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TABLE OF CONTENTS

ABUSE OF RIGHTS AND SOME OF ITS MANIFOLD MANIFESTATIONS IN PRIVATE LAW

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Abstract: The abuse of *rights* in the Bulgarian legislation is regulated both at constitutional level and in some general provisions of major civil law acts, along with in a number of other special provisions. 'The abuse of *rights* is defined as a deliberate inconstant exercise of subjective rights without an interest and/or justified motives, without obvious and actual benefits, with the objective of violating the rights and legitimate interests of others or contrary to the public interest, as well as in cases of a significant discrepancy between the purpose of the right as granted by law and the purpose for which it is used.

The polemics between the so-called 'objective' and 'subjective' theory on the abuse of *rights* is still ongoing. There are arguments in support of the 'subjective' theory, according to which it is not possible for a right to be exercised in a manner and with objectives that are inconsistent with its social function, violating the public interest or affecting another person's subjective rights, and at the same time not being guilty and unlawful.

The legal consequences of the inconstant exercise of subjective rights are hereby outlined. Special emphasis is placed on certain manifestations of the abuse of *rights* in private law, particular, the abuse of *rights* by circumvention of substantive law. To that end, a detailed examination of Article 26, paragraph 1, second indent of the Law on Obligations and Contracts is provided. The article discusses new hypotheses on the abuse of *rights* – e.g. through circumvention of procedural law, and in particular through negotiation of arbitration regarding disputes to amend a privatization contract, which circumvents the prohibition under the Privatization Act, as well as Article 19, paragraph 1 of the Code of Civil Procedure, excluding certain disputes from the arbitration jurisdiction.

Key words: Abuse of rights, circumvention of law, exceptions to the arbitration jurisdiction; grounds for nullity of the contract and of the arbitration award

1. Although the first Bulgarian Law on contracts and obligations (LCO) (as of 1892) did not regulate abuse of rights, the issue has been actively involved in Bulgarian theory and practice, dated back to the 30s of XX century. At that time, our civil doctrine, under the influence of the French and the Italian such, perceived it as a kind of unlawful damage (LCO, Article 56 – cancelled), the most important indicium of which was the exclusive intention to harm, lacking an actual benefit to the holder of the right.

The first post-war Constitution of the People's Republic of Bulgaria (as of 1947) in its Art. 10, para. 4 manifests the principle of inadmissibility of abuse of rights. It is founded on the collectivist understanding of the priority of public interest over private one by prohibiting the exercise of the right to property to the detriment of collective interest.

In the contemporary Constitution (as of 1991), the prohibition of abuse of rights – its exercise, where this affects the rights or the legitimate interests of others – is explicitly provided for in Art. 57, para. 2 and Art. 58, para 1, second sentence, which both raise a constitutional obligation for citizens to respect the rights and the legitimate interests of others.

In civil law, abuse of rights is derived primarily from Art. 8, para 2 LCO, according to which persons enjoy their rights in order to satisfy their interests, and cannot exercise these rights in conflict with the interests of society. Symmetrically, it is the rule of Art. 3 of the Code of Civil Procedure (CCP), exhibiting an obligation to the parties involved in legal proceedings to be liable for damages, to exercise their procedural rights in good faith and in accordance with good morals. A similar provision is further encompassed in Art. 289 of the Commercial Law (CL), according to which the exercise of rights on basis of commercial transaction is inadmissible if it is done solely with the intention of harming the other party.

Thus, the figure of abuse of rights in civil – both substantive and procedural law – is educed *per argumentum a contrario* from the principle of exercise of rights in good faith. The abovementioned texts of the LCO, CCP and CL could be defined as general, which further develop the constitutional prohibition of abuse of rights, respectively the public duty of citizens to respect the rights and the legitimate interests of others.

A number of other specific provisions in civil, procedural, labor and commercial legislation, without explicitly regulating the basis or the consequences of abuse of rights, treat it as *ratio legis* in defining the limits of the exercise of subjective rights. For example, the objective liability under Art. 403, para 1 CCP for damages caused to the debtor via pledged collateral, is considered a sanction for abuse of rights, in the form of bad-faith exercising of procedural rights, violating the general norm of art. 3 CCP, aiming at "moralizing" the process. The principle of prohibition of abuse of rights is also manifested in the provision of Art. 87, para 4 LCO, according to which the creditor cannot cancel the contract if the unfulfilled part of it is insignificant in relation to his interest. Art. 8, para 1 of the Labor Code (LC), however, stipulates the framework in which the labor rights and obligations are exercised in good faith, according to the requirements of the laws. The employer is allowed to introduce specific additional criteria as for the selection of workers with regards to the

specificity of the work (certainly in compliance with the imperative requirements under Article 329, paragraph 1 LC). They are not subjected to judicial control unless an objection, concerning abuse of rights, is raised. Article 631a CL provides for liability for damages against the creditor, whose request for opening insolvency proceedings is rejected, should the debtor finds that the former had acted deliberately or with gross negligence. Another example, preventing abuse of voting rights in the General assembly of a Limited liability company, is Art. 137, para 3, second sentence CL – in the case of exclusion of partner from such a company, they do not vote and their share is deducted from the capital in determining the majority.

The review of the several aforementioned normative texts clarifies that the significance of the institute of abuse of rights far outstrips the modest place, which the doctrine traditionally accredits it in relation to the limits for exercising of subjective rights.

2. The nature of abuse of rights and the legal consequences thereof

2.1. In the earlier commentary literature, it is argued that in the case of abuse, the right is exercised without interest and without legitimate reasoning, without visible and actual benefit, and with the exclusive intent (or purpose) of harming another person. According to some authors, abuse of rights is the deliberate reversal of the subjective right. In the novel lecture courses, a wider understanding of the notion, related to the impairment of extraneous goods, but also to benefiting from the unlawful exercise of rights, is justified. In the most recent case law, abuse of rights is defined as unlawful, as a misconduct in the exercise of a right in order to impair rights and legitimate interests of others (Article 57, para 2 of the Constitution), but also contrary to the interests of society (Article 8, para 2 LCO), where there is a significant discrepancy between the purpose, for which the right is granted, and the purpose, for which it is used.

It is noted that a controversial aspect in clarifying the legal nature of this phenomenon is whether the intention of abuse and unlawful behavior, respectively – the occurrence of damage or not, is present in the case of abuse.

These issues are supported by various opinions, which could be referred to the so-called “objective” or “subjective” theory. According to the latter, justified by Art. 289 CL, the exercise of rights, arising from commercial transactions, is prohibited if it is performed with the intention of damaging the other party. It is assumed that in commercial law abuse requires the proving of *animus nocendi*, the exercise of rights to be consciously directed to harming the other side, and a leading motive to be the intention of damage.

According to the objective theory, widely embraced in the Bulgarian civil doctrine, the civil law (Article 8, para 2 LCO) does not impose a requirement for delinquency and intention to damage, but only that the right is not to be exercised with its purpose. There is sufficient objective discrepancy between the exercise of the law and its social function (satisfying only

those interests, which the law recognizes as worthy of protection). It is also pointed out that in order for abuse of rights to be present, it is objectively sufficient to violate extraneous rights and to not comply with public interest, without necessarily pursuing an intention to damage. According to other authors, not examining fault and guilty behavior at all, "the law does not require guilt and intent to harm".

Dubiety in the propriety of the objective theory is successfully expressed by a well-known author[1] (Prof. E. Georgiev), stipulating that "there is nothing innocent in the abuse of rights", because in the sole etymology and content of the term "abuse", *malus* is encountered.

A substantial weakness in the objective theory is that it cannot satisfactorily explain the reversal of the exercise of rights, which is not unlawful or not committed with the intent of harming extraneous interests that simultaneously provides protection over legal interests unworthy of such. Logically, a question arises – is there a right to exercise in a way and with objectives that are inconsistent with its social function, leading to impairing of public interest, and/or to affecting of extraneous subjective rights and, concomitantly, to remain objective, inculpable and lawful?

These and other considerations suggest an approval of the so-called "subjective theory". Several are the decisive arguments in favor. "Fair limitations" for the exercise of a substantive or procedural right provide above all the satisfaction of interests, which the legislator considers worthy of protection, so well as the achievement of legitimate goals. Should the exercise of the right is contrary to its social purpose, carried out beyond those limitations and constitutes abuse, it would be unlawful. At the core of the objective theory lays the consideration of guilt as psychological attitude and its consequence is the abuse of rights as exercised with intent to damage. This decisive argument is situated at the root of opposing the subjective understanding of abuse. However, this approach confounds the concepts of guilt in civil and in criminal law, and does not recognize that guilt in civil law does not initially constitute the subjective attitude of the actor to the act they have committed (as it is in criminal law) but, rather, the unfulfillment of the due care by the good owner. The view of "objectification" of guilt is not alien to the case law, either.

2.2. There are several legal consequences deriving from the transversive exercise of subjective rights. A refusal of Court to provide judicial protection to such a right is vastly perceived in literature as a common consequence. The issue is how this "rejection" is manifested in the specific forms of abuse of rights. Circumvention of law as means of abuse of rights would be displayed by the refusal of Court to recognize particular deal as valid, i.e. having already produced the effect desired by the parties (Art. 26, para 1, second indent LCO). By circumventing the procedural law (e. g. Art. 19, para 1 CCP) through an arbitration agreement on a dispute that cannot be subject to arbitration, this clause would be null and

[1]Georgiev, E. Abuse of Rights in Bulgarian Civil Law, Jubilee Collection in Honor of Prof. J. Stalev, S. Sibi, 2005, p. 61–83.

void due to contradiction with law[2]. As to arbitration decisions on disputes not subject to such, they would be null and void, likewise (Art. 47, para 2 of the Law on International Commercial Arbitrage (LICA), issue 8 of the National Official Journal, 2017). However, depending on the nature of the actions through which the abuse has been performed, the impaired party may, in addition to disregarding the consequences of the right thus exercised, also claim compensation for damages.

3. Evidence of abuse of rights in private law

Without claiming exhaustiveness, an attempt would be made in order to identify some forms of abuse of rights within the scope of private law.

3.1. Abuse of rights through circumvention of substantial law

Circumvention of law is deterred with a most severe sanction in Bulgarian civil law, videlicet, nullity of contract (Art. 26, para 1, second indent LCO). Despite its ostensible similarity to the main and the subsidiary grounds for nullity of contract – i.e. contradiction with an imperative norm of the law (Art. 26, para 1, first indent LCO, *agere contra legem*), the circumvention (*agere in fraudem legis)* is not a variation of the first, rather separate, independent grounds, characterized by isolated factual basis, scope, implementation mechanism, and subjective part.

Neither of the two cases, encompassed in Art. 26, para 1 LCO, defined with completed factual basis, comply with the requirements of an imperative legal norm. When contradiction with law is present, the content of the contract does not correspond to the mandatory norm. While in circumvention of law, this content is allowed (which is why the deal itself is formally allowed), but the result sought is contrary to the mandatory rule of law[3]. It is argued in the Bulgarian civil doctrine that, by circumventing the law, a normative act establishes a prohibition to achieve a certain legal result through a legal transaction, but the parties attempt to reach this forbidden result by another transaction that is not explicitly forbidden. The legislator may either entirely forbid the attainment of this legal result or only partially by certain means. In the latter case, a relative simulation would be occurrent[4].

[2] This is expressly provided in Art. 3, para 4 of the Consumer Protection Act only for those new cases, added with the amendment of Art. 19, para 1 CCP, where one of the parties is a consumer, but there is hardly any dispute that this sanction also applies to clauses within the other non-arbitrary disputes in Art. 19 CCP.

[3] See in detail, Katsarski, A., Circumvention of law as grounds for nullity of contracts in *Notary* practice in the light of the new case law, V. Ivcheva, Ciela, 2008, pp. 215-225

[4] Katsarski, A., op. cit., p. 216. For the distinction in the jurisprudence between circumvention of law and the relative simulation, see, e.g. Decision No. 107 of 23.03.2012 on Case No. 689/2011 of the Supreme Court of Cassation, sec. IV

Contradiction with law (Art. 26, para 1, first indent LCO) is an objective ground for nullity, since it is not necessary for the parties to be aware of the existence of such an imperative rule (*ignoratio legis neminem excusat*), nor to intend the contradiction of the agreement between them under such a rule of law – it is sufficient that the contradiction exists objectively. While in circumvention of law, there must be a subjective element – i.e. the parties to realize that they are pursuing a forbidden effect and to deliberately aim at achieving it. It is precisely the pursuit of this result forbidden by law that makes the particular deal, or the series of deals, void. There are restrictions regarding neither the type of deals, nor their form.

In case of contradiction with law, the deal itself cannot produce the legal effects sought by the parties – i.e. rights and obligations, respectively transfer of rights should the deal be translatable. While in circumventing the law, the deals are valid, and they lead to the desired result, but without producing their aggregate result, because they are aimed at another, forbidden effect. If the individual deal is directly aimed at achieving illegal result, its content would be considered unlawful, and, as such, void due to contradiction with law[5].

The distinction between the two grounds of nullity under Art. 26, pars 1 LCO cannot always be performed correctly. For example, in the copyright doctrine and practice a question arises whether a contract for the creation of a work of art (Art. 42 of the Law on Copyright and Related Rights (LCRR) is contrary to the law or it circumvents it, provided that the purchaser acquires the right to use the work for a period longer than 10 years, despite the imperative time limitation of Art. 37, para 2 LCRR. This deal is not aimed at a forbidden result, because the immediate outcome is the acquisition of rights. Concomitantly, the specific hypothesis of Art. 42 LCRR does not provide basis for claiming circumvention of law, since it concerns a single and not multiple transactions with a common purpose[6].

As a rule, in order to reach this legally forbidden result, in circumvention of law, there is not a sole, but multiple deals, interconnected by a common purpose, while contradiction with law most often regards an isolated deal.

Not least, the ratio between the abuse of rights and the grounds for nullity of contract could be affirmed, as follows: not all grounds for nullity amount to abuse of rights, but circumvention of law certainly does.

3.2. Abuse of rights through circumvention of procedural law

The specific case that has triggered mutually exclusive decisions, pertaining to the Arbitration Court of the Bulgarian Chamber of Commerce and Industry, and to the Supreme

[5] Op. cit., p. 223.

[6] In detail on the collision between these hypotheses, see Karadimov, R., Audio-visual work. Competition and Balance of Rights, Ciela, 2018, p. 172–173 and p. 205–209, as well as Karadimov, R., Scientific and practical comment on the legal consequences of dubbing an audiovisual work and its use for non-linear distribution/transmission on the Internet, Varna Free University "Chernorizets Hrabar" in Globalization, the State and the Individual, International Scientific Journal No. 2 (18)/2018, p. 212–215.

Court of Cassation (Decision No. 189/ 09.11.2017 on Case No. 1675/2017), and that has received various interpretations in the doctrine, concerns the possibility that a claim for change, due to economic intolerance (under Art. 307 CL), of indemnity clauses in a contract on the transfer of shares from a privatized enterprise, could be subject to arbitration. Art. 32, para 5 of the Privatization Act (PA) prohibits the parties from renegotiating the clauses (including the indemnity clauses), and therefore from alternating the content of the privatization contract. In those circumstances, the inclusion of an arbitration clause by the parties establishes the jurisdiction of an arbitral tribunal to deal with disputes concerning the amendment of the privatization contract, and ultimately, the introduction of such shift is a form of circumvention of law. Negotiating a clause, according to which an arbitration court shall resolve the dispute among the parties, regarding the reduction of the indemnity, compared to the default (i.e. to order the amendment of the contract), essentially exhibits an agreement amending the privatization contract. However, this is being achieved not by direct negotiation between the parties, but through a private court (arbitration court).

Thus, the agreement to bring the dispute over the amendment of the privatization contract before an arbitration court would constitute circumvention of law. Above all, the procedural law in Art. 19, para 1 CCP excludes from the jurisdiction of the arbitration court not only the disputes expressly provided thereof (e.g. ownership and possession, alimonies and labor disputes). Consequently, it must be assumed that the CCP excludes all other, not explicitly forbidden arbitration agreements on disputes, the effect of the decisions on which would be same as the arbitration claims, which are forbidden.

On the other hand, such an agreement on the establishment of arbitration jurisdiction would also constitute circumvention of substantial law, prohibiting an amendment of a privatization contract, the reason being that, a decision of a traditional or of an arbitration court would result in the amendment of the contract – i.e. something explicitly prohibited to be mutually agreed upon by the parties, but tracing farther back to what the law originally prohibits – the sole amendment of the contract.

CONDITIONS FOR LAWFUL PERSONAL DATA PROCESSING BY DATA CONTROLLERS AS PER THE GENERAL DATA PROTECTION REGULATION

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Summary: The report investigates the conditions for lawful personal data processing as part of the basic principles of personal data protection. The focus is on the current and complex legislative changes introduced in Regulation (EC) 2016/679 (General Data Protection Regulation), which guarantees maintaining proper control of non-public data which refer to indentifying a person. Finally, it draws conclusions on the application of the new legislation regulating the processing of personal information and delineates the basic limits regulating the collection, storage and processing of personal information by controllers.

Key words: personal data, personal data controller, lawfulness, processing, legal grounds.

Introduction

The rapid technological development also increases the dataflow, as well as its automatic processing, which creates insecurity towards the inviolability of the personal lives of citizens. The personal data of natural persons are quite often subject to processing and storing in database repositories which could also be used to the data subject's detriment, starting with fraud, identity theft, all the way to selling goods and services through the so called direct marketing (Sulev, 2012, pp. 26-38). In this way, such database repositories become an important tool into the hands of businesses in view of current users and potential customers. The issues studied are quite pressing in view of several cumulatively related reasons. On the one hand, they reveal essential problems within the process of data protection. And on the other, data processing is a global issue exacting the keeping of the universal principles of protecting natural persons, with regard to the processing of their personal information.

With regard to the goals of this report, we shall review the conditions for lawful processing of personal data by the controller in order to guarantee efficient implementation and observance of personal data protection regulations.

The admissibility conditions for personal data processing are laid out in Article 6 of Regulation (EC) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation). These are conditions relating to the features of the data, and the existence of at least of one serves as grounds for lawful data processing. They determine the range and limits of the processing, and as such they serve as guidelines for controllers when processing personal data.

These conditions hold special importance as they serve as grounds for the proper construing and implementation of the Regulation, as well as a guideline for controllers when processing personal data. Their main purpose is that personal data be processed on valid legal grounds, i.e., the principle of lawfulness be pursued to the letter.

The principle of **lawfulness** (1) practically means that controllers need in the first place legal grounds for processing personal data; secondly, not use such data in a way that may have unwarranted consequences on the persons in view, and thirdly, not submit information about the lawful conditions for data processing.

The data processing is lawful when the personal data controller processes such personal data for legitimate purposes. Therefore, adhering to the principle of accountability given in Article 5, paragraph 2 of the Regulation, data controllers need to comply with the legitimate purpose for data processing in each and every case. Any other action would mean a breach of the principle of lawfulness and conscientiousness. In this regard, data controllers have to fully abide by all the rules of the Regulation every time personal data are processed and to act within the limits of their legitimate rights.

The key to complying with the Regulation is to observe the following six conditions for lawfulness which allow for the processing of personal data:

a) when the data subject /the natural person/ has given their explicit **consent**;

b) when performing **contractual** obligations to which the natural person is party;

c) when processing is necessary as a **legal obligation** to which the data controller is subject;

d) when protecting **vital interests** of the data subject;

e) when performing **a task** which is in the public interest or in the exercise of official authority vested in the controller;

f) for the purposes of the data controller's **legitimate interests,** except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject.

At least one of these conditions explicitly stipulated in Article 6 of the Regulation has to be applied whenever personal data are processed.

When determining the lawfulness of the personal data processing, the focus is on the data subject's consent to have their personal data processed in the specific manner and for the

specific purposes. It is of exceptional importance that this consent not be used for other purposes.

In the Repealed Directive 95/46/EC, the consent given by the data subject was free, which, on its part, left doubt in the intention of the data subjects to give their consent for the processing of their personal data. In this regard in 2012, the European authorities engaged in data protection proposed new rules for improving the capacity of the data subjects to control their own data by guaranteeing that when their consent is required, it is given explicitly, i.e. it is based either on a statement or on a clear affirmative action by the person concerned and is freely given (Article 4, paragraph 8 COM (2012) 11 final, 2012/0011 (COD). To strengthen the right of individuals to data protection, new mechanisms have been introduced through Regulation (EC) 2016/679 which do not leave any doubt about the intent of the natural persons to express their consent.

The data subjects' consent is defined in Article 4 paragraph 11 of the General Regulation as any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her. This definition means that consent is given with a clear affirmative action, such as a statement in writing (including by electronic means or oral declaration). The criterion *clear* has been added to avoid the confusing parallel with *unambiguous* consent, thus guaranteeing the data subject's awareness of the fact that he or she has given explicit consent and what the consent is about.

Only a perfectly clear and pronounced statement can be considered as a validly expressed consent, which has to be given before the starting of the data processing, as well as before every new use of such data. A pre-composed statement of consent must be submitted by the controller, written in an intelligible and easily accessible form, using clear and plain language and it cannot contain unfair terms (Directive 93/13/EEC and of the Council). Even when such consent has been given, it does not mean it has to last forever and there must also be an option for withdrawing the consent.

A large number of the infringements in this respect refer to the use of the personal data for commercial information, advertisement, and marketing research for direct marketing without the consent of the data subject. When the e-marketing operators receive consent by electronic means, such consent must be clear and unambiguous. Since such consent is given online and proving it can be difficult, then such mechanisms need to be created by the data controllers, such as a tick in a specific space when visiting a website, or some other sort of instruction, which clearly shows that the data subject has agreed to the offered processing of his or her personal data.

For that reason, Article 7 of Regulation 2016/679 concerning personal data protection explicates the conditions which make such consent legally valid as grounds for lawful data processing. These conditions are as follows:

- the controller shall be able to demonstrate that the data subject has consented to the processing of his or her personal data;
- if the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters;
- the data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of the processing based on consent before its withdrawal;
- when assessing whether consent is freely given, utmost account shall be taken of whether the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

Similarly, in different situations or when there is no direct contact between the controller and the data subjects, sometimes consent is difficult to obtain. Usually data subjects do not realize that their behavior online is being traced and are uninformed about the purposes of such tracing. They are not always informed about how to use the browser settings to disable cookies (2). Controllers cannot make a conclusion that consent has been given when a data subject does not answer the brochure or fill in the form. It is wrong to believe that the inaction of the data subject (when he or she has not disabled the cookies on their browser) means a clear and unambiguous indication of his or her will. Therefore, the silence or inaction cannot be construed as consent.

In this regard, it is important to bear in mind that in order for a consent to be valid, irrespective of the circumstances under which it has been given, it has to be a freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her. For that reason, consent cannot be considered freely given when the data subject has no free choice and cannot refuse or withdraw his or her consent without that leading to negative consequences for said subject. Nevertheless, by all means the controller must demonstrate that they have obtained explicitly the subject’s consent which was given based on correct and clear information. This is necessary because, on the one hand, the subjects are informed about their rights as the holders of the collected and processed personal data, and on the other hand, it provides security for the controller. Consent given by coercion or on the grounds of misleading information does not adequately meet the conditions for data processing.

The consent may be unsuitable for fulfilling the conditions for processing, especially when the data subject has had no real choice but to give their consent, when there is a clear inequality between the data subject and the controller. Such is more specifically the case when an employer processes the personal data of his employees in the context of their contractual relationship or when the controller is a public authority which can enforce an obligation based

on their public authority; in this case, the consent cannot be deemed freely given in view of the interest of the data subject. For that reason, data controllers cannot rely only on the subject's consent so that the data processing be construed as lawful.

Next in line, as an eligibility condition for personal data processing, is the **contract.** And the processing must be necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract. This condition for lawful data processing exists when an employment agreement is signed, since the employer cannot exercise their rights nor perform their contractual obligations unless they have full access to the worker's or the employee's personal data. The processing of the personal data of the staff is without a doubt undertaken in the performance of the contractual obligations to which the data subject is party (Aleksandrov, 2016, p. 37). In this hypothesis, the employer is not obliged to require the employee's consent for the data processing. This condition for lawfulness of data processing is also applicable in situations prior to entering into a contract. For instance, in order to make an offer for buying insurance or receiving a loan (bank service offer), personal data processing is needed (doubtless, in this situation, the processing of personal data is needed for the interests of the bank). In this case, the processing is essential for the purposes of the performance of the agreement or the undertaking of the necessary steps prior to entering into contract, as well as the fact that this must be achieved in a proportionate manner.

Proportionality is a principle which means that personal data should be correlatable with, related to and not exceeding the purposes for which they are being processed. This is part of the practice known as data minimisation – the minimum of the personal data which has to correspond to the purpose needs to be determined.

Additional data about the subject can be collected and stored only when the already collected information is insufficient for the achievement of the purpose. Stored data must be limited only to the absolutely necessary. An infringement on that principle would be the storage of additional information with the idea that it may be used for future purposes. In this case, it does not become clear how the stored additional information will be used and in this way it will not be possible to announce the exact purpose of the processing. For example, when a natural person applies for a bank loan, the bank collects data about him in order to make sure that the person will be able to pay regularly the loan instalments. Collecting any other information which does not pertain to that purpose, (such as health, ethnicity, etc.) is unjustifiable and the bank has no right to require it. The data held by the controller cannot include irrelevant details. In the event that no loan is awarded, or after the expiry of the loan agreement, the bank does not need the subject's data any more. In these cases, the Regulation gives the subject the right to require their destruction.

Data processing is also lawful when a **legal obligation** to which the controller is party must be met. When data collecting and processing is not based on the consent of the data subjects, but is the result of the performance of a **legal obligation** of the controller. For

instance, universities are obliged to collect, store and process the personal data of their students, which data are detailed in the Ordinance on the State Requirements for Admission of Students in Higher Educational Establishments in the Republic of Bulgaria, Ordinance on the State Requirements for the Content of the Basic Documents Issued by Higher Educational Establishments.

Next, processing is deemed lawful when it is done to keep the subject's **vital interests.** According to Recital 46 of the Preamble to the Regulation: *The processing of personal data should also be regarded to be lawful where it is necessary to protect an interest which is essential for the life of the data subject or that of another natural person. Processing of personal data based on the vital interest of another natural person should in principle take place only where the processing cannot be manifestly based on another legal basis. Some types of processing may serve both important grounds of public interest and the vital interests of the data subject as for instance when processing is necessary for humanitarian purposes, including for monitoring epidemics and their spread or in situations of humanitarian emergencies, in particular in situations of natural and man-made disasters.* With this condition for lawfulness, the processing must be necessary for protecting the vital interests of a data subject. In this case, this condition is only applicable if the data subject is physically or legally incapable of giving his or her consent, according to Article 9 paragraph 2 subparagraph c) of the Regulation.

And last but not least, data processing is lawful if it is necessary for the performance of a task which is in the **public interest** or in the exercising of official authority by the controller, where the task or the function have clear legal grounds. Generally, the Regulation limits the use of personal data by public authorities to the existence of consent or legal interests as a precondition for use, but there is no absolute ban for the controllers to use these two legal grounds for processing.

The purpose of the legitimate interests (3) of the controller is to allow processing of data only if these interests meet certain requirements. The first requirement is to inform the data subject that his or her data will be disclosed to a third party, for example for the purpose of paying up a loan. Lately, most banks and mobile network operators transfer their customers' debts, together with their personal data (telephone, address, PIN) with the purpose to protect their own interests. When the issue is transferring debts through a cession, the debtor is not party to it and his or her consent is not required, as per Article 99 of the Law on Obligations and Contracts. As a rule, it is the controller's obligation to demonstrate that his or her legal interests take precedence over the interests or the basic rights of the data subject. Secondly, these interests need to be balanced against the interests of the natural person (in this case the debtor). Quite often, rather than having the controller inform the debtor about the transfer, it is the new creditor who does that. This is an infringement of the requirement, since per Article 99, paragraph 3 of the Law on Obligations and Contracts the former creditor is obliged to inform the debtor about the transfer. The practice of the Commission for Personal Data

Protection shows that the creditor does not take the necessary steps to inform the natural person about the existence of such a possibility or, when signing the individual agreement, the natural person does not pay the necessary attention to that circumstance. Nevertheless, when there is a serious discrepancy between competing interests, the legal interest of the natural person shall take precedence.

Conclusion

In view of the aforesaid, we can summarise that in order for a controller to lawfully process personal data and to be able to duly substantiate such processing, he or she needs to assess correctly which legal grounds to apply for that particular purpose. This is especially significant in the cases when the controller has the right to choose between using a legal obligation or the natural person's consent as a condition for lawful data processing. Since the reviewed conditions in this elaboration enhance the work of controllers on data processing, this requires that they fully comply with those conditions. As a whole, the correct assessment about the choice of a specific condition for processing over another is a necessity both with regard to guaranteeing a high level of protection of the natural persons, and to reducing the risk of malpractices. In accordance with the transparency stipulations of the Regulation, the information which is provided to the data subject has to be easily accessible and easy to understand, not hidden in general contractual conditions and/or declaration of inviolability, which, on its part allows the subjects to exercise control over their own data. That is why, it is of extreme importance that data controllers inform data subjects in a clear, unambiguous and transparent manner about who and how collects their data, for what reasons, for how long and what their rights are if they wish to have access to, correct or erase these data.

Notes:

1. The term *lawfulness* is used in administrative law theory mainly when an administrative action is undertaken. The term *lawfulness* concerns mainly the compliance with the law as a legal act (The Administrative Actions in the Legal System of the People's Republic of Bulgaria, Staynov, 1952, p. 146).

2. A cookie is a small text file containing letters and digits which is stored in the data subject's computer and is later used by the network provider. This text can have different functions, e.g. storing information about preferences, about the sessions or for identifying the subject via a unique identification code. In the context of behavioural advertising, a cookie allows the provider of the network which also provides advertising to recognise someone who had visited the site before, who visits the site again or visits another website which is a partner to the advertising network. See Opinion 2/2010 on online behavioural advertising (WP 171), 22.06.2010

3. For instance, legitimate interests may be the controller's own interests or the interests of third parties, as well as the disclosing of information to the authorities for possible criminal activities or security threats.

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POLEMICS WITHIN THE DIRECTIVE ON COPYRIGHT AND RELATED RIGHTS IN THE DIGITAL SINGLE MARKET

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Abstract: On April 15th, 2019, the Directive on copyright and related rights in the Digital Single Market was endorsed. The modernization of the existing EU legal framework on copyright is aimed at making it fit-for-purpose in today's digital environment. The recently established rules ensure adequate protection for authors and artists, while unfolding new opportunities for accessing and sharing copyright-protected content online throughout the European Union. Concomitantly, the Directive is subject to criticism, due to the newly introduced norms, affixed in Article 15 and Article 17. Consequent to the publication of the Directive in the EU Official Journal, Member States would be favored with 24 months to transpose the novel rules into their national law.

Key words: Directive on copyright, Digital Single Market, video-on-demand platforms, protected works, cross-border licensing

I. INTRODUCTION

On September 14th, 2016 the European Commission proposed[1] a modernization of the European Union copyright rules in order for the European culture to flourish and proliferate, as part of the Digital Single Market Strategy[2]. The reform concerns EU rules, traced back to 2001 – a period, identified with a lack of social media, video on demand, online courses, and digitized collections of art. A concluding stride in the legislative process and subsequent to the approval of the European Parliament, on April 15th, 2019, the Council of the EU adopted the Directive on copyright and related rights in the Digital Single Market, amending

[1] Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market, COM/2016/0593 final – 2016/0280 (COD)
[2] Communication from the Commission *"A Digital Single Market Strategy for Europe"* of May 6th, 2015, COM/2015/192 final

Directives 96/9/EC and 2001/29/EC[3]. It would enter into force on the twentieth day following its publication in the EU Official Journal, and thereafter Member States would be favored with two years to transpose it into their national legal systems.

The objective of this article is to concisely: (i) describe how the new Directive shifts the prospect of the EU copyright rules through a generic presentation of the main advantages it holds; (ii) discuss the main arguments against Article 15 and Article 17 of the adopted text, already approved by the Parliament and the Council (the "final text"), both of which are significantly altered in comparison to the original text, advanced by the Commission in September 2016 (the "proposed text").

II. BENEFITS OF THE REFORM VERSUS DENUNCIATION BY THE INDUSTRY

1. Positive aspects

In essence, the new Directive addresses a variety of issues and brings about advantages, which could be assembled, as follows:

1.1. Adaptation of copyright exceptions/limitations to the digital and cross-border environment

The Directive introduces mandatory exceptions to copyright for the purposes of text and data mining, online teaching activities, online dissemination and preservation of cultural heritage.

1.2. Improvement of licensing practices in order to ensure broader access to creative content

The Directive provides for harmonized rules facilitating: (i) the exploitation of works that have ceased being commercialized (out-of-commerce works); (ii) the issue of collective licenses with extended effect; and (iii) rights clearance for films by video-on-demand ("VOD") platforms.

1.3. Attainment of a well-functioning marketplace for copyright

The Directive introduces a new right for press publishers on the online use of their press publications. Authors of works, incorporated in the press publication, would be entitled to a share of the press publisher's revenue, deriving from this novelty. With regards to online content-sharing platforms, based on the "user-uploaded content" model, the Directive elucidates the legal framework within which they operate. Such platforms would, in principle, be required to obtain a license for copyright-protected works, uploaded by users, unless a number of requirements, postulated by the Directive, are met. Right holders would, therefore,

[3] The final text of the Directive is not available heretofore. Solely a draft version is uploaded at the Council Registry, which could be accessed at: https://data.consilium.europa.eu/doc/document/PE-51-2019-INIT/en/pdf

be able to better negotiate the conditions of the exploitation of their online works and be remunerated by these platforms for the online use of their content. Concomitantly, the Directive enables users to generate and upload content freely, for purposes of quotation, criticism, review, caricature, parody and pastiche. To that effect, it transforms the aforementioned isolated examples, currently optional for the Member States, into mandatory exceptions for this particular kind of usage.

The Directive also upholds authors' and performers' rights to proportionate remuneration upon the licensing or the transferring of their rights, and inaugurates a transparency obligation, concerning the exploitation of licensed works, besides a remuneration adjustment mechanism, accompanied by an alternative dispute resolution mechanism. Software developers are excluded from these rules.

2. Subject to criticism

2.1. Article 17 – the "upload filter" rule

The recently introduced EU rules on copyright have been subject to severe criticism by various stakeholders, such as YouTube, Wikipedia and Google News. In particular, the Directive in its most controversial component – Article 17 (former Article 13 of the proposed text), or the "upload filter" rule, which requires "online content-sharing providers" ("OCSPs")[4] to filter or remove copyrighted material from their websites. In principle, Article 17 establishes two sets of obligations for the Member States. The latter shall ensure that OCSPs perform an act of communication to the public, or an act of making available to the public while they are allocating access to copyright-protected works or other protected subject matter uploaded by its users. Therefore, OCSPs are demanded to obtain authorization from the right holders by concluding a licensing agreement (Article 17(1)), for instance. Furthermore, Member States shall guarantee that authorizations, obtained by OCSPs, also cover acts, carried out by users of the services, falling within the scope of Article 3 of the Copyright Directive 2001/29/EC, when they are not acting on commercial basis, or where their activity does not generate significant revenues (Article 17(2)). If no authorization is granted, OCSPs would be liable for unauthorized acts of communication and making available to the public of copyright-protected works and other subject matter, unless they demonstrate they have: (i) devoted optimum efforts to obtain an authorization (Article 17(4)(a)); and (ii) made so, in accordance with elevated industry standards of professional diligence. Article 17(6) requires Member States to establish a lighter regime for new (start-up) OCSPs, meeting the following criteria: (i) the OCSP' services have already been available to the public in the EU for less than three years; and (ii) the OCSP holds an annual turnover

[4] This term is affixed in a new definition, set out in Article 2(6) of the final text – an information society service ("ISS") provider, aimed at storing and giving public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which the former organizes and promotes for profit-making purposes.

below EUR 10 million. The provisions of Article 17 (previously Article 13) are significantly amended, compared to the initial version of the proposed text. Key changes envelop:

- a specific definition of an OCSP, which expressly excludes certain providers, such as non-for-profit online encyclopaedias and open-source providers;
- requirements on obtaining authorization from right holders and cooperation between the aforementioned and OCSPs under Article 17(4), where no license is acquired;
- a lighter regime for small-sized OCSPs.

According to a fraction of the industry, the major issue with the new "upload filter" rule is that it attacks tech giants (e.g. YouTube, Facebook, Twitter, etc.) by making them liable for copyright infringements, and supposedly directing more revenue towards artists and journalists, on their behalf.

This new provision has also been referred to as the "meme ban", since there is no certainty whether memes, which are often based on copyrighted images, would enter the scope of the norm. Proponents of the legislation argue that memes are protected as parodies and thus are not to be excluded from this Directive, but others argue that filters would not be able to distinguish between memes and other copyrighted material, therefore they would, after all, be encompassed by the new rules.

2.2. Article 15 – the "link tax" rule

Another problematic provision is Article 15 (former Article 11 of the proposed text), or the "link tax" rule, which aims to make news aggregator sites (e.g. Google News) pay publishers for using snippets of their articles on the platforms. The mechanism in practice, however, is not clarified, as yet. A particular concern is what percentage of an article body shall be shared before a platform shall pay the publisher. The Directive postulates that platforms would not be obliged to pay should they merely "hyperlink" coupled with individual words (Article 15(1)), but since most links are accompanied by more than a couple of words, it is likely that many platforms and news aggregators would find themselves subjected to this rule. The new norms contain an exemption for "private and non-commercial use of press publications by individual users", therefore, it appears as if individuals, sharing links on social platforms, would not be impacted. Notwithstanding, the aforementioned is exposed to interpretation, since it is not explicit whether one holding vast following on social media (e.g. having 50.000 followers and profiting from it), who posts adverts to that audience, is regarded as a "private and non-commercial" entity.

Article 15 of the Directive, likewise Article 17, is considerably amended, compared to the initial text. Key changes envelop:

- paring down of the potential scope of the right by explicitly providing that it does not apply to private or non-commercial use of press publications, hyperlinks, use of individual works, or short extracts;

- additional text in Article 15(3), clarifying that the right cannot be employed in order to prohibit the use by authorized users of a work, or other subject matter, incorporated in a press publication on the basis of a non-exclusive license, the use of works, or other subject matter, for which protection has expired;
- a new requirement that authors of works, incorporated in press publications, enjoy a share of the new revenue stream, generated by the press publication right.

2.3. Opposing Member States

In addition to the industry objections, described beforehand, five Member States voted against the Directive by stating that:

"The objectives of this Directive were to enhance the good functioning of the internal market and to stimulate innovation, creativity, investment, and production of new content, also in the digital environment. (….) However, in our view, the final text of the Directive fails to deliver adequately on the abovementioned aims. We believe that the Directive in its current form is a step back for the Digital Single Market, rather than a step forward. Most notably, we regret that the Directive does not strike the right balance between the protection of right holders and the interests of EU citizens and companies. It, therefore, risks to hinder innovation, rather than promote it, and to have a negative impact on the competitiveness of the European Digital Single Market. Furthermore, we feel that the Directive lacks legal clarity, will lead to legal uncertainty for many stakeholders concerned, and may encroach upon EU citizens' rights."[5]

III. CONCLUSION

In sum, regardless of the benefits, claimed by the EU institutions, the reaction of the industry and of some of the Member States implies that the new EU copyright rules are controversial. Proponents of the Directive manifest it would balance between American tech giants and European content creators, conferring on copyright holders control over the manner, in which internet platforms distribute their content. On the other verge, critics affirm the law as vague and poorly constructed, restraining the means of sharing content online, stifling innovation and free speech.

Nevertheless, it is premature to profess on the ways of enforcement and on the aspects of the impact it would produce. The Directive sets obligations for the Member States and not for the market parties directly, therefore it remains to be observed how the EU governments

[5] Joint statement, issued by the Netherlands, Luxembourg, Poland, Italy, Finland, Estonia and Germany on the proposal, published at the Council Registry, available at: https://data.consilium.europa.eu/doc/document/ST-7986-2019-ADD-1-REV-2/en/pdf

would achieve the objectives of the Directive by means of national implementing mechanisms.

INTERNAL ORGANIZATION OF SECURITY CONTROL

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Abstract. Security is of vital importance for organization. The idea for integrating number of suitable theories for research is not new, but it is not quite often met in practice. That is why the article proposes a combination of known theories for increasing effectiveness and efficiency of internal organization control of security as an instrument for increasing levels and expanding zones of organizational security[1] [1]. It requires implementing a suitable philosophy[2] [2] and supportive organizational culture[3] [3] for controlling environment**,** risk evaluation**,** monitoring activities**,** information and communications within an organization.

Key words: organization, security, risk, controlling, activities.

In an effort to increase the efficiency of internal control within organizations, the concept and model of "Internal Control – Integrated Framework" was established in the United States in 1992. This concept was developed under the guidance of Committee of Sponsoring Organizations of the Treadway Commission which we shall variously refer to as the Integrated Framework, the Framework, or COSO. The accepted methods of Integrated Framework define internal control as *"an overall complex process, performed by the management and the other employees within an organization, intended to provide a reasonable level of confidence with regard to the goals related to exercising of correct, economic, efficient and effective activities and operations, fulfilment of engagements with regard to reporting and reliability of financial and non-financial information, observing the applicable laws, regulations, contacts and preservation of the resources and information*[4] [4].

[1] Manev, E. Security zones, University of Economics and Innovations in Lublin and Free University of Varna, Globalization, the State and the Individual, Index Copernicus International 2 (14) 2017, International Scientific Journal, p. 31-40, ISSN 2367-4555
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[3] Manev, E. Organizational culture: essence, change, measurement, Military publisher "Saint George", Sofia, 2007, ISBN 978-954-509-389-0
[4] Internal Control – Integrated Framework (AICPA,

This definition places demands for measurement, comparability, and adequacy of the targets, vision, mission, strategy, functions, tasks, and structure of an organization, as well as its abilities and influence over the environment it operates in. To achieve those objectives within the organization, it is reasonable that activities are distributed in directions that provide for the performance of correct, economical, efficient, and effective technological and managerial operations, the execution of requirements under reporting procedures, the reliability of financial and non-financial information, the strict observation of all applicable laws, regulations, and contracts, as well as preservation of the organization's resources and information in the event of loss, poor management, and/or abuse.

In its functional structure, the Internal Control Framework defines five reciprocally related elements: controlling environment**,** risk evaluation**,** controlling activities**,** information and communication, and monitoring. These elements should all be used in the development of policies, architecture, procedures, practices, techniques and methods in the construction of systems for risk management and internal control of organizational activity. It is important to ad additionally that a valuable overall instrument that wraps up instruments mentioned above is an organizational culture and Linguacultural Aspects of Security study[5] [5].

The **control environment** forms an appropriate organizational-cultural environment for establishing the necessary shared and accepted values, convictions, and beliefs within an organization[6] [6]. In their turn, these form an appropriate climate, and influence the attitude of management and personnel toward the control within the organization. This is how a controlling environment fosters personal and professional honesty and ethical standards of behaviour toward organizational objectives, develops competence, and defines the philosophy and style of management. And these, in turn, influence the organization's structure, policies, and practices in the field of human resources. This all has a positive effect on the organizational and personal behaviour of the personnel with regard to achieving the organization's objectives and its security as well.

A second element in the functional structure of the Framework is the process of complex **risk evaluation**, which includes the activities of identification, evaluation, and analysis of the corresponding risks in order to achieve organizational objectives and to define proper and adequate responses. Based on these evaluations, and according to their origins, risks can be divided into three groups: external, internal, and operational. External risks are generated by factors that do not depend on the organization, and over which it has no influence. Internal

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1992) http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/InternalControls/COSO/PRDOVR~PC-990009/PC-990009.jsp#ProductPricingContainer.

[5] Ilieva, D., Manev, E. Linguacultural Aspects of Security, The Tenth International Conference "Language, culture and civilization – Trends for the Next Decade". The polytechnic university of Bucharest – Romania, Bucharest, 27– 28 May 2016. Editura Politehnica Press, Toate drepturile asupra acestei ediţii sunt rezervate editurii, Calea Griviţei, nr. 132, 010737, Sector1, Bucureşti, p. 197-204, ISSN: 2067–1628

[6] Ilieva, D. , Manev, E. Organisational culture – is it just culture or something else?, The Tenth International Conference, CULTURE AND CIVILIZATION – Trends for the Next Decade, Bucharest, 27– 28 May 2016, Editura Politehnica Press, Toate drepturile asupra acestei ediţii sunt rezervate editurii, Calea Griviţei, nr. 132, 010737, Sector1, Bucureşti, p. 216-223, ISSN: 2067–1628.

risks originate from factors within the organization; most often, these are unfavourable influences caused by poor management, performance failures, unqualified personnel, technological failures, and so on. Operational risks are specific and are generated by activities within the organization.

Controlling activities take the form of policies and procedures that are developed by management for the purposes of reducing negative risk effects and achieving organizational objectives. Depending on their specific characteristics, controlling activities can be preventive or corrective. Preventive activities aim to serve as an early-stage indication of increasing risks; corrective activities, on the other hand, are addressed to risks that were not prevented and have become a fact. We can divide controlling activities into broad groups according to their objectives, such as reviewing the results of activities undertaken by particular segments of an organization's structure, or such that are authorizing specific officials to control and perform physical control.

Information and communication are particularly important to internal control objectives. For this reason, they are typically a subject to extremely high requirements in terms of reliability, relevance, promptness, authenticity, as well as the documentation, classification, and archiving of activities and events within an organization. Information should be properly styled and structured, and it must be consistent, presented promptly upon request, and it should also be current, authentic, and available to authorized officials[7] [7]. In order to distribute information within an organization, one needs effective communication in hierarchy, both vertically and horizontally. Effective, efficient, and appropriate formal and informal communication within the organization plays many crucial roles: it engenders effective internal control; it increases readiness of the organization to react to risks, it also helps to understand correctly, to consider and accept the officials' roles and responsibilities with regard to specific activities. In the end, it is necessary for an organization in order to achieve its objectives[8] [8].

The aim of **monitoring internal control systems** is to provide a permanent flow of information about activities in ways that guarantee to management that subsystems can and will react immediately and properly to changes in the environment, as well as to the influence and threats to the organization.

The key to correct and effective control in an organization is the concept of building control systems using the system and architectural approaches, the process model, and sequence control. For this purpose it is reasonable to rely on systems theories to provide the necessary "competence" of the systems of control. For example, the "open system" theory provides a way to evaluate the influence on external, uncontrolled sources that affect the operations of a control system. The "closed system" theory, on the other hand, explains the operations of a control system in an environment with no interference from external,

[7] Semerdjiev, Tz., Mitev, N. Information security. S., Softtreyd. 2015, ISBN 978-954-334-173-3
[8] Mitev, N., Miteva, P., Norms and standards of cybersecurity, Sofoia. 2016, p. 14, ISBN 978-954-334-179-5

uncontrolled sources. “Adaptive system” theory can account for mechanisms for the adaptation of a control system in a changing environment and by means of organizational self-training. Adaptive systems, as a rule, are open and learn from their mistakes. Control systems should have the option to correct activities, which suggests that we should rely primarily on the theory for system corrections. Systems can be one of the two kinds – open and closed. These kinds cannot learn from their mistakes: they only function according to set algorithms. An architectural approach gives us the opportunity to construct the necessary effective controls in organizational structures.

From what we have outlined above, we arrive at several basic conclusions: control systems should be corrective or adaptive; they should have the option to be designed as open or closed types; and they should be able to adapt to the changes in the environment, because the sine qua non is the ability to operate only in ways that correspond to standards established at the outset and to control algorithms.

There are five known fundamental elements or subsystems in the control systems theory: a subsystem that *monitors* the behaviour of the object being controlled (for this purpose are selected suitable indicators and metrics for them); a subsystem of *indicators*, which usually comprises of the technical means, methods, and algorithms needed to measure their parameters; in order to realize comparisons of current parameters of the monitored organization behaviour to the established ones, is built a subsystem of *standards* that pre-sets the behavioural parameters (the standards) that the organization must meet; a subsystem for *analysing* data regarding the organizational behaviour monitoring subsystems, which is tasked with measuring and controlling deviations in standards; a subsystem for activating a *decision-making process*, which is needed to overcome any discrepancies or deviations in the controlled organization.

Depending on the specifics and requirements of an organization’s management, supervisory systems may have different ranges of responsibility and abilities to act. Usually they would be identified as: a *supervisory* system and therefore as the first line of defence; a *corrective* system as the second line; an *adaptive* system as third and following lines.

A **process model** is based on the process approach in management theory. It monitors the current status of parameters in a given organizational process, compares them to standards, and in the event of deviation, sends corresponding signals to the activators. Organizational processes have five essential elements: resources, the input of those resources into processes, a process itself (that is, the processing of resources according to a defined algorithm), output, and control. Resources can be material, human, financial or other organization assets that are used to perform the process. Input is the resources (understood both in quantitative and in qualitative terms) that are provided for performing the process. The process is an operation performed in order to turn the resource into the product. The outcome is the quantity and the quality of ready new products obtained from the resources through the process. And, finally,

control is an operation that provides observation of the process algorithm and the quality of resources.

Measurement aims to report the results of an action, and it is used to compare measured parameters to set ones. Depending on the requirements regarding a control system, there can be defined methods for measuring variables such as quantity, quality, or value, among others. Also defined is the measurement algorithm — for example, exactly when (and in what order) and where measurements will be performed. In stage three of the measurement, the obtained results are compared to required and established standards, and the result is one of two options: the results either meet the standard or they do not. In the fourth and final stage of the measurement, a deviation evaluation is performed and, if necessary, corrective actions are defined. It is here, depending on specifics of the situation, that different types of judgments and reaction on behalf of managers become possible.

In practice, organizational management should implement various policies, procedures, processes, or activities (known popularly as "internal controls") on which internal control systems depend. According to their way of operation, those systems might be preventive, monitoring, or corrective, or a combination of the three. Preventive controls perform preliminary risk evaluation, for example, in how much acceptable risk they allow in the continuation of a process — and, in case a threat is greater than what was initially established, they start an activator[9] [9]. In the event of mistakes or problems that are an established fact, monitoring (detection) controls then send a signal to the activator. Corrective controls are used in relation to monitoring controls in order to eliminate after effects with undesired consequences.

In theories of control and practice, two more types of internal controls are popular, "soft" and "hard" controls. Soft controls are based on the broader powers of employees within an organization, depending on their competence and powers with regard to the process, activity, function, or operation being managed or performed.

Internal control system measures performance against certain standard; and, if necessary, it can be regulated or corrected. An effective internal control system is characterized by: economy; richness (controls should measure performance in significant fields); appropriateness (controls should provide accurate information about the events they are intended to measure); correspondence (controls should correspond to planned results and conform to the need and ability to perform precise evaluations).

There are two keys to operating a system of internal controls: policy in organization's management control and control over internal controlling structures within that organization. Activities under internal control are performed on the basis of written managerial procedures

[9] Ilieva, D., Manev, E. About the conceptual core of security concept (some Bulgarian – Russian juxtapositions), University of Economics and Innovations in Lublin and Free University of Varna, Globalization, the State and the Individual, Index Copernicus International 2 (14) 2017, International Scientific Journal, p. 69-77, ISSN 2367-4555

that define how controls themselves are integrated into them. This approach provides specific advantages in the operation of internal control systems, such as reliability in running processes (because they are described to an appropriate level of detail) in documented procedures; tracing and identifying processes; and permanent control of their operations and monitoring of control systems by management.

Internal organization control is of high importance for its functioning according to the designed algorithm. Its planning, organizing, performing and adaptive change according to the dynamic of external and internal circumstances is of decisive importance for it and for its security as well.

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EURO-ATLANTIC SECURITY IN THE MULTI-CENTER NETWORK WORLD

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Abstract: After the end of the Cold War the world unanimously agreed with Russia's and China's tacit consent to continue its development in a unipolar world system under United States' leadership. Globalization processes have been actively developing and spreading increasingly to the territories of the former Socialist states and their satellites from the "third" world. In Europe, the necessary conditions to build a unified space and implement the idea of a European Union were created. At the same time, NATO as a military-political organization continues to develop and adapt as a guarantor of Europe's stability and prosperity, which essentially defines the new concept of Euro-Atlantic security.

Key words: cold war, unipolar, globalization, Europe, security

The world in the XXI century is complex, contradictory and unpredictable, which is determined by the emerging common civilization characteristics. Globalization processes in their essence internationalize the economic, political and perhaps the most sensitive part of our social development – cultural and historical traditions, values and interests. Through the high technology development of information technologies, we have already built a common information environment / space that is becoming a factor in all areas of our lives. The end of the Cold War and the formation of the unipolar world are interrelated stages of human development as an expression of our cultural and civilizational growth and understanding of the building of our relationships. It is in the acceptable sustainable dynamics of the changes in the national, regional and international relations that we are looking for a response to the notion of security. In this context Samuel Huntington (Huntington, 2002, p. 22) defined the period of the Cold War period as follows: "... world politics was a two-pole world, and the world divided into three parts. A group of predominantly rich and democratic societies headed by the United States was engaged in a large-scale ideological, political, economic, and sometimes even military, rivalry with the group of comparatively poor socialist societies led by the Soviet Union. Much of the conflicts took place outside the two camps – the Third

World, which included mostly poor, politically volatile and newly independent countries claiming political neutrality."

The conditions at this stage proved to be acceptable and sustainable for the society that favored its development, and we could say to a great extent that it is during this period that the concept of Euro-Atlantic security formed and developed in nature. Euro-Atlantic security as the object of our research, as outlined above, is a natural result of the events, and if Huntington made his assessment on the basis of what has happened, it is important for us to identify the essential points of its creation and development. The Euro-Atlantic security system is a high-level system, whose elements can be defined as a core made by national states and allied relationships resulting from the security systems of the countries that form it. In its development, the system inherently has the strategic vectors of its creators' policies in the face of the United States and West European countries. On the one hand, for the USA, it is to maintain a lasting influence in Europe by liberalizing economies in the process of globalization (the Marshall Plan) and, on the other, to integrate military presence into the national defense systems of European countries. According to George Friedman (Friedman, 2011, p. 150) the European Union was created with two objectives: "The first was the integration of Western Europe into a limited federation, solving the problem with Germany binding it with France, thus limiting the danger of war. The second objective was to create a mechanism for the reintegration of Eastern Europe into the European Community". During the Cold War, the existence of the Soviet Union and its multilateral influence on a large part of the Eastern European countries did not actually allow the full accomplishment of the second goal. The military factor in building the Euro-Atlantic security system was achieved through the creation of the North Atlantic Alliance (NATO). In this context, the United States not only created a common concept shared by Western European countries but also established its own military presence, which is an integral part of the strategy of sustaining influence. The end of the "Cold War" marked the next stage in global development adopted with the tacit consent of all parties to the leadership and domination of the United States, including Russia, as the successor to the Soviet Union (it ceased its existence on December 8, 1991 when the leaders of the RSFSR/РСФСР ((Ruska Savetska Federativna Sotsialisticheska Republika), Ukraine and Belarus) signed the “Belovegko” agreement (statement).

At the same time, the Camp David Declaration signed between the United States and Russia (February 1, 1992) marked the end of the Cold War and, according to New York Times (Wines Michael, 1992), "Russia and the United States do not treat each other as potential opponents." The Declaration further states that "from now on, their relations will be characterized by friendship and partnership based on mutual trust, respect and a common commitment to democracy and economic freedom." With this, one of the reasons for the systemic contradictions of the "Cold war" in the face of Marxist-Leninist ideology was abolished. Countries from the socialist bloc voluntarily accepted the free market economy and recognition of private ownership proposed for decades by the West as a driver for initiative

and development. This set the ideal conditions to achieve the goal of full reintegration of all Eastern European countries into a unified community. This stage in the development of the global world is under the leadership of the United States and is formulated as one-pole. This allowed the US to continue its influence strategy in Europe and at the same time to realize their geopolitical interests. If we go back to Huntington's formulation of the Cold War, we can note that conditions both on a global scale and in Europe have been completely changed. This change is also reflected in the United Nations, where in its Peace Program Secretary General Boutros Ghali (Boutros Boutros-Ghali, 1992) defined the post-Cold War period as "unprecedented re-engagement, at the highest political level, with the goals and principles of the UN Charter". Particularly important is the emphasis that "in recent months, between the great and the small peoples, the opportunity to restore the achievement of the great goals of the UN Charter that is capable of maintaining peace and security internationally, to provide justice and human rights and to promote, in the words of the Charter, "social progress and better standards of living in greater freedom". This opportunity should not be lost. The organization should never be defeated / missed any more, as it was in the era that has already passed". Given the above, we can conclude that after the end of the Cold War the world was on the verge of building a new global system where security issues could and should be resolved on the basis of the developed and adopted UN statute where the Security Council and not a single state should have had the leading role. In these conditions in Europe, despite the absence of a military-political opponent in the face of the Soviet Union and the beginning of the democratic changes in Russia, the essence of the Euro-Atlantic security system (fig.1) still comprises the same two components: military, the North Atlantic Alliance and economically – the European Union.

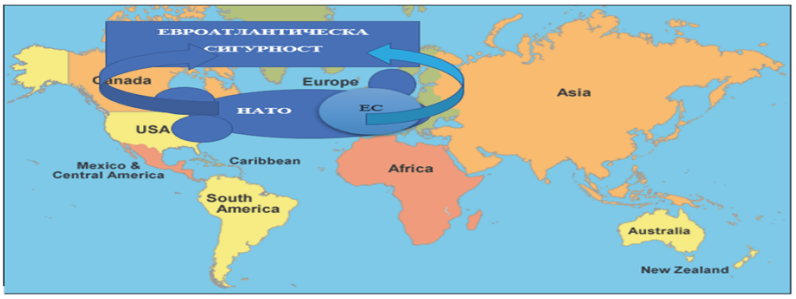

Figure1. Euro-Atlantic Security Structure after the Cold War

The new security environment caused a profound transformation in both components. The Alliance declared its intentions to transform on a meeting of Heads of State and Government of the Member States in London (6 July 1990). The main directions were to promote cooperation with the countries of Central and Eastern Europe with new political and military approaches and to establish regular diplomatic contacts between them. NATO's transformation into the emerging unipolar world (system) confirms two facts: the first is that

the Alliance's leadership has sufficient expertise to predict possible destructive processes in the course of the deep political and socio-economic transformations of the post-Soviet countriess, and the second – that the United States continues its strategic goal of integrating the national defense systems of Member States into the alliance's system, naturally increasing its political influence on their national policies. The European Union, as a manifestation of the economic component of the Euro-Atlantic cooperation, has successfully achieved the goal of integrating all post-communist countries into creating favorable economic, legal and cultural spaces. At the same time, the European States confirm their unwillingness and lack of readiness to create and take over the management of their own military component. Following the systematic approach and the empirical experience of social development, it is evident that the concepts and visions depend on natural / philosophical laws. This requires not only in-depth knowledge, but also use in system analysis. Such an approach allows us to predict future social phenomena and processes. The above conclusions confirm that a sustainable development of the security environment that is acceptable to society is possible and has only occurred when the aforementioned philosophical laws have acted. The establishment of the unipolar world in the UN system through the Security Council allows for their efficient functioning. The inertia in Cold War politics and the strategic approaches of part of Western countries, and especially the United States, as a global leader for the realization of national goals, have led to the described one-pole world. Naturally, such a world could not provide development in the diversity of the global world, therefore, according to the theory (quantitative accumulations transform into qualitative changes), there is a "saturation" and "birth" of the necessary opposite-multi-center / network pole. Its official announcement could be the 70th Jubilee Conference of the United Nations (December 2015), with the statements of the leaders of the People's Republic of China – Xi Jinping and the Russian Federation – Vl. Putin, who essentially echo their national military strategies. These strategies are precisely where it is laid down that no interference from any global force shall be allowed in their development. The emerging *bipolar network world* can be expressed by the Figure 2 info-graphic.

Figure 2. Bipolar multicentric / network world

While the pole existing hitherto under the leadership and hegemony of the United States is monocentric, the second pole, unlike the Cold War period, is networked without a specific center, with individual network centers syncing into the system of common interests. This statement is reflected in the US National Security Strategy of December 2017 (USA – NSS, 2017, page 2), which states: "China and Russia are provoking US power, influence and interests trying to erode American security and prosperity." It once again refers to "Iran and North Korea as a destabilizing factor in the regions and threatening American and Allied interests." In this bipolar, networked world, Euro-Atlantic security faces several serious challenges: The first one is to accept the definition of Russia as callously eroding USA's national security and increase its influence in Europe and globally, thus posing as a threat to European countries as well. By its very nature, this is a return to Cold War practices, focusing on increasing defense spending, introducing policies of economic and political isolation. The next one, which is no less important, is: how adequate is the assessment of Russia's possible military aggression as a result of which the Alliance focuses its efforts on creating essential military potential and forming and maintaining anti-Russian sentiments, thereby turning the European continent into a possible military theater? Is this to seek influence by way of economic growth increasing the military-industrial complex?

In the context of the challenges posed by the Euro-Atlantic Security System, does the development of China's "One Belt - One Road" initiative as an opportunity for the EU's economic development in joint projects pose a threat to Euro-Atlantic security or it is viewed through the lens of the US Security Strategy of December 2017?!

Of course, one of the main challenges, as a natural result of the globalization process not only in the industrial and economic spheres, is also the pressure on the cultural, historical and national traditions of EU countries as the core of the Euro-Atlantic area. This gives rise to trends for growth of nationally oriented centrifugal forces that raise the question: to what extent is it possible to form and conduct a common security and defense policy or will it continue to be one of NATO's pillars? The answers to these questions are the key to the future Euro-Atlantic security system in the systemic global world. Europe cannot develop "led and mentored" continuously, even by an economic and military power like the United States. Here we can ask ourselves: Will the child ever learn to walk and make independent decisions if we keep carry it in our hands and tell it what is the right thing to do?

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INTEGRATION OF THE ILLEGAL IMMIGRANTS – IS IT NECESSARY?

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Abstract: In terms of the migration process in the Global Era, the number of people, the scale of the relocation, the attempts to settle are unique in the whole history of the mankind. The economic immigrants, who relocate and resettle legally as well as the refugees can be and must be integrated. The number of the people who practically cannot participate in the economic life, but must fulfil their material and non-material needs, is rapidly growing. The immigrants who are illegally crossing the borders and do not regard the laws are defined as "illegal immigrants". There is no need or international law that obligates the sovereign countries to integrate the illegal immigrants.

Key words: migration, immigrant, integration, identity, security

The migration of big groups of people exists far back through the centuries changing its scope and its meaning for the development of the mankind. In the Global Era, like never before, the number of people, the scale of the relocation, the attempts to settle, as well as the impact of those processes on the economic, political, social and spiritual life, are unique in the whole history of the mankind. Even the Great Migration of Peoples (mostly in Europe and from Europe), which changes the European and world history, looks like a small and manageable process. Of course, the demographic explosion creates a serious impact on the intensity and the diversity of the migrant masses. Millions of people are running from their home countries in search of security, jobs, social support and better quality of life.

There are plenty of proofs that the migration push, which many countries are experiencing, generates security risks and threats. The globalization process leads to flexible borders between the countries and specific security threats (Dimov 2016). The number of the migrants in the world is rising. In 2015 Europe and the European Union's countries accepted thousands of hundreds of immigrants and the number of immigrants worldwide became 244 billion. It was 222 billion in 2010, 91 billion in 2005 and 173 billion in 2000 (United Nations 2015). The World bank suggests that 250 billion so called climate refugees are going to leave

their homes in Africa and Latin America (The Global Warming 2015). As Vasil Prodanov noticed "Due to "European values" of the late-consumer neoliberal capitalism the average birth rate in Europe has dropped to 1,4, but in addition to keep the current numbers we need rate of 2,1...the declining and aging population of the European Union is loading the social systems and the need of new workforce is growing, but there is no real integration opportunity for billions of immigrants. Such a big number of people, who comes to Europe from other continents with different religious and cultural identity for such a short period has never happened before, including during the fall of the Roman empire. That's why their integration in the context of major social and economic inequality becomes impossible" (Prodanov, 2017, 406-407).

The growing number of immigrants creates preconditions of infiltration of terrorist and criminal organization's members or single extremists. The new forms of collective violence are connected with organizational networks without specific location. They are actively using the newest technologies and the global financial system. The traditional hierarchical organizations are losing more and more battles in the new conditions (Prodanov, 2005, 529). The erosion of the state sovereignty leads to appropriation of "rights for violence" by rising political, religious, cultural movements and subjects. They are using the methods of terror or other less organized forms of violence and that becomes the major threat of the countries.

Not long ago the dominating model of security suggested that there is a strong connection between sovereignty and security. This defines the country as a player in the international affairs (the principle of no-interference of the internal affairs, postulated by the international law, the United Nations declarations, the Declaration of Helsinki etc.), but also postulates the responsibility of the sovereign country for their citizens. One of the characteristics of the postmodern security model is the changing paradigm - from "security through power" to "security through integration". That means that risks and threats should be faced while they are still a challenge, common efforts should be make and a synchrony of the interests should be negotiated. The process of building the security model, the security systems and act of providing the security policy is a process of searching a synthesis between two extreme positions. The first one can be summarized in the statement 'security can be guaranteed only through power" and the second one postulates that "security can be guaranteed only through integration".

The migration flows, which our country experienced somehow does not look so serious or so huge, but they are a real threat for our national security. In Bulgaria, as well as in the whole European union, the measures against the illegal migration is becoming a strongly political question both nationally and in Europe (Stamatova, 2013).

Migration is a movement of people from one place to another for temporary or longer living, which usually includes crossing of political border. Every migration process has a preliminary period, which shapes the so-called "migration attitude". Usually the migration is voluntary or forced. The forced attitude is a result of sudden change of the life conditions. The

voluntary attitude is forming slowly under the impact of education, changing values and integrating of new models of living. The second face of the migration process is the actual resettlement and the third phase is the establishment in the new place.

In our global world and system of international affairs the direction of the main migration flows is from societies and countries in economic crisis, violence, lack of democracy to societies and countries with political stability, economic prosperity, symbol economy and well-developed democracy.

The main types of migration are:

- Internal migration - resettlement and establishment in the same country or continent.
- International migration - resettlement and establishment in different country or continent.
- Immigration - resettlement in a new country.
- Emigration - leaving of one country to establish in another.
- Transfer of population - forced relocation of big group of people from one region usually based on ethnic or religious identity.
- Refugees migration - not forced migration as a result of military actions or request for political asylum.

The immigrants can be divided in two main categories: humanitarian and economic. The humanitarian immigrants are the refugees. They are usually seeking for asylum in neighbor country and their status and protection is regulated by the Convention Relating to the Status of Refugees (1951 Refugees Convention) and the 1967 Protocol Relating to the Status of Refugees. According to the Convention refugee is every person who owns a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. Similar legal definition of refugee can be found in the Directive 2011/95/EU of the European parliament and Council as well as in the Refugees Asylum Law of Republic of Bulgaria.

The following content in the next pages of this article is not about the refugees.

The economic immigrants are moving to find new jobs and better economic conditions. They are people who want and can work, have the needed qualification or are willing to get it in the new country so they could be competitive enough in the labor market. There are terms for acceptance of refugees and economic migrants like the obligation of crossing the borders through border control stations, work visas, registrations etc. The integrations of this group of immigrants is needed in every possible way.

There has always been a migration which can be defined as “social” or migration for improving of the social status and well-being in no connection with the opportunities for employment in the label market. As a result of the globalization and the development of the so-called “symbol” economy the number of the people who practically cannot participate in

the economic life, but must fulfil their needs, is rapidly rising. Nowadays there are more and more social migrants. Usually they are moving to countries with better quality of life, good social system for support (social benefits, programs for social inclusion, well working health and educational systems).

But what is the definition of the immigrants who crossed the borders illegally and do not regards the laws of the state? The common definition is illegal immigrants. I do not intent to argue about the different ways of detention, suiting and punishments of the lawbreakers. How they should be stopped on the border, at what kinds of camps should be accommodated and how they should be returned to their countries. These topics are not discussed in this article. But it is important to highlight that it is about time to make the difference of how a sovereign country accepts immigrants who are looking for economic realization providing social support and good conditions for material and spiritual development and how a sovereign country should act, when immigrants are invading its territory.

Every society faces problems integrating citizens who are breaking the laws, who are serving effective sentencing, who are marginalized and socially excluded, but I underline that we are talking about the citizens who live in their own country. There is no need or international regulations which obligates the countries to integrate the illegal immigrants (once again I remind that we are not talking about refugees).

Of course, this statement can be argued, especially when we have to make migration policies in the new economic and social realities. But I think that the unsuccessful attempts of many countries to manage the illegal migration are a result of dismissing of the rule of law.

We should not underestimate the attempt (both on national and international level) to neglect or even eliminate the fact that illegal migration is growing up. The United Nations General Assembly approved with great majority The Global Compact for Migration. That happened in Marrakech in December, 2018. Although the Compact does not have legal status and does not force the countries to change their laws, it has important symbolic meaning and it is a clear sign for the possible new direction of the international law. The Global Compact for Migration has led to keen resistance from many countries. United Nations had approved many declarations about migration and migrants before this one. In 2003 was approved the International Convention on the Protection of the Rights of All Migrants and Their Families which appeals for equal rights of the citizens of one country and the immigrants. This convention is signed by 54 countries, only 2 European countries - Bosnia and Herzegovina and Albania.

The main difference with the Global Compact for Migration is that much more countries are involved in its creation and approval, including the countries we considered as developed.

The Compact proposed that every country need to reform the systems of acceptance and screening of immigrants. The term “illegal immigrant” is intentionally avoided. The Compact suggests that journalists need to be educated to avoid the term also, because of its obvious

negative connotation. But may be the most important thing is that according to this document there is an "open door policy", which practically eliminates the existence of illegal migrants. Of course, the Compact does not have real legal force, but it has important symptomatic character.

But illegal immigrants exist, despite the attempts of changing the terms. Every group, which exists outside the low, generates risks for the national security by definition. The rising number of the people of that group (immigrants or not) requires reaction which includes system of punishments as well as prevention and long term strategy and policy of security threats management. There is an obvious failure at national level, but also a lack of unified policy of the European Union. There is not enough solidarity between the countries in taking the migration flows.

The biggest challenge is not only the solidarity of the EU, but the solidarity in creating and applying the policy of the EU. It seems like since the beginning of the Union the concept of solidarity is thought more in relation with values than with interests. According to the Treaty on European Union "The Union provides to its citizens an area of freedom, security and justice…" The Treaty of Lisbon also priorities the creation of an area of freedom, security and justice. And if that can be considered as a goal, we must underline that it is an earlier one, comparing to the idea of regarding and synchronizing the interest of every single country and its citizens (within the Union). That may sound a little retrograde but I think that the key to every successful policy is the realization of the interests. When we are prioritizing the values, the policy "looks better", but is not so effective.

Is Great Britain leaving the EU because of unshared values or because of its own interests? The European Parliament made a decision to advice the EU Council to start a procedure against Hungary for breaking the core European values. According to Viktor Orban the European Parliament wants to establish sanctions on his country because they do not accept immigrants. But still the report for Hungary, presented by Judith Sargentini from the Green party, describes 12 different fields the measures come from. Hungary is a threat for the European values and that makes a serious impact on the trust between the EU countries.

If we assume that integration of the illegal immigrants must happen, the next question is how is that possible? The state institutions must have effective internal mechanism (which the modern democracy is) and enough flexibility and mobility in regarding the national interests in supranational institutional level.

The principles of the political behavior of the individuals has not changed that much in the Global Era. The institutions and the way they act are changing. That is way the logical development of the institutions is first of all realization of the national interests and after or simultaneously - realization of the values.

The European Union is not preparing enough to react on power-based actions against it or to act with power in international affairs. It is enough to mention the inadequate actions during the huge migration flow in 2015. Practically there was no chance to apply the model

"security through integration", because the integration was impossible. If we look at the problems of the national security (including in Bulgaria), we can define the main goal of the integration - to achieve integrity through the society.

Serious obstacles to the attempts of integration of the illegal immigrants are the way they are crossing the borders and especially the way they are creating communities. The main characteristic of these migrant communities is their intention to encapsulate, to build parallel social structures. Of course, the need to preserve their cultural and ethnic identity is understandable.

The developed countries and societies are facing not only the threat of collapsing social systems, greater number of marginalized communities and worst criminal environment, but also to be dominated by another type of culture.

The modern understanding of security (both national and international) is not only based on various economic interests, political goals and social consequences. Security also contains cultural integrity, and insecurity – the threat of identity and of our value attitude towards the world. Additionally, security is related to a society's ability to preserve its substantial character in changing conditions, to the resistance of the traditional models for language, culture, association, religious identity and customs, and it means that security "refers mostly to identity, the ability of a certain people to maintain their own culture, their own institutions and lifestyle" (Huntington 2005, 231) Security refers to "situations in which societies consider threats in terms of identity" (Prodanov, 2008, 46.)

The significance of cultural identity for the national security is obvious and as if it should not be specially reasoned. Usually the consequences from eventual erosion of cultural identity are examined, the accent is on the fact that destruction of identity is one of the risks for national security and serious and adequate precautions are needed, including on behalf of the state, in order to meet that risk.

The combination "cultural identity" is used to narrow and specify the content of identity, as acknowledgement, integration and identification with a certain type of culture. Cultural identity stays at the foundations of the individual human security and is a Among other things, the security situation has always been perceived as a value and has been associated with acceptance or rejection of values and value systems. This makes the process of determining the security complex and contradictory and often even beyond the rational thinking. Back in 1952 Arnold Wolfers offers a definition, according to which "in an objective sense, the security measures the absence of a threat to certain values, and in a subjective - the absence of fear that such values can be threatened." (Wolfers, 1952, 67)

Statehood is both expression and protection by power, law and order of the spirit, common interest and common will of the people living in a given territory. As far as preserved through time the spirit, customs, traditions, the interests and the will of territorial communities, statehood will be retained - even in varying forms - as their emanation, whether territorial communities contracts or expands.

It turned out that integration can be effective between countries, where citizens generally share common values and build identical institutions. No matter how paradoxically, despite of changes in the functions of the state in the postmodern society, exactly the state can simultaneously implement model "security through integration" but also to achieve "security through power" in the apparent disintegrating processes and power players on the field of security.

In fact, in the future the model "security through integration" may be implemented, but it is obvious that when it comes to power impacts we can't rely on the policy of integration to those who pursue political, economic and social objectives, contrary to the integration in the society.

On a conceptual level we need a change, which can be result of a new type of analysis and synthesis, reliability and evidence of theoretical structures for security, and national security in particular. Most importantly, in terms of modeling the security, is to develop a unified responsible mechanism to power approaches in international relations and real interventions without renouncing the integration process.

While realizing the model "security through strength" the mankind has elaborated mechanisms to achieve power, efficient power structures and criteria for measuring of this efficiency.

We still need to establish real mechanisms for integration and measures of effectiveness beyond the common declarations about humanity, human rights and universal values. We need to answer important questions such as how and if the integration as a process and the integrity as a result are possible. To raise civic and professional courage to raise the issue of the capabilities of certain communities to integrate or their unwillingness to participate in this process. To find the new role of the state in the implementation of integration both internally and internationally.

In fact, my personal opinion, expressed in brief, is that integration in order to achieve a security at this stage is possible mostly by state and by international affairs. We can call this as Joseph Nye did, "soft power", we may define this as a new civilizing mission in the clash of civilizations, we can search for it in keeping the rules and procedures based on consensus with a clear value basis.

The social and economic inequality will continue to generate new conflicts, new "armies of beggars" very different from guerrilla movements of the Cold War. Countries are important because they are responsible, but also because they provide crucial performance which maintains domestic and international order.

In conclusion we want to underline that the transition from modern to postmodern security leads huge changes of the existing security paradigms. That is the result of civilizational change, globalization, the new society of "knowledge", where information is the main resource and the security policy is focused on individual security. "The capabilities of the security systems at both national or coalitional levels are political, diplomatic, economic,

military, social and cultural. They outline all the potential combinations of actions which decision-makers are choosing from. Therefore, they represent the areas of possible reactions or ways of action. The main challenge for policy makers is how to identify the right opportunities among all the mechanism and tools and how they can be combined in new and innovative ways."(Kazakov 2018, 121)

Perhaps the future lies in the realization of the model "security through integration," but only if integration is possible. It is certain that integration cannot be achieved by force, but it is obvious that we must face (even by acting with power) the disintegrative subjects and processes.

We need to build a strategy and security policy with working mechanisms for "fast switching" from integration to use of force depending on the risks and threats. This is a serious challenge for analysts and policymakers in developing adequate security policy.

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CONTEMPORARY ADVANCED CYBER THREATS FOR THE NATIONAL SECURITY

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Abstract: Information systems, and processed and stored information are one of the most valuable assets in modern society, as a result the information security is one of the most important components of the national security. At the present stage, besides the well-known and widespread threats, information security is subject to a large number of new, advanced persistent threats realized by professional teams hired by organized crime groups, radical activist organizations, or governments.

Key words: national security, information security, advanced persistent threats, cyber attacks

The concept of security in a broad sense is well known in the field of security science, and its content includes the study of both general theoretical laws and its constituent components – called aspects, each one referring to a specific topic – political, economic, military, ethnographic, ecological, etc. For the contemporary information society the information aspect, in particular, has a great importance (Manev, 2012, p. 246).

Adapting to the changing security environment requires a new ranking of priorities in security policy, incorporating the overall institutional potential of society, applying new forms of interaction between the state, the business sector and the non-governmental sector. Contemporary concepts for developing a national security strategy call for the citizen to be at the center of security policy and focus on opportunities for widespread involvement and interaction with the non-government sector, while preserving the leading role of the state in ensuring national security.

In addition to the traditional aspects as a defense, foreign policy, internal security and intelligence, in the term "national security" also are included new ones: economical, informational, financial, environmental, social, and justice. The security policy contains not

only a review of the general situations and priorities but also the sectoral policies of the individual components.[1]

Information security in the information age is one of the most important components of national security, because the information space is the place where all basic social activities in the modern society are performed (governing, economic, education, acquiring informing, leisure, entertainment end etc.). Free and secure access to the information space, and the security and safety of circulating information flows in society are vital to provide opportunities for development and prosperity for individuals, organizations and society as a whole (Semerdjiev & Mitev, 2015, p. 14).

The management of information security in information systems and networks concerns all types of social organizations, regardless of their size, type (public and private, commercial and non-commercial) and their sphere of activity. To respond to the need for effective information system management and protection of information, organizations should meet the requirements for creating and deploying an Information Security Management System (ISMS). It is based on a risk assessment for information assets and information security when implementing the organization's activities and aims to ensure continuity of the working processes and achievement of the business goals. The necessary high level of information security must be embedded in the organizational architecture (Manev & Aleksandrov, 2013, p. 118). As a model for the development, creation and maintenance of ISMS, which aims to ensure the confidentiality and integrity of the information assets of the organization and to provide managed and reliable access to them, most often are applied standards developed by various standardization organizations (ISO, NIST and etc.) such as the family of standards for information security ISO 27k. ISMS is planned and developed according to a model that ensures the establishment of such a structure of the organization and implementation of organizational and management measures in the realization of the processes that lead to comprehensive and adequate control over the security of the information. By implementing the ISMS, for each of the possible risks are defined control mechanisms, which, united in a system, act as a comprehensive protective mechanism for ensure security of sensitive business information. It enables the organization to manage and exploit effectively its information assets, to raise its business reputation, and to create confidence in stakeholders (shareholders, partners, employees) in their business capability, to achieve high competitiveness by providing information superiority.

But information security risk assessments when implementing ISMS are based on past experience by looking for evidences and analyzing past incidents to justify investing money in new security measures. This is because it is common practice for government authorities and company managers not to approve the spending of organizations' money to introduce controls to counter potential, theoretical threats. As a result, most information security

[1] Updated National Security Strategy of the Republic of Bulgaria (UNSSRB), adopted by decision of the National Assembly of March 14, 2018, promulgated, State Gazette, no. 26 of 23.03.2018

systems are primarily designed to prevent or detect attacks that had already occurred in the past, rarely taking into account new forms of attacks that are theoretically possible but are outside of the organization's experience. A widespread weakness in the protection of information systems and networks is that most, if not all, protective measures are based on past experience and not on potential future threats. But when organizations are confronted with the rapidly changing landscape of information security threats it is important to look ahead and anticipate, consider and evaluate new forms of potential risk instead of reacting after events.

To reflect the dynamic, changing information security environment in which new, potentially very harmful threats are emerging continuously, experts and security organizations introduce term „Advanced Persistent Threats“ (APT). It defines features that relate to a specially targeted and complex attack that pursues the intended purpose for an extended period of time. Unlike many other types of criminal activities, it is difficult to reflect it by applying existing protective actions.

One of the first definition of APT was given by the US National Institute of Standardization and Technology (NIST 800 - 61):

„An APT is as an adversary that possesses sophisticated levels of expertise and significant resources which allow it to create opportunities to achieve its objectives using multiple attack vectors (e.g., cyber, physical and deception). These objectives typically include establishing and extending footholds within the IT infrastructure of the targeted organizations for purposes of exfiltrating information, undermining or impeding critical aspects of a mission, program, or organization; or positioning itself to carry out these objectives in the future. The advanced persistent threat: (i) pursues its objectives repeatedly over an extended period of time; (ii) adapts to defenders’ efforts to resist it; and (iii) is determined to maintain the level of interaction needed to execute its objectives.“

This type of attacks are quite different from those the organizations have been subjected to in the past - most of them at some point have already faced one or more different attacks by criminals, hackers or other malicious individuals or groups. But most APT attacks come from more threatening sources, they are often realized by professional teams hired by organized crime groups, radical activist organizations, or governments. This means that they are likely to be better planned, complex, provided with the necessary resources and potentially more harmful.

Similar approach to the problem of new threats and risks for the information security and their sources is adopted in the National Security Strategy of the Republic of Bulgaria, where in § 33 it is stated that "... national security threats represent purposeful actions of the public and non-state-owned companies and organizations geared to achieving specific or strategic goals. Organized crime groups exploit the opportunities of cyberspace to achieve their own interests and to implement their criminal plans. Terrorist groups constantly refine the forms and methods of detecting unprotected spaces and technological flaws in the Internet and

personal, corporate, and government information and communications systems, including this with military and special purpose, to disrupt their functionality. They actively use cyberspace to openly propagandize radical ideas, attract supporters, manipulate public opinion, threaten and spread disinformation“ (UNSSRB, p. 7).

Based on the analysis of a large number of APT attacks against business organizations, security organizations, state institutions and administrative structures of different countries, (ISACA,[2] 2012) makes the following summary of the sources of APTs:

Intelligence agencies. Cyber espionage and intelligence gathering by intelligence agencies, apart from protecting national security, can also be used to provide a competitive advantage for their countries through the use of intellectual property and reproduction of industrial and technological secrets of other nations. In addition to a threat to the national security of the countries affected by the loss of confidential information, intelligence agencies are also a threat to companies whose industrial and trade secrets are highly vulnerable to theft and copying, which most often leads to a significant negative impact on their business.

Different countries set different priorities and targets for their intelligence services. Western state agencies, for example, put the support of political initiatives, defense and the fight against terrorism as the highest intelligence priorities. But the intelligence agencies of many other countries in different parts of the world, in addition to more traditional purposes such as political and military intelligence, are often targeted at acquiring and using a wide range of industrial intellectual property and know-how.

Armed forces. The gathering of intelligence data, information operations and e-war have long been an integral part of the capabilities of the armed forces around the world. However, over the last decade the armed forces, especially of the economically and technologically advanced countries, have begun to develop more sophisticated cyber warfare capabilities, essentially expanding the military operations in cyberspace.

Modern cyberwar doctrines are most often aimed at destroying the enemy's information infrastructure in order to disrupt its chain of command and control, causing disorientation and inability to act, although some experts predict that they will become more and more oriented to more subtle forms of rivalry. Much of the true power of digital information networks lies in their ability to influence, deceive and cheat or manipulate the behavior of individuals, social groups and society. In the longer term, military cyber operations may be based on the art of applying social engineering rather than on the military confrontation and sabotage of the enemy's information infrastructure. A country that receives a propaganda-informational and psychological advantage holds superiority even though its military capabilities may be lower (Michev, 2016, p. 82).

Criminal groups. Organized crime is quite different from state-sponsored espionage, but there are similarities in the field of used tools and techniques and, in some cases, the ultimate

[2] Information Systems Audit and Control Association

use of the gathered information. Criminal groups that perform APT attacks do not always acquire information for their own needs. Sales of stolen identity credentials and intelligence have long been and will continue to be a profitable business for organized crime groups. Often such gangs maintain close contact with intelligence services of some states and brokers of information by selling stolen secrets to the one who pays the most.

Terrorist groups. The purpose of terrorism is to cause widespread terror through death, destruction and disintegration. The latter two objectives can be achieved very efficiently by destroying or manipulating industrial manufacturing information systems that control critical infrastructures providing basic services to citizens such as electricity, telecommunications, transport and etc.

This threat is one of the most serious risks to business and society, as many information systems for data collection, monitoring and control that manage a huge number of production processes are potentially vulnerable to well-planned and conducted cyber attacks, which may lead to a break in the supply of vital consumer products and services, as well as damage and destruction of critical infrastructure and potential loss of human life.

Activists. Groups of activists (hacktivists) from different strands use computer systems and networks for attacks for public presentation or to achieve political or ethical purposes. Attacks are designed to serve as a modern form of protest, to make public the ideas of perpetrators, or as an act of civil disobedience. To achieve their goals, these types of groups use different methods - they break through and block or deface the websites of target companies or institutions, implement denial-of-service attacks, or publish confidential information stolen from the victim organizations.

These groups react quickly to the development of events by turning their attention to any country that they think violates their values or changes the direction of their attacks from one company to another. Organizations can be attacked because of their behavior, image, the industry they work in, the location, their connections and contacts, and so on.

Summary

APT attacks are evolving and improving quickly. The prospect of a malicious software, causing a serious physical disaster has until recently been considered fantasy not only by most politicians and ordinary people, but also by security professionals. Today threats are becoming more real, and all government institutions, leading companies and critical infrastructure enterprises are potential APT targets.

Potential attackers (intelligence agencies, armed forces, criminal groups, terrorist groups and hacktivists) have constantly developed their capabilities, reaching a highly professional level, and already have sophisticated and complex software and tools. In addition, the number of participants developing and having capabilities to perform APT attacks has increased from

several leading intelligence agencies in the past to a large number actors of broad spectrum at the moment. The targets are also very diverse, from state institutions to commercial companies and their supply chains, which provide and maintain critical services at national level. Many countries have developed or are developing their own doctrines and rules for cyberwar, and malware is now considered by the Armed Forces to be an effective weapon of war. In this context, both among the general public and security specialists have discussed the need for new international treaties and laws to regulate activities in cyberspace, including inter-state relations.

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THE PERSONALITY OF THE DIPLOMAT – A MAJOR FACTOR IN THE NATIONAL SECURITY PROCESS IN THE REPUBLIC OF BULGARIA

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Abstract: How does the great diplomat differ from the mediocre? It is unlikely that the people responsible for the diplomatic representation of our country often ask this question. Sending a person to a diplomatic mission for his appointment is preceded by the following requirements: he / she must have an a appropriate education, can speak several languages, is relevant to the political context and other number of requirements that are relevant to those listed above.

Key words: diplomacy, personality profile, personality characteristics, personality peculiarities, national security

Consequently, when the respective diplomatic person begins to successfully or unsuccessfully perform his / her duties, the problem of personality qualities is evident, that is to say the pros and cons of his personality profile. Preparing for this statement we have faced a paradox, namely the lack of specialized publications on personal qualities and requirements for pursuing the profession of diplomat.

In this article, we try to draw attention to the relevant authorities responsible for our diplomatic elite that, besides the requirements of adequate degree and party affiliation for the pursuit of diplomatic activity, the set of personality characteristics and qualities as well as a sufficiently stable mental space are also important.

It is known that the concept of diplomacy originates from the Greek word diploma. In Ancient Greece, the diploma was a state document giving a particular person as a type of recommendation and assurance of its official authority to represent the state in other countries. It is well known that in international doctrine there are different definitions of the concept of diplomacy.

Harold Nicholson, accepting the definition of diplomacy from the Oxford Dictionary, considers that: "Diplomacy - this is the conduct of international relations through negotiation, a method by means of which these relations are regulated and lead by ambassadors and proxy ministers; the art of the diploma."[3] Martene's opinion, which deals with the concept of diplomacy in a broad and narrow sense of the word, is also interesting, that is to say, he considers that this is a science of external relations of the state, but in the narrower sense it is a science or an art of negotiation.

Such is the definition of Garden: "Diplomacy in the broad sense of this term is the science of foreign relations or foreign affairs of the state, in a more precise sense - it is science or art of negotiation." As far as diplomacy is concerned, it is often argued whether this is science or art. In fact, diplomacy is an activity that has to take into account the achievements of science in one area or another.

However, in the course of its realization, creativity is necessary, that is to say art – where, when and how to take one or another diplomatic action. Looking at the different definitions of diplomacy, we come to the main thing in doing this activity, namely the human behavior of the subjects carrying out this type of activity, which, in turn, requires a certain set of personality characteristics of the personality of the diplomat.

Whether we consider diplomacy as a science or art, it depends on the behavior of diplomats engaging in different interactions. For a subject to function successfully, his personality spheres (cognitive, emotional – willing, personal, and social) must have matured and function in a certain balance[2].

The activity of the diplomat and its behavior is very different from that of the ordinary civil servant working on the territory of his country for one important reason: the diplomat works in a foreign, sometimes hostile environment. A "home" civil servant can sometimes afford to make a mistake or have poorly acceptable behavior that he can later correct. The civil servant at home would more easily cope with frustrating situations and later apologize to the organization, institution or entity concerned. [6].

While diplomats do not have these freedoms, they move along a thin rope over a gap and their mistakes can seriously endanger the national security of the state they represent in our case of the Republic of Bulgaria. Incorrect statement by an individual diplomat because of a lack of one's own ego [2] may lead to a big break between the parties or countries. A losing negotiator diplomat puts at risk not only his career but also the country he represents. Moderation in statements is an important quality, which requires good preparation on individual issues.

Considering the three principles of diplomacy:

- Mutual respect
- Rhetoric skills
- Credibility

The English writer and scholar Samuel Johnson wrote "Language is the garment of thought." [1] However, in order to be able to wear the appropriate garment for the appropriate occasion, the diplomat as a person must have extensive cognitive resources (perception, attention, memory, intellect and logical operability) and a high level of awareness.

For the diplomat to succeed, his/her personality must have one of the following characteristics:

• Exceptional practicality and control over their emotions;

• Skill to predict how an event will unfold before actually "playing". For example, before giving a media interview, he will list the possible questions and be prepared in advance with the answers;

• Ability to negotiate and balance in different sectors - culture, education, defense, politics;

• Ability to escape from a difficult or crisis situation during a discussion, the main thing to stick to is the "cool temperament";

• Ability to know how to use the country's strong priorities in the country in which it is seconded;

• Ability to work with different streams of information; its field of interaction should not be limited to governmental organizations or the diplomatic community;

• Ability to synchronize the priorities of both parties to bring benefits to both their country and the resident;

• Ability to work "in the shade", to remain in the background rather than as a politician to seek public expression;

• Skills for teamwork by supporting and managing each member of his/her team;

• Ability to analyze and prevent his country from entering into any unpleasant situation that will bring negatives;

Looking at the skills presented above, which the subject practicing diplomacy must have, we can conclude that education, experience in the specialty, and rich awareness are not enough to achieve good diplomacy. The personality of the diplomat must possess a high level of emotional and social intelligence so that the diplomat can successfully defend his/her state, but also manages to preserve itself as a normal functioning person.

Interesting is the European experience shared by Ron Ton, director of the Clementandal Diplomatic Academy, the Netherlands. The philosophy on which the training is built in this Academy is built on four pillars, namely

1) The training should correspond to the political trends and realities;

2) Current international issues need to be analyzed from a policy perspective;

3) Trainings are skill and work oriented;

4) The trainings are organized in

an attractive interactive environment. The key moment in the training as part of a career development program, the Academy offers a specialized methodology for assessing personal development and qualification. [4].

In European circles of diplomacy, there is much discussion about the required personality traits required to hold the diploma. What does psychology say about personality traits? Results from a study by Costa & McCrae, who are psychologists, show the character traits that a diplomat can do for success. [5] Characters are defined as stable characteristics of the personality and according to these scientists they can be grouped into five large groups / categories:

1. "openness to the experience" can be translated as curiosity. When a diplomat is open, he wants to learn about the world, his people and cultures to better understand the characteristics of the host country. Moreover, if he also has good analytical skills, it will increase his predictability and strategic capacity. Openness to experience acts as a data acquisition mechanism and analytical skills to restore relevant information about each situation, to see new opportunities when and with whom they negotiate;

2. "stress-resistant"; to a lesser extent, is affected by stressful situations when it has a calm and emotionally stable character. Kosta and McKrek call it low-grade neuroticism. This kind of neuroticism is particularly necessary in the intercultural context, given the difficulties that arise from different ways of perceiving life. Awareness of the cultural differences of a society saves personal diplomat problems and in the long run enables a successful career.

3. Conscience - when this indicator is high, it correlates with the sense of duty, self-discipline, and striving for order. All these factors allow us to achieve good results during the negotiations. Sometimes a diplomat may find himself in delicate situations because he must at the same time defend his national interests and not disturb the interests of the host country. The situation of an intermediary may lead to complicated situations as the diplomat may disagree with the directives of his statesmen and may need to carefully analyze how to position himself in the eyes of his interlocutors from the host country. If he is a person of high conscience, confident in himself and inclined to clearly inform the risks, even if the consequences are unpleasant, he will be seen as a person who is trustworthy, creating security and trust.

4. Ability to agree / consensus is a feature that demonstrates the ability to co-operate and empathize. From a diplomatic point of view, this would involve everyone involved in dialogue to achieve a conciliatory approach and a good listening capacity. This is particularly important in intercultural communication, because it maintains dialogue during negotiations, reduces confusion and allows any disputes to be resolved.

5. Extraversion, this trait or personality quality allows for the good of the diploma. This feature turns the diploma into a self-confident and communicative person and allows the person to create an optimistic and friendly environment even if there is a strict protocol in diplomatic functioning.

Of course, the most important skills and knowledge a successful diplomat must have today depends on the context of his work. In general, however, a modern diplomat must know very well domestic political dynamics, be able to develop an integrated insight into the main tasks of foreign policy, and understand which actors and organizations influence and dominate the international arena. The successful contemporary diplomat is, in essence, a networking diplomat with outstanding communication and analytical skills, a competent political coordinator of complex issues, a good negotiator and lobbyist on behalf of his country, and a good sense and skill to listen to the other and to be empathetic. [4]

Undoubtedly, the personality traits of the subject fulfilling diplomatic functions are an important factor not only for the performance of our country in the world but also by the personality of the diploma depends on the national security of our country Republic of Bulgaria because national security does not only concern the rights of the citizens and the borders of the country , but also covers the protection of the educational system, cultural values and other social aspects. All this necessitates redeploying and building standards for the selection of the personalities that our country will represent in the diplomatic field, standards that cover not only the educational level and other constitutional requirements, but also standards concerning the personal profile of the people conducting diplomatic activity.

In conclusion, we can say that there has been a tendency for diplomatic appointments in the direction of political lobbies in recent years, but we, as specialists in human behavior, can say that the fact that a person is a successful politician in our own country does not guarantee the functioning as a successful diplomat, because sometimes partial thinking and behavior (limited to purely party interests) limits the person's ability to defend the interests of their compatriots on a more global scale. So, we believe that a high-level diplomat with a good family realization, high emotional and social intelligence is able to protect the national security of his fellow countrymen in all his spectra.

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INTERNATIONAL LEGISLATION OF THE PROTECTION OF CHILDREN-VICTIMS OF TRAFFICKING IN PERSONS

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Abstract: This paper presents the main International and European normative documents, regulating the problems of fight against trafficking and exploitation in children to which the Republic of Bulgaria is a part, for example, the Convention on the Rights of the Child, the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and etc. This paper put an accent on the main elements of these documents which introduce specific definitions and requirements in relation to the mentioned issues.
Keywords: trafficking and exploitation in children, International and European legislation

INTRODUCTION

Situated on the southeastern border of the European Union, Bulgaria has the responsibility to protect both its citizens and those of the EU Member States from spreading trafficking in persons, not only by counteracting its perpetrators but also by preventing the citizens in a traffic situation, especially when it comes to children. Children are a value in themselves. Their upbringing and development are of utmost importance for the society's future. The protection of their rights is given special attention in international and European law, and the Republic of Bulgaria as a member state of the European Union is obliged to bring its internal legislation in line with the European requirements in due time.

EXPLANATION

By its very nature trafficking in children is a form of trafficking in persons. The first international consolidated definition of trafficking in persons is set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the "Palermo Protocol"), adopted by the United Nations in 2002 and ratified by Bulgaria 2003. It supplements The United Nations Convention against Transnational Organized Crime ("Palermo Convention") adopted by the United Nations in 2000 and ratified by Bulgaria in 2001. It states that trafficking in persons represents the "recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (Article 3, (a), the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children). In the same sense, this definition of trafficking in persons also applies to the trafficking in children, with the important clarification that the "recruitment, transportation, transfer, harboring or receipt of children" for the purpose of exploitation is perceived as trafficking, whether or not the means mentioned in that definition (Article 3 (c).

In Bulgarian legislation, the main law governing trafficking in persons is the Law on Combating Trafficking in Persons. It was adopted and entered into force in 2003. It accepts the definition that "the recruitments, transportation, transfer, harbouring or receipt of persons irrespective of their will when committed for the purpose of exploitation" is perceived as trafficking in persons (Paragraph 1, Item 1 of Additional Provisions of the Law on Combating Trafficking in Persons). The Bulgarian law does not distinguish a separate definition or clarification concerning the concept of trafficking in children. At the same time, it can be seen the clearly expressed understanding of the state in relation of seriousness of this crime and it is explicitly stated that the victim's agreement or disagreement is irrelevant irrespective of the age or of the means of involvement in trafficking that are used. By comparison, in the Palermo Protocol, the consent of the victim is invalid in every case when it comes to a child, and when it comes to an adult, it is irrelevant if one of the means specified in the Protocol is used. Bulgaria is one of the few countries that take the view that the consent of the victim is invalid in all cases (Handbook on Combating Trafficking in Persons, 2008, p.5). In international and national practice, when a traffic situation is detected, it is always pursued by the law and the state authorities, even in cases where the victim was voluntarily involved.

There are a number of international and European normative documents dealing with the protection of children from trafficking in persons. Here are presented the main ones, namely:

1) The United Nations Convention on the Rights of the Child, adopted in 1989. Article 1 of this normative document specifies the upper limit of childhood at all and it is at the age of 18 years. In Art. 11 all countries are obligated to take measures to combat the illegal transfer and non-return of children from foreign countries (Article 11, Convention on the Rights of the

Child). Article 12 says that each child shall be entitled to be heard in judicial and administrative proceedings directly or through his or her representative, and his or her opinion shall be respected according to his / her age and maturity. Articles 32 to 36 prohibit all forms of child exploitation, kidnapping, sale and trade, regardless of purpose, requiring all States to take measures to prevent and interrupt them. Article 39 protects the right of every child to be assisted in his / her social integration after suffering exploitation abuses and lack of care. The provisions outlined are relevant to the protection of child victims of trafficking in identifying, preventing and interrupting trafficking, supporting children in the trial of traffickers and in the process of their recovery.

2) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. It is entered into force in 2002 in Bulgaria. It prohibits the trade in children, child prostitution and pornography, and gives them definitions (Article 1). Article 8 of the Protocol requires states to take appropriate measures to protect the rights and interests of child victims of the crimes covered by the Protocol at all stages of the criminal proceedings. This includes measures to protect their secrecy and identity, their intimidation and family safety, and prevent "unnecessary delay" when dealing with cases and executing orders or decisions by which child victims will receive compensations (Article 8. of the Protocol on Trafficking in Children, Child Prostitution and Child Pornography). Art. 9 of the Protocol also provides for raising public awareness through the dissemination of information and training on issues related to the trade in children, child prostitution and pornography. The Protocol also encourages national and international cooperation in counteracting these acts and supporting the rehabilitation of child victims (Article 10 of the Protocol on the sale of children, child prostitution and child pornography).

3) International Labour Organization Convention C182 Concerning the Prohibition an Immediate Action for the Elimination of the Worst Forms of Child Labor since 1999. This Convention is another international document that states in its Article 2 that a child is every person until the age of 18 years. According to it, trafficking and trade in children are modern forms of slavery that must be effectively banned and prosecuted by each country, as well as any work done by a child who by its nature or working conditions can harm the child's health, safety and morality (Article 3, ILO Convention 182 on the Worst Forms of Child Labor).

4) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It is ratified by Bulgaria in 2003. It also defines the concept of child as childhood is up to 18 years old (Article 3 (c), Protocol on Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children). The same article emphasizes that the means used to engage a child in a trafficking situation for exploitation are irrelevant when it comes to identifying a child trafficking case. The Protocol obliges the parties to draw up the necessary policies and take the necessary measures to prevent and combat trafficking in human beings and the protection of its victims of repeat trafficking, especially of women and children

(Article 9, Protocol on Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children).

5) Council of Europe Convention on Action against Trafficking in Human Beings since 2005. Article 5, paragraph 5 requires the member states of the Council of Europe to provide a protected environment for children so that they are less vulnerable to trafficking in human beings. In it, as a measure by which the physical, psychological and social rehabilitation of child victims of trafficking is assisted, is included the provision of access of these children to education (Article 12, paragraph 1, (f), Council of Europe Convention on Action against Trafficking in Human Beings). In all procedures relating to the protection of victims of trafficking in human beings, the Convention stresses the respect for the right of children to special protection in view of their specific needs and interests.

6) Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, since 2007. It specifies that a "victim" is any child who has been subjected to sexual exploitation and sexual violence (Article 3, (c), Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse). It also requires cooperation at both national and international level and coordination between specialized governmental and non-governmental organizations dealing with the protection, prevention and combating of sexual exploitation and sexual abuse of children. In Article 18-24 The Convention pays attention to states' obligation to criminalize sexual exploitation of children, child prostitution and child pornography (specifying the concepts of "child prostitution" and "child pornography"), moral decay and seduction of children as well as assisting, instigating and attempting to perform some of the listed actions.

7) Council of Europe Convention on Cybercrime which was adopted by the Council in 2001 but has been entered into force in Bulgaria four years after that in 2005. It declares as illegal all actions related to child pornography for which a computer system is required (Article 9, Council of Europe Convention on Cybercrime).

8) Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. In it, the European Union calls upon the countries to "pay primary attention to the best interests of the child", respecting the Charter of Fundamental Rights of the European Union and the 1989 United Nations Convention on the Rights of the Child (Article 13, paragraph 1, Directive 2011/36/EU). In addition, Article 4 (a) of the Directive also provides for heavier penalties for criminals. States are called upon to provide a set of special measures to help and support children victims of trafficking in human beings who should focus on their physical and psycho-social recovery and to find a durable solution for every child. According to the European directive, access to education would help children reintegrate into society. Besides, in each country of the European Union, additional measures should be provided to protect children during interviews during the course of the court proceedings, and they will be immediately carried out, if necessary in a child-friendly

room, and by a especially prepared for such activity specialist and if possible he or she should be the same person. The number of interrogations must be minimized and they may be recorded as evidence that can be used in the court; children have the right to be accompanied by their representative or an adult of their choice, where applicable; the child can be heard in a courtroom without being present there and without an audience (Article 15, Directive 2011/36/EU). The Directive pays particular attention to unaccompanied children who are victims of trafficking in human beings, requiring each Member State to provide a guardian and/or a representative for such a child when this is necessary (Article 16, Directive 2011/36/EU).

9) Directive 2011/92/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA. It sets out minimum rules for the determination of crimes and penalties in the field of sexual abuse and sexual exploitation of children, child pornography, and the case of establishing contact with children for sexual purposes, taking into account the information and communication development of society. It aims to increase the efforts of the parties to prevent these crimes against children and to increase the level of protection of the injured children (Article 1, Directive 2011/92/EU). Again, definitions of the terms “child”, “child prostitution”, “child pornography”, and “pornographic performance” are given. The Article suggests that in each country there is a legally defined “age of sexual consent” below which sexual activities with a child is prohibited (Article 2, Directive 2011/92/EU). It is also explicitly emphasized that incitement, aiding and as well as the attempt to commit these crimes, are punishable (Article 7, Directive 2011/92/EU).

There are other European and international documents such as resolutions, decisions, guidelines and action plans concerning trafficking and exploitation of children, but they are based on the legislative acts listed up to now. The authorities of the European Union and the Council of Europe are continuing to monitor whether and how Member States transpose European legislation on child trafficking and exploitation into their internal legal systems and whether and how many efforts they make to combat trafficking and exploitation of children, to take care about them, to protect and support children. As long as these crimes continue to be a threat to the most vulnerable members of society, states will refine their countermeasures and mechanisms under the guidelines and recommendations of the European organizations.

CONCLUSION

According to Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, children are more vulnerable than adults and therefore there is a greater risk that they will become victims of trafficking in human beings. There is a similar state in the text of European Parliament

resolution of 12 May 2016 on implementation of the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims from a gender perspective. It is for this reason that all EU Member States are implementing policies in which children are given special attention and especially in terms of protecting their rights and interests from trafficking and exploitation. Therefore, it is essential that any Member State ratified the submitted documents should do everything necessary to bring its legislation into line with the abovementioned acts and to fulfill all the requirements contained therein.

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MODERN TECHNOLOGIES AND ELDERLY PEOPLE IN CONTEXT OF PERSONAL SECURITY

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Summary: This article explores various solutions in the field of modern technologies for improving and guaranteeing the level of security of the elderly people, applied in the country and globally. Special attention is paid to lonely residents and particularly to those living in remote and small settlements. The topic has been selected in view of the growing share of the aging population in the country and the necessity to search for effective solutions for preventing, intercepting and deterring violent crime actions against elderly and potentially endangered people. The aim is to explore the need, the possibility and the readiness for applying modern technologies in the life of the viewed category of people. The results of an experimental sociological study on the subject are being exhibited and commented.

Keywords: Elderly, Security, Prevention, Technology, Criminal offenses, Mobile applications, Panic buttons.

INTRODUCTION

Scientiavinces (lat.) - Science will win.

Aging of population is a process, observed in countries and regions that are in a state of demographic crisis. Regarding this connection, there is a necessity for additional activities and socially oriented events, aimed to ensuring the normal existence of elderly people. The greater attention and concern about elderly people requires the use of modern technological solutions for preventing crime against them, as well as for signalling when needed for help at risk to health or other life-endangering situations. This is a way to minimize and overcome fear and its devastating consequences, which will guarantee a decent life.

EXPOSITION

Aging of population in the European Union

Globally, population aging begins in the early 20th century in the economically developed countries. The constantly low birth rate and higher average life expectancy change the shape of the population pyramid of the countries in the European Union. The share of elderly people in the total population of the community will increase significantly over the coming decades, as larger part of the generation of the post-war baby boom has already reached retirement age.

When considering the specific problems, arising from age victimization, it should be noted that the group of elderly people is characterized by high heterogeneity (Oden-Ramadan, R., J. Remington, 2003; Burkhardt, J., 1977, p.61). Moreover, contemporary socio - cultural conditions differ dramatically and in many different ways from those in which "third age" representatives have grown up, studied and worked. The evolution of technological and scientific knowledge and skills of the population in the 1950s and today is remarkable.

Practice shows that elder people, more than any other age group, tend not to share that they have become a victim of a crime. The high rate of latency for crimes, committed against elderly people, is due to fear, shame, distrust in the institutions, or inability to notify because of the lack of a trusted person to share with. In many of the cases, elder people are not a reliable source of information - physical disabilities, mental disorders, mistaken judgment of height, age, description of the perpetrator, etc. In this regard, some of them are afraid not to look funny in the eyes of others, which also discourages them from saying they have been the victim of a crime.

Most elderly people live on their own and there is a real chance that they get threatening calls or visits from uninvited guests. The threat of a repeated crime against them by the same perpetrator is also high. The available police statistics is showing that criminals are targeting elderly people.

The i2010 Strategy for a European Information Society has been adopted within the European Union and the needs of the aging society have been defined as one of its three key priorities. The “Ambient Assisted Living” Program and the Action Plan on “Information and Communication Technologies and Ageing” (COM (2007) 332 final) have been accepted to support ageing with dignity. The complete use of the potential of the information and communication technologies helps meeting the challenges of the aging of population. This will improve the level of independent living for the elderly people and the remote health surveillance.

Elderly people in Bulgaria and their safety

Bulgaria, as many European Union (EU) member countries, faces major challenges, related to population aging, which results in the increased need for long-term care services and, accordingly, an increase in public spending on these services.

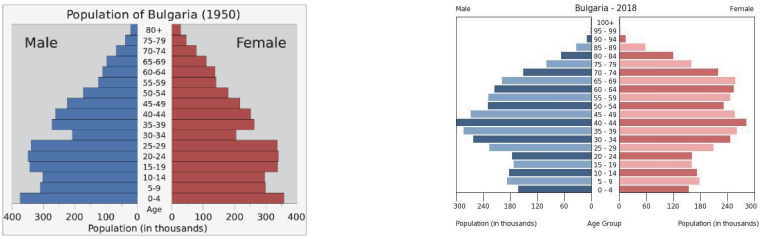

Fig. 1. Population in Bulgaria in 1950 and 2018. Source: National Statistical Institute

There are groups of people in every society, who objectively possess a higher degree of victimization than others. The fact that victimization is different for the different types of crimes has been established through empirical researches and existing practice (Stankov, B., 2008). One of the distinct groups with higher victimization includes elderly people who are subject to aggressive actions because of their inability to respond adequately to violence.

Elderly people become often victims of crime (theft, fraud, robbery, rape, personal injury, murder) and domestic violence in or near their homes[1]. Road accidents and fires are also among the daily threats to lonely elderly. They often become more cautious and restrict or change their lifestyle and habits with increasing age, because of the fear of becoming a victim of a crime.

Fear of crime has become a social phenomenon in the past 30 years, which has a strong impact on the lives of people in the country (Stankov, B., 2007). It changes completely the forms of communication and the social roles of the person, and the social activity of people is influenced significantly by crime. When interviewed and asked to list the most serious problems they face, most of the elderly people placed fear of crime first, prevailing over health, financial status and loneliness[2]. This result is not surprising, given the fact that representatives of the "third age" are, in most cases, defenceless. Physically weak and with reduced mobility, their injuries are treated for a longer period and more difficult, and often lead to immobilization and subsidence. On the other hand, a significant proportion of the elderly is with fixed income, minimal in many of the cases, and even small financial losses make them unable to continue living the normal way. Last, but not least, for objective reasons, with increasing age, the number of their contacts decreases, resulting in psychological traumas.

Need for an adequate state policy

State policy to provide real protection for the population must be based on certain concepts and strategies for crime prevention and control. One of the necessary requirements for an anti-victimization policy is the provision of measures of a social, economic and legal nature, aimed at reducing the victimogenic factors.

[1] Author's observations and interviews with investigators, investigating police officers and prosecutors.
[2] About another way of using modern technologies for securing society's safety - Antonov, S., 2016, 356-383.

According to the EU recommendations, the deinstitutionalization of the care of elderly and disabled people in Bulgaria is aimed at developing a network of community and domestic services in order to ensure an independent and dignified life and their full inclusion in the social life. The development of long-term care over the next 20 years in support of vulnerable social groups, especially the elderly and people with disabilities, is a key objective of the National Long-term Care Strategy of the Republic of Bulgaria. Enhancing the competences of adults with the Lifelong Learning Program will create for them conditions to remain creative and socially active.

Last, but not least, it should be noted that this provides an opportunity to reconcile the needs of elder people for information and communication services access and those of young people for job opportunities, thereby contributing to the dialogue between generations.

International survey on panic buttons

In order to exchange good practices in crime prevention area, an international consultation was conducted on the existence of practices, regulating the development and implementation of programs for the supply of elderly and lonely people, victims of domestic violence and other categories, threatened by crime, with panic buttons or other technological solutions. The responses, received from 25 countries, outline the following situation:

Up to this moment in Albania, Australia, Greece, Canada, Cyprus, Lithuania, Macedonia, Malta, Moldova, Norway, United Kingdom, Romania, Slovakia, Serbia and the Czech Republic there is no practice to provide panic buttons for potential victims of crime and defenceless lonely residents by the law enforcement authorities.

There are no established practices in Luxembourg and Hungary to support the provision or implementation of panic button programs for potential victims of crime. This type of technical equipment exists and is available from private companies - medical or healthcare organizations - to call for medical assistance.

In Poland some non - governmental organizations provide for people who do not have enough money panic buttons, used in health- or life-endangering situations - heart attack, diabetes, stroke, etc. The number of companies, offering such kits - alarm devices, is increasing. Swiss and Belgian police authorities do not provide panic buttons. Citizens can be equipped with panic buttons that are linked to private security companies. In case of activation, the security company intervenes and, if necessary, contacts the police. At the same time, the Federal Security Service has provided panic buttons for the seven federal councils in Switzerland, which is a long-standing practice. In the event of activation, the Federal Security Service National alarm Centre receives the signal and undertakes further actions (risk assessment, planning and follow-up, according to the situation).

In April 2010, the Swedish government has decided to authorize the National Police Board to ensure the provision of personal devices for emergency phone calls and packages to protect victims of persecution. The aim is to strengthen the protection of people at risk and to create equal conditions for the citizens of Sweden to receive such protection. Regarding this,

modern equipment has also been provided. The National Police Board had the obligation to submit this equipment to the police authorities. The security packs include an emergency call device with GPS functionality and a voice call recording feature. The police communications centre could trace in real time the movement of the person, who activates the alarm button. Technical equipment may be lent to persons, if the existence of such a necessity for them has been estimated by the police officers. In the spring of 2014, a total of 848 emergency call devices were available at all police units in Sweden.

There are many initiatives in the Netherlands - technical assistance in connection with the care of elderly. A commonly used installation is a "receiver"- a box that is placed in their homes and is connected to the Internet or a telephone. The person, in whose services it is installed, wears a red panic button around his neck or a bracelet, and when a signal is received, relevant actions are taken. Green panic buttons are also used, which send daily signals via an application, and if the message is not returned, the necessary measures are taken. There are also the so-called "mobie" - GPS tracking devices that are used in open spaces for people who are lost or in trouble, to be able to report a signal. These are private initiatives of social workers. Victims of domestic violence, disabled people - physical or mental, or persons with a long-term illness can also apply for a personal alarm system, and fees could be covered by their health insurance.

In Ireland there is an established and effective strategy to support elderly people by the police and the health services.

The National police in Colombia has developed a "POLIS" smartphone application as a kind of a panic button. The application has been designed for the citizens to gain more effective access to them, to report signals on cases when their life and safety are endangered. The application allows quick allocation of the victim and the police patrol responds to the signal.

The Bulgarian experience

At present, there is neither separate definition of long-term care and long-term care services in the Bulgarian legislation, nor an official classification of the persons, entitled to it. At the same time, there is no state mechanism planned to provide technological solutions in the security field to the needy, be it elderly or other threatened persons.

Table 1.

Elderly people (over 60 years) of Bulgaria – 31.12.2018

Age	Total			Urban residence			Rural residence		
	All	Male	Female	All	Male	Female	All	Male	Female
Total	**7 000 039**	**3 395 701**	**3 604 338**	**5 159 129**	**2 481 128**	**2 678 001**	**1 840 910**	**914 573**	**926 337**
60 - 64	480 497	224 905	255 592	347 659	158 736	188 923	132 838	66 169	66 669
65 - 69	473 587	209 008	264 579	333 956	145 166	188 790	139 631	63 842	75 789

70 - 74	401 524	165 752	235 772	269 547	110 070	159 477	131 977	55 682	76 295
75 - 79	279 398	107 489	171 909	177 499	67 524	109 975	101 899	39 965	61 934
80 - 84	197 996	70 638	127 358	124 835	43 268	81 567	73 161	27 370	45 791
85 - 89	105 034	36 025	69 009	67 415	22 398	45 017	37 619	13 627	23 992
90 - 94	30 838	9 737	21 101	20 575	6 488	14 087	10 263	3 249	7 014
95 - 99	4 539	1 337	3 202	3 011	897	2 114	1 528	440	1 088
100 +	203	58	145	135	43	92	68	15	53

93.5% of the elderly people interviewed, express that they are hoping to live their entire lives at home. It was found through the last official census in the country that the household fragmentation process continues, with 59.2% of households in 2011 being single or two-member. The number of lonely residents is increasing substantially, which in the same year was 925 385, or their relative share of all households is 30.8%. The largest relative share of lonely residents is reported in the region of Veliko Tarnovo - 38.6%, and in the capital - 36.5%, and the smallest is in the region of Kardzhali - 22.4%.

The number of elderly people, using mobile phones and modern technological devices in their daily lives, is steadily increasing. Almost all questioned people say they could handle a mobile application if they were trained and share their hope that the idea is applicable to our country.

The population at risk of poverty or social exclusion, aged 65 and over, has 668,900 persons by 2018 or 45.1% of the population and 32.7% of the population in the same age group is living with material deprivation. The results of the survey show that almost 80% of the respondents would have owned and used a panic button, for which they would have payed personally or with the support of their relatives, if the funds allow. The observed increase in the share of the elderly population also leads to an increase in the share of the poor. The practice of elderly people to rely for help on their younger relatives will change, given the fact that working-age population shrinks. If the state provides such a service, however, 100% of the respondents would have obtained and relied on similar means of alarming.

In the last few years, various modifications of panic buttons with a subscription have been offered in the country, but they are within the competence of the private sector and the beneficiaries are fully committed to paying for them.

CONCLUSION

Ensuring quality, affordable and sustainable long-term care services for the elderly and people with disabilities is one of the key priorities of the EU's political agenda. The perception of uncertainty and risk has a negative impact on the health of elder people. Comprehensive consideration of the current situation and an adequate multi-institutional

approach - police, health and social institutions, NGOs, voluntary and public organizations, could facilitate supporting elderly and creating conditions for a decent life. It is of vital importance that the help for independent living does not lead to more loneliness, technologies to be customized to the needs of the targeted group and not the opposite, and the services provided to respect the rights of privacy and dignity of elderly people. At present, the potential for development and use of European products, such as smart homes applications and technological innovations, is already quite good. In regard of Europe's demographic future and the encouragement of independent living and remote health surveillance, exactly now is the time to develop practical and affordable technological products for people who need help in their day-to-day activities for an extended period of time. Local and regional authorities in Europe should make full use of the opportunities, given by information and communication technologies, to meet the challenges of the aging of population and thus to improve the standard of living of elder people.

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DETENTION IN THE CONTEXT OF EUROPEAN IMMIGRATION POLICIES

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***Summary**: Nowadays immigration detention in Europe has emerged as a policy through which governments seek to control migration and eject unwanted migrants. Apparently, detention has become a preferred tool for states to assert their territorial legitimacy, authority and respond to the political pressures regarding EU border security. Despite the success of some states in the management of large flows of people, the perception of unregulated migration beyond control raises concerns about security in Europe.*

***Key words**: detention, immigration, human rights, police authorities.*

Introduction

All around Europe governments hold migrants in detention centres, cutting them off from the rest of society. Migrants may be detained for a variety of reasons. Sufficient but less coercive measures can be applied effectively in a specific case. EU states may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when there is a risk of absconding or the third-country national concerned avoids or hampers the preparation of return or the removal process. Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence (Directive 2008/115/EC).

The detention of migrants can not be justified simply, because there is imposition on expulsion of person from the state. Law enforcement authorities must prove that there is a reasonable prospect of imposing the expulsion of the person from their territory and that they follow expulsion agreements. Many European states give the option to irregular migrants to depart on their own initiative, with supporting help from the authorities about organisations voluntary returns.

1. Specificity of the detention of migrants

Detention must be ordered by administrative or judicial authorities, in writing with reasons being given in fact and in law. When detention has been ordered by administrative authorities, States must provide a speedy judicial review of the lawfulness of detention to be decided on as speedily as possible from the beginning. In such situations the third-country national individual concerned must immediately be informed of the possibility of taking such proceedings. The third-country national must be released immediately if the detention is not lawful.

Article 15 (1) of the Directive 2008/115/EC permits detention in order to prepare return or to carry out the removal process, unless this can be achieved by other sufficient but less coercive measures. Detention is permitted, particularly in cases where there is a risk of absconding or other serious interferences with the return process and if there is a realistic prospect of removal within a reasonable time. In every case, detention shall be reviewed at reasonable intervals of time either on application by the third-country national concerned or ex officio. In the case of prolonged detention periods, reviews must be subject to the supervision of a judicial authority.

About the conditions of detention, it shall take place as a rule in specialised detention facilities. Where a state cannot provide accommodation in a specialised facility and is obliged to resort to prison accommodation, the third-country nationals in detention must be kept separated from ordinary prisoners. Third-country nationals in detention have to be allowed — on request — to establish in due time contact with legal representatives, family members and competent consular authorities.

Particular attention must be paid to the situation of vulnerable persons. Emergency health care and essential treatment of illness shall be provided. Relevant and competent national, international and NGOs and bodies have the possibility to visit detention facilities. Third-country nationals kept in detention have to be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations (Art. 16, Conditions of detention, Directive 2008/115/EC).

We should also pay attention to the detention of minors and families. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time. Families detained pending removal have to be provided with separate accommodation guaranteeing adequate privacy. It is necessary minors in detention to have the possibility to be engaged in leisure activities, including recreational activities appropriate to their age, and depending on the length of their stay, access to education. Unaccompanied minors as far as possible have to be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age (Art.17, Conditions of detention, Directive 2008/115/EC)

Member states have to inform applicants for international protection on the territory,

within a reasonable time not exceeding 15 days after they have lodged their application for international protection, of at least any established benefits and of the obligations with which they must comply relating to reception conditions (Art. 5 Information, Directive 2013/33/EU). States shall not hold a person in detention for the sole reason that he/she is an applicant in accordance with Directive 2013/32/EU on common procedures for granting and withdrawing international protection.

Detention of applicants shall be ordered in writing by judicial or administrative authorities. The detention order shall state the reasons in fact and in law on which it is based. Where detention is ordered by administrative authorities, states shall provide for a speedy judicial review of the lawfulness of detention to be conducted ex officio and/or at the request of the applicant. Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned must be released immediately.

Detained applicants shall immediately be informed in writing, in a language which they understand or are reasonably supposed to understand, of the reasons for detention and the procedures laid down in national law for challenging the detention. In cases of a judicial review of the detention order, States ensure that applicants have access to free legal assistance and representation.

"Immigration detention" is a contested term, and a number of intergovernmental documents have defined the term (UNHCR 1999, 2012). *Silverman and Massa* define it as: "*The holding of foreign nationals, or non-citizens, for the purposes of realizing an immigration-related goal*." (Silverman, S.J. and E. Massa. 2012). If we analyze this definition it is characterised by three central elements. First, immigration detention represents a deprivation of liberty, second, it takes place in a detention facility and third, it is being detained in order to be fulfilled an immigration-related goal. According to the 'Return Directive' stetes may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process (Chapter IV, Art. 15 Detention. Directive 2008/115/EC). The principal difference between detention and immigration detention is that asylum-seekers or migrants are not detained as a disciplinary or punitive measure. (Amnesty International, AI Index: EUR 35/02/2008, 2008, p. 15)

Following the police practice, immigration detention usually starts with a short period of detention at a police station. As soon as the identity or status of the person becomes clear, he/she must be released, taken into custody or at immigration detention centre. Immigration detainees are frequently initially held at "point of entry holding facilities", airport transit zones and police stations. Clearly, these places are often inadequate places in which to accommodate persons (7th General Report of the CPT/Inf (97)10-part | Section: 2/5, paragraph 27).

Immigration detention facilities vary at European level and within individual states in condition, size and retention time. Some facilities are centers built to detain migrants that are

very similar to prisons, to makeshift camp sites (Flynn, M., 2011). Some are located in remote areas which are difficult to reach from the nearest town or city. The conditions in the centres vary from clean newly built to old structures, even including some facilities that are never meant to be used for that purpose.

The length of time that migrants are subject to detention also ranges depending on the country in which the detention occurs and the individual case. It can be a few hours to days, weeks and months, even years. For instance, the maximum length of detention for the purposes of removal in EU ranges from 32 days in France to 2 years in Romania, or 60 days in Spain, 20 months in Latvia, with no set time limits in nine EU states. (FRA 2010. Detention of Third Country Nationals in Return Procedures). No upper time limit is set forth in law in Cyprus, Denmark, Estonia, Finland, Lithuania, Malta, Sweden and the UK.With regard to the length of detention it may depend on the an administrative process, such as a refugee determination process or practical issues in achieving deportation including difficulties communication with a state of return. For example stateless people are often subject to the longest periods of detention (The Equal Rights Trust. 2010). Detention under alien's legislation must only be a measure of last resort, after a careful examination of every single case. If members of the same family are detained under alien's legislation, every effort should be made to avoid splitting up the family (19th General Report on the CPT's activities, paragraph 87).

Detained migrants must, from the very beginning of their deprivation of liberty, enjoy three basic rights, in the same way as other categories of detained persons. These rights are:

- *First,* to have access to a lawyer,
- *Second,* to have access to a medical doctor, and
- *Third,* to be able to inform a relative or third party of one's choice about the detention measure (9th General Report of the CPT/Inf (2009)27-part, paragraph 81).

In addition to these basic safeguards, international law recognises the right of a detained migrant to ask for consular assistance. Not all may wish to contact their national authorities, the exercise of this right must be left to the person concerned. Detainees must be informed immediately and in a language they understand about their rights and the procedure and must be provided with a document stating this information. They must confirm in writing that had been informed of the rights and this information is provided in a language which can understand. It is in the interest of both migrants and police officers to have clear rules for all detention falicities, and copies of the rules should be provided in an appropriate set of languages.

Within the detention facility, detained persons should be restricted in their freedom of movement as little as possible. In all EU states, detention of vulnerable persons, including unaccompanied minors, pregnant women or victims of trafficking in human beings is possible only in exceptional circumstances or explicitly prohibited.

2. Alternatives to the migration detention

This article aimed also to identify best practices with regard to the use of detention and some alternatives in the context of EU migration policy. It also should be noted that alternatives to detention are seen as a good way to reach effective migration management, according to protection of the right to libery and security of the migrants. Recently some EU governments have taken steps to implement different alternatives they are ranging from small-scale pilot projects to significant policy developments and even systemic change in the state.

When it proves necessary and on the basis of an individual assessment of each case, States may detain an applicant, if other less coercive alternative measures cannot be applied effectively.

The last part of this article discusses various measures that provide alternatives to the migration detention. The majority of EU MS have developed alternatives, which can include for example residence requirements or reporting obligations. Also alternatives could be an obligation to surrender identity, electronic monitoring provision and release to care workers or for example under a care plan. Unfortunately, in practice alternatives to migration retention are hardly used or are unlikely to be used. The absence of alternatives to detention is particularly damaging to vulnerable groups like children and unaccompanied minors.

States must ensure that the rules concerning alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee, or an obligation to stay at an assigned place, are laid down in national law (Art. 8, Directive 2013/33/EU). It is very clear in ECtHR jurisprudence that competent authorities must justify any period of detention furthermore, it is their obligation to consider alternative measures for ensuring the illegal migrant presence at the court (ECtHR, Idalov v. Russia, No. 5826/03, 2012).

In *Guzzardi v. Italy* case, the applicant was restricted from moving around a specified area, placed under curfew and special supervision, required to report to the authorities twice a day, and had restricted and supervised contact with the outside world. The Court held that there had been an unjustified deprivation of liberty under Article 5 of the ECHR. In *Amuur v. France and Riad and Idiab v. Belgium*, both concerning asylum seekers, and in *Nolan and K. v. Russia*, involving a third-country national, a detention in the transit zone of an airport was held to be unlawful under Article 5 (1) of the ECHR. The Court had not accepted the authorities' argument that there had not been a deprivation of liberty because the person concerned could avoid detention at the airport by taking a flight out of the country.

Under the ECHR, the ECtHR looks at whether a less intrusive measure could have been imposed prior to detention. Different types of alternatives have been developed in many coutries and they can be applied in combination or separately. We can group them as follows:

- Obligation to surrender passport or travel documents (Denmark, Aliens Act at Section 34.1; Finland, Aliens Act at 119.1; France, CESEDA at Article 552-4; Ireland, 2003

Immigration Act at 5.4(c)

- Release on bail and provision of sureties by third parties (France, CESEDA at Article 552-4 UK, Operational Enforcement Manual 2008, at 55.20.)
- Regular reporting requirements to the authorities (Austria, Aliens Police Act, Section 77.3, Bulgaria, Law on Foreigners at 44.5; Finland, Aliens Act at Article 118; France, CESEDA at Art. 552-4)
- Release to case worker support (http://www.vluchtelingenwerk.be/ bestanden/2009-12-02)
- Electronic monitoring (In the EU, there is limited use of electronic monitoring for immigration purposes. Three EU MS provide for the use of electronic devices as an alternative for detention, Denmark, Portugal and the UK.)

Since international human rights standards contain a strong presumption of the detention of migrants the states must actively seek alternative solutions for immigration detention (UNHCR 1999). The European governments, in respect with international human rights standarts, must accept that detention of migrants is a measure of last resort, which is used in exceptional cases and only after thorough consideration of the alternatives. States have to make available alternative measures for rehabilitating, integration and monitoring of illegal migrants that can more effectively achieve aim of these measures.

Conclusion

The detention of migrants is a drastic limitation of the right to liberty and, as such, merits active assessment and development of alternatives. Immigration retention in nature leads to a level of suffering, often expressed by strong emotional responses in detainees. While it is an inevitable level of suffering, the authorities must always respect the absolute prohibition of torture, inhuman treatment or punishment. Detention of migrants will only be lawful when the authorities can prove in each individual case that it is necessary so that to achieve the aim. In any case, detention should always be for as short a time as possible and each state shall set a limited period of detention. States may not extend the period except for a limited period not exceeding a further twelve months in accordance with national law. We can conclude that by limiting their rights to freedom of movement and liberty, the detention unnecessarily restricts the rights of the migrants by limiting their privacy, access to day-to- day activities and communication with the outside world.

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THE IMPLEMENTATION OF PROJECT MANAGEMENT AND CLUSTER STRUCTURES FOR TOURISM DEVELOPMENT ON MUNICIPAL LEVEL

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Abstract: The article discusses the possibilities and prospects of introduction of project management and cluster structures for tourism development on municipal level in Moscow region.

Keywords: tourism; region; municipality; cluster; stakeholders

In the context of the topic, the object of research is Moscow region, which represents a dynamically developing region of Russian Federation. According to the main index (total regional product, industrial products volume, investments in basic capital, house construction, cash income level per head, incoming of taxes and fees to the budget system of Russian Federation and others) Moscow region persistently occupies the second place in the Central Federal district.

There are 8 of 13 science cities of Russia on the Moscow region territory. Scientific-technical complex of the region has a competitive technology and personnel potential in the nuclear research, production of aviation and space technology, laser technologies, production of new materials and biological products areas.

Small and medium enterprises of the Moscow region have a great potential and plays an important role in economic development of the region. More than one third of all engaged in economy is fallen on small and medium enterprises. The segment plays an important role in creation of new work places and tax incomes. High-tech small and medium enterprises are extremely important, which are actively formed according to the science cities base.

Apart from strong sides, the analysis identified a number of threats that have a negative impact on the service sector development, particularly tourism:

- insufficient use of historical and cultural potential (the historical monuments and areas);

- low enterprise activity in tourism area, absence of advertising, disparity between price of service and offer;

- not enough manifold range of product lines, moreover based only on the population with high and middle income and foreign tourists;

- transit disposition of current tourism routes;

- underdeveloped tourism infrastructure and relatively low level of service in many facilities.

To our mind, under the circumstances, correction of status of regional assets will lead to the introduction of project management tools and tourism development of cluster structures. It will allow to solve the issues of activation of enterprise, respectively human and investment capital.

Thus, segment construction of intermunicipal strategic partnership upon mass cultural and landscape territory resources development is necessary, which will be tourist cluster base in the form of branded ring route "Merchant manufactory of Eastern Moscow suburbs", integrating Orekhovo-Zuyevskiy, Ramenskiy, Pavlovo-Posadskiy areas with an appropriate objects and tourist attraction functional.

The following potential is typical for cluster:

- formation and development of innovation-active local community;

- creation and promotion of brands of municipal formations;

- "crowdsourcing" technology use, which will allow to carry out joint search of strategic initiatives, aimed at territory development;

- positioning of rich cultural and historical legacy of Moscow region, its climatic and natural resources for different types of tourism in the region development - cultural and cognitive, business, healthful, event, pilgrim, water, active etc.

Proposed cluster approach of strategy realization of tourism development in municipalities of Moscow region is consistent with the "Concept of tourism development in the Moscow region", where as the potential for development of tourism area local businesses are defined. Such approach has determined the selection of the model objects realization of the strategy of tourism development of the Eastern Moscow suburbs in the framework of clustering.

Also, to solve mentioned issues and greater engagement of youth in development program of the Moscow region, it took the introduction of new tools which increase its initiative. One of aspects of such work is to organize and carry out a youth business plan competition aimed at tourist activity development.

Goals of project are the engagement of young people, educational and youth organizations in the development of tourism activities area in Eastern Moscow suburbs.

Project goals:

- formation of enterprise thinking among young people;

- consciousness of the importance of sights of native land for residents of other Russian cities and foreign guests;

- create a bank of ideas to realize specific projects in tourism area.

The stakeholders of the project are presented in Table 1.

The Project realization is ensured by coordinated activities of all its participants: 1. Coordinators are the Committee on culture, youth, sports, tourism and physical education of administration of Orekhovo-Zuyevo, with the support of Morozov's club (organizational and informational support).

2. Department of Economics, management and business of socio-economic faculty of State University of Humanities and Technology (organizational and material and technical project support: provision of premises, assistance in the realization of the scheduled actions).

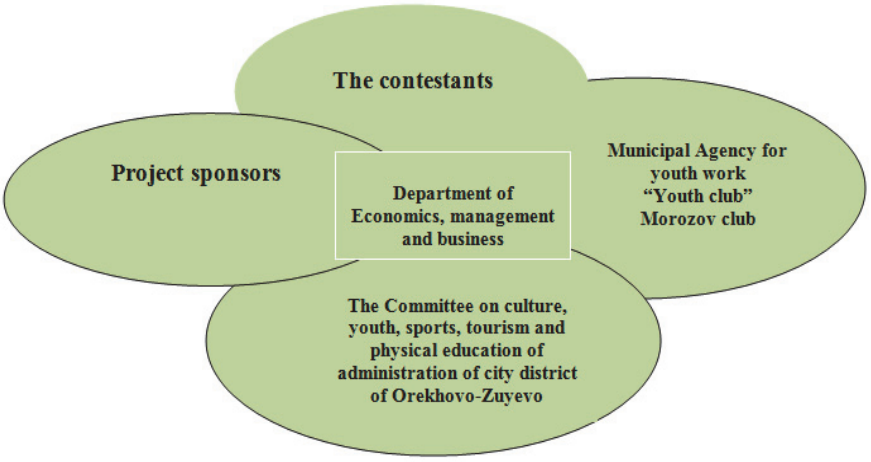

Table 1. The stakeholders of the project

Project perspectives:

Held at State University of Humanities and Technology on a regular base of the Youth business plan competition aimed at the development of tourist activities in the Eastern Moscow suburbs. Creation of bank of ideas for investors upon realization of specific projects in the tourism area.

So, taking into account the circumstances above, the city district of Orekhovo-Zuyevo may become the center of tourism of Eastern Moscow suburbs in the future. This is especially relevant due to the fact that according to the regional government decision, the city is included in the list of historical settlements, whose tourist potential should be effectively used to solve current and perspective tasks of socio-economic development of Moscow region.

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BRAND AS AN AESTHETIC AND ECONOMIC PHENOMENON

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Abstract: The article analyses the philosophical and aesthetic notions of brand phenomenon. The brand, which originated as a mechanism for the identification and differentiation of companies, today becomes means of identification and differentiation of consumers. Brand is a category of social consciousness, which is realized in the economic, social forms through their ability to influence consumer behavior.

Key-words: brand; aesthetic phenomenon; axiology; intellectual capital

An opportunity of the world economy as a system structure development is appeared in modern conditions of integration development. Various resources were strengthened, with their help competitiveness, stability in instability conditions can be achieved. All this has led to the need to study the brand in terms of the non-material asset, contributing to the creation of intellectual capital in any organization.

What is intellectual capital, and why we are introducing the term intellectual and aesthetic capital? This is a variety of models and theories that summarize the various factors of governance in specific companies. They are confirmed by researchers and practitioners, what is essential. The problem of aesthetics in the creation and further development and establishment of the brand is ontologically necessary condition.

The brand, which originated as a mechanism for the identification and differentiation of companies, today becomes means of identification and differentiation of consumers. Brands characterize the lifestyle of individual groups working on social processes. The study of previous identifications allows building a social whole in terms of symbolic content. Brands as modern symbols of consumer culture are an important means of demonstrating identity, social space markers. Analysis of brand preferences

gives new possibilities to study the dynamics of change and transformation of modern society.

Brand is a category of social consciousness, which is realized in the economic, social forms through their ability to influence consumer behavior. This interaction is created as a result of communicative exchanges and creation of steady public opinion about qualitative characteristics of the goods of Services Company. The symbolic character of the brand allows speaking about the necessity and the possibility of building a methodical study of the phenomenon, which is analyzed on the basis of developments in the study of the character of the phenomenon. The paradox is connected with fact that despite the attention to the symbols of the social sciences applied social studies symbol is not used sufficiently. So symbolic interactionism, claiming that the symbol is an important part of social interaction, does not consider it as a subject of applied research. A similar situation is observed in the cognitive, phenomenological philosophy, who could not find the use of the symbol in the empirical research.

New ideas about the hidden cost of the factors of production are expressed in such a thing as “intellectual capital”. People involved in the management of companies’ value, are very similar views about the name of this phenomenon and its contents. They are convinced that modern accounting cannot afford to check the readiness of employees, customer relations and administrative systems. However, some researchers put forward their idea. According their opinion, to make an inventory of the intellectual capital it is necessary to create a new management and financing concepts. At the same time financiers are vigorous debate about whether the “fix installed accounting terms” is necessary [5, p. 210].

Brand in the role of the intellectual capital of the organization is a system, not only economic, but also philosophical. It is closely associated with the cultural human values. There are several approaches to the creation of the brand. The first stage is the creation of a visual (audio) brand concept: brand name, trademark, slogan, logo, and so on. Nevertheless, the creation of visual concepts should be preceded scientific research activities related to the indication of the current social situation, social and cultural potential of the brand, as well as branding job prospects in this project. Visualization of any image is a complex process of artistic creation, including the problem of axiological understanding of the creating object, its philosophical and aesthetic concept, and finally, the objective necessity. Besides, to achieve the financial results of the role of socio-economic views in the development of brands will also be increased. Thus, resource potential of the producer and the possibility to carry their identification in the market are

defined: major players, product specifics and segmentation of consumers, especially the commodity group, typology of consumers, etc.

In the last decade, a brand policy organization has given clear results in this activity. If at the beginning of the XX century the brand was a kind of “monologue”, by the end of the century – the brand moved to dialogue. And since the beginning of the XXI century – brand embodies the most important goal – communication between people. This brand dialogue became wearing confidential nature, came the desire of people to be involved in the brand. And this attraction is sensually aesthetic character in the feedback system of the subject-object perception.

Current brand, his consciousness can be born, live, grow and pass not an easy way of presenting their own similarities in completely different situations, such as self-joining near people, thereby helping them to communicate with each other. “Branding communication” concept is appeared of it [2, p. 32]. In other words - this is interlocking relationship between the company partners and customers. These relations are based on values and beliefs about the world. Relationship is clearly seen, because the brand - is those relationships.

Further development and brand development in changed conditions are occurred according to certain laws, which have arisen from the brand's association with the much-needed sign of a product or company that arbitrarily symbolized in individuals with perseverance and a certain set of expectations. Brand is a constant work in which you need to reach the most inaccessible heights of attention to the customer to tie him good friendships and feel of trust, so that after, a new brand is born and begins to develop [3, p. 57].

Brand does not only promote consumer awareness about the values of their products, but also adds business reliability due to sympathetic-minded clients. Brand for consumers – is a “piece of the coveted” on the holiday table of competing between each other products and companies, particularly successful deposit in market uncertainty.

In this article, we do not base on all the features of the brand. The problem of evaluating intellectual and aesthetic capital has not been solved yet without specifying the place of the term. But in this we see mostly favor of presented material.

The main task of absolutely any organization is to create a brand as an intellectual and aesthetic capital with the necessary knowledge and skills of creation, as well as the opportunity of brand management at different market levels.

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THE POSITION AND SIGNIFICANCE OF REPUBLIC OF BULGARIA IN THE REGIONAL AND GLOBAL SECURITY SYSTEM

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Abstract: The space of the modern world is under the constant influence of global processes that transform the system to ensure both national and international security. Traditional security tools are becoming less and less effective and stable positions are occupied by "soft power" tools. This article presents the importance of Republic of Bulgaria in the regional and global security system. Emphasis is placed on the country's soft power as a factor in maintaining regional leadership.

Keywords: soft power, security, influence, Bulgaria

1. Introduction

In the context of globalization, most regional and local problems become global. Often their solution becomes impossible with the efforts of only one country. One of these problems are security issues and its components. Security and its components today are experiencing a serious transformation associated with a significant increase in factors of uncertainty and instability, not only in certain regions, but also in the world as a whole. Uncertainty and instability in international relations, political systems, balance of power led to the emergence of global challenges and threats. These threats and challenges, acquiring a transboundary character, motivated the change in the balance of power both at the global level and in individual regions of the planet. With the change in the balance of power, the mechanisms for ensuring global and regional security have changed, forcing states to increasingly apply the policy of "soft power".

However, the international political and economic relations, new threats and risks are emerging for the development of the individual, the society and the state. Each state is forced to move to a new state policy in the field of national security, while conducting social, political and economic transformations to create safe conditions for the implementation of

constitutional rights and freedoms of citizens, the implementation of sustainable development of the country, the preservation of territorial integrity and sovereignty of the state.

National security has political, economic, military, social, legal, informational and spiritual-moral aspects.

Military security is the state of the armed forces and their specific types, which allow them to respond flexibly and in a timely manner and suppress external threats of a military-force nature, to maintain a certain balance of forces and a country's place in the international arena. Assumes that the national armed forces have an optimal structure, as well as quantitative and qualitative characteristics. Economic security is the state of the country's economy and its various systems (financial, banking, investment, tax, etc.), suggesting its ability to provide the minimum necessary amount of national product necessary for its independent survival and development. At the same time, the state of protection of the country's strategic economic resources from the influence and control of hostile and criminal forces, the state of reliable security of basic economic rights and freedoms of citizens. Legal security means the unconditional observance of legal norms by both ordinary citizens and authorities, the guaranteed realization of the entire set of rights and obligations established by current legislation. Political security is the inviolability of the national sovereignty of the country, the inadmissibility of pressure on her and gross interference in her affairs by external forces. At the same time, the strength of the state and constitutional order of the country, ensuring the effective functioning of its political system and all its institutions in the interests of the majority of citizens. Social security is a state of society, which implies the implementation of the fundamental principles of social justice, providing citizens of the country with a basic set of social benefits and high living standards. All this, taken together, is the foundation of social stability. Information security is a state of reliable protection of the cultural heritage of the country, intellectual property of economic entities and citizens, as well as special information constituting state and professional secrets. In a broader sense - the suppression of adverse information and propaganda influence on the citizens of the country, associated with the dissemination of ideas hostile to the interests of the state, the traditions of national culture and the rule of law.

Global problems of international security are increasingly reflected in regional security complexes. But their manifestation in different regions is not the same. Regional processes are influenced by the policies of the leading powers projected from outside. But in a particular region, local problems that are inherent mainly or exclusively to a specific region are of particular importance.

Regional security is an integral part of international security, characterizing the state of international relations in a specific region of the world community as free from military

threats, economic dangers, etc., as well as from invasions and external interventions associated with damage, encroachment on the sovereignty and independence of states region.

Ensuring regional security is one of the priority foreign policy tasks of all states. Regional security, as well as national security, is ensured by the state through conflict-free interaction with other countries(with border countries, countries with high political status in the world), as well as through the conquest of certain positions on the world stage. National security is ensured not only through the establishment of foreign relations, but also through the maintenance of such a policy that orients other countries towards building respect for other nations, towards interaction with them, and not towards conflicts.

In the event of conflicts with other countries affecting the national interests of a country or its individual regions, the state pursues a corresponding foreign policy aimed at resolving the conflict, taking into account the interests of its country.

The problem of ensuring national security causes today serious concern of public and state leaders, scientists, all citizens. The multidimensionality and complexity of this problem have made it the subject of research for specialists of practically all branches of scientific knowledge: philosophy, sociology, law, psychology, economics, mathematics, ecology, biology, health care, and so on. A stable state of the state is achieved, therefore, only when properly ensured external and internal security. In the 21st century the channels of state influence on international processes and on other countries are extended. Today's economic success, ideological persuasion, and the country's cultural attractiveness are a more important factor than the influence of military force and the possession of nuclear weapons, especially as regards regional security and the relations in a region. The use or the threat of use of military force is ineffective due to the fact that they have more negative side effects than the originator's probable profit.

Today, the development of international relations is such that it is gradually fragmented into regional systems which involve several countries led by a single leader, i.e. a country that is a regional force. Such regional systems in the future, which have parameters of the economic, political and military poles at the same time, will claim the status of centers of power of the global world. In such a configuration of geopolitical space, the potential aggressor should keep in mind that he will have to deal not with a particular country but with the entire regional system whose economic and military potential can be compared to or even exceed the potential of the aggressor.

Under the influence of globalization processes, the geopolitical space is transformed. A new hierarchical system is being created and new geopolitical axes are being built. Under these conditions it is necessary to form a foreign policy taking into account the existing realities and to seek new tools and ways to achieve the strategic goals of the state and to realize the national interests on a regional and global scale. Soft power makes it possible to

secretly influence om international processes even on countries that have a limited set of traditional sources of influence, for example, they are not members of the UN Security Council, do not have nuclear weapons or are located on a geographic periphery. Under a multipolar, polycentric system of the global world, each country, regardless of its place in the global hierarchy, provides competent to use the soft power tools. This may have latent effects on humanitarian processes taking place within this macro-region or even globally. According to the concept of J. Ney, soft power is a derivative of the three resources of the state: its culture, political ideology and foreign policy. Moreover, the soft power is a combination of external and internal factors of the state, which help to influence ant to achieve its strategic goals.

In general, the nature of soft power is manifested in:

- the use of intangible assets for the realization of state interests and strategies;
- a way to achieve the desired result through foreign policy by peaceful means;
- a way of non-violent implementation of national interests in the global world.

It should be noted that, on the one hand, the concept of the "hard power" does not lose its key importance in a world where states seek to defend their independence, and where non-state groups, as terrorist organizations resort to violence in order to achieve their goals. But, on the other hand, the trends of international relations development show that the value of "soft power" in the overall balance of power of each state increases. This is due to the fact that even the most developed countries face limited opportunities to solve internal and international problems only by force.

The soft power is based on the principles of sympathy, attractiveness, voluntary participation. One of the most important tactical tasks of soft power is creating engagement, including by building an effective image of your country and impacting on the subject of control. Given the above definition, the strategic goal of soft power can be defined as a motivation for action and the adoption of a political solution to the subject of control through influence.

The most important instruments of soft power are:

- information flows;
- public diplomacy;
- Political PR which is targeting for a foreign audience
- global marketing;
- positioning the country in the global hierarchy;
- the language of the country and the degree of popularity in the world;
- tourism, sports and cultural exchange;
- education system and exchange of students (youth);
- migration policy; national diaspora; culture dialogue.

As a result of the effective use of soft power tools is the illusion of mutual interest, trust, respect, mutual understanding is possible, and on this basis creates an opportunity for a country to influence the political and humanitarian processes in the world and in a particular country. Thus, the methods of influence of soft power are: voluntary participation of another state in the main activities of the foreign policy of the state - the object of influence, in its geopolitical projects, the adoption of common goals and the illusion of achieving a common result, intensive communicative flows. As many researchers have noted, the policy of "soft power" in the process of globalization is undergoing "endless modernization. Technologies and means of this policy have especially increased at the beginning of the 20th century, thanks to the intellectual climate of the globalizing world". Under the influence of new discoveries related to the development of high technologies on the one hand, as well as features of culture, language, religion on the other hand, new mechanisms of confrontation and interaction of actors of international relations and political systems began to form, filling the imperatives of not only the politics with new meaning, but also the concept of the "hard power".

Bulgaria has the mechanisms and has good potential in applying soft power as far as its intention to revive cooperation in the region through interconnection projects. Such an approach is also beneficial in terms of reducing tensions in the area where territorial disputes, conflicts, ethnic issues and internal instability either divert attention from the desired reforms or hinder their implementation.

The effectiveness of the Bulgarian soft power is a combination of internal and external factors which could be used to influence and to give good model to the countries in the region. The external factors are following:

- Foreign policy and authority in international affairs;
- Geopolitical status and membership in international organizations – Bulgaria is an important member state of the European Union and NATO.
- Civilization status - each country has its own culture, but not every country is the heir to a civilization.
- Political and economic development;
- Strategy for development of the state and the ability to implement it;
- Information ressources, communication mobility, etc.

The internal factors that are particularly important for the application of "soft power" are:

- Ideology;
- Quality and level of living;
- Values - including a national idea;
- Culture of the country - art, literature, film industry, etc.
- The creative potential of the country - the ability to generate ideas and technologies.

- Education.

The national idea of the country and its mission in the global world are expressed in the application of soft power. The combination of these factors contributes to creating an attractive and effective image of the country. On a regional level, Bulgaria's soft power found a particularly broad expression in the presidency of the EU Council which was led by Bulgaria in the period 1 January 30 June 2018. One of the priorities is the integration of the Western Balkans in order to ensure regional security. Part of the results are:

• Statement from Sofia: reaffirms the EU's commitment to the European perspective for the whole region (Western Balkans);

• Priority Program from Sofia: outlines specific areas for co-operation and investment;

• Strengthening support for the rule of law and good governance;

• Strengthening the commitment to security and migration;

• Support for socio-economic development and a special focus on young people;

• Enhanced connectivity: transport, energy, digitization;

• Digital Agenda for the Western Balkans;

• Support for the reconciliation and good neighborly relations of the Western Balkans;

Despite the potential for soft power implementation, there are a number of challenges for Bulgaria to achieve soft power as a mechanism for achieving regional security leadership:

1. Lack of an overall soft-power strategy and positioning of Bulgaria abroad. The unsystematic nature of the use of separate elements of "soft power" in the three key areas - culture, political values, foreign policy - does not allow the desired results to be achieved. There are currently no clearly defined goals and the instruments of influence do not represent a holistic mechanism. There aren`t coordinating government bodies, stable and widespread funding. There is a deficiency of a competent information policy for the gradual improvement of the country's international image, a true coverage of domestic and foreign policy successes.

2. Lack of a number of key institutions and elements of "soft power" that would increase the attractiveness of Bulgaria on the world stage.

3. Lack of ideas to overcome the predominant negative stereotypes regarding Bulgaria – criminal environment and others.

4. Lack of effective interaction of the state with non-governmental organizations, civil society, business structures and media.

5. The low role of the new public diplomacy in foreign policy.

In this area, the European Union has achieved significant success by developing numerous measures for a large number of diverse participants in the European integration process. Thus the Union effectively ensures security in individual regions. Bulgaria should follow the example of the old Member States in the application of soft power in order to become a major

regional player in the field of security. The modern foreign policy strategy of the country defines the formation and strengthening of the belt of trust and security across borders. In this vein, a common system is constructed, which has an interconnection and interdependence in ensuring national and regional security. It is known that in the classical sense, security is defined as a condition for the absence of danger to the life of a person, the stable development of society and a favorable external environment for the state, which are based on real national interests. Bulgaria's bilateral relations with neighboring countries need to be considered on the basis of the common interests of sustainable development and security. Since it is these states that form the first ring of our country's national interests in foreign policy relations. Therefore, in the matrix of national interests, the use of soft power is based on cultural and humanitarian interests - this is the formation of a positive image of the state on the world stage; human factor development; the possibility of using public diplomacy to achieve state goals and priorities; spreading cultural influence to other communities. This group of interests in the aggregate forms the "soft power" in foreign policy and can be characterized from three sides:

1) the use of culture, science and values in foreign policy actions, their distribution, and thereby the formation of a positive image of the state;

2) the development of informal relations and the spread of state influence through representatives of civil society (poets, writers, artists), i.e. carrying out active national diplomacy taking into account medium-term and long-term interests;

3) information support of foreign policy actions that contribute to the realization of national interests. This clause also has a place in the area of security interests, since the information security segment is considered an important element in the context of globalization.

Conclusion

The policy of "soft power" in the 21st century plays a huge role. At present, is sometimes more effective and efficient than traditional policy implementation forms The smart use of this resource will allow Bulgaria to activate hidden opportunities that can have a serious impact on its domestic development, and especially on the regional security system. It is necessary to note the importance of the way of formatting public consciousness through "soft power" today, because of the security situation depends not only on each country, but also on the region as a whole. It is required to make all necessary efforts, to render positive assistance

to society using the resources of “soft power”, such as the mass media, culture, traditions, religious views.

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ADMINISTRATIVE PENAL LIABILITY FOR VIOLATIONS OF THE LABOUR MIGRATION AND LABOUR MOBILITY ACT

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Abstract: The paper examines the specifics and system of regulation of the administrative penal liability under the Labour Migration and Labour Mobility Act (LMLMA). In the context of the peculiarities and essence of the subject matter of this special law, we have analysed the basic administrative offences and the penalties provided for them, as well as the corresponding competence of the control bodies. The authors have drawn conclusions and highlighted tendencies in the control and realisation of legal liability under the legislation, and have set forth basic recommendations for improving the legal provisions and clarifying the described offences.

Key words: occupational migration, labour mobility, administrative penal liability, provision of labour by foreigners, violations of LMLMA

Introduction

The Bulgarian labour market faces challenges arising from the new global trends in migration. A large proportion of the active population is leaving Bulgaria, whereas the immigrating workers are far fewer in number. The National Social Security Institute reports that 107,000 people retired in 2016 and 98,000 in 2017. According to data made public by the Committee on Labour, Social and Demographic Policy of the National Assembly, there are only 63 new entrants against every 100 people leaving the labour market. An additional negative effect is caused by the net emigration, which, despite its downward trend, remains at around 4,000 people yearly [1].

Normally, the labour market has reserves of locals which are currently unemployed. Unfortunately, such people no longer constitute a reserve, as unemployment itself is now below 6%, with most unemployed being unskilled workers. The problems of labour mobility and labour migration have drawn the attention of both lawmakers and legal scholars. This is indicative of the relevance of the present study. These issues are crucial to the regulation of employment of foreigners in Bulgaria, as

well as to employment of Bulgarian nationals abroad. The special law, namely the Labour Migration and Labour Mobility Act, contains not only labour law norms, but also administrative law provisions aimed at guaranteeing compliance with the law.

The aim of the paper is to explore the specifics and the regulation of the administrative penal liability under the LMLMA. In the context of the characteristics and nature of the subject matter of the special law we have analysed the basic administrative offences and the penalties stipulated for them. The authors have drawn conclusions and highlighted tendencies in the control and realisation of legal liability for non-compliance with the legislation, and have set forth basic recommendations for improving the legal provisions and clarifying the described offences.

The following research objectives have been pursued: 1. Explore and analyse the basic administrative offences under LMLMA; 2. Outline the system of the offences; 3. Identify shortcomings of the regulations and put arrive at conclusions and generalizations about the administrative penal liability.

The scope of the study includes domestic rules on administrative offences under LMLMA, and the set aim and research objectives have been pursued using the traditional comprehensive methodology of legal research.

The subject of the analysis are norms of the current domestic legislation on labour mobility and labour migration.

The study makes no claim to be exhaustive of the subject, and given its limited volume, the authors have strived to examine at the doctrinal level the problems of administrative liability in the area of labour mobility and labour migration, thereby putting forward argumentation of the problems and offering a scholarly analysis in terms of the proper application of the provisions.

The paper is consistent with the current legislation as at 31.03.2019.

The administrative penal liability [2] under the special law aims to protect the social relations in the field of labour mobility and labour migration.

The systematics of the administrative offences described in LMLMA can be summarized as follows:

- provision or use of the labour in a situation of labour migration and violations of the special law LMLMA;
- non-compliance with or obstruction of the functions of the control bodies;

- employment of illegal residents in Bulgaria.

The provision or use of labour in a situation of labour migration and in violation of the special law concerns several different offending acts. One clearly defined offending act is that under Art. 75a., Par. 1 LMLMA, which deals with the provision of services without appropriate authorization or registration with the Employment Agency (EA), where the offender is a third-country foreigner, who provides labour or has been accepted as an individual sent or posted in the Republic of Bulgaria to provide services without proper authorization or registration with the EA.

The text refers to two categories of persons: first, persons defined in paragraph 1, item 4 of the Additional Provisions of LMLMA as "third-country nationals", i.e. persons who are not nationals of either the Republic of Bulgaria, a Member State of the European Union, a signatory country to the European Economic Area agreement, or Switzerland.

Second, posted persons, legally defined in item 8 of the Additional Provisions as "workers who are nationals of a Member State of the European Union or of a third country, who carry out work in the Republic of Bulgaria during a specified period, as established in the employment contract with an employer whose registered address is in another Member State of the European Union or in a third country, under the terms and conditions of Art. 121a, Par. 1, item 2, letter "a" and Par. 2, item 2 of the Labour Code.

Another penalized act is the one provided for in Art. 75, Par. 2, which concerns a specific offender: a natural or legal person employer, for whom a foreigner provides labour or who has accepted legally residing third-country nationals without appropriate authorization or registration with the Employment Agency.

The text of paragraph 3 governs acts committed in violation of the principles of hiring and providing labour for seasonal work as prescribed in Art. 24, Para. 3, with the offender being a foreigner who holds a short-stay visa on grounds other than seasonal work. Seasonal work is legally defined as "work that depends on the change of seasons and is tied to a certain time of the year through a repeating event or a series of events related to seasonal conditions under which the need for workforce is significantly larger than for ordinary current works". In this sense, the offender must not have the capacity of a seasonal worker, i.e. a third-country national who retains their principal place of residence in a third country and is legally and temporarily residing in the Republic of Bulgaria in order to perform seasonal work under one or more fixed-term contracts concluded directly with an employer whose registered address is in the Republic of Bulgaria. However, this provision does cannot be unequivocally interpreted, as it does not indicate which person is subject to penalty. Conversely, the

wording of paragraph 5 clearly indicates that the person liable is the employer, by argument from Art. 75a, Par. 6 LMLMA[1].

Another instance of offence is that under Par. 5, which concerns the provision of labour under Art. 8, Par. 1 LMLMA by a foreigner who has no right of access to the labour market. Under the procedure provided for in the norm, access to the labour market is not granted to third-country nationals holding a short-stay visa for Bulgaria, except for the purposes of seasonal work under Art. 24, Para. 3, nor to persons holding long-term residence permits on the grounds of Art. 24, Par. 1, items 2, 6-8, 10, 14, 16, 19 and 20 of the Foreigners in the Republic of Bulgaria Act[2]. The flagrant imperfection of the provision consists again in the failure to identify the person to be penalized, insofar as it stipulates penalties under paragraphs 1 and 2, i.e. the nature and type of penalty, but with no indication of the subject of the penalty. By argument of the context and reference to said paragraphs it should be assumed that it the subject of the penalty may be both the employee and the employer, but the failure to expressly identify the offender makes the hypothesis of the provision undeniably meaningless, in view of the inconsistency in its application.

The law also lists aggravated offences, which consist in repeated cases of violations, where penalties are imposed on the employer for each illegally hired legally residing foreigner.

A specific offence is described in Art. 76, Par. 2, concerning **violation of the conditions and procedures for posting or sending workers**. The offender under this legal provision is a resident who has hired a person posted or sent from either a Member State of the European Union, a signatory country to the European Economic Area agreement or Switzerland, or a third country. According to the definition in item 12 of the Additional Provisions, "a resident who has accepted a posted or sent worker" is a person operating in the Republic of Bulgaria, registered under Bulgarian law or the law of another Member State of the European Union, a signatory country to the European Economic Area agreement, or Switzerland, which employs the services of a person posted or sent from a Member State of the EU or from third countries.

The third paragraph of the same article describes the offence consisting in an employer's failure to declare before the Employment Agency within the statutory deadline the hiring of third-country nationals who have not received a permanent residence permit in the Republic Bulgaria and are family

[1] The text states that "Penalties under paragraphs 2, 4 and 5 shall be imposed on the employer ..."

[2] By analogy, penalties should not be imposed for provision of labour by persons entitled to access to the labour market, in particular third-country nationals legally residing in the Republic of Bulgaria, when they are: 1. persons of Bulgarian origin – until they obtain a permanent residence permit; 2. persons who have worked in a previous period, before submitting the application for access to the labour market, under the terms of an international treaty to which Bulgaria is a party; 3. persons working without a work permit under Art. 9, Par. 3 – where the employment continues more than three months; 4. the family members of a third-country national who is a long-term resident in the Republic of Bulgaria.

members of a Bulgarian national or a national of a Member State of the European Union, of a signatory country to the European Economic Area agreement, or of Switzerland, who are entitled to free movement under international treaties concluded with the European Union. The offence has a complex factual composition provides and requires the following cumulative conditions to be met: 1. employment of third-country nationals, who have not been granted a permanent residence permit in the Republic of Bulgaria, 2. these nationals must be members of the family of a Bulgarian national or a national of a Member State of the European Union, of a signatory country to the European Economic Area agreement, or of Switzerland, who, by virtue of international treaties concluded with the European Union, 3. are entitled to free movement, and 4. failure to declare this circumstance to the Employment Agency within the prescribed deadline.

The offences preventing the execution of control duties are associated with two main hypotheses. On the one hand, this refers to non-compliance with mandatory instructions to terminate the offences under this law, given by control bodies to natural or legal persons – employers, officers and residents hiring posted or sent employees from Member States of the European Union or third countries.

The second hypothesis concerns acts of unlawful obstruction of the performance of duties of control bodies, where the offender may be an employer, an officer, an individual or a resident, who has hired posted or sent employees from Member States of the European Union or third countries.

Offences constituting **violation of the rules for hiring and provision of labour under Article 13, i.e. the employment of third country nationals illegally residing in the Republic of Bulgaria,** are laid down in Art. 77, paragraphs 1 to 5. The offender is an employer – a natural person who violates the prohibition on hiring third country nationals illegally residing in the Republic of Bulgaria. At the same time, according to item 13 of the Additional Provisions, the act of illegally hiring a third-country national is legally defined as "hiring an illegal third-country national and hiring or accepting a third-country national without proper permit by or registration with the Employment Agency". In addition, such act would be punishable if the relevant employee meets the definition of § 1, item 3b of the Additional Provisions of the Foreigners in the Republic of Bulgaria Act, which defines "an illegally residing foreigner" as any third-country national who is in the Republic of Bulgaria and does not meet or no longer meets the conditions for stay or residence.

Obviously there is some discrepancy in terms of the wording of the offending act and its elements. On the one hand, the act has to consist in the hiring of illegal residents, and on the other hand the definition in the Additional Provisions introduces the concept of "illegal hiring", which is obviously

a different situation and a qualitatively different offending act, which may refer to the hiring of otherwise legal residents, but in violation of the requirements of the licensing regime. This creates an unfounded collision of statutory provisions, which results in restricted application of the norm as a whole and in penalizing only a limited number of cases with indisputable facts.

The act is considered aggravated in the event of repeated commission, and, similarly to the previously examined act and in implementation of the adopted legislative technique, penalties are imposed on the employer for each illegally residing foreigner hired.

Conclusion

The analysis of the definitions of offences under LMLMA allows us to draw some conclusions and outline shortcomings in the current legislation. In particular, these boil down to the following typical instances:

- Lack of precision in the formulation of the provisions, mainly in terms of wordings not specifying the offender;
- Discrepancy between the wording of the offending act and its references in the additional provisions, which establish a situation that is different in terms of its nature or deviates from the letter of the norm;
- Convoluted descriptions of the offences, requiring a sequence in the occurrence of circumstances of different nature, thus creating a generally cumbersome hypothesis;
- Low in amount and identical in nature penalties with weak preventive effect.

One positive legal technique is imposing penalties for each illegally employed legally residing foreigner, without supplementing or modifying the principle of repeated violation.

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