom Arktičkom okeanu koje, pod uticajem toplih morskih struja, tokom cele godine ostaju nezaleđene. Zahvaljujući bogatom biodiverzitetu, ove morske oaze na Arktiku su utočišta i glavni izvor hrane raznim vrstama morskih sisara, riba i ptica naročito u zimskom periodu.

Pikialasorsuak (Pikialasorsuaq) je najveća polinija u Severnim vodama Artkičkog okeana, koja se nalazi između Grenlanda i Kanade, u severnom delu zaliva Bafin. Autohtone inuitske zajednice sa obe strane zaliva se od davnina oslanjaju na prirodna bogatstva ove polinije i porodičnu trgovinu na malo, koja počiva na slobodnoj razmeni dobara i slobodnom prekograničnom prevozu robe. Međutim, razvoj savremene pomorske privrede doneo je ozbiljne izazove, kako u pogledu zabrane slobodnog prekograničnog prevoza tako i u pogledu realne ugroženosti životne sredine, koja je delovanjem klimatskih promena izložena još većoj opasnosti. Učešće autohtonog stanovništva i princip dobrovoljne, prethodne i informisane saglasnosti stanovništva ključni su za očuvanje ove polinije. U skladu s tim, ovaj članak daje prikaz trenutne situacije u poliniji Pikialasorsuak, pregled normativnih okvira na nacionalnom i međunarodnom nivou u pogledu zaštite ove oblasti, i ističe nedostatke postojećeg pravnog okvira.

Ključne reči: *Pikialasorsuak, Inuiti, savremena pomorska privreda, prekogranični prevoz, Zaštićena morska područja; dobrovoljna, prethodna i informisana saglasnost stanovništva*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 33-45
https://doi.org/10.22190/FULP1901033V

Review Paper

CHARACTERISTICS OF HUMAN RESOURCES MANAGEMENT MODEL IN PUBLIC ADMINISTRATION OF REPUBLIC OF SERBIA: CONTEMPORARY TRENDS AND CHALLENGES *

UDC 351/354
331.101.262

Igor Vukonjanski

Faculty of Law, University John Naisbitt, Belgrade, Serbia

Abstract. *Human resources management in the public administration of the Republic of Serbia is a combined model of good practices from the European administrative area and the remaining stereotypes from pre-transition period. Introduction of the public servant system with all features of contemporary public servant related legislation was a necessity that accompanied overall reform of the public administration in Serbia. The process of introducing human resources management function in the Serbian public administration has been encumbered with application of two different legal models that define the status of public servants: public servant related legislation is applied to employees in executive branches of the central government (ministries, government departments and offices), and the status of employees in city and municipal administrations is stipulated in obsolete laws, adopted over 20 years ago. It should be noted that employees in public sector are still prone to old habits in their work, which altogether reduces successful reforms in this area. This paper provides a description of the current state of affairs and opens certain questions: whether the modern human resources (HR) management in Serbia's public sector is understood and accepted in the right way; and whether it is possible, by means of applying*

Received February 20th, 2018 / Accepted February 21st, 2019
Corresponding author: Igor Vukonjanski, Associate Professor, Faculty of Law, University John Naisbitt, Belgrade, Serbia; e-mail: ivukonjanski@naisbitt.edu.rs

* The analysis of the situation in the field of public sector, the views and recommendations presented in this paper are the result of many years of work on projects of national importance and specialist training at institutes and academies for public administration in Germany, the Czech Republic, Ireland, Austria, Italy and Sweden. The most important projects in which the author participated and formulated his views expressed in this paper are: (2016) Analysis and description of the situation in the public sector Republic of Serbia: "Coordination for public sector cohesion of the future" (COCOPS); (2014) "Reform of state administration and strengthening of institutional capacities in the Republic of Serbia - second phase; (2012) "Analysis of the competencies and organization of work of ministries, special organizations, government services and professional services of administrative districts and changes; (2009) "Functional Analysis of State Administration Bodies" conducted by the Ministry of State Administration and Local Self-Government within the state administration reform project and (2007) "Decentralization and Strengthening of Local Self-Government" Project of the European Commission and Council of Europe IPA.

specific methods, to strengthen awareness of public employees concerning their actual position and responsibility to establish a new public administration, adjusted to the citizens' needs, requirements and expectations. Relying on a decade-long personal engagement in this field, the author analyzes the current circumstances and provides critical remarks and recommendations.

Key words: *Republic of Serbia, public sector, public servant law, human resources management, analysis, recommendations.*

INTRODUCTORY REMARKS

The legal status of public servants from the perspective of common European standards has been defined in the Council of Europe Recommendation no. R(2000)6 concerning the status of public officials in Europe[1]. Introduction of public servant legislation in the Republic of Serbia's legal system is directly related to the public administration reform and the basic objectives proclaimed in the reform strategy, including decentralization, depoliticization, professionalization and modernization.

The legal frame for development of the public servant system, introduction and application of modern human resources management principles in state administration bodies was created by adoption of the Public Servants Act (2005) and accompanying bylaws. In spite of the apparent progress in the Serbian public administration system, the practice gives a general impression that newly established system of human resources management is inefficient and complicated. Also, there is an impression that the entire process is complete only in legislative terms, while practical solutions in line with modern standards are still pending.

There are new considerations stemming from the specific circumstances where the mechanisms for a full-fledged development of public servant system by means of affirmation, monitoring and evaluating the work of public employees, the system of their professional development and training are still pursued. Public administration employees daily encounter ample internal challenges (complexity and importance of their tasks) and external challenges (growing expectations of citizens who perceive public administration as a service provider).

Considering the incomplete normative framework in this area, there are relapses into old (bureaucratic) habits in providing services, indicating that reform processes in Serbia's public administration have not been completed. Apart from that, certain delays in the course of further improvement of public administration system can be observed. Only six years after the Public Servants Act took effect, enthusiasm and the quality of public administration work have dropped.

There is a founded presumption that the reform makers somewhat lost the opportunity to include other important factors such as motivation and readiness of public employees to support changes in this field, on top of declarative support to the professionalization of public administration as one of its guiding principles, foreseeing the creation of well-trained, responsible and efficient administration. Therefore, it may be concluded that that

[1] Recommendation no. R (2000) 6 concerning the status of public officials in Europe (Adopted by the Committee of Ministers on 24 February 2000 at the 699th meeting of the Ministers' Deputies) provides guidelines for EU member states in establishing the legal position of public officials by defining their specific labor status.

public servant system reform is not entirely complementary with other segments of the public administration reform, such as technological modernization, for instance.

Moreover, it is evident that this dynamic process of securing modern, professional, competent, depoliticized and responsible public administration in the Republic of Serbia is not entirely defined, which causes serious obstacles in its work. Besides, there is an impression that there is no awareness in our environment about the premise that the human resources are the most important and the most precious resource. Thus, there is still a sense of a strong need to develop human resources management function to attain competency at all levels of human resources management and personnel development in line with strategic objectives and actual needs of the Serbian state administration.

The existing legislation on the position of public employees is in manifold ways a precious foundation for achieving the listed objectives. The Public Servants Act and accompanying bylaws may truly be declared as reform regulations, having regard that they contribute to a creation of common awareness on significance of the public servant system. Circumstantially, practice points out to existing problems and creates an obligation to address former issues and incomplete answers in new legal provisions which will offer new options and solutions. This will eventually contribute to restoring true dignity of public employees and further affirmation of public employee service as a kind of a social privilege.

PUBLIC SERVANT SYSTEM IN THE PUBLIC ADMINISTRATION OF THE REPUBLIC OF SERBIA

Since its inception and throughout its development, the Serbian administrative tradition had the characteristics of the Austrian public administration model. This model was accepted and applied during the Kingdom of Yugoslavia (1929 – 1941). Although not belonging to democratic political systems, the Socialist Federative Republic of Yugoslavia (SFRY) kept the same features and built up a state administration that could have been considered similar to modern European administrations, owing to its federative structure and developed international cooperation. In that regard, being an heir of such tradition, Serbia presently has potentials to swiftly and successfully adapt its public administration to the market conditions and pluralistic political model.

The tradition where public employees take up special place in the establishment and functioning of the Serbian state dates back to the past, and the public administration system in the Republic of Serbia has almost two centuries long tradition. Specifics of the public servant system in the course of development of the Serbian state were subject to special laws from two reasons. First, the special work regime, responsibilities and privileges of public employees were a consequence of the oligarchs' needs to control their work. Second, the specific order of that system was actually related to the nature of activities conducted by the public servants.

The public servant systems were subject to special laws in the Principality of Serbia at the beginning of the XIX century,[2] in the Kingdom of Yugoslavia at the turn from the XIX to the XX century,[3] as well as during the 50 years of the socialist realism dominance.[4]

[2] The first legal frame governing the public servant status may be found in the first Serbian Constitution of the Principality of Serbia, adopted in 1835. Chapter XII of that Constitution defined the position of the public servant. The second Serbian Constitution, adopted in 1838, also contained special provisions on public servants. It is believed that the 1838 Constitution of the Principality of Serbia and the 1844 Civil Code made preconditions for the creation of an independent class of public servants. More than 20 years later, the 1861

A new public servant system in the Republic of Serbia is a "merit-based" career system. The main principles governing the career system of public servants were established by applying the rules on: political neutrality and impartiality; accountability; equal accessibility of workplaces; promotion in service; protection of public servants' and appointees' rights; prohibition of privileges or denials; responsibility for disobedience to the duty; flexible allocation of public servants; servants' right to professional development; their right to organize in trade unions; and the code of ethics for public servants.[5] Thus, the public servant system in the Republic of Serbia comprises an entire set of logically linked categories, where workplaces and public employees are differentiated according to previously established criteria, which make the basis for their rewarding and the frame for their mobility in the service.

The issues related to public servants are of highest importance due to their significant role in democratic societies, and primarily in establishing, consolidating and preserving democratic institutions. A general trend in the public administration reform provides for the high professional and moral profile of public employees and accountability of all working in the public sector.

RELATIONSHIP BETWEEN GENERAL LABOR REGULATIONS AND PUBLIC SERVANT REGULATIONS

In almost all countries that make "the European administrative area", labor relations in the state bodies of authority are regulated by separate laws, where the work regime of public servants is significantly different from the work regime in the general labor relations.[6] In some countries, however, the public administration is regulated with other instruments – traditional regulations, collective or individual agreements. Also, the term "law" should be understood in its broadest sense, including decisions made by the Government, as well as unwritten legal principles and judicial practice. In some areas of public administration in the Republic of

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Law on Public Servants by the Prince Regent Mihajlo Obrenovic introduced significant changes in regulating the position and role of the public servants. The 1888 Constitution of the Kingdom of Serbia also regulated the position of public servants, in the Chapter named "The State Service".

[3] The 1923 Public Servants Law, adopted in the Kingdom of Serbs, Croats and Slovenians, for the first time regulated the public servant system according to the principles known to us today. The Law precisely defines the many issues in the area of public servant legislation, and legal provisions defining public servant relations were imperative, empowering and constitutional. The Public Servant Law of 1931 went even further; the most significant provisions regulated the first basis of cadre policy, mechanisms to limit employment, promotion of state servants, and some limitations related to the state service.

[4] The legal system of the "post-war" Yugoslavia also contained the public servant system, which was functional in various modalities until the adoption of the 1966 Labor Relations Act, which made the formerly adopted 1957 Public Servants Act ineffective. The Yugoslav public servant system in the traditional sense was abandoned during the period in between the Constitution of the Federative Republic of Yugoslavia of 1963 and the Constitution of the Federative Republic of Yugoslavia of 1974, when the ideological concept of workers' self-governance in economy and state administration was introduced. After the dissolution of the Socialist Federative Republic of Yugoslavia in 1991, the Republic of Serbia introduced the Act on Labor Relations in Public Administration Bodies, which as a *lex specialis* regulated the legal and labor position of employees in public administration bodies.

[5] See: Principles of Public Administration, CSO SIGMA, http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf, and Law on Civil Servants from 2006, amended in 2009, 2009 and 2017.

[6] According to the Latin legal proverb "*lex specialis derogat legi generali*", the law defining the position of public servants prevails over the law regulating general labor issues. It means that labor relations in public administration are regulated by the special law, and not by general labor regulations that govern only some issues which are not regulated by special laws on state servants.

Serbia, the position of public servants is additionally regulated by special laws that respect the specific characteristics of individual sectors of the executive government.[7]

The essential difference between labor law and public servant law in the Republic of Serbia is that labor law is based on cooperation between employers and employees, while public servant law is based on the relationship of the state towards the public servant. While labor law is based on individual labor relations involving cooperation and negotiation on rights and duties, public servant law is based on administrative relations defined by a unilateral administrative act adopted by a state body. Consequently, labor law is *lex generalis*, and public servant law is *lex specialis*, given that public servant relations are a special form of labor relations.

There are different perspectives and opinions concerning the public servant relations as a special type of relation between the public servant and the state, as an employer. The Serbian expert literature contains diverse opinions on the classification of the public servant law. According to some theorists, the public servant law falls within a subgroup of administrative legislation. Other theorists do not perceive public servant relations to be an administrative type of relation, but rather to be a pure labor relation where the person in public service has the same employment rights as any other employed persons. Serbian practice concludes that the public servant relations are of statutory character since this issue has been defined by the law and not by employment contract.[8] On the other hand, according to the Public Servants Act (2005) of the Republic of Serbia, the public servants relations are perceived as a type of labor relations whereas, when it comes to state employees and not the appointees, the permanent feature is that the public servant relation contains special and extremely emphasized public law elements. The regulation of the normative status of public servants, as the essential part of public administration, is significant considering the authority stemming from their status.

Having in mind that the public servant system in the Republic of Serbia was created as a compilation of the basic principles of the public servant system and general labor regulations, the entire concept is subordinated to the definition of a term "public servant",[9] which in principle refers to all persons who perform public administration activities within a state or public administration body as their regular, permanent and main profession. The public servants conduct their administrative, professional and other duties in line with the Constitution, the law and other regulations; the scope of activities and specific competences required for performing these duties are prescribed by the internal administrative acts of the public administration body where they are employed. Therefore, the public servants are not Members of Parliament, President of the Republic, members of the Government, the Supreme Court Judges, judges, public prosecutors and deputees, nor other persons appointed by the National Parliament or Government, or persons appointed to functions in line with special regulations. In the most general sense, in the Republic of Serbia, public servants are all persons employed in government bodies, whose workplaces imply direct or

[7] In Serbian legislation, the special public servant system includes: the police, army, foreign affairs, customs, tax administration, and penalty institutions.

[8] The Sebian Public Servants Act prescribes that the rules, obligations and responsibilities of public servants shall be defined by the law and bylaws. If such special law or other regulation does not provide for certain labor issues related to public servants, the general labor regulations apply.

[9] The term "public servant" is one of the most disputed issues in the theory of administrative, labor and public servant law.

indirect participation in the implementation of competencies assigned according to the public rights and responsibilities to protect general interest of the state.

CHARACTERISTICS OF THE HUMAN RESOURCES POLICY IN THE PUBLIC ADMINISTRATION OF THE REPUBLIC OF SERBIA

The human resources (HR) policy is an essential segment within the public servant system in the Republic of Serbia, which is defined as an activity aiming to create respective cadre preconditions for the work of the public sector. This activity is synchronized with three objectives: achieving maximum effectiveness of the public administration; enabling optimum development and professional improvement of public servants; and creating a sense of respective status security and satisfaction among employed servants. According to the set objectives, the HR policy is implemented in three segments: affairs related to reception of suitable human resources in the service and rotation of servants to specific work places; affairs related to professional training and provision of assistance in personal development of public servants during their work in service; and affairs related to creating optimal work conditions for public servants.[10]

The HR policy should aim towards exclusion of inadequate, incompetent or unworthy public servants. Besides, there are activities to attract the most competent staff to the state service, and activities related to staff rotation in workplaces according to the needs of the state bodies, but also in line with personal characteristics of an employee. The basic principles for employment of public servants are equality in accessing state service and competence to work in state service. These principles are supported through a process of fair and open competition.

Within the public servant system of the Republic of Serbia, there are structured elements of selection to the state service, which relate to the needs of an administrative body for human resources of specific profession, required competencies and respective personal characteristics of candidates applying to the state service. In addition to general conditions (such as adequate educational background, Serbian citizenship, non-conviction, etc.), an important requirement is the capacity to work in the state service, in particular the candidate's intellectual ability.

In addition to aforementioned passive selection of applicants for state administration, active mechanisms of follow up, analysis and recording interested candidates have been insufficiently promoted. Such mechanisms are supported solely through internal competitions to fill up vacancies, making a *de facto* contribution to the implementation of career system for public servants. Since the mechanism to attract human resources from external labor market has not yet taken hold in the public administration of the Republic of Serbia, this area is in need of further normative and procedural regulation.

Besides weaknesses observed in the field of HR policy in the Republic of Serbia, activities have been taken in order to create conditions for quality selection, quality empowerment to work in public administration, and introducing incentives for improving overall efficiency and effectiveness of work towards creating a new image of public servants. The expected results lean towards providing quality professionals capable to

[10] These principles are derived from the study by J.Schwarze: "European Administrative Law, London, 1992, according to the OCDE document (SIGMA/PUMA (99) 44:" Principles of europeens d'administration publigue, Sigma, No. 27.

strengthen administrative capacities eventually, primarily by changing the personal attitude towards work.

Further on, HR policy completes other designated tasks aimed at creating and profiling specific human resources for the public administration. This is primarily related to an autonomous process for acquiring knowledge, obtaining professional experience and personal improvement initiated and implemented by an individual to bring his/her work to a highest possible level. Organizational models of creating and profiling human resources carried out by public administration bodies proved to be a necessary assistance to an individual in his/her pursuit to define and implement personal career advancement goals.

The current circumstances in the public HR policy in the Republic of Serbia point out to an insufficient awareness and acceptance of the fact that building and strengthening institutional capacities of the public administration is a precondition to successfully implement the reform processes. Professionalization as a relevant precondition for creating well-trained, responsible and efficient administration is currently implemented only through professional development system for public employees and development of recruitment and employment system in the state administration bodies. Other segments of the HR management still do not necessarily have a strategic role in the creation of depoliticized and professional public administration. Such systemic weakness is particularly reflected in the implementation of career system in public administration, as well as in concrete issues such as: evaluation and promotion, professional development, salary system, and strategic planning of resources[11] in the public administration of the Republic of Serbia.

The key weaknesses of the country's public servant system are: inexistence of needs assessment concerning current HR needs and functional forecast of HR needs, attracting HR from the external labor market, quality planning of trainings to provide knowledge, skills and competencies needed for a more efficient achievement of work results.

In order to overcome such a state of affairs in the Serbian public administration, the HR planning should be based on: 1) a report on accomplished work results of a state body in the previous period; 2) a plan with estimates of technological and organizational changes; 3) assessment of internal and external HR mobility; 4) analysis of skills, knowledge and performance of existing human resources; and 5) appraisal of risks that could jeopardize plans.

Partly justifying the unsatisfactory condition in Serbia's public administration HR policy, we may outline that state bodies are structured as considerably "closed" organizations, with a very low interaction with the external labor market. The best indicator to support this is the following situation: when a vacancy needs to be filled in, a public body first has to announce an internal competition; the public body may seek for a candidate by public announcement on the external job market only if the vacancy has not been filled from internal HR resources. In practice, external recruitment lasts between six months and one year, which additionally hampers the process and makes the rotation mechanism lose its purpose.[12]

[11] During job classification, it is evident that executives in state bodies concentrate only on satisfying short-term needs for HR, neglecting long-term organizational plans. Such disconnected way of planning is of reactive character, inefficient and detrimental in long term as regards efficiency of state administration as a whole.

[12] An indicator of introversy of a public administrative body is a very low fluctuation of employees. To date experience reflects that workforce mobility has not been a primary mechanism to ensure HR in Serbia's public administration. Valid data from 2008 show that recruitment was carried out for 794 vacancies. In 2009 recruitment was done for 686 vacancies, resulting in 341 filled vacancies. Upon public competition, 305 vacancies were filled, while only 36 vacancies were filled after internal competition. The data include ministries, special organizations and government

Considering all the above, HR policy in the public administration of the Republic of Serbia fulfils its role primarily by creating preconditions for: 1) horizontal mobility of public servants within public administration system; 2) compulsory mobility, i.e. rotation of public servants in line with requirements and needs of the service; and 3) promotion of public servants to a higher position based on personal abilities and achieved work results.

KNOWLEDGE, SKILLS AND COMPETENCIES NEEDED TO WORK IN PUBLIC ADMINISTRATION OF THE REPUBLIC OF SERBIA

A general occurrence in all transition countries is an insufficient number of quality candidates, fully equipped to work in state administration. In the current circumstances and with given procedures, it is very difficult to ensure a selection and employment process exclusively based on professional references and personal potentials. Therefore, uniform employment methodology needs to be improved, which would structure the reception process in state administration bodies, starting from the needs for a specific job, establishing the professional profile of an "ideal" candidate, the announcement of public advertisement, the interview with candidates, testing and check the candidates' practical knowledge, evaluation, and final selection of an "ideal" candidate. This is the only way to promote affirmative selection principle in the course of recruitment for public administration, eventually leading to the selection of the most competent people for vacant positions.

As public servants are expected to have other knowledge and skills[13] on top of the educational background and work experience, candidates interested in having a long-term career in the public sectors should meet the following requirements: 1) ability to comprehensively access the organization and development in a state body; 2) active participation in daily work; 3) high level of personal integrity, impartiality and ethics; 4) ability to manage personal potentials rationally; 5) adjustable and flexible reaction to all changes in work environment; 6) endurance when performing under stress; 7) proactive attitude towards the development of professional knowledge and skills; and 8) clear perception of one's career development.[14]

As it is realistic to expect that candidates for public administration vacancies will not be able to show all the required skills, quick learning potential is sufficient. Besides, the candidates need to display a minimum of capacity needed to carry out the job they apply for.

Given the mentioned HR deficit of personnel with requisite skills and competencies that make them good candidates for work in the public administration of the Republic of Serbia, the public administration system needs to pay special attention to the existing employees. In that regard, it is essential to create preconditions to improve professional

services. Data are not included in the Ministry of Defense and the Ministry of Internal Affairs, as well as the Security and Information Agency, as records of personnel are kept in these bodies (Human Resource Management Service; http://www.suk.gov.rs/en/about_us/competence).

[13] These skills include: communication skills in both written and oral form; manual/technical skills, including computer skills; administrative organization; planning and management of one's own work; social skills; intellectual capacity and personal skills–ability to work independently, decision making, adaptability to new conditions, etc.

[14] The requirements are contained in the following OECD documents: Trustees in Government-Ethic Measures in OECD Countries; OECD, 2000; Transparency International Source Book 2000 - Confronting Corruption: The Elements of a National Integrity System, Berlin, 2000; Principles for the management of ethics in the public service - OECD Recommendation; PUMA policy brief No. 4, May 2008.

qualifications of the existing public servants. The only way to achieve this is to establish a quality system of professional development.[15]

Several situation factors go in favor of professional development. On the one hand, it is a necessity to increase professionalization level, so that public employees are able to adjust and respond to new requirements set before the executive branch of the government. On the other hand, the imperative to rationalize or reduce the number of state servants creates a requirement for a smaller portion of public employees to carry out the task given to a state administration body. In such a constellation of systemic and situational factors, ongoing quality professional development becomes one of the key factors for efficient work of public servants.

Based on this approach, practical assessment of professional development of public servants is based on the following criteria: workplace requirements; characteristics of workplace and management functions; strategic objectives and annual operational plans of public administration; and problems identified in the work of state bodies related to professional knowledge and skills of public servants.[16]

Additional reasons why it is necessary to invest into additional education and permanent professional development of public servants are related to the fact that formal educational system in the Republic of Serbia can no longer independently respond to all requirements of a modern and dynamic state administration. Moreover, in the system where public servants acquired education in various educational systems, changes in the work methodology and technology in public administration require new knowledge and skills, and diminishing the existing educational differences.

Some statistical information obtained by the government's professional development directorate may be of interest. Among public servants who attend trainings and courses, the most frequent participants are women (71%), while men take the remaining 29%. The average age of a public servant who attends trainings is 44.6 years, while the age sample ranges from 21 to 64 years. Further on, statistical data show that average duration of work experience held by attendees is 11.06 years.[17] According to the type of jobs conducted by the public servants, the most represented ones are the jobs in the financial, analytical and legal sector. In the public servant trainings, line managers are represented with only 21.3%, while the most represented line managers are of the lowest rank – task force managers with 82%. The chiefs of departments are represented with 14%, while the heads of sections make only 4% out of the total number of line managers attending trainings for public servants.[18]

Although 73% of public servants thinks that there are changes in their work after attending a seminar, the largest number of respondents (40%) think that participation in seminars had a positive effect on their motivation to carry out regular work (to a large

[15] The common types of public servants education include: 1) computer literacy training, 2) courses in foreign languages, and 3) specialized trainings tailored to specific scope of work of the respective state bodies.

[16] HRM Challenges were addressed in the Project: Human Resources Management System in Public Administration in Serbia - Basic Analysis and Training, UNDP, published in the publication "Human Resource Development Management"), December 2009.

[17] Out of 63% of public servants who expressed the need for future development, the most represented are those working in the state bodies for less than 10 years. Almost 12% of public servants with over 20 years of service in the public administration expressed no intention to attend trainings in the forthcoming period. (Project: "Human Resources Management System in Public Administration in Serbia - Basic Analysis and Training", UNDP, published in the publication "Human Resource Development Management", December 2009).

[18] Project: "Human Resources Management System in Public Administration in Serbia - Basic Analysis and Training", UNDP, published in the publication "Human Resource Development Management", December 2009.

extent 9%, considerably 31%, relatively 39%), while only 9% of respondents think that participation in seminars was insignificant for their work motivation, and 7% of respondents did not notice significant motivational change.[19]

In order to increase the quality and effectiveness of professional development, it is necessary to act based on the following presumptions: 1) to bring professional development from fragmented to systematic approach; 2) to base training programs on realistic needs of a workplace, i.e. the public body; 3) to make professional development objectives much more defined; 4) trainings should contribute to a real increase of professionalism and acquiring new skills; 5) to base special professional development programs on special strategies in line with challenges and problems encountered in the work of a public administration body; 6) to analyze changes in the scope of public administration body that require special professional development of employees; 7) to hold every public servant accountable for his/her professional development, where he/she will identify the specific needs for professional development together with his/her immediate manager; 8) HR units should take proactive stance towards evaluation of programs, contents and methods of professional development, trainings and courses, by sending feedback on the quality of completed trainings; and 9) professional development should be supported and promoted by high officials, which entails acknowledging the significance of professional development both for public servants and for the state authority.

OUTCOMES OF CURRENT CHANGES AND WAYS TO FUTURE DEVELOPMENT OF THE PUBLIC SERVANT SYSTEM IN THE REPUBLIC OF SERBIA

In the past period, the biggest challenges faced by the state administration of the Republic of Serbia have been: the creation of public administration in the service of citizens; the public administration's ability to proactively respond to requests coming from society and the global environment; ability to respond to new organizational requirements; ongoing adjustment to new challenges of decentralizing administration and EU integration of the Republic of Serbia.

Contrary to the experiences of some Central and Eastern European countries, the Republic of Serbia had "an automatic transfer" of all employees in state bodies into a prestigious status of public servants, which resulted in certain consequences which are present even today. Since the Republic of Serbia missed an opportunity to create a professional elite comprising truly and essentially depoliticized public servants, it is rightfully expected that the public servant system would compensate and correct this within, by using all available internal mechanisms.

The necessary preconditions for a systemic resolution of the public servants' status in Serbia's public administration have been met, by means of instituting equality of candidates in the employment process, supporting professional career development in the state bodies, affirmation of the system for developing employees' professional skills and

[19] The research has shown that 89.3% of respondents are positive towards the influence of trainings on their interest for further professional development, while 7.5% think that trainings influenced their interest to a smaller extent. Only 3.2% of the interviewees think that trainings did not have any effect on their further professional development. In the surveyed sample, women showed more interest in professional development then men. (Project: "Human Resources Management System in Public Administration in Serbia - Basic Analysis and Training", UNDP, published in "Human Resource Development Management", December 2009).

competencies, establishing the new HR management policy, instituting a flexible frame for organizing work in public administration bodies, and establishing a new culture in public administration as a response to the needs of the society.

The results achieved in Serbia's public administration to date show the level of accomplishing the proclaimed objectives and priorities, and clearly indicate the need for further and overall reform and reorganization of public administration. Although the achieved results are not minor, it is evident that they could be higher and more prominent.

In the course of further public administration reform, a lot of effort should be invested and a range of measures and concrete steps have to be conceptualized and implemented, which should finally result in abandoning the traditional organization and operative practices in public administration, based on conservative and traditional bureaucratic procedures, which make the state administration inefficient, too expensive and alienated from the citizens, and thus considerably inacceptable to the general public.

Although adopting a new legal frame in the field of Serbia's public servant system is a very important step in the public administration reform, fair and consistent implementation of the adopted legal acts in the field is a much harder and more demanding task. Besides, it is necessary to adopt a number of regulations pertaining to public servants in the local self-government units, which currently do not fall within the public servant system. Labor positions of employees in the local executive branch should be defined in line with positive experiences of the public servant system at the central level.

The law regulating the position of officers in the local self-governmentis[20] only a normative framework. In essence, the position of officers in the local self-government units has not improved. New systematics of vocations and payroll coefficients were introduced, but in practice only simple translations into the new status came. New titles are equated with ranks of previous titles. The same was achieved with the salary system. Also, examples of the vertical mobility of officers from local self-government units to the organs of the central executive authority are the "statistical error" points. Professional training of employees in local self-government units is at the same level as before, and all activities carried out by the National Academy for administration are at an early stage.[21]

As the managerial approach is expected to create a development environment following the vision, mission and strategic development plans of the state bodies, career management of public servants has to become a crucial element of the HR policy. In that sense, it is necessary to: 1) create a system to attract and retain young and creative staff; 2) encourage innovations in the work process and facilitate conditions for their implementation; 3) reward new ideas that contribute to improvement of the work process; 4) create conditions for permanent development of public employees; and 5) create a reliable system of continued career advancement.[22]

Besides, HR managers are expected to recognize the potential of each and every employee, to evaluate employee's competencies, to propose job rotations suitable for a public servant, to spot missing competencies or skills, to propose trainings for strengthening

[20] See: Law on Employees in Territorial Autonomy Authorities and Local Government Units from 2016

[21] The National Academy of Public Administration was established in 2017. At the moment, only 35% of jobs are filled, and they carry out their activities in other business premises. The total number of trainings for 2017 is only 208 training for 4103 employees. Source: www.napa.gov.rs/

[22] Government of the Republic of Serbia (2014): Public Administration Reform (PAR)Strategy in the Republic of Serbia, for the period 2015-2017; Government of the RS (2015): Action Plan for Implementation of the Public Administration Reform Strategy in the Republic of Serbia; https://www.srbija.gov.rs/dokument/45678/strategije.php

those competencies, and to be directly responsible for trainings and professional development of the subordinate public servants. In that direction, additional efforts should be made to link the central institution for professional development (National Academy of Public Administration) in association with university centers. Additionally, it is necessary to work on the massiveness of the program of professional development of officers and linking this process with career progression.

The public servant system in the Republic of Serbia at this stage does not clearly envisage mandatory support to public servants to ensure their productivity and better work results, nor does it have considerable effect on their professional development and career guidance.[23] Such activities, if any, are primarily inspired by practical requests to achieve better work results. In such circumstances, the public servants who have a precise vision of their career development goals and ambitions often experience hindrance, frustration and denial, all of which ultimately hampers their essential motivation - to serve the community.

CONCLUSION

Today, public servants in the Republic of Serbia are expected to meet ample requirements of their workplace and to respond to the requests of their managers. In turn, their managers are expected to provide a minimum of working conditions for their subordinates, where they will be able to demonstrate their professional and work skills. Improvement of HR management also means creating an optimal environment where often hidden potentials will come to the forefront.

The public servant system in the Republic of Serbia, based on the integrated principles of political neutrality, impartiality, public servant ethics, equal job accessibility, career advancement, labor protection of public servants, prohibition of privileges or denial of rights**,** flexible allocation of public servants, and the right to professional career development through the promotion system, is in compliance with the basic characteristics of the public servant legislation in the countries of the European Administrative Area.

Yet, almost fifteen years after the Public Servants Act took effect, we may still observe a transitional dimension in the development of Serbia's public servant system. This circumstance points to a number of unresolved problems deriving from inconsistent application of regulations, lack of professionalism in managers, and absence of clear political will to completely develop a professional and depoliticized public servants' system.

As a special message of this text, there is a necessarily fully identifiable position of officials in the central and local organs of execution. As the work of the executive power is unique, the position of civil servants must be identical.

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SPECIFIČNOSTI MODELA UPRAVLJANJA LJUDSKIM RESURSIMA U JAVNOJ UPRAVI REPUBLIKE SRBIJE POMORSKE PRIVREDE
- SAVREMENI TRENDOVI I IZAZOVI -

Upravljanje ljudskim resursima u javnoj upravi Republike Srbije predstavlja kombinovani model dobre prakse zemalja evropskog administrativnog prostora i stereotipa koji su se zadržali iz predtranzicionog perioda. Uvođenje službeničkog sistema sa svim obeležjima savremenog činovničkog prava bila je nužnost koja je pratila sveukupnu reformu javne uprave u Republici Srbiji.

Proces uvođenja funkcije upravljanja ljudskim resursima u javnoj upravi Repblike Srbije opterećen je okolnostima da se na sve zaposlene u javnoj upravi primenjuju dva različita zakonska modela koji uređuju njihov status – na zaposlene u centralnim organima izvršne vlasti (ministarstva, službe i kancelarije Vlade) primenjuje se činovničko pravo, a položaj zaposlenih u upravama gradova i opština uređen je zastaraelim zakonima koji su doneti pre 20 i više godina. Treba istaći i to da zaposleni u javnom sektoru i dalje podležu starim navikama u svom radu što sve skupa umanjuje uspešnost uvođenja promena u ovoj oblasti.

Ovaj rad pruža opis postojećeg stanja u ovoj oblasti i otvara određena pitanja: da li je savremeno upravljanje ljudskim resursima u javnom sektoru Republike Srbije shvaćno i prihvaćeno na pravi način, i da li je moguće primenom određenih metoda kod zaposlenih ojačati svest o njihovom realnom položaju i realnoj odgovornosti za uspostavljanje nove javne uprave prilagođene potrebama, zahtevima i očekivanjima građana. Autor teksta svoju analizu postojećeg stanja, kritički osvrt i preporuke zasniva na ličnom decenijskom angažovanju u ovoj oblasti.

Ključne reči: *Republika Srbija, javni sektor, činovničko pravo, upravljanje ljudskim resursima, analiza, preporuke*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 47-54
https://doi.org/10.22190/FULP1901047I

Review Paper

ELECTORAL SYSTEMS: A SPECIAL REVIEW OF THE LOCAL-SELF GOVERNMENT IN SERBIA

UDC 342.8:342.25(497.11)

Mile Ilić[1], Milan Jovanović[2], Aleksandra Ilić Petković[3]

[1]Pedagogical Faculty in Vranje, University of Niš, Serbia
[2]Assembly of the City of Niš, Serbia
[3]Faculty of Occupational Safety, University of Niš, Serbia

Abstract. *The electoral system is part of the broader election law, which also includes an electoral form, constituencies, electoral competition, voting, methods of converting votes into mandates, as well as election threshold. Most often, the choice of the model by which the members of the representative bodies will be elected has a major effect on the entire political system of the state. Regarding the electoral form, electoral systems at both the national and the local level are divided into the majority and the proportional system, but there is also a large number of "mixed" electoral systems. When it comes to the Republic of Serbia, as well as many other countries of Central and Eastern Europe, the initial dominance of the majority electoral system in almost all the countries in the 1990s was gradually replaced by a proportional electoral system. Local self-government represents a democratic framework for citizen participation in managing the affairs of their immediate interest,where citizens, directly and by secret ballot, elect the municipal assembly members, as the highest representative body of the municipality. In case of local self-government, the D'Hondt election method and the 5% threshold are applied. When it comes to the electoral systems and the parties of national minorities, the laws of the Republic of Serbia provide significant measures for the participation of this type of political organization in the distribution of mandates, subject to special conditions, even when they receive less than 5% of the total number of votes.*

Key words: *electoral system, electoral models, local self-government.*

INTRODUCTION

Election is one of the most important elements of the political system and democratic society. With their right to vote, which is a basic constitutional right, citizens express their support of the authorities as they directly participate in the constitution of the public

Received January 17th, 2019 / Accepted February 21st, 2019
Corresponding author: Full Professor, Faculty of Education in Vranje, University of Niš, E-mail: Mile.Ilic@gu.ni.rs

office. Democracy would not exist without fair and democratic elections. Elections are one of the basic preconditions for every democratic society (Kurtović, 2013: 92-93).

In modern political science, there are several hundred definitions of electoral systems. The electoral system basically represents the institutional form within which voters express their political views in the form of votes, and votes turn into mandates. The electoral system is, therefore, part of a broader election law, which includes the electoral form, constituencies, electoral competition, voting, methods of converting votes into mandates and, finally, an election threshold.

The selection of the electoral system is one of the most important institutional decisions for each country. The choice of the model for electing members of the representative bodies has strong effects on the whole political system of the state. Historically, disregarding the short traditions of transitional democracies, once established electoral systems last for quite a long time. Of course, there are frequent examples of changing or constituting new electoral systems, which is the result of new circumstances caused by certain historical, ethnic, political, cultural and other factors.

In relation to the electoral form (model), the electoral systems, both at the national and the local level, are divided into the majority system and the proportional system, but there is also a large number of "mixed" electoral systems (Sartori, 2003: 21-7). The majority electoral model means that "the winner takes it all", either with a relative or absolute majority, regardless of whether it is a so-called single-round or two-round election. The model of the two-round majority electoral system is, according to some authors, "unrepresentative", because candidates who have won less than 50% of votes can enter the second round. On the other hand, proportional electoral systems are based on the distribution of mandates in parliament in accordance with the number i.e. percentage of the votes obtained.

Voting, as a form of expressing voters' will towards individual candidates and lists, is also one of the fundamental components of the electoral system. It can be performed through the so-called closed and open lists. Closed lists mean that each voter can choose only one candidate or a list, previously determined by the submitter - political party or coalition. In this respect, it is important to point out that these lists can be either closed blocked lists or closed unblocked lists. Closed blocked lists mean that a party or coalition management of a particular electoral list has previously established a list of candidates for the members of parliament, after which there is no possibility of changing their order. A closed unblocked list allows voters to vote for individual candidates within the list, and thus influence the order of mandates of a particular political party or coalition. Within such lists, the party and coalition management only determines the list of candidates, while the citizens make a decision in the election. Open lists, therefore, leave voters the possibility to vote for more than one candidate belonging to different party lists.

When it comes to the method or form of voting, there is a possibility of applying the "one vote" principle, where one voter can only choose one candidate. On the other hand, preferential voting means voters can compose a list of potential candidates. All the countries of former Yugoslavia apply the "one vote" principle with the exception of the Republic of Slovenia, which provides the possibility of preferential voting for the members of the Hungarian and Italian minorities when electing members of parliament belonging to these ethnic communities.

One of the key segments of electoral systems is the choice of a method for converting votes into mandates. In this context, the D'Hondt method prevails in our area. This

method was first applied in Belgium in 1899, while today it is used in most European countries (Italy, Austria, Finland, Belgium, etc.). According to this method, the total number of votes cast for each candidate or list is divided by the proper set of divisors (e.g. 1, 2, 3, 4, 5, 6, 7 ...), depending on the number of participants in the electoral process. Therefore, the mandate is given to the political party having the largest quotient.

THE CENTRAL DILEMMA: THE MAJORITY OR THE PROPORTIONAL ELECTORAL SYSTEM

In modern political systems, dilemmas related to the choice between the majority and the proportional system (including their numerous variants) were often closely related to the wider definition of the political system, *i.e.* the choice between the presidential or the parliamentary system of the organization of power. Giovanni Sartori believes that the reengineering and selection of the electoral system were fundamental to the establishment of democracy in post-socialist societies (Sartori, 2003: 21-7). One of the basic characteristics of a well-chosen electoral system is its acceptability for the majority, that is, for all leading political factors. Of course, this should finally lead to a complete stabilization of the political scene, as well as the reduction of potential conflicts. In this regard, Sartori emphasizes that the important thing is not the choice between the majority or the proportional electoral system, but its full acceptability and the ability to ensure a stable and accountable government after the election.

Defining the framework of the electoral system essentially determines the structure of the party system. Sartori asserts that the majority system is a better option since its antipode, the proportional system, often leads to "corrupt and blocked coalition governments". Moreover, Sartori claims that the majority electoral system affects the formation of two-party systems, which are more stable than moderately or highly pluralized party systems. A proportional electoral system induces additional fragmentation of the society and leading political parties, which can also affect the instability of the entire political system (Jovanović, 2004: 379-400). Nevertheless, many authors point out that the proportional election system is a better option since it allows fragmented societies to preserve full representativeness of the representative bodies. In these systems, the election threshold is also significant, as well as its effect on the formation of electoral systems.

In addition, it is emphasized that the proportional electioral system stimulates government spending and breaks the bond between the voters and members of parliament. The proportional system basically fragments the parties and allows small parties to blackmail the big ones. Opponents of the proportional system also note that the system of party lists gives great power to party leaders in relation to elected MPs. It is also mentioned that proportional electoral systems increase government spending as it is necessary to satisfy the consumer appetites of all the parties participating in the election. One of the objections to a proportional election system is that it weakens the link between MPs and voters. This link is stronger in the majority system; however, this does not guarantee better solutions. Despite these shortcomings, all countries within the European Union, except for the United Kingdom, employ some form of the proportional system.

Finally, the majority system does not necessarily lead to the consolidation of the political scene. Even if this happened, it would mean the elimination of small parties and the dominance of two or three parties. More precisely, the majority system most often, but not inevitably, leads to the strengthening of the party scene. Here it is quite possible

that members of different political affiliations are elected in different constituencies. This is especially true for a culturally, ethnically or otherwise heterogeneous country.

All in all, both electoral systems have their advantages and disadvantages. The advantage of the majority system is the internal division of political power, balance of interests, and the possibilty to creat the policy above the municipal level. Another advantage of this system is that it properly determines political responsibility, strongly connects members of parliament to the will of the voters, and sometimes allows a more homogeneous executive and legislative power. The disadvantages of the proportional system are the fragmentation of the political scene, the great influence of the leaders on the election of members of parliament, as well as the distance between voters and members of parliament. On the other hand, the shortcomings of the majority system are the possibility of bad policy dominance, dominance of local interests at the central level, and the risk of populism.

In the countries of the former Eastern Bloc, certain segments of the electoral systems at the national and local level started to be defined in the period from 1989 to 1992. After the initial dominance of the majority electoral system in almost all the countries of Central and Eastern Europe at the beginning of the last decade, a gradual transition to the proportional electoral system took place. This is confirmed by the reforms of electoral systems in the majority of former Yugoslav countries.

THE CASE OF THE REPUBLIC OF SERBIA AND ELECTORAL SYSTEM OF THE LOCAL SELF-GOVERNMENT

In the Republic of Serbia, there have been several different electoral systems over the past few decades. The first multi-party election in Serbia, held in 1990, was organized following the two-round majority electoral system, The proportional system with nine constituencies was introduced in the next election held in 1992. In the election held in 1993, the same election law was applied. However, in the 1997 election, there was a redefinition of constituencies, whose number increased from 9 to 29.

Some authors are inclined to believe that the formation of the electoral system in Serbia over the past two decades has been carefully performed by the ruling parties. Due the increase in the number of constituencies and their creation on the basis of the areas where certain parties traditionally had strong support, those parties managed to increase the number of madates they won (Goati, 2002: 248-51). The Act on the Election of Members of the Parliament[1], which was in force in the 2000 and 2003 elections, introduced a proportional electoral system with a fixed 5% threshold. Pursuant to this Act, the entire territory of the Republic of Serbia was defined as one constituency. Such a high threshold left a number of political parties of minority ethnic communities outside the parliament, which was overcome by introducing a clause by which these parties shall enter the parliament even without winning at least 5% of the votes, pursuant to the 2004Act Amending the Act on the Election of Members of the Parliament. Namely, in the course of the candidacy, the Republic Electoral Commission is authorized to

[1] Act on the Election of Members of the Parliament, Official Gazette RS, 35/2000, 57/2003 – decision of CCRS, 72/2003 – other law, 75/2003 – correction of other law, 18/2004, 101/2005 – other law, 85/2005 – other law, 28/2011 - decision of CC, 36/2011 and 104/2009 – other law)

determine which political parties and coalitions have the status of representatives of minority communities' interests.

According to the current legal regulations, primarily the Act on the Election of Members of the Parliament, there are closed blocked lists in Serbia, which means that their submitters determine the order of seats in parliament before publishing the results. The D'Hondt method of allocating the seats in parliament is utilized in Serbia, as well as in Croatia, Slovenia, Montenegro and Macedonia, for example. On the basis of this, the total number of valid votes in the election is divided by 250 (which is the number of MPs in the National Assembly of the Republic of Serbia), and during the final allocation only the political parties and coalitions that won over 5% of votes in the electorate are taken into consideration. It is said that the major disadvantage of this sistem is the ”tranfer” of votes of smaller political parties (which have not passed the 5% election threshold) to the first-ranked parties or coalitions.

When it comes to the local self-government, which represents a democratic framework for citizens' involvement in managing the affairs of their immediate interest, municipal assembly members are elected directly and by secret ballot. Municipal assembly is the highest representative body of a municipality (Ilić, 2013: 274-27). Pursuant to the 1991 Local Elections Act, a candidate was to be appointed municipal assembly member if he/she won the majority of votes, provided that at least 50% of the total number of voters in the constituency cast their vote in the election. In view of the “two-round electoral system“, if none of the candidates won the required majority in the first round, voting would be repeated within 15 days, when the candidate with the highest number of votes won the election (Ilić, 2013: 274-27). The 1999 Local Elections Act provided the introduction of a majority principle with one-round voting. The main reason for this was that the voters' will was more adequately expressed, that is, the electoral procedure was rational and efficient.

The 2002 Local Elections Act decided that the municipal assembly members were to be elected in direct elections and by secret ballot, based on the list of political parties, their coalitions or groups of citizens, which practically marked the introduction of a proportional system at the level of local self-government in the Republic of Serbia. Since then, elections in all cities and municipalities in the Republic of Serbia have been carried out following the proportional system, where a local self-government represents a unique, multi-nominal constituency. The D'Hondt system and the 5% electoral threshold are applied as well.

Significant measures regarding national minority parties were introduced in 2007 by the Local Elections Act[2], which stipulates that this type of political organization participates in the distribution of mandates under special conditions, even when they receive less than 5% of the total number of votes. Prior to this, the lower limit was 3%.

The organs of local self-government units are municipal/city assembly, as a legislative body, municipal/city council and president of the municipality/mayor, as executive bodies, and municipal/city administration[3]. The election for municipal/city assembly members is conducted pursuant to the Law on Local Elections from 2007. The proportional electoral system is in use. This fact shows that the greater the proportionality of the system, the more fragmented the party system, which implies the tendency for wider and numerous coalitions. The proportionality of the electoral system results in more proportionate transposition and better representation of minority parties, as well as the fragmentation of the party system and

[2] Local Elections Act, Official Gazette RS, 129/2007, 34/2010 –decision of CC, 54/2011
[3] Law on Local Self-Government, Official Gazette RS, 129/2007, 83/2014, 101/2016, 47/2018

the inevitability of the coalition government (Orlović, 2012: 20-23). Candidate lists can be submitted by political parties, coalitions of parties and groups of citizens, and the election is held in the municipality/city as a single constituency. The lists participating in the distribution of mandates are those that win at least 5% of the votes, with the application of positive discrimination for the lists of national minorities (for which a 5% threshold does not apply). The mandates are distributed by applying the system of the largest quotient. The municipal/city assembly appoints the president of the municipality/mayor from the members of the assembly and his/her municipal mandate ends after the election. The assembly also elects members of the municipal/city council. The chief of the municipal/city administration is appointed by the municipal/city council, based on an open competition (Milosavljević, 2012: 765-766).

As for the election of delegates in the Assembly of the Autonomous Province of Vojvodina, during the past few decades, a single-round majority electoral system (1990) was used first, and it was followed by a two-round majority electoral system (in 1992), while in the elections in 1996 and 2000, as many as three candidates participated in the second round. Elections for delegates in the Assembly of the Autonomous Province of Vojvodina are peformed according to the combined electoral system. Sixty delegates are elected according to the proportional election system while the other sixty are elected according to the majority system. As for the election based on the proportional system, the Autonomous Province of Vojvodina represents a unique, "multi-nominal" constituency. The method of calculating the votes follows the D'Hondt method, and the election threshold is 5%. According to the Provincial Assembly Decision on the Election of Deputies of the Assembly of the Autonomous Province of Vojvodina from 2014[4], political parties of national minorities and coalitions of political parties of national minorities shall participate in the distribution of mandates even when gaining less than 5% of the votes out of the total number of voters who have cast their votes. This decision introduced a combined electoral system with 60 constituencies, and national minorities gained a special treatment in the electoral system. It implies that political parties of national minorities and coalitions of political parties of national minorities may nominate candidates for deputies if they have been supported by signatures of at least 3,000 voters per electoral list, instead of 6,000 prescribed for other parties. When it comes to the majority system, there is no such a difference; therefore, political parties, coalitions and groups of citizens which collect at least 200 signatures of voters in a constituency can nominate a candidate.

CONCLUSION

When designing an electoral system in one country, there are several factors that govern its establishment – those are historical, external and wider contextual factors, as well as the perception (estimation) of strategic participants in the electoral process. Historical factors relate to the experience of organizing public office and the functioning of institutions that previously existed in a country and affected redemocracy. Concerning the foreign influence and examples, foreign election experts try to publicly model the electoral process in one country and their opinions are more or less carefully considered.

[4] Provincial Assembly Decision on the Election of Deputies of the Assembly of the Autonomous Province, Official Journal of APV, 23/2014

Furthermore, each state seeks to constitute an electoral system that will be in line with the social and political context in which it operates. Finally, the analysis of the design of the electoral system must include the interests of active participants (Jovanović, 2011: 220-228). The electoral systems are certainly the result of all these factors which are constantly operating with different intensity.

In all the countries of former Yugoslavia, the dominance of proportional electoral systems is nowadays clearly visible. As in most post-communist countries, in the Republic of Serbia and its local self-governments, there is a gradual transition from the majority to the proportional electoral system. Given the range of different solutions and models, it can be said that the proportional system is the most flexible, i.e. best suited for modeling when it comes to desirable effects (Živković, 2017: 108).

It can be noticed that in all former Yugoslavian countries there are the so-called closed lists (or closed blocked lists). The electoral system of Serbia is characterized by two other important features, which are the "one man - one vote" principle, as well as the fact that the Republic of Serbia is defined as one constituency. Constituences are most often organized in accordance with special laws and based on certain criteria, such as the number of inhabitants, existing geographical and administrative units, and the like.

When it comes to local self-government, there is an evident progress of the reform process. Nevertheless, certain areas, such as the introduction of a more suitable electoral system, can still be improved. Some objections can be made to the existing electoral system. For example, the municipal/city council has often been turned into an advisory body of the president of the municipality/mayor. This solution is criticized for its irrationality, since it results in an unnecessary increase in the number of local officials on the payroll (Milosavljević, 2012: 758-760). Also, the creation of a more appropriate electoral system could be a challenge when electing the members of local assemblies. This system could be a combination of a proportional and majority electoral system, so that citizens elect one member for small constituencies.

Bearing this in mind, it can be concluded that the type of the electoral system in local self-government is an important prerequisite for the democratization of local authorities (Đorđević, 2011: 191-192). For this reason, the local electoral system should also be considered in the process of the local-self government reform.

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IZBORNI SISTEMI – POSEBAN OSVRT NA LOKALNU SAMOUPRAVU U SRBIJI

Izborni sistem je deo šireg izbornog prava, koji u sebi sadrži i izborni obrazac, izborne jedinice, izborno takmičenje, glasanje, metode pretvaranja glasova u mandate, kao i izborni cenzus. Najčešće, izbor modela po kome će se birati članovi predstavničkih tela ima glavne efekte na čitav politički sistem države.

U odnosu na izborni obrazac, izborni sistemi se, kako na nacionalnom, tako i na lokalnom nivou, dele na većinske i proporcionalne, ali postoji i veliki broj „mešovitih" izbornih sistema. Kada je u pitanju Republika Srbija, kao i mnoge druge zemlje Centralne i Istočne Evrope,nakon prvobitne dominacije većinskog izbornog sistema u gotovo svim državama devedesetih godina, usledio je postepen prelazak na proporcionalni izborni sistem.

Lokalna samouprava predstavlja demokratski okvir za učestvovanje građana u upravljanju poslovima od njihovog neposrednog interesa, građani biraju odbornike skupštine opštine, kao najvišeg predstavnikog organa opštine neposredno i tajnim glasanjem. I u slučaju lokalne samouprave se primenjuje D'ontov izborni metod i cenzus od 5%.

Kada su u pitanju izborni sistemi i stranke nacionalnih manjina, zakoni Republike Srbije predviđaju značajne mere kojima ova vrsta političkih organizacija učestvuje u raspodeli mandata, i to po posebnim uslovima, čak i kada dobiju manje od 5% glasova ukupnog broja birača.

Ključne reči: *izborni sistem, izborni modeli, lokalna samouprava*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 55-72
https://doi.org/10.22190/FULP1901055D

Review Paper

THE RELATIONSHIP BETWEEN COURTS AND MEDIA

UDC 316.774:342.56
316.653

Darko Dimovski[1], Iva Popović Knežević[2], Miša Vujičić[3]

[1]Faculty of Law, University of Niš, Serbia
[2]Judge, Basic Court in Niš, Serbia
[3]High Court in Niš, Serbia

Abstract. *Judicial authorities have a difficult task to deal with the undermined public confidence in the judiciary and to reverse this trend in favor of general appreciation of their work by citizens. The announced judicial reform which failed, the internal problems of the judiciary, and the tabloidization by the media which create an unfavorable environment are the causes that have generated doubt about the fair administration of justice by the judicial authorities. Representatives of the judiciary can change such an image only by a pro-active attitude towards this problem. Reticence and passivity of the judiciary are not a good way to change the unfavorable picture of their work to the desired level. Consistent implementation of the principles of publicity, demystification of the work of the judiciary, and openness towards the media is the path that leads to establishing trust in the work of the judiciary. Constant communication between the representatives of the judiciary and journalists, which would eliminate any doubt that the prosecution and the courts "are hiding something", is not only a requirement but also a necessity. In particular, the authors point to the delicate boundary between the justified public interest in obtaining relevant information and the abuse of freedom of expression by crossing the line which implies the violation of the rights of others. In this paper, the authors point out the causes of this unfavorable environment, as well as the obstacles that occur daily in communication between the courts and the media.*

Key words: *courts, media, spokesperson, the confidence of the public*.

(LACK OF) TRUST IN THE JUDICIARY - THE SIGNIFICANCE AND CAUSES

Trust is built patiently, step by step. It is a lengthy and persistent process. But, it may be lost in a second, with a single wrong move or a single careless act.

The publicity of the work of the courts and the general publicity of court proceedings, especially in criminal procedure, is the presumption of public control over the work of the

Received January 17th, 2019 / Accepted March 7th, 2019
Corresponding author: Dimovski, LL.D., Associate Professor, Faculty of Law, University of Niš, Serbia; e-mail: darko@prafak.ni.ac.rs

judiciary and the consolidation of trust in the legal order (Knežević, 2012: 147). Court proceedings contribute to the prevention of crime and deterrence of potential perpetrators from committing criminal offenses. The general public is encouraged to report crimes and possible perpetrators. The public contributes to the protection of the defendants against the arbitrary treatment of the prosecution and the court, ensures legality, preserves the authority of the judiciary, and reduces corruption which results in an increase in citizens' confidence in the work of the judiciary. Violation of the publicity principle constitutes a significant violation of the court procedure. As the public is particularly interested in the work of the judiciary and judicial proceedings, media reports can contribute to these objectives; quite the reverse, their unprofessional work can distance the entire community from a democratic society and the rule of law principle The rule of law is the *conditio sine qua non* of democratically organized state and the harmonious relations in it, which is a precondition for economic and political development and overall stability.

The basic prerequisite for strengthening the integrity of the courts is greater transparency and better promotion of their work with the aim to increase public confidence in the judiciary and its decisions. However, although public relations have been intensively developing over the last fifteen years, there is a general attitude of the public that the courts are not open enough for the media and the public in general, which we partly agree with.

On the one hand, the courts' caution in providing information to general public is fully justifiable and expected, particularly given the current popular sensationalism and propensity of some media to alter the received information and make it more appealing to citizens. The media may also publish "unofficial" information collected from family members, neighbors (etc.), which is often incorrect or inaccurate, and which generates negative publicity and preconceptions about what the court decision should be. On the other hand, the courts may be limited by legal provisions on procedural rules (e.g. the investigation procedure has not been completed), for which reason they are not able to provide all the requested information in order not to jeopardize the course of the criminal procedure.

Sensationalism, dissemination of false news about an event, and excessive influence of the general public may exert undue pressure on the courts and result in improper adjudication.

The lay general public is not aware or is superficially aware of the competencies of the public prosecutor and the court. From the moment when someone is deprived of liberty or just summoned for a hearing, particularly in cases involving a well-known public figure, there is a growing curiosity of the media and citizens regarding the case. From that moment, the general public perceives the public prosecution and the court as "one and the same thing"; this perception is further enhanced in the circumstances where the prosecution office and the court share the same building. In the focus of the general public is the outcome, guilt, and punishment In addition, before the final conclusion of criminal proceedings, the media reports are often biased in terms of insinuations about the guilt of a person who is still a suspect, the accused or the defendant; they often include terms such as "perpetrator", "killer", "bandit", all of which constitute a violation of the fundamental principle of the presumption of innocence. However, just as the duty of a defense attorney in criminal proceedings is to defend a person rather than a criminal offense, it is the duty of the media to morally condemn the criminal act, without passing judgments on the person who is still a suspect, the accused or the defendant in criminal proceedings (Škulić, 2017: 333).

There is a general belief in the media is that "the black chronicle" raises media ratings or readership. Thus, the media embark on a competition for the purpose of exclusivity and providing a wider and detailed picture with some spicy facts and appealing information. On a daily basis, editors ask journalists to report on the latest developments and case details for the next edition. As noted at a professional meeting on this topic, while the judicial system operates systematically in accordance with statutory deadlines and rules of procedure envisaged in the legislation, the activities of media outlets envelop "at the speed of light". Thus, the media urge prosecution offices and courts to provide immediate information, insisting on "details", while prosecution offices and courts have to be careful not to disclose the facts that would interfere with or in any way harm the ongoing investigation or court proceedings. When the judiciary remains silent on the event that has triggered an increased interest of the public and the media, it enhances suspicion and distrust in the work of the prosecution offices and courts. This is the most common point of misunderstanding between the judiciary and the media. In short, instead of being partners in the quest for truth, they do not understand each other: the media because of the "thirst" for information, and the judiciary because of the fear of the media and possible mistakes. When there is no timely and complete communication between the prosecutors or the courts and the media, the general public begins to speculate and doubt. When the reaction of the judiciary is deferred, the silence of the judiciary becomes the news. At this point, the media embark on a public trial, whose manifest forms are the violation of the presumption of innocence, the anticipation of court decisions, and a parallel quasi-investigation (Simić, *et al*., 2003: 21). The rumors published in the media eradicate the boundary between the truth and lies (Ćirić, *et al.*, 2017: 27).

This and similar treatment by the media has produced some even more drastic effects, leading to judges in charge of criminal proceedings to perceive such media reporting as a form of pressure.[1] In this regard, it is necessary to draw attention to the survey carried out in 2016 by the Judges Association in cooperation with the Center for Free Elections and Democracy (CeSID), within the project "*Strengthening the Independence and Integrity of Judges in Serbia*", supported by the High Judicial Council. The study was conducted on a representative sample of 1,585 judges and the results of the research were rather disturbing. So, only 14% of the examined judges consider media reporting to be mostly objective, while as many as 79% of respondents believe that journalists do not have enough knowledge about the procedures that are being conducted before the courts; moreover, as they do not even try to learn more and understand them, their reporting is often biased, incomplete or insufficiently accurate. In response to the question whether judges consider the way media report about court proceedings as a form of pressure towards the judiciary, only 4% of the examined judges stated that they did not consider media reporting to be a pressure, while as many as 96% of respondents stated that reporting was perceived as a form of pressure. Furthermore, 89% of the judges considered that it is necessary to educate the media in order to comply with European standards and internal regulations in the field of reporting on court proceedings. Only 3% of the examined judges did not agree with this claim. Furthermore, 85% of the examined judges considered that, before the final adjudication of the case at hand, the media should only be allowed to report on the information related to the course of proceedings, and not to comment on any decisions or to report on related commentaries, while only 9% of the examined judges disagreed. The view

[1] *Nin:* Nezavisnost pod pritiskom politike (Independence under political pressure), Nin, 9 Feb. 2017; available at https://www.pressreader.com/serbia/nin/20170209/281565175503523

that it is necessary to change the code of police ethics in the part relating to the responsibility of police officers who communicate with the media without authorization, thus providing information on the course of proceedings, was upheld by 66% of the examined judges. Also, 33% of the examined judges agree with the conclusion that the competent authorities do take measures to effectively prosecute the media that violate the presumption of innocence and jeopardize the independence of the judiciary, while 45% of the respondents think differently (Nin, 2017).

The survey also established that 34% of the examined judges considered that communication between the courts and the public is at a satisfactory level; 39% of them considered that the initial steps had been taken but that communication was still insufficiently developed, while 11% considered that courts do not address the public at all. Furthermore, 49% of the judges believe that the spokespersons, i.e. the persons in charge of communicating with the media and the public are doing their job well; 18% were undecided on this issue, while 12% believed that spokespersons do not perform their duty in a satisfactory manner.

The arising question is how to strike a balance between the need for publicity and the legal standard concerning the right to a fair public trial, recognized both in international documents and in the national legislation. Therefore, we will first consider the content and the importance of the principle of publicity and the freedom of expression, focusing on the freedom of communication and dissemination of information through the media.

THE PRINCIPLE OF PUBLICITY

1. *International and internal sources*

The right to a public trial is guaranteed by international legal instruments and domestic legal sources (the constitution and legislative acts). The UN *Universal Declaration of Human Rights* (1948)[2] proclaims that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal" (Article 10 UDHR). The UN *International Covenant on Civil and Political Rights* (1966)[3] stipulates that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law", stating that "the press and the public may be excluded from all or part of a trial…" and indicating that "any judgment rendered in a criminal case or in a suit at law shall be made public" except in cases involving the protection of minors, marital disputes and child custody cases (Article 14, par.1 ICCPR). The *European Convention on the Protection of Human Rights and Fundamental Freedoms* (1950)[4] proclaims the right to "a fair and public hearing within a reasonable time by an independent and impartial tribunal", stating that the press and public may be excluded "in the interests of morals, public order or national security in a democratic

[2] In 1968, the UN International Human Rights Conference decided that the Universal Declaration of Human Rights (UDHR) constitutes an obligation for all members of the international community.

[3] International Covenant on Civil and Political Rights (ICCPR), *Official Gazette of the SFRY- International Treaties*, No. 7/1971.

[4] Act on the Ratification of the ECHR with Additional Protocols, *Official Gazette of Serbia and Montenegro - International Treaties*, No. 9/03.5/05 and 7/05–*corr*.,and *Official Gazette of the Republic of Serbia - International Agreements, No.* 12/10.

society", the protection of minors and private life, or it would prejudice the interests of justice (Article 6, par. 1 ECHR).

The Constitution of the Republic of Serbia (2006)[5] guarantees that "a hearing before the court shall be public and may be restricted only in accordance with the Constitution" (Article 142, par. 3 of the Constitution). The principle of publicity is further regulated by special legislative acts on the organization of courts, the judiciary, the High Judicial Council, as well as by the Rules of Court[6]. In court proceedings, this principle may have three forms: general publicity, party-related publicity, and restricted publicity (Đurđić, 2014: 73).

2. *The principle of the publicity in the course of the investigation*

The investigation is the stage of the proceedings where the general public is excluded. The secrecy of the investigation is a necessity because it is more important that the perpetrator be caught, than the public to find out about the details through the media, thus endangering the investigation and possible arrest of the perpetrator. There is only party-related publicity but it is not unrestricted (Grubač, 2014: 35). The public prosecutor is the *dominus littis* of the investigation; thus, it is only the prosecutor or the spokesperson of the Prosecution Office that may inform the public about the course of proceedings, provided that such information does not harm the interests of justice at this stage of the proceedings.

3. *The principle of publicity at the main hearing*

The principle of publicity is most completely exercised at the main hearing (in trial). The Criminal Procedure Code of the Republic of Serbia (hereinafter: the CPC)[7] envisages that every person over the age of 16 may attend trial proceedings (Article 362 CPC). The party-related publicity is unrestricted, without any exceptions. The general public may be excluded in cases prescribed by the law: for the protection of national security, public order and morality; for the protection of interests of minors; for the protection of privacy of participants in the proceedings, and other justifiable interests in the democratic society (Article 363 CPC). The public can be excluded in cases involving a child under the age of 14 as a witness (Art 400 para.3 CPC), a protected witness (Art. 106, para. 3 CPC) or when the defendant or the convicted person is examined as a witness (Art. 366 CPC). The exclusion of the (general) public may be sought throughout the trial proceedings, either upon a motion filed by the parties or *ex officio*, and the general public may be excluded from the entire or a part of the trial proceedings (Art. 363 CPC). The court decision on excluding the general public must be reasoned and made public (Article 365 CPC). In case the judicial panel decides to exclude the general public, the court may permit restricted publicity; thus, apart from the parties, their legal representatives and the court personnel, at the request of the defendant, the court may allow for the attendance of a spouse, close relatives or relevant experts or officials (Article 364 CPC), unless such public has to be excluded for the protection of witnesses (Article 108 CPC). All public is excluded from the process of rendering the court decision (deliberation and voting), but the judgment has to be pronounced and made public (Art. 418 CPC) by reading the

[5] The Constitution of the Republic of Serbia, *Official Gazette of the Republic of Serbia, No.* 98/2006.
[6] Rules of Court, *Official Gazette of the Republic of Serbia*, No. 110/2009, 70/2011, 19/2012, 89/2013, 96/2015, 104/2015, 113/2015 - corr., 39/2016, 56/2016 and 77/2016.
[7] The Criminal Procedure Code (*Official Gazette, No.* 72/11; 10,172,011.121/ 2012; 32/2013; 45/2013; 55/2014).

holding in a public session, whereas the reasons for the judgment do not have to be made public. Thus, if the general public has been excluded from trial, the judgment shall be delivered in a public session but the court shall decide whether to exclude the general public from the elaboration on the reasoning (Article 425 para.5 CPC). Journalists cannot ask questions during the process of proclaiming the judgment. When reporting on the matter, they also have to take into account the fact that the judgment is still not final.

The principle of publicity is present in the second instance courts as well, and the public may be excluded from these proceedings under the same rules applicable in the first instance courts. In either case, any unlawful exclusion of the public constitutes a substantial violation of the criminal procedure rules (Art. 438 para.1, item 6 CPC).

In civil proceedings, the main hearing is public. The principle of publicity entails general publicity, party-related publicity, and restricted publicity. Judges decide on the exclusion of general public. Publicity is regulated in Articles 321-325 of the Civil Procedure Act (hereinafter: the CPA)[8], while Article 374 par.2, item 11 CPA stipulates that unlawful exclusion of the public constitutes a substantial breach of civil procedure rules.

The exclusion of the public from the main hearing does not discourage the media from reporting on the case. Journalist teams may wait for the attorneys, relatives, witnesses and others outside the court, and try to get a statement of the court`s spokesperson or a promise that such a statement will be issued as soon as possible.[9] They may also try to record the moment when the defendant or convicted offender is taken out of the court, particularly if he/she has been issued a detention order which is still in force.

FREEDOM OF EXPRESSION AND COMMUNICATION OF INFORMATION IN THE MEDIA

In general, freedom of expression is defined as the freedom to express thought, including ideas, knowledge, values, beliefs, either in the form of words, symbols or images, or by using other modern means for the reproduction and diffusion of thoughts and words, including printed material (either books or newspapers) or audio-visual material provided by modern technological devices, which is much more common nowadays (Nikolić, 2005: 18).[10] Freedom of expression makes allowances for individual beliefs and ideas, even when they are rude and shocking (Nikolić, 2005: 23).

Freedom of expression is regulated and guaranteed under Article 10 of the European Convention, and the European Court of Human Rights in Strasbourg has developed a rich and significant case-law on this matter. As stated in Article 4 of the Serbian Public Information and Media Act, public information is free and it shall not be subject to censorship.[11]

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[8] The Civil Procedure Act (*Official Gazette RS, No.* 72/2011, 49/2013-CC decision, 74/2013 – CC decision, and 55/2014)

[9] Press releases can be justified in emergencies. When obtaining a press release, media editors have two options: to publish the release in its integral forml, or to use the release as a background for their story. On the other hand, press conferences (either regular or extraordinary ones) are a better solution for establishing partnerships with the media. They give journalist a chance to ask questions and to clarify dillemas. A press conference is a good opportunity to educate journalists as well as an opportunity for the court to "feel the pulse" of the general public.

[10] Cited after: Remon Polen, *Istine i sloboda: ogled o slobodi izražavanja,* Agora, Beograd, 2001, p. 5-6 (translated from French: Raymond Polin, *Vérités et liberté: essai sur la liberté d' expression*, 1re éd. Imprint, Paris: Presses universitaires de France, 2000)

[11] The Public Information and Media Act (*Official Gazette RS,* No.83/2014, 58/2015 and 12/2016-authentic interpretation).

The Public Information and Media Act regulates the issues of protection of media pluralism and the prohibition of monopolies in the field of public information, the right to inform particularly vulnerable groups, and define the public interest in public information. As stated in Article 15, paragraph 1, point 1 of this Act, the public interest in public information is to obtain true, impartial, timely and complete information to all citizens of the Republic of Serbia. Pursuant to the provisions of the Public Information and Media Act, a journalist has the right to publish statements and opinions and, for doing so, he cannot be punished by a reduction in earnings or termination of employment. However, in practice, there were cases of pressure, threats, physical attacks and liquidation of journalists, which increased the fear of journalists, who resort to self-censorship as a specific way of limiting the freedom of thought and expression. Legal provisions guarantee that a journalist may reject the editor's order if it consitutes a violation of the journalists' professional ethics or the right not to publish the part that has been changed under his name.

The Public Media Services Act[12] defines the basic principles on which the operation of public media services is based: truthful, impartial, complete and up-to-date information; independence of editorial policy; independence from the sources of funding; prohibition of any form of censorship and unlawful influence on the work of the public media service, editorial offices and journalists; the application of internationally recognized norms and principles; and in particular respect for human rights and freedoms and democratic values, and respect for professional standards and codes. The n Electronic Media Act,[13] in Article 51, defines the role of the regulatory body, which is particularly concerned that the media content provider's content does not contain information that encourages, in an open or covert way, discrimination, hatred or violence due to race, color, ancestry, citizenship, nationality, language, religious or political beliefs, gender, gender identity, sexual orientation, wealth, birth, genetic features, health status, disability, marital and family status, convictions, age, appearance, membership in a political organisation, trade union and other organizations, and other real or supposed personal qualities.[14]

But, what are the boundaries of the freedom of expression? Freedom of expression, as well as freedom of information, is the ability to do everything as long as it does not harm others; thus, the freedom of an individual is limited by the freedom of another individual (Nikolić, 2005: 19).

Therefore, there can be no media freedom without responsibility for others. It is a well-know fact that the media are now dependent on the government or media owners; hence, journalists are often burdened with self-censorship. There can be no freedom of the media and freedom of information if there is pressure and violence. The media today are subject to market competition, and their survival depends on circulation or ratings. Many media (the so-called "yellow press") ignore their responsibility and disrespect the code of professional ethics, whereas very few media outlets have special editorial codes of conduct and practices.[15] Serbian journalism is prone to sensationalism, and some media even resort to the fabrication of facts and constructing untrue news in their "editorial workshops". In such circumstances, spokespersons have at their disposal the

[12] The Public Media Services Act (*Official Gazette RS*, No. 83/2014, 103/2015 and 108/2016)
[13] The Electronic Media Act (*Official Gazette RS*, No. 83/2014 and 6/2016).
[14] The Public Information and Media Act, the Public Media Services Act, and the Electronic Media Act are often called "a set of media laws".
[15] The Code of Conduct for the media would help readers or viewers to establish on their own whether the journalists respect the professional code rules and whether they really act as real professionals.

right to reply and the right to correct published information, both of which should be used, without turning a blind eye on the untruths which are detrimental for the judiciary.

In the contemporary reality, we consider that it is always better for the courts to give some information, however limited it may be, rather than remain silent and not give any information at all. If the public is deprived of information, it is not a guarantee that nobody will write or speak about it. Quite the reverse, it will be written and spoken about but the source of information will be "unofficial", often insufficiently verified and/or completely false. Particular attention should be paid to new technologies (media portals, social networks, etc.) which largely contribute to rapid dissemination of such information. It often causes substantial damage to parties in legal disputes. In such cases, the silence of the courts is more detrimental than giving the media the required information (even the restricted one).

On the other hand, the media must understand that they also bear responsibility for creating a public opinion about the judiciary. In that context, journalists have to act professionally and with due diligence, to provide objective and reliable information, to avoid publishing unverified information and to resist different forms of pressure. The Journalists' Code of Ethics[16] should be "the constitution" for journalists and reporters. In the Preamble, this professional code sets ethical standards of professional conduct of journalists. It proclaims the obligation of a journalist to accurately, objectively, fully and timely report about events of public interest, respecting the right of the public to know the truth and adhering to the basic standards of the journalist profession (Part 1, item 1). The Code sets forth the journalists' obligation to respect the presumption of innocence, without declaring anybody guilty before the rendition of the court judgment (Part 4, item 3), and even if the defendant pleads guilty. A journalist should not abuse the ignorance of their interviewees, who may be unaware of the power of media. A journalist is obliged to protect the privacy and identity of the suspect by stating the initials, unless the disclosure of one's name is of interest to the public. In case of the most serious crimes, the right of the public to information prevails over an individual's right to privacy. A journalist must be aware of the possibility of being exposed to abuse and manipulation by the alleged victim of crime. Journalists are accountable to their readers, listeners and viewers, and this responsibility must not be subordinated to the interests of others (Part 4, item 1), even to the judiciary bodies. Judges should not expect a journalist to speak on their behalf or write using their legal jargon.

We have already pointed out that the situation in the media sphere is burdened with many difficulties which are the result of a market competition and a struggle for survival in the market. Most of the media outlets and editorial offices today do not have special court reporters and the journalists who inform the public about cases usually do not have legal education; many of them are young journalist at the beginning of their careers. Therefore, errors are inevitable. The way of reporting on court events is important for strengthening the citizens' confidence in the court and court proceedings. It is also important what kind of impact the court reports will have on the citizens. Reports can be malicious, filled with "anger" and aimed at manipulating the public, for the purpose of increasing the media ratings, circulation and profits. In order to protect ourselves and others from the malicious reporting practices of the media, it is important to differentiate manipulation from socialization.

[16] The Code of Professional Ethics of Serbian Journalists was adopted in 2006 by two journalists' associations ; available at http://www.nuns.rs/sw4i/download/files/article/Kodeks%20novinara%20Srbije%202010.pdf?id=2 ; in English: http://www.savetzastampu.rs/english/serbian-journalists-code-of-ethics

The manipulator or the architect of modern consciousness is inclined to telling others that they should think like him; in an attempt to eliminate alternatives, he advises others not to doubt, abused verified data, easily passes personal judgment and condemns others, misleads others into believing what he wants them to believe, imposes ideology, consciously spreads half-truths or lies, creates power relations, offers his message as truth, uses and abuses the needs and tastes of the audience. On the other hand, the one who wishes to socialize and educate other provides opportunity for individual thought, offers different standpoints based on general consent, indicates alternatives, encourages doubt, uses verified data, passes reasonable judgment and builds rational authority, refrains from imposing his beliefs on others, does not spread misleading information, transfers knowledge to others, creates a relationship of mutual trust and learning, offers the truth as a message, and gradually develops the needs and the tastes of the audience (Šušnjić, 1984: 18-20).

Yet, these negative practices should not be the reason for judges and prosecutors to refuse to cooperate with journalists. Communication must be permanent, and the education of journalists is highly desirable. One solution may be the establishment of information services in courts and prosecution offices, which would monitor the journalists' reports on the work of judicial authorities and periodically analyze them; the results could be further used as the subject matter for joint discussions with the media.

COURTS` OPENNESS AND COMMUNICATION STRATEGY

In the last few years, the courts and prosecutors have made significant progress in cooperation with the media, which indicates that they have the awareness that this is the best way to build on their image and to restore the citizens' lost confidence in the judiciary.[17] We can say that these institutions are no longer completely closed to the media.

The persons in charge of public relations or spokespersons of courts and prosecution offices should have a special role in improving the image of the courts in the public eye. In addition, each court should develop a communication strategy, where it would define its goals and activities for improving communication with the media and the general public.

According to the Guide for Effective and Professional Communication between the Courts and the Public (2017),[18] a communication and PR strategy is a document that contains a detailed plan of all communication goals, means and activities aimed at providing the best possible information to the general public about the operation of courts and promoting their work. All activities are divided into three large groups: information activities, consultation activities, and promotional activities. The scope of activities should be determined by each court, in line with the institutional capacities and circumstances in the local community. For example, in 2016, the High Court in Nis made the Plan for increasing the general public confidence in the court activities, which

[17] In a survey conducted within the DFID project titled "*Justice with a focus on citizens' trust*", when asked how much confidence they have in the judiciary, 31% of respondents answered that there is none, 30% responded that they mostly do not have, 28% mostly have, and only 5% of the respondents have trust in the judiciary.

[18] See: Vodič za profesionalnu i uspešnu komunikaciju sudova sa javnošću, projekat; unapređenje efikasnosti pravosuđa, Pravosudna Akademija i British Council, Beograd, 2017, available at https://www.pars.rs/images/biblioteka/PR%20guide%20for%20courts.pdf (p.8-9). Guide was made as part of the project "*Enhancing the Efficiency of the Judiciary in the Republic of Serbia"*, financed by the European Union.

specifies the information, consultation and promotional activities, their goals and due dates for their implementation.[19]

Information activities aim to provide information to citizens about the court activities, procedures, required documents needed to initiate a court proceeding, court fees to be paid, etc. For example, the website of the High Court of Niš[20] includes information on access to information of public interest, guidelines for journalists, information on filing an objection or motion on the initiated proceeding, information on legal assistance and mediation process; the website of the High Court of Novi Sad[21] enables citizens to download the legal forms they need to submit in order to gain access to case files, to file an objection or motion on the initiated complaint, to have a file issued from the court archives, etc.

Consultation activities serve to gather feedback from relevant target groups, in order to obtain information about the issues citizens are dissatisfied with and their feedback on what needs to be improved in the future. Accordingly, it would be useful to conduct an annual survey on the parties and citizens satisfaction with the court services, including suggestions on what needs to be improved in the work of the court personnel as well as feedback on the court services in view of general access to information of public importance and providing case-specific information, etc. In addition, suggestion and complaint boxes may be placed in courthouse, which would enable citizens to submit complaints about the court services and suggestions on improving the operation of the court.

Promotional activities should contribute to a better image of the court. In our view, they can contribute most to improving the current public opinion about the judiciary. These activities include organizing the Open Court Day, press conferences to present the results of the court activities, the promotion of new or current laws, etc. As an example of good practice, we have to mention the Open Door Day which has been organized at the High Court of Nis for several years. The events include a mock trial conducted by the court trainees and students of the Law Faculty in Niš, as well as thematic presentations given by eminent experts in specific areas of law. Thus, in 2017, the topic of the Open Door Day was alternative sanctions. In 2018, the topic was the publicity of court work as a condition for building citizens' confidence in the judiciary. The guests of the Open Door Day 2018 were a judge from Spain and a public prosecutor from the United States who spoke about the relationship between the judiciary and the general public in their respective states.

The aforementioned Guide for Effective and Professional Communication between the Courts and the Public (2017) contains recommendations on all the elements that should be considered in developing a well-designed communication strategy. Here, we list the suggested elements, with specific comments.

- ***The target group****:* it is necessary to define who the promotional or other activities of the court are aimed at: the general public (citizens), parties in court proceedings, and others; for example, if a press conference is organized on a specific topic, it is necessary to determine whether it is intended only for the media or whether it should also include the general public in order to get the citizens acquainted with the results of court activities, the application of a new regulation, etc.;
- ***Defining communication strategies****:* it implies defining the planned activities for the purpose of promoting the court activities; the examples of good practice

[19] See: High Court in Niš, Plan for informative, consultative and promotional activities prepared by the High Court Spokesperson, available in Serbian at: www.ni.vi.sud.rs/images/poverenje-javnosti.pdf
[20] High Court of Niš, www.ni.vi.sud.rs
[21] High Court of Novi Sad, www.ns.vi.sud.rs

include organizing the Open Door Day, updating the court website regularly, holding regular press conferences, etc.;

- ***Defining the purpose of each planned activity:*** the goals of the planned activities must be clearly defined and the expected benefits thereof should be anticipated in advance;
- ***Designating the person in charge***: it is necessary to determine who will be entrusted to handle the activity, irrespective of whether it is an individual or an entire team; for example, the persons in charge of creating the court website and its regular updating are the court spokesperson, the president of the court and the court's IT department;
- ***Determining the time frame or frequency of each activity****:* it is necessary to define in advance the application/implementation period for each activity, as well as how many times a year or a month it will be undertaken; for example, it should be specified that the Open Door Day shall be organized once a year during the celebration of the European Civil Justice Day;
- ***Defining Costs*****:** for example, in view of conducting a survey on court services, it is necessary to specify the printing costs for the questionnaires. Notably, many activities do not incur any costs whatsoever but are only a matter of good organization and good will.

A well-designed communication strategy is the basic tool of the court to make its work transparent, to be proactive, to obtain feedback from the public and thus gain the necessary confidence of citizens. A good example is the communication strategy of the High Judicial Council, which is available at its website.[22]

In addition to a well-designed communication strategy, courts should designate a PR agent or a spokesperson who will be in charge of public relations and provide information about court activities. Apart from being useful, this is also prescribed in legal provisions as a duty of the courts. Namely, the Free Access to Information of Public Importance Act[23] prescribes that the state bodies, and therefore courts, are obliged to provide information to the public about their work. Furthermore, the same Act stipulates that the person in charge of a state body (in courts, it would be the president of the court) shall appoint one or more persons to act upon requests for free access to information of public importance. In courts, this person is the spokesperson of the court, who receives these requests, informs the petitioner about the possession of information requested, and provides access to the document containing the requested information, or provides such information in an appropriate manner, rejects the stated request, provides the necessary assistance to the petitioners for exercising their rights prescribed by the Act, takes measures to improve the practice of dealing with information databases, practices for maintaining information databases, as well as practices of storing and securing information (Art.38).

In addition, the Rules of Court[24] strictly prescribe that media reports on the work of the court and on individual cases are provided by the president of the court or the person in charge of informing the public (spokesperson) or a special information service (Art. 58).

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[22] The High Judicial Council, www.vss.sud.rs

[23] Free Access to Information of Public Importance Act, *Official Gazette RS* no. 120/2004, 54/2007, 104/2009 and 36/2010

[24] Rules of Court, *Official Gazette RS* no.110/2009, 70/2011, 19/2012, 89/2013, 96/2015, 104/2015, 113/2015–corr., 39/2016, 56/2016 and 77/2016.

The aforementioned provisions actually oblige the courts to appoint a person to deal with public relations. However, the problem that arises in practice is that this duty is entrusted to the spokesperson as a secondary duty. A common practice in most courts is to appoint one of the judges or judicial assistants to act as a spokesperson, but such person is concurrently responsible for handling the assigned caseload and performing other duties on a daily basis. Thus, the duty of the spokesperson is not such person's primary duty, and the appointed individual cannot exclusively and fully commit to performing the requisite tasks. Regardless of this disadvantage, the courts should make maximum use of their spokespersons to ensure a permanent relationship with the media, which have the power to improve the courts' image and general public opinion about the judiciary.

However, in order to perform this duty in a professional manner, a spokesperson has to be well-trained and to learn the rules of cooperation with the media. For that purpose, within the framework of the European Union-funded project "Improving the Efficiency of the Judiciary", the Judicial Academy held a training for court spokespersons in 2017[25], consisting of four modules, including both theoretical background (on spokespersons' duties and communication skills) and practical training (writing press releases, presenting media briefs in press conference, providing general public information, etc.).

In addition to promoting their own knowledge and skills, spokespersons should also work on media education, which would be highly useful considering the complexity of the subject matter handled by the courts, the complicated legal jargon, and frequent changes in regulations. As there are very few journalists who report exclusively on court case and the judiciary, it cannot be expected from journalists (who have not graduated from the Faculty of Law and do not primarily specialize in legal matters) to have sufficient knowledge of the legal subject matter, to fully understand legal concepts and procedures, and distinguish among subject-specific legal terms. In order to promote their education, it would be useful to issue media-friendly publications which would clarify the complex court procedures, the basic legal concepts and proceedings, the meaning of complicated legal terminology (e.g., the difference between the concepts of filing an indictment to raise criminal charges and the indictment becoming final and entering into legal force; the difference between holding the suspect in temporary police custody and ordering detention), etc. For example, in the United States, there is "*A Journalist's Guide to the Federal Courts*"[26], which explains the court procedures, the role of the judiciary and legal professionals, the legal terms used in proceedings, as well as the common practices that facilitate reporting on court proceedings.

We believe that a good spokesperson must be both reactive and proactive. Reactive action means that it is necessary to respond to the media in a timely manner. Another issue is whether spokespersons should be available to the media 24 hours a day. We believe that they are not obliged to give the requested information at all times, after their working hours or at night, especially if it involves information that was previously made available to the media but the journalists failed to obtain it due to their inactivity. However, in the event of an incident that occurred outside the working hours (for example, in case a detention order was issued to a person after the working hours), when the media could not seek and obtain the requested information of general public interest, we believe that court spokespersons are obliged to be available to the media even beyond their working hours.

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[25] Judical Academy Report on activities completed in 2017, Judicial Academy, published 19.4. 2018, available in Serbian at: https://www.pars.rs/images/dokumenta/godisnji-izvestaj-pa-2017-19-04-18-3.pdf

[26] A Journalist's Guide to the Federal Courts, Administrative Office of the United States Courts, Washington D.C. (undated); https://www.uscourts.gov/sites/default/files/journalists_guide_to_the_federal_courts.pdf

In addition to their reactive action, we consider that it is even more important for court spokespersons to be proactive. The proactive action implies that they should sometimes impart information on an event of general public interest even before the media address the issue. This means that they are obliged to keep an eye on events in court and have relevant information at all times, so that they could respond timely. This proactive approach implies, for example, regular publication of official statements on the court website about ongoing events. In that context, we point to the good practice of the Belgrade High Court, which regularly publishes information on its website information about the dates of issuing and publishing the court judgments, the time schedule of pending trials, the dates of confirming the current indictments, etc. In this respect, the Niš High Court is equally proactive as it regularly updates the announcements on trials of general public interest on a monthly basis.

There are rules that spokespersons should comply with in cooperation with the media:

- Spokespersons should provide short and concise information, which is not burdened by quoting legal provisions and without the complicated legal terminology; if it is absolutely necessary to use a complicated legal term for the purpose of precision and accuracy, it should be briefly explained in plain language;
- Spokespersons or PR agents should not favor a particular media; they should treat all media equally and provide information in the order in which they are requested;
- If a spokesperson currently does not have the requested information, he/she should be honest about it, and inform the media that the requested information will be obtained from the trial judge and that further information will be provided to the media within a reasonable time; quite reasonably, journalists do not expect from spokespersons to have all the information about a case and know what is happening in a courthouse at all times;
- If a spokesperson is barred by the law from imparting some information (e.g. for reasons of excluded publicity in proceedings against the minors), it is essential to explain to the media the legal limitation(s) and the reasons for being unable to impart the information;
- Facilitating access to information in advance: for example, if journalists are aware that trial announcements are regularly updated on court website, they will not be calling to inquire when the next trial is scheduled in the proceedings, but will only enter the court website to check the posted information; this makes the professional work easier for spokespersons and journalists alike;
- In responding to media questions, the phrase "no comment" should be avoided whenever possible because it leaves plenty of room for assumptions and speculation;
- Journalists should be addressed with due respect, without intemperance and frustration, and without entering into any discussion with the media representatives.

MEANS OF IMPARTING INFORMATION AND EXAMPLES OF GOOD PRACTICE

There are ample ways of making information available to the public. In this paper, we will present the most important and effective ones and review some examples of good practice. In order to impart any kind of information (in any form) to the media, we underscore that a good spokesperson needs specific knowledge and skills, as well as adequate training.

Press releases: This is the most common, the fastest and the most effective way of communicating with the media. A press release should not exceed one A4 page, and it should include three sections: the *lead*, the *background*, and the *conclusion*. ***The lead*** is the initial and most important part of the announcement which should grab and keep the reader's attention. It should answer five key questions: *who, what, where, when and why*, and it often gives an answer to the question *how*. It should be written in one to two sentences. The body of a press release is ***the background,*** which provides more information (in one or more paragraphs). It includes reference to relevant persons and their statements, and the spokesperson's explanation why the news is important to the public. Spokesperson are advised not to include all the details in the press release, in order to trigger the journalists' interest and prompt them to contact the court for more information. *The* ***conclusion*** includes closing remarks, information on upcoming events or prospective action, and availability for any additional information. The final part of the press release contains data on the spokesperson or PR agent available for further contact (Golubović, Trifunović, Jakšić, 2007: 54-55). In press releases, professional jargon and complex legal terminology should be avoided, as well as quoting legal provisions. The announcement should not be too long and the sentences should be clear and concise, not exceeding 20 words. In order to grab the journalist's attention, the *headline* should be interesting and catchy, including key words targeted in the press release. The announcement should be released in a timely manner, allowing enough time for journalists to publish the provided information. If the news is to be published on the same day, the announcement should be released as soon as possible, before the editorial staff complete the issue. It certainly does not apply to electronic media, where the news can be published at any time. As a follow-up activity, we think that spokespersons should check on how the news is presented in the media. Journalists often make unintentional mistakes, either by using inadequate legal terms or due to misunderstanding the essence of legal concepts and/or proceedings. Therefore, a spokesperson or a PR agent has to react in a timely manner, call the journalist and ask him/her to correct the error. As an example of a good press release, we enclose a press release of the Belgrade High Court, published on its website.

Sample 1*:* A Press Release published by the Belgrade High Court (2017)

The High Court in Belgrade overturned the judgment of the First Basic Court in the criminal proceedings against the defendant Љ.В.

Following the session held on 23 August 2017, the High Court in Belgrade issued a decision upholding the appeals of the defense counsel of the defendant Љ В., reversed the decision of the First Basic Court in Belgrade, and returned the case to the first instance court for a retrial.

In the reasoning of the ruling, the Court stated that the first instance judgment was rendered in substantial violation of the criminal procedure provisions because the reasoning contains insufficient reference to decisive facts, whereas the enclosed factual grounds are vague, ambiguous and mutually contradictory, for which reason the judgment had to be overturned.

In the retrial, the first-instance court will remedy the indicated omissions in accordance with the remarks from the decision of this Court and, if necessary, present other evidence. After a conscientious and careful assessment of evidence, both individually and jointly, the first-instance court will render a lawful and correct decision, by providing clear, non-contradictory and well-argued reasoning on all decisive facts.

Source: the Belgrade High Court website (2017)

Press conferences: They enable the transfer of information through various media: newspapers, TV, radio channels, the Internet, etc. A press conference should be convened only when there is some important news, when it is certain that most media will be interested and when all the questions cannot be answered through a press release. If the court does not have such news, it should not convene a press conference. Apart from the fact that a press conference has to be well prepared, a lot of time is invested in its organization. First of all, it is necessary to provide a location (preferably in the conference room or a courtroom at the courthouse), to determine the exact date and time, taking into account the journalists' *modus operandi.* Thus, it is best to avoid holding conferences on Mondays or Fridays, and they should not be held early in the morning or at the end of working hours; the ideal time is from 11 am to 1 pm. Second, it is necessary to prepare a good letter of invitation, which should be brief and concise, indicating the reason for convening the conference so that the editor knows which journalists to dispatch, as well as the exact date and time of the conference. The invitation should be sent 3 to 4 days prior the beginning of the conference by e-mail, but it is also useful to call the invited media representatives by phone later in order to check if they have received the invitation, confirm their participation and determine the total number of journalist who will attend the conference. The conference should be managed and hosted by a person in charge of public relations. This person opens a conference, states the topic of the conference, introduces the conference speakers, and states how long it is planned to take. After the speakers (president of the court, judges, etc.) give their statements, the media representatives may ask questions. However, it should be borne in mind that journalists often take this opportunity to ask questions which are unrelated to the press conference topic, focusing on questions they are interested in. In such a case, we consider it useful to respond to such questions, but with extra caution, so as not to deviate entirely from the press conference topic. At the end of the conference, the host should thank the media for their attendance and leave some time for an informal conversation, which is highly appreciated by journalists. After the conference, it is useful to prepare a short conference summary and post it on the court website after the conference has been held. Here is an example of a press conference summary published on the website of the Serbian Supreme Court of Cassation.

Sample 2: A press conference summary published by the Supreme Court of Cassation (2014)

BRIEF INFORMATION - Notice on the press conference

On April 4, 2014, a press conference was held at the Supreme Court of Cassation.

The topic was a summary analysis of the work of the courts of general and special jurisdiction in the year 2013, based on the statistical and analytical data contained in the Annual Report on the work of the Supreme Court of Cassation and all other courts of general and special jurisdiction in the Republic of Serbia.

Source: The Supreme Court of Cassation website (published 4.4. 2014), https://www.vk.sud.rs/sr/конференција-за-медије

There are different types of conferences: regular conferences (held on a regular basis, for example, once a month on a specific day and at the specific time, so that journalists know about it in advance); subject-specific conferences (scheduled for a specific event or an extraordinary occasion); improvised conferences (held spontaneously, after some event, but they require extra caution and diligence as there is little time for the necessary

preparation), and video conferences (enabled by means of high-quality electronic video/ audio technology).

Media statements: A statement is usually given by the court spokesperson when journalists urgently need some information, for example, when a judgment was published on the same day. Typically, spokespersons have little time to prepare their statements. For these reasons, it is important for the spokespersons to be well informed about all court events and important pending cases, when a certain trial is over and when the judgment will be proclaimed, because it gives them some time to prepare their statements. Such statements are commonly given at the request of journalists, and seldom are they issued on the spokespersons' own initiative. Oral statements are subject to the same rules that apply to press releases. An oral statement would be short and succinct, including clear and concise sentences; complicated legal terms and citation of legal provisions should be avoided. In practice, no matter how short the statement is, journalists typically quote only a part of the original statement, while the rest is rephrased and reported in their own words. Regardless of whether or not the decision corresponds to the public expectations (e.g. the defendant has been acquitted), a spokesperson must be prepared to issue a statement and explain the court reasoning. This practice helps reduce negative comments in public.

Interview: An interview is one-on-one communication with a journalist, which requires the best possible preparation by the spokesperson, who has to be well-prepared for the topic at hand, to anticipate questions that may be asked and prepare possible answers, to find out how long the interview will take, who will be conducting the interview and how much he/she knows about the subject, to learn more about the journalist's attitude towards the court, and to find out where the interview will be published. If the person giving an interview does not know the answer to a particular question, he/she should say so and to explain why he/she cannot provide an answer to the question; most importantly, he/she should be honest and truthful (for example, if the journalist's question regards the ongoing investigation, it is essential to explain that it is not possible to provide answers on this matter because, under the applicable Criminal Procedure Code, the investigation procedure is conducted by the Public Prosecution Service, and not by the court. The interviewee (court representative) should remain calm and composed during the interview, and avoid feeling frustrated or being provoked by the journalist's questions If the interviewee is well prepared for the interview, he/she is highly unlikely to get provoked in the first place. At the end, it is highly useful to wrap up the interview by making a conclusion. Bearing in mind that the audience mainly includes ordinary citizens, the interviewee should also avoid citing legal provisions and using the legal jargon, which is complex and largely unclear to most ordinary citizens. It is also necessary to pay attention to non-verbal communication and body language which, if inadequate, may make the audience draw unwanted conclusions. If a journalist makes a false or inaccurate statement, the interviewee should not hesitate to correct it (for example, by saying: "On the contrary, the suspect has only been kept in police custody and the court has not issued a detention order yet. The suspect will be taken to court for an pre-trial hearing only after being investigated by the prosecution; only then will the pre-trial judge decide whether to issue a detention order or not"). There are different kinds of interviews: a television interview, a radio interview, and a newspapers interview. Each of them requires a different kind of preparation. In case of a television interview, the interviewee should pay attention to physical appearance and professional dress code, and avoid sparkling colors, tacky jewelry and strong make-up. A good rule of thumb is moderation in everything.

CONCLUSION

Considering all the developments in the last fifteen years, we consider that the courts are still insufficiently open to the general public and the media. Strengthening the integrity of courts is conditioned by their greater transparency and openness, which leads to increasing public confidence in the judiciary and its decisions, and improving its image in general.

In court proceedings, judgments are made "On behalf of the People", and “the people” are interested in the outcome of the proceedings. Therefore, both the courts and the media should invest in their mutual cooperation, in order to provide reliable, precise, accurate and timely information to "the people". However, just as courts are obliged by the principle of publicity to open their doors to the media, the media are equally obliged to take their part of responsibility and to fight for the truth rather than pursue sensationalism. This desire for sensational news leads to spreading fake news and creating a distorted picture of a certain event. As a result, the public exerts pressure on the court, which may lead to improper adjudication. Despite the undue influences, only an impartial and independent judge can make a proper and legally-grounded judicial decision, and the courts are the ones that must take advantage of the available resources to promote such judgments. It is the only right way to improve the court’s image and gain citizens’ trust.

An old journalistic rule says that facts are inviolable while comment is free. It means that the judiciary is subject to a reasoned critique and that final judgments may be commented on. The judicial power belongs to courts and judges, who are bound to adhere to the principles of independence and impartiality. Journalists cannot be judges. The media should report on judicial proceedings, but should not exert pressure on the judiciary by discussing the matters of law. When a judgment becomes final, it can be criticized and commented on, in which case it is not perceived as pressure. The judge is not and cannot be a journalist or an editor. Each shall act professionally within the "sovereign domain" of the respective profession.

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ODNOS SUDOVA I MEDIJA

Pravosudna vlast ima težak zadatak da poljuljano poverenje javnosti u rad pravosuđa zaustavi i da takav trend preokrene u korist opšteg uvažavanja svog rada od strane građana. Najavljivane i neuspele reforme pravosuđa, unutrašnji problemi pravosuđa, kao i tabloidizacija medija koji kreiraju nepovoljno okruženje su uzroci koji su doveli da građani sa sumnjom gledaju na ostvarivanje pravde i pravičnosti koje sprovode pravosudni organi. Predstavnici pravosudne vlasti takvu sliku mogu da menjaju samo aktivnim, a ne pasivnim odnosom prema ovom problemu.Zatvorenost pravosuđa nije dobar način da se nepovoljna slika o njihovom radu menja do poželjnog nivoa. Doslednim sprovođenjem načela javnosti, demistifikacijom rada pravosuđa, otvorenošću prema medijima, put je ka uspostavljanju poverenja u rad pravosudnih organa. Stalna komunikacija predstavnika pravosuđa i novinara, u kojoj se otklanja svaka dilema da tužilaštva i sudovi „nešto kriju“ je nužnost, a ne samo potreba. Autori posebno ukazuju na osetljivu granicu između opravdanog interesa javnosti da zna i zloupotrebe slobode izražavanja „do linije“ preko koje bi bilo ugrženo pravo drugog. U radu ukazujemo na uzroke nepovoljnog okruženja o kome je reč, kao i o preprekama u komunikaciji sudova i medija koje se javljaju u svakodnevnom radu jednih i drugih.

Ključne reči: *sudovi, mediji, portparol, poverenje javnosti*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 73-84
https://doi.org/10.22190/FULP1901073D

Review Paper

THE "NEGATIVE" IMPACT OF A GROWING NUMBER OF TOURISTS ON THE SECURITY OF ENERGY SUPPLY MARKET IN NIŠ REGION

UDC 338.481.2(497.11 Niš)
620.9

Žarko Dimitrijević[1], Jelena Petrović[2]

[1]Public Enforcement Officer appointed for the area of the High Court and the Commercial Court in Niš, Serbia
[2]University of Niš, Faculty of Science and Mathematics, Niš, Serbia

Abstract. *The basic precondition for the increase in the number of tourists is the improvement of tourism potentials: accommodation capacity; additional contents including arts, entertainment and festival programs; development of infrastructure (roads, railways, airports), etc. Available data indicate that there has been a significant increase in the number of tourists in the last ten years. However, the increase in the number of tourists does not correlate with the increase in the production of total electricity. Considering the constant growth of economic activity and increased number of residents, the analyzed data show that the increase in the number of tourists actually has a negative impact on the security of energy supply market. In this paper, the authors analyze the available data and point to the need for urgent planning of the security of energy supply, bearing in mind that the results indicate a huge increase in electricity consumption directly caused by the growth of consumers, where the growing number of tourists actually represents a variable that is itself a risk to the security of energy supply.*

Key words: *energy security, increased electricity consumption, planning the security of supply.*

1. INTRODUCTION

The security of energy supply is a burning issue of many energy-dependent states. Their needs are estimated at the level of statistical fluctuations of consumption required to meet economic and non-economic activities. The increased activity on the promotion of tourism in the Republic of Serbia leads to the increase in the number of tourists as well

Received January 23rd, 2019 / Accepted February 6th, 2019
Corresponding author: Žarko Dimitrijević, LL.D., Public Enforcement Officer appointed for the area of the High Court and the Commercial Court in Niš, E-mail: dimitrijevic.zarko@gmail.com

as electricity consumption in all sectors. Except for the state planning documents, Serbian academic publications rarely provide an overview of the correlation between increased energy consumption and the growth of tourism.

International publications are somewhat more extensive, but there is an impression that the relationship between energy consumption and the growth of tourism has not been sufficiently researched, bearing in mind the strategic significance of the security of energy supply and increased global mobility of the world population. Available sources provide several studies dedicated to the interdependence between energy consumption and tourism.

Becken, Simmons and Frampton (2003: 276-277) pointed to idea that the different choices tourists make regarding their transport, accommodation and attractions affected energy consumption in New Zealand. These authors quantified the impact of tourism on energy consumption and found that the total energy consumption of foreign tourist was four times higher than the energy consumption of domestic tourists. They also concluded that the transportation of domestic and foreign tourists clearly dominated energy consumption (65-73% of total energy). Their research was based on previous experiences (Becken, Frampton, Simmons, 2001: 384-385) gained by examining the impact that hotels, motels and other accommodation facilities had on energy consumption in the same area. The results indicated that hotels were the largest energy consumers with a contribution of 67% of total energy consumption of accommodation facilities and 0.4% of total energy consumption in New Zealand. Tourists are the largest energy and fuel consumers in Hawaii as well, with a contribution of 60% of total energy consumption (Tabatchnaia-Tamirisa *et al*, 1997: 399). The analysis of the correlation between the number of tourists and energy consumption revealed that this relationship was positive, statistically significant and inelastic, that is, the increase in the number of tourists by 1% contributed to the increase in energy consumption by less than 1% (Katircioglu *et al*, 2014: 186-187).

In recent years, research has yielded controversial results. Lee (2013: 91-94) pointed out that foreign tourists had a direct and indirect positive effect on electricity consumption. Unlike him, Bakhat and Rossello (2011: 442), having examined the impact of tourism on electricity consumption in the case of the Balearic Islands in Spain, concluded that tourism cannot be considered an energy intensive sector from the point of view of electricity consumption. They also stated that the increase in consumption was the result of increased electricity consumption of residents rather than tourists. The authors explained that the increase was the result of residents' improved standard of living.

Pablo-Romero and her associates (2017: 7-9) examined the relationship between electricity consumption in accommodation facilities and overnight stays in Spanish provinces in the period from 1999 to 2013 to test the Kuznets Curve hypothesis[1]. The results showed that the Kuznets Curve was not supported, but that there was a positive correlation between electricity consumption and the number of overnight stays. At the same time, the research on the interdependence between electricity consumption in hotels and restaurants and the number of overnight stays in 11 EU members in the period from 2005 to 2012 showed that there was a positive link between the examined phenomena. Lai and his associates (2011: 1134)

[1] According to Kuznets, the increase in income per capita affects the increase in unequal distribution of national income among the residents belonging to underdeveloped economies. However, economic growth affecting the increase in income per capita contributes to reducing inequality in developed economies. The observed interdependence between income per capita and inequality in the distribution of income is known as the Kuznets curve. Nowadays, it has a significant role in studying the interdependence between various variables. (Kuznets, S., Economic Growth and Income Inequality, *American Economic Review*, Vol. 45, No.1, 1955, pp.1–28).

confirmed a positive correlation between electricity consumption and tourism industry on the example of gaming and resort facilities. The results of some studies indicated that floor area affected the consumption of electricity, and that the average electricity consumption was about 342 kWh/m2/year. The survey was conducted over a period of three years in the case of 17 hotels in Hong Kong (Chan *et al*, 2002: 382-389).

On the basis of the above, we can state that tourism has a positive impact on electricity consumption but also that residents, who enjoy higher living standards, stimulate consumption. With this idea in mind, the authors pay special attention to the analysis of the impact of tourism development and the number of residents on electricity consumption, in order to identify whether tourist traffic or the number of residents contribute to the increase in electricity consumption in the City of Niš (and changes at the level of all city municipalities).

In addition to investments in primary funds for the purpose of electricity supply, researchers pay special attention to the factors that influence the increase of investments in order to intensify the production of electricity.

2. METHODS AND HYPOTHESES

The authors employ a correlation and regression analysis in this paper. The correlation analysis is used to examine the interdependence between tourist traffic and electricity consumption, as well as interdependence between the number of residents and electricity consumption. The regression analysis enabled the quantification of the impact of tourist traffic and electricity consumption on investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš.

The authors tested the following hypotheses:

- H1: There is a statistically significant positive correlation between the number of tourists and electricity consumption;
- H2: There is a statistically significant positive correlation between overnight stays and electricity consumption;
- H3: There is a statistically significant positive correlation between the number of residents and electricity consumption;
- H4: The number of tourists has a statistically significant positive impact on electricity consumption;
- H5: The number of tourists has a statistically significant positive impact on investments in primary funds for the purpose of energy, gas and steam supply in the city of Niš.

3. QUANTITATIVE ANALYSIS (INITIAL VALUES)

3.1. Number of Residents

The City of Niš is the third largest city in the Republic of Serbia. It is estimated to have more than 250,000 residents, with a constant growth due to permanent migrations from other towns in southern Serbia. Table 1 shows quantitative changes in the number of residents in the period from 1953 to 2016. Given that the last population census in the

Republic of Serbia and the City of Niš took place in 2011, for the purpose of this analysis, Table 1 shows the estimated number of residents for 2007, 2008, 2009, 2010, 2012, 2013, 2014, 2015 and 2016.

Table 1 Quantitative characteristics of the residents of Niš

Year	Number of residents
1953	118464
1961	146524
1971	193509
1981	230711
1991	248086
2002	250518
2007*	254970
2008*	255295
2009*	255479
2010*	255699
2011	260237
2012*	259790
2013*	259125
2014*	258500
2015*	257883
2016*	257351

*estimated number of residents
Source: Secretariat for Economy of the City of Niš (2017)

Considering the first and last population census in the City of Niš, it can be concluded that the number of residents has increased. However, the analysis of the qualitative characteristics of the residents indicates that the age structure of the population has changed, that is, the City of Niš is a demographically aging community. This is confirmed by the fact that the share of the population older than 65 years in the total number of residents in Niš was 5,04% in 1953, and 16,81% in 2011 (Secretariat for Economy of the City of Niš, 2017). Population shifts from rural to urban areas contributed to the increased population density in the territory of Niš from 204 res/km2 (in 1953) to 436 res/km2 (in 2011) (Secretariat for Economy of the City of Niš, 2017). If we observe the period after the last census (2012-2016), the estimated number of residents indicates that the number of residents in the City of Niš is continually decreasing.

3.2. Statistical Indicators of Tourism Development

Table 2 shows the characteristics of tourism development in the City of Niš from 1991 to 2016. The data analysis indicates that the highest number of tourists and overnight stays in the City of Niš was recorded in 1991, i.e. that the level of tourist traffic from 1991 has not been reached yet. The greatest number of overnight stays of foreign tourists was recorded in 2016, which is the result of the development of air transport owing to low-cost airlines that connect the City of Niš with other destinations in the world. In the period from 1992 to 1999, the inflow of foreign tourists and the number of their overnight declined. After that, the influx of foreign tourists started to increase.

Table 2 also contains the data related to the total number of overnight says (bed occupancy) in accommodation facilities in the City of Niš. The largest number of beds

was recorded in 1994 while in 2008 the number of beds was the smallest. The highest capacity utilization rate was achieved in 2008 while the years 1997 and 1994 were characterized by the lowest rate of capacity utilization.

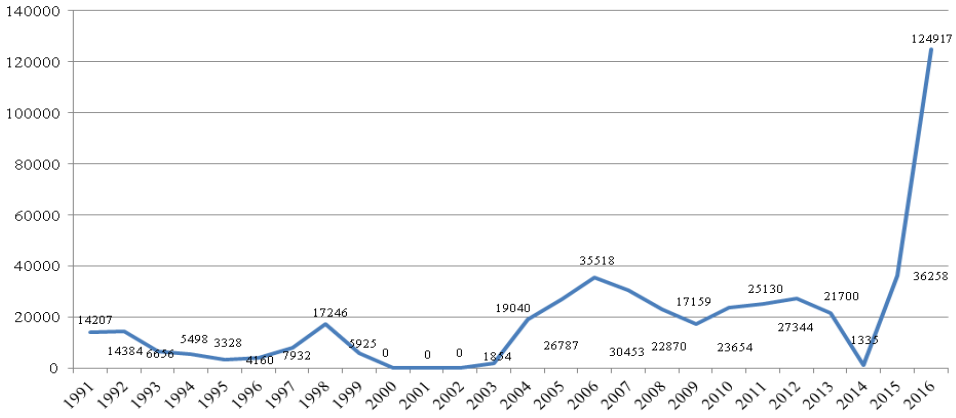
Table 2 Tourist traffic in the City of Niš

Year	Number of tourists			Number of overnight stays			Number of beds in accommodation facilities
	Total	Domestic	Foreign	Total	Domestic	Foreign	
1991	118344	84707	33637	350293	311664	38629	-
1992	92167	85452	6715	403739	392003	11736	-
1993	71017	68470	2547	255929	251994	3935	-
1994	80204	76682	3522	301914	295403	6511	9189
1995	88503	82452	6051	345415	332111	13304	8987
1996	75657	70139	5518	355317	342564	12753	8603
1997	65457	58549	6908	279763	268419	11344	8614
1998	71701	65949	5752	383333	372625	10708	8497
1999	53571	50594	2977	318685	312572	6113	8497
2000	91081	87329	3752	496395	487828	8567	8667
2001	72994	66965	6029	372997	362155	10842	8667
2002	73166	63419	9747	239650	224337	15313	2858
2003	63079	50512	12567	220203	200095	20108	3246
2004	68953	49610	19343	236778	206344	30434	1362
2005	68704	46884	21820	211934	178949	32985	1347
2006	56334	42925	13409	258974	236897	22077	1332
2007	85609	54400	31209	311843	269896	41947	1446
2008	87774	57227	30547	326252	276436	49816	875
2009	85952	51112	34840	309413	259247	50166	1680
2010	88179	51368	36811	309658	254834	54824	2044
2011	88952	52861	36091	295240	244906	50334	2630
2012	77782	45986	31796	286757	235505	51252	1969
2013*	63050	32989	30061	122509	72827	49682	2003
2014*	68688	31297	37391	130246	71714	58532	2258
2015*	75969	34924	41045	148193	83053	65140	2425
2016*	85048	40419	44629	160947	90175	70772	2511

* Starting from 2013, the data on tourist traffic in healthcare institutions where persons reside for medical rehabilitation include only those who pay for their expenses themselves.
Source: Secretariat for Economy of the City of Niš (2017), Statistical Office of the Republic of Serbia (1996-2017).

3.3. Statistical Indicators of Air Traffic

The airport in Niš was opened in 1986. During 1986, a total of 1360 passengers were transported. The smallest number of passengers was recorded in 2000, 2001 and 2002, while the year 2016 marked the highest number of passengers. The airlines that connect the City of Niš with other destinations recorded a decrease in the number of passengers from 1994 to 1996, followed by a slight passenger growth until 1998. In the period from 1999 to 2002, the number of passengers declined. The airline deregulation in the Republic of Serbia in 2009 enabled low-cost airlines to connect Serbian airports with other destinations in the world, which contributed to the increase in the number of passengers at Niš Airport in recent years.



Graph 1 Number of passengers transported from or to Niš Airport from 1991 to 2016.
Source: Secretariat for Economy of the City of Niš (2017).

3.4. Statistical Indicators of Electricity Consumption in the City of Niš

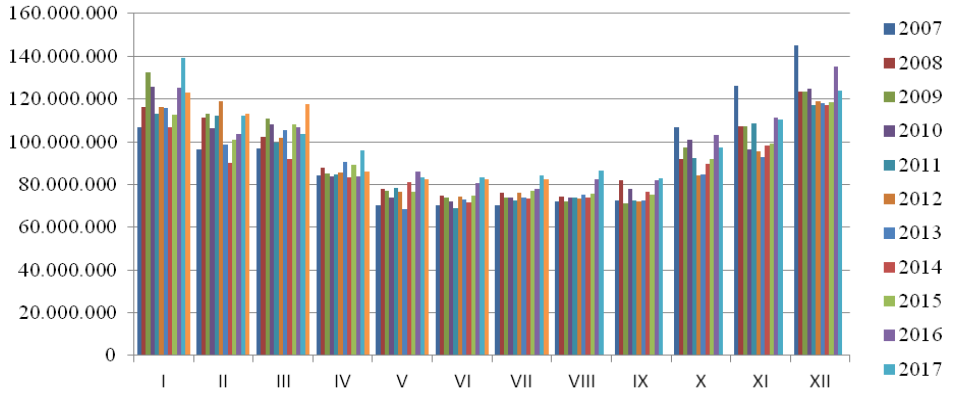
Table 3 shows the tendencies in electricity consumption in the city of Niš from 2007 to 2017. In the city of Niš, the periods from 2007 to 2009 and from 2015 to 2017 were characterized by an increase in electricity consumption while the decline occurred in the period from 2010 to 2014.

Table 3 Electricity consumption in the City of Niš

Year	Electricity in kWh
2007	1,117,970,898
2008	1,125,286,244
2009	1,138,292,729
2010	1,118,248,232
2011	1,094,810,555
2012	1,094,961,101
2013	1,069,935,760
2014	1,054,446,003
2015	1,099,883,590
2016	1,178,302,469
2017	1,202,628,493

Source: Electric Power Distribution Ltd. Belgrade (2018)

Graph 2 shows the tendencies in electricity consumption by month in the period from 2007 to 2018. As for the year 2018, the graph shows the data from January to July 2018.



Graph 2 Electricity consumption by month for the period from 2007 to 2018
Source: Electric Power Distribution Ltd. Belgrade (2018)

Considering electricity consumption by month, it can be noted that the highest average consumption was recorded in December, while the lowest consumption was in June. If we observe the electricity consumption recorded in December in the period from 2007 to 2017, we can state that the highest consumption was in 2007 and it reached its lowest level in 2014. In October, November and December, there was a decline in electricity consumption, while in the remaining months in the period from 2007 to 2017 electricity consumption increased.

3.5. Statistical Indicators of Electricity, Gas and Steam Supply

Table 4 presents investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš. The analysis covered the period from 2010 to 2015, as the data before 2010 encompassed investments in primary funds for the production of electricity, gas, steam and water in the City of Niš. Based on the data analysis, it can be concluded that the greatest investments were recorded in 2010. However, the year 2011 was characterized by significantly lower investments in the supply of electricity, gas and steam in the City of Niš, compared to the previous year. In the period from 2012 to 2015, a continuous increase in investments was recorded.

Table 4 Investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš (2010-2015)

Year	Investments
2010	1163900.00
2011	174875.00
2012	207662.00
2013	187423.00
2014	381530.00
2015	519230.00

Source: Statistical Office of the Republic of Serbia (2012-2017). Municipalities and regions in the Republic of Serbia from 2011 to 2016, http://www.stat.gov.rs/publikacije/

4. THE ANALYSIS OF THE IMPACT OF TOURISM AND QUANTITATIVE CHARACTERISTICS OF RESIDENTS ON ELECTRICITY CONSUMPTION IN THE CITY OF NIŠ

Table 5 indicates a statistically significant positive relationship between electricity consumption in the City of Niš and the number of tourists who visited the City of Niš as the Sig-value[2] is less than 0.05. However, there is no statistically significant correlation between electricity consumption and the number of residents, nor between electricity consumption and overnight stays. The results of the correlation analysis confirmed the H1 hypothesis, but the H2 and H3 hypotheses were not confirmed.

Table 5 Pearson Correlation Coefficient[3]– Correlation between electricity consumption, number of tourists, overnight stays and number of residents

		Electricity consumption	Number of tourists	Overnight stays	Number of residents
Electricity consumption	Pearson Correlation	1	.685*	.358	-.539
	Sig. (2-tailed)		.029	.309	.108
	N	10	10	10	10
Number of tourists	Pearson Correlation	.685*	1	.822**	-.481
	Sig. (2-tailed)	.029		.003	.159
	N	10	10	10	10
Overnight stays	Pearson Correlation	.358	.822**	1	-.457
	Sig. (2-tailed)	.309	.003		.184
	N	10	10	10	10
Number of residents	Pearson Correlation	-.539	-.481	-.457	1
	Sig. (2-tailed)	.108	.159	.184	
	N	10	10	10	10

*. Correlation is significant at the 0.05 level (2-tailed).
**. Correlation is significant at the 0.01 level (2-tailed).
Source: *Prepared by the authors (SPSS Statistics 19)*

Within the regression analysis, we applied the backward method[4] to avoid multicollinearity.

Table 6 Joint impact of analyzed variables on electricity consumption in the City of Niš

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.825[a]	.681	.521	24280643.60144
2	.774[b]	.599	.484	25191114.50767
3	.685[c]	.469	.403	27106550.73434

a. Predictors: (Constant), number of residents, overnight stays, number of tourists
b. Predictors: (Constant), overnight stays, number of tourists
c. Predictors: (Constant), number of tourists
d. Dependent Variable: electricity consumption
Source: *Prepared by the authors (SPSS Statistics 19)*

[2] In order for the relationship between two phenomena to be statistically significant, e.g. between electricity consumption and the number of tourists, the Sig-value (significance) must be less than 0.05.
[3] Pallant, J. (2011). *SPSS Survival Manual: A Step by Step Guide to Data Analysis Using SPSS, Allen*&Unwin, Berkshire.
[4] The regression analysis is conducted within the SPSS program. The program provides the possibility to select the enter, backward, or forward method. The backward or forward methods are used to avoid multicollinearity between the analyzed independent variables; that is, these methods select the impact of only those variables among which there is no significant correlation.

The results of the regression analysis show that there is no statistically significant joint impact of the number of residents, number of tourists and overnight stays on electricity consumption (Table 6), because the Sig-value is higher than 0.05. However, it is necessary to point to a statistically significant joint impact of the number of tourists and overnight stays on electricity consumption in the City of Niš.

Table 7 Individual impact of tourist traffic and the number of residents on electricity consumption

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	2358081807.566	1237846203.184		1.905	.105
	Number of tourists	3841.493	1449.610	1.099	2.650	.038
	Overnight stays	-265.709	156.187	-.695	-1.701	.140
	Number of residents	-5803.924	4684.833	-.329	-1.239	.262
2	(Constant)	828292411.147	89729478.703		9.231	.000
	Number of tourists	4215.085	1471.065	1.205	2.865	.024
	Overnight stays	-241.906	160.813	-.633	-1.504	.176
3	(Constant)	916975562.234	72787916.277		12.598	.000
	Number of tourists	2395.303	900.632	.685	2.660	.029

a. Dependent Variable: electricity consumption
Source: *Prepared by the authors (SPSS Statistics 19)*

Table 7 indicates that there is a statistically significant impact of the number of tourists on electricity consumption in the City of Niš, but there is no statistically significant impact of overnight stays as well as the number of residents on electricity consumption. The results of the regression analysis did not confirm the H4 hypothesis.

5. The Analysis of the Impact of Tourism and Quantitative Characteristics of Residents on Investments in Primary Funds for the Purpose of Energy, Gas and Steam Supply

In order to avoid multicollinearity, the authors employed the backward model in the regression analysis. The results of the analysis show that there is no statistically significant joint impact of the number of residents, number of tourists and overnight stays on investments. Also, there is no statistically significant impact of the number of residents and number of tourists on investments since the Sig-value is higher than 0.05. Table 8 and Table 9 show that there is a statistically significant impact of the number of tourists on investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš. The results of the regression analysis confirmed the H5 hypothesis.

Table 8 Joint impact of analyzed variables on investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš

Model	R	R Square[d]	Adjusted R Square	Std. Error of the Estimate
1	.840[a]	.706	.413	428.86598
2	.839[b]	.705	.557	372.51950
3	.815[c]	.664	.597	355.11135

a. Predictors: number of residents, number of tourists, overnight stays
b. Predictors: number of residents, number of tourists
c. Predictors: number of tourists
d. Dependent Variable: investments
Source: *Prepared by the authors (SPSS Statistics 19)*

Table 9 Individual impact of tourist traffic and the number of residents on investments in primary funds for the purpose of electricity, gas and steam supply in the City of Niš

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	Number of tourists	19.290	26.707	2.699	.722	.522
	Overnight stays	-.445	3.316	-.175	-.134	.902
	Number of residents	-3.751	6.251	-1.732	-.600	.591
2	Number of tourists	16.511	14.621	2.310	1.129	.322
	Number of residents	-3.266	4.430	-1.508	-.737	.502
3	Number of tourists	5.826	1.852	.815	3.146	.025

a. Dependent Variable: investments
b. Linear Regression through the Origin
Source: *Prepared by the authors (SPSS Statistics 19)*

6. CONCLUSION

The data analysis indicated that the number of residents in the City of Niš decreased in the period from 2011 to 2016, but that there was an increase in the number of tourists, overnight stays, electricity consumption and investments in primary funds for the purpose of electricity, gas and steam supply. Similar to the studies conducted by Lee (2013: 91), the results of this correlation analysis confirmed a positive correlation between electricity consumption and the number of tourists. The results of the regression analysis showed that there was a statistically significant joint impact of the number of tourists and overnight stays on electricity consumption in the City of Niš. Unlike Pablo-Romero's research results (2017: 9), the results of this study indicated that the number of tourists had a statistically positive impact on electricity consumption, while the number of overnight stays did not have a statistically significant impact on electricity consumption in the City of Niš. At the same time, the results of the regression analysis revealed that residents did not have a significant impact on the increase in electricity consumption.

The results of the regression analysis indicated that the number of tourists represented a significant factor that must be considered when designing a strategy for investing in primary funds for the purpose of electricity, gas and steam supply in the city of Niš. Bearing in mind that tourist traffic in the city of Niš has recorded a significant increase in recent years and that it contributes to the increase in electricity consumption, it is necessary to encourage investments in primary funds in the future in order to ensure the security of energy supply.

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PORAST BROJA TURISTA KAO ''NEGATIVAN'' TREND SA ASPEKTA SIGURNOSTI SNABDEVANJA TRŽIŠTA ENERGENATA U NIŠKOM REGIONU

Podizanje turističkih potencijala: smeštajnih kapaciteta, dodatnih sadržaja, umetničkih, zabavnih, festivalskih programa, razvoj infrastrukture (puteva, železnice, aerodroma), jeste osnovni preduslov za porast broja turista. Dostupni podaci navode na zaključak da je evidentan drastičan porast broja turista u poslednjih 10 godina. Međutim, procenat porasta broja turista nije u korelaciji sa porastom proizvodnje ukupne električne energije. Ako se u obzir uzme konstantan rast privredne aktivnosti, porast broja stanovnika, analizirani podaci pokazuju da porast broja turista zapravo ima negativan trend na sigurnost snabdevanja energetskog tržišta. U radu autori daju analizu dostupnih podataka i ukazuju na potrebu hitnog planiranja sigurnosti energetskog snabdevanja, imajući u vidu da rezultati ukazuju na ogroman porast potrošnje električne energije direktno uzrokovan rastom potrošača, gde stopa rasta broj turista zapravo pretstavlja promenljivu koja je sama po sebi rizik za sigurnost snabdevanja.

Ključne reči: *energetska sigurnost, porast potrošnje električne energije, planiranje sigurnosti snabdevanja*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 85-94
https://doi.org/10.22190/FULP1901085D

Review Paper

THE ANALYSIS OF TRUST AS AN ELEMENT OF SUPPORT TO DEMOCRATIC PROCESSES

UDC 316.658:342.5
316.334.3
321.74

Žarko Đorić

University of Niš, Faculty of Economics, Niš, Serbia

Abstract. *Declining trust is one of the central problems in modem politics. Trust declines in collective action arrangements. Trust is one of the "big questions," and "one of the normal obligations of political life." Embedded within it are fundamental issues of politics and democratic theory. This article discusses different conceptions of trust and its relations to democracy. The first part of the paper focuses on the conceptual and theoretical definition of trust. The second part provides an overview of one of the basic classifications of trust present in the contemporary literature. In the third part, the author discusses and provides appropriate argumentation on the relationship between trust and democracy.*

Key words: *trust, democracy, generalized trust, trust in political institutions*.

1. INTRODUCTION

As a multidimensional social phenomenon, embedded in socio-economic and cultural-historical conditions, trust affects the shaping of all aspects of social life and contributes to the stability of social relations (Leković, 2012: 65), which is undoubtedly of great importance for the democratic process itself.

In recent year, questions about trust and distrust have become prominent. Political psychology of trust involves ambivalent conceptual relations between demoracy and trust. The relationship between democracy and trust is such that it can be considered contradictory (Christensen, Laegreid, 2003: 7). "Democratic systems institutionalize distrust by providing many opportunities for citizens to oversee those empowered with the public trust. At the same time, trust is a generic social building block of collective action, and for this reason alone democracy cannot do without trust" (Warren *et al.,* 1999: i).

Received January 24th, 2019 / Accepted March 7th, 2019
Corresponding author: Žarko Đorić, PhD Student, Faculty of Economics, University of Niš, Republic of Serbia; E-mail: zdjoric82@gmail.com

The importance and relevance of social capital is reflected in the strengthening of democratic stability, as a result that is normatively desirable for most people. According to the postulates of the theory of social capital, a decline in democratic support is a consequence of a decline of social trust (Newton, 2005: 4). On the other hand, trust as the atitudinal dimension of social capital plays a central role in strengthening the effectiveness of democratic governance (Seyd, 2016: 1). Particularly significant is the generalized trust, because democracy without generalized trust can lead to violence. For the same reason, the role of generalized trust in the process of constituting democracy, and in the development of a good society and good governance is indisputable. It is emphasized that generalized trust is a parameter for the evolution of moral standards in society. "Trust helps to build the social institutions of civil society upon which peaceful, stable and efficient democracy depends" (Zmerli, Newton, 2008: 707).

2. The Concept and Theoretical Definitions of Trust

Taking into account that trust relationships are fundamental to the stability of democratic societies, trust has been the subject of considerable attention of social sciences in the last few decades. Economists often look to trust in the utilitarian sense: it functions as an "important lubricant in the social structure" and has the price as any other commodity (Arrow, 1974: 23, according to: Swedberg, 2006: 249); on the contrary, sociologists emphasize that trust has an independent quality which cannot be reduced to calculations and generating profits.

Trust is not easy to define, as evidenced by a vast number of books and articles on this concept (Newton, 2001a: 203). Sztompka (1999) determines trust as a stake in relation to future unforeseen actions of others. Fukuyama (2000: 4) notes that trust is a characteristic of the system, and argues that "the well-being of the nation, as well as its ability to compete, is conditioned by a unique cultural characteristic: the level of trust in society" (Fukuyama, 1995: 33). He introduces the concept of the radius of trust and argues that high level of trust in society is a major factor for its tendency toward democracy (see: Fukuyama, 2000: 4-5).

3. Types of Trust

There are many different levels and taxonomies of trust. Theoretically, there are several ways of categorizing trust. The most common types are *political trust* and *social trust* (see Figure 1) and they should not be viewed as the same thing (Putnam, 2000: 137).

Social trust (horizontal, interpersonal) is defined as trust in other people; it is essential for the cultivation of soil for stability and peaceful relations, which are the basis for productive human cooperation (Newton, 2001b: 3-7). Social trust is further divided into *generalized trust* (trust in people in general) and *particularized trust* (in groups and individuals who we are in contact with).

Political (public) trust is the ability of any government to govern effectively and efficiently without the use of coercion. In short, political trust is "individual's expectation that a political actor will act in his interest" (Bauer, Fatke, 2014: 51) Political trust is further divided into: *trust in political institutions* (e.g. parliament and governments) and *trust in political operators* (e.g. the president, political authorities and other political actors). Enhancing the legitimacy of the system, political trust is a key factor for stability and effectiveness of democracy.

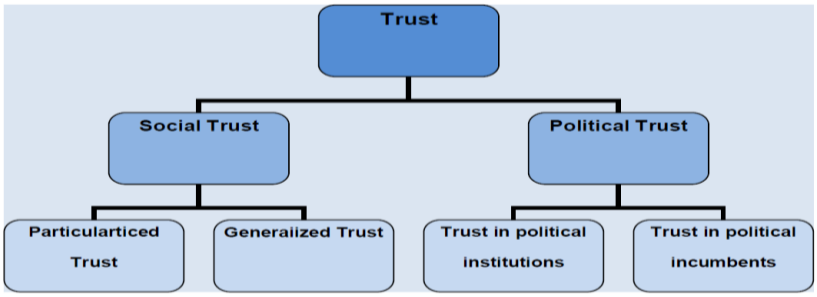

Fig. 1 Categories of trust
Source: Soithong, 2011: 31

Notably, there are five fundamental practices that can ensure trust in a democratic system: (1) communication between citizens to define public goals; (2) tolerance and acceptance of pluralism; (3) consensus on democratic procedures; (4) civic awareness among the actors competing for different purposes; and (5) citizen participation in governing organizations (Carreira, *et al*., 2016: 6).

4. Trust as a Factor and Determinant Of Democracy

On the one hand, trust should be seen as a prerequisite for a democratic process while, on the other, trust is a result of democratic rule (Maldini, 2008: 186). Camaj (2014: 187) finds that trust directly affects both the regime's survival and its effective functioning by influencing perceptions about the quality of the democratic regime and political involvement. In examining the relationship between democracy and trust, Inglehart (1999: 97) distinguished three important aspects of democracy: (1) its long-term *stability*; (2) the *level* of democracy at given points in time; and (3) short-term *changes* in levels of democracy.

A distinction between the various levels of political support is helpful for the debate about the relationship between democracy and trust. Dalton (1999: 10) also noted that it is essential to distinguish between five objects of political support (support for democracy) and two types of political beliefs (Table 1).

Table 1 Levels of Political Support (Support for Democracy)

Level of Analysis	Affective Orientation	Instrumental Evaluations
Community	National pride	Best nation to live
	National identity	
Regime: Principles	Democratic values	Democracy best form of government
Regime: Performance	Participatory norms	Evaluation of rights
	Political rights	Satisfaction with democratic process
Regime: Political	Institutional expectations	Performance judgement
Institutions	Support party government	Trust in institutions
	Output expectations	Trust party system
		Trust bureaucracy
Authorities	Feelings towards political leaders	Evaluations of politicians
	General support	*Specific support*

Source: Dalton, 1999: 10

According to Neo-Tocquevillians, both interpersonal and institutional trust is a building block of a functioning democracy and an inevitable element of civilised social and political life. Trust is vital to the lifeblood of democracy. Actually, the real question is: what kinds of trust are good for democracy? "*Particularized trust* tends to be attached to the kinds of group identities that are solidified against outsiders, which in turn increases factionalization and decreases chances that conflicts can be negotiated by democratic means..... Generalized trust, on the other hand, is connected to a number of dispositions that underwrite democratic culture, including tolerance for pluralism and criticism" (Warren, 1999a: 9).

Generalized trust is a vital component of democratic transition, given the fact that it increases the sense of empathy towards others and raises the level of tolerance, and thus resolves the collective action dilemma. Trustful people are more likely to volunteer in associations, which is an indicator of the intensity of social participation. In addition to enhancing connectivity through social networks and mobilizing common resources, generalized trust also affects the level of political participation. "Horizontally, generalized trust is an "attitudinal glue" that in a democracy uniquely requires citizens to accept one's fellow citizens as equal participants in the political process" (Abramson, 2017: 3). According to Jamal and Nooruddin (2010: 45), generalized trust is important for democracies because it enhances communal ties, norms of reciprocity, and collective action among the populace. The close relationship between interpersonal trust and vitality of democracy is well documented by a number of studies (Almond, Verba, 1963; Inglehart, 1990, 1999; Putnam, 1993, 2000; Newton, 2001a, 2001b; Muller, Seligson, 1994: 647; Zmerli, Newton, 2008).

Political trust is not only an indicator of the quality of democracy; it is also crucial for the process of democratic governance given that the legitimacy of representative democracy essentially defines the political attitudes of citizens towards institutions and politicians. If citizens believe in the political system and politicians, this will guarantee the functioning of democracy. Satisfaction with democracy and trust in political institutions are strongly determined by factors such as: personal socio-economic position, evaluation of the economic situation, trust in other members of society, political efficiency, education, political knowledge, and political authoritarianism (Henjak, 2017: 352). For example, Bauer (2018) explores the causal link between unemployment and political assessments (i.e. trust in government and satisfaction with democracy), based on the data panel for two different European countries: Switzerland and the Netherlands. The main finding is that unemployment negatively affects different aspects of individual lives (Bauer, 2018: 3-7).

Political trust is an *important indicator* of political *legitimacy*, which is needed for a democracy to be stable and effective. Moreover, this kind of trust is crucial for the representative relationship as an important component of most democratic regimes. The relevance of institutional trust for democracy is reflected in the following: (1) it provides citizen support for the necessary political and economic reforms; (2) it creates conditions for reaching compromise and consensus; (3) it increases the likelihood of rejecting non-democratic alternatives and speeding up democratic consolidation; (4) it imposes itself as "creator of collective power"; (5) it strengthens the capacity of the system in maintaining and improving prosperity, increasing the efficiency of governments by strengthening the links between citizens and elected institutions that represent them; (6) it encourages political participation, civil rights activism and civil engagement: and (7) it opens space for politicians to pull unpopular moves within reform measures, which is particularly evident in times of crisis. Political trust is equaly important for the stability of established democracy

as well as for new/flawed democracy, hybride regime or authoritarian regime. Trust in institutions is a basic feature of modern democracies and plays a key role in guaranteeing social, economic and political stability (Bonasiaa, Rita Canale, Liotti, Spagnolo, 2016: 4). Public support for democracy largly rests on whether political institutions work to satisfy people's expectations (Ching-Hsing, 2015: 9). "Since we are talking about politics and dialectics of trust and democracy, we should not fear popular mistrust of a particular administration as if it were a threat to democracy ("throw the bums out"). However, loss of general trust in the rules of the game, the good faith of the other side, or the fairness and competence of government is a more serious matter" (Abramson, 2017: 2).

Here, it is worth mentioned that there are also opinions according to which permanent distrust in the political system (institutionalized political distrust) may produce the necessary healthy skepticism to keep democracy more effective. This is paradox of democracy: institutionalising distrust for the sake of trust (Sztompka, 1997: 16). "There are two caveats though. First, empirical research has indicated a continuous growth in mistrust that has reached extremely high level, so as to represent a threat for democracy functioning. Second, there is a need for political institutions to adapt to the increasing levels of mistrust" (della Porta, 2012: 42). Notably, too much blind citizens' confidence in political institutions and/or in political leaders can be problematic for democracy just as too little trust, particularly bearing in mind that excessive trust develops political apathy and strengthens the loss of civic caution and control of power, which can eventually undermine democracy.

Examining the level and nature of trust, as a determinant of social practice, has significant implications in terms of democratic transition in post-communist Europe, as a phase of "democratic development" which is characterized by a "trust deficit" (as a result of the legacy of the former authoritarian regime). This is because (generalized and political) trust in CEE countries can be imposed as one of the unavoidable factors of their further movement towards market economy and democratic consolidation. Former communist countries are distinguished by the high level of structural social capital (informal networks), which is primarily a consequence of the dominance of traditional social relations and inefficient state institutions; at the same time, these countries record low levels of cognitive social capital in the form of a low level of interpersonal and institutional trust (Gaidyte, 2013: 5-8). In order to consider the consequences of confidence for regime support, democratic values and political involvement in Russia, Mishler and Rose (2005: 1057–1074) test the empirical validity of cultural and institutional theories, whereby quantitative analysis has unequivocally confirmed the argument of cultural theories according to which institutional trust encourages political involvement and contributes to public support for democratic ideals.

Instead of being constituted as a social and cultural norm in post-communist societies, generalized social trust is "strategically egoistic" and atomized (in-group, specific ("thick") trust) societal trust due to what his role is absent as a collective resource of political action When it comes to political trust, a phenomenon known as a "post-honeymoon" effect emerged in most of the post-communist countries; namely, as economic and political reforms were introduced, political trust declined significantly, and was then stabilized at the level lower than in the early stages of transition. The fall in trust in political institutions in post-communist countries is the result of phenomena such as: endemic corruption at all levels, economic problems and social inequality, ethnic conflicts, bad legal framework, transition injustice and grey economy (Gaidyte, 2013: 5-8).

Based on the Economist Intelligence Unit's Democracy Index 2016, Figure 2 shows a weak or insignificant correlation between a level of general trust and the level of democracy in the selected transition countries (10 CEE countries: the Visegrad group countries (Hungary, Poland, Czech Republic, Slovakia), Baltics states (Estonia, Lithuania, Latvia), Slovenia, Bulgaria, Romania and Republic of Serbia).

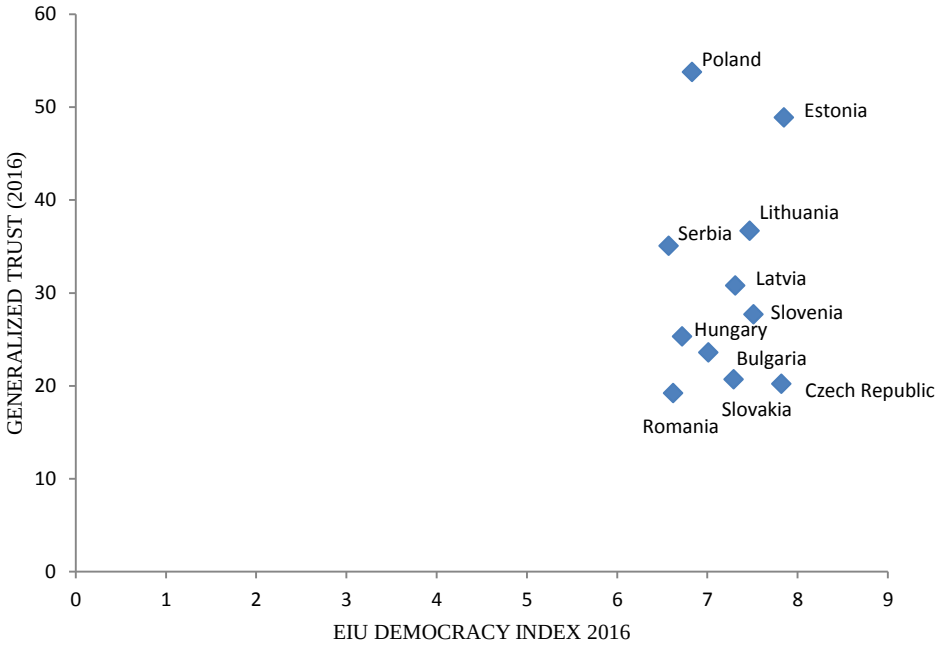

Fig. 2 Democracy and Trust in People

Note: Generalized trust is the average percentage who said "most people can be trusted" in each country. The EIU Democracy index, as a measure of democracy, is on the scale of 0 to 10. The index values are used to place countries within one of four types of regime: 1). Full democracies: scores of 8-10; 2). Flawed democracies: score of 6 to 7.9; 3). Hybrid regimes: scores of 4 to 5.9; 4) Authoritarian regimes: scores below 4.

Source: EBRD (2016) Life in Transition III and The Economist Intelligence Unit's Democracy Index 2016

Finally, according to Uslaner (2000: 20) economic inequality is the single biggest barrier to interpersonal trust in democratic nations. So, it is possible to increase trust indirectly by encouraging policies that reduce economic inequality (Uslaner, 2003: 15). Authoritarian societies destroy trust, but democratizing a regime will not automatically lead to higher levels of trust[1]. Thanks to the democratic regime, the preconditions for strengthening generalized trust and expanding social networks are being created (Uslaner, 1999: 121-151). Democracy is consistent with high and low levels of generalized trust[2].

[1] See: Uslaner, E.M., "Trust and Economic Growth in the Knowledge Society", available at: http://www.esri.go.jp/en/workshop/030325/030325date2-e.pdf) POWERPOINT PRESENTATION

[2] See: Uslaner, E.M., "Trust and Economic Growth in the Knowledge Society", available at: http://www.esri.go.jp/en/workshop/030325/030325date2-e.pdf) POWERPOINT PRESENTATION

Decline of trust is a feature of many countries regardless of the diverse institutional structures, historical legacies and cultural underpinnings (Blind, 2006: 14). The key consequence of the fall in political trust is the undermining of the pillars of representative democracy, manifested by the increasingly low voter turnout and low level of participation. As a kind of response to the extremely low levels of political trust, deliberative democracy is put in place that could help establish a new general belief that "we're all in it together," as moral forms of politics where no group is disproportionate in advantages or disadvantages due to discretionary state actions. In the absence of more significant trust, processes of democratization may even lead to disaster, as can be clearly seen on the case with the flood of refugees from civil wars and nameless atrocities in Afghanistan, Iraq, Libya and Syria.

5. Conclusion

There are different theories about the relationship between democracy and trust. Abramson (2017: 17) believe that trust and distrust ideally play complementary roles in a democracy. It is well known that democracy, as a system of decentralized action, generates the occurrence of uncertainty; on the other hand, generalized trust through risk reduction amortizes various types of day-to-day uncertainties (Volchenko, Shirokanova, 2017: 10).

When talking about the trajectory of trust in new democracies, the essential challenge of democratic transformation and consolidation of post-communist societies in the upcoming period would be remodeling institutional trust by improving government performance and breaking the vicious circle of particularized, narrow-radius trust and its transformation into far-reaching, flexible generalized trust. In order to move from partial democracy into a fully-fledged, consolidated democracy, new democracies require meritocracy, i.e. responsible and transparent institutions, as a guarantee of security and predictability of social interactions.

"Ultimately, democracy and trust do not need to refer to anything outside of the potentials already embedded in contingent social relations; they do not need metaphysics, nor do they need to rely on unquestioned tradition. Yet they together name and evoke the normative potentials already existing within social relationships for a good society of reflective, self -governing individuals" (Warren, 1999b: 343).

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ANALIZA POVERENJA KAO ELEMENTA PODRŠKE DEMOKRATSKIM PROCESIMA

Smanjenje poverenja jedan je od centralnih problema u modernoj politici. Poverenje opada u kolektivnim akcionim aranžmanima. Poverenje je jedno od "velikih pitanja", i "jedna od normalnih obaveza političkog života". Ugrađeno unutar njih, poverenje je fundamentalno pitanje politike i demokratske teorije. U ovom članku želim da diskutujem o različitim konceptima poverenja (i njihovim odnosima sa demokratijom). Rad se nastavlja na sledeći način. U prvom delu, daje se konceptualna i teorijska definicija poverenja. U drugom delu ukazuje se na jednu od osnovnih podela poverenja koja je prisutna u litaraturi. Konačno, u trećem delu, ukazuje se na odnos između poverenja i demokratije i nudi odgovarajuća argumentacija.

Ključne reči: *poverenje, demokratija, generalizovano poverenje, poverenje u političke institucije*

FACTA UNIVERSITATIS
Series: **Law and Politics** Vol. 17, N° 1, 2019, pp. 95-99
https://doi.org/10.22190/FULP1901095K

Book Review

UNDERSTANDING DERADICALIZATION: METHODS, TOOLS AND PROGRAMS FOR COUNTERING VIOLENT EXTREMISM
Author: Daniel Koehler
Oxon/New York: Routledge, 2016

Marko Krstić

Police Directorate in Šabac, Ministry of Interior Affairs, Serbia

Daniel Koehler is Director of the German Institute for Radicalization and De-Radicalization Studies (GIRDS) in Berlin. In his book "Understanding Deradicalization: Methods, Tools and Programs for Countering Violent Extremism" (2016), Koehler provides a comprehensive study of different aspects of deradicalization, including the most relevant deradicalization theories, programs, methods and tools.

This book provides insight into the theoretical and practical aspects of radicalization and deradicalization based on an intensive review of existing research in this area, the author's own practical experiences as an advocate for deradicalization, more than 50 interviews with former right-wing extremists, and detailed case studies of reintegration and separation programs around the world. The author classifies these programs into specific typologies and methodologies, and elaborates on the deradicalization concepts, practices, and effects.

The aim of this book is to consolidate the existing knowledge and research fund on the deradicalization process and to improve this field by proposing the deradicalization theory, including instruments for measuring effectiveness, standard methods and procedures, various actors of such programs, and cooperation at the national and international levels. The book enables the readers to discover how the deradicalization programs work, how they can be developed and structured, and how to identify their limitations. However, deradicalization remains a context-related activity and there are solutions that do not fit into one size. Policy makers and practitioners must establish those programs that work best in the given political and legal fields. These locally-adapted models can and should be based on a thorough understanding of the mechanisms of radicalization and deradicalization, as well as on the quality standards that have proved essential in effective programs.

Received January 24th, 2019 / Accepted February 6th, 2019
Corresponding author: Marko Krstić, Police Directorate in Šabac, Ministry of Interior Affairs, Republic of Serbia; e-mail: marko.krstic.1982@gmail.com

Very few topics have recently received more attention than the concept of deradicalization, especially since the September 11 attacks on the World Trade Center and the Pentagon. However, very few studies have provided or comprehensively analyzed such programs in detail, or offered a framework that allows political structures and security authorities to design and effectively implement deradicalization programs in different contexts. In the Introduction, the author states that after September 11 and subsequent terrorist attacks, Western and non-Western countries recognized the need for alternatives to repression and prosecution as means of combating terrorism, violent radicalization and extremism, realizing that it would be impossible to annul the terrorist threat by "bombing" and "arrest". The investigation of numerous subsequent terrorist attacks, such as those in Madrid (March 2004), Amsterdam (November 2004), London (July 2005), Stockholm (December 2010), Brussels (May 2014), and Paris (January and November 2015), has shown that a vast majority of perpetrators were actually born, raised and radicalized in these countries As a consequence, Western governments have tried to introduce various strategies to combat violent extremism (CVE), designed to combat radicalization at the domestic level, observing the experiences and practices in their environments, but also on the basis of promising and highly innovative approaches developed in the Middle East and the Southeast Asian countries. For example, after the US proclaimed "war on terror", many rehabilitation programs were instituted to address an increasing number of prisoners. Religious structures in Yemen, Saudi Arabia, Singapore, Indonesia and Malaysia organized theological debates in an attempt to "deradicalize" prisoners convicted of extremist views.

Koehler raises a number of questions: what is "deradicalization"; how it is implemented, measured and controlled? There are many synonyms for deradicalization, such as: "reintegration", "rehabilitation", "re-education", "removal", "separation", "deprogramming", all of which involve a similar process of transformation from the position of approval and use of violence to the position of abstaining from violence. But this is not a simple process, and experts in this field consider that there is a lack of understanding in different discourses on the impact of deradicalization. It is necessary to understand the dynamics behind the path towards violent radicalism and backward activism. Discussing the situation in radicalization research, the author shows that the basic mechanism behind radicalization can be conceived as a process of "de-pluralization" of political concepts and values, which, combined with a specific ideology, ultimately leads to violence as the only valid course of action.

In response to terrorist attacks, many developed countries have endevoured to provide various programs in the field of deradicization. After the Syrian conflict in 2011, many foreign fighters returned to their countries of origin, which induced the governments to fund and develop counter-radicalization and deradicalization programs. They have supported these programs for two main reasons: first, in many countries, many of these ideologically radicalized individuals could not be prosecuted and convicted for lack of evidence; second, a large number of radicalized and violent individuals could end up in prison and spread their radical ideology there. So, prevention, early intervention and deradicization programs could facilitate the work of security services and help the governments in combating violence, terrorism and extremism.

This book can greatly help practitioners and researchers to better understand the domain of deradicalisation and facilitate their work. It contains instruments and advanced theoretical concepts valuable for fieldwork. Although the struggle against violent extremism and deradicalization is still very controversial in many countries, an attempt to turn individuals and groups back from the path of violence not only protects our societies but also

contributes to strengthening their basic values and identities. In this way, deradicalization, as an additional tool for combating violence and extremism, helps protect communities, families and societies at large. Fears related to deradicalization are often based on a lack of conceptual clarity, poor training, structural integrity and transparency. Although these instruments are not an effective means of combating terrorism, they still have a significant potential to increase society's resilience and to improve security. The goal of this book is to make this potential visible and accessible to those academics, practitioners and policy makers who see the need for developing such programs.

The book includes eleven chapters and numerous topics. The first two chapters describe the methodological approach in the book and provide the necessary academic background for research and practice of deradicalization and separation programs. The author includes the experiences of people involved in these programs at different levels, as well as their own professional (practical) experience in such initiatives. Chapter 3 provides a discussion on the radicalization process, including the role of ideologies and dynamics activism, which are essential for understanding the deradicalization theory. Chapter 4 discusses various aspects of deradicalization and separation programs, and specific benefits and effects of deradicalization programs on counteracting terrorism. Chapter 5 includes a typology of deradicalization programs with practical examples from all over the world. Chapter 6 discusses the relevant aspects of a highly specilized deradicalization-oriented family counseling, a recenlty developed program for early prevention and intervention. Chapter 7 critically assess the issue of effectiveness of deradicalization programs, which may be particularly useful to readers who want to learn more about designing such programs and evaluating their effects and outcomes. Chapter 8 discusses the moral legitimacy of deradicalization, with reference to the ideological component. Chapter 9 presents important practical for planning, building and mainitaining a deradicalization program, and a core set of tools such as mentoring, vocational training, psychological counceling, and educational methods. Chapter 10 provides detailed descriptions of the existing programs and a useful overview of relevant initiatives from a global perspective. Chapter 11 elaborates on the lessons learned from the study and proposes future reaserach and policy-making directions.

The introduction of deradicalization and separation entails cooperation between several state (security) agencies, prosecutors and public services. It becomes more and more evident that the family also plays a key role in achieving these policy objectives, for example by providing an alternative social environment in relation to the environment provided by extremists.

In discussing the deradicalization and separation programs, Koehler critically assesses the dominant ideologies that are used as weapons for reintegration and rehabilitation into society, and deterrence from further involvement in violent movements. On the other hand, focusing only on “separation” programs and ignoring the ideological aspects of deradicalization, opens an opportunity for criticism. Helping ideologically radicalized people to “liberate” and go back to “normal” law-abiding life, without addressing their radical ideology, could at the same time help potentially dangerous individuals to be more effective in secretly undermining social values that they want to destroy, or continue to support their radical groups, the milieu and the ideological cause even more efficiently. Koehler reassesses and analyzes the programs that focus on helping individuals and groups after leaving a terrorist group and violent radicalism. He critically evaluates the basic ideologies in deradicalization and separation programs that are used as weapons for

reintegration and rehabilitation into society, and preventing further involvement in violent movements.

On the other hand, the criticism of academicians and practitioners on the process of "securitization" of social programs includes concerns that police, intelligence and even military organizations are slowly destroying the primary success factors of these programs and "soft" approaches by adopting and using them as classical repression tools (e.g. intelligence gathering, identification of dangerous individuals and monitoring). It should be emphasized that the vast majority of these programs around the world are currently the focal point of the police, intelligence or military forces. Although these effects largely depend on many factors (actors, target groups, definitions, work standards, goals), the international academic and political debate about the nature, scope and structure of these programs is still very diverse and controversial.

The author states that one of the most interesting innovations in the last few years in the field of deradicalization programs are specialized deradicalization-oriented family counseling programs aimed at early identification of violent radicalism, including the family and immediate social environment into the deradicalization process, and developing targeted, customized and highly individualized intervention programs. Such family counseling programs, usually in the form of state counseling, have been introduced in various countries around the world since 2012 and they complement the existing counter-radicalization policies on several levels.

The "effectiveness" and "success" in deradicalization will naturally remain some of the most controversial terms related to this field. Although the author's believes that deradicalization programs can be highly effective instruments for counteracting terrorism, the evaluation of these programs is fairly sporadic and inadequate at a global level. Practically speaking, almost no (or very few) deradicalization programs have been subject to any scientific evaluation in terms of positive and negative effects. This is inconsistent with almost unanimous assertion that the highest success rates (particularly those related to recidivism after release from prison) are recorded in almost every known deradicalization program in the world. Although the terrorism-related recidivism rates have not been established, some studies suggest that these rates are much lower than the recidivism rates in common crimes. Therefore, the claims on success of deradicalization programs can theoretically be the natural result of the low rates of recidivism in terrorism.

One of the basic lessons learned from this study is that different types of deradicalisation programs have different strengths and weaknesses. Depending on the actors in the specific program (governmental or non-governmental agents), the role of ideology (which may be included or not), and the tupe of approach (active or passive), these different types of deradicalization are essential for understanding the most suitable target groups, risks, practical difficulties, success expectations and actual effects. State programs with counter-ideological approaches, for example, have a naturally higher rate of anticipated failure (abandoning participation and recidivism) than those based on voluntary participation and a more subtle approach to conflicting extremist ideology. In general terms, programs around the world are often a combination of psychological counseling, mentoring, professional development, education and techniques designed to help build self-awareness and positive identities. It is considered essential that programs also provide post-monitoring and aid for economic reintegration, although this aspect is quite limited by available resources and political contexts.

Another key lesson of this study is that deradicalisation programs, if based on strong quality standards and specialized staff development, can be highly effective instruments against terrorism. Some specific effects in the field of this struggle are, for example, the disruption of group hierarchies, insight into recruitment processes, the availability of strong and credible counter-narratives (through the involvement of former extremists), and creating suspicion about extremist ideologies and militias. However, these effects cannot be generalized and they depend on many factors, such as the type of program, target group and the *modus operandi* of the specific deradicalization program.

On the whole, it may be concluded the Daniel Koehler provides a unique, coherent and cmprehensive guide to different aspects of radicalization and deradicalization theories, as well as a range of existing deradicalization programs, methods and practical tools that may be employed in planning, developing, implementing and assessing the efficiency of such programs in practice. As it consolidates the existing knowledge and practical experiences in the field, this book may be a valuable resource for practitioners and policymakers who need to build and evaluate such programs at the national and international level, as well as a significant resource for scholars interested in researching the deradicalization programs, methods and procedures. It may also be interesting for students of law and politics, criminology, security studies, counter-terrorism, and international relations.

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Proofreading and copy-editing:
Gordana Ignjatović

CIP - Каталогизација у публикацији
Народна библиотека Србије, Београд

34+32

FACTA Universitatis. Series, Law and Politics / editor in chief Miomira Kostić. - Vol. 1, No. 1 (1997)- . - Niš : University of Niš, 1997- (Niš : Unigraf-X-Copy). - 24 cm

Tromesečno. - Drugo izdanje na drugom medijumu: Facta Universitatis. Series: Law and Politics (Online) = ISSN 2406-1786
ISSN 1450-5517 = Facta Universitatis. Series: Law and Politics
COBISS.SR-ID 138066439

FACTA UNIVERSITATIS

Series
Law and Politics

Vol. 17, N° 1, 2019

Contents

Co-funded by the Erasmus+ Programme of the European Union