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## **NEW FORMS OF INTERNATIONAL SEARCH OF FUGITIVES IN THE EUROPEAN UNION AND THE REPUBLIC OF MACEDONIA AND USE OF SPECIAL INVESTIGATIVE MEASURES**

### **Abstract**

We live in a world where there is not a country, that is not affected or in which the crime is not known. Open borders, reduced border control, the development of science, technology and techniques allow rapid flow of persons and goods, thus quickly crossing the borders and transferring the crime along with all dangers that it carries with. Such benefits for crime and its perpetrators offer unlimited possibilities for achieving their goal to gain profit. As a consequence, the number of criminal acts is rising along with the organized elements and international characteristics. The data and practice shows that the number of conducted criminal proceedings in absence of the accused person is growing because they are not available for the authorities of criminal justice. In this context we would add that the practical experience of the authors confirms that in the past years most of the issued international warrants in the Republic of Macedonia are for persons convicted in absentia. This paper is an attempt of the authors to highlight some of the innovations that are practiced in tackling crime within the EU and suggests the need for their daily use out off the Union, by presenting the existing legislation in the Republic of Macedonia, Austria and Croatia, which regulate the field of the international search of fugitives, the application of special investigative measures in the field of searches and the need for establishing special search units and a network for international searches. The paper shall be an initiative for further researches and debates on this topic in order to find appropriate solutions to deal with crime and its perpetrators and successfully initiating, conducting and completion of criminal proceedings.

**Key words:** International cooperation, international arrest warrant, European network of fugitive active search teams, special investigative measures, fugitives.

### **I. Introductory remarks**

Crime as a phenomenon that follows the society and its development over time changes only its forms and intensity. Using the benefits of open borders, the development of science, technology, communication devices and rapid transport, the perpetrators today easily change their place of residence and thus the place of

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committing the offenses or their escape from one country to another, in order to avoid the criminal justice. Modern crime and its characteristics<sup>1</sup> do not know obstacles and boundaries which is why it essentially complicates its detection and identification.

As a consequence of these conditions on one hand we have the constantly growing number of committed crimes, fugitives, issued international warrants, commenced or completed criminal proceedings without the presence of the accused and on the other hand, the discovery of the perpetrators of crimes and the persons who are subject of search, are not at the desired level.

One of the reasons for the inefficiency lies in the inability of the prosecution authorities to exploit fully the benefits of overall growth, primarily due to the existence of obstacles from regulatory or financial points.

In order to prevent and combat crime a number of international and national legal acts are adopted, several different tools for search are practiced, international bodies, institutions for criminal prosecution and their specialized units were established.

Significant place and role in tackling crime has the search for persons and objects as part of the police activities in the area of tracing the object of search. The search procedure is as complex operational process that requires application of a large variety of measures and activities, especially when the search takes place on the territory of several countries. To achieve this goal, the search is based on the law of several police authorizations, but not the possibility to use the special investigative measures for the purpose of search.

## **II. Instruments for international search of fugitives**

The warrant as an instrument for search of fugitives is issued by the judicial authority in a written form with a view to locate and arrest the person subject of a criminal procedure or person wanted for serving an imprisonment sentence.

The international arrest warrant is the base for arrest of the internationally wanted persons abroad with a view to their extradition to the country that issued the international warrant. Having in mind that the issued international warrant in itself does not contain a request for extradition this procedure follows the act of deprivation of liberty. That is the difference between the IAW and the European arrest warrant because the EAW in itself contains all requests for the whole surrender procedure. Internationally, the police authorities practice two instruments for international search of fugitives known as Interpol red notice and European arrest warrant.

### **1. Interpol Red notice**

The red notice is considered as the first and the oldest international instrument available to the police in dealing with fugitives, which are subject of search with a view to extradition.

Within Interpol, depending on the subject of search, eight different notices can be established. Each one is marked with a special color<sup>2</sup> that gives the explanation of its purpose.

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<sup>1</sup> A constant increase in all its forms, its quick adaptability to new social conditions and changes, use of brutality and violence in its execution, growth of recidivist offenders, its growing internationalization or overcoming national borders and action of criminal organizations as well as legal world trade, banking and other financial corporations.

<sup>2</sup> "RED Notice" is intended for persons who are subject of an international search in order to arrest and extradite, recognized by Member States as a legal basis for provisional arrest and extradition custody.

Interpol, for the purpose of search of fugitives, with a view to their arrest and extradition, issues two types of international arrest warrant: - „red notice" for search and arrest of fugitives subject of criminal proceedings<sup>3</sup>; - and the red notice for search of fugitives who are already sentenced and have to serve an imprisonment sentence<sup>4</sup>.

The red notice is issued and valid on the territories of its member states and is also used by the EU Member States in relations with non-EU countries. The base for its issuing is the existence of an arrest order. Worldwide, the red notice is considered as the only instrument with a wide application and with it there are no limits to trace fugitives.

## **2. European arrest warrant**

Freedom, justice, control of the state borders, internal security, prevention of terrorism and transnational organized crime are considered indivisible within the EU. The protection of freedom, security and justice require a multidisciplinary approach. The joint operation of the criminal justice authorities, particularly police, prosecution, courts, customs, border police are essential hypothesis for successful action.

The abolition of internal borders within the EU, cause the need of increasing the cross-border cooperation in order to prevent cross-border crime with already existing minimum legal standards.

The grounds for establishing the European arrest warrant are in the EU Treaty in the area of police and judicial cooperation. The decision<sup>5</sup> for the European arrest warrant was brought and adopted on 13<sup>th</sup> June 2002 and entered in force on 1<sup>st</sup> January 2004. Member States of the European Union were required to introduce it into their national legislation. The EAW is valid on the territory of the European Union, and its purpose is to replace the long extradition procedures with a new and effective way of surrender of the suspected offenders who fled abroad and for those convicted persons who escaped from the country, for their forced return from one Member State to another in order to conduct the criminal prosecution or execution of sentence.

Establishing the EAW meant increased mutual trust and cooperation between the authorities in charge to ensure the rule of law which among other meant, respecting the principle of mutual recognition of judicial decisions, their enforcement as soon as possible and easier in other Member State and replacement of the

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"BLUE Notice" serves to gather additional data on the perpetrators of crimes, to locate, establish identity or determine residence address.

"GREEN Notice" gives alerts for people registered criminals and their criminal activities, which could be repeated in any of the Member States

"YELLOW Notice" means search of missing persons and minors, or to help identify persons who can not identify themselves.

"BLACK Notice" is actually a request for data and identification of unidentified corpses

"ORANGE Notice" - warning the police, public service or international Organization for certain potential terrorist threats, new types of weapons, bomb packages etc.

"PURPLE Notice" - reports of "modus operandi", procedures, objects use by the perpetrators etc.

"UN SPECIAL NOTICE" - notices for groups and individuals who are subject of proceedings before the International Criminal Court (Al Qaeda and Taliban).

<sup>3</sup> The basic condition for the its issuing is the height of the punishment that can be imposed of at least 12 months.

<sup>4</sup> The basic condition for its issuing is the height of the imposed sentence which has to be at least 4 months

<sup>5</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

procedure for extradition with a procedure for surrender between competent judicial authorities.

The EAW offers several other advantages over the Interpol red notice: - Simplified procedures; - After fulfilling certain conditions, the decision is carried out by judicial authorities; - The EAW contains the request for the search, the request for arrest, the request for determination of the detention and the request for surrender; - Shortening the duration of procedures for extradition and faster procedures by setting deadlines for decisions and surrender of the person; - Determination of criminal offenses for which it may be issued and executed; - Abolition of political influence when making final decisions for surrender; - Surrender of own nationals; - Ensuring a balance between efficiency and strict guarantees on the human rights of persons deprived of liberty; - Reduced grounds for refusal<sup>6</sup> or execution.

### **III. FAST n ENFAST - Fugitive active search teams and European network of fugitive active search teams**

Tracing fugitives is of particular importance for the successful conduct of criminal proceedings or for the execution of criminal sanctions. Despite faster technical development, new technology and modernization of communication, tracing fugitives often is going by difficulties, especially with access, methods and techniques used by the authorities of criminal justice prosecution.

The new forms, resources and methods used by fugitives to successfully avoid criminal justice, require adequate response of the criminal justice authorities. Based on the fact that fugitives are mobile, fast changing of their place of residence, often beyond the borders where the criminal proceedings are undertaken, tracing fugitives requires a multidisciplinary approach and efficient international cooperation. Their successful tracing seeks fast, direct and immediate international cooperation in the field of international search of fugitives.

For this purpose in 2010 during the presidency of Belgium, within the European Union, appeared the idea<sup>7</sup> for the formation of national teams for active search of fugitives - FAST<sup>8</sup> and European Network of teams for active search of fugitives – ENFAST<sup>9</sup>, within the police authorities in the Union. In countries where there are no conditions for the formation of these teams the establishment of a single contact point for the active search for fugitives is recommended. The intention was to achieve a closer and more effective cooperation between the Member States of the European Union in terms of tracing fugitives for criminal proceedings or the execution of criminal sanctions. The European arrest warrant served as a legal framework for the functioning of the FAST teams.

The Decision for establishing the network<sup>10</sup> stated that it will provide ideal opportunities to exchange information and practices in the area of search for fugitives, emphasizing the example of the Belgian FAST team on the fourth meeting for the mutual evaluation of the European arrest warrant by the Commission.

To achieve the goal in cases when it comes to active international search, a creation of an informal network with a mission of locating, tracing and arrest of fugitives, subject to an international arrest warrant was planned.

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<sup>6</sup> The principle "ne bis in idem"; amnesty; law boundaries; age of the person; life imprisonment; death penalty

<sup>7</sup> 'Council Resolution on ENFAST, No. 15382/10 ENFOPOL 300 COPEN 233 CRIMORG 187

<sup>8</sup> FAST - Fugitive active search teams

<sup>9</sup> ENFAST - European network of fugitive active search teams

<sup>10</sup> 'Council Resolution on ENFAST' (No. 15382/10 ENFOPOL 300 COPEN 233 CRIMORG 187

There for ENFAST represents a network of national contact points for cooperation in the field of international active search of fugitives thus in dealing with fugitives especially international, within the Union. The network allows access on searching teams, practicing the principle 24/7. Allowing direct and immediate cooperation of the special teams for active search in tracing international fugitives makes the network unique. The team members are considered experts in their field.

Basically, the network should enable international cooperation and coordination in the cases of an international search for fugitives on the territory of the Union, increasing the security in it. Among the goals of the network is also raising the awareness of the public that its existence will contribute to a higher level of safety in the Union.

Five years after its establishment and functioning within the EU, it was established that the fugitives are often located outside the borders of the Union. This entailed the need to expand the network to third countries which are not members of the Union. This is the reason for the possibility of accession of FAST teams from third countries into the ENFAST network. The teams outside the EU have observer status without the right of voice, which however does not limit the possibility of cooperation.

The recognition of the FAST teams is consisted in the possibility of operational actions of the team on the whole territory of the country from where the team comes from or at least the FAST team to be in position to coordinate measures and actions undertaken to locate and arrest fugitives. A feature of the FAST team is using special instruments in searching for fugitives. One of the biggest benefits, as well as recognition of the FAST teams are the use of the possibilities offered by new technologies in locating, tracking down and arrest of fugitives.

Considering that the FAST team is working on specific cases<sup>11</sup> of search of fugitives, who have committed serious crimes, and that their goal is fast, active and effective search in the shortest possible period of time, the use of special investigative measures as an instrument is a necessity. For this purpose, within countries of the Union where FAST teams are functioning, a legal base for their use is created in a form of data collection and information that is exclusively used for the search of fugitives. The justification of the practice use of those measures by the FAST teams, are confirmed by the authors by analyzing statistical data<sup>12</sup> of successfully concluded FAST cases.

FAST - "According to the definition adopted by the FAST teams and ENFAST network, only cases in which a FAST team or the national contact point of FAST will submit a request for assistance in locating and arresting a fugitive to another FAST team or contact point, and thus the case is successfully finished by arresting fugitive, can be considered as the case realized by the FAST team" In 2010 after the establishment of the European fugitive active search teams network three cases have been realized in which all fugitives were arrested, based on submitted requests from two countries and deprivations of liberty took place on the territory of two countries. During 2011 at the request of eleven FAST teams from the same number of countries 58 arrest were executed on the territory of 23 countries. In 2012 the request for assistance declines and based on the requests of 7 countries 45 arrests were realized on the territory of 16 countries. In 2013 the number of arrest has seen a significant increase and in the demand of 22 countries 220 arrests were realized on the territory of 26 countries. In 2014 the requests have been submitted by 22 countries and the number of arrests rose to 223 on the territory of 28 countries. The growth of

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<sup>11</sup> Criminal acts foreseen in article 253 from the Code for Criminal Procedure for whom special investigative measures can be used

<sup>12</sup> ENFAST Conference June 2015, Berlin, Germany..

cooperation and success in the last two years is due to the fact that the FAST teams have been noticed by the authorities of criminal justice, the use of unified methods for handling is been established and the trust for submitting applications for assistance in finding and arresting the fugitives is been increased.

#### **IV. Legal regulation of the special investigative measures in the Republic of Macedonia, Austria and Croatia**

Legal traffic between countries, international organizations and institutions on international level is diverse and complex since it arises from the complex and varied relationships as a result of rapid transport of people, goods, capital and other tangible and intangible assets, regardless of no existence of borders. In accordance with this, the foreign element in law relations is becoming increasingly present. This situation requires knowledge of domestic legislation as well as international treaties and their compliance.

In order to promote more effective cooperation in preventing and dealing with transnational organized crime, the United Nations Convention against Transnational Organized Crime pays particular attention to the application of the special investigative techniques. Namely, Article 20 states that in accordance with domestic law while respecting the principles of sovereignty and equality of states, the appropriate use of controlled delivery and use of other special investigative techniques may be allowed.

The Republic of Macedonia as a member of the United Nations and the Council of Europe and as an aspirant for membership in NATO and EU, in order effectively to tackle crime, based on the Article 118 of the Constitution of the Republic of Macedonia has ratified a number of international conventions, protocols and other legal acts<sup>13</sup>, which became an integral part of the domestic law and order.

In most of their content the need for increasing the mutual cooperation and wider practicing of international legal assistance in criminal matters is emphasized. Besides them, the legal framework governing the search of fugitives, special investigative measures and mutual legal assistance in the Republic of Macedonia consists a number of laws, regulations<sup>14</sup> and bilateral agreements.

The measures to ensure the presence of persons for successful conducting of the criminal proceedings, their retrieval and security, the use of special investigative measures, the international search and extradition as the oldest form of international legal assistance in our country, are provided by the provisions of the Code of Criminal procedure, the Law on international Cooperation in Criminal Matters and a number of bilateral agreements.

According to the provisions of the Code of Criminal procedure, the presence of persons for successful conducting of the criminal proceedings, their locating and obtaining their presence have important significance. To meet these requirements and for successful conducting the criminal procedure a number of diverse measures are determined and divided in two chapters: Chapter XVI - Measures to ensure the

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<sup>13</sup> The UN Convention against transnational organized crime, in June 1999 ratified the Convention on the Transfer of Sentenced Persons, the European convention on extradition, the European Convention on Mutual Assistance in Criminal Matters.

<sup>14</sup> Criminal Code published in,, Official Gazette No 37/96 with amendments; Code of Criminal Procedure,, Official Gazette of RM number 150/2010 with amendments; Law on International Cooperation in Criminal Matters,, Fig. Gazette number 124/2010; Police Law,, Official Gazette of RM 114/2006 with amendments and more laws and bilateral agreements

presence of persons<sup>15</sup> and Chapter XVII - Measures to trace and secure persons and objects<sup>16</sup>.

In regards to the above if otherwise it is not possible to provide or collect information and evidence necessary for the criminal procedure, in Chapter XIX the law provides the application of special investigative measures<sup>17</sup> for certain crimes.

According to the Article 255, the measure may be determined against persons who have committed crimes, persons who take actions to carry out criminal acts or persons preparing to commit crimes provided in the Article 253<sup>18</sup>. All data, reports, documents and objects obtained in this way based on the conditions and in the manner prescribed by the law may be used as evidence in criminal proceedings.

The grounds and conditions for sending out international arrest warrants in our country are regulated in Chapter XXXVII - Warrants and notices according to Articles 558 to 564.

The adoption of the new Law for international cooperation in criminal matters<sup>19</sup> for the first time introduces new tool in the extradition procedure by allowing the simplified extradition procedure. The new tool allows avoiding political influence when making final decisions and reduces the duration and cost of the extradition procedure. The Law<sup>20</sup> provides under certain conditions the use of measures such as special investigative measures and the establishment of joint investigation teams.

The problem of providing presence of persons in the proceedings, and thus the search for them is becoming more serious. These conditions impose the need of further intensification of activities for reforming the system of criminal justice in our country. In this connection the Parliament by decision from 26th December 2003 adopted an amendment XIX of the Constitution which legalized the measure “wiretapping” and the amendment became a base for an introduction of special investigative measures in the CCP. Furthermore the adoption of amendment XXXII made new constitutional changes giving the possibility of extradition of our own nationals<sup>21</sup>.

The adoption of new law regulations and amendments are considered as a step towards adjusting our legislation with the EU and are consistent with the strategic commitment of the Republic of Macedonia for the EU and realization of commitments to implement continuous, intensive and effective reforms in the relevant areas with which domestic criminal legislation will incorporate the European standards.

The Republic of Macedonia today uses the traditional extradition procedure and accepting only the international arrest warrant of Interpol. The Interpol Red Notice for our country is the only form of international search of fugitives. Existing

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<sup>15</sup> Invitation, security measures, warranty, apprehension, arrest, detention, house arrest, detention and short-term detention

<sup>16</sup> search of premises, people and objects, seizure of objects or property, temporary seizure of computer data, letters, telegrams and other shipments, obtaining information on bank accounts and other financial transactions

<sup>17</sup> Surveillance and recording of telephone and other electronic communications, place of residence, indoor or enclosed space, secret surveillance and recording of persons and objects, search and secret insight into a computer system, generated insights into the telephone and other electronic communications, simulated purchase of items and giving and receiving a bribe, controlled delivery and transportation of persons and objects and others

<sup>18</sup> But not for persons subject to an international arrest warrant in accordance with the applicable legislation

<sup>19</sup> published in the Official Gazette No 124/2010.

<sup>20</sup> Chapter II - International Legal Assistance

<sup>21</sup> ...to other countries with whom our country has a bilateral agreement for handing over of own nationals.

legislation that govern the use of special investigative measures does not accurately predict the use of this measure in the search for fugitives, although fundamentally it comes to collecting data and evidence for persons, who are suspected or finally sentenced of committing crimes. In this way, in order to trace them and to ensure their presence in the criminal procedure, this type of measures can not be used.

Regarding the positive effects of the new form of organization of searches within the EU, by the decision of the Minister of Interior in July 2015, the Section for International search of persons within the MOI - IPCD, was appointed as a FAST team in the Republic of Macedonia and a contact point for ENFAST in our country. The Section has a number of employees and adequate technical equipment, which is a base for cooperation with other FAST teams.

Having in mind the above and in order to continue the successful cooperation with fugitive active search teams in the EU, the FAST Team of the Republic of Macedonia applied for membership in the ENFAST network. On 23.11.2015 the Macedonian FAST team received a reply that our application is accepted by the ENFAST Core Group<sup>2223</sup>.

Introduced innovations in the area of international search of fugitives within the EU presupposed appropriate changes in national normative acts in which search is provided and establishing the special fugitive units.

The search, measures and activities undertaken to trace the perpetrator of crime in Austria are regulated by the Code of Criminal Procedure<sup>24</sup>, the Police Code<sup>25</sup> and the Code for Execution of Sanctions<sup>26</sup>. With proper modification of the existing legislation the possibility of using special methods and techniques is provided in order to identify and arrest the inaccessible offenders who may later become a subject of an international target search<sup>27</sup>. This type of measures can be targeted also to individuals who in any way assist the perpetrator to hide or escape, or to hide assets, objects or evidence of crime. In order to locate, find and arrest a person who is subject of search, members of the FAST team can use special investigative measures as an instrument for a successful search. Acting in this way represents also a base for submitting requests to the FAST teams of other countries to extend the search beyond the borders of the Republic of Austria.

The same way is being used with the requests received from foreign FAST teams. In support of the above we would point out that the provisions of the CCP which provide the use of special investigative measures in FAST cases; - the Article 130 provides "observation"<sup>28</sup>; the Article 134 provides measures for control of letters,

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<sup>22</sup> Constituted from representatives of eight countries members of ENFAST

<sup>23</sup> In April 2016 on the Second Annual Conference of ENFAST in Croatia it should be confirmed by voting of all member countries of ENFAST.

<sup>24</sup> Strafprozeßordnung 1975 (StPO) StF: BGBl. Nr. 631/1975 (WV)

<sup>25</sup> Sicherheitspolizeigesetz (SPG) BGBl. Nr. 566/1991 zuletzt geändert durch BGBl. I Nr. 97/2014 (VfGH)

<sup>26</sup> Strafvollzugsgesetz (StVG) BGBl. Nr. 144/1969 zuletzt geändert durch BGBl. I Nr. 13/2015.

<sup>27</sup> Terms for a perpetrator of a crime to be subject of an international target search: - connection of the person sought with organized criminal groups in the country or abroad; - Major financial losses; - Intentionally causing the death of one or more persons; - Huge media attention; - Request from foreign law enforcement authorities (foreign FAST), if it is assumed that the person is in the country.

<sup>28</sup> Article 130 of the CCP Austria "observation", paragraph 1 - "... the determination of the place of residence"; paragraph 2 "...use of the technical equipment to support the observation"; paragraph 3 point 1 "... Support during the use of technical means (GPS device) of paragraph 2; - Observation is allowed "... investigation is possible for establishing contacts of other people with the requested person, with the aim to determine the whereabouts of the requested person or absence of accused person."



parcels and their contents<sup>29</sup>; and according to the provisions of the Article 135 the special measure can be used to determine the whereabouts of the wanted person.

According to the provisions of the CCP, in article 167 the search is considered as an investigative activity or the definition of search for persons says; "*Search for a person represents every investigative activity undertaken to determine the possible place of residence of the person and the arrest of the accused on the basis of orders issued by the public prosecutor,*" and according to the Article 168 the search „*it can be undertaken when the place of residence of the wanted person is unknown,*„ and for „*deprivation of liberty of a person who is on the run,*„

The use of special investigative measures in the search for persons, subject of an international arrest warrant in Austria is further regulated in the Law of Execution of Sanctions. There in Article 3 paragraph 3 point 3 is stated that: - in cases in which a convict person is on the run or when his place of residence is unknown "*observation or surveillance and undercover investigations*" can be used to locate and retrieve him. The Police Law of Austria regulates the search in Article 24, paragraph 1, which states that: - "*members of the security services are obliged to investigate the place of residence of the person subject of a warrant issued for its arrest.*" Article 53, paragraph 5 provides that: - "*members of the security services can investigate and processed ... for the purposes of the search.*"

According to the provisions of Article 332 of the Code of Criminal Procedure<sup>30</sup> of the Republic of Croatia, if the investigation can not start in any other way or it would be covered with major difficulties due to a reasonable suspicion that the person committed an offense or together with others participated in committing crimes provided in Article 334 of CCP, special evidence measures<sup>31</sup> may be determined, by which temporarily certain constitutional rights of citizens will be restricted.

Measures can be defined and against persons assisting the perpetrator of the crime by transferring the announcements and messages, by providing telephone service or other communication device or hiding the perpetrator and the resources by which the crime was committed. Article 334 defines the criminal offenses that may apply use of special evidence measures.

The Police Code<sup>32</sup> of the Republic of Croatia in section III regulates the police authorization and the general rules for their application. Among other authorization in Article 13 is stated that as police authorizations are considered - *the search for persons and objects* (paragraph 6), *checks of the contacts established by telecommunications* (paragraph 13) and *covered police operations* (paragraph 21).

The legal decision in Article 68 clarifies that in certain cases the police officer may request, from the provider of telecommunications, authentication of data for certain telecommunication addresses which among other things means

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<sup>29</sup> - Article 134, paragraph 2 observation of data in letters and emails, paragraph 3, monitoring and review of the content of letters and messages; ... in accordance with the telecommunications law. Article 135 paragraph 2 point 4 when it is expected from the investigation of the content of the letters and messages to establish the whereabouts of the requested person ;,

<sup>30</sup> Code of criminal procedure, revised text, NN 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/144.

<sup>31</sup> The group of measures are consisted of: surveillance and technical recording of telephone conversations and other communication interception, collection and recording of computer data entry into premises to enable implementation of surveillance and technical recording, secret surveillance and technical recording of persons and objects, use undercover investigators, simulated sale and purchase of items and giving and receiving bribes, giving simulate services or concluding simulated deals and controlled transport and delivery of objects of crime.

<sup>32</sup> Police Code, revised text NN 34/11, 130/12, 89/14, 151/14, 33/15

determining the places where the person is at the moment of establishing the contact and identifying characteristics of the used device.

The measure is implemented without a court order by submitting a request, which is previously approved by an authorized person of the criminal police. The provisions of Article 80 provide that police officers in the course of the investigation can use the measure "*undercover police operations*" which includes observation or surveillance, monitoring and ambush. The measures are carried out without a court order because consent for the use of this measure is issued by the Director General.

## V. Proposals

Having in mind the effects that can be caused by crime and the fact that the application of classical approaches and methods against a new forms of crime have proved to be insufficiently effective, the dealing with crime at all levels, especially with transnational organized crime at national and international level is becoming a top priority. Defining and creating a global system to combat organized crime is one of the models for tackle with it.

In this direction is the constant search for relevant legal grounds for acting and the initiating of several types of measures and activities for their practical implementation in mutual cooperation.

New forms of organized crime as a complex problem and dealing with it, requires a wide range of activities to be undertaken primarily on national level. Part of the institutional measures that offer tremendous opportunities in the international search for fugitives is the use of special investigative measures for the purposes of search.

The experience in the past shows that in the Republic of Macedonia part of the special investigative measures can be used to locate and retrieve the wanted persons in a procedure which is complex and long-term and as such, it is almost unused. Despite this situation in cooperation with foreign police authorities, several international cases of active international search have been successfully finished.

The proposed amendments provide addition to existing articles in the CCP in which the use of special investigative measures is provided and in the Police Law in the area of police authorizations. This will also be a way to set up a legal framework for use of special investigative measures by the FAST team.

Considering the so far achieved results of FAST teams, in context of the performed comparative analysis of the legislation governing the application of SIM in Croatia and Austria, the practical experience of the authors in this area and the positive discussions on this subject with judges and prosecutors, which directly participate in the application of special investigative measures, we propose the following amendments of the Law on Criminal Procedure:

In Article 252, paragraph 1 after the text „...for a successful criminal procedure" to add the text "*and data for a person subject of international arrest warrant...*".

In Article 255 the amendment would consist in adding new text to point 4 of paragraph 1, which would be: "*who is subject of an international arrest warrant for a criminal act under the Article 253 of this law.*" In this article an amendment would be made in paragraph 2 by adding new text after the word "tool" which would included "*... or hiding / concealing or in any way assist a person referred to a person in paragraph 1 point 4 of this law*". The latest amendment of the Code of Criminal Procedure would be in Article 261 will be added paragraph 2 which would be: - "*The data which will be provided for the duration of the measures in conjunction with*

*Article 255 paragraph 1 point 4 of this law after finding and extradition of the wanted person will be deleted."*

Accordingly to the amendments of the Code of Criminal Procedure we propose amendment to the Police Law in the area of police authorization where two more police authorizations should be add following the example of the Croatian Police Law, which would be the following: - *the use of undercover police operations;* and *verification of the established telecommunications contacts.*

The above mention proposals are with a goal to make our national legislation closer with the legislation of the EU law in the field of searches. The introduction of innovations in the operation is aimed at successful location, tracing and arresting persons who are subject of an international search, and thus the commencement or completion of criminal proceedings and execution of criminal sanctions, with a goal for more effective dealing with the perpetrators of serious crimes and the crime in general.

## **VI. Conclusion**

Crime is on a constant rise<sup>33</sup>, and the desired efficiency in preventing and suppressing with the existing national and international legal acts and instruments, forms of organization of criminal investigation and methods of operation does not give the expected results. Discovering the unknown perpetrators that committed a crime and those who are subject of search is becoming a more difficult and complex task.

This situation caused the need of lifting the existing policies of prosecution to a higher level of efficiency and organization, requires an introduction of new methods and tools in handling, more efficient cooperation and increased trust. Crime prevention as a continuous measure of the legal states requires joining the efforts of the authorities of the criminal justice, constantly upgrading the legal framework, organizational and functional commitment of state authorities responsible for combating crime. The effectiveness of the authorities involves the creation of appropriate legal mechanisms for prevention and repression and the adoption of appropriate measures and instruments for successful detection and prosecution of offenders. Effective combat imposes the need for higher use of special investigative measures in order to search.

Daily performance of assigned tasks causes the need to use special investigation techniques in the Republic of Macedonia following the example of the EU Member States. Without this the national FAST team will not be able to respond positively to the submitted requests from foreign FAST teams to undertake measures on the territory of our country.

This situation causes the need for opening this topic for the scientific and professional public for the use of special investigative measures in the field of international search for persons.

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<sup>33</sup> The reasons for these situations are growing and among them are: the large number of international and national legal acts that regulate this matter, their non-compliance, ineffective cooperation and mistrust between authorities and institutions of prosecution at national and international level, having more tools to search for persons internationally, each with its own advantages and disadvantages, inadequate organization of the services on national level, ie the existence of services that can not confront the challenges of the new forms of organized crime adequately, the existing constraints conditioned by the regulatory or financial nature primarily on national level do not allow the appropriate application of modern tools, methods and techniques in the process of successfully tackling crime, and therefore the fugitives especially those that are the subject of an international search.

## **Bibliography**

1. Stojanovski M. Sasho, (2014), Fugitives and extradition, Skopje.
2. Deflem Mathieu, (2002), Policing world society: "Historical Foundations of International Police Cooperation", Oxford University Press, November.
3. Yamold, Barbara M., (1991), International fugitives: A new role for the International Court of Justice", First published in 1991, Prseger Publishers, One Madison Avenue, New York,
4. Deen-Racsmany, (2007), Z. Lessons of the European Arrest Warrant for Domestic Implementation of the Obligation to Surrender Nationals to the International Criminal Court, Leiden Journal of International Law, 20,
5. Wilt, H., (2005), „The European Arrest Warrant and the Principle „ne bis in idem“ in Blextoon's book, retail eds.,„Handbook on the European Arrest Warrant“, The Netherlands and the Authors, T-M-C Asser Press, The Hague;
6. Zharkovic Milan (1993), „Search of perpetrators of criminal acts“, Master dissertation, Law faculty Belgrade;
7. Dojchinovski Metodija (1999), „Usage of measures activities of military police and experiences in search activities of search services within the Army of the Republic of Macedonia., Master dissertation, Skopje;
8. Angeleski Metodija, (2007), „Criminal tactic I, Tactic of conducting operative measures“, Скопје;
9. Bassioni M. Cheriff, (1996) International Extradition: United States Law and Practice, Oceana Publications;
10. Blakesley Christopher (1997) „The law of international extradition a comparative study,, Dugard and Wyugaret;

## **Legislation**

- Code of Criminal Procedure of the Republic of Macedonia
- Code of Criminal Procedure of Austria
- Code of Criminal Procedure of Croatia
- Code for international cooperation in criminal matters of the Republic of Macedonia
- Criminal Code of the Republic of Macedonia
- Criminal Code of Austria
- Criminal Code of Croatia
- Police Code of the Republic of Macedonia
- Police Code of Austria
- Police Code of Croatia
- European Convention on Extradition and its Protocols
- Council Framework Decision (2002/584/JHA), of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States;
- European Union, Convention Implementing the Schengen Agreement The Convention on simplified extradition procedure between the Member States of the European Union, Council Act of 10 March 1995;
- The Convention relating to extradition between the Member States of the European Union, Council Act of 27 September 1996;
- The United Nations Convention against Transnational Organized Crime 2000.;
- The Schengen Convention

## **Internet sources**

- <http://www.interpol.int/Public/Wanted/Default.asp>
- <http://moi.gov.mk/DesktopDefault.aspx?tabindex=0&tabid=178>
- [www.bmi.gv.at/cms/bk/\\_fahndung/\\_result.aspx?b=MOST+WANTED](http://www.bmi.gv.at/cms/bk/_fahndung/_result.aspx?b=MOST+WANTED)
- [http://www.ejn-crimjust.europa.eu/ejn/EJN\\_StaticPage.aspx?Bread=2](http://www.ejn-crimjust.europa.eu/ejn/EJN_StaticPage.aspx?Bread=2)
- [http://www.europarl.europa.eu/summits/tam\\_en.htm](http://www.europarl.europa.eu/summits/tam_en.htm)
- [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/fight\\_against\\_organised\\_crime/l33125\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_organised_crime/l33125_en.htm)
- <http://www.ejn-crimjust.europa.eu/ejn/>
- <http://conventions.coe.int/Treaty/en/Treaties/Html/090.htm>
- <http://www.krimi-homepage.de/Kripo/Kriminalistik/kriminalistik.html>