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The Effects of Artificial Intelligence on Modern Warfare

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The Effects of Artificial Intelligence on Modern Warfare

Abstract

Modern armed conflicts increasingly rely on technologies such as artificial intelligence (AI), unmanned aerial vehicles (drones), and cyber attacks, which are transforming traditional paradigms of warfare. Research into the role of AI facilitates the development of automated decision-making systems, predictive threat analysis, and more efficient military operations management. The use of drones offers advantages in reconnaissance, targeting, and logistics, while cyber warfare enables attacks on critical infrastructures without direct physical confrontation, potentially causing significant security and economic damages. Studying these domains is essential for understanding new forms of conflict, improving defense strategies, and developing international legal and ethical frameworks. This paper emphasizes the need for continuous research to adapt security policies, advance technological innovations, and ensure stability within dynamic and complex modern warfare systems.

Keywords: Artificial intelligence, armed conflicts, military operations, drones, cyber attacks

Introduction

Artificial Intelligence (AI) plays an increasingly significant role in modern armed conflicts, transforming the ways in which military operations are conducted and redefining the concept of security. Its importance is reflected through several areas of impact. Artificial intelligence enables the automation of numerous military tasks, such as reconnaissance, logistics, communication, and combat system management. AI-based systems can analyze vast amounts of data in real time, allowing for faster and more accurate decision-making. Additionally, drones and autonomous vehicles, guided by AI algorithms, are used for reconnaissance, surveillance, and even for carrying out precision strikes- often without direct human involvement. This reduces the risk to soldiers and increases the ability to conduct missions in inaccessible or high-risk areas (Osmonbekov et al., 2024). It is particularly important to highlight that artificial intelligence plays a key role in cybersecurity - not only in detecting and preventing cyberattacks but also in conducting information operations. AI algorithms can generate, disseminate, or detect disinformation, which significantly impacts the psychological dimension of conflict and public perception. Advanced AI systems are used for modeling conflict scenarios, assessing enemy strategies, and optimizing military plans. This enables the prediction of enemy moves and timely responses. On the other hand, it is important to emphasize that the use of AI in warfare raises serious questions concerning responsibility, ethics, and international law. Automated decision-making about life and death, without human oversight, sparks debates about the legitimacy and morality of such an approach (Lei, 2019).

Literature Review

Artificial Intelligence (AI) increasingly permeates all levels of military operations-from strategic planning, through operational force management, to tactical application on the battlefield. Its impact can be analyzed across three key levels of military decision-making and within specific functional areas (Zirojević, 2024):

1. Strategic Level – Making Long-term Decisions

At this highest level, AI assists in:

- Geopolitical analysis: using predictive analytics to assess risks, political tensions, and potential conflicts.
- Threat assessment: identifying growing military capabilities of other countries through the analysis of satellite imagery and open sources.
- War simulation and modeling: AI is used to generate conflict development scenarios and make optimal decisions with reduced uncertainty.
- Development of military doctrines: by analyzing historical data, AI can contribute to the creation of new warfare concepts (Rim, 2024; Malmio, 2023; Sehwat, 2017).

2. Operational Level – Planning and Managing Military Operations

At this level, AI influences:

- Command and Control: enabling more efficient information flow, command automation, and faster response times.
- Management of combat units: allocation of forces and resources in real time based on terrain analysis, weather conditions, and enemy movements.
- Prediction of enemy behavior: algorithms forecast the enemy's next steps based on previous patterns of action.
- Multi-domain coordination (land, air, sea, cyber, space): integration of information from multiple sources and domains for complex missions (Rim, 2024; Malmio, 2023; Sehwat, 2017).

3. Tactical Level – Immediate Combat Actions

At this level, AI is used for:

- Management of unmanned platforms (drones, robots): for reconnaissance, target detection, logistical support, or attacks.
- Target recognition and guidance: application of computer vision and machine learning for automatic identification and classification of objects.
- Electronic warfare and jamming: AI aids in analyzing the radio frequency spectrum and disrupting enemy signals.
- Assisting soldiers on the ground: through smart helmets, navigation, automatic translators, and real-time information assistants (Rim, 2024; Malmio, 2023; Sehwat, 2017).

4. The Use of Drones in Modern Armed Conflicts

A significant portion of this paper focuses on the role of drones in modern armed conflicts, highlighting their emergence as a crucial technology in contemporary warfare. Unmanned aerial vehicles (UAVs), or drones, are widely utilized for their ability to conduct, surveillance, and precision strikes without exposing human pilots to danger. Their diverse applications include systematic intelligence gathering through high-resolution imaging and real-time monitoring of enemy movements, which improves situational awareness; precision targeting that minimizes collateral damage and civilian casualties; and conducting electronic warfare operations, such as jamming and disrupting enemy communication systems.

Additionally, drones support logistical operations by delivering supplies and serving as communication relays in contested areas, while also enhancing national security through border surveillance and patrol missions (Horowitz et al., 2020; Delleji et al., 2024).

5. Historical Evolution of Drone Technology

The development of drones traces back to the early 20th century, with initial prototypes emerging during World War I (circa 1916–1918) primarily for training purposes. During World War II and the Cold War, drones were utilized for reconnaissance missions and as aerial targets for anti-aircraft training. The technological advancements of the 1990s and early 2000s led to the creation of sophisticated platforms capable of extended flight durations, precise navigation, and armed engagement—exemplified by systems such as the MQ-1 Predator and MQ-9 Reaper.

Contemporary drones exhibit a wide range of capabilities, from compact, portable units to large-scale systems capable of deep penetration into hostile territory. The integration of artificial intelligence and autonomous control systems has further enhanced their operational autonomy and decision-making capabilities (Bogue, 2024).

6. Contemporary Utilization in Global Conflicts

In contemporary armed conflicts across the globe, drones have become a crucial component of military strategy, with various countries employing their capabilities in diverse operational contexts.

The United States, as a pioneer in the deployment of armed unmanned aerial vehicles (UAVs), has extensively utilized platforms such as the Predator and Reaper for targeted strikes against terrorist networks in Iraq, Afghanistan, Yemen, and Syria. Israel, renowned for its advanced drone technology, employs UAVs for both intelligence gathering and combat operations, particularly in engagements with Hamas and in the Syrian conflict. Russia deploys drones for reconnaissance and strike missions, especially in Ukraine and Syria, increasingly incorporating advanced technological systems into its operations. China continues to develop and operationalize drones in strategically significant regions such as the South China Sea, while also actively exporting UAV technology worldwide. Turkey has gained international recognition for its domestically produced combat drones, notably the Bayraktar TB2, which have been effectively employed in conflicts in Syria, Libya, and Nagorno-Karabakh. In the ongoing conflict with Russia, Ukraine makes extensive use of drones for reconnaissance and precision targeting, including the deployment of improvised UAVs adapted to battlefield conditions (Xu et al., 2024).

The evolution of drones from rudimentary unmanned targets to sophisticated platforms for intelligence and combat has profoundly transformed the nature of modern warfare. Their capacity to minimize human risk, deliver precision firepower, and provide timely and accurate information renders them indispensable in contemporary military strategy. Anticipated advancements in autonomy and artificial intelligence will likely expand the operational scope of drones, underscoring their strategic significance in future conflicts (Yaacoub et al., 2020).

Single UAVs (Unmanned Aerial Vehicles) refer to unmanned aircraft that operate independently and are commonly employed for tasks such as reconnaissance, surveillance, and intelligence gathering. In contrast, Multi-UAV systems involve the coordinated deployment of multiple drones functioning as a team—often autonomously or semi-autonomously—and communicating with one another to execute more

complex missions, such as synchronized attacks, electronic warfare, or wide-area reconnaissance. The key distinction lies in the collaborative capabilities and task distribution of Multi-UAV systems, which enhance operational efficiency, reduce vulnerability, and provide greater flexibility on the battlefield (Barros et al., 2024).

In contemporary armed conflicts, both single and multi-UAV systems play a critical role at the tactical level, enabling precise, rapid, and effective force application while minimizing risk to human personnel. Their use transforms the dynamics of ground operations, facilitates real-time decision-making, and offers strategic advantages in high-risk scenarios. Due to their growing significance in modern warfare, these systems will be a central focus of analysis in this research study (Figure 1). The rapid advancement of unmanned aerial vehicle (UAV) technology has led to their widespread adoption in both civilian and military applications, including surveillance, environmental monitoring, disaster response, and tactical operations. To effectively coordinate and manage UAV missions, especially when multiple drones operate simultaneously, the establishment of robust communication networks is essential. These UAV communication networks enable real-time data exchange, command dissemination, and adaptive mission control. Depending on the operational requirements and environmental constraints, different network topologies may be employed—each offering distinct advantages and limitations. The most common configurations include star topology, mesh topology, and Flying Ad Hoc Networks (FANETs), which differ in terms of structure, communication flow, fault tolerance, and scalability. The following sections provide a comparative overview of these topologies and their practical implications for UAV-based operations (Barros et al., 2024; Bine et al., 2024).

Communication Network Topologies

1. Cyber Warfare and the Role of Artificial Intelligence

The paper also focuses on the connection between artificial intelligence and cyberattacks. Cyber warfare involves the use of digital attacks and techniques aimed at compromising, disabling, or manipulating the opponent's information and communication systems. The objectives of such operations can be military, political, economic, or intelligence-related (Bine et al., 2024; Majeed et al., 2023).

2. The Role of Artificial Intelligence in Cyber Attacks

Artificial intelligence (AI) plays an increasingly significant role in the landscape of cyber attacks, transforming both offensive and defensive strategies in cyberspace. On the offensive side, AI enables the automation of cyber attacks by rapidly identifying vulnerabilities within networks and software systems, thereby increasing both the speed and efficiency of such operations. Advanced forms of malware, including viruses and ransomware, are now designed to leverage AI in order to adapt to security defenses and evade detection mechanisms. Furthermore, AI facilitates the creation of fake digital content—such as deepfake videos, fabricated messages, and targeted disinformation campaigns—used to manipulate public opinion or undermine political and institutional credibility. In the realm of cyber espionage, AI aids in processing and analyzing large datasets to extract sensitive or strategic information. On the defensive front, AI is equally vital, as it supports the real-time detection and mitigation of cyber threats by automatically identifying and neutralizing attacks as they occur (Majeed et al., 2023; Manghnani & Mogh, 2025).

3. Examples of State-Sponsored Cyber Attacks

State-sponsored cyber attacks have emerged as a powerful instrument of geopolitical influence and asymmetric warfare, with numerous countries leveraging cyber capabilities to advance strategic objectives. The United States has been linked to the development of Stuxnet (2010), a highly sophisticated virus created in collaboration with Israel, which targeted Iran's nuclear infrastructure by sabotaging uranium enrichment centrifuges. Another major incident, the SolarWinds attack in 2020, involved the compromise of U.S. government and corporate networks and is widely attributed to Russian cyber operatives. Russia has conducted numerous cyber attacks on Ukraine since 2014, including assaults on critical infrastructure such as power grids, as well as engaging in election interference in the United States and other nations through hacking and disinformation campaigns. China's cyber strategy frequently targets the theft of intellectual property and sensitive government data, aiming to bolster its economic and technological development, while also using cyber operations against Tibetan and Taiwanese entities for political purposes. North Korea has employed cyber attacks for both political and financial gain, as exemplified by the 2014 Sony Pictures hack and a series of global ransomware campaigns designed to generate revenue. Iran, in turn, has launched cyber attacks against regional rivals, notably targeting Saudi oil facilities and Israeli systems, and has significantly advanced its cyber warfare capabilities in response to the Stuxnet operation (Burton, 2023; Davis & Bracken, 2025; Sule et al., 2023).

Cyber warfare has become a central element of modern conflicts and national security strategies. Artificial intelligence further enhances the efficiency and complexity of these operations by enabling automated, rapid, and adaptive attacks, as well as advanced defensive systems. While states invest heavily in developing these technologies, ethical considerations, legal frameworks, and international regulations remain among the greatest challenges in the field of cybersecurity.

A typical cyber attack via the internet involves several structured phases. Initially, the attacker gains access to the internet using their personal computer and a stable network connection. The next step involves identifying a specific target, such as a banking server, an electric power distribution management system, or the control unit of a fuel station (Figure 2). Once the target is defined, the attacker searches for potential vulnerabilities within the system, which may include unsecured ports, outdated software, weak authentication credentials, or application-level security flaws. Upon discovering such vulnerabilities, the attacker proceeds to exploit them using various techniques, including phishing, Distributed Denial of Service (DDoS) attacks, malware injection, or brute-force password attacks. Successful exploitation allows the attacker to infiltrate the system, at which point they may assume control, exfiltrate sensitive data, disrupt normal operations, or manipulate devices and critical infrastructure. The consequences of such attacks can be severe, encompassing financial losses, operational downtime, physical damage—such as explosions in the case of compromised fuel control systems—and a significant erosion of consumer trust and organizational credibility.

Example: Cyber Attack on a Fuel Station

In the case of a fuel station, a cyber attacker may infiltrate the pump's control system, such as a Programmable Logic Controller (PLC) or another type of industrial controller. Once inside, the attacker can manipulate the fuel dispensing process, alter fuel quantities, or bring operations to a complete halt.

Such interference may result in system malfunctions, service outages, or, in more severe cases, pose serious safety risks—particularly if the attacker gains control over critical safety mechanisms.

Conclusion

The use of artificial intelligence (AI) in modern armed conflicts is increasingly transforming the nature of warfare, with traditional battles being replaced by digital and automated tactics. Drones, as autonomous or remotely controlled aerial vehicles, are becoming pivotal in reconnaissance, combat, and logistical operations. On the other hand, cyber warfare represents a silent yet extremely dangerous form of conflict, capable of paralyzing entire nations without a single shot fired—through attacks on critical infrastructure such as power grids, financial systems, and communications. In the future, greater integration of AI is expected in the fields of automated decision-making, predictive threat analysis, and the management of complex military systems without direct human control. Trends indicate the development of so-called “smart warfare,” where autonomous platforms and cyber tools will play a key role on the front lines. This evolution carries serious ethical, legal, and security implications that require international regulation and careful consideration. Artificial intelligence will not merely serve as an auxiliary tool but potentially become a decisive factor in contemporary and future conflicts (Mathieu et al., 2025; Szwed, 2022; Al-Dekah, 2025; Tiwari et al., 2024).

Further research into the impact of artificial intelligence (AI) in the domains of cyberattacks and drone technology is of fundamental importance, given the increasing sophistication of threats and the growing autonomy of these systems. AI enables the automation of cyberattacks, pattern recognition, and decision-making without human intervention, significantly transforming the dynamics of contemporary security challenges. In the context of drones, AI facilitates precise reconnaissance, autonomous navigation, and the execution of targeted operations, thereby raising new ethical and legal concerns. Since AI can be employed both for defensive and offensive purposes, it is essential to thoroughly examine its potentials and risks in order to develop effective strategies for control, protection, and regulation—with particular emphasis on transparency, accountability, and international security (Waqar, 2024; Han et al., 2023; Makridis & Mishra, 2022).

In future research on the role of artificial intelligence (AI) in modern armed conflicts, particular attention should be directed toward issues of system autonomy and the ethical dilemmas associated with decisions to use force without human intervention. It is essential to examine how to ensure algorithmic transparency and explainability, as well as their resilience to cyber threats and manipulation. Additionally, it is important to consider how AI integrates into existing frameworks of international law and the implications for the laws of armed conflict.

Research focused on human-machine collaboration in military operations, the impact of AI on deterrence strategies, the psychology of military leadership, and shifts in military doctrines holds particular value. Given the increasing role of AI in shaping both tactical and strategic decision-making, this domain will undoubtedly become one of the key focal points in future academic research (Wagner et al., 2023; Fox, 2022).

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Appendix

Figure 1.

Types of Drones13

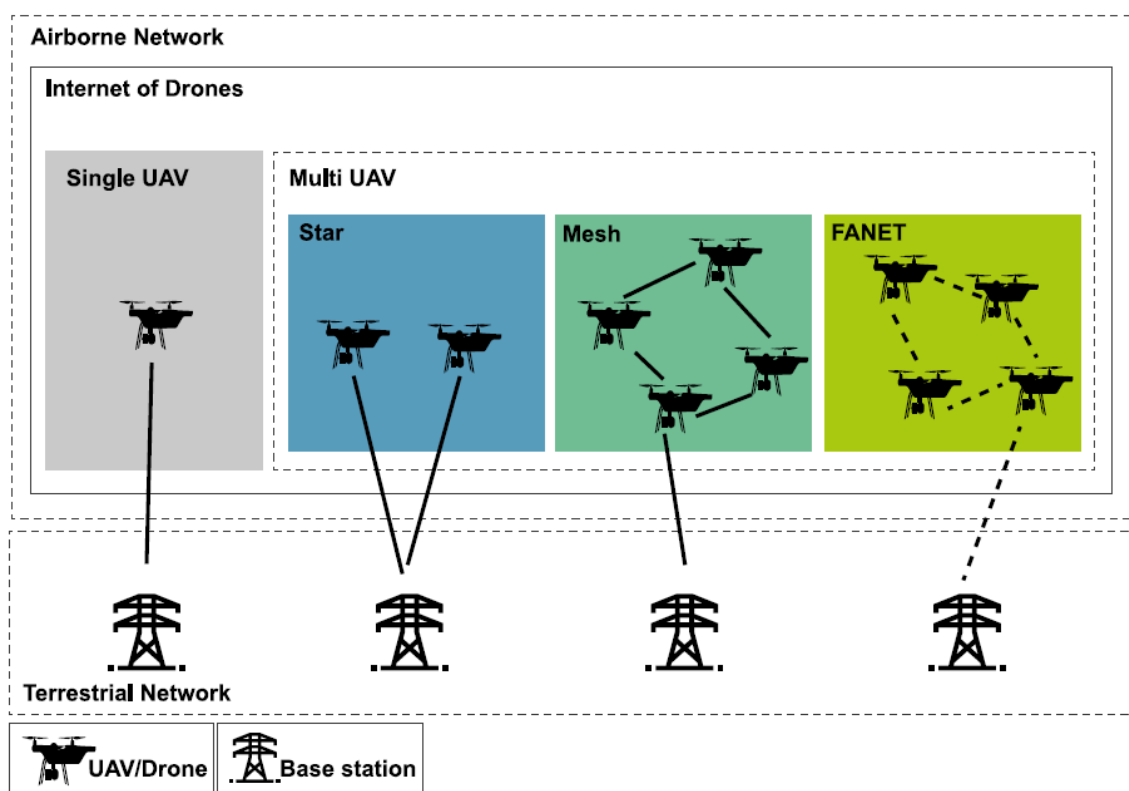
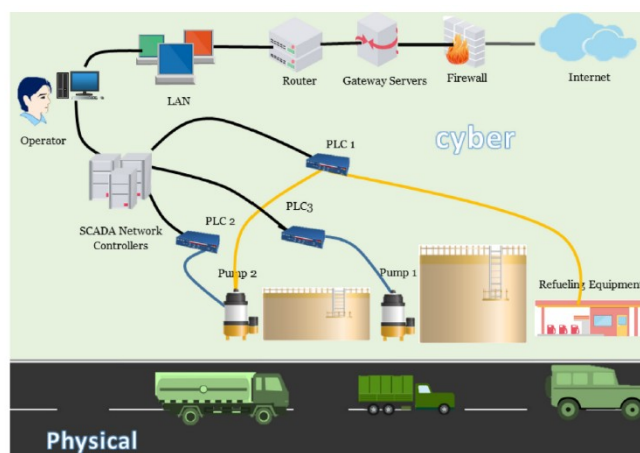


Figure 2:

An example of a cyber attack¹⁴



Uticaji veštačke inteligencije na savremeno ratovanje

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Sažetak

Savremeni oružani sukobi sve se više oslanjaju na tehnologije poput veštačke inteligencije (VI), bespilotnih letelica (dronova) i sajber napada, koje transformišu tradicionalne paradigme ratovanja. Istraživanja uloge VI omogućavaju razvoj automatizovanih sistema donošenja odluka, prediktivne analize pretnji i efikasnijeg upravljanja vojnim operacijama. Upotreba dronova pruža prednosti u izviđanju, određivanju ciljeva i logistici, dok sajber ratovanje omogućava napade na kritične infrastrukture bez direktne fizičke konfrontacije, uz potencijalno značajne bezbednosne i ekonomske posledice. Proučavanje ovih oblasti ključno je za razumevanje novih oblika sukoba, unapređenje odbrambenih strategija i razvoj međunarodnih pravnih i etičkih okvira. Ovaj rad naglašava potrebu za kontinuiranim istraživanjima radi prilagođavanja bezbednosnih politika, unapređenja tehnoloških inovacija i obezbeđivanja stabilnosti u okviru dinamičnih i složenih sistema savremenog ratovanja.

Ključne reči: veštačka inteligencija, oružani sukobi, vojne operacije, dronovi, sajber napadi

Criminal Procedure and Forensic Aspects of Crime Scene Investigation

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Criminal procedure and forensic aspects of crime scene investigation

Abstract

A crime scene investigation is an evidentiary action that is undertaken when direct observation by the procedural authorities is required to establish or confirm a certain fact in the procedure. A crime scene investigation is a criminal procedural action that is conducted according to established principles of criminology. This paper will present the key aspects that permeate first the criminal procedural, and then the criminal investigation activity when conducting a crime scene investigation. Criminal procedural principles determine the legal framework and conditions under which the subjects conducting the crime scene investigation can apply certain criminal-tactical and technical methods. Aspects of a crime scene investigation in procedural matters can most often be related to direct observation, while the criminal impression also includes the prescribed criminal measures and actions necessary to establish the facts. This paper aims to present the key aspects of a crime scene investigation in the Republic of Serbia, the current legislation of the countries in the region (Bosnia and Herzegovina and Croatia), with a special focus on the similarities and differences in terms of reconstruction and forensic experiment. The evidentiary value of a crime scene investigation as an evidentiary tool is immense. The goal of this evidentiary action is to discover and collect evidence of the existence of a criminal offense, confirm facts and information, find clues about important facts related to the criminal offense and the criminal liability of the defendant, and verify the credibility of other evidence. Therefore, it is very important to conduct the crime scene investigation, as an urgent action, in a timely and professional manner.

Keywords: Crime scene investigation, criminal process, forensics, reconstruction, forensic experiment, Serbia, Croatia, Bosnia and Herzegovina.

Introductory considerations

A crime scene investigation is a procedural-criminalistic action whose form and principles are provided for by the Criminal Procedure Code, and the content (measures and methods) by criminology. The classic definition of a crime scene investigation refers to the direct sensory observation of the procedural authorities, and in a broader sense, a crime scene investigation is undertaken when, in order to establish or confirm a certain fact in the procedure, it is necessary to carry out, in addition to the direct observation of the procedural authorities, some other actions and activities. In order to understand the collection of necessary data and the purpose of the efficient conduct of a crime scene investigation, it is necessary to consider the concept of a crime scene investigation from a criminal procedural and criminological perspective. This paper will present key aspects related to the importance of a crime scene investigation as an evidentiary action conducted according to the principles of criminology. A review will also be made of the legislative solutions of neighboring countries, which also recognize a crime scene investigation as an important evidentiary action in criminal proceedings. The fact is that "in recent decades, society has been faced with increasingly dangerous and serious forms of crime in the commission of which modern technical achievements are directly or indirectly used" (Matijašević & Zarubica, 2020, p. 27). The goal and purpose of a crime scene investigation is precisely to discover and collect evidence of the existence of a criminal offense, to confirm facts regarding the person or place of commission of a criminal offense (etc.), and therefore it is very important to carry out the investigation with the greatest degree of professionalism, in accordance with legal provisions and rules of criminology.

This paper uses multiple methods, while the analysis of legal regulations is based on a comparative approach. Descriptive and normative methods were also used, in order to better understand all aspects of a crime scene investigation. A comparative analysis of the criminal aspects of crime scene investigation, reconstruction and experiments in countries in the region was conducted, which aims to indicate the need for harmonization of procedural standards and the introduction of generally accepted guidelines in conducting crime scene investigations.

The concept of crime scene investigation

A crime scene investigation is a planned and systematic set of actions undertaken in accordance with the provisions of the Criminal Procedure Code and the rules of criminology, with the aim of finding, securing and registering in the crime scene documentation, by direct observation and other methods, objects, traces, other facts and circumstances of importance for the detection of the criminal offense and the perpetrator, which have as their ultimate goal the initiation, conduct and completion of criminal proceedings (Krivokapić, p. 475).

A crime scene investigation is a very important evidentiary action that aims to collect material traces resulting from the commission of a criminal offense (Matijašević, 2024; Matijašević, 2016). A crime scene investigation enables the detection, examination and procedural verification of material changes resulting from the commission of a criminal offense (Vasiljević & Grubač 2003).

A crime scene investigation is a “system of various criminal activities, which, based on the provisions of the Criminal Procedure Code, observe at the scene of the event (directly or indirectly – with the participation of experts, or using special forensic instruments), all the important circumstances of the event that occurred, and find and professionally process traces and objects of the criminal offense in accordance with criminal-technical rules, with a mental reconstruction of the criminal event, and with the aim of collecting and registering (through the record and its criminal attachments - sketches, photographs, video recordings, etc.), all relevant information, in order to clarify the criminal offense and collect all available evidence” (Škulić, 1998, p. 53). According to Article 133 paragraph 1 of the Criminal Procedure Code, a crime scene investigation is undertaken when direct observation by the procedural authorities is necessary to establish or clarify a fact in the procedure.

A crime scene investigation has both a criminal-procedural and a forensic character. The procedural goal of the crime scene investigation “arises from the provision of the Criminal Procedure Code relating to the determination and clarification of an important fact in the proceedings” (Škulić & Aleksić, 2007, p. 59). The criminalistic goal of the crime scene investigation “is reflected in the effort to collect the largest possible amount of relevant criminal information in a certain area and in a certain time (the shortest possible time)” (Lepir, M., 2010, p. 398). In short, the goal of the crime scene investigation is “to discover and collect evidence of the existence of a criminal offense, circumstances important for the qualification of the criminal offense, evidence important for finding the perpetrator and establishing his criminal liability, data important for determining the existence and amount of damage, checking other evidence, etc.” (Vasiljević. & Grubač, 2002, p. 215). Accordingly, it can be said that an on-site investigation is a “criminal procedural action conducted according to the rules of criminology” (Kiurski, et al, 2018, p. 9).

In order for an on-site investigation as an evidentiary action to achieve its goal, it must be carried out on the principles of “timeliness, objectivity, activity and to be done methodically” (Kiurski, 2014, pp. 199-200).

When undertaking the evidentiary action of an on-site investigation, the procedural authority will (as a rule/as needed) involve a professional with forensic, traffic, medical or other expertise, who will, if necessary, undertake the search and/or secure the traces, take the necessary samples for analysis or collect other necessary information. When conducting an on-site investigation, an expert may also be engaged, in case there is a need for an expert opinion in order to provide findings, analyses and opinions. The on-site investigation of the accused shall be conducted without his consent in case it is necessary to establish facts important for further proceedings. The on-site investigation of other persons may be undertaken without their consent only if it is necessary to determine whether there is a certain trace on their body or if there is a consequence of a criminal offence. Everyone is obliged to allow the entity conducting the proceedings access to things and provide the necessary information. The on-site investigation is undertaken at the scene of the criminal offence or another place where objects or traces of the criminal offence are located. In this way, the Criminal Procedure Code defines the concept of on-site investigation (National Assembly of the Republic of Serbia, 2021, Art. 133-136).

The on-site investigation is one of the most important actions within the framework of criminal proceedings, because it provides material evidence that can influence the direction of the further course of the investigation and affect the process. Its importance is reflected in the fact that it ensures a direct observation of the actual circumstances of the criminal offence and a precise interpretation of the traces that are of crucial importance for detecting the perpetrator. A crime scene investigation that is conducted professionally, implies professional application of forensic methods and cooperation with experts from different domains and expertise. From this we can conclude that the crime scene investigation is an important aspect of the evidentiary process, because the outcome of the entire criminal procedure is based on the results of the crime scene investigation.

Criminal procedural aspects of the crime scene investigation

The crime scene investigation plays a key role in criminal proceedings because it enables the discovery and collection of evidence necessary to establish the existence of a criminal offense and to identify the perpetrator of the crime. The efficiency of the crime scene investigation depends on the expertise of the staff, technical equipment, and consistent and timely compliance with legal norms.

The crime scene investigation actually has a dual character, as it includes both criminal procedural and criminological aspects. On the one hand, its main function is to establish and clarify facts important for conducting criminal proceedings, and on the other hand, to collect data and clues that can help in solving the crime and identifying the perpetrator. In this regard, the crime scene investigation is, from the perspective of the procedural authorities, a very important evidentiary action. Through this evidentiary action, within the procedural framework, the criminal procedural authorities investigate, collect and examine the collected evidence, i.e. establish and clarify crucial facts for the criminal proceedings (OSCE Mission in Serbia, 2018, p. 9). The body conducting the proceedings, in addition to directly observing visible traces, also performs a mental reconstruction of the event, which further indicates the complexity of this evidentiary action.

The criminal procedural definition of a crime scene investigation limits it to legally defined direct, sensory observation, while the forensic approach is significantly more complex, because the crime scene investigation also includes a number of forensic actions and techniques. During the crime scene investigation, based on the provisions of the Criminal Procedure Code, all relevant information is collected from the scene of the event, either by direct observation, or with the help of experts or special forensic instruments. In this process, traces and objects of the criminal offense are processed professionally, using forensic-technical rules and mental reconstruction of the event, with the aim of elucidating the criminal offense and collecting material evidence. Many authors point out that the procedural definition of a crime scene investigation often ignores its forensic dimension (Krstić, 2020), which has been proven in recorded practice.

Articles 134–136 of the Criminal Procedure Code (National Assembly, 2021, Art. 133-136), describe and regulate three basic forms of on-site investigation – on-site investigation of the accused and other persons, on-site investigation of objects and on-site investigation of the scene. Together, they form a whole that provides the procedural authorities with the opportunity to collect and preserve traces of the committed criminal offense, but also to ensure compliance with the principle of legality and preservation of the credibility of the collected evidence.

When it comes to an on-site investigation of a defendant, it can be conducted without the defendant's consent, if necessary, while such an action is permitted only in exceptional cases against other persons. In this way, the law distinguishes between the defendant and third parties, which ensures the principle of proportionality and enables the protection of the right to physical integrity of a person. In theory, it is prescribed and observed from one angle, while in practice this provision is linked to the taking of biological samples, which requires careful implementation of actions and precise documentation, in order to protect the privacy of a person and prevent possible abuse. When it comes to an on-site investigation of objects, it includes an examination of movable and immovable objects, including a corpse, with the obligation that access to objects of importance to the procedure is ensured. If it is necessary to enter a residential unit or other closed room to conduct the on-site investigation, in that case the rules on search apply. In this way, the necessary judicial control is ensured, as well as the protection of the right to the inviolability of the home. When we talk about practical cases, the boundary between a crime scene investigation and a search is unfortunately often invisible, and for this reason it is necessary to make a clear distinction in order to prevent the illegality of evidence.

When it comes to a crime scene investigation, it refers to the place where a crime was committed or another place where there are possible traces and objects that can be evidence in further proceedings. A crime scene investigation is the action that is most often taken first and plays a key role in collecting material evidence related to a crime. The proceeding authority may, if there is a need or indication for this, temporarily detain a person found at the scene of the crime. The proceeding authority undertakes this action if there are legal reasons, which affects the prevention of arbitrary deprivation of liberty. Namely, it should be emphasized that the precision and professionalism of a crime scene investigation are crucial for the accuracy and legality of the entire evidentiary procedure.

Articles 232-235 of the Criminal Procedure Code (National Assembly, 2021, Art. 232-235) describe the key role of the record of taken actions, in terms of ensuring the legality and reliability of criminal proceedings. The purpose of the record is to provide an accurate, clear and complete description of the

course and content of the evidentiary or other procedural action taken. The record contains basic data that provides an overview and verification of the actions taken - starting from the authority conducting it, including the time and place of the action, a list of persons present and their roles in the proceedings, as well as a description of the subject matter of the proceedings. The special importance of the record is also recognized in the article relating to the recording of seized objects, files and other material evidence. The importance of indicating the locations of objects, as well as the addition of photographs, sketches and other recordings, directly affects the preservation of the credibility of the evidentiary material and the prevention of subsequent abuse. Accurate, valid and clear documentation is the basis for further forensic analysis and assessment of evidence before the court. In practice, failure to comply with the prescribed measures may lead to the disputing of the collected evidence or its worthlessness in further proceedings, so compliance with the lawfulness is crucial for the quality of the process. The guarantee of the legality of the procedure can be seen through precise and objective record-keeping. In this way, the possibility is ensured that each procedural action can be subsequently checked or assessed, if necessary. In this way, the trust of citizens in the work of the prosecution authorities and the court is strengthened, while the parties are guaranteed that their statements are accurate and adequately recorded.

These legal provisions represent a prescribed set of rules for the direct establishment of facts. When it comes to practice, there is a noticeable need for a more precise definition of the boundaries between the on-site investigation and other evidentiary actions in the procedure. We must also address the lack of clearly defined provisions on the protection of the dignity and privacy of persons, which indicates the need to improve the legislative framework, in line with European standards. A possible drawback is the limited judicial control over individual actions, which can have a negative impact on the entire evidentiary process.

In conclusion, the efficiency of conducting a crime scene investigation largely depends on the expertise of the investigative authorities, technical equipment and compliance with legal procedures. The aforementioned articles of the CPC prescribe the basis for the professional conduct of a crime scene investigation as a whole. This basis could be more thoroughly established with more precise protection mechanisms and a stricter procedural structure. The importance of linking the procedural and forensic approaches is multiple, it provides high-quality and reliable evidence and confirms the importance of crime scene investigation as a fundamental institute of modern criminal law.

Forensic aspects of crime scene investigation

Crime scene investigation is "a system of various forensic activities, which, based on the provisions of the Criminal Procedure Code, observe at the scene of the event (directly or indirectly - with the participation of experts, or using special instruments of forensic technique), all the important circumstances of the event that occurred, and find and professionally process traces and objects of the criminal offense in accordance with forensic-technical rules, with a mental reconstruction of the criminal event, and with the aim of collecting and registering (through the minutes and its forensic attachments - sketches, photographs, video recordings, etc.), all relevant information, in order to clarify the criminal offense and collect all available evidence" (Škulić, 1998, p. 53).

Forensic aspects of crime scene investigation represent a key segment in the evidentiary procedure, because they enable direct determination of facts and provision of material evidence of the

criminal offense. When it comes to the concept of crime scene investigation, it has a dual significance and is reflected through the criminal and legal segments. Proper conduct of the crime scene investigation affects the further course of the investigation and the evidentiary strength of the procedure depends on it. A crime scene investigation is a methodologically and tactically complex procedure and requires the achievement of a level of professionalism, regularity and necessary coordination between investigative authorities and forensic experts and specialists (Kovačević, 2019).

When undertaking the evidentiary action of a crime scene investigation, the procedural authority will (as a rule/as needed) engage a traffic, medical or other expert, who will undertake a search and secure traces, take the necessary samples for further analysis or collect all other necessary information. When conducting a crime scene investigation, an expert may also be engaged, if expertise is required to compile findings, analyses and opinions. The techniques used when conducting a crime scene investigation are systematic methods of collecting, recording and analyzing all available evidence and objects. These techniques primarily include visual inspection, photography, video documentation, all necessary measurements with drawing up a layout, as well as sampling all biological, physical and technical evidence for further forensic processing. The collected evidence enables the identification of the perpetrator and elucidation of the circumstances surrounding the victim. When it comes to technical evidence, they provide the necessary information about the means and methods of execution used (Vasović, 2017).

When it comes to forensic processing of a crime scene, it involves extensive teamwork. From the moment a crime is reported and registered to the conduct of an on-site investigation, it is necessary to follow a clearly established procedure for conducting investigative actions. Each member of the team working on solving a crime has a specific task, all with a common goal, which is to discover all traces at the crime scene that will lead them to the perpetrator. The goal of processing a crime scene and conducting an on-site investigation is to collect evidence and indications of the existence of certain facts related to the crime or the criminal responsibility of its perpetrator. Crime scene processing is divided into primary and secondary. Primary processing is performed directly at the crime scene, which enables the direct collection and documentation of traces and objects. When it comes to secondary processing, it is carried out in police and judicial institutions, as well as in forensic laboratories, by experts, where systematic identification of persons, objects and traces is carried out, as well as their analysis, all with the aim of determining the factual situation and evidentiary value (Mašković, 2013).

In a theoretical sense, crime scene investigation represents a link between criminal science and procedural law, because it connects the normative framework and research, in order to achieve the basic goal of criminal proceedings, which is to establish the truth in a legal and fair manner (Vasović, 2017).

Crime scene investigation in the criminal procedure law of Bosnia and Herzegovina

According to the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (Parliamentary Assembly of Bosnia and Herzegovina, 2018), the prosecutor is primarily responsible for conducting a crime scene investigation, but if he or she cannot intervene immediately, the investigation may also be conducted by authorized police officers with prior notification to the competent prosecutor. Unlike the previous practice, when the crime scene investigation was conducted by an investigating judge, modern regulations emphasize the operational role of law enforcement agencies in emergency cases. Conducting a crime scene investigation as soon as possible is essential to preserve traces and evidence,

as their delay can lead to their destruction or permanent loss, which can affect the further course of the proceedings. For these reasons, timely conduct of a crime scene investigation is essential for efficient criminal proceedings and bringing the perpetrator to justice.

The legal definition of a crime scene investigation is based on immediate, or direct, sensory observation, which is undertaken to establish important facts in criminal proceedings. This understanding of the crime scene investigation, which is based on the personal sensory perception of relevant facts and evidence by the authorized body (in accordance with the law), is a generally accepted position among theorists and practitioners of criminal procedure law in Bosnia and Herzegovina. It should be emphasized that, by relying on the personal and subjective impression of the procedural authority, room is left for possible procedural omissions and irregularities. The Criminal Procedure Code in force in Bosnia and Herzegovina prescribes this procedural action on the need for direct observation in order to determine essential facts in the procedure. In the theory of criminal procedure law, it is defined that the Law in this way only provides for the material condition for conducting a crime scene investigation, but does not prescribe or define its exact form or special procedural rules. When it comes to practice, the crime scene investigation is conducted according to predetermined forensic methods (Filipić, 2017, p. 30). It should be emphasized that, by relying on the personal and subjective impression of the procedural authority, room is left for possible procedural omissions and irregularities.

Crime scene investigation in criminal proceedings in the Republic of Croatia

Crime scene investigation, reconstruction and experiment are key procedural actions that enable direct sensory determination of facts in criminal proceedings. Crime scene investigation is conducted by sensory observation of the scene of the incident, objects or traces, as well as by technical means to collect the necessary evidence. Undertaking these actions is important for the further process because it enables direct determination of facts, which increases the reliability of further evidentiary proceedings. Their proper application contributes to the legality of the proceedings and the proper conduct of the proceedings.

Although the Law (Croatian parliament, 2025, Art. 304–306) provides for the material basis for conducting crime scene investigations, reconstructions and experiments, the regulations often do not regulate the manner of conducting crime scene investigations, standardized procedures and forms. This most often leads to different approaches in practice and potential irregularities in the legality of the actions carried out, most often in complex and specific cases. Therefore, in practice, it is recommended to strictly adhere to the defined forensic-technical standards and engage experts in order to ensure objectivity and correctness of the procedures when conducting a crime scene investigation. Amendments and supplements to the Law, in accordance with European norms, will further work on the importance of strict implementation of procedures and forensic techniques, in theory and practice. In conclusion, crime scene investigation, reconstruction and experiment are necessary procedural actions that enable direct and reliable determination of facts in criminal proceedings in the Republic of Croatia. Their proper application contributes to the legality of the procedure and increases the reliability of the evidence collected. Namely, shortcomings in the regulation of standardized procedures, the application of forensic technical rules and the engagement of experts (as a rule), as well as continuous harmonization with European norms, are key aspects in achieving objectivity, consistency and efficiency of these evidentiary actions in practice.

Comparative analysis of evidentiary activities of crime scene investigation

Crime scene investigation is a key institute of evidence in criminal proceedings in the Republic of Serbia, Bosnia and Herzegovina and Croatia, as discussed in the previous chapters. While in Croatia and Serbia the procedures for conducting crime scene investigations are detailed and clearly prescribed through legal and procedural norms, in Bosnia and Herzegovina the practice mainly relies on material bases and the application of forensic methods, without a strict and pre-defined form. Such an approach can result in problems in the objective conduct of crime scene investigations, which further affects the fairness of evidence in the proceedings. This comparative analysis aims to point out the need for harmonization of procedural standards and the introduction of generally accepted guidelines in conducting crime scene investigations. In Bosnia and Herzegovina, in order to ensure greater legal certainty, consistency in procedures and transparency in conducting crime scene investigations, the introduction of strict procedures and the elimination of subjectivity in the implementation of criminal methods is particularly important. Below is a table that shows the most important aspects of crime scene investigation, legal solutions and practical implementation in the Republic of Serbia, Bosnia and Herzegovina and Croatia, pointing out similarities, differences and legal challenges.

Table 1. Comparative overview of evidentiary work at the crime scene in Serbia, Bosnia and Herzegovina and Croatia

Country	Legal Framework	Engagement of Experts	Procedural Precision	Main Advantages	Main Challenges
Serbia	Detailed and well-defined	Experts and forensic specialists are engaged as needed	High level	Protection of rights; clear and well-defined procedure	Slow proceedings; inconsistent application of forensic methods and techniques
Bosnia and Herzegovina	Material basis; application of forensic and technical methods in practice	Experts and forensic specialists are engaged as needed	Variable	Flexibility; adaptability in practice	Lack of detailed procedures may lead to inconsistencies in practice
Croatia	Detailed and well-defined	Experts and specialists are usually engaged by default	High level	Legally defined procedure	Procedural rigidity; untimely response in complex cases

(Authors, 2025)

Comparative analysis of the criminal aspects of crime scene investigation, reconstruction and experiment

Crime scene investigation, reconstruction and experiment represent detailed and complex evidentiary actions in criminal proceedings. The application of these evidentiary actions in establishing facts and ensuring the fairness of the further process is of key importance. Namely, legal regulations and practice vary significantly among the countries in the region, which can affect the efficiency of the implementation of the procedure and the legal security of citizens. This analysis aims to provide a comparative overview of the aspects of crime scene investigation, reconstruction and experiment in the Republic of Serbia, Bosnia and Herzegovina and Croatia, in order to more clearly understand the similarities and differences in the legal regulations of these countries.

Crime scene investigation represents a key forensic-operational action, which is most often carried out in cases of crimes committed with an unknown perpetrator, with the aim of revealing him using appropriate forensic methods and techniques. Authorized persons apply various measures and technical procedures in order to precisely document the situation in its original (unchanged) form. An effective crime scene investigation requires the coordinated work of a team of experts, including a prosecutor and a forensic technician, so that all traces are isolated without contaminating the crime scene. From a forensic perspective and in a broader context, it can be concluded that a crime scene investigation encompasses all activities at the crime scene, with direct sensory perception forming only a necessary part of the entire process. Technical means such as photography, recording, measuring, sketching and collecting samples enable precise documentation and objective collection of evidence, which significantly affects the efficiency of the further process. Special attention is paid to safety and ethics, in the sense that conducting a crime scene investigation must not endanger life, health, public order or morals (Filipić, 2017).

Reconstruction is an action that allows the repetition of actions or certain situations in order to verify evidence or clarify events. This method is particularly useful when the statements of the participants differ, as it allows for a systematic comparison and validation of the presented facts (Jakovljević, 2015; Korać, 2019). The legislation also provides for the participation of the accused and the parties in the proceedings, while respecting all prescribed legal rights and principles. Reconstruction is considered in the literature through procedural and cognitive aspects, with the focus on its legal nature and significant evidentiary value. Reconstruction can also be interpreted as an independent procedural action, as a special form of crime scene investigation, a judicial experiment or a specific type of expert examination in more complex cases. Although it is well-known in most modern legal systems, its legal regulation still varies in terms of formal definition, which indicates the lack of a unified position in the literature and definition (Halilović, & Korajlić, 2013).

An experiment serves to examine the influence of certain circumstances on a subject, state or relationship. Unlike a crime scene investigation and reconstruction, an experiment has a predominantly analytical function and is often used as auxiliary evidence and an additional tool in more complex cases. The legal framework strictly limits the experiment in a way that must not endanger the life, health or morals of the participants in the experiment (Vukić, 2020; Stanković, 2018). A criminal experiment is a planned and conscious introduction of new facts into an already existing factual situation. This is achieved by performing certain actions or exposing certain circumstances in order to establish new evidence, to validate

already collected evidence and to collect relevant information about the conditions and/or causes of the criminal offense (Pravnik, 2019). This method enables systematic research of the existing factual situation, increases the quality of the evidence collected in the criminal procedure and influences its positive outcome. Below is a tabular comparative overview of the forensic aspects of the crime scene investigation, reconstruction and experiment in the Republic of Serbia, Bosnia and Herzegovina and Croatia.

Table 2. Comparative overview of the forensic aspects of crime scene investigation, reconstruction and experiment

Aspect	Republic of Serbia	Bosnia and Herzegovina	Croatia
Legal Framework	Clearly defined procedural actions	Internal practice; emphasis on forensic and technical expertise	Procedurally regulated, aligned with European standards; precise norms for on-site investigation and reconstruction
On-Site Investigation	Formal regulation with clearly defined rights	Formally prescribed; lacks strict procedures	Standardized procedures
Event Reconstruction	Applied in practice to confirm evidence; regulated as a specific procedural action	Application depends on forensic and technical expertise	Clearly defined; integrated into procedural norms
Experiment	Planned examination of circumstances	Insufficiently standardized	Procedurally defined; integrated
Main Challenges	Expertise and coordination	Undefined procedures	Team coordination; application in complex cases
Advantages	Clear legal regulation; combination of forensic and procedural methods	Flexibility and adaptation to forensic and technical conditions	Standardized procedures; implementation of European standards

(Authors, 2025)

Concluding remarks

A crime scene investigation in criminal proceedings is one of the most reliable and important evidentiary actions, because it enables direct determination of facts and provision of material traces of a criminal offense. The evidentiary value of a crime scene investigation stems from the immediacy of observation, objectivity and the possibility of subsequent verification of the results. However, practice shows that the professionalism and reliability of the execution of a crime scene investigation depend on

the expertise of the authorities conducting it, the timeliness, credibility of the documentation and compliance with procedural norms.

From an academic perspective, the professional performance of a crime scene investigation requires the application of scientific methods in detecting and fixing traces, as well as procedural discipline, so that the results have legal significance. In legal terms, a crime scene investigation is regulated as an evidentiary action that must be conducted in compliance with prescribed norms.

A crime scene investigation, reconstruction and experiment are interrelated evidentiary actions that represent a combination of a legal and forensic approach to evidence and facts. A crime scene investigation provides a realistic basis for establishing facts, while reconstruction and experiment enable their verification and confirmation through logical and scientific methods.

Comparative practice shows that the countries of Serbia, Croatia and Bosnia and Herzegovina are very similar in terms of legal regulations, but differ in the level of control of institutional mechanisms, professionalism of personnel and technical development. Croatia records a higher level in terms of digitalization and the status of experts in the procedure, while Serbia and Bosnia and Herzegovina still lag behind when it comes to the level of standardization, which affects the reduction of evidentiary security.

In conclusion, the crime scene investigation is a key instrument for implementing evidentiary mechanisms in criminal proceedings, but the efficiency of the crime scene investigation depends on compliance with the prescribed norms, procedures and objective sensory observations in practice. The crime scene investigation, reconstruction and experiment together form the basis of a modern evidentiary system and their importance goes beyond the material form and represents a combination of scientific accuracy and legal legality. Further improvement through digitalization, professional development and harmonization of procedural standards with European practice is crucial for strengthening the fairness, reliability and efficiency of criminal proceedings.

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Krivičnoprocesni i forenzički aspekti uviđaja

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Sažetak

Uviđaj je dokazna radnja koja se preduzima kada je neposredno opažanje od strane procesnih organa neophodno radi utvrđivanja ili potvrđivanja određene činjenice u postupku. Uviđaj predstavlja krivičnoprocesnu radnju koja se sprovodi u skladu sa utvrđenim principima kriminalistike. U radu će biti predstavljeni ključni aspekti koji prožimaju najpre krivičnoprocesnu, a zatim i kriminalističku delatnost prilikom vršenja uviđaja. Krivičnoprocesna načela određuju pravni okvir i uslove pod kojima subjekti koji sprovode uviđaj mogu primenjivati određene kriminalističko-taktičke i tehničke metode. Aspekti uviđaja u procesnom smislu najčešće se odnose na neposredno opažanje, dok kriminalistička obrada obuhvata i propisane kriminalističke mere i radnje neophodne za utvrđivanje činjenica. Cilj rada jeste da se prikažu ključni aspekti uviđaja u Republici Srbiji, kao i važeća zakonska rešenja u državama regiona (Bosna i Hercegovina i Hrvatska), sa posebnim osvrtom na sličnosti i razlike u pogledu rekonstrukcije i forenzičkog eksperimenta. Dokazna vrednost uviđaja kao dokaznog sredstva je izuzetno velika. Cilj ove dokazne radnje jeste otkrivanje i prikupljanje dokaza o postojanju krivičnog dela, potvrđivanje činjenica i informacija, pronalaženje tragova o bitnim činjenicama u vezi sa krivičnim delom i krivičnom odgovornošću okrivljenog, kao i proveravanje verodostojnosti drugih dokaza. Stoga je od izuzetne važnosti da se uviđaj, kao hitna radnja, sprovede blagovremeno i stručno.

Ključne reči: uviđaj, krivični postupak, forenzika, rekonstrukcija, forenzički eksperiment, Srbija, Hrvatska, Bosna i Hercegovina

Specificities of Compensation for Damage Caused by a Criminal Offense

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Specificities of Compensation for Damage Caused by a Criminal Offense

Abstract

Numerous criminal offenses result in either material or non-material damage. Others are characterized by so-called abstract consequences, meaning that it is not necessary for a concrete consequence to occur for the criminal offense to be considered committed. Regardless of whether the consequence is an essential element of the criminal offense, the injured party may suffer damage caused by the offense. Recognizing the significance of such damage, the legislator has provided the injured party with the choice of seeking compensation either through civil proceedings or within criminal proceedings via the institute of a property claim. Additionally, Article 377 of the Law on Obligations [LOO] stipulates a privileged statute of limitations period for claims arising from damage caused by a criminal offense¹, tying it to the limitation period for criminal prosecution when that period is longer than the general statute of limitations, which is three years from the date of knowledge of the damage or five years from the date the damage occurred. This approach enables the injured party to pursue compensation—either through a property claim within the criminal process or by initiating a civil lawsuit—within an extended time frame, considering that the legal interest harmed by a criminal act is generally of greater importance than that harmed by a tortious act. Nevertheless, it must be noted that if the criminal proceedings result in an acquittal, the general statute of limitations will apply.

Keywords: compensation for damage, statute of limitations, criminal offense, property claim

Introductory Considerations

A criminal offense consists of several elements, one of which is certainly the consequence of the offense. The consequence of a criminal offense differs across various criminal offenses. For instance, in the case of the criminal offense of murder under Article 133 of the Criminal Code of the Republic of Serbia [Criminal Code], the consequence is inherent in the act itself and consists of the deprivation of another person's life. In such a criminal offense, and due to the occurrence of the consequence, a right arises for the person (members of the immediate family of the deceased victim) to claim compensation for damage resulting from the mental anguish caused by the death of a close relative. In the case of the criminal offense of coercion under Article 135, paragraph 1 of the CC, the act of commission involves coercing another person by force or threat to do or not do something, or to endure something. The specific consequence of this criminal offense will vary in each particular case. In the broadest sense, the consequence of this criminal offense is the endangerment of the victim's personal freedoms, but it is also possible that the victim may suffer some damage as a result of this offense, either property damage (if the victim is coerced into relinquishing some of their property rights) or non-material damage (if consequences such as fear or physical pain due to injuries occur). In certain criminal offenses, damage

¹ (1) When the damage is caused by a criminal offense, and a longer statute of limitations is provided for criminal prosecution, the claim for compensation for damage against the responsible party becomes time-barred when the period for the statute of limitations for criminal prosecution expires.

(2) The suspension of the statute of limitations for criminal prosecution also results in the suspension of the statute of limitations for the claim for compensation for damage.

(3) The same applies to a halt in the statute of limitations.

represents an essential element of the offense, as is the case with the criminal offense of endangerment of public traffic under Article 289, paragraph 1 of the CC, where the condition for the existence of the criminal offense is the occurrence of light bodily injury in another or the causing of property damage exceeding two hundred thousand dinars. It is also important to note that, in criminal law, we distinguish between offenses that have consequences, as is the case with the aforementioned offenses, and offenses that do not have a consequence but consist only of a prohibited act (doing or not doing something). On the other hand, the victim of a criminal offense may suffer damage, even if such a consequence is not foreseen by the offense. This will be the case with the criminal offense of defamation under Article 170 of the CC. Although the legislator does not foresee a consequence as an essential element of the offense of defamation, the victim may, in fact, suffer damage in the form of injury to their honor and reputation.

In this paper, we will attempt to answer the question of whether it is necessary for the consequence (i.e., the damage having occurred) to be an integral part of the essence of the criminal offense in order for the injured party to have the right to seek compensation for damage within the privileged statute of limitations period under Article 377 of the Law on Obligations in civil proceedings, as well as whether it is necessary for the injured party to have the right to file a property claim in criminal proceedings.

Property Claim

The Criminal Procedure Code [CPC] provides for the right of an authorized person to file a property claim in criminal proceedings. A property claim is a request directed towards the defendant for compensation for damage, the return of property, or the annulment of a specific legal transaction. Article 253 of the CPC stipulates that any person who is authorized to file such a claim in civil proceedings may also file a property claim in criminal proceedings. This means that only those persons who are, in accordance with the provisions of the Civil Procedure Act [CPA], actively legitimized to file a lawsuit for compensation for damage in civil proceedings may file a property claim in criminal proceedings.

The property claim is an accessory procedure, and the criminal court decides on it alongside the decision in the criminal case, but only if it renders a conviction and simultaneously has evidence indicating the validity of the property claim. However, the criminal court cannot reject the property claim of the injured party; it can accept it fully or partially. If the criminal court does not have enough evidence to indicate the validity of the property claim, it may refer the injured party to assert their rights in civil proceedings. In case the criminal court finds that the property claim of the injured party is partially valid, it will accept such a claim partially and refer the injured party to civil court for the remainder of the property claim. The injured party has the right, but not the obligation, to file a property claim, and they can also assert their rights in civil proceedings, independently of the criminal proceedings.

If the injured party decides to file a property claim in criminal proceedings, they must do so no later than the completion of the main hearing before the first-instance court, along with the submission of evidence supporting such a claim. "The court decides on the referral to civil proceedings within the judgment's ruling, and this is the moment when the court can decide at the latest whether to discuss the property claim." (Petričević, 2024, p. 170)

Article 50 of the CPC provides the rights of the injured party, of which the following are relevant for this paper:

- The right of the injured party to submit a proposal and evidence for the realization of the property claim and to propose temporary measures for its security;
- The right of the injured party to file an appeal against the decision on the costs of the criminal proceedings and the awarded property claim.

"This provision implies that the injured party does not have the right to appeal when the court refers them to civil proceedings, i.e., when the property claim is not awarded, thereby calling into question the right to exercise one of the injured party's basic rights, namely the right to a property claim." (Petričević, p. 170)

Article 252, paragraph 2 of the CPC stipulates that the property claim may concern compensation for damage, the return of property, or the annulment of a specific legal transaction. Regarding these institutes, the CPC does not provide definitions, so it is necessary to consult civil law regulations. Given the subject of this paper, the authors will focus on the concept of damage.

In this regard, it is important to note the opinion of the Supreme Court, Su I-7 9/2024-1, dated March 25, 2024, which resolved the issue of inconsistencies in case law concerning property claims in cases of unpaid maintenance contributions, specifically in the case of the criminal offense of failure to provide maintenance under Article 195 of the Criminal Code:

"Unpaid maintenance contributions are not grounds for filing a property claim in criminal proceedings, as they do not constitute damage in the sense of the provisions of Article 252, paragraph 2 of the CPC. If an authorized person presents such a claim as a basis for a property claim, the court will, pursuant to Article 258, paragraph 4 of the CPC, refer them to assert their property claim in civil proceedings.

When a court, in conditional sentencing based on Article 65, paragraph 2 of the Criminal Code, orders that the sentence will be enforced if the defendant does not pay the overdue unpaid maintenance contributions within a certain period and does not continue to regularly pay maintenance, this is not a decision that accepts the property claim, but a decision imposing an additional obligation on the defendant, which they must fulfill to avoid the revocation of the conditional sentence." (Su I-7 9/2024-1)

Thus, even when the injured party has no grounds to assert a property claim, the court will refer them to civil proceedings for the realization of their rights, in accordance with the provisions of Article 258 of the CPC, as the criminal court does not have the authority to reject such a claim.

The Concept of Damage

Our LOO does not contain a definition of damage in its general sense, but it explicitly defines the forms of damage. Article 155 stipulates that damage consists of a reduction in someone's property (ordinary damage), the prevention of its increase (lost profit), and infliction of physical or psychological pain or fear on another (non-material damage).

According to Loza, "the concept of damage in our law has a broader meaning, as it encompasses not only the harm (violation, reduction) of property interests but also the harm to non-property goods. In addition, it is not limited to the violation of only subjective rights but also includes legally protected interests." (Loza, 2000, p.198)

Material (property) damage can be defined as a decrease in the value of the damaged person's property or the incurrence of costs as a result of a specific event or actions taken by the person responsible for the damage. It is characteristic of material damage that it can be expressed in monetary terms.

"In our law, non-material damage consists of the violation of personal goods or rights, i.e., the physical or psychological integrity of a person." (Salma, 2001, p.456) Article 200 of the LOO regulates the grounds on which the injured party may be awarded monetary compensation for non-material damage, which includes: suffered physical pain, mental pain due to a reduction in life activity, disfigurement, harm to reputation, honor, personal rights, death of a close person, and fear. (Babić, 2008, p.322) Babić defines non-material damage as the reduction of moral assets.

"In the case of damage caused, the civil law sanction is the reaction to the violation of the general prohibition of causing harm to another and is concretized by obligating the responsible person to compensate for it." (Simonović, 2018, p.314)

Criminal Liability and Liability Based on Guilt

"The Serbian Criminal Code from 2006 no longer uses the term 'criminal liability,' which was the reason why this term was also eliminated in the CPC in relevant provisions, such as in Article 156, Paragraph 2, 345, 355 ZKP (one of the alternatively formulated grounds for an acquittal), etc. This reflects the formal adoption of the objective-subjective concept of the general notion of a criminal offense in the Criminal Code." (Škulić, 2021, p.203)

In criminal law, "guilt is defined as a set of subjective elements that must exist on the part of the perpetrator of the crime for the act to be considered a criminal offense." (Đorđević, 2020, p.41) Article 22 of the Criminal Code stipulates that guilt exists if the perpetrator, at the time of committing the crime, was accountable and acted with intent, being aware, or being obligated and capable of being aware, that their act was prohibited, and that the crime was committed with guilt even if the perpetrator acted negligently, provided the law explicitly foresees it. Therefore, guilt in the criminal law sense consists of three elements: accountability, culpability, and awareness of the prohibited nature of the act.

Furthermore, according to Škulić, "if the court determines that any of the mandatory elements of the criminal offense established in the Criminal Code is missing or that unlawfulness or guilt is excluded, there will be no criminal offense. This means that even when there is no guilt, as a subjective element of the criminal offense, either due to the absence of the required form of guilt (for example, negligence exists, but the specific criminal offense can only be committed intentionally), or because the act was committed in a state of non-accountability for the unlawful act prescribed by law as a criminal offense, such an act is no longer considered a criminal offense at all." (Škulić, 2021, p.203-204)

On the other hand, guilt in civil law, according to Article 158 of the LOO, exists when the wrongdoer causes damage intentionally or through negligence. "For the establishment of liability based on guilt, both mandatory (damage and causal connection) and all variable conditions of liability (guilt and unlawful act) must be fulfilled." (Nikolić, 2019, p.91)

Thus, guilt in the criminal law sense and guilt in the civil law sense have their similarities but also their differences. The most important point to note is that if there is guilt in the criminal law sense, it necessarily exists in the civil law sense as well. However, for guilt to exist in the civil law sense, it is sufficient for the wrongdoer to have acted intentionally or negligently, leading to the occurrence of damage,

i.e., there must be a causal relationship between the actions of the wrongdoer and the resulting damage, regardless of whether the actions of the wrongdoer fulfill the essential elements of a criminal offense, including the perpetrator's guilt.

For example, the Higher Court in Novi Sad, in its decision GŽ 11829/2022 from January 19, 2023, states that civil liability is broader than criminal liability, and the defendant can be liable for causing damage in the civil law sense even if their behavior does not meet the characteristics of any criminal offense. The court can decide on the validity of the claim regardless of the outcome of the criminal procedure.

CPA, Article 13 stipulates that in civil proceedings, the court is bound by the final criminal court judgment regarding the existence of a criminal offense and the criminal responsibility of the perpetrator. This means that the civil court will not engage in determining the (non)existence of a criminal offense and the criminal liability of the defendant if there is a final, convicting criminal court judgment. Instead, the civil court will accept the established facts from the criminal judgment *ut est* (as they are).

In essence, if the criminal court has already made a final ruling regarding the guilt of the defendant, the civil court will rely on that ruling when it comes to matters of liability related to the same act. This prevents the duplication of efforts by reexamining the same issues in the civil case, streamlining the process and upholding the authority of the criminal court's findings.

According to Article 13 of the CPA the court in civil proceedings is bound by the final judgment of the criminal court regarding the existence of a criminal offense and the criminal responsibility of the defendant. Therefore, the civil court will not engage in determining the (non)existence of a criminal offense and the criminal responsibility of the defendant if there is a final conviction by the criminal court, but will accept these established facts "*ut est*."

Claim for Compensation for Damage Caused by a Criminal Offense in Civil Proceedings

The injured party may decide to pursue compensation for damage in civil proceedings independently of the criminal proceedings, or the criminal court may refer them to a civil lawsuit in its criminal judgment. If, in a criminal proceeding, it is definitively established that the defendant is guilty of a specific event, this also defines their liability in civil law terms, i.e., that they are responsible for the harmful event, and no different decision can be made in civil proceedings. This position was also accepted by the Higher Court in Novi Sad in the ruling GŽ 2835/2013 dated November 20, 2013. Therefore, the existence of criminal liability, to a limited extent, serves as a preliminary issue in civil proceedings. In other words, "whether a criminal offense was committed can only arise as a preliminary issue if the commission of the criminal offense is a condition for the creation or cessation of certain subjective rights. In a civil lawsuit for compensation for damage, the civil court is bound by the findings of the criminal court regarding the causation of damage, but only if the damage is a significant element (characteristic) of the criminal offense."

A question arises regarding the rights of the injured party in cases of criminal offenses with abstract consequences. One such offense is unauthorized publication and display of someone else's document, portrait, or image under Article 144 of the Criminal Code. The act constituting this criminal offense involves unauthorized publishing or displaying someone else's document, portrait, photograph, film, or phonogram, or their content from personal or family life. To commit this offense, it is not necessary for the injured party to suffer concrete damage. However, due to the commission of this criminal offense, there may be a

violation of honor and reputation, or a violation of personal rights, for which the injured party is entitled to compensation for damage. According to the provisions of Article 377 of the LOO, it is not important whether a specific consequence in the form of suffered damage is a significant element of the criminal offense, but only whether there is an established causal link between the commission of the criminal offense and the resulting damage.

In the case of a conviction in a criminal judgment, if the nature of the criminal offense includes the occurrence of specific damage, the subject of such a civil lawsuit can only be the determination of the amount of the resulting damage. On the other hand, the civil court is not bound by an acquittal in the criminal judgment. According to the position of the Higher Court in Čačak, when determining potential damage, regardless of when the highest court, in an extraordinary legal remedy, has rendered an acquittal, the civil court is not bound by it but will decide on the claim according to its own discretion. This court's position is justified, considering the broad scope of civil liability, as it is not necessary for the defendant to have committed a criminal offense; it is sufficient that they took a tortious action in civil law terms.

Regarding the determination of the amount of damage, the Supreme Court of Cassation has expressed the view that when the defendant is convicted by a final criminal judgment for a criminal offense that caused damage to the plaintiff, and the amount of the damage is included in the criminal judgment, the plaintiff is not obligated to prove the amount of the damage in the civil proceedings. Instead, the burden of proving a lesser amount of damage lies with the defendant. This position expresses the binding nature of the civil court to the final criminal judgment.

In conclusion, the civil court accepts the facts established in the operative part of the final criminal judgment as established, and if criminal liability for the offense that caused the damage to the injured party has been established, there is also civil liability for the damage.

Statute of Limitations for Claims for Compensation for Damage

The occurrence of the statute of limitations results in the termination of the injured party's right to demand fulfillment of the obligation, i.e., such an obligation becomes natural – non-enforceable. The statute of limitations ensures legal certainty, but also serves as a form of "sanction" for the creditor (the injured party) due to their inactivity in exercising their rights. If, however, the defendant fulfills their obligation by compensating the damage to the injured party, they cannot request the return of what was given, because the obligation itself has not ceased; it has only become unenforceable. This does not mean that the injured party cannot file a lawsuit for compensation after the statute of limitations has expired, but if the defendant (the respondent) raises the defense of the statute of limitations (which the court does not observe *ex officio*), this would inevitably lead to the dismissal of the claim.

According to Article 376 of the LOO the subjective period for claiming compensation for damage caused is three years, and the objective period is five years. However, Article 377, paragraph 1 of the LOO provides a special limitation period for claiming compensation for damage caused by a criminal offense. If the limitation period for criminal prosecution is longer, the claim for compensation for damage against the responsible party expires when the time specified for the statute of limitations for criminal prosecution elapses. In other words, the LOO refers to criminal law legislation for determining the statute of limitations for claims for damage resulting from a criminal offense. "Even when the damage is caused by a criminal offense, the statute of limitations for the right to compensation cannot begin before the

damage has occurred, and the limitation period begins to run according to the rule in Article 376 of the LOO. Special rules regarding the statute of limitations for claims for compensation for damage caused by a criminal offense also apply when criminal proceedings are discontinued due to the expiration of the statute of limitations for criminal prosecution." (Kastratović, 2013, p.58)

Article 103 of the Criminal Code stipulates that, unless otherwise provided in this Code, criminal prosecution cannot be initiated when the following periods have elapsed: Twenty years from the commission of a criminal offense for which the law provides for a prison sentence of more than fifteen years; Fifteen years from the commission of a criminal offense for which the law provides for a prison sentence of more than ten years; Ten years from the commission of a criminal offense for which the law provides for a prison sentence of more than five years; Five years from the commission of a criminal offense for which the law provides for a prison sentence of more than three years; Three years from the commission of a criminal offense for which the law provides for a prison sentence of more than one year; Two years from the commission of a criminal offense for which the law provides for a prison sentence of up to one year or a fine.

Also, according to Article 104, paragraph 6 of the KZ, absolute criminal prosecution limitation occurs when twice the time prescribed by law for the limitation of criminal prosecution has passed. This is because the limitation is interrupted by any procedural action taken to uncover the criminal offense or to detect and prosecute the perpetrator for the criminal offense, as well as when the perpetrator commits the same or a more serious criminal offense during the limitation period.

According to Articles 377, paragraphs 2 and 3 of the LOO, the interruption of the statute of limitations for criminal prosecution also leads to the interruption of the statute of limitations for claims for compensation for damage, and the same applies to the suspension of the limitation. The initiation and conduct of criminal proceedings or the submission of a property claim in criminal proceedings interrupts the statute of limitations for the claim for compensation for damage (Rev 13248/2023). Additionally, the limitation period for the claim for compensation for damage is interrupted by the submission of a property claim in criminal proceedings, so for the entire duration of the criminal proceedings, the statute of limitations is interrupted (Už-1119/2017).

According to the Constitutional Court's stance, if the injured party decides to seek compensation for damage in a civil lawsuit, they must also be mindful of the relative statute of limitations. This is because the provisions regarding the interruption of the limitation period apply to claims for compensation for damage arising from a criminal offense. In other words, if the injured party does not file a property claim in the criminal proceedings and instead files a lawsuit for compensation only after the expiration of the relative limitation period for criminal prosecution, the defendant would succeed in raising the statute of limitations defense, and the claim would be rejected, regardless of the existence of a final conviction. This is because, although the absolute statute of limitations has not yet occurred, the injured party has not taken any action to interrupt the limitation of the claim for compensation.

The legislator has stipulated that the privileged statute of limitations period under Article 377 of the LOO applies to claims for compensation from the responsible party. Regarding the phrase "responsible party," the author's opinion is that this should be interpreted in line with the provisions of the LOO, and not the Criminal Code. In other words, "responsible party" should not be understood as only the perpetrator of the criminal offense, but also any party liable for the damage according to the rules of obligational law,

regardless of whether the damage was caused by a criminal offense (for example, an insurance company in the case of a criminal offense related to public transportation).

However, it is important to note that judicial practice has not been uniform on this issue. The Supreme Court of Serbia, in its judgment Rev. 1456/03 from December 21, 2006, stated that: "Since no special statute of limitations period is prescribed for claims for compensation for damage from the state, such claims are subject to the regular statutes of limitations for claims for compensation for damage. This arises from the fact that the state is liable for another party, who may cause damage through a criminal offense. However, the longer statute of limitations under Article 377 of the LOO cannot be applied to a responsible party who did not commit the criminal offense, but only to the perpetrator of such an offense. Therefore, the time limits specified in Article 377 of the LOO apply to the party responsible for the damage based on fault, and in the case of liability for another, as in this lawsuit (the defendant is liable under Article 172 of the LOO), the statute of limitations will be calculated according to the general provisions of Article 376 of the LOO."

Thus, the Supreme Court of Serbia has clearly stated that the privileged limitation period associated with criminal offenses and the compensation for damage only applies to the perpetrator of the offense. This view has also been reiterated in some first-instance and appellate court rulings (e.g., decision GŽ 394/17 from May 10, 2017, and judgment P-1308/15 from May 11, 2016).

In its decision Rev. 1335/05 and SGZZ. 58/05 from November 30, 2005, the Supreme Court of Serbia clarified that when the damage is caused by a criminal offense, and a longer statute of limitations applies for criminal prosecution, the claim for compensation for damage against the responsible party becomes time-barred once the statute of limitations for criminal prosecution expires. Moreover, the term "responsible party" does not refer only to the perpetrator of the criminal offense but also includes anyone liable for the damage caused by the criminal offense, even if they were not the direct perpetrator. In this case, the Supreme Court unequivocally interpreted Article 377 of the LOO to include parties responsible for the damage under the provisions of obligational law.

Recent judicial practice provides an answer regarding which statute of limitations applies when the circumstances of the case exclude criminal prosecution. The Constitutional Court, in its decision UŽ-7928/2019 on April 21, 2022, explained the interpretation of Article 377 of the LOO, stating that the claim for compensation for damage against any responsible party—not just the perpetrator—becomes time-barred once the statute of limitations for criminal prosecution expires, but only if a final judgment establishes the existence of the criminal offense and the defendant is convicted. The same statute of limitations for criminal prosecution applies if the criminal proceedings are terminated, or if they could not be initiated due to the defendant's death, mental illness, or other circumstances that exclude criminal prosecution, such as amnesty or pardon. In all other cases, the general statute of limitations under Article 376 of the LOO applies.

The Supreme Court of Serbia, in its decision Rev. 281/2022 from March 22, 2023, reaffirmed this position, thereby resolving any ambiguity and confirming that "responsible party" under Article 377 of the LOO includes both the perpetrator and anyone liable for the damage under the rules of obligational law.

Given that the injured party cannot know in advance whether the defendant will be convicted in criminal proceedings, and in light of the judicial stance that in case of an acquittal the general statute of limitations under Article 376 of the LOO applies, the injured party may choose to file a civil claim for

compensation before the criminal proceedings are concluded. By doing so, they can prevent the statute of limitations from running. The civil court, if the circumstances of the case suggest, may suspend the civil proceedings until the criminal case reaches a final judgment.

Conclusion

If the injured party has suffered damage as a result of a criminal offense, they are free to decide whether to assert their claim for damages in the criminal proceedings by filing a property claim or to initiate an independent civil lawsuit for compensation. Since deciding on the property claim is an ancillary procedure in relation to the criminal case, the criminal court will not engage in determining the amount of the suffered damage if doing so would delay the proceedings, unless the damage is a key element of the criminal offense or a qualifying circumstance (as is the case with crimes such as counterfeiting money under Article 241, Paragraph 3, and embezzlement under Articles 364, Paragraphs 2 and 3 of the Criminal Code). In such situations, the criminal panel is obligated to collect only the information that would later be significantly harder or impossible to ascertain.

If the injured party chooses to pursue their right to damages in a civil lawsuit, they must pay attention to the statute of limitations to avoid the risk of the limitation period expiring due to failing to assert the property claim in the criminal proceedings.

If the criminal proceedings determine that there is no basis for charges, resulting in the dismissal of the case or an acquittal, this does not automatically mean that the injured party has no right to compensation. Since the civil court is not bound by the acquittal or dismissal decision in criminal proceedings, it will determine whether the defendant (the accused) bears civil liability for the damage, as this liability is broader than criminal liability.

Furthermore, the absence of consequences in the form of the result of the criminal offense does not prevent the injured party from seeking compensation if there is a causal connection between the actions of committing the criminal offense and the resulting damage.

Therefore, it is not necessary for the consequence of damage to be an integral part of the criminal offense for the injured party to have the right to claim damages in the civil proceedings with the privileged statute of limitations under Article 377 of the LOO, nor is such a consequence required for the injured party to file a property claim in the criminal proceedings.

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Specifičnosti naknade štete prouzrokovane krivičnim delom

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Sažetak

Brojna krivična dela kao posledicu imaju nastupanje materijalne ili nematerijalne štete. Neka, pak, karakteriše tzv. apstraktna posledica, što znači da nije neophodno da nastupi konkretna posledica kako bi krivično delo bilo izvršeno. Bez obzira na to da li je posledica bitan element krivičnog dela, oštećeni može trpeti štetu koja je prouzrokovana krivičnim delom. Prepoznajući značaj štete prouzrokovane krivičnim delom, zakonodavac je ostavio mogućnost oštećenom da sam odluči da li će naknadu štete tražiti u parničnom ili u krivičnom postupku (putem instituta imovinskopravnog zahteva), a takođe je u čl. 377 Zakona o obligacionim odnosima [ZOO] predvideo privilegovani rok za potraživanje naknade štete prouzrokovane krivičnim delom, koji se vezuje za rok zastarelosti predviđene za krivično gonjenje ukoliko je za krivično gonjenje predviđen duži rok zastarelosti od opšteg roka koji iznosi tri godine od saznanja za štetu, odnosno pet godina od nastanka štete. Na ovaj način je omogućeno oštećenom da svoje pravo na naknadu štete ostvaruje, bilo kroz institut imovinskopravnog zahteva, bilo putem parničnog postupka, u dužem roku, imajući u vidu da je značaj povređenog dobra uobičajeno veći nego kada se radi o šteti prouzrokovanoj deliktним radnjama. Svakako, mora se voditi računa da će se, u slučaju oslobađajuće krivične presude, primenjivati opšti rok zastarelosti.

Ključne reči: naknada štete, zastarelost, krivično delo, imovinskopravni zahtev

Criminal Law Response to Stalking – The Law of Serbia and the Countries in the Region

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Criminal Law Response to Stalking – The Law of Serbia and the Countries in the Region

Abstract

On the basis of regional international standards enshrined in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), a considerable number of European criminal codes in recent years have introduced a distinct criminal offence: “stalking” or “harassment.” This offence constitutes a specific manifestation of the general offence of endangering security, whereby the mental peace and tranquility of another person are unlawfully, and frequently through violent means, disturbed. Such conduct generates a sense of unease, discomfort, fear, or distress in the targeted individual, as well as in persons closely associated with them, most often family members or close relatives. Given that this incrimination derives its foundation from international standards, national legislations tend to regulate this offence in a similar, closely related, or even identical manner, while nevertheless taking into account the particularities of individual jurisdictions and the requirements of their respective criminal policies. The present paper, grounded in international standards, undertakes an analysis of the concept, characteristics, constitutive elements, manifestations, and substantive content of the offence of stalking in Serbian law, as well as within the broader framework of regional criminal legislation.

Keywords: Criminal Code, international standards, stalking, intimidation, personal security, criminal liability, penalty.

Introduction

The introduction of the new criminal offense of stalking in the contemporary criminal law systems of European countries has emerged in recent years as a consequence of the rapid, diverse, and wide-ranging development of modern communication technologies — and their misuse to the detriment of numerous individual freedoms and rights. This phenomenon has led to a growing awareness of the need for enhanced criminal law protection of personal freedoms and rights, particularly the individual's sense of personal security, without which the very concept of human existence is inconceivable.

Efforts to establish new forms of criminalization have been strongly influenced by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, adopted in 2011 (commonly known as the *Istanbul Convention*). This international instrument imposed an obligation on signatory states to introduce, in accordance with international standards, several new criminal offenses into their national legislation. Among the specific gender-based offenses prescribed by the Convention are: (a) psychological violence (Article 33), (b) stalking (Article 34), (c) physical violence (Article 35), (d) sexual violence, including rape (Article 36), (e) forced marriage (Article 37), (f) female genital mutilation (Article 38), (g) forced abortion and forced sterilization (Article 39), and (h) sexual harassment (Article 40).

In the Republic of Serbia, the *Criminal Code* (2005) did not initially recognize stalking as a criminal offense. This form of criminal liability was introduced only in 2016 through amendments to the Criminal Code. The new provision, contained in Chapter Fourteen under the title “Criminal Offenses against Freedoms and Rights of Man and Citizen,” established a distinct offense titled *Stalking* (Article 138a). The protected legal interest of this offense is the individual's personal security — that is, their private life. Personal security, understood in a subjective sense, refers to the individual's *feeling of safety*, which constitutes an essential component of personal liberty as one of the fundamental human rights.

In legal theory, stalking is defined as repeated, persistent, and continuous surveillance or pursuit — an intrusive effort by the perpetrator to establish direct or indirect contact with the victim or their relatives through means of communication, thereby causing fear, discomfort, anxiety, or distress. Stalking also constitutes a specific manifestation of endangering another person's safety or, in certain circumstances, a form of domestic violence when directed toward a person with whom the perpetrator lives or has lived in a family or intimate relationship, where the victim is in a subordinate position (Paunović, 2019; Bjelajac, 2022). In recent years, however, stalking has assumed new forms, reflecting contemporary trends and the widespread use of modern information and communication technologies. As a result of various physical or psychological acts, a specific relationship gradually develops or strengthens between the victim and the perpetrator through repeated, continuous behavior (Đurišić, 2019). Over time, contact is established and maintained, often leading the victim to feelings of helplessness or to the dangerous belief that the perpetrator's actions are harmless, or even to misinterpret them as signs of affection, sympathy, or attention — rather than as violence that may escalate (Bjelajac & Filipović, 2021). Through stalking, the perpetrator — directly or indirectly, personally or through others, or by means of both traditional and modern technological tools — persistently reminds the victim of their presence, communicates with them, and asserts dominance, thereby causing psychological and physical suffering, depriving the victim of freedom, and undermining their control over their own life (Solomun, 2023).

Thus, stalking represents unwanted intrusion and interference in the victim's life by the perpetrator. The very essence of this offense lies in the violation of the victim's private sphere. The offender displays a sense of "superiority" by repeating a series of persistent, interconnected acts directed toward the same person — the victim — thereby provoking fear, anxiety, unease, and distress. It is a behavioral pattern characterized by intrusive, continuous, and repetitive contact with the victim and various forms of harassment, both direct (in person) and indirect (via telephone calls, SMS or email messages, letters, gifts, or valuable items), as well as waiting outside the victim's home or workplace, or damaging or destroying their property. Such behavior may directly or indirectly endanger the victim or their close relatives, leading over time to feelings of fear, helplessness, guilt, danger, or depression. This, in turn, highlights the highly personal and sensitive nature of this type of criminal offense.

International Standards on the Criminalization of Stalking

Based on the standards established by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, a new criminal offense titled *Stalking* (Article 34) has been introduced into modern European criminal legislation. This term refers to any intentional conduct involving repeated threats directed at another person, causing that person to fear for their safety (Marković, 2024). In addition to direct, intentional acts of commission, the Convention (Article 41) explicitly provides for the punishability in two further instances: (a) the attempt to commit the offense, and (b) instigation or aiding and abetting in its commission.

For perpetrators of this criminal offense, in addition to imprisonment, the Convention (Article 45) allows for the imposition of the following measures: (a) monitoring or supervision of convicted offenders, and (b) deprivation of parental rights, where the principle of the best interests of the child cannot be ensured by any other means - which may also encompass the protection of the victim's safety.

Finally, in determining the appropriate sentence, the court is obliged, in each individual case, to give special consideration to the following aggravating circumstances (Article 46), provided that they do not already constitute elements of the basic or aggravated form of the criminal offense. These include: (a) the offense committed against a former or current spouse or partner, or by a person who has abused their position of authority; (b) the repetition of the offense (*special recidivism*) or the commission of a similar offense; (c) the offense committed against a person who has become vulnerable due to specific circumstances; (d) the offense committed against or in the presence of a child; (e) the offense committed by two or more persons acting in concert; (f) the offense that was preceded or accompanied by extreme violence; (g) the offense committed in a dangerous manner — involving the use of, or threat with, a weapon; (h) the offense resulting in serious physical or psychological consequences for the victim; and (i) when the offender has previously been convicted of offenses of a similar nature (*special recidivist*).

Stalking in the Criminal Law of Serbia

Stalking (Article 138a) was introduced as an independent criminal offense into the Serbian criminal law system by the Law on Amendments to the Criminal Code adopted in 2016. In this way, Serbia fulfilled its international obligations undertaken following the ratification of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Article 34). The introduction of this offense emerged as a consequence of the growing, increasingly diverse, and rapidly advancing modern means of communication, as well as their misuse to the detriment of the rights and freedoms of others (Miladinović Stefanović, 2017). In terms of its legally defined content, this offense bears similarity to the crime of Endangering Safety (Article 138).

In legal theory, there is no unified view regarding the determination of the good or value protected as the *object of legal protection* under this incrimination. According to one view, the object of protection is the individual's personal sense of security as one of the fundamental human rights — that of the person, their family member, or a person close to them (Jovašević & Miladinović Stefanović, 2023, p. 83). According to another view, it is the right to private life as one of the basic and fundamental human rights (Dragojlović, 2025, p. 67). The actus reus of the offense of stalking consists of several *alternatively prescribed activities* under the law, such as:

(a) Unauthorized following of another person or undertaking another act with the purpose of physically approaching that person against their will (Vuković, 2018). This conduct manifests itself in two forms.

First, it involves following, that is, maintaining a certain spatial distance from the passive subject that enables the perpetrator to monitor their movements. This act may be carried out in various ways — openly, publicly, or covertly. For the existence of this offense, it is necessary that the act of following (stalking) be performed without authorization, i.e., against the victim's will and unlawfully, without a legal basis (Miladinović Stefanović, 2016).

The second form of manifestation encompasses all other activities undertaken with the purpose of physical approach, which reduce the spatial distance between the perpetrator and the passive subject to such an extent that direct contact becomes possible — whether through eye contact or verbal address (Kovačević & Maljković, 2016).

(b) The attempt to establish contact with another person against their will, directly or indirectly — either through a third person or by means of communication. This involves initiating or attempting actions aimed at enabling contact between the perpetrator and another person, regardless of whether such contact has actually occurred in the given case (Randelović, 2016). The manner of attempting contact is irrelevant — whether it occurs directly, through physical proximity, or indirectly through intermediaries or technological mediation, such as phone calls, text messages, or emails (Kovačević Lepojević & Lepojević, 2009). For this conduct to exist, there must be no consent (explicit or implicit) from the victim (Vilić, 2012).

(c) The misuse of personal data of another person or a person close to them for the purpose of ordering goods or services. To determine the existence of the *actus reus* in this case, it is necessary to define the concept of “personal data” of another person, which here appears as the object of the attack.

In this regard, the Law on Personal Data Protection (Article 4, Item 1) defines *personal data* as any information relating to an identified or identifiable natural person, whose identity can be determined, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an identifier in electronic communication networks, or to one or more factors specific to that person’s physical, physiological, genetic, mental, economic, cultural, or social identity.

In practice, the most common objects of misuse include a person’s name and surname, home address, email address, and telephone number. Regarding the personal data of another person or of someone close to them, the perpetrator must engage in acts of misuse in the sense of *malicious use* (*abusus*) with a specific purpose — namely, ordering certain goods or services, regardless of whether such an order has actually been carried out in the given case (Nikolić Ristanović & Kovačević Lepojević, 2007).

(d) Threatening an attack on the life, body, or liberty of another person or someone close to them — such a threat is expressed through an oral or written statement announcing the infliction of harm upon another person and represents a milder form of coercion (Dimovski, 2016). The law explicitly emphasizes that this provision refers to threats of attacks on the life, body, or liberty of another or a person close to them. Threats of causing other forms of harm, regardless of their gravity, are not relevant for the legal classification of this offense. The threat must be serious, real, direct, and unavoidable.

(e) Undertaking another similar act in a manner that may significantly endanger the personal life of the person against whom such acts are directed (Đorđević, 2021). In addition to the explicitly enumerated activities constituting the *actus reus* of the offense of stalking, the law, through the application of statutory analogy, stipulates that the offense may also be committed by any other act capable of producing the result of *significantly endangering the personal life of the passive subject*.

This legislative formulation indicates that the offense in question involves a result-based act, encompassing any conduct capable of producing the prescribed and legally relevant consequence — namely, the perceptible endangerment of the victim’s personal life.

For the existence of the criminal offense prescribed under Article 138a of the Criminal Code, the cumulative fulfillment of two additional conditions related to the act of commission is required (Đorđević & Bodrožić, 2024, p. 63):

(a) In a particular manner – persistently. Persistence denotes determination, readiness, or the perpetrator’s resolve to repeat or continuously perform the act, meaning that a single act does not constitute this offense. This mode of commission implies the repeated performance of one or more

prescribed activities aimed at achieving a specific goal. Persistence is understood objectively, as it is manifested through the repetition of activities that carry the character of the *actus reus*.

However, alongside this objective element, the condition also includes a subjective aspect — the perpetrator’s awareness that the passive subject does not wish to engage in communication that the perpetrator is attempting to establish. This lack of consent may be manifested either actively or passively (Delić, 2021, p. 82). Future judicial practice should determine how many repetitions of such conduct are necessary for this condition to be satisfied, although legal theory generally holds that it must occur at least twice (Stojanović, 2017).

This statutory formulation indicates that the criminal offense of stalking constitutes an “offense with an indifferent number of acts.” In other words, repetition in the form of multiple, continuous acts — whether identical or different — does not give rise to concurrence (*real concurrence*) or to an apparent extended offense. Rather, such conduct is encompassed within a single, unified criminal act (Stojanović, 2020, p. 521).

(b) Within a specific period of time. The notion of a “specific period of time” is not defined in the Criminal Code; it represents a factual issue assessed by the court based on established objective and subjective circumstances in each individual case, following the presentation of evidence. To satisfy this condition, the repetition of conduct constituting the *actus reus* must be established. Thus, a single act of any of the prescribed activities does not constitute this offense (Dečković, 2017).

The result of the offense consists of a perceptible (more significant, intense, or lasting) endangerment of the personal life of the passive subject. In legal theory, there is an ongoing debate as to whether this consequence must occur in every instance — that is, whenever any of the statutorily prescribed acts is undertaken — or only when the last among them, the “other similar act,” is performed. Linguistic interpretation suggests that only the latter type of act must lead to perceptible endangerment of personal life for the offense to be considered complete. In other cases, the mere commission of an act of intimidation suffices (Vuković, 2018).

The “more significant” (that is, greater in degree, scope, or duration) endangerment of personal life manifests itself in practice through the induction (emergence, causation) of anxiety, unease, or distress — creating a feeling of inner turmoil, tension, fear, or apprehension that is vague and without any apparent external cause. Thus, the consequence of the offense consists of a perceptible (more significant, intense, or lasting) endangerment of the personal life of the passive subject (Paunović, 2019). Unlike classical fear, anxiety is not linked to a specific object or situation; rather, it appears as an anticipation of some indefinite misfortune. It often manifests as a symptom of anxiety disorder, thereby disrupting the victim’s everyday life (or that of persons close to them), or as a fear for the personal safety of another person, a family member, or someone close to the victim.

This criminal offense belongs to the category of *delicta communia*, meaning that it can be committed by any person, while intent (*dolus*) on the part of the perpetrator is required for culpability. The passive subject (victim) may also be any person — both the one directly targeted by the act and any person close to them. For this basic form of the offense, the law prescribes alternatively either a fine or imprisonment of up to three years.

In addition to the basic form, this criminal offense also appears in two more serious, qualified forms, characterized by aggravated consequences. The more serious consequence must be causally

linked to the act of commission of the basic form, while, in a subjective sense, it must be covered by the perpetrator's negligence.

The first aggravated form, punishable by imprisonment from three months to five years, arises when the offense creates a danger to the life, health, or body of the victim or a person close to them. This refers to a concrete (imminent, real, actual) danger, whereby the perpetrator's conduct must create a genuine, objectively existing risk of harm to the aforementioned protected interests.

The second aggravated form, punishable by imprisonment from one to ten years, exists where the act results in the death (caused negligently and unlawfully) of the victim or of a person close to them (Dragojlović, 2025, p. 69).

The Law of Bosnia and Herzegovina

Apart from the Criminal Code of Bosnia and Herzegovina, the other three legislative texts in the field of substantive criminal law applicable within Bosnia and Herzegovina also prescribe the criminal offense of "Stalking or Harassment" — specifically: Article 179a of the Criminal Code of the Federation of Bosnia and Herzegovina, Article 173a of the Criminal Code of the Brčko District of Bosnia and Herzegovina, and Article 144 of the Criminal Code of the Republic of Srpska. These offenses are placed in different chapters of the respective codes, depending on the protected legal interest:

(a) in Chapter XVII, titled "*Criminal Offenses against the Freedoms and Rights of Man and Citizen*" of the Criminal Code of the Federation of BiH;

(b) in Chapter XIII, titled "*Criminal Offenses against Freedoms and Rights*" of the Criminal Code of the Republic of Srpska; and

(c) in Chapter XVI, titled "*Criminal Offenses against Life and Body*" of the Criminal Code of the Brčko District of BiH.

The basic form of the offense — *Stalking* (Article 179a of the Criminal Code of the Federation of BiH) — consists of repeatedly following or harassing another person, attempting to establish, or actually establishing, unwanted contact with another person, either directly, through a third party, or via information and communication technologies, or by intimidating another person in any other manner, thereby causing that person anxiety or fear for their own safety or the safety of a family member or someone close to them.

The Criminal Code of the Brčko District of Bosnia and Herzegovina defines the content of the criminal offense of *Stalking* (Article 173a) in a somewhat different manner. According to this legal provision, the offense is committed by a perpetrator who persistently and over a longer period of time (the duration of which is not specified by criminal law but is a factual matter to be determined by judicial practice in each specific case) follows or stalks another person, or seeks to establish or establishes unwanted contact with that person directly or through a third party, or otherwise intimidates them, thereby causing anxiety or fear for their own safety or the safety of a family member.

Finally, the Criminal Code of the Republic of Srpska defines the criminal offense of stalking (Article 144) as persistent and prolonged following or harassment of another person, or as an attempt to establish or the establishment of unwanted contact with another person, either directly or through a third party, or as causing changes in the victim's daily habits, anxiety, or fear for their personal safety or the safety of persons close to them (Jovašević et al., 2021, pp. 363–365).

For the basic form of the offense of *Stalking/Harassment*, different penalties are prescribed depending on the respective law: (a) imprisonment of up to one year (Criminal Code of the Federation of BiH); (b) a fine or imprisonment of up to one year (Criminal Code of the Brčko District of BiH); or (c) a fine or imprisonment of up to two years (Criminal Code of the Republic of Srpska).

In addition to the basic form, all criminal codes in Bosnia and Herzegovina also provide for a more serious, qualified form of the offense (paragraph 2), for which different penalties are prescribed: (a) imprisonment of up to three years (Criminal Code of the Federation of BiH and Criminal Code of the Brčko District of BiH); and (b) imprisonment from six months to three years (Criminal Code of the Republic of Srpska).

The qualifying circumstances vary among the entities: 1) Under the law of the Federation of BiH, these include: (a) the status of the victim - if the offense is committed against a family member or a close person, against a child, or against a person particularly vulnerable due to severe physical or mental impairment; or (b) the motive of the perpetrator - if the offense is committed out of hatred. 2) Under the law of the Brčko District of BiH, the status of the victim also serves as a qualifying circumstance — if the offense is committed against a family member or a child and 3) Under the law of the Republic of Srpska, the status of the victim is again decisive - if the offense is committed against a current or former spouse or extramarital partner, a person with whom the perpetrator had an intimate relationship, or a child.

The Law of Montenegro

In Montenegro, under Chapter Fifteen – “Criminal Offenses against the Freedoms and Rights of Man and Citizen”, the Criminal Code prescribes the criminal offense of *Stalking* (Article 168a), which, in addition to the basic form, also includes three more serious, qualified forms. The basic form of the offense, for which the law prescribes alternatively either a fine or imprisonment of up to three years, consists of the persistent stalking of another person in a manner that may significantly endanger their life, health, body, or way of life.

The Code explicitly defines what constitutes “persistent stalking”. According to paragraph 6 of this provision, a person is considered to persistently stalk another when, over a certain period of time: (a) they unlawfully follow or otherwise act with the intention of physically approaching that person; (b) they attempt to establish contact with that person against their will, directly, through a third person, or through means of communication; (c) they misuse that person’s personal data to order goods or services; (d) they threaten to attack the life, body, or liberty of that person or someone close to them; or (e) they undertake other similar actions directed toward that person (Đurišić, 2019). From the foregoing, it is evident that this incrimination substantially coincides with the legal definition of the same criminal offense under Serbian criminal law. In Montenegrin law, the criminal offense of stalking also appears in three more serious, qualified forms, depending on the type, nature, or character of the qualifying circumstance.

The first aggravated form of the offense is determined by the status of the victim (which must be encompassed by the perpetrator’s awareness at the time of committing the act). This offense, punishable by imprisonment from three months to five years, exists where the act of commission — that is, any of the statutorily prescribed alternative activities — is directed toward: (a) a former spouse or extramarital partner, or a partner in a same-sex union (paragraph 2); or (b) a child, a pregnant woman, or a person with a disability.

The second aggravated form (paragraph 4) is characterized by a negligently caused consequence in the form of endangerment — when the act of commission creates a danger to the life, health, or body of another person or of someone close to them. This offense is also punishable by imprisonment from three months to five years.

The most serious form of the offense of stalking (paragraph 5), punishable by imprisonment from one to ten years, exists in cases where the death of another person or of someone close to them occurs as a result of any of the legally prescribed alternative acts comprising the act of commission.

The Law of Croatia

In Croatia, under Chapter Thirteen – “Criminal Offenses against Personal Liberty”, the Criminal Code defines the criminal offense of *Stalking* under the title “Persistent Harassment” (Article 140), which appears in two distinct forms. The basic form of the offense (paragraph 1) is committed by a perpetrator who follows or stalks another person, or seeks to establish or establishes unwanted contact with that person, or intimidates them in another manner, thereby causing the person anxiety or fear for their own safety or for the safety of persons close to them. The object of protection in this offense is defined as the personal safety of the individual and the safety of persons close to them. The victim of a criminal offense (Article 87, item 25 of the Criminal Code) is a natural person who has suffered physical or mental (psychological) harm, property damage, or a significant violation of fundamental rights and freedoms as a direct consequence of a criminal act.

The actus reus of the offense consists of several alternatively prescribed activities, namely: (a) following or stalking another person; (b) attempting to establish unwanted contact with another person — undertaking actions directed toward establishing such contact, even if no contact actually occurred in the given case for any reason; (c) establishing unwanted contact with another person; or (d) intimidating another person in another manner — performing any act or using any method or means capable of and sufficient to cause fear (a feeling of personal insecurity) in another person (Turković et al., 2013). The result of the offense is defined as causing anxiety or fear for one’s own personal safety or for the safety of persons close to the victim. The prescribed penalty for this offense is imprisonment of up to one year. Criminal prosecution of the perpetrator is initiated upon the victim’s proposal (paragraph 3).

In addition to the prescribed penalty, the Criminal Code of Croatia provides for the possibility of imposing a special security measure titled “*Prohibition of Approaching, Harassing, or Stalking*” (Article 73). The purpose of this measure, as with other security measures (Article 66), is defined as “*the elimination of circumstances that enable or encourage the commission of a new criminal offense.*” Furthermore, the Code explicitly stipulates that any security measure (Article 67) must be proportionate to the gravity of the committed offense, to the offenses that may reasonably be expected, and to the degree of danger posed by the perpetrator (principle of proportionality). According to the statutory provision, the security measure of prohibiting approach, harassment, or stalking of the victim, another person, or a group of persons — or of prohibiting approach to a specific place - for a duration of one to five years, may be imposed by the court when there is a risk that the perpetrator might reoffend against those persons or in those places. In the judgment imposing this security measure, the court determines the minimum distance that the offender must maintain from the victim, another person, a group of persons, or a specific location — which cannot be less than 100 meters. After one-half of the duration of the imposed security measure

has elapsed, the court may, upon the offender's request, terminate its enforcement if it determines that the risk no longer exists. The court notifies the police of any imposed measure.

The aggravated form of the offense (paragraph 2), punishable by imprisonment of up to three years, exists where the act of commission is directed: (a) against a close person, or (b) against a child (a person under the age of eighteen, as defined in Article 87, item 7 of the Criminal Code).

Under Article 87, item 9 of the Croatian Criminal Code, the term "close persons" encompasses the following categories: (a) Family members – defined in Article 87, item 8 of the Code as a spouse or extramarital partner, life partner or informal life partner, their joint children, and the children of each of them, as well as relatives by blood in the direct line, collateral relatives up to the third degree, relatives by marriage up to the second degree, adoptive parents, and adopted children. An extramarital partner (Article 87, item 10) is a person living in an extramarital union of a more permanent character, or one of shorter duration if a common child was born in that union. (b) A former spouse or extramarital partner; (c) A former life partner or informal life partner (an informal life partner, under Article 87, item 11, is a person living in a same-sex union of a lasting character); (d) A current or former partner in an intimate relationship; (e) Persons who share a common child; and (f) Persons who live in a shared household. This statutory provision clearly indicates that the status of the victim (injured party) constitutes a qualifying circumstance, which must be encompassed by the intent (*dolus*) of the perpetrator at the time of committing the act of stalking.

The Law of North Macedonia

The Criminal Code of North Macedonia, under Chapter Twenty – "Criminal Offenses against the Freedoms and Rights of Man," prescribes the criminal offense of "Stalking" (Article 144a). This offense appears in two forms: (a) the basic form, which is prosecuted upon the proposal of the injured party, and (b) the aggravated form. The basic form of stalking consists of repeated, unauthorized following, persecution, or interference in another person's private life in another manner, or the establishment or attempt to establish unwanted contact with that person by moving within the area where they are present, by misusing accessible data, through the use of public information or other means of communication, or by psychological abuse, harassment, or intimidation in any other way. Such conduct causes a sense of insecurity, anxiety, unease, or fear for one's own safety or the safety of a close person.

The *actus reus* of the offense comprises several alternative activities prescribed by law, such as: (a) following or pursuing another person; (b) interfering in another person's private life in another manner; (c) establishing or attempting to establish unwanted contact with another person by moving within the area where that person is located; (d) misuse of the personal data of another person; (e) use of public information or other means of communication concerning another person; or (f) psychological abuse, harassment, or intimidation of another person in any other way. All of these activities are undertaken (a) repeatedly (persistently, by performing multiple acts) and (b) without authorization (unlawfully). The consequence of the offense consists of causing or creating in another person a subjective feeling of insecurity, anxiety, unease, restlessness, or fear for their own safety or the safety of a close person. For this offense, the law prescribes, alternatively, a fine or imprisonment of up to three years.

The aggravated form of the offense, punishable by imprisonment ranging from six months to five years, is characterized by the status of the injured party. This qualification applies when any of the acts

constituting the offense are committed against a specific person: (a) a person with whom the perpetrator is in an intimate relationship (which is a factual matter to be determined in each individual case), or (b) a child (a person under the age of eighteen).

The Law of Slovenia

The Criminal Code of Slovenia, under Chapter Sixteen – “Criminal Offenses against Human Rights and Freedoms,” among other offenses directed against personal liberty, includes the criminal offense titled “Stalking” (Article 134a), which is prosecuted upon the proposal of the injured party. Stalking was introduced as a new criminal offense in the Slovenian legal system through the 2016 amendment to the Criminal Code. Prior to that, such unlawful conduct by individuals or groups had been legally classified as the criminal offense of domestic violence (Article 191 of the Criminal Code) or as a misdemeanor under the Law on the Protection of Public Order and Peace (Article 6).

The basic form of the offense consists of stalking another person or their close relative through repeated surveillance, pursuit, or intrusive attempts to establish direct contact or contact via electronic communication means, thereby causing fear or a sense of danger in that person or their close relative (Žuran, 2021). The law prescribes, alternatively, a fine or imprisonment of up to two years for this offense.

The aggravated form of the offense (paragraph 2) exists when the act is committed against a specific person whose status must be known to the perpetrator at the time of the commission of the act: (a) a minor, or (b) a helpless person (Filipčić & Korošec, 2023). For this aggravated form, the law prescribes, alternatively, a fine or imprisonment of up to three years.

In this regard, judicial practice provides interesting examples of the manifestation of the act of committing the criminal offense of stalking. Thus, in its judgment No. I Ips 65747/2019 of 25 August 2022, the Supreme Court of Slovenia adopted the following legal position: “The individual actions of the convicted person are temporally defined by specific days or placed within a certain time frame corresponding to how they occurred in reality, which allows the conclusion that the conduct constituted prolonged and repeated stalking. From the description of the individual actions of the convicted person, it is also possible to understand how these actions were manifested in practice. Namely, the actions of the convicted person were continuous and repetitive, involving different forms of conduct, and are described in a manner that clearly indicates how many individual actions occurred and during which period they took place. The fear and threats experienced by the victim are also defined. The description of the criminal offense, both in its temporal and spatial definition, must be read as a whole, without isolating individual actions from the overall description.”

The Supreme Court of Slovenia, in its judgment No. I Ips 39925/2021 of 19 October 2023, also concluded: “When assessing whether the specific description of a criminal offense corresponds to the statutory elements, it is necessary to begin directly from the interpretation of the abstract factual circumstances. It is sufficient to specify the statutory description of the offense by stating that the convicted person, within a clearly defined period of time, sent more than 1,500 individual messages to the injured party and also visited her workplace on several occasions. For the punishability of such conduct, what is decisive is that the communication is intrusive, while the specific content of that communication is not of decisive importance.”

Conclusion

Within the system of international standards established by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Article 34), national criminal legislations are obliged to prescribe criminal liability, among other offenses, for the crime referred to as “Stalking.” This offense consists of intentional conduct involving the repeated issuing of threats directed toward another person, causing that person to fear for their safety.

Based on these obligations, several regional criminal law systems prescribe a specific criminal offense of stalking (or harassment) under different titles, such as: (a) stalking (Article 138a of the Criminal Code of Serbia, Article 168a of the Criminal Code of Montenegro, Article 173a of the Criminal Code of the Brčko District of Bosnia and Herzegovina, and Article 144 of the Criminal Code of the Republic of Srpska); (b) harassment (Article 179a of the Criminal Code of the Federation of Bosnia and Herzegovina and Article 134a of the Criminal Code of Slovenia); and (c) persistent harassment (Article 140 of the Criminal Code of Croatia).

With minor or greater variations in the content of this incrimination across regional legislations, under Serbian law, the criminal offense of stalking (Article 138a) is committed by a person who, over a certain period of time (without specifying its duration, which is left to judicial practice or legal doctrine to determine), persistently engages in one or more of the following alternatively listed activities: (a) unauthorized following of another person or undertaking another action with the purpose of physically approaching that person against their will; (b) attempting to establish contact with another person against their will, either directly, through a third person, or by means of communication; (c) misuse of another person’s or a close person’s personal data for the purpose of ordering goods or services; (d) threatening to attack the life, body, or liberty of another person or someone close to them; or (e) undertaking another similar action in a manner that may significantly endanger the personal life of the person against whom such acts are directed.

Unlike other regional laws that criminalize stalking, Serbian law recognizes this offense in two more serious, qualified forms, which depend on the extent and intensity of the resulting harm, rather than on the status of the victim or the motive of the perpetrator. These aggravated forms exist when the act of commission: (a) creates a danger to the life, health, or body of the victim or a close person, or (b) results in the death of another person or someone close to them.

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Krivičnopravna reakcija na proganjanje – pravo Srbije i država u regionu

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Sažetak

Na bazi regionalnih međunarodnih standarda koji su sadržani u Konvenciji Saveta Evrope o sprečavanju i borbi protiv nasilja nad ženama i nasilja u porodici (2011.) brojna evropska krivična zakonodavstva poslednjih godina propisuju specifično krivično delo: “proganjanje” ili “uhođenje”. Radi se, zapravo, o posebnom obliku ispoljavanja krivičnog dela ugrožavanja sigurnosti, gde se na protivpravan, često nasilan način ugrožava duševni mir i spokojstvo drugog lica izazivajući kod njega nemir, nelagodnost, strah ili uznemirenost, kako kod njega lično, tako i kod njemu bliskih lica (najčešće članova porodice ili bliskih srodnika). S obzirom da ova inkriminacija ima svoj temelj u međunarodnim standardima, najčešće je ovo krivično delo u nacionalnim zakonodavstvima uređeno na sličan, blizak ili istovetan način, naravno uz uvažavanje svih specifičnosti pojedinih država, odnosno potreba njihove kriminalne politike. U ovom se radu na temelju međunarodnih standarda analiziraju pojam, karakteristike, elementi bića, oblici ispoljavanja i sadržina krivičnog dela proganjanja u pravu Srbije, odnosno u regionalnom krivičnom zakonodavstvu.

Ključne reči: Krivični zakonik, međunarodni standardi, proganjanje, zastrašivanje, lična sigurnost, odgovornost, kazna.

Medical power and criminal procedure

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Medical power and criminal procedure

Abstract

For a long time, one of the privileges characteristic of sovereign power was the right over life and death. In the classical era, the existing mechanisms of power were reshaped in the West; so, according to Foucault, instead of the old right to condemn to death or leave alive, the power to leave alive or reject to death entered the scene. The transformation of the mechanisms of power led to the transition to the investigative model of the criminal procedure in which the discussion of the *causa criminalis* moved to the territory of knowledge. The development of investigative methods in acquiring the first economic and administrative knowledge had a significant impact on the introduction of investigation in criminal matters. Certain authors state that in the 16th and 17th centuries, thinking about medicine, botany, and zoology was like a collection of testimonies. For this reason, even in criminal proceedings, special importance is attached to experts who have special non-legal knowledge, and as such are qualified to communicate the truth. The role of experts in the medical profession is specific in that, in addition to giving testimony on the subject matter of the expertise, they also have essentially judicial powers because their opinion has a decisive influence on the limitation of certain basic freedoms and human rights. The paper will also analyze the provisions of certain domestic laws, as well as the standards of the European Court of Human Rights expressed in connection with the legal institution of English law „at Her Majesty’s pleasure.”

Keywords: power, truth, criminal procedure, expert, medical power, basic freedoms and human rights.

Introductory considerations

The Roman Emperor Lucius Septimius Severus ordered that the ceiling of the ceremonial hall where he held receptions and dispensed justice be painted with the arrangement of stars at the time of his birth, as he believed that this determined his fate. In this way, he wanted to show that the logos, which governed the world order at the moment of his birth, organize, establish, and justify the judgments he pronounced. The painted ceiling, as Foucault notes, was meant to remind us that everything that is manifested on the floor of the hall as power represents necessity, so that judgments express truth. In other words, Septimius Severus dispensed justice and pronounced judgments by inscribing them into an absolutely visible order of the world that establishes them as law, necessity, and truth (Foucault, 2012, pp. 3–5).

The abandonment of the celestial logos manifested in the arrangement of stars has "lowered" the search for truth to the earthly level, and numerous philosophers have experienced the extent to which this notion, which is so commonly used in everyday conversation, is inaccessible and enigmatic. But it is not only philosophers who have always been attracted to the notion of truth. As noted, this deceptive notion has been a matter of interest to all those who desire to know about anything whatsoever (Ilić & Majić, 2013, p. 85). The special significance of establishing truth in the process, especially in criminal proceedings where the application of criminal law as *ultima ratio societatis comes to the fore*, is reflected in the fact that the distribution of justice, along with waging war, essentially represents the manifestation of one of the two functions of power that were associated with the sovereign, and later with the "social body" embodied in the republic (Foucault, 2021, p. 291).

The Justinian Code confirms that the administration of justice is originally connected to the ruler whose codification effort is referred to as *sacrificium iustitiae*, and the legal and judicial profession was considered a priestly order, as evidenced by the first statement of the Digest (Kantorovic, 2012, p. 169):

“With justice, we can rightly call ourselves the priests of this craft: for we serve justice and confess knowledge of what is good and just...”

“Priests of justice” are bearers of knowledge through which they express one of the functions of state power, and their actions are justified by the need to establish the truth in order to protect fundamental social values. In this regard, each society has its own regime of truth, specific mechanisms and instances through which it distinguishes true statements from false ones, that is, establishing techniques and procedures for arriving at the truth (Foucault, 1980, p. 131). In this context, there is a viewpoint that connects the model of judicial proceedings with a certain form of state organization. The difference between two types of states arises from the relationship between the state and society.

The first type is the reactive state, and its task is limited to providing a supporting framework within which its citizens pursue their chosen goals. The fundamental structural principle upon which the procedural edifice of the reactive state is erected thus becomes the idea that proceedings are a contest of two sides. On the other side, the extreme activist state espouses or strives toward a comprehensive theory of the good life and tries to use it as a basis for a conceptually all-encompassing program of material and moral betterment of its citizens. The activist proceedings must be structured so as to permit a search for the best policy response to the precipitating event. It is also clear that control over this search must be vested in state officials (Damaška, 1986, pp. 73, 79, 80, 87).

Irrational and rational evidentiary means for establishing the truth in criminal proceedings.

In the known Middle Ages, the church accepted the principle that Roman law applies to it (*ecclesia vivit lege romana*). However, in the field of criminal procedure, a certain exception was made, and irrational means of evidence were adopted, which were applied in medieval German law, justified by the necessity for the decisions of ecclesiastical courts to be accepted by the people (Bayer, 1943, p. 46). Among the irrational means of evidence, divine judgment (*judicia dei, ordalia*) was applied for a time, and for a longer period, the oath of purification (*juramentum purgationis*) and conjurators (*conjuratores*). In this case, conjurators were not required to have knowledge of relevant facts, but it was sufficient for them to swear to the innocence of the accused. From the 13th century, judges began to use testimonies from individuals who had knowledge of relevant facts (*testes de scientia*), instead of individuals who were convinced of the accused's innocence (*testes de credulitate*) (Damaška, 2019, p. 13). This change could be marked as a hint at the application of different techniques in discussing *causa criminalis*, or as the establishment of a relationship between knowledge and truth in criminal proceedings.

This change was inevitable, and the criminal procedure, in the absence of a true judicial means to establish the truth, resorted to two non-judicial areas - alongside the aforementioned church, the influence on finding techniques for establishing the truth was exerted by secular administration. A significant contribution to the introduction of investigation in criminal matters was made by the development of investigative methods in acquiring the first economic and administrative knowledge. The doctrine emphasizes that in the 16th and 17th centuries, thoughts on medicine, botany, and zoology were like a

collection of testimonies (Boccon-Gibod, 2019, pp. 197-198). It should also be noted the emergence of the king's prosecutor (*le procureur du roi*) and the introduction of prosecution ex officio. In one word, faith in the supernatural element of the judiciary was abandoned, and it was reduced exclusively to the realm of human activity. There were also substantial differences in that upheaval, as in England, the voice of God gave way to the voice of the local community; that is, *vox populi* replaced *vox Dei*. In most countries of continental Europe, the evidentiary system of the Catholic Church was adopted, in which a professional judge established the facts (Damaška, 2019, p. 16).

Foucault emphasizes that the emergence of investigation represents a complex political phenomenon that must be analyzed based on power relations. It is about two successive shifts: one from the concept of dominant ideology to the concept of knowledge-power, and then another from the concept of knowledge-power to the concept of governance through truth. The concept of knowledge had the function of placing outside the visible field the opposition of scientific and unscientific, the question of illusion and reality, and the question of truth and lies. While the function of the concept of power is to replace the system of dominant representations with the question, the field of analysis of procedures and techniques through which power relations are realized (Foucault, 2012, pp. 12-13). Contemporary power is not so humanized that it would not be redirected and capillarized in order to exercise increasingly finer and more exhaustive control over its object (individuals and populations). The truth of the individual represents the ideal basis of that power (Foucault, 1976, pp. 78-79).

Biopolitics

In classical times in the West, there was a transformation of existing mechanisms of power, so that instead of the old right to condemn to death or leave alive, the power to leave alive or discard to death took center stage. Given that the main role of authority is to secure, support, strengthen, multiply, and organize life, the death penalty could be pronounced, among other things, for the preservation of societal security, that is, with the aim of eliminating biological danger (Foucault, 1976, p. 181).

The transformation of power mechanisms, or the power to keep alive, resulted in a shift to an investigative model of criminal procedure in which the accused moved from the battlefield to the territory of knowledge. This does not mean that power has diminished or become more humane, but rather it has only been redirected to objects that have become the center of its interest. The acknowledgment of truth is inscribed in the core of the individualization processes carried out by power, and arriving at that acknowledgment also implies the use of torture. The application of torture hinted in a certain way that the body would represent the object to which power would be directed (di Čezare, 2020, p. 116). In fact, power over life developed towards the disciplining of the individual body, which Foucault calls the *anatomo-politics of the human body* (*l'anatomo-politique du corps humain*), and later it was also directed towards the body-species, permeated by the mechanics of life, which he defined as *bio-politics of the population* (*la bio-politique de la population*). The disciplining of the body and the regulation of the population form two poles around which the organization of power over life develops (Foucault, 1976, p. 183).

It has been noted in the doctrine that one of the most pronounced constants in Foucault's work is the decisive abandonment of the traditional approach to the problem of power based on legal-institutional models (definition of sovereignty, theory of the state) and a focus on an impartial analysis of the concrete ways in which power penetrates the very bodies of the subject and the forms of their lives (Agamben,

2018, p. 12). While power penetrates the human body, there are situations in which the body and life remain outside the shelter of basic freedoms and human rights. This was pointed out by Arendt, who argues that the conception of human rights, based on the presumed existence of a human being as such, failed as soon as those who advocated it first faced people who had lost every other attribute and determination, except for the mere fact that they are human beings. In this regard, Agamben emphasizes that the refugee should be viewed as a boundary concept capable of provoking a radical crisis of the basic categories of the nation-state, from the connection between birth and nation to the connection between man and citizen, thus creating space for the now urgent categorical renewal, which aims to create a politics in which bare life will no longer be separated and excluded within the state order, not even through human rights (Agamben, 2018, pp. 141, 149).

Medical knowledge

In the court procedure characteristic of an activist type of state, the establishment of truth is carried out in accordance with classical realist theory. According to classical realist theory, the perception that is most frequently encountered. Expressed in philosophy as well as in other areas of knowledge, truth is realized as simply a matter of correspondence between statements or sentences and the world or parts of the world (correspondence theory). For traditionalists, truth in no way depends on our beliefs or on whether we are able to grasp it or not. Truth is objective and hinges only on the way the world is; it is like a „hidden piece of gold," waiting to be discovered and brought to light (Ilić & Majić, 2013, p. 86). Deficiencies of the classical correspondence theory caused the development of a number of anti-realistic theories, the most characteristic of which is the coherence theory of truth. The basis of this view is the negation of the stance according to which true facts exist *a priori*. According to these theories, truth is what reasonable people agree upon after a complete and fair discourse (Ilić & Majić, 2013, p. 86). The coherence theory of truth is characteristic of the judicial procedure that exists in a reactive state.

Regardless of the differences presented, a common feature of the exposed models of judicial procedure is the effort to establish the truth. Foucault believed that there is a technology of evidential truth that is one with scientific practice. He emphasizes that scientific proof is essentially just a ritual, that the universal subject of knowledge is in reality an individual historically qualified according to a certain number of modalities, and that the discovery of truth in reality is a certain modality of truth production. He calls this the archaeology of knowledge (*l'archéologie du savoir*), while the genealogy of knowledge (*la généalogie de la connaissance*) indicates how the technology of evidential truth effectively occupied and now exerts power over that truth whose technology is connected to the event, strategy, and hunt (Foucault, 2003, pp. 238-239).

One of the specific features of judicial truth is that, in contrast to scientific truth, which includes judgments about reality, it refers to normative conclusions that are partially based on factual conclusions. Therefore, it cannot be identified with scientific, philosophical, ethical, or aesthetic truth (Ilić & Majić, 2013, p. 92). Moreover, the conclusions reached in criminal proceedings are limited by the fact that none of them is characterized by a purely determinative nature, but the authority of a judged matter gives it a partially "normative" nature. Therefore, the determinative dimension of the conclusions forming the basis of the court judgment can be assessed in light of truth understood in a scientific sense, which justifies, at

least partially, attributing the presumption of truthfulness to the judged matter (van de Kerchove, 2000, pp. 95–96).

It can be said that since the end of the Middle Ages, there has been a general investigation of the entire surface of the Earth, down to the finest parts of things, bodies, and movements - the truth is everywhere and awaits us everywhere, at every place and at all times. A universal subject for this truth does not exist, as the ability to know it implies possessing the appropriate knowledge. The emergence of philosophers, scientists, intellectuals, professors, laboratories, etc. in the history of the West since the 18th century is directly related to this expansion of the position of scientific truth, with the thinning of those who can know the truth that is now present everywhere and at every moment. At that time, what can be called hospital and medical equipment was being built in Europe, which ensures general oversight of the population, creating the possibility for health investigations to be transferred in principle to every individual, and the hospital allows for the inclusion of the body of the living individual in illness and, above all, the body of the deceased (Foucault, 2003, pp. 246-247).

In the medical tradition of the 18th century, illness is presented to the observer according to *symptoms* and *signs*. A symptom is the form in which the illness presents itself: it is the closest to the essence of everything that is visible and represents the first transcription of the inaccessible nature of the illness. On the other hand, a sign announces: prognostically, what will happen; anamnestic, what has happened; diagnostically, what is currently happening. The education of the clinical method is associated with the emergence of the physician's view in the field of signs and symptoms (Foucault, 2007, pp. 89–90).

In medical practice, special importance is given to the crisis; that is, the moment when the evolution of the disease is resolved, when the question of life or death is decided, or when the disease transitions to a chronic state. In its general form, the technique of crisis in Greek medicine does not differ from the technique of a judge or arbitrator when it comes to a legal dispute. Here, in the test technique (*l'épreuve*) there is some kind of pattern, a judicial-political matrix, which is applied both in legal conflicts in a criminal law case and in medical practice. In confronting the crisis, the doctor takes on the role of an arbitrator - the word crisis essentially means "to judge," and diseases are judged on the day of the crisis; they are assessed based on how the conflict was presided over, and the doctor can emerge as a winner or defeated in relation to the disease (Foucault, 2003, pp. 242, 244).

Special cases of expertise

Expertise is determined with the aim of establishing facts for which specialized knowledge or particular technical skills are required and/or providing expert opinions on such established facts. It is, therefore, about activities that assume expert knowledge or skill, the first of which involves establishing the fact (expert's finding - *visum repertum*), and the second deriving an expert conclusion about the established fact (expert's opinion - *parere*). It concerns a fact that is the subject of proof (Vasiljević, 1981, pp. 334-335).

One of the questions discussed in the doctrine relates to the legal nature of expert testimony. There were opinions that expert testimony is not a form of evidence, but this view has been abandoned. It is undisputed that expert testimony, like any other form of evidence, assists the authority in the proceedings (the court, but also the public prosecutor) in establishing facts. The findings and opinions of

the expert do not represent a final judgment on the subject of proof, but evidence like any other that the authority in the proceedings must evaluate to accept or reject it (Vasiljević, 1981, p. 335). In Anglo-American theory, it is emphasized that it is impossible to say what an expert is to be if he is not to be a witness. If he is to decide upon medical or other scientific questions connected with the case so as to bind either the judge or the jury, the inevitable result is a divided responsibility that would destroy the whole value of the trial. If the expert is to tell the jury what the law is - say about madness - he supersedes the judge. If he is to decide whether, in fact, the prisoner is mad, he supersedes the jury (Stephen, 1883, p. 575). Regardless of the doctrinal views presented, in the practice of Serbian courts, evidence obtained through expert testimony is often given precedence over other evidence, and it is not uncommon for their evidential value to be overestimated, so it is occasionally perceived that judges order expert testimony, but that experts actually render judgments (Banović & Ilić, 2019, p. 426).

The legislator in Serbia has anticipated several cases of expert evaluation that require the engagement of experts with medical knowledge. These are evaluations that most commonly occur (bodily injuries), are particularly significant (murder), or are especially complex (psychiatric evaluation). According to the provisions of the Code of Criminal Procedure (National Assembly of the Republic of Serbia, 2011, Art. 127, Art. 129 and Art. 131), this refers to the evaluation of bodily injuries, evaluation of corpses, and psychiatric evaluation.

Expertise in bodily injuries

An injury represents a violent damage to health caused exclusively by the action of external factors, whereby bodily injury encompasses any damage, separation, or destruction of any part of the body. On the other hand, health impairment includes all temporary or permanent physical and mental illnesses or exacerbations of existing physical and mental disorders (Veljković *et al.*, 2010, p. 293). Given that this is an area that represents one of the most common subjects of evaluation, the legislator has dedicated several supplementary provisions to it. It is stipulated that the authority conducting the procedure will determine the evaluation of bodily injuries if there is doubt regarding the type and manner of occurrence of the bodily injury (National Assembly, 2011, Art. 127, para. 1). The position of judicial practice is that this type of evaluation can be performed by all doctors, whereby the expert specialist in forensic medicine is qualified for Expertise of all types of injuries. This view should not be understood as giving an advantage to forensic medicine specialists over other doctors (Ilić *et al.*, 2024, p. 462).

The rule is that bodily injuries are to be assessed by examining the injured person. The ratio legis of this solution is that the diagnosis of injuries and their qualification can most reliably be carried out on the basis of an examination of the injured person, preferably immediately after the injury (Narodna skupština, 2011, Art. 127, para. 2). It is very important that the examination be carried out as soon as possible because, over time, injuries heal and lose their original features, and sometimes the examination needs to be repeated (Veljković *et al.*, 2010, pp. 299–300).

Autopsy

In addition to the terminological alignment with the condition for determining the expert opinion on bodily injuries, the expert opinion on a corpse differs in that the assessment of the existence of a "suspicious" death (*mors dubitationem*) is made by the public prosecutor or the court (i.e., not the police).

Depending on the conclusion it draws, the procedural authority decides whether there is a need for an expert opinion on a corpse. The legislator has provided that an expert opinion on a corpse is ordered in the following cases (National Assembly, 2011, Art. 127, para. 1):

- a) if there is a suspicion that the death of a certain person is a direct or indirect consequence of a criminal offense;
- b) if, at the time of death, the person was deprived of liberty;
- c) if the identity of the corpse is unknown.

The reasons stated under b) and c) are, in the true sense of the word, the grounds for a mandatory autopsy. When it comes to the autopsy of a person who was deprived of his liberty at the time of death, it should be noted that the European Court of Human Rights held that there was a violation of the procedural aspect of the right to life (National Assembly of the Republic of Serbia, 2003, Art. 2) In the case where the investigation into the death of the applicant's husband was conducted by the Ministry of Internal Affairs and the public prosecutor's office, after taking over the investigation, relied exclusively on evidence collected by the police (*Shavadze v. Georgia*, 72080/12, §§35, 37, 19 November 2020, ECHR). Should we also recall the current case of the missing girl from Ćuprija, in which an indictment has been filed against the defendants, and the identity of the police officers who, as suspects, interrogated the brother of one of the defendants and, on that occasion, inflicted bodily injuries on him from which he died has not yet been established? An expert examination of the suspect's corpse determined that the suspect died as a result of torture, and since April 2024, when the expert examination was conducted, no decision has been made to initiate an investigation (National Assembly, 2011, Art. 295, para. 1(1)), nor has the public been informed of any progress in identifying the authorized police officers who did so (Ilić & Beljanski, 2025, p. 44).

A special feature of the autopsy is the identification of unidentified bodies in situations where, in the opinion of the competent public prosecutor's office, there is no doubt that the death was the result of a criminal act. It is often the case that the public prosecutor does not order an autopsy of a body, justifying this position by saying that identification is not within his jurisdiction and that he does not have the financial resources to do so (Ilić *et al.*, 2024, p. 466). It should be noted that the examination and autopsy of a body is performed by a doctor specializing in forensic medicine. Incidentally, an autopsy (*obductio seu autopsio*) is a medical procedure that involves opening body cavities and cutting organs according to established rules for medical and legal-medical reasons. Considering the goals that are to be achieved, an autopsy is divided into pathological-anatomical (clinical) and forensic. A forensic autopsy is performed based on an order from the public prosecutor or court in order to determine and clarify the cause of death or when requested by a doctor and close relatives of the deceased (Veljković *et al.*, 2010, p. 44).

Psychiatric expertise

For the determination of the psychiatric evaluation of the accused, it will occur if it is necessary to establish whether his accountability is excluded or diminished, or if he committed a criminal offense due to dependence on the use of alcohol or narcotic drugs, or if he is incapable of participating in the proceedings due to mental disturbances (National Assembly, 2011, Art. 131, para. 1). Although the legal wording allows for the psychiatric evaluation to be determined by the police, public prosecutor, or court,

this will usually be done by the public prosecutor or court. If doubt arises regarding the accountability of the suspect during the hearing and, as a consequence, the need to determine a psychiatric evaluation, the police are obliged to contact the public prosecutor to order the undertaking of this evidentiary action. In favor of this, it can also be stated that for the purpose of medical evaluation, it is possible to place the accused in a health institution, which is decided by the court, among other things, at the request of a party, and the police are definitely not that party (National Assembly, 2011, Art. 122, para. 1). If it is considered that a psychiatric evaluation can also be determined for a witness (National Assembly, 2011, Art. 131, para. 2), and that the possibility for the police to interrogate a witness is excluded unless entrusted to them by the public prosecutor, in this procedural situation there is no possibility for the police to determine the evaluation.

The accused can therefore be placed in a healthcare institution if necessary for medical examination (National Assembly, 2011, Art. 122, para. 1). This refers to a concept that, in addition to forensic psychiatric examination, also includes forensic medical examination. Accordingly, the placement of the accused in a healthcare institution may also occur for the examination of their mental states and psychological development that are necessary for assessing their personality or imposing certain security measures of a medical nature. On the other hand, since the subject of forensic medical examination can include, among other things, living persons and their parts, the placement of the accused in a healthcare institution could also occur if it is necessary to conduct their examination (for example, to determine the nature and type of bodily injuries), ascertain intoxication or poisoning, perform identification, and similar (Ilić *et al.*, 2024, p. 449). The fact that there is a court decision does not always mean that placement in a healthcare institution is lawful, but this must be examined in each specific case (*D.R. v. Lithuania*, 961/15, §§ 71-72, 26 June 2018, ECHR).

The measure of placing the accused in a healthcare institution can originally last up to 15 days, with the court exceptionally able to extend it for another 15 days at most (National Assembly, 2011, Art. 122, para. 2). The condition *sine qua non* for extending the measure is a reasoned proposal from the expert, upon receiving which the court obtains, *ex officio*, the opinion of the head of the healthcare institution where the accused is placed. If the court accepts the expert's proposal, it extends the measure of placing the accused in the healthcare institution by a decision. *Ratio legis* for shorter time limits for placement in a healthcare institution, compared to the previous legal solution, arises from the ECHR's stance that placing the accused in a healthcare institution against his will is considered deprivation of liberty (*Winterwerp v. the Netherlands*, 6301/73, § 61, 24 October 1979, ECHR).

“At Her Majesty's pleasure”

In English law, the duty of a judge is to decide on all legal questions and to explain to the jury the law applicable to the case. One of the specific duties of a judge is the order that the person against whom a special verdict of insanity has been returned be kept in custody as a criminal lunatic until His Majesty's pleasure shall be known (Lawson & Keedy, 1910, pp. 752-753). The notion of detention during Her Majesty's pleasure has its origins in statutory form in an Act of 1800 for "the safe custody of insane persons charged with offenses" (Criminal Lunatics Act), which provided that defendants acquitted of a charge of murder, treason, or felony on the grounds of insanity at the time of the offense were to be detained in "strict custody until His Majesty's pleasure shall be known" and described their custody as being "during

His [Majesty's] pleasure." In 1908, detention during His Majesty's pleasure was introduced in respect of offenders aged between 10 and 16. It was extended to cover those under the age of 18 at the time of conviction (1933) and further extended to cover persons under the age of 18 at the time when the offense was committed (1948) (*Singh v. the United Kingdom*, 23389/94, §§ 27-28, 21 February 1996, ECHR). English law imposes a mandatory sentence for the offense of murder in respect of offenders under the age of 18 known as detention during Her Majesty's Pleasure (section 53(1) of the Children and Young Persons Act 1933); in respect of offenders between the ages of 18 and 20 years, custody for life (section 8(1) of the Criminal Justice Act 1982), and in respect of offenders aged 21 and over, life imprisonment (section 1(1) of the Murder (Abolition of Death Penalty) Act 1967) (*Waite v. the United Kingdom*, 53236/99, § 37, 10 December 2002, ECHR). Detention at His Majesty's Pleasure can also be applied to an adult offender, and such a possibility is provided by the Mental Health Act 1983. When someone is detained at His Majesty's Pleasure, especially under a mental health context, it's often because they've been found not guilty by reason of insanity or unfit to plead, or they've been convicted of an offense where a psychiatric disposal is deemed more appropriate than a penal sentence. Otherwise, the term "at His Majesty's Pleasure" originates from the power of the monarch to imprison subjects (Watts, 2025).

There is an opinion that the king, though invoked in sentencing, isn't personally aware of every prosecution upheld in his name. He might, in high-profile cases that have caught his attention, take some abstract pleasure in the knowledge that order is being maintained, and that those who challenge it are being separated from 'productive' society in prisons that theoretically belong to him (His Majesty's Prisons). His role here is predominantly as a vessel for interests and desires beyond his own. In short, his personal relationship to pleasure is not important, but when figured as a metonym, it serves a significant purpose for the state. In addition, to be sentenced "at His Majesty's pleasure" is an example of how the British state dominates time and harnesses suspense as a means of control. This sentence means that the point at which the convict's time will be returned to them to be disposed of as they choose is undetermined (Freedman, 2025, pp. 1, 54).

On several occasions, the institution "at His Majesty's pleasure" has expressed its position regarding human rights standards and the ECHR. In the case of *Singh v. the United Kingdom*, the court in Strasbourg stated that the Parole Board does not meet the requirements for deciding on deprivation of liberty because it cannot order the release of a prisoner (National Assembly, 2003, Art. 5, para. 4). The lack of an adversarial procedure before the Parole Board also prevents it from being considered a court or a body similar to a court that can decide on the justification of deprivation of liberty. It is crucial in cases where the assessment of the character or mental state of the applicant is being decided that they be present at the oral hearing. The Court's position is that in situations involving a significant prison sentence, where the characteristics related to the individual's personality and level of maturity are important for deciding whether they would pose a danger if released, an oral hearing within an adversarial procedure that includes legal representation and the possibility of calling and examining witnesses is necessary. The possibility for the applicant to receive an oral hearing in the proceedings for judicial review of the decision is not sufficiently certain to be considered to meet the Strasbourg standards (*Singh v. the United Kingdom*, 1994/ 1996, §§ 66-69). On the same day, a decision was made on the case of *Hussain v. the United Kingdom* (*Hussain v. the United Kingdom*, 21928/93, §§ 58-61, 21 February 1996, ECHR).

On 1 October 1997, section 28 of the Crime (Sentences) Act 1997 was brought into force in order to implement the judgments of the European Court in the Hussain and Singh cases. This section provides that, after the tariff period has expired, it shall be for the Parole Board, and not, as previously, for the Secretary of State, to decide whether it is safe to release on license an offender serving a sentence during Her Majesty's pleasure for an offense of murder committed before the age of 18. Over the years, the Secretary of State has adopted a "tariff" policy in exercising his discretion regarding whether to release offenders sentenced to life imprisonment. In essence, the tariff approach involves breaking down the life sentence into component parts, namely retribution, deterrence, and protection of the public. The "tariff" represents the minimum period that the prisoner will have to serve to satisfy the requirements of retribution and deterrence. The Home Secretary will not refer the case to the Parole Board until three years before the expiry of the tariff period and will not exercise his discretion to release on license until after the tariff period has been completed (*V. v. the United Kingdom*, 24888/94, § 40, 16 December 1999, ECHR).

The problem of "tariff" policy was considered in the case *V. v. the United Kingdom*. The Court recalls that where a national court, after convicting a person of a criminal offense, imposes a fixed sentence of imprisonment for the purposes of punishment, the supervision is incorporated in that court decision in accordance with the provisions of the Convention (National Assembly, 2003, Art. 5, para. 4). This is not the case, however, in respect of any ensuing period of detention in which new issues affecting the lawfulness of the detention may arise. The Court has already determined that the failure to have the applicant's tariff set by an independent tribunal gives rise to a violation of that provision (National Assembly, 2003, Art. 6, para. 1). Accordingly, given that the sentence of detention during Her Majesty's pleasure is indeterminate and that the tariff was initially set by the Home Secretary rather than the sentencing judge, it cannot be said that the supervision (National Assembly, 2003, Art. 5, para. 4) was incorporated in the trial court's sentence. Moreover, the Home Secretary's decision setting the tariff was quashed by the House of Lords on 12 June 1997 and no new tariff has since been substituted. This failure to set a new tariff means that the applicant's entitlement to access a tribunal for periodic review of the continuing lawfulness of his detention remains inchoate. It follows that the applicant has been deprived, since his conviction in November 1993, of the opportunity to have the lawfulness of his detention reviewed by a judicial body (National Assembly, 2003, Art. 5, para. 4) (*V. v. the United Kingdom*, 1994/ 1999, §§ 119–122).

In the case of *Waite v. the United Kingdom*, the applicant was released on life license in January 1994 after the expiration of his tariff. He was recalled to prison on 21 July 1997 by the Secretary of State on the recommendation of the Parole Board following concerns regarding his conduct, which included drug misuse, a sexual relationship with a minor, attempted suicide, and failure to maintain contact with his supervising probation officer. While the Parole Board considered the applicant's written representations regarding his recall on 5 September 1997, no oral hearing took place, and the applicant had no opportunity to examine or cross-examine witnesses relevant to the allegations that his conduct posed a risk to the public. The applicant should have received such a hearing under the administrative provisions in effect pending the entry into force of the Crime Sentences Act 1997. The Court is not persuaded by the Government's argument, which appears to be based on the speculative assumption that whatever might have occurred at an oral hearing, the Board would not have exercised its power to release. In matters of such crucial importance as the deprivation of liberty and where questions arise involving, for example, an

assessment of the applicant's character or mental state, the Court's case law indicates that it may be essential to the fairness of the proceedings that the applicant be present at an oral hearing. In such a case as the present, where characteristics pertaining to the applicant's personality and level of maturity and reliability are of importance in deciding on his dangerousness, the provisions of the Convention (National Assembly, 2003, Art. 5, para. 4) require an oral hearing in the context of an adversarial procedure involving legal representation and the possibility of calling and questioning witnesses (*Waite v. the United Kingdom*, 1999/2002, §§ 57–59).

In Serbian criminal law, the institution that has certain similarities to with the detention "during Her Majesty's pleasure" is the security measure of mandatory psychiatric treatment and custody in a healthcare institution (National Assembly of the Republic of Serbia, 2005, Art. 81). This security measure can be imposed on a person who has committed a criminal offense while in a state of significantly reduced accountability, or on a person who has committed an illegal act that is provided for as a criminal offense in the law. If there is a suspicion that the perpetrator was of diminished capacity or non-accountable at the time of committing the act, the public prosecutor or court will order a psychiatric evaluation (Vuković, 2021, pp. 514–515).

When it comes to a perpetrator who committed a criminal offense in a state of significantly diminished accountability, the court will impose mandatory psychiatric treatment and confinement in an appropriate health institution if, considering the committed criminal offense and the state of mental disorder, it determines that there is a serious danger that the perpetrator will commit a more serious criminal offense and that, in order to eliminate this danger, his treatment in such an institution is necessary (National Assembly, 2005, Art. 81, para. 1). The condition for assessing the severity of the criminal offense is not more closely defined in the law, and it concerns a future act. Although judicial practice does not accept the limitation that a prison sentence of at least five years must be prescribed for a future act, there is a view in doctrine that it is unacceptable for a measure of *unlimited* duration to be imposed if the risk relates exclusively to lesser criminal offenses (Vuković, 2021, p. 515). If the conditions for imposing this criminal sanction are met, the court will impose mandatory treatment and confinement in a health institution for a perpetrator who committed an illegal act provided for in the law as a criminal offense while in a state of non-accountability. The court will suspend the imposed measure when it determines that the need for treatment and the custody of the perpetrator in a health institution has ceased (National Assembly, 2005, Art. 81, para. 2-3). Since this is a security measure of a medical nature, the court does not determine its duration when pronouncing it, but the institution where the measure is executed and the success of the treatment gives the final word. If imposed alongside a prison sentence, this measure may last longer than the imposition of the sentence (Vuković, 2021, pp. 515–516).

The execution of the security measure of mandatory treatment and custody in a health institution is regulated by legal provisions relating to the execution of criminal sanctions. Thus, the obligation of the health institution, or the department to which the person is sent for treatment and custody, is prescribed to inform the court that imposed the measure at least once a year about the health status of the person to whom it applies (National Assembly of the Republic of Serbia, 2014, Art. 198). Regarding the suspension or execution of the imposed security measure, in addition to the mentioned law, there are several articles in the legal provisions on criminal procedure concerning this issue. According to the first provision, the proposal for suspension or replacement of the measure is sent to the court by the institution where the

measure is executed, and such an obligation exists when the institution believes that the treatment is completed (National Assembly, 2014, Art. 199, para. 1–2).

Although the procedure for suspending the security measure of mandatory psychiatric treatment and custody in a healthcare institution is regulated by the provisions of procedural legislation, there are noticeable differences compared to the legal provisions on the execution of criminal sanctions. These relate to a broader circle of authorized proposers, as well as the obligation of the court to *ex officio* examine the justification for the continued duration of the security measure. Namely, the court that adjudicated in the first instance in which the security measure was imposed will examine, at the proposal of the healthcare institution, the guardianship authority, or the accused to whom the security measure was imposed, or *ex officio* every nine months whether the need for treatment and custody in the healthcare institution has ceased. After taking a statement from the public prosecutor, the court will suspend this measure by decision and order the release of the accused from the healthcare institution if it determines, based on the doctor's opinion, that the need for treatment and custody in the healthcare institution has ceased, and it may also order his mandatory psychiatric treatment in freedom. If the proposal for the suspension of the measure is rejected, it may be resubmitted after six months from the date of the adoption of that decision (National Assembly, 2011, Art. 531, para. 1–2).

It has been pointed out in the doctrine that there is a discrepancy in these legal solutions, given that the accused has a legitimate interest in requesting a review of the need for further psychiatric treatment and detention in a healthcare institution; therefore, priority should be given to the solution contained in procedural legislation. The question is open as to what the legislator meant by the reason for the suspension of the security measure, i.e., whether it is only about the completion of treatment or whether it can also refer to cases such as the terminal stage of illness or the death of the accused (Ilić, A., 2022, pp. 365-366). If the solution regulates the decision-making process regarding the suspension of the security measure. Considering the obligation of psychiatric treatment and custody in a healthcare institution (National Assembly, 2011, Art. 531) in light of the standards set by the ECHR, it can be said that it does not fully meet the Strasbourg standards. The lack of an oral hearing for the accused and the absence of adversarial proceedings represent fundamental shortcomings that should be pointed out.

Finally, but no less importantly, attention will also be drawn to the legal provisions concerning the treatment of individuals with mental disorders. An individual with a mental disorder may be held in a psychiatric institution without consent, and the decision regarding this is made by a psychiatrist. Although the law stipulates that the psychiatrist has an obligation to appropriately communicate and explain the decision to the individual with a mental disorder and to inform them of their rights and duties (National Assembly of the Republic of Serbia, 2013, Art. 24, para. 1 and 3), the question is whether this solution can be effectively implemented in practice. If on the first subsequent working day the psychiatric institution's council decides to keep the individual for further hospital treatment, the institution is obliged to notify the competent court of their detention within 24 hours, along with the medical documentation and an explanation of the health reasons for the detention. The notification, but without the mentioned documentation and explanation, is provided by the psychiatric institution to the individual with a mental disorder, their legal representative if known, one of the close family members, and the competent guardianship authority (National Assembly, 2013, Art. 24, para. 4 and Art. 25, para. 2-3). It can be noted that in the case of an unknown or non-existent legal representative, an absent or non-existent member of

the immediate family, only a person with mental disabilities and the guardianship authority remain as recipients of the notification. There is not a word about the attorney appointed by the court *ex officio*, and there is no need to even mention the chosen attorney.

Given the urgency of the procedure and the court's obligation to hold a hearing at which, in addition to the members of the immediate family of the person with mental disabilities, a person whom the person with mental disabilities trusts may, *with the court's permission*, attend, provided that the mentally ill person or their representative does not object. Regarding the attorney of the person with mental disabilities, the possibility is prescribed that they can also attend (National Assembly, 2013, Art. 28, para. 1, 3-4), which in other words means that engaging an attorney is only an option; that is, there is no appointment of an attorney *ex officio*.

The court is obliged to hold a hearing in a psychiatric institution within three days from the date of receipt of the notification about the detention of a person with mental disorders (it should not be forgotten to include the appropriate documentation and justification of the reasons provided by the panel of psychiatrists) and to hear the person whose detention is being decided. Moreover, it is not specified whether and how individuals who may attend the hearing can contribute to the procedural discussion. That it is a secondary role can be concluded from the legal provision that stipulates the court's *obligation* to obtain the findings and opinion of a psychiatrist before making a decision on the detention or release of a person with mental disorders, while the court only has the *possibility* to request information from guardianship authorities, close family members, or other individuals who can provide information relevant to the decision-making process. The court is obliged to decide on the detention without the consent of the person with mental disorders within three days of holding the hearing (National Assembly, 2013, Art. 29 and Art. 32, para. 1 and 4). This decision determines the duration of detention in a psychiatric institution, which cannot exceed 30 days, but the detention can be extended for up to three months, and each subsequent extension can last up to six months, with the obligation of the psychiatric institution to submit quarterly reports on the health status of individuals with mental disorders, and more frequently if required by the court (National Assembly, 2013, Art. 33 and Art. 34, para. 3–5).

Final considerations

The expert knowledge that, unlike the prosecuting authority, an expert possesses raises the question of the extent to which the court is able to assess the evidentiary value of findings and opinions. Understandings regarding this are divided, from those in which science, through experts, becomes increasingly the judge in the area of facts, and the judge becomes the adjudicator, to the view that the court is invited to assess the findings and opinions of the expert according to its free judicial conviction. Although it has been theoretically emphasized that the assessment of the evidential value of the expert opinion is preceded by the assessment of the parties at the main hearing, this possibility only gained real meaning with the introduction of the institution of the expert advisor (National Assembly, 2011, Art. 125–126). In any case, the court's disagreement with the expert's opinion should result in the fact that a certain fact that was to be established by the expertise cannot be considered established, which opens the space for the application of the rule *in dubio pro reo*. On the other hand, it is undisputed that the findings and opinions represent evidence that has a "special treatment" in judicial practice. This is also evidenced by the views expressed in the practice of Serbian courts that, according to free judicial

conviction, the court does not have to accept the expert's opinion, but it cannot draw conclusions that are contrary to the expert's opinion, and in some decisions, it is expressed that the expert's opinion must be accepted as credible evidence unless proven otherwise, which greatly calls into question the free judicial conviction. In any case, before proceeding to assess the evidential value of the expertise, there is the possibility of taking certain measures aimed at eliminating potential deficiencies in the findings and opinions (National Assembly, 2011, Art. 124) (Ilić *et al.*, 2024, p. 453).

It is emphasized in the doctrine that psychiatric expertise, unlike all other types of expertise, cannot be replaced by any other method, which serves as a justification for linking the determination of sanity exclusively to psychiatric expertise (Grubiša, 1964, p. 440). This opinion does not take into account that another special type of expertise - autopsy expertise, cannot be replaced by any other evidence (in this paper, an example of "suspicious" death (*mors dubitationem*) of a suspect who died due to police torture is mentioned). The cited author believes that in the absence of psychiatric expertise or when the court does not accept the findings and opinions of the expert, the way out of this procedural situation should be sought in the principle *in dubio pro reo*. In other words, the emergence of doubt about sanity can only be resolved by psychiatric expertise, and if sanity is not proven, it is assumed that the accused is insane. In the event that the court does not accept the expert's opinion, it is assumed that sanity has not been proven, and in that case, the procedure is conducted in accordance with the principle *in dubio pro reo* (Grubiša, 1964, p. 441).

The author acknowledges that courts do not act in this way but strive to eliminate deficiencies in the findings and opinions of experts or draw conclusions contrary to their opinion that the accused is not accountable (Grubiša, 1964, p. 448). It could be said that this, in a certain way, confirms the views expressed in this paper, particularly the term - medical power which is found in its title. It has been explained how the investigative model has become dominant in the countries of continental Europe, which is related, among other things, to the advancement of knowledge in various scientific fields, especially in medicine. In addition, the activist model of the state presupposes a criminal procedure in which experts, both legal and from other fields, particularly the medical profession, will play a leading role. It is not insignificant that the determination of expert opinions is in the hands of the procedural authorities, while the opposing party can, at best, use a procedural institution such as an expert advisor. In this way, at least to a certain extent, conditions are created for a debate regarding expert issues to which the court is unable to provide a satisfactory answer. Finally, but no less important, it should be noted that behind certain cases present in the Serbian public, where medical power has come to the fore, there is another kind of power, much stronger than medical knowledge. This is political power which, in systems resembling ours, is characterized, according to Arendt, that also been frequently observed that the relationship between the two sources of authority, between state and party, is one of ostensible and real authority, so that the government machine is usually pictured as the powerless façade that hides and protects the real power of the party (Arendt, 1973, p. 395).

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Medicinska moć i krivični postupak

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Sažetak

Dugo vremena je jedna od privilegija karakterističnih za suverenu moć bilo pravo nad životom i nad smrću. U klasično doba je na Zapadu došlo do preoblikovanja postojećih mehanizama moći, pa je, prema Fukoovom mišljenju, umesto starog prava da se osudi na smrt ili ostavi u životu stupila na scenu moć da se ostavi u životu ili odbaci u smrt. Preobražaj mehanizama moći doveo je do prelaska na istražni model krivičnog postupka u kojem je rasprava o *causa criminalis* prešla na teritoriju znanja. Značajan uticaj na uvođenje istrage u krivičnoj materiji imao je razvoj istražnih metoda u sticanju prvih ekonomskih i upravnih znanja. Pojedini autori navode da su u XVI i XVII veku razmišljanja o medicini, botanici i zoologiji bila kao zbirka svedočenja. Zbog toga se i u krivičnom postupku poseban značaj pridaje stručnjacima koji imaju posebna nepravna znanja, i kao takvi su kvalifikovani da saopšte istinu. Uloga veštaka medicinske struke specifična je po tome što, pored davanja iskaza o predmetu veštačenja, raspolažu u suštini i sudskim ovlašćenjima, jer njihovo mišljenje ima presudan uticaj na ograničenje određenih osnovnih sloboda i ljudskih prava. U radu će biti analizirane i odredbe pojedinih domaćih zakona, kao i standardi Evropskog suda za ljudska prava izraženi u vezi s pravnom ustanovom engleskog prava „*at Her Majesty's pleasure*”.

Keywords: moć, istina, krivični postupak, veštak, medicinska moć, osnovne slobode i ljudska prava.

Human-Centered Security in Society 5.0: Revisiting Algorithmic Bias and Methodological Constraints in Predictive Policing

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Human-Centered Security in Society 5.0: Revisiting Algorithmic Bias and Methodological Constraints in Predictive Policing

Abstract

Society 5.0, envisioned as an advanced, human-centered civilization in which the physical and digital realms seamlessly complement one another, represents a sustainable model for the functioning of human communities on an increasingly overpopulated planet. In such an environment, a progressively deeper symbiosis between social processes and technological innovation is expected, with the security sector emerging as one of the key domains of this integration. Within the field of public security, predictive policing stands out in particular: its models, based on artificial intelligence and big-data analytics, enable the anticipation of criminal patterns and the potential for more effective risk prevention. This paper examines predictive policing as a transformative approach to law enforcement, while simultaneously problematizing its deeply embedded challenges - especially in the context of the value framework of Society 5.0, which seeks to ensure that technological advancement remains subordinate to human dignity, justice, and social inclusion. Through an analysis of case studies from Chicago, London, and Tokyo, the paper identifies the operational advantages of predictive techniques but also highlights key concerns such as algorithmic bias, lack of transparency, insufficient data quality, and methodological limitations that may jeopardize the fairness and legitimacy of police interventions. The findings demonstrate that although predictive algorithms can contribute to the enhancement of preventive strategies, their implementation must occur within a clearly defined normative framework that incorporates technical robustness, independent oversight, institutional accountability, and active citizen participation. In line with the principles of Society 5.0, the paper concludes that the successful application of predictive policing requires the development of systems that are ethically grounded, methodologically transparent, and oriented toward the protection of human rights - ensuring that technology serves society rather than the other way around.

Keywords: Society 5.0, security, predictive policing, artificial intelligence

Introduction

The concept of Society 5.0, formally introduced within Japan's Fifth Science and Technology Basic Plan (2016), represents a normative–strategic vision of a super-smart, human-centered society in which physical and cyber spaces are systematically integrated to enhance the quality of life for individuals and communities. In this model of social development, artificial intelligence, big-data systems, and the Internet of Things (IoT) constitute the foundational technological infrastructures that enable faster, more accurate, and contextually adaptive decision-making across almost all domains of public and private activity, including healthcare, education, transportation, energy, and public security.

Unlike earlier developmental paradigms - commonly described as Society 1.0 through 4.0 - which were predominantly oriented toward industrialization and digitalization (see: Cosan, 2021; Bjelajac & Bajac, 2022), Society 5.0 introduces a qualitatively new normative dimension rooted in the idea of seamless coexistence and synergy between cyber and physical spaces. This model presupposes the broad application of artificial intelligence, IoT infrastructures, robotics, autonomous systems, and advanced communication technologies to provide systemic responses to key contemporary challenges such as demographic aging, urban mobility, the sustainability of healthcare systems, and the increasing demands placed upon security.

Terminologically, it is necessary to distinguish between the interconnected but conceptually distinct frameworks of “Society 5.0” and “Industry 5.0.” Although complementary, these concepts are not identical (Huang et al., 2022). Industry 5.0 emerges within European industrial policy as a critical response to the technocentric model of Industry 4.0, whereas Society 5.0 was developed in the Japanese context as a national strategy aimed at addressing broadly defined social problems. Their differing genealogical origins point to a divergence in normative focus: Industry 5.0 primarily addresses issues of labor, production, and economic transformation, while Society 5.0 offers a broader framework for understanding changes in everyday life, social cohesion, and overall societal well-being.

The literature identifies several key normative–technological characteristics of Society 5.0. First, human-centricity serves as its fundamental axiological principle, according to which the development and implementation of technologies are meant to prioritize the enhancement of human quality of life rather than merely increasing economic efficiency. Second, integration of the digital and physical worlds entails the continuous collection of data from the real environment, their algorithmic processing, and transformation into operationally relevant information, enabling a shift from reactive to proactive and preventive models of governance. Third, sustainability and inclusiveness stand out as essential political–ethical dimensions, emphasizing the reduction of social inequalities and broad accessibility of technological solutions. Fourth, smart resource management, enabled by AI and IoT systems, supports the optimization of infrastructure in both urban and rural settings. Fifth, participatory and proactive governance promotes the active involvement of citizens in decision-making through digital platforms and analytical tools for predictive planning. Finally, the development and application of these technologies are normatively framed by the requirements of ethics, safety, and legal protection of fundamental human rights (see: Bjelajac, Filipović & Stošić, 2022).

In contemporary criminological and sociological literature, predictive policing refers to the use of statistical methods and machine-learning algorithms to assess the likelihood of future criminal events in relation to specific spatial, temporal, or demographic variables (Meijer & Wessels, 2019). Theoretically, it is important to emphasize that these systems are not based on notions of precognition or any form of paranormal foresight, which have no empirical grounding in modern security studies or criminology. Contrary to popular-cultural representations, real predictive-policing systems rely entirely on quantitative data, statistical models, and algorithmic processing.

Within the normative context of Society 5.0, predictive policing is presented as a potential tool for strengthening the preventive function of the state in the field of public security, provided that the principles of legality, transparency, accountability, and human rights protection are strictly respected. The conceptual framework of Society 5.0 thus enables a deeper understanding of the ethical, legal, and methodological tensions that accompany the implementation of predictive systems in the security sector, making this framework theoretically relevant for analyzing contemporary security policies.

Historically, early institutional forms of analytical police management were developed through systems such as CompStat, which relied primarily on descriptive and retrospective analyses of crime patterns (Eterno & Silverman, 2006). With the advancement of machine learning and increased computational power, specialized commercial software solutions for predictive analytics emerged, the most frequently cited in the literature being PredPol (later Geolitica), HunchLab, and ShotSpotter (Egbert & Esposito, 2024; Degeling & Berendt, 2017; Feathers, 2021). These systems apply a wide spectrum of

methods - ranging from regression models and Bayesian networks (Ben-Gal, 2007) to cluster analysis and deep neural networks - in order to generate risk estimates based on historical crime data, demographic indicators, and spatio-temporal patterns.

The core theoretical premise of predictive policing is that the allocation of police resources can be rationalized and optimized through empirically processed data rather than relying solely on the heuristic knowledge and experience of officers. However, empirical literature provides ambivalent findings: while some studies indicate improvements in operational efficiency and more targeted deployment of police units (Mohler et al., 2015; Perry et al., 2013), others warn of structural risks such as the reproduction of institutional bias and the emergence of self-fulfilling prophecies (Lum & Isaac, 2016; Brayne, 2020). In this sense, predictive policing cannot be understood as a neutral technological tool, but rather as a socio-technical system whose implementation raises complex methodological, ethical, and legal questions - questions that demand critical and interdisciplinary analysis.

Methodological Framework

This research is grounded in a qualitative–interpretative methodological approach aimed at examining the normative, theoretical, and empirical dimensions of predictive policing within the conceptual framework of Society 5.0. The central premise of the study is that predictive policing cannot be adequately understood as a purely technical matter; rather, it represents a complex socio-technical phenomenon that simultaneously encompasses technological, legal, ethical, and socio-political dimensions.

The primary research method is qualitative content analysis of relevant scholarly literature, reports issued by international organizations, and normative documents. This includes works from the fields of criminology, security sociology, science and technology studies (STS), data-protection law, and digital policy, as well as strategic documents of national governments and supranational institutions concerning the development of artificial intelligence and smart security systems. The literature review was conducted as a thematic analysis, through which dominant theoretical models, key debates, and critical gaps in existing research were identified.

Additionally, a comparative method was employed through the examination of different models of predictive-policing implementation in selected national contexts - primarily in the United States and the member states of the European Union. This comparative perspective enabled the identification of patterns of similarity and divergence in regulatory approaches, institutional arrangements, and forms of public legitimation of these systems.

A normative–legal analysis was used to assess the compliance of predictive-policing systems with the core principles of criminal law and human-rights protection, including the principles of legality, proportionality, the presumption of innocence, and the right to privacy. Special attention was devoted to relevant European standards, particularly the General Data Protection Regulation (GDPR), as well as documents of the Council of Europe and the European Union pertaining to artificial intelligence and digital rights.

The empirical component of the research is limited to secondary analysis of available case studies and evaluation reports of predictive-policing systems. Rather than collecting primary data, the study relies on a critical synthesis of existing empirical findings to identify structural limitations, unintended consequences, and potential risks associated with the practical deployment of these technologies.

Finally, the research adopts an interdisciplinary analytical framework, integrating insights from criminology, legal studies, sociology, and digital-technology studies. This approach makes it possible to understand predictive policing not merely as an instrument of security policy, but as an indicator of the broader transformation of relations between the state, technology, and citizens in contemporary societies.

The Concept of Predictive Policing – Technical Foundations, Human-Centric Orientation, and Conceptual Limitations

Predictive policing represents one of the most ambitious attempts to apply artificial intelligence in the field of security, relying on advanced statistical models, machine-learning algorithms, and social-network analytics to identify patterns of criminal behavior and forecast future risks. These systems promise more efficient allocation of police resources and improvements in public safety, yet they simultaneously raise complex ethical and methodological questions. Their accuracy and reliability depend on the quality and structure of the data, the design of the algorithms, and the manner in which they are implemented in practice - factors that make them particularly vulnerable to various forms of bias. Understanding the technological basis of these models - from spatio-temporal analysis to classification algorithms and probabilistic approaches - is essential for evaluating the risks posed by predictive-policing systems within a society striving for value-oriented and inclusive digital transformation, as envisioned by Society 5.0.

The technological foundation of predictive policing typically rests on a combination of advanced analytical approaches. These include, above all, spatio-temporal models such as Poisson regression and spatio-temporal point-processes, which estimate the likelihood of crime occurring in specific locations within defined time intervals. In addition, a wide range of classification algorithms (Belcic, n.d.), including random-forest models, support-vector machines (SVM), and neural networks, are used to categorize events according to type or estimated probability. Social-network-analysis models play a particularly important role in mapping criminal networks and relationships among offenders, while Bayesian probabilistic models (Ben-Gal, 2007) combine diverse data sources to provide more accurate risk assessments. Despite their technical sophistication, the accuracy and reliability of these algorithmic approaches depend critically on the quality, scope, and representativeness of the underlying data, raising the central issue of algorithmic bias.

Algorithmic bias refers to systematic deviations in model outputs that arise from unbalanced, incomplete, or incorrectly labeled input data, as well as from the design choices embedded in the algorithm itself (Jonker & Rodgers, n.d.). This appears to be the core structural problem of predictive policing: models that analyze crime do not observe the world as it is, but rather as it is represented in the data. When those data reflect historical patterns of selective law enforcement or institutional prejudice, algorithms may reproduce - and even intensify - the very patterns society seeks to overcome. As a result, predictive policing can lead to disproportionate deployment of police resources to certain geographic areas or toward particular demographic or ethnic groups, thereby reinforcing existing social inequalities.

The literature commonly distinguishes three dominant types of bias in predictive policing. Data bias arises when historical datasets reflect institutional patterns of selective control rather than the actual distribution of crime. Model bias occurs when the choice of models, parameters, or underlying assumptions systematically privileges certain types of predictions while neglecting more complex patterns. Finally, user

bias emerges from the ways police officers interpret and apply model outputs, potentially amplifying discriminatory outcomes.

The aim of this paper is to identify, through a critical analysis of existing case studies and methodological approaches, the key challenges in designing and implementing AI-based predictive-policing systems, particularly in light of the value-oriented goals and infrastructural characteristics of the Society 5.0 framework.

Dominant Types of Algorithmic Bias in Predictive Policing and How They Arise

The implementation of predictive policing rests on the belief that algorithmic analysis of large datasets can enable more precise allocation of police resources and thus contribute to crime reduction. However, empirical experiences show that these systems are not neutral; they incorporate various forms of bias that can seriously undermine fairness, legitimacy, and public trust in institutions. In this context, algorithmic bias is not merely a technical flaw but a direct reflection of social relations and historical patterns of policing. Predictive policing does not operate in a vacuum: it reproduces - and frequently intensifies - existing inequalities and prejudices, thereby risking the reinforcement of structural injustice rather than improving public safety.

The most common sources of bias emerge at the level of the data on which these systems are trained. When historical records are shaped by selective law enforcement - for example, if police have disproportionately patrolled certain neighborhoods or social groups - algorithms internalize these patterns, marking the same communities as “high risk,” regardless of their actual crime rates. Bias also appears in data sampling: non-representative datasets can mislead the system into false conclusions. Wealthier areas, for instance, tend to report fewer incidents, which the algorithm may interpret as evidence of genuine safety. Measurement practices additionally affect prediction quality, as citizen reports often reflect subjective fears and prejudices; algorithmic systems may then treat these perceptions as objective facts, even when they do not reflect actual criminal activity.

Biases are further embedded in the very design of the algorithm, since the selection of variables, weighting factors, and model assumptions is shaped by the value judgments of engineers and the institutions that determine what counts as a “relevant” risk indicator. Including variables such as unemployment or low socioeconomic status can automatically stigmatize disadvantaged citizens as more prone to criminal behavior. Even model evaluation can be problematic: systems are often assessed through metrics such as precision and recall, but these measures may reflect only where police tend to intervene, not where crimes actually occur. Finally, the feedback-loop effect reinforces bias: when algorithms repeatedly direct police to the same locations, increased police presence generates more recorded incidents, which the system then interprets as confirmation of its predictions, creating a closed cycle of self-confirming error amplification.

Although machine learning is often perceived as a neutral and objective technology, its models possess numerous methodological limitations that can significantly reduce the accuracy and reliability of predictive outputs. These limitations are especially pronounced in predictive policing, where algorithmic systems function not merely as technical tools but as complex socio-technical constructs vulnerable to errors, biases, and misinterpretations. Among the most significant methodological weaknesses are challenges related to generalization, transparency, and performance evaluation. Overfitting leads models

to perform well on historical data but poorly in new contexts. Lack of transparency - particularly in deep neural networks - prevents users from understanding how predictions are generated, creating a “black box” in which even experts cannot fully trace the logic of the model. Performance metrics such as precision and recall (Juba & Le, 2019) can obscure broader societal implications, especially when “high accuracy” does not translate into fair policing outcomes. Limited replicability - stemming from the restricted availability of operational data - further undermines independent verification and critical validation.

The most important methodological limitations identified in predictive-policing models point to deep structural weaknesses (see: Kenge, 2020). The first concerns the limited quality, scope, and representativeness of available data: algorithms learn exclusively from historical records, which are often incomplete, inconsistent, or shaped by structural biases. This leads to the second major limitation - generalization - since models that function effectively on familiar datasets may become unreliable when confronted with demographic changes, crises, or shifts in social behavior. Their predictive accuracy implicitly relies on the assumption that “the future will resemble the past,” an assumption that, as Hume (1739) warned, lacks epistemological grounding. Predictive systems also rely on correlations rather than causal understanding, making them susceptible to identifying statistically convincing patterns that have no real connection to criminal behavior.

Algorithmic outputs are further sensitive to design choices and hyperparameter configurations; even small adjustments can generate radically different predictions, reducing model reliability and reproducibility. The feedback-loop effect intensifies these problems: algorithm-driven deployments shape future datasets, reinforcing inaccurate assumptions. The opacity of complex models - especially deep neural networks - presents a serious challenge in security contexts, where institutions and citizens have a legitimate right to understand the foundations of decisions affecting their lives (Rawashdesh, n.d.). Lastly, excessive reliance on statistical performance metrics risks masking discriminatory outcomes: a model may be “accurate” in predicting repeated police interventions, while simultaneously producing unfair and unequal treatment of certain social groups.

Examining different forms of algorithmic bias and methodological limitations reveals that predictive policing, despite its technological sophistication, remains deeply entangled in pre-existing institutional and societal patterns. Model accuracy cannot be separated from historical inequalities, data-collection practices, or the ways in which police actors interpret and implement algorithmic recommendations. If such systems are introduced without critical scrutiny, they can reproduce and even amplify structural injustices. For this reason, it is essential to develop methodologically transparent, ethically grounded, and socially responsible approaches to ensure that technological innovation aligns with the human-centered principles of Society 5.0 - a society in which people, not algorithms, remain at the core of security policy.

Society 5.0 as a Framework for the Ethical and Legal Regulation of Predictive Policing

The concept of Society 5.0, envisioned as a global reference point for future socio-technological systems, is grounded in the idea of a “super-smart society” in which digital technologies, artificial intelligence, and the Internet of Things (IoT) serve the human being rather than the other way around. Its core principle is the harmonization of technological progress with human values, which makes Society 5.0 a suitable framework for reflecting on the ethical and legal regulation of predictive policing. Society 5.0 can function as a normative compass for the development of predictive-policing systems, insisting

that technology must remain subordinate to human needs. This ensures that predictive systems are not only efficient but also ethically legitimate, legally regulated, and socially acceptable.

Society 5.0 begins from the premise that technology must serve human beings and that every digital system - regardless of its complexity - must contribute to the preservation and enhancement of human dignity. This establishes a clear normative foundation for all forms of artificial-intelligence applications, including predictive policing. Within such a conceptual environment, algorithms must not be constructed solely to maximize efficiency and operational output; rather, they must be aligned with the foundational principles of human rights, including privacy protection, non-discrimination, and equal access to justice. One of the central ethical principles of Society 5.0 is the requirement of full transparency and accountability of digital systems. In the domain of predictive policing, this implies mandatory mechanisms for algorithmic auditing, public access to information about the data, statistical patterns, and logical assumptions that inform operational decisions, as well as institutional accountability for all consequences arising from algorithm-driven actions.

The concept of balancing security and liberty is especially significant. Society 5.0 emphasizes that security goals must never be achieved at the expense of fundamental civil rights. Predictive policing may serve as a preventive tool that enhances public safety, but only within clearly defined boundaries that prevent excessive surveillance, the normalization of population control, and the stigmatization of particular social groups based on statistical predictions. Furthermore, the idea of digital inclusion and fairness is one of the pillars of Society 5.0. This implies that predictive-policing algorithms must not rely on data that are selective, exclusionary, or biased, as such systems would directly undermine the principles of equality and social cohesion. Instead, the ethical framework requires the development of models that minimize the risk of bias, ensure equitable representation of all social groups, and promote fairness in decision-making.

Parallel to this, Society 5.0 advocates the establishment of a legal infrastructure that evolves simultaneously with technological innovation, rather than reactively and post festum. This ensures that legal norms clearly define the boundaries of algorithmic use, establish mechanisms of institutional oversight, create independent supervisory bodies, and guarantee citizens the right to legal remedy if they are harmed by an unjust algorithmic decision. Finally, since Society 5.0 promotes international cooperation and global standardization of ethical principles in digital technologies, the same logic can be applied to the regulation of predictive policing. Harmonized international rules and minimum human-rights standards could significantly reduce the risk of misuse, increase transparency, and ensure responsible and just application of artificial intelligence in the security sector.

Given this, the use of biased and methodologically limited predictive-policing systems must be deemed unacceptable in a highly sophisticated, experimental society that cannot tolerate error or improvisation. The fundamental question arises: How can the concept of predictive policing be purified of bias, methodological limitations, and other deficiencies before it is certified as a safe, humanistic, and human-centered technology worthy of Society 5.0? If we have established that predictive policing suffers from two fundamental weaknesses - algorithmic bias and methodological limitations - then it becomes evident that this technology, in its current form, cannot exist within the envisioned framework of Society 5.0. This is a society built on the assumption that human dignity cannot be compromised under any circumstances and that technological intervention is justified only if it contributes to greater humanity,

security, and social justice. The question that follows is unavoidable: What must be done for predictive policing to become a legitimate candidate for use in such a society?

The first task belongs exclusively to the scientific and academic community. Those who develop algorithms must assume responsibility for the origin and quality of the data. In practice, this means that datasets must be purged of historical layers of discrimination, class and ethnic stereotypes, and the uneven or distorted representation of particular social or ethnic groups. It is not enough to build “stronger” models on top of flawed datasets; new datasets must be created - carefully designed to be representative, plural, and ethically neutral. In other words, science must recognize that a dataset is as normative as a legal statute, since it defines the framework within which the algorithm “sees” reality.

We have already identified many existing methodological procedures as technologically obsolete, if not technologically ruinous. It is therefore necessary to encourage technological innovation - an obligation that falls to the technology industry. The industry developing software and hardware for predictive policing cannot remain confined to its present state. Instead of relying on simple statistical correlations and predictive models that reduce complex social phenomena to raw numerical data, the industry must develop multimodal, adaptive, and hybrid machine-learning approaches (Sheng et al., 2024). Such approaches do not analyze only quantitative data; they incorporate qualitative aspects such as social context, urban spatial dynamics, and even cultural patterns. The industry must abandon “fast and cheap” models and adopt models that are slow, expensive, but reliable - because Society 5.0 will not tolerate improvisation or erroneous assessments.

If algorithms are to be used in such a sensitive field as predictive policing, transparency must be an obligation, not an option. Regulatory bodies must establish clear protocols for independent audits, periodic evaluations, and publicly accessible reports on algorithmic performance. No model may remain a “black box.” Citizens, as the ultimate bearers of sovereignty, have the right to know the parameters and logic by which an algorithm produces predictions. Only such transparency can guarantee public trust and reassure citizens that the state respects the ethical standards of a human-centered society. This also means that ethics must not be added later as an ad hoc or unwanted corrective, but must be integrated directly into the architecture of the algorithm itself. This task cannot be carried out by science alone or industry alone; it requires interdisciplinary collaboration. As we argued in an earlier study (Bjelajac & Filipović, 2022), since contemporary humanity is unwilling to think of itself outside the technological paradigm, scholars - especially philosophers, sociologists, and theologians - are not prepared to entrust the development of AI ethics to engineers and technicians alone. Teams must include philosophers, lawyers, sociologists, anthropologists, and psychologists, alongside engineers and mathematicians. Together they must design algorithms in which ethical principles are encoded internally rather than merely imposed externally. In this way, predictive policing is prevented from ever crossing the humanitarian threshold that Society 5.0 defines as a mandatory standard.

Finally, no technology - even the most sophisticated - can be implemented in a vacuum. A strong legal framework must define the scope and limits of predictive-policing use. Citizens must have the right to appeal, the right to explanation, and the right to protection from the errors of the algorithm. Moreover, society must establish institutions capable of monitoring the long-term consequences of these technologies, so that systemic risks and failures can be detected in time. Without these guarantees, no technology can be considered “worthy” of Society 5.0.

Empirical Experiences with Predictive Policing: The Cases of Chicago, London, and Tokyo

Chicago is one of the first cities in the United States to attempt a systematic, real-world implementation of predictive policing. As early as 2012, the Chicago Police Department developed the so-called Strategic Subjects List (SSL), a “list of high-risk individuals,” using machine-learning algorithms and statistical models (Tucek, n.d.). The idea behind the program was simple yet highly ambitious: to predict which individuals were most likely to commit, or become victims of, violent crimes.

At first glance, this approach appeared promising. Instead of responding only after a crime is committed, the police could act preventively, guided by “probability-based data” (Jeffrey, 1992). In a Society 5.0 environment - where proactive, integrated security mechanisms are emphasized - such a concept would seem like a perfect testing ground. However, the reality soon revealed a deep gap between ambition and practice. The SSL program proved to reproduce longstanding patterns of bias embedded in police work (DaViera et al., 2023). The training data derived from historical police records carried with them decades of accumulated distortions and inequalities, particularly affecting Black and Latino communities. Instead of eliminating discrimination, the algorithm reinforced and institutionalized it. Individuals with no criminal history could find themselves on the list simply because they lived in “the wrong neighborhoods” or had social ties to people under police scrutiny.

Academic and civil-rights organizations were sharply critical. They argued that the program undermined the presumption of innocence and stigmatized citizens without just cause. After years of debate, Chicago officially discontinued the SSL in 2019, noting that “there is insufficient evidence that the algorithm reduces crime rates” (Advisory Concerning the Chicago Police Department’s Predictive Risk Models – Chicago Office of Inspector General, 2023).

This case clearly illustrates what Society 5.0 must never permit. A highly sophisticated, human-centered society cannot allow experimentation with tools that generate social injustice. The Chicago example teaches that the foundational prerequisites for any predictive technology are full methodological transparency, independent ethical oversight, and continuous assessment of impacts across different social groups.

Unlike Chicago - which entered early and failed quickly - London has taken a more cautious and fragmented approach to predictive policing. The Metropolitan Police Service, along with several local police forces, experimented with various algorithmic tools, including systems predicting crime “hot spots,” geographic areas with an elevated likelihood of criminal activity (London Assembly, 2013).

One of the most well-known experiments was conducted with the support of PredPol, a company whose algorithmic methods were originally inspired by earthquake-prediction models. The system relied on past crime data (time, location, type) to generate maps of “hot spots.” Police patrols were then directed to these zones for preventative purposes. Initial results seemed encouraging: in several neighborhoods, minor crimes such as burglaries or thefts decreased.

However, critical questions soon emerged. Do such systems, in fact, create “self-fulfilling prophecies”? In other words, if police repeatedly send patrols to the same areas, it is natural that more incidents will be detected there, thus reinforcing the algorithm - even if no actual rise in criminal behavior has occurred. British public opinion, characterized by strong commitments to privacy and human rights, reacted cautiously. Facial-recognition technologies, often associated with predictive policing, came under

particular scrutiny. Courts and independent regulators repeatedly warned that such systems must be strictly regulated and their use tightly constrained.

London's lesson is dual: on one hand, predictive systems can help optimize resource allocation and yield measurable short-term results; on the other, without robust legal and ethical safeguards, they risk eroding public trust and paving the way for mass surveillance. In Society 5.0 - where public trust must be a foundational pillar - London's experience demonstrates that the balance between efficiency and freedom is fragile, contested, and highly sensitive.

As the country that originally launched the Society 5.0 concept, Japan offers a particularly insightful example of how predictive policing can develop in a different social and cultural context. Unlike Western metropolises, where debates center on individual rights and legal restrictions, Japanese society is characterized by a strong cultural consensus around the importance of collective safety and social harmony.

The Tokyo Metropolitan Police have long employed advanced statistical tools for analyzing crime patterns, and over the past decade have integrated elements of artificial intelligence (Itakura, n.d.). These systems analyze vast quantities of data - from citizen reports and historical case files to urban sensor networks and video surveillance. The goal is not only to predict crime hot spots but also to optimize the deployment of police resources in accordance with the city's dynamic rhythms.

What distinguishes the Japanese case is the high level of public trust in institutions and the relatively low crime rate. In such an environment, predictive policing has not been perceived as a threat but rather as a natural extension of societal digitalization. Nevertheless, critical voices exist (Ema, 2020), particularly within academia, warning that algorithms can become "black boxes" and that mechanisms of independent oversight are essential (Tsunoda & Komatsu, 2022).

The Japanese model illustrates how Society 5.0 might integrate predictive policing: through gradual implementation, process transparency, and ongoing communication with citizens. The key is not eliminating all risks - an impossible task - but ensuring that technology remains aligned with societal values and continuously subject to democratic control.

Concluding Recommendations for the Implementation of Predictive Policing in Society 5.0

For predictive policing to function in accordance with the high humanistic and technological standards of Society 5.0, it is necessary to establish a framework that goes beyond mere technical functionality and incorporates a broader range of ethical, legal, and social criteria. The first and most important requirement is strict compliance with human rights. Predictive-policing systems must be designed to guarantee privacy, freedom of movement, and non-discrimination. Without these safeguards, such systems would become instruments of social control rather than tools for enhancing public safety. The second pillar is transparency. Algorithmic decision-making must not remain enclosed within "black boxes." Institutions that develop and deploy predictive models must publish documentation such as model cards and datasheets that clearly present data provenance, methodological assumptions, and system limitations. Mandatory algorithmic impact assessments should demonstrate how a system affects different social groups. The third element concerns citizen participation. Predictive policing cannot be imposed from above as a ready-made technological package. Its legitimacy depends on the involvement of local communities, which must take part in the design, evaluation, and oversight of these systems. Such participation builds

trust and reduces the risk of alienation between the police and the society they are meant to protect. The fourth aspect involves technical safeguards. The most advanced systems should incorporate tools such as differential privacy, federated learning, and transparent disclosure of prediction uncertainty intervals. These mechanisms reduce the risk of data misuse while increasing public confidence in the technical soundness of the models. The fifth principle relates to institutional oversight. Independent regulatory bodies should perform regular inspections, while public algorithm registries must be accessible in ways that enable expert and civic scrutiny. Additionally, periodic stress tests and red-teaming simulations can reveal potential abuses and system vulnerabilities before they cause actual harm. The sixth requirement concerns the evaluation of fairness. Accuracy alone cannot serve as the primary measure of value; it is equally important to assess the fairness of algorithmic outcomes. This includes monitoring indicators such as calibration, selection parity, or false-positive rates. When different fairness metrics come into conflict, a formalized decision-making procedure is needed - one that incorporates legal, ethical, and social considerations.

Ultimately, predictive policing in Society 5.0 must remain dynamically adaptable. Crime patterns, social contexts, and technological capabilities evolve constantly, and the systems must undergo periodic review and recalibration. This ensures that algorithms remain aligned with contemporary ethical and legal standards while keeping pace with the realities in which they operate. Taken together, these recommendations form a practical framework for responsible implementation of predictive policing. They make it clear that predictive policing cannot be seen merely as a technical experiment but must be treated as a social project rooted in the humanistic values of Society 5.0.

Predictive policing as we know it today is not acceptable in a society aspiring to perfect synergy between humans and technology. However, this does not mean the idea is doomed. On the contrary, within the conceptual horizon of Society 5.0, predictive policing can serve as a test: if human communities manage to free it from bias, methodological weaknesses, and lack of transparency, then it may be possible to create a technology that truly serves humanity. If they fail, that will be a clear signal that there are limits to what can be delegated to algorithms. Society 5.0 will not tolerate improvisation or untested experimentation. It demands technologies that are humanitarily safe, legally protected, and ethically sound. Only then can predictive policing be verified as secure and worthy of such a society. Until that point, it remains a transitional concept - situated between an imperfect present and a possible future ideal.

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Humanocentrična bezbednost u Društvu 5.0: Razmatranje algoritamske pristrasnosti i metodoloških ograničenja u prediktivnoj policiji

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Sažetak

Društvo 5.0, zamišljeno kao napredna, humanocentrična civilizacija u kojoj se fizička i digitalna sfera međusobno neprimetno dopunjuju, predstavlja održiv model funkcionisanja ljudskih zajednica na sve prenaseljenijoj planeti. U takvom okruženju očekuje se sve dublja simbioza društvenih procesa i tehnoloških inovacija, pri čemu se sektor bezbednosti izdvaja kao jedno od ključnih područja ove integracije. U domenu javne bezbednosti posebno se ističe prediktivna policija: njeni modeli, zasnovani na veštačkoj inteligenciji i analitici velikih podataka, omogućavaju anticipaciju kriminalnih obrazaca i potencijalno efikasniju prevenciju rizika. Ovaj rad razmatra prediktivnu policiju kao transformativni pristup sprovođenju zakona, istovremeno problematizujući njene duboko ukorenjene izazove - naročito u kontekstu vrednosnog okvira Društva 5.0, koje teži tome da tehnološki napredak ostane podređen ljudskom dostojanstvu, pravednosti i društvenoj inkluziji. Kroz analizu studija slučaja iz Čikaga, Londona i Tokija, rad identifikuje operative prednosti prediktivnih tehnika, ali ističe i ključne probleme kao što su algoritamska pristrasnost, nedostatak transparentnosti, nezadovoljavajući kvalitet podataka i metodološka ograničenja koja mogu ugroziti pravičnost i legitimitet policijskih intervencija. Nalazi pokazuju da, iako prediktivni algoritmi mogu doprineti unapređenju preventivnih strategija, njihova primena mora biti uokvirena jasno definisanom normativnom strukturom koja uključuje tehničku robusnost, nezavisni nadzor, institucionalnu odgovornost i aktivno učešće građana. U skladu sa principima Društva 5.0, rad zaključuje da uspešna primena prediktivne policije zahteva razvoj sistema koji su etički utemeljeni, metodološki transparentni i usmereni ka zaštiti ljudskih prava - obezbeđujući da tehnologija služi društvu, a ne obrnuto.

Ključne reči: Društvo 5.0, bezbednost, prediktivna policija, veštačka inteligencija

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self-regulating consensus rules governing the platform, and finally a personalized article selection mechanism for users – personalized journalism.

In the case when there were a small number of publishing houses on the journalistic market, they behaved monopolistically.

The press had authority over setting agendas, and readers had no choice but to receive the news that the press decided was important to them. At that time, the press called readers 'the masses' and treated them as one mass (Figure 1). A mass by definition is not able to choose the news according to personal wishes (Kim & Yongik, 2018).

When they took positions, it was very difficult for the competition to enter the market, so they

The list of references (References) begins on a new page after the text of the Conclusion. Reference sources are arranged without numbering, in alphabetical order by the first letter of the last name of the first author for each source. In the settings under the "Paragraph" tab, set the hanging indent to the value 0.5", i.e. 12.7 mm, and this value is also the basic setting of Microsoft Word. Set the spacing for the list of references as follows: Before 0, After 8. Unlike the rules for writing titles and subtitles in the article itself, the titles of sources in the list of references are written according to the rules for Sentence case, i.e. by starting the sentence with a capital letter and all other words in the sentence with a lowercase letter, except in the case of proper names. This rule applies in the reference list regardless of how the title of the cited work is written in its original form. This rule does not apply to journal titles.

Examples:

Bibliographic parentheses are usually put at the end of the sentence, before the punctuation mark, and contain the author's surname, year of publication and the corresponding page number(s), according to the following example: (Bjelajac, 2017, pp. 15–17).

Monograph (Book)

Single author

Surname, initial (s) of the name(s) (if the author uses a middle name, first write the initial of the personal name, space, then the initial of the middle name). Year of publication in parentheses. *Title*. Publisher (without stating the seat of the publisher, unless the seat is an integral part of the name of the publisher, such as the University of Belgrade).

Bjelajac, Ž. (2017). *Bezbednosna kultura – umeće življenja* [Security culture – The art of living].

Univerzitet Privredna akademija u Novom Sadu: Pravni fakultet za privredu i pravosuđe u Novom Sadu. (Bjelajac, 2017, p. 25)

Fukuyama, F. (1992). *The end of history and the last man*. Free Press. (Fukuyama, 1992, p. 65)

Two authors

Author Surname, Initial(s), & Author Surname, Initial(s). (Year). *Title*. Publisher.

Despotović, Lj., & Jevtović, Z. (2010). *Geopolitika i mediji* [Geopolitics and media]. Grafomarketing.

(Despotović & Jevtović, 2010, pp. 34–36)

Krastev, I., & Holmes, S. (2019). *The light that failed*. Allen Lane.

(Krastev & Holmes, 2019, pp. 23–24)

Three or more authors

Author Surname, Initial(s), Author Surname, Initial(s), & Author Surname, Initial(s). (Year). *Title*. Publisher.

Milisavljević, B., Varinac, S., Litričin, A., Jovanović, A., & Blagojević, B. (2017). *Komentar Zakona o javno-privatnom partnerstvu i koncesijama: prema stanju zakonodavstva od 7. januara 2017. godine* [Commentary on the Law on public-private partnerships and concessions: According to the state of legislation from January 7, 2017]. Službeni glasnik & Pravni fakultet Univerziteta u Beogradu.

(Milisavljević et al., 2017, p. 37)

Editor / compiler / translator instead of author

If there is an editor instead of an author, insert the editor's name in the place of the author's, followed by (Ed.) or (Eds.) for more than one editor.

Kaltwasser, C. R., Taggart, P., Ochoa Espejo, P., & Ostigoy, P. (Eds.). (2017). *The Oxford handbook of populism*. Oxford University Press.

(Kaltwasser et al., 2017)

Same bibliographic parenthesis, multiple references

1) *Different authors – References separated by semicolons.*

(Stepić, 2015, p. 61; Knežević, 2014, p. 158)

2) *Same author, different years - State the author's surname, and then the years of publication of different references in the order from earliest to most recent and separate them with a comma, i.e. a semicolon when stating the number of pages.*

(Stepić 2012, 2015) or (Stepić 2012, p. 30; 2015, p. 69)

3) *Different authors, same last name - Some authors have the same last name, if this happens the initials (s) of the author should be added in all citations, even if the year of publication is different.*

(Subotić, D., 2010, p. 97), (Subotić, M., 2010, p. 302)

(Williams, A., 2009), (Williams, J., 2010)

Book / Proceedings – Chapter

Author of chapter Surname, Initial(s). (Year). Title of chapter. In Editor of book Initial(s). Editor of book Surname (Ed(s).), Title of book (Edition if not first., Page numbers). Publisher.

Stepić, M. (2015). Pozicija Srbije pred početak Velikog rata sa stanovišta Prvog i Drugog zakona geopolitike. In M. Stepić & Lj. P. Ristić (Eds.), *Srbija i geopolitičke prilike u Evropi 1914. godine* (pp. 55–78). Gradska biblioteka u Lajkovcu & Institut za političke studije u Beogradu.

(Stepić, 2015, p. 61)

Lošonc, A. (Ed.). (2019). Discursive dependence of politics with the confrontation between republicanism and neoliberalism. In D. M. Vukasović & P. Matic (Eds.), *Discourse and politics* (pp. 23–46). Institute for Political Studies in Belgrade.

(Lošonc, 2019, p. 31)

Journal article

Regular edition

Author of chapter Surname, Initial(s). (Year). *Title of journal/periodical*, Volume(Number), page range.

DOI (if available)

Gaćinović, R. (2020). Sistem kao izraz uređenosti određene delatnosti u društvu [The system as an expression of the orderliness of certain activity in society]. *Kultura polisa*, 17(41), 247–258.

(Gaćinović, 2020, p. 253)

Bjelajac, Ž. Đ., Dašić, D., & Spasović, M. (2011). EU environmental policy and its criminal law framework. *Medjunarodni problemi*, 63(4), 567–582. <https://doi.org/10.2298/MEDJP1104567B> (Bjelajac et al., 2011, p. 571)

Special issue or special section in a journal

Editor Surname, Initial(s)., Editor surname, Initial(s)., & Editor Surname, Initial(s). (Eds.). (Year). Title of the special issue [Special issue]. Journal title, volume(issue). DOI broj (if available)

Bjelajac, Ž. Đ., & Filipović, A. M. (Eds.). (2020). Pedofilija – Uzroci i posledice [Pedophilia – Causes and consequences] [Special Issue]. *Kultura polisa*, 17(1).

(Bjelajac & Filipović, 2020).

Campbell, K., Lustig, C., & Hasher, L. (Eds.). (2020). Aging and inhibition: The view ahead [Special issue]. *Psychology and Aging*, 35(5).

(Campbell et al., 2020)

If you are citing an article within a special section or issue (rather than the entire issue or section), use the format for a journal article. You do not need to include the title of the special section or issue.

Delibašić, V. (2020). Krivičnopravna zaštita dece od seksualnih zloupotreba [Criminal protection of children from sexual abuse]. *Kultura polisa*, 17(1), 53–67.

(Delibašić, 2020, p. 58)

Blog

Author Surname, Initial(s). (Date in full). Title of the blog post. *Name of the blog*. URL

Lee, C. (2010, November 18). How to cite something you found on a website in APA style. *APA Style Blog*. <http://blog.apastyle.org/apastyle/2010/11/how-to-cite-something-you-found-on-a-website-in-apastyle.html>

(Lee, 2010)

The author of the blog may use a screen name, if this is the case then use the screen name in place of the author.

If the author is not indicated on the blog, the name of the blog is used, as well as when quoting a reference with a corporate author.

JCU Library News. (2019, May 28). Reading challenge reviews: Football heroes and tragics. *JCU Library News*. <https://jculibrarynews.blogspot.com/2019/05/reading-challenge-reviews-football.html>
(JCU Library News, 2019)

Encyclopedias and dictionaries

Unknown author

Surname, Initial(s). (Ed(s).). (Year of Publication). *Title of encyclopedia/dictionary*. Volume (if there is more than one). Publisher Name. URL (if available)

Manning, M. J., & Wyatt, C. R. (Eds.). (2011). *Encyclopedia of media and propaganda in wartime America*. ABC-CLIO.

(Manning & Wyatt, 2011)

Title of entry. (Year of Publication). In Editor's initial(s). Last Name. (Ed(s).). *Name of encyclopedia or dictionary* (edition if given and not the first edition). Publisher Name. URL

Nirvana. (2001). In S. Sadie (Ed.). *The new Grove dictionary of music and musicians* (2nd ed., Vol. 17). Macmillan Publishers.

(Sadie, 2001)

Known author(s)

Author's Last name, First Initial. Second Initial if Given. (Year of Publication). Title of entry. In Editor's First Initial. Second Initial if given. Last Name (Ed.), *Name of encyclopedia or dictionary* (edition if given and is not first edition., p. or pp. page number or numbers). Publisher name. DOI or URL if given

Bowman, S., & Johnson, S. (2007). Age stratification and the elderly. In K. Christensen & D. Levinson (Eds.), *Encyclopedia of community: From the village to the virtual world*. SAGE Publications. <https://doi.org/10.4135/9781412952583.n7> (Original work published 2003)

(Bowman & Johnson, 2003/2007)

Corporate or group author

Name of Institution or Group. (Year of Publication, or n.d. if unknown). *Name of encyclopedia or dictionary* (edition if given and is not the first edition) prvo). Publisher Name. DOI of URL if available.

Oxford University Press. (n.d.). Zombie. In *Oxford English dictionary*. Oxford University Press.

Retrieved January 4, 2020, from <https://oed.com/view/Entry/232982> (Oxford University Press, n.d.)

Doctoral dissertation

Surname, Initial(s). (Year of Publication). *Title of dissertation: subtitle*. [Description, Name of University: Faculty (if necessary)]. Name of archive or website. URL

Filipović, A. (2016). *Paradigma kulturološkog pozicioniranja video igre* [The paradigm of cultural positioning of video games]. [Unpublished doctoral dissertation, Univerzitet umetnosti: Fakultet dramskih umetnosti]. (Filipović 2019, 145–147)

Axford J.C. (2007). *What constitutes success in Pacific Island community conserved areas?* [Doctoral dissertation, University of Queensland]. UQ eSpace. <http://espace.library.uq.edu.au/view/UQ:158747> (Axford, 2007)

Newspaper or magazine article

Known author(s)

Author Surname, Initial(s). (Full date of publication). Title of Article. *Title of newspaper or magazine*, page numbers. (for printed edition). URL (for online edition)

Avakumović, M. (2019, December 8). Platni razredi – 2021. godine [Salary classes – 2021]. *Politika*. <https://www.politika.rs/sr/clanak/443548/Ekonomija/Platni-razredi-2021-godine> (Avakumović, 2019)

Unknown author(s)

Title of article: subtitle, if it is given. (Full date). *Title of newspaper or magazine*, page numbers (for printed edition). URL (for online edition)

Get on board for train safety. (2012, June 17). *Toronto Star*, A14.

In text – (“one two or three words from the title”, year, page numbers) (“Get on board”, 2012, p. A14)

Corporate as author

Name of Institution [acronym, if necessary]. (Year of Publication). *Title* (edition, if it is not the first). Name of Publisher (not if the same organization is the author and the publisher).

Ministarstvo za evropske integracije Republike Srbije [Ministry of European Integration of the Republic of Serbia [MEI]]. (2018). *Vodič za korišćenje EU fondova u Srbiji; IPA II (2014–2020. god)* [Guide to the use of EU funds in Serbia; IPA II (2014–2020)].

First citing

(Ministarstvo za evropske integracije Republike Srbije [MEI], 2018)

Next citings

(MEI, 2018)

National Fire Protection Association. (2009). *Fundamentals of fire fighting skills* (2nd ed.). Jones and Bartlett.

First citing

(National Fire Protection Association [NFPA], 2009)

Next citations

(NFPA, 2009)

Legal acts

Constitution and laws, decisions of state bodies and institutions

Author [Abbreviated form as needed]. (Year of adoption). *Name of the act*. (Name of the official gazette and number with numbers of amendments). Publisher (if the author and the publisher are the same, then this is omitted). URL

Narodna skupština Republike Srbije [Narodna skupština]. (2006). *Ustav Republike Srbije* [Constitution of the Republic of Serbia]. (Službeni glasnik Republike Srbije, br. 98/06).

https://www.srbija.gov.rs/view_file.php?file_id=2391 &cache = sr

First citing

(Narodna skupština Republike Srbije, 2006, Art. 33)

Next citations

(Narodna skupština, 2006, Art. 25)

Narodna skupština Republike Srbije. (2019). *Zakon o osnovama sistema obrazovanja i vaspitanja* [Law on the Fundamentals of the Education System]. (Službeni glasnik Republike Srbije, br. 88/2017, 27/2018 – dr. zakon, 10/2019 i 27/2018 – dr. zakon). Paragraf.

https://www.paragraf.rs/propisi/zakon_o_osnovama_sistema_obrazovanja_i_vaspitanja.html

(Narodna skupština republike Srbije, 2019, Art. 17, para. 4)

(Narodna skupština, 2019, Art. 23)

National Institute of Mental Health. (1990). *Clinical training in serious mental illness* (DHHS Publication No. ADM 90–1679). US Government.

(National Institute of Mental Health, 1990)

Zaštitnik građana Republike Srbije [Zaštitnik građana]. (2012, October 22). Mišljenje br. 15–3314/12 [Opinion No. 15–3314/12].

https://www.osobesainvaliditetom.rs/attachments/083_misljenje%20ZG%20DZ.pdf

(Zaštitnik građana Republike Srbije, 15–3314/12)

(Zaštitnik građana, 15–3314/12)

Legislative acts of the European Union

Legislation type and Number of Legislation. *Name of the act*. EU Body/Agency. Official Journal of the European Union. Series, Issue Number. URL.

Regulation (EU) No 182/2011. *Laying down the rules and general principles concerning mechanisms for control by Member states of the Commission's exercise of implementing powers*. The European Parliament & the Council of the European Union. Official Journal of the European Union, L 55. <http://data.europa.eu/eli/reg/2011/182/oj>

(Regulation 182/2011, Art. 3)

European Union treaties and founding agreements

Name of the act [Acronym if necessary]. (Year). Official Journal of the European Union. Series, Issue Number. URL

Consolidated version of the Treaty on European Union [TEU]. (2012). Official Journal C 326, 26/10/2012 P. 0001 – 0390. http://data.europa.eu/eli/treaty/teu_2012/oj.

(TEU, 2012, Art. 3)

International treaties of the United Nations

Treaty Title [Acronym or abbreviated name]. (Date of signing or entering into force). Registration in the UN – UNTS number, registration number from the website *United Nations Treaty Collection*:

<https://treaties.un.org>. URL

Marrakesh agreement establishing the World Trade Organization [Marrakesh Agreement]. (1994, April 15). UNTS 1867, I-31874. <https://treaties.un.org/doc/Publication/UNTS/Volume%201867/volume-1867A-31874-English.pdf>

(Marrakesh Agreement, 1994)

Court practice

Court practice in the Republic of Serbia

Legislation type and name of the court [acronym of the court], case number and date. Name and number of the official gazette or other publication in which the judgment was published – if applicable. URL

Odluka Ustavnog suda Republike Srbije [USRS] [Decision of the Constitutional court of the Republic of Serbia], IUa-2/2009 od 13. juna 2009. Službeni glasnik RS, br. 68/2012.

(Odluka USRS, IUa-2/2009)

Rešenje Apelacionog suda u Novom Sadu [ASNS] [Decision of the Court of appeals in Novi Sad], Ržr-1/16 od 27. aprila 2016. godine.

(Rešenje ASNS, Ržr-1/16)

The case law of the International Court of Justice

Types of decisions can be Order, Judgment, Jurisdiction Judgment, Merits Judgment, and Advisory Opinion.

Name of the case (Parties, often abbreviated), type of hearing, type of decision (if applicable), I.C.J. Rep. Year of the reporter (volume, if applicable) (date of the decision), first page of the decision (if published), page and paragraph referenced (if applicable).

Legality of use of force (Yugoslavia v. United Kingdom), Provisional Measures Order, I.C.J. Rep. 1999 (June 2), p. 826.

(Yugoslavia v. United Kingdom, 1999)

Arrest warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Judgment, I.C.J. Rep. 2002 (I) (Feb. 14).

(Democratic Republic of the Congo v. Belgium, 2002)

Legality of the use by a state of nuclear weapons in armed conflict, advisory opinion, I.C.J. Rep. 1996 (July 8), p. 66.

(I.C.J. Rep. 1996)

Jurisprudence: European Court of Justice (ECJ) & Court of First Instance (EFI)

Cite cases introduced before January 1, 1989 by “Case”, case number [number/year of filing], name of the parties (italicized and separated by “v”), year of decision (in square brackets), title of the reporter (“ECR”), volume (if necessary), and page and paragraph referenced:

Case 120/88. *Commission v Italy* [1991]. ECR I-621.

(Case 120/88)

Cite cases introduced after January 1, 1989 by “Case”, followed by “T” (for the Court of First Instance) or “C” (for the European Court of Justice), case number [number/year of filing], name of the parties (italicized and separated by “v”), year of decision (in square brackets), title of the reporter (“ECR”), volume, and page and paragraph referenced:

Case T-224/95. *Tremblay and Others v Commission* [1997]. ECR , II-2215.

(Case T-224/95)

Case C-242/95. *GT-Link* [1997]. ECR , I-4449, para. 36.

(Case C-242/95)

Jurisprudence: European Court of Human Rights (ECHR)

Cite cases decided on or after November 1, 1998, by *name of parties* (italicized and separated by “v”) [type of decision (note: a judgment on the merits has no designation), or, if decided by the Grand Chamber, [GC]], case number, section(s) referenced, date (optional), and abbreviated title of the reporter in which the case is published (ECHR), year, and volume:

Brumarescu v. Romania [GC], no. 28342/95, § § 52-53, ECHR 1999-VII.

(Brumarescu v. Romania, 1995/1999)

Messina v. Italy (dec.), no. 25498/94, ECHR 1999-V.

(Messina v. Italy, 1994/1999)

Smith and Grady v. the United Kingdom (just satisfaction), nos. 33985/96 and 33986/96, § 13, 25 July 2000, ECHR 2000-IX.

(Smith and Grady v. the United Kingdom, 1996/2000)

Akman v. Turkey (striking out), no. 37453/97, ECHR 2001-VI.

(Akman v. Turkey, 1997/2001)

Jurisprudence of other international courts and tribunals

Look at: https://www.law.nyu.edu/sites/default/files/upload_documents/Final_GFILC_pdf.pdf

Video – Sharing website (e.g. You Tube, Vimeo)

Video

Author surname, initial(s) [Screen name]. (Year, month day). *Title of video* [Video]. Source. URL

University of Sheffield Library [uniSheffieldLib]. (2019, January 30). *Information and digital literacy workshops* [Video]. YouTube.

<https://www.youtube.com/watch?v=Lm7bLmbKOk0>

(University of Sheffield Library, 2019)

Radiohead (2009, April 22). Radiohead – No surprises [Video]. YouTube.

<https://www.youtube.com/watch?v=u5CVsCnxyXg>

(Radiohead, 2009)

Video channel

Author surname, initial(s) [Screen name]. (n.d.). Tab name [Source]. Retrieved date, from URL

University of Sheffield Library [uniSheffieldLib]. (n.d.). Home [YouTube channel]. Retrieved August 12, 2020, from <https://www.youtube.com/user/uniSheffieldLib>

(University of Sheffield Library, n.d.)

Website (Internet page)

Author Surname, Initials. or Name of organisation. (Date Year, Month day). *Title of webpage*. Site name (if not the same as the Name of organisation). URL

Binding, L. (2020, July 21). *River Thames has higher density of microplastics than other major European rivers*. Sky News. <https://news.sky.com/story/river-thames-has-higherdensity-ofmicroplastics-than-other-major-european-rivers-12033067>

(Binding, 2020)

World Health Organisation. (2018, May 18). *Assistive technology*. <https://www.who.int/news-room/factsheets/detail/assistive-technology>

(World Health Organisation, 2018)

(WHO, 2018)

Tables and figures

The title of a table/figure is written above it, and below the word Table/Figure with a number indicating the order in the text, with one space – spacing 1.15, space 6pt Before and After – alignment justify, without indenting the text, according to the following example:

Table 2

Title

Figure 1

Title

Below the table/figure, with one space – line spacing 1.15, space 6pt Before – a note is added. There are three types of notes - those describing the contents of a figure that cannot be understood from the figure title, an image and/or legend alone (e.g., definitions of abbreviations or explanations of asterisks used to indicate certain values), and those attributing copyright. Examples:

Note. The map does not include data for Puerto Rico. Adapted from 2017 poverty rate in the United States, by U.S. Census Bureau, 2017

(<https://www.census.gov/library/visualizations/2018/comm/acspoverty-map.html>). In the public domain.

Note. Number of studies = 120, number of effects = 782, total N = 52,578. CI = confidence interval; LL = lower limit; UL = upper limit.

Note. Lyamouri–Bajja et al. (2012, p. 57).

Tables and figures help authors present a large amount of information to readers in an easier and more understandable way. The tables show numerical values and/or textual information arranged in rows and columns. An image is an illustrative presentation of information using charts, diagrams, infographics, drawings, photographs, etc. In order for the tables and figures to help readers understand your work more easily, the data in them needs to be presented in a way that readers do not need to read the text to understand.

Use the tables feature of your word-processing program to create a table. Do not use the tab key or space bar to manually create the look of a table. The parameters being compared should not be displayed in

the same column. Use the same font type in the tables as in the rest of the article. Do not use vertical borders to separate data. For the necessary clarity of the display, it is enough to use horizontal edges at the top and bottom of the table, below column headings, and if necessary, to separate a row containing totals or other summary information from other rows in the table. Use spacing between columns and rows and strict alignment to clarify relations among the elements in a table. If a table is longer than one page, use the tables feature of your word-processing program to make the headings row repeat on the second and any subsequent pages.

Make sure the axes shown are clearly visible and the images are sharp enough. The legend is entered inside the edges of the figure. Use graphics software to create figures in APA Style papers – the built-in graphics features of your word-processing program (e.g., Microsoft Word or Excel) or special programs such as Photoshop or Inkscape.

Special cases of citing references *Citing the second and each subsequent edition* Surname, Initial(s).

(Year of publication). *Title* (edition note). Publisher.

Gaćinović, R. (2018). *Mlada Bosna* (drugo dopunjeno i izmenjeno izdanje) [Young Bosnia, (2nd edition)]. Evro Book.

Multiple references by the same author

- 1) *Same author, different years* – Sort by year of publication, starting from the earliest.
 - 2) *Same author, same year* – Arrange in alphabetical order of the initial letter of the reference's name. In addition to the year of publication, put the initial letters of the alphabet, which are also used in bibliographic parentheses.
- Gaćinović, R. (2018a). *Vojna neutralnost i budućnost Srbije* [Military neutrality and the future of Serbia]. *Politika nacionalne bezbednosti*, 14 (1), 23–38. <https://doi.org/10.22182/pnb.1412018.2>
- Gaćinović, R. (2018b). *Mlada Bosna* (drugo dopunjeno i izmenjeno izdanje) [Young Bosnia (2nd edition)]. Evro Book.
- (Gaćinović, 2018a, p. 25), (Gaćinović 2018b)
- 3) *The same author as an independent author and as a co-author* – First list the references in which he is an independent author, and then those in which he is a co-author.
 - 4) *The same author as the first co-author in several different references* – Arrange in alphabetical order the surname of the second co-author.

Pollitt, C., Birchall, J., & Putman, K. (1998). *Decentralising public service management*. Macmillan Press.

Pollitt, C., Talbot, C., Caulfield, J., & Smullen., A. (2005). *Agencies: How governments do things through semi-autonomous organizations*. Palgrave Macmillan.

Special cases of citing bibliographic parentheses

Exceptions to citing bibliographic parentheses at the end of a sentence

1) *Citing the author's surname within the sentence* – Put the year of publication in brackets after stating the surname, and the page number at the end of the sentence in brackets.

According to Bjelajac (2017), ... (30).

2) *Citing the author's surname within the sentence before the citation from the reference* – After citing the surname, state the year and page number in the bibliographic parenthesis, and then cite the citation.

As Bjelajac (2017, p. 45) states: “ ... ”

Fukuyama (1992, p. 57) explicitly states: “ ... ”

3) *Citing the same reference several times in one paragraph* – If the same page or range of pages is cited, enter the bibliographic parenthesis at the last citation or at the end of the paragraph before the punctuation mark. If different pages are cited, state the reference when quoting the specific page for the first time, and then, until the end of the paragraph, put out only different page numbers in parentheses. If the next citation refers to the same reference as the previous citation, do not enter the author's name in parentheses, but only the year and page.

(Bjelajac, 2017, p. 34)

.....

(2017, p. 46)

Do not use "the same", "*ibid*", or "*op. cit.*" for multiple citing of a reference.

Citing the terms "see", "compare", etc.

Enter these expressions in bibliographic parenthesis.

(see Bjelajac 2017, p. 153)

(Stepić, 2015; compare Knežević, 2014)

Secondary referencing

This is when you reference one author who is referring to the work of another, and the primary source is not available. *Secondary referencing should be avoided if possible.*

If you have only read the latter publication you are accepting someone else's opinion and interpretation of the author's original intention. You cannot have formed your own view or critically appraised whether the secondary author has adequately presented the original material.

You must make it clear to your reader which author you have read whilst giving details of the original.

Use 'as cited in' if the author has cited the work of another, e.g.

(Chomsky, 1999 as cited in Đurić & Stojadinović, 2018, p. 47)

If the author has directly quoted from an original piece of work then you would use 'as quoted in' e.g.

„Tom prilikom neoliberalizam se od strane najvećeg broja njegovih protagonista najčešće određuje kao politika slobodnog tržišta” (Chomsky, 1999, p. 7, as quoted in Đurić & Stojadinović, 2018, p. 47).

In the references, list only the secondary reference.

Đurić, Ž., & Stojadinović, M. (2018). Država i neoliberalni modeli urušavanja nacionalnih političkih institucija [The state and neoliberal models of collapsing national political institutions]. *Srpska politička misao*, 62(4), 41–57.

<https://doi.org/10.22182/spm.6242018.2>

Same bibliographic parenthesis, multiple references

2) *Different authors* – Separate references with semicolons.

(Stepić, 2015, p. 61; Knežević, 2014, p. 158)

3) *Same author, different years* – Give the author's last name, and then the year of publication of the various references in order from earliest to most recent, and separate them with a comma, i.e., a semicolon when stating the number of pages.

(Stepić 2012, 2015) or (Stepić 2012, p. 30; 2015, p. 69)

4) *Different authors, same last name* – Some authors have the same last name, and if this happens the author's name initial(s) should be added in all citations, even if the year of publication is different.

(Subotić, D., 2010, p. 97), (Subotić, M., 2010, p. 302)

(Williams, A., 2009), (Williams, J., 2010)

Application of spelling rules Align the papers with the spelling rules of the English language.

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