

IMPOSITION AND ENFORCEMENT OF FINE IN THE MACEDONIAN SENTENCING SYSTEM

Abstract

The paper analyzes the imposition and enforcement of fine in the Macedonian sentencing system. The paper defines the fine and gives a brief overview of the advantages and disadvantages of fine, then, the conditions for imposition and enforcement of fine according to our legislation. In a separate chapter, are presented data of the imposition and enforcement of fine to individuals as a main sentence, fine as additional sentence and suspended sentence of fine. Also, imposition and enforcement of fine regarding the type of criminal offence and the court of first instance that imposed the fine is subject of analysis. The paper does not analyze the data of imposed and enforced fines to legal entities since there are no official statistical data regarding this issue. The author concludes that despite all the criticism, fine is more effective than other sanctions especially imprisonment since imprisonment has a negative effect on future recidivism of an offender. Fine provides the principle of individualization of sanctioning, next, it is more economical, also, has a minimal effect on the offenders` family. In practice fine is among those sentences that are most often imposed. In total sanctions applied in our country, fine represents more than 20% with some exceptions over the years that do not significantly alter this ratio, and in total sentences imposed fine accounts for more than 40%. Also, since in most cases fine is substituted with imprisonment which contradicts the main purpose of fine – avoiding negative effects of short-term imprisonment, courts and judges for execution of sanctions, should make greater efforts, better organization to execute imposed fine sentences.

Key words: fine, sentencing, suspended sentence, offender, legal entity, enforcement, penal policy

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Introduction

One of the major challenges facing those who carry penal policy is how society should react against those who break the law. Given the steady growth of rates of crime, this is an issue that has attracted attention for years. The choices of sanction that will achieve justice, special and general prevention, should make it clear to the offender that crime "does not pay".

Appropriate fight against crime as the main goal of the criminal policy requires greater efforts in the study of the etiology of crime in society and application of new, additional and improved measures than the existing ones in order to achieve the objectives of the penal policy - combating crime. No state has succeeded to eradicate crime as negative and dangerous real social event, but each state undertakes measures for control and prevention, which are integrated in the penal policy as part of an overall policy, aimed to keep the crime under control. It cannot be expected that a cure will be found for antisocial and criminal behavior, as it cannot be expected to find a solution to the problem of crime. The reality is far from a fairy tale. The truth is that in the world we live there are people that commit crimes, there are victims of a crime, and there is a penal system that produces a significant number of criminals. What we need to strive is to find a solution for tackling the causes of crime, to take actions that will reduce it to a level that will be acceptable and easy to control. A unified approach to combating crime certainly does not exist, it is necessary to take a number of interventions to maximize effectiveness.

Criminal policy is a discipline that represents the unity of theory and main political, constitutional and legislative determinations against criminal activities, as well as a set of practical measures for their control and prevention. It is a practical immediate action to prevent crime using a wide range of preventive and repressive measures, methods and procedures that implement certain subjects of criminal policy.²

The two basic types to combat crime are preventive and repressive action. Usually as combating crime are considered measures taken by the competent police, judicial and prosecutorial authorities, however, it is certain that preventive action through better social organization and effective solving of social problems, can significantly improve the situation in this area. However, parallel and coordinated implementation of prevention and repression is the only reality and perspectives in action to prevent and combat crime.³

² Сулејманов, З., (2001), *Криминална политика*, Графохартија, Скопје [Sulejmanov, Z. (2001), *Criminal Policy*, Grafohartija, Skopje.]. Kokolj, Mitar (2009), *Kratak osvrt na uslovljenost i pravce kretanja kriminalne politike na područjima posebno pogođenim raspadom bivše zajedničke države*, Naučni skup sa međunarodnim učešćem Sinergija, Univerzitet Sinergija, Pravni fakultet, Bijeljina. [Kokolj, Mitar (2009), *A brief review of conditionality and development directions of the criminal policies in areas particularly affected by the collapse of the former common state*, Scientific conference with international participation Sinergija 2009, Univerzity Sinergija, Law Faculty, Bijeljina].

³ Kokolj, Mitar (2009), *Kratak osvrt na uslovljenost i pravce kretanja kriminalne politike na područjima posebno pogođenim raspadom bivše zajedničke države*, Naučni skup sa međunarodnim učešćem Sinergija, Univerzitet Sinergija, Pravni fakultet, Bijeljina. [Kokolj, Mitar (2009), *A brief review of conditionality and development directions of the criminal policies in areas particularly affected by the collapse of the former common state*, Scientific conference with international participation Sinergija 2009, Univerzity Sinergija, Law Faculty, Bijeljina].

There is no doubt that the usual reaction to crime in many jurisdictions is punishment. But the issue is complicated in terms of choosing the type of sanction; whether the offender will be punished with imprisonment, fine, with some of the additional sentences or, today, increasingly popular alternative measures.

The system of criminal sanctions in the Republic of Macedonia is determined by the Criminal Code of the Republic of Macedonia (CCM).⁴ Thus, criminal sanctions include: sentences, alternative measures, security measures and educational measures whose execution is regulated by the Law on Execution of Sanctions (LES)^{5,6}

For crimes, criminal offenders may be imposed the following sentences: 1) imprisonment, 2) fine, 3) prohibition on practicing profession, performing an activity or duty, 4) prohibition on operating a motor vehicle, 5) expulsion of foreigners from the country and 6) prohibition on attending sports competitions.⁷

Alternative measures that may be imposed to perpetrators of the crimes are: 1) suspended sentence, 2) suspended sentence with supervision, 3) conditional suspension of criminal proceedings, 4) community service, 5) judicial notice and 6) house arrest.⁸

The offenders may be imposed the following safety measures: 1) compulsory psychiatric treatment and custody in a health institution; 2) compulsory psychiatric treatment in freedom; and 3) compulsory treatment of alcoholics and drug addicts; 4) medical and pharmacological treatment of offenders of sexual assault upon a child of up to 14 years of age.⁹

But the problem does not end with the type of criminal sanction that will be imposed on the offender. Next, to what should be paid attention in order to satisfy justice and fairness is the height of the criminal sanction. And, here comes the help of the goal of sentencing. There are several, rehabilitation, prevention (general and/ or special), incapacitation or disabling the offender from committing further offenses by removal of certain limbs of the body, or by imprisonment in a confined space, or the cruelest form - execution.¹⁰

In determining the goals of punishment in the Republic of Macedonia the starting point is the CCM, according to which goal of punishment despite the exercise of justice, is: 1) preventing

⁴ Кривичен законик на Република Македонија („Службен весник на Република Македонија“ бр. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14/2014, 27/2014, 28/2014, 41/2014, 115/2014 и 132/2014)) [Criminal Code of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14/2014, 27/2014, 28/2014; 41/2014, 115/2014 and 132/2014)].

⁵ Закон за извршување на санкциите („Службен весник на Република Македонија“ бр.2/2006; 57/2010; 170/2013 и 43/2014) [Law on Execution of Sanctions (“Official Gazette of the Republic of Macedonia” No. 2/2006; 57/2010; 170/2013 and 43/2014)].

⁶ See article 1 paragraph 2 LES.

⁷ See article 33 paragraph 1 CCM.

⁸ See article 48-a CCM.

⁹ See article 61 CCM.

¹⁰ Hirsch, von A. & Ashworth, A., (Eds.), (1998), *Principled Sentencing: Readings on Theory and Policy*, Hart Publishing, Oxford and Portland, Oregon McLaughlin, E. & Muncie, J., (Eds.), (2001), *The Sage Dictionary of Criminology*, Sage Publications, London.

the offender to commit crimes and its correction and 2) preventive influence to others not to commit crimes.¹¹

The system of enforcement of sanctions in its essence is oriented to provide: *first*, implementation of justice as an expression of retribution, or request for a fair and proportionate sentence, proportional to the committed crime; *second*, through the rehabilitation of the convicted person to achieve special prevention, or to prevent the convicted person to commit future crimes, and *third*, general prevention or preventive influence to others not to commit crimes. The execution of sanctions must be considered through the complexities of the goals set in the criminal law, because this is the only way to ensure performance and setting the principles of execution of criminal sanctions.

In setting the basic goal of execution of imprisonment, LES starts from the principle of special prevention and re-socialization of inmates in order to engage them in society with the best prospects for independent living in accordance with law. In order to achieve the purpose of execution of imprisonment, inmates should develop a sense of responsibility and are encouraged to adopt and actively participate in treatment during the execution of the sentence, motivated and focused on rehabilitation and development of positive character traits and abilities that would accelerate the successful return to society.¹²

According to the CCM, the purpose of alternative measures is not to impose a sentence for minor offences when it is not necessary for criminal protection and when it can be expected that the purpose of punishment can be achieved with warning of punishment (suspended sentence), a warning (judicial notice) or measures of assistance and supervision of the conduct of the offender on freedom.¹³

Furthermore, according to the CCM the purpose of security measures is to remove the conditions or requirements that can influence the offender to commit crimes in the future.¹⁴

Our criminal legislation, like many other jurisdictions, knows fine that can be applied as a main and as an additional sentence together with imprisonment.

The fine consists of imposing the convicted a public legal obligation to pay a certain amount to the state for committing a criminal offense.¹⁵

In criminal law theory and penological scientific thought, fine is one of the sentences that is considered eligible for successfully combating minor crimes,¹⁶ but also is subject to serious critical remarks. The advantages of this sentence are that it is a very convenient means of substituting imprisonment; hence, it is economical and beneficial sentence to society. The critical remarks directed to the fine are usually tied to the fact that it does not contain enough elements to achieve special prevention, and its enforcement does not take measures for rehabilitation of the convicted person, and by its content it is enforced and expressed in numerous retributive elements. Another critical remark is that fine is not fair since it affects poor offenders against

¹¹ See article 32 CCM.

¹² See article 37 LES.

¹³ See article 48 CCM.

¹⁴ See article 60 CCM.

¹⁵ Камбовски, В., (2004) *Казнено право - опит дел*, Скопје. [Kambovski, V. (2004), *Criminal Law – general part*, Skopje].

¹⁶ Арнаудовски, Љ., (1978), *Примарен криминалитет*, ИСППИ, Скопје. [Arnaudovski, Lj. (1978), *First time offenders*, ISPPi, Skopje].

whom it is most commonly imposed. In terms of its execution, fine is uneconomic because the costs of its execution are often great, especially in cases of its forceful execution.

But despite of its criticism, in practice fine is among those sentences that are most often imposed. In total sanctions applied in our country, fine represents more than 20% with some exceptions over the years that do not significantly alter this ratio, and in total sentences imposed fine accounts for more than 40%.¹⁷

The CCM sought the problem of determining the fine to objectify by introducing a system of "day fines". The system consists in determining the number of daily fines according to the level of injustice and guilt of the offender, and the amount of the daily fine is determined by the property and personal circumstances of the offender. So, the judge should weigh the number of daily fines and determines the amount of the daily fine.

The paper analyzes the advantages and disadvantages of fine, then, the conditions for imposition and enforcement of fine according to our legislation. In a separate chapter, are presented data of the imposition and enforcement of fine to individuals as a main sentence, fine as additional sentence and suspended sentence of fine. Also, imposition and enforcement of fine regarding the type of criminal offence and the court of first instance that imposed the fine is subject of analysis. The paper does not analyze the data of imposed and enforced fines to legal entities since there are no official statistical data regarding this issue.

Methods

For the preparation of the paper, in accordance with the above stated goals of the research and the determined subject and content appropriate basic and specific research methods are applied.

The normative method is used in the analysis of the positive domestic legal norms that regulate the imposition and enforcement of fine. Also, analytical legal interpretation of the legislation relating to this issue is used. Descriptive method found application in explaining and describing the subject of the research.

Besides the theoretical part, the paper contains empirical research that allows performing empirical verification of the theses that are set. For that purpose is used official statistics from the annual reports of the Directorate for Execution of Sanctions of the Republic of Macedonia for 2007-2011. Collected empirical data are interpreted by speculative and logical approach.

1.1 Definition of fine

¹⁷ See more at: Груевска-Дракулевски, Александра, (2012) *Казнената политика на судовите во Република Македонија во периодот 2007-2011*, во Македонска ревија за кривично право и криминологија, УДК 343, год. 18 и 19, бр. 1-2, 2011/2012, ISSN 1409-5327, Здружение за кривично право и криминологија, 2 Август С Штип, Скопје. [Gruevska-Drakulevski, Aleksandra (2012), *Criminal Policy of the Courts in the Republic of Macedonia in the Period 2007-2011*, Macedonian Review for Criminal Law and Criminology, UDK 343, Year 18 and 19, No.1-2, 2011/2012, ISSN 1409-5327, Association for Criminal Law and Criminology", 2 August S Stip, Skopje].

The fine consists of imposing the convicted a public legal obligation to pay a certain amount to the state for committing a criminal offense.¹⁸

Fine means payment of certain amount to the state, and that payment is not a civil obligation of the offender to the state.

The obligation to pay the fine means only payment of the amount of money to the state and not the victim, who claims his property, and is entitled to pursue it through civil proceedings.

Fine is always determined to a certain amount and cannot be determined in some other values that do not represent cash as payment, such as precious items or transfer of claims.

The application of the fine has a dual effect. Its application or its charging itself is a reduction of the property of the offender. At the same time the use of fine, contributes to the reduction of such property of the offender that have long-term consequences of reduced ability of the offender to spend goods and to satisfy his needs that have cash equivalent, i.e. consequences that would mean personal limit to the perpetrator.

Only under these assumptions can be achieved the special preventive purpose of this sentence. On the idea of reducing the living standards of the offender today appear very interesting proposals for long-term fine instead of paying a one-time amount, which would turn this sentence in a longer limitation of the rights of the offender.¹⁹

1.2 Advantages and disadvantages of fine

Since its appearance, fine is still subject to many critics. However, besides the negative criticism of fine, there are also many advantages on which is based more frequent application of the fine in the modern penal legislation. Fine is undoubtedly highlighted as an important factor in crime prevention and reduction of recidivism.²⁰

One of the criticisms of fine is usually related to the fact that it does not contain enough elements for special prevention of offenders. In its execution fine does not take measures and procedures for re-socialization of convicts. Also, fine have numerous retributive elements in its application.²¹

The second disadvantage of fine which critics emphasize is the view that it is a sentence which is not personal. In their view, the fine does not have personal character because its enforcement affects not only the offender, but also his family members. This is the case particularly if the offender has a family and if he is the only or the main source of income for their existence.

Furthermore, another negative feature of the fine is that it affects inadequately all perpetrators of same offense. Namely, fine differently affects offenders depending on their financial status. Therefore, its enforcement does not affect a convicted person who comes from a wealthy family compared to a convict who comes from a poor family with many members.

¹⁸ Камбовски, В., (2004) *Казнено право - опит дел*, Скопје. [Kambovski, V. (2004), *Criminal Law – general part*, Скопје].

¹⁹ *Ibid.*, p. 463

²⁰ See more at Костовска Момчилова, Верка, (2001), *Парична казна* (магистерски труд), Правен факултет „Јустинијан Први“ во Скопје, Скопје. [Kostovska-Momcilova, Verka (2001), *Fine* (master thesis), Law Faculty “Justinianus Primus” in Скопје, Скопје].

²¹ Арнаудовски Љупчо, (1998), *Пенологија: наука за извршување на кривичните санкции*, Правен факултет, Скопје. [Arnaudovski, Lj. (1998), *Penology: science for execution of sanctions*, Law Faculty, Скопје], p. 466

Supporters of this view believe that the imposition of fine violates one of the basic principles of nearly all criminal justice systems in the world, the principle of equality of citizens before the law.

The next disadvantage of the fine is the ability to manipulate the system by alienation of the offenders' property, or by its concealment or destruction that leads to impossibility for realization of charging the fine.

The fifth disadvantage refers to the cost of enforcement of the fine because often the cost of its forceful execution exceeds the amount of the fine.

Next disadvantage is that the fine is not effective in terms of general prevention, namely, it does not have effect on the development of social discipline that leads citizens to refrain from performing criminal acts; especially, when they are sentenced to a symbolic amount that does not have deterrence effect. On the contrary, when the fine is imposed in enormous amounts and does not take account the differences of the property of offenders, the fine does not affect the strengthening of social morality, but rather leads in the opposite direction with extremely negative effects. Hence, if the fine is imposed in higher amounts it can have effect of general deterrence.²²

Difficulties in enforcement of this sentence as well as its uncertainties are also negative features of the fine because fine is not always enforced voluntarily and within the period prescribed by the law. Replacement of the unpaid fine with imprisonment means return of the short-term imprisonment that is so much criticized and it is suggested to avoid it. Forgiveness of punishment is not fair, but its substitution with imprisonment is not very reasonable, considering that the court considered all the circumstances, thought that it was better sentence than the imprisonment, whose execution, however, is costly for the state.²³

Also, one of the major complaints regarding the fine is that it has benefit to the country or the fact that its imposition and enforcement brings financial benefits only to the state. And the victims of the crime their rights in respect to the compensation of the damage may exercise in long litigation which is usually very long and expensive.

The fine does not deter offenders from committing new crimes because they make `cost and benefit` analysis, namely, usually the benefits of the crime are larger than the costs even if they are caught, prosecuted and sentenced. Simply, the crime pays off.

As already mentioned in this paper fine has also positive features that actually are driving factors for the increasing application of the fine in the modern penal systems.

Namely, the advantages of the fine confront the noted disadvantages.

Regarding the complaint that the imposition and execution of the fine has no effect on re-socialization, supporters of fine believe that fine prevents recidivism because it affects greed of those who are guided precisely by these motives in committing crimes.²⁴

The proponents of fine note that none of the sentences have personal character. In this respect, imprisonment has greater negative effects on the family members than fine. And these

²² Сулејманов Зоран, (1999), *Пенологија*, Скопје: Графохартија. [Sulejmanov, Z. (2001) *Penology*, Grafohartija, Skorje.], p.340

²³ Костовска Момчилова, Верка, (2001), *Парична казна* (магистерски труд), Правен факултет „Јустинијан Први“ во Скопје, Скопје. [Kostovska-Momcilova, Verka (2001), *Fine* (master thesis), Law Faculty “Iustinianus Primus” in Skorje, Skorje], p. 18

²⁴ Сулејманов Зоран, (1999), *Пенологија*, Скопје: Графохартија. [Sulejmanov, Z. (2001) *Penology*, Grafohartija, Skorje.], p. 340

effects are primarily of a social nature, the convicted person to imprisonment is labeled as a criminal that has future negative effect on the possibility to find a job after serving the prison sentence.

Next, proponents of fine emphasize that the system of daily fine was introduced primarily to avoid the underlying weakness of the fine – that it inadequately affects offenders, depending on their financial status. Hence, the European legislation has abandoned the system of fixed certain fine and widely accepted the Scandinavian model known as a fine system of daily fines.²⁵ According to this system of daily fines, the daily fine is determined by the assets of the offender, and all in cooperation with relevant institutions in the country based on whose information the court can perceive the wealth of the offender. Hence, fine does not violate the principle of equality of citizens before the law.

The possibility to manipulate the system by selling the property to avoid payment of the fine is not aloud with the legal solution in the Law on Execution of Sanctions, according to which if a person convicted to a fine is unable to pay the amount of money specified in the sentence, than fine shall be replaced with imprisonment, so that each daily fine is replaced by one day imprisonment.

Regarding the cost of the fine supporters consider that no punishment is economical and they are still executed. Furthermore, there is a view that the fine is economical because its execution brings revenue to the state. And in terms of imprisonment, the fine is more cost effective because the execution of imprisonment demands a lot state budget funds.

Another advantage of fine over short term imprisonment is the fact that imposition and enforcement of fine avoids the negative impact on the convicted person.

Next, fine does not label the perpetrator as a criminal or at least not the same way as imprisonment.

All these advantages of the fine should be taken into account when selecting and determining the sanction of a perpetrator of a crime.²⁶

The fine provides the principle of individuation and is especially appropriate punishment for crimes against property and crimes committed by greed.

To conclude, fine is more effective than other sanctions especially imprisonment since imprisonment has a negative effect on future recidivism of an offender. Fine provides the principle of individualization of sanctioning, next, it is more economical, also, has a minimal effect on the offenders` family.

1.3 Conditions for imposition and enforcement of fine in the Republic of Macedonia under the Criminal Code of the Republic of Macedonia²⁷ and the Law on Execution of Sanctions²⁸

²⁵ Камбовски, В., (2004) *Казнено право - опит дел*, Скопје. [Kambovski, V. (2004), *Criminal Law – general part*, Скопје], p. 464

²⁶ Костовска Момчилова, Верка, (2001), *Парична казна* (магистерски труд), Правен факултет „Јустинијан Први“ во Скопје, Скопје. [Kostovska-Momcilova, Verka (2001), *Fine* (master thesis), Law Faculty “Iustinianus Primus” in Скопје, Скопје], p. 19

²⁷ Кривичен законик на Република Македонија („Службен весник на Република Македонија“ бр. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14/2014, 27/2014, 28/2014, 41/2014, 115/2014 и 132/2014)) [Criminal Code of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 37/1996;

1.3.1 Individuals

According to the provisions of the Criminal Code of the Republic of Macedonia (CCM) fine can be imposed as a main sentence and as an additional sentence with imprisonment or as a suspended sentence with a predetermined imprisonment.²⁹ If for a crime the law prescribes imprisonment or fine, only one of them can be imposed as a main sentence, except when the law prescribes that both sentences can be imposed.³⁰ In addition to the main sentence one or more additional sentences can be imposed under the terms of sentencing prescribed by the law. The law may prescribe mandatory imposition of additional sentence.³¹

For crimes committed from self-interest (greed), a fine as an additional sentence can be imposed even if it is not prescribed by law or when the law prescribes that the offender shall be sentenced to imprisonment or with a fine, and the court imposes imprisonment as a main sentence.³²

The fine is imposed in daily fines, and the number of daily fines cannot be less than five nor more than 360 daily fines. The court determines the number of daily fines according to the general rules of sentencing. The amount of the daily fine the court determines having in regards the property and the personal circumstances of the offender, usually starting from the pure daily income of the perpetrator, as well as the family and other obligations of the offender and his property at the time of the court decision. The smallest amount of a daily fine is one Euro in denars, and the largest 5,000 Euros in denars.³³

Court's decision includes the amount of the fine that is obtained by multiplying the number of daily fines by the determined value of daily fine. In order to determine the value of daily fines the court may request information from banks and other financial institutions, government bodies and legal persons who are required to submit the requested information and cannot invoke to the protection of business or other secret.³⁴

When a fine is imposed as an additional sentence besides imprisonment, the court shall determine the amount. Fine as an additional sentence cannot be less than 20 Euros in denars, or more than 5,000 Euros in denars.³⁵

Hence, for crimes criminal offenders may be imposed a fine of a minimum of 5 Euros to 360 Euros in denars. And the highest amount of fine imposed can range from 5,000 Euros to 1,800,000 Euros in denars.

80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008; 114/2009; 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14/2014, 27/2014, 28/2014; 41/2014, 115/2014 and 132/2014)].

²⁸ Закон за извршување на санкциите („Службен весник на Република Македонија“ бр.2/2006; 57/2010; 170/2013 и 43/2014) [Law on Execution of Sanctions (“Official Gazette of the Republic of Macedonia” No. 2/2006; 57/2010; 170/2013 and 43/2014)].

²⁹ See Article 33, paragraph 3 CCM.

³⁰ See Article 33, paragraph 4 CCM.

³¹ See Article 33, paragraph 5 CCM.

³² See Article 34 paragraph 2 CCM.

³³ See Article 38, paragraph 1, 2 and 3 CCM.

³⁴ See Article 38, paragraph 4 and 5 CCM.

³⁵ See Article 38, paragraph 6 CCM.

1.3.1.1 Enforcement of the fine

Bodies and procedure for execution of the fine to individuals

The judgment determines the deadline for paying the fine, which may not be less than 15 days nor more than three months, but in justified cases, the court may allow the defendant to pay the fine in installments, but the date of payment cannot be longer than two years, with possibility of extension for another three months. If the convicted person does not pay the installments on time, the court shall revoke its decision to pay in installments and will proceed to charge the fine immediately or will substitute the fine with imprisonment (substitute prison).³⁶

If the offender is a foreigner, the court will decide the fine to be paid without delay and to ensure its payment otherwise.³⁷

The procedure for payment of the fine of individuals

The procedure for payment of the fine of individuals ex officio initiates the court that imposed the fine in the first instance. If the convicted person has no residence or domicile in the court which pronounced the fine in the first instance, the trial court is obliged to deliver the final judgment for payment of the fine to the court according to the place of residence or stay.³⁸

If the convicted person does not pay the fine within the specified period, the court may order a new term (which may not be longer than three months) or if it finds that the convicted person does not want to pay, the court may order forced execution in a procedure determined by law.³⁹

Judge for execution of sanctions prior to forced execution of fine, sends a notice to the convicted person to pay the fine within a period not exceeding 15 days from the date of receipt of the warning.

If giving a new term not exceeding three months or the forced execution of fine remain unsuccessful, the court will execute it, so for each daily fine will determine one day imprisonment or when the fine is imposed as an additional sentence for each 20 Euros in denars will assign one day imprisonment, so that the imprisonment cannot be longer than six months. If convicted only pay part of the fine, the rest will turn proportionally in prison sentence; and if the convicted pay the rest of the fine, the execution of imprisonment will stop.⁴⁰

Costs of forced execution of fine

The costs of forced execution of the fine shall be borne by the convicted person.^{41/42} If at the same time the forced execution of fine and the costs of the criminal proceedings are charged, first the costs of the criminal proceedings are charged.^{43/44}

³⁶ See Article 38-a paragraph 1 CCM and Article 215LES.

³⁷ See Article 38-a paragraph 1 CCM.

³⁸ See Article 212 LES.

³⁹ See Article 38-a paragraph 2 CCM.

⁴⁰ See Article 38-a and paragraph 2 and 3 CCM and Article 214 LES.

⁴¹ See Article 213 LES.

⁴² See Закон за извршување („Службен весник на Република Македонија“ бр. 35/2005; 50/2006; 129/2006; 8/2008; 83/2009; 50/2010; 83/2010; 88/2010; 171/2010; 148/2011 и 187/2013). [Law on Execution (“Official Gazette of the Republic of Macedonia” No. 35/2005; 50/2006; 129/2006; 8/2008; 83/2009; 50/2010; 83/2010; 88/2010; 171/2010; 148/2011 and 187/2013)].

⁴³ See Article 216 LES.

After the death of the convicted, the fine will not be enforced.⁴⁵

1.3.2 Legal entities

Since 2004 with a novel of the CCM legal entities are active subjects in criminal law or *Societas delinquere potest*. In cases as prescribed by law, the legal entity is liable for the criminal act committed by the responsible person of the legal entity, on behalf, on the account or for the benefit of the legal entity.⁴⁶ The liability of the legal entity does not exclude the criminal liability of a physical person as perpetrator of the criminal act.⁴⁷

For crimes committed by legal entities, the main sentence is monetary fine. The monetary fine shall be applied in an amount which may not be less than 100.000 nor more than 30 million denars. For crimes committed for self-interest as well as for crimes committed for benefit or for crimes which cause a more substantial damage, one may prescribe a fine for twice the maximum amount of this sentence or proportional to the damage caused or the benefit obtained, but not more than 10 times their amount.⁴⁸

For crimes for which a fine or imprisonment of up to three years is imposed, the legal entity shall be subject to a 500.000 denars fine or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to twice the cost of the damage caused or the benefit gained. For crimes for which imprisonment of at least three years is imposed, the legal entity shall be subject to a fine of up to one million denars or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to five times the cost of the damage caused or the benefit gained. For crimes for which imprisonment of at least five years is imposed, the legal entity shall be subject to a fine of one million denars or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to ten times the cost of the damage caused or the benefit gained.⁴⁹

In certain cases the Court may impose upon the legal entity a fine that is less than the one prescribed.⁵⁰ Hence, the court shall reduce the sentence within certain limitations.⁵¹

⁴⁴ For cost of the criminal proceedings see articles 102-109 Law on Criminal Procedure (Official Gazette of the Republic of Macedonia No. 150/2010 и 100/2012).

⁴⁵ See Article 38-a and paragraph 4 CCM.

⁴⁶ See Article 28-a CCM.

⁴⁷ See Article 29-a CCM.

⁴⁸ See Article 96-a CCM.

⁴⁹ See Article 96-e CCM.

⁵⁰ Imposition of reduced fine: The Court may impose upon the legal entity a fine that is less than the one prescribed, if: 1) The law provides reduced sentences; 2) The law provides a possibility for release without sentence, but the court will not release the legal entity without sentence; 3) The court determines that there are particularly mitigating circumstances and even with a reduced sentence the court can accomplish the objective of the sanction (See Article 96-zz CCM).

⁵¹ Limitation of reduction of fines: When the conditions for reduction of fine are met, the court shall reduce the sentence within the following limitations: 1) for a crime for which the legal entity may be subject to a fine of up to 500 000 denars or up to twice the amount of the gained benefit or the damage caused, a reduced fine of up to 100 000 denars may be imposed; 2) for a crime for which the legal entity may be subject to a fine of up to one million denars or up to five times the amount of the gained benefit or the damage caused, a reduced fine of up to 200 000

Exempt from payment of a fine

The legal entity may be exempted from payment of a fine, if the responsible person in the legal entity, the managing body or the administering body or the supervisory body, after the crime is committed, voluntarily report the perpetrator of the crime or return the proceeds or remove the caused damages or in any other way compensate the harmful effect of the criminal act.⁵²

A legal entity may be exempt from punishment if the responsible person in the legal entity, the governing body or managing or supervisory body after the crime voluntarily report the perpetrator of the crime or return the proceeds or remove the harmful consequences of the act or otherwise offset the harmful consequences of the offense.⁵³

Execution of the fine

If the convicted legal entity fails to pay the fine within the period determined by the court, which may not be less than 15 days nor more than 30 days from the day the judgment becomes final, the judgment shall be forcefully executed. If the fine cannot be executed from the assets of the legal entity, due to the fact that the legal entity does not possess assets or ceased to exist before execution of the sentence, the fine shall be collected from its legal successor, and if there is no legal successor it shall be collected from the assets of the founder or founders of the legal entity, proportionally to their share, i.e., in cases regulated by law, for trade companies the fine shall be collected from the assets of the stockholders, i.e., cofounders, proportionally to their share. The fine for foreign legal entities shall be executed from the assets confiscated in the Republic of Macedonia or, when applying an international agreement ratified according to the Constitution of the Republic of Macedonia, from the assets abroad.⁵⁴

In certain circumstances the Court may impose conditional postponement of the execution of the fine.⁵⁵

The penal policy that apply toward individuals who have committed crimes, consistently applies against legal entities. This is especially when it comes to imposing suspended sentence.

denars or twice the cost of the damage caused or the benefit gained may be imposed; 3) for a crime for which the legal entity may be subject to a fine of at least one million denars or up to ten times the amount of the gained benefit or the damage caused, a reduced fine of up to 300 000 denars or five times the cost of the damage caused or the benefit gained may be imposed. If the court is authorized to release the legal entity from sentence, the court may reduce the sentence to the minimum amount of the fine (See Article 96-z CCM).

⁵² See Article 96-dz j CCM.

⁵³ See Article 96-j CCM.

⁵⁴ See Article 96-I CCM.

⁵⁵ Conditional postponement of the execution of the fine: The Court may impose conditional postponement of the execution of the fine and the sentences which prescribe prohibition against obtaining permit, license, concession, authorization or any other right prescribed by a special law for a period of one to three years, in case of a crime subject to a fine or imprisonment of up to three years, if the legal entity provides guarantee for execution of the fine in case of termination of the conditional sentence. The conditional postponement shall be revoked if within the period of supervision a new crime is committed, if a formerly committed crime is discovered or if the legal entity does not provide a guarantee for payment of the fine within the timeframe determined by the court. The suspended sentence may be revoked during the period of supervision, and if the legal entity commits another crime during that period, which is determined with a judgment after the expiry of period of supervision, the suspended sentence may be revoked at the latest within one year from the day when the period of supervision expired (See Article 96-j CCM).

Bodies and procedure for execution of the fine of legal entities

LES, in a separate section (Part Three) regulates the enforcement of sentences against legal entities.

The procedure for payment of the fine for legal entities, ex officio is initiated by the court that imposed the fine in the first instance. The Court approaches the execution of fine after the judgment becomes final and the period for voluntary payment determined with the same judgment will expire.^{56/57}

The Court will send warning to the convicted legal entity to pay the fine within a period not exceeding 15 days from the date the warning notice has been sent.⁵⁸

Fines collected by the legal entity shall be entered in the Budget.⁵⁹

The bank where the convicted legal entity is having bank account is obliged to inform the competent court of first instance within 8 days from the date of the execution. The bank, within eight days, shall notify the court and when it cannot execute the fine.^{60/61}

If the convicted legal entity fails to pay the fine within the determined period, the court ex officio shall order forcible payment of the fine through the bank account of the legal entity.

If at the time when the bank receives the order for forcible payment of the fine there are no funds in the account of the convicted legal entity, the bank is obliged to keep records of the order in order to realize the forcible payment when financial means will be received on the account of the legal entity and shall notify the court promptly.

If the court is informed that the order for forcible payment of the fine cannot be executed, then the court will request data from the registry court and the Central Registry for the reorganization of the convicted legal entity. The forcible payment of the warrant issued by the court can be also executed through the Revenue Bureau in accordance with the principles for payment of the public incomes from the legal entity.⁶²

If the bankruptcy procedure for liquidation has been opened towards the convicted legal entity the court is obliged to send the warrant for priority in the payment to the bankruptcy manager or the court competent for liquidation. If the convicted legal entity has been transformed or has joined to another company then the forcible payment will be enforced only to the level of the value of undertaken property of the convicted legal entity.^{63/64}

⁵⁶ See Article 330 LES.

⁵⁷ For criminal proceeding against legal entities see articles 508-521 Law on Criminal Procedure (Official Gazette of the Republic of Macedonia No.15/1997; 44/2002; 74/2004; 83/2008; 67/2009 and 51/2011).

⁵⁸ See Article 331 LES.

⁵⁹ See Article 332 LES.

⁶⁰ See Article 333 LES.

⁶¹ See Закон за извршување („Службен весник на Република Македонија“ бр.35/2005; 50/2006; 129/2006; 8/2008; 83/2009; 50/2010; 83/2010; 88/2010, 171/2010 и 148/2011). [Law on Execution (“Official Gazette of the Republic of Macedonia” No. 35/2005; 50/2006; 129/2006; 8/2008; 83/2009; 50/2010; 83/2010; 88/2010, 171/2010 and 148/2011)].

⁶² See Article 334 LES.

⁶³ See Article 335 LES.

⁶⁴ See Закон за стечај („Службен весник на Република Македонија“ бр. 34/2006; 126/2006; 84/2007; 47/2011; 79/2013; 164/2013 и 29/2014). [Bankruptcy Law (Official Gazette of the Republic of Macedonia No. 34/2006; 126/2006; 84/2007; 47/2011; 79/2013; 164/2013 and 29/2014)].

If the fine cannot be executed from the property of the legal entity because the legal entity doesn't have such a property or the existence has been terminated before the fine was executed, then the fine will be executed from the property of the founder or founders of the company proportionally to their invested parts i.e. in case when it is stock holding company the fined will be executed from the property of the share holders or from the property of the partners proportionally to their parts. The fine towards the foreign legal entity shall be executed from the property confiscated from the Republic of Macedonia or through the implementation of the international agreement, from the property abroad.^{65/66}

The convicted legal entity will pay the expenses for the execution of the fine.^{67/68}

1.4 Imposed and enforced fines in the Republic of Macedonia in the period 2007-2011 (Results and Discussion)

Following are presented data on the imposed and enforced fines toward individuals in the Republic of Macedonia for the period 2007-2011. The data on imposition and enforcement of fines toward legal entities are not analyzed since there are not official data regarding this issue. Hence, the relevant bodies should collect and publish official data of sentencing legal entities since they are subjects in criminal law since 2004 in our country.

The analysis of the data on judicial penal policy in the Republic of Macedonia in the period 2007-2011, presents the following conclusions.

In the analyzed period, a total of 9630 sanctions were imposed in 2007, 9493 in 2008, 9790 in 2009, 9165 in 2010 and in 2011 total of 9806 criminal sanctions were imposed.

Of the total number of criminal sanctions imposed in the analyzed period, on average, 50.82% were imposed sentences and 49.18% alternative measures (see Graph 1).

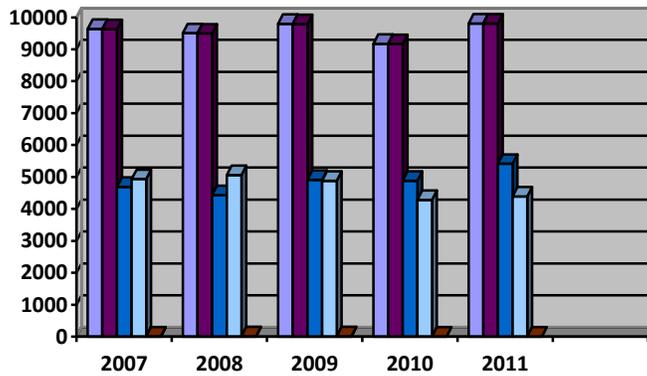
Graph 1.

⁶⁵ See Article 336 LES.

⁶⁶ See Закон за трговските друштва („Службен весник на Република Македонија“ бр. 28/2004; 84/2005; 25/2007; 87/2008; 42/2010; 48/2010; 24/2011; 166/2012; 70/2013; 119/2013; 120/2013; 187/2013; 38/2014; 41/2014 и 138/2014). [Company Law (Official Gazette of the Republic of Macedonia No. 28/2004; 84/2005; 25/2007; 87/2008; 42/2010; 48/2010; 24/2011; 166/2012; 70/2013; 119/2013; 120/2013; 187/2013; 38/2014; 41/2014 и 138/2014)].

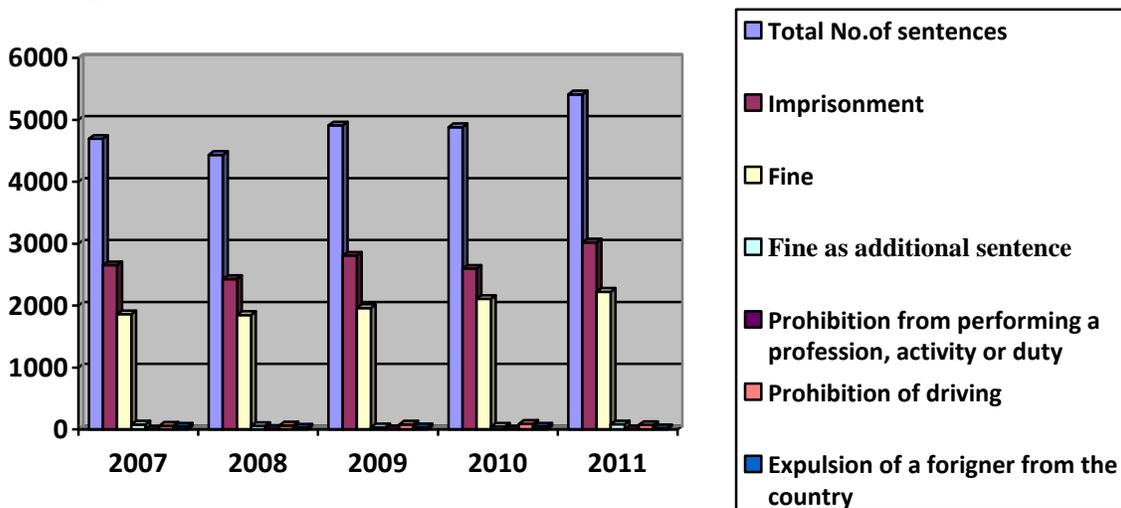
⁶⁷ See Article 337 LES.

⁶⁸ The provisions regarding the appeal procedure (objection) stipulated in paragraph 217 and 218 are applicable towards the legal entity as well (See Article 338 LES). The means obtained through the payments of the fines from the legal entities are paid and classified in way specified in article 219 from this Law (See Article 339 LES). However, the provisions in Article 217-219 of the LES are deleted, which represents an error in LES and should be corrected in the next amendment of the LES.



Of the total number of imposed sentences, on average, 55.5% were imprisonment, 41.1% were fines, then, a prohibition of driving - 1.46%, 1.2% were imposed fines as additional sentence, 0.7% were expulsion of foreigners from the country and 0.04% were prohibition from performing a profession, activity or duty (see Graph 2).

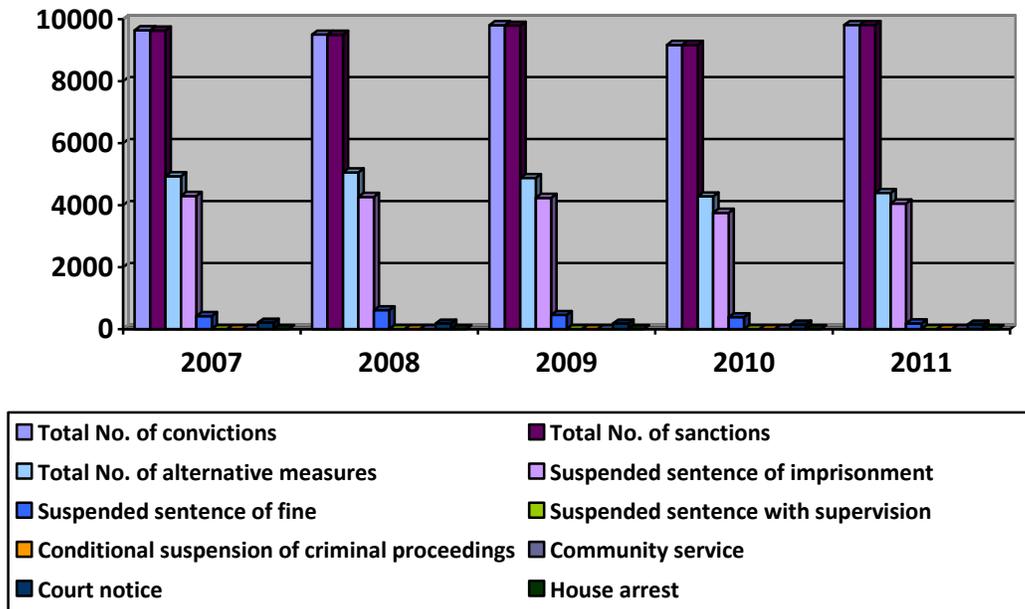
Graph 2.



On the other hand, of the total number of imposed alternative measures (49.18%), even 87.62%, on average, were imposed suspended sentences of imprisonment, then, 8.68% were suspended sentences of fine and 3.7 % were issued court notices. Other alternative measures: suspended sentence with supervision, conditional suspension of criminal proceedings,

community service and house arrest, have never been imposed, except for the alternative measure of community service, which was imposed in one case in 2007 (see Graph 3).

Graph 3.



On average, 0.078% of the total number of convictions were found guilty, but were released from sentence.

Since the topic of the paper is imposition and enforcement of the fine, following are presented data that relates to imposed fines as main sentences, fines as additional sentences and suspended sentences of fine.⁶⁹

The analyzed data presents that from the total number of imposed sentences, on average, 41,1% were fines as main sentences.

Regarding the imposed fines, in 2008 compared to 2007 decreased the number of imposed fines by 1%, the next year there was an increase of 6%, in 2009 an increase of 8% over the previous year was noted and in 2011 increase of 5%. Or, in 2011 compared to 2007, the rate of fines increased by nearly 20%.

Then, on average, 1.2% was imposed fines as additional sentences. The analysis of the fines imposed as additional sentences shows that in most cases, on average 42.58% were fines in the amount of 10.001 to 30.000 denars. Then, on average 39.44% were imposed fines amounting

⁶⁹ For further reference on the judicial penal policy in the Republic of Macedonia, see. Груевска-Дракулевски, Александра, (2012) *Казнената политика на судовите во Република Македонија во периодот 2007-2011*, во Македонска ревија за кривично право и криминологија, УДК 343, год. 18 и 19, бр. 1-2, 2011/2012, ISSN 1409-5327, Здружение за кривично право и криминологија, 2 Август С Штип, Скопје. [Gruevska-Drakulevski, Aleksandra (2012), *Criminal Policy of the Courts in the Republic of Macedonia in the Period 2007-2011*, Macedonian Review for Criminal Law and Criminology, UDK 343, Year 18 and 19, No.1-2, 2011/2012, ISSN 1409-5327, Association for Criminal Law and Criminology”, 2 Avgust S Stip, Skopje].

to over 30.000, 17.08% were imposed fines in an amount 5001-10000 denars, and only 0.94% were imposed fines of up to 5,000 denars.

Significant growth notes the imposition of fines in an amount of over 30,001 denars, even 44% in 2011 compared to 2007, while imposed fines in an amount 10.001-30.000 denars increased by 34%.

To conclude, the courts in the Republic of Macedonia mostly imposed fines as additional sentences in an amount 10.001-30.000 denars (see Graph 4).

In the period 2007-2011 of the total number of imposed criminal sanctions, on average, 49.18% were alternative measures. Of the total number of alternative measures, however, on average 96.3 % were imposed suspended sentences, of which, on average, 87.62% were imposed suspended sentences of imprisonment and 8.68 % suspended sentences of fine.

Highest percentage of 88.38% was suspended sentences of fine in an amount over 10,001 denars. On average, 11.34% were fine determined in the amount of 5.000 to 10.000 denars, and only 0.28 % were determined fines in an amount up to 5.000 denars.

Detailed analyses of the imposition and enforcement of the fines as main sentences, fines as additional sentences and suspended sentences of fine are presented in Table 1.

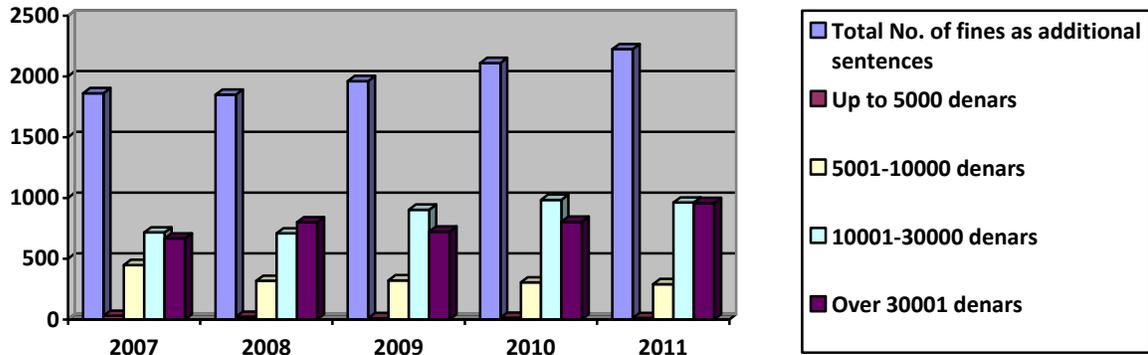
Table 1. Convicted adult individuals to fine as main sentence, fine as an additional sentence and suspended sentence of fine (2007-2011)

	2007	%	2008	%	2009	%	2010	%	2011	%	Average
Total No. of convictions	9639		9503		9801		9169		9810		
Index	100		99		103		94		107		
Female	622	6,5	635	6,7	695	7,1	669	7,3	661	6,7	
Index	100		102		109		96		99		
Total No. of sanctions	9630		9493		9790		9165		9806		
Index	100		99		103		94		107		
Total No. of sentences	4694	48,7	4434	46,7	4912	50,2	4882	53,3	5412	55,2	50,82
Index	100		94		111		99		111		
Fine	1861	39,6	1849	41,7	1960	39,9	2109	43,2	2223	41,1	41,1
Index	100		99		106		108		105		
Up to 5000 denars	31	1,7	23	1,2	11	0,6	15	0,7	12	0,5	0,94
Index	100		74		48		136		80		
5001-10000 denars	448	24,1	318	17,2	323	16,5	305	14,5	291	13,1	17,08
Index	100		71		102		94		95		
10001-30000 denars	716	38,5	708	38,3	903	46,1	985	46,7	962	43,3	42,58
Index	100		99		128		109		98		
Over 30001 denars	666	35,8	800	43,3	723	36,9	804	38,1	958	43,1	39,44
Index	100		120		90		111		119		
Fine (as an additional sentence)	78	1,7	55	1,2	32	0,7	44	0,9	81	1,5	1,2
Index	100		71		58		138		184		
Total No. of alternative measures	4936	51,3	5059	53,3	4878	49,8	4283	46,7	4394	44,8	49,18
Index	100		102		96		88		103		
Suspended sentence of fine	423	8,6	611	12,1	460	9,4	385	9,0	189	4,3	8,68
Index	100		144		75		84		49		
Up to 5000 denars	3	0,7	4	0,7	0	0	0	0	0	0	0,28
5001-10000 denars	72	17,0	74	12,1	42	9,1	41	10,6	15	7,9	11,34

Over 10001 denars	348	82,3	533	87,2	418	90,9	344	89,4	174	92,1	88,38
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Source: State Statistical Office of the Republic of Macedonia

Graph 4.



The following Table 2 presents the data of imposed fines as main sentence in the period 2007-2011 regarding the types of criminal offences.

It can be concluded that in most cases fine as a main sentence is imposed for crimes against traffic safety, then, for crimes against property, crimes against life and body, crimes against honor and reputation, etc. Detailed analysis of the imposed fine sentences in the period 2007-2011 regarding the criminal offence are presented in Appendix 1. The general conclusion is that fine is imposed for minor criminal offences.

Table 2. Total number of imposed fines as main sentence regarding the type of criminal offence (2007-2011)

	2007	2008	2009	2010	2011	Average
Total No. of convicted persons with fine	1861 (39.6%)	1849 (41.7%)	1960 (39.9%)	2109 (43.2%)	2223 (41.1%)	41.1
Crimes against life and body	196	223	250	249	270	
Crimes against the freedoms and rights of humans and citizens	29	41	44	42	52	
Crimes against elections and voting	-	-	-	-	-	
Crimes against work relations	2	4	2	6	7	
Crimes against honor and reputation	98	90	122	118	103	
Crimes against sexual freedom and sexual morality	2	2	4	2	1	
Crimes against marriage, family and youth	8	21	12	20	34	
Crimes against human health	1	1	1	6	15	
Crimes against the environment and nature	35	20	24	23	37	
Crimes against property	399	387	395	409	383	
Crimes against public finances, payment operations and the economy	48	46	31	46	42	
Crimes against the general safety of people and property	17	22	17	6	14	
Crimes against traffic safety	799	852	917	1007	1131	
Crimes against the state	-	-	-	-	-	

Crimes against the armed forces	1	-	1	-	2	
Crimes against official duty	19	10	7	7	9	
Crimes against the administration of justice	37	22	51	46	31	
Crimes against legal transactions	52	27	20	32	28	
Crimes against the public order	76	60	57	90	62	
Crimes against humanity and international law	-	-	-	-	-	
Crimes outside criminal law	42	21	5	-	2	

Source: State Statistical Office of the Republic of Macedonia

Table 3 shows the total number of fines imposed as additional sentences. It can be concluded that fine as an additional sentence is imposed in very few cases.

In 2007 were imposed 78 fines as additional sentences which is 1.7% of the total number of imposed sentences. In 2008 the number decreased and there were imposed 55 fines as additional sentences which is 1.2% of the total number of imposed sentences. In 2009 32 fines (0.7%) were imposed; in 2010 - 44 fines (0.9%) and in 2011 the number of fines imposed as additional sentences were 81 (1.5%).

General conclusion for the imposition of fines as additional sentences is that they were mostly imposed for offenses against public finances, payment and commerce, primarily for the crime of tax evasion and crimes against property.

Detailed analyzes of the imposed fines as additional sentences regarding the type of the criminal offence are presented in Appendix 2.

Table 3. Total number of imposed fines as additional sentences regarding the type of the criminal offence (2007-2011)

	2007	2008	2009	2010	2011
Total number of imposed fines as additional sentence	78	55	32	44	81
%	1,7%	1,2%	0,7%	0,9%	1,5%
Crimes against life and body	3	1	-	3	6
Crimes against the freedoms and rights of humans and citizens	-	-	-	-	1
Crimes against elections and voting	-	-	-	-	-
Crimes against work relations	-	-	-	-	-
Crimes against honor and reputation	0	-	-	-	-
Crimes against sexual freedom and sexual morality	-	-	1	-	-
Crimes against marriage, family and youth	-	-	-	-	-
Crimes against human health	1	-	1	-	1
Crimes against the environment and nature	-	-	-	1	4
Crimes against property	8	3	11	7	4
Crimes against public finances, payment operations and the economy	59	47	12	30	36
Crimes against the general safety of people and property	1	-	-	-	-
Crimes against traffic safety	2	4	2	1	1
Crimes against the state	-	-	-	-	-
Crimes against the armed forces	-	-	-	-	-
Crimes against official duty	-	-	2	1	3
Crimes against the administration of justice	-	-	-	-	-
Crimes against legal transactions	-	-	-	-	-
Crimes against the public order	1	-	2	1	24
Crimes against humanity and international law	1	-	-	-	-
Crimes outside criminal law	2	-	-	-	1

Source: State Statistical Office of the Republic of Macedonia

Table 4 presents the data of the practice of the Macedonian courts in relation to the number of imposed fines to adult offenders.

According to the data presented, most of the fines were imposed by the Court of first instance in Skopje 1 Skopje and the Court of first instance in Resen imposed minimal number of fines.

Table 4. Total number of imposed fines to adult individuals according to the Courts of first instance in the Republic of Macedonia (2007-2011)

City	2007	%	2008	%	2009	%	2010	%	2011	%
Debar	23	1,23	14	0,75	28	1,42	21	0,99	33	1,48
Resen	1	0,05	8	0,43	2	0,10	3	0,14	3	0,13
Struga	82	4,40	94	5,08	78	3,97	84	3,98	83	3,73
Kicevo	14	0,75	30	1,62	50	2,55	75	3,55	75	3,37
Ohrid	84	4,51	47	2,54	143	7,29	125	5,92	128	5,75
Krusevo	10	0,53	2	0,10	8	0,40	10	0,47	7	0,31
Bitola	58	3,11	35	1,89	63	3,21	51	2,41	43	1,93
Prilep	89	4,78	72	3,89	123	6,27	123	5,83	144	6,47
Kavadarci	15	0,80	30	1,22	17	0,86	13	0,61	36	1,61
Negotino	8	0,42	8	0,43	4	0,20	2	0,09	6	0,26
Gevgelija	20	1,07	26	1,40	75	3,82	71	3,36	43	1,93
Veles	14	0,75	12	0,64	19	0,96	32	1,51	35	1,57
Kriva Palanka	8	0,42	11	0,59	19	0,96	11	0,52	15	0,67
Kumanovo	56	3	40	2,16	12	0,61	46	2,18	35	1,57
Kratovo	10	0,53	21	1,13	25	1,27	22	1,04	20	0,89
Gostivar	9	0,48	33	1,78	21	1,07	21	0,99	34	1,52
Tetovo	73	3,92	49	25,9	82	4,18	226	10,71	226	10,16
Delcevo	46	2,43	31	1,67	28	1,42	47	2,22	35	1,57
Berovo	51	2,74	61	3,29	61	3,11	71	3,36	36	1,61
Radovis	60	3,22	68	3,67	73	3,72	77	3,65	42	1,88
Sveti Nikole	57	3,06	66	3,56	67	3,41	62	2,93	49	2,20
Strumica	150	8,06	184	9,95	134	6,83	126	5,97	173	7,78
Kocani	47	2,52	65	3,51	94	4,79	64	3,03	64	2,87
Stip	80	4,29	71	3,83	62	3,16	75	3,55	115	5,17
Skopje 1	733	39,38	757	40,94	658	33,57	320	15,17	731	32,88
Vinica	18	0,96	14	0,75	12	0,61	31	1,46	30	1,34
Skopje-organized crime	-		-		2	0,10	-		3	0,13

Source: State Statistical Office of the Republic of Macedonia

Since the Court of first instance Skopje 1 in Skopje imposed most of the fines in the analyzed period (2007-2011) following are presented data of imposed fines in 2011.

In 2011 the Court of first instance Skopje 1 in Skopje imposed 795 fines as main sentences. Of the total number of imposed fines, 785 fines were imposed to individuals and 10 fines were imposed to legal entities.

Of the total number of judgments, 731 judgments were enforceable.

Of the total number of cases recorded in the Department for Execution of Sanctions in 2011, in 542 cases the fine was substituted with imprisonment. This shows that in most cases fine is imposed to offenders that do not have means to pay the fine. And this is the strongest

argument of the critics of the fine that it mostly affects poor offenders whose fine sentence in most of the cases is enforced by substituting it with imprisonment.

1.5 Conclusion

There is no doubt that the usual reaction to crime in many jurisdictions is punishment. But the issue is complicated in terms of choosing the type of sanction; whether the offender will be punished with imprisonment, fine, with some of the additional sentences or, today, increasingly popular alternative measures.

But the problem does not end with the type of criminal sanction that will be imposed on the offender. Next, to what should be paid attention in order to satisfy justice and fairness is the height of the criminal sanction. In determining the goals of punishment in the Republic of Macedonia the starting point is the CCM, according to which goal of punishment despite the exercise of justice, is: 1) preventing the offender to commit crimes and its correction and 2) preventive influence to others not to commit crimes.

Our criminal legislation, like many other jurisdictions, knows fine. According to the provisions of the Criminal Code of the Republic of Macedonia fine can be imposed as a main sentence and as an additional sentence with imprisonment or as a suspended sentence with a predetermined imprisonment.

The fine consists of imposing the convicted a public legal obligation to pay a certain amount to the state for committing a criminal offense.

In criminal law theory and penological scientific thought, fine is one of the sentences that is considered eligible for successfully combating minor crimes, but also is subject to serious critical remarks. The advantages of this sentence are that it is a very convenient means of substituting imprisonment; hence, it is economical and beneficial sentence to society. The critical remarks directed to the fine are usually tied to the fact that it does not contain enough elements to achieve special prevention, and its enforcement does not take measures for rehabilitation of the convicted person, and by its content it is enforced and expressed in numerous retributive elements. Another critical remark is that fine is not fair since it affects poor offenders against whom it is most commonly imposed. In terms of its execution, fine is uneconomic because the costs of its execution are often great, especially in cases of its forceful execution.

But despite of its criticism, in practice fine is among those sentences that are most often imposed. In total sanctions applied in our country, fine represents more than 20% with some exceptions over the years that do not significantly alter this ratio, and in total sentences imposed fine accounts for more than 40%.

The CCM sought the problem of determining the fine to objectify by introducing a system of "day fines". The system consists in determining the number of daily fines according to the level of injustice and guilt of the offender, and the amount of the daily fine is determined by the property and personal circumstances of the offender. So, the judge should weigh the number of daily fines and determines the amount of the daily fine.

The general conclusion of its imposition and enforcement is that fine is more effective than other sanctions especially imprisonment since imprisonment has a negative effect on future recidivism of an offender. Fine provides the principle of individualization of sanctioning, next, it is more economical, also, has a minimal effect on the offenders` family.

According to our legislation criminal offenders may be imposed a fine of a minimum of 5 Euros to 360 Euros in denars. And the highest amount of fine imposed can range from 5,000 Euros to 1,800,000 Euros in denars. When a fine is imposed as an additional sentence besides imprisonment, the court shall determine the amount. Fine as an additional sentence cannot be less than 20 Euros in denars, or more than 5,000 Euros in denars.

Regarding its enforcement if the convicted person does not pay the fine will proceed to forceful enforcement of the fine or will substitute the fine with imprisonment (substitute prison), so for each daily fine will determine one day imprisonment or when the fine is imposed as an additional sentence for each 20 Euros in denars will assign one day imprisonment, so that the imprisonment cannot be longer than six months.

Since 2004 with a novel of the CCM legal entities are active subjects in criminal law. Hence, for crimes committed by legal entities, the main sentence is monetary fine. The monetary fine shall be applied in an amount which may not be less than 100.000 nor more than 30 million denars. For crimes committed for self-interest as well as for crimes committed for benefit or for crimes which cause a more substantial damage, one may prescribe a fine for twice the maximum amount of this sentence or proportional to the damage caused or the benefit obtained, but not more than 10 times their amount.

The results of the analyses of imposed and enforced fine sentences in our judicial penal policy presents that of the total number of imposed sentences, on average, 41.1% were fines. Then, of the total number of imposed alternative measures (49.18%), 8.68% were suspended sentences of fine. Highest percentage of 88.38% was suspended sentences of fine in an amount over 10,001 denars. On average, 11.34% were fine determined in the amount of 5.000 to 10.000 denars, and only 0.28 % were determined fines in an amount up to 5.000 denars.

Next, the data shows that the courts impose fine as additional sentence in very rare cases and they mostly imposed fines as additional sentences in an amount 10.001-30.000 denars.

Another conclusion is that in most cases fine as a main sentence is imposed for crimes against traffic safety, then, for crimes against property, crimes against life and body, crimes against honor and reputation, etc.

General conclusion for the imposition of fines as additional sentences is that they were mostly imposed for offenses against public finances, payment and commerce, primarily for the crime of tax evasion and crimes against property.

According to the data presented, most of the fines were imposed by the Court of first instance in Skopje 1 Skopje and the Court of first instance in Resen imposed minimal number of fines.

The data on imposition and enforcement of fines toward legal entities are not analyzed since there are not official data regarding this issue. Hence, the relevant bodies should collect and publish official data of sentencing legal entities since they are subjects in criminal law since 2004 in our country.

Regardless of all changes of the legislation regarding the fine, still fine is enforced in not more that 30% of the imposed fines. The socio-economic situation, high unemployment, poverty and so on, they all contribute to the often substitution of fine with imprisonment. Although there are not official data on the real enforcement of the fine, general conclusion is that in most cases fine is substituted with imprisonment which contradicts the main purpose of fine – avoiding negative effects of short-term imprisonment. For instance, of the total number of cases recorded in the Department for Execution of Sanctions in 2011, in 542 cases the fine was substituted with

imprisonment. This shows that in most cases fine is imposed to offenders that do not have means to pay the fine. And this is the strongest argument of the critics of the fine that it mostly affects poor offenders whose fine sentence in most of the cases is enforced by substituting it with imprisonment. Therefore, courts and judges for execution of sanctions should make greater efforts, better organization to execute imposed fine sentences.

In any case, the frequent use of fine and alternative measures and not imprisonment will contribute to resolving some problems that our penitentiary system is facing, in particular the problem of overcrowding of penitentiaries; then, fine and alternative measures are a way to annul the problem of criminal infection which has a significant effect on reduction of recidivism rates in the country.

Appendix 1

Total number of imposed fines as main sentence regarding the type of criminal offence (2007-2011)

	2007	2008	2009	2010	2011	Average
Total No. of convicted persons with fine	1861 (39.6%)	1849 (41.7%)	1960 (39.9%)	2109 (43.2%)	2223 (41.1%)	41.1
Crimes against life and body	196	223	250	249	270	
Bodily harm	155	186	220	207	221	
Grievous bodily harm	7	7	5	2	6	
Participation in a brawl	5	7	6	4	10	
Threatening with a dangerous instrument during a brawl or a quarrel	29	22	19	35	33	
Other	-	1	-	1	-	
Crimes against the freedoms and rights of humans and citizens	29	41	44	42	52	
Piracy of audio-visual works	-	-	4	-	2	
Coercion	-	-	1	1	-	
Unlawful deprivation of liberty	5	5	3	5	5	
Endangering security	19	25	29	22	40	
Infringement of the inviolability of the home	-	2	3	1	2	
Other	5	9	4	13	3	
Crimes against elections and voting	-	-	-	-	-	
Crimes against work relations	2	4	2	6	7	
Violation of the rights from a work relationship	-	1	1	3	3	
Violation of the social security rights	2	2	-	3	3	
Other	-	1	1	-	1	
Crimes against honor and reputation	98	90	122	118	103	
Defamation	23	25	29	27	30	
Insult	72	64	92	91	71	
Other	3	1	1	-	2	
Crimes against sexual freedom and sexual morality	2	2	4	2	1	
Mediation in conducting prostitution	-	-	-	1	-	
Other	2	-	4	1	1	
Crimes against marriage, family and youth	8	21	12	20	34	
Abduction of a minor	3	1	4	3	6	
Neglecting and mistreating a minor	-	2	-	2	-	
Non-payment of maintenance	2	-	4	4	15	
Other	3	9	4	11	13	
Crimes against human health	1	1	1	6	15	
Unauthorized production and release for trade of narcotics, psychotropic substances and precursors	-	-	1	5	14	
Other	1	1	-	1	1	
Crimes against the environment and nature	35	20	24	23	37	
Pollution of the environment and nature	-	4	1	-	-	
Unlawful hunting	7	1	1	8	10	
Torturing animals	1	-	1	1	2	
Other	27	15	21	14	25	
Crimes against property	399	387	395	409	383	
Theft	280	253	246	240	220	
Aggravated theft	33	30	45	53	64	

Robbery	-	1	-	-	-	
Armed robbery	-	-	-	1	-	
Embezzlement	1	-	5	6	5	
Unauthorized use of a motor vehicle	14	11	15	24	6	
Fraud	18	27	13	22	14	
Damage and unauthorized entry in a computer system	-	3	-	3	2	
Concealment	40	44	32	26	29	
Illegal construction	-	-	12	10	6	
Other	13	18	27	24	37	
Crimes against public finances, payment operations and the economy	48	46	31	46	42	
Counterfeiting money	12	11	6	13	14	
Money laundering and other income from crimes	-	-	-	-	14	
Issuing a bad check and abuse of a credit card	12	3	1	1	-	
Issuing accept order without cover	-	3	-	-	-	
Illegal trade	3	-	1	-	-	
Customs fraud	-	5	-	2	2	
Smuggling	3	14	15	11	9	
Concealing goods that are the subject of smuggling and customs fraud	-	1	-	3	1	
Tax evasion	8	4	3	2	2	
Falsification or destruction of business books	8	5	2	2	6	
Other	2	3	1	12	8	
Crimes against the general safety of people and property	17	22	17	6	14	
Causing general danger	9	12	9	5	9	
Destruction or damage to public installations	7	8	6	1	5	
Other	1	2	2	-	-	
Crimes against traffic safety	799	852	917	1007	1131	
Endangering traffic safety	794	845	914	1001	1120	
Endangering traffic safety with a dangerous act or means	3	-	1	2	3	
Other	2	7	2	4	8	
Crimes against the state	-	-	-	-	-	
Crimes against the armed forces	1	-	1	-	2	
Avoiding army service	1	-	-	-	2	
Other	-	-	1	-	-	
Crimes against official duty	19	10	7	7	9	
Negligent performance of duty	-	-	-	-	3	
Misuse of official position and authority	17	9	5	5	2	
Embezzlement in the service	-	-	-	-	1	
Receiving a bribe	-	-	2	1	-	
Giving a bribe	2	-	-	-	-	
Trading in influence	-	1	2	-	3	
Crimes against the administration of justice	37	22	51	46	31	
False reporting of a crime	10	9	11	11	19	
Submitting false evidence	-	1	4	4	1	
Giving a false statement	21	8	30	21	7	
Failure to execute a court decision	2	-	2	2	1	
Other	4	4	4	8	3	
Crimes against legal transactions	52	27	20	32	28	

Falsifying a document	43	15	11	18	19	
Special cases of falsifying documents	1	5	-	1	1	
Use of a document with false contents	5	7	5	12	6	
Issuing and use of a false medical or veterinary certificate	3	-	1	1	1	
Unauthorized practice of law	-	-	3	-	1	
Crimes against the public order	76	60	57	90	62	
Obstructing an official in the performance of official duties	10	7	15	12	14	
Act of violence	4	1	3	3	6	
Removal or damaging of an official seal or sign	17	20	9	16	20	
Autocracy	27	17	16	7	11	
Illegal possession of weapons or explosive materials	1	-	-	-	-	
Gambling	6	1	1	2	-	
Illegal crossing of the state border	-	-	-	1	2	
Other	11	14	13	49	9	
Crimes against humanity and international law	-	-	-	-	-	
Other	-	-	-	-	-	
Crimes outside criminal law	42	21	5	-	2	

Source: State Statistical Office of the Republic of Macedonia

Appendix 2

Total number of imposed fines as additional sentences regarding the type of the criminal offence
(2007-2011)

Crimes	2007	2008	2009	2010	2011
Total number of imposed fines as additional sentences	78	55	32	44	81
%	1,7%	1,2%	0,7%	0,9%	1,5%
Crimes against life and body	3	1	-	3	6
Bodily harm	2	-	-	3	5
Grievous bodily harm	1	-	-	-	1
Participation in a brawl	-	1	-	-	-
Crimes against the freedoms and rights of humans and citizens	-	-	-	-	1
Endangering security	-	-	-	-	1
Crimes against elections and voting	-	-	-	-	-
Crimes against work relations	-	-	-	-	-
Crimes against honor and reputation	0	-	-	-	-
Crimes against sexual freedom and sexual morality	-	-	1	-	-
Rape	-	-	1	-	-
Crimes against marriage, family and youth	-	-	-	-	-
Non-payment of maintenance	-	-	1	-	-
Crimes against human health	1	-	1	-	1
Unauthorized production and release for trade of narcotics, psychotropic substances and precursors	1	-	1	-	1
Crimes against the environment and nature	-	-	-	1	4
Other	-	-	-	1	4
Crimes against property	8	3	11	7	4
Theft	-	3	2	1	-
Aggravated theft	6	-	7	3	1
Robbery	1	-	-	-	-
Embezzlement	-	-	1	-	1
Unauthorized use of a motor vehicle	-	-	1	-	-
Fraud	-	-	-	-	1
Extortion	-	-	-	-	-
Concealment	1	-	-	1	1
Other	-	-	-	1	-
Crimes against public finances, payment operations and the economy	59	47	12	30	36
Issuing a bad check and abuse of a credit card	-	1	-	-	-
Illegal trade	-	-	-	-	-
Customs fraud	4	7	2	9	6
Smuggling	-	-	-	1	-
Concealing goods that are the subject of smuggling and customs fraud	3	-	-	-	-
Tax evasion	52	39	10	20	28
Falsification or destruction of business books	-	-	-	-	1
Other	-	-	-	-	1
Crimes against the general safety of people and property	1	-	-	-	-
Causing general danger	1	-	-	-	-
Crimes against traffic safety	2	4	2	1	1
Endangering traffic safety	2	4	2	1	1
Crimes against the state	-	-	-	-	-
Terrorism	-	-	-	-	-
Crimes against the armed forces	-	-	-	-	-
Crimes against official duty	-	-	2	1	3

Negligent performance of duty	-	-	2	1	3
Crimes against the administration of justice	-	-	-	-	-
Crimes against legal transactions	-	-	-	-	-
Crimes against the public order	1	-	2	1	24
Obstructing an official in the performance of official duties	-	-	-	-	1
Act of violence	-	-	-	-	1
Autocracy	1	-	-	-	-
Illegal possession of weapons or explosive materials	-	-	2	1	-
Other	-	-	-	-	22
Crimes against humanity and international law	1	-	-	-	-
Other	1	-	-	-	-
Crimes outside criminal law	2	-	-	-	1

Source: State Statistical Office of the Republic of Macedonia

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