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THE TRENDS OF THE CRIME AGAINST PROPERTY IN THE REPUBLIC OF MACEDONIA

Introduction

The question of influence of the sentencing policy on the trends of property crime in the Republic of Macedonia has been the subject of discussion in legal debates for a long time. These two categories are important to be linked for two main reasons; first, the sentencing policy, as part of the criminal policy of a country, is one of the most important issues for the efficiency of criminal justice in its most extensive meaning, second, property crime is one of the most serious problems in the society. It represents a significant part of the total crime in almost every country, and the number of reported cases, and accused and convicted perpetrators generally increases every year, at least for several specific offences. In other words, the crime against property is the most common in scale, structure and forms of all types of crime in general. It is the highest represented crime in Republic of Macedonia, as well.

If one looks at the statistical data given in the State statistical office reports on the trends of property crimes during the years, as well as the pronounced sentences, the first impressions can be quite confusing. This type of crime increases every year, or stagnates in some of the years in the analyzed period, unfortunately the percentage of unknown perpetrators is very high. The recidivism rate is also high. On the other hand, the courts pronounce more imprisonment sentences than for most of the other groups of criminal offences.² For example, in 2010 the courts pronounced imprisonment for crimes against life and body in 28% of the convictions, and for crimes against property in 43%.³

The analysis that follows should give a more concentrated view and interpretation of the statistical data, in order to establish possible link between sentencing policy and the trends of property crime in our country.

1. Briefly on the subject of criminal policy

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² For in-depth analyses, see the state statistic reports on the perpetrators of criminal offences, available on www.stat.gov.mk

³ See *State Statistical Office of Republic of Macedonia*, Perpetrators of criminal offences in 2010, Skopje 2011, pages 52-61, available on www.stat.gov.mk

The criminal policy or the policy of repression and prevention of crime has a long history. The societies tended to correct and suppress all the forms of deviant actions.⁴ The means of suppression and prevention have changed over time, but one of the oldest is criminal sanctions differing according to the time, location and social development. They remained to be the ultimate, repressive and official methods of society for dealing with the perpetrators of criminal actions.

The schools of criminal law played a crucial role in the development of modern criminal law and criminal policy in the late 19th and in the 20th century. The so-called 'classic school' has created the basis of modern criminal law by the introduction of the principle of legality: *nullum crimen, nulla poena sine lege*. The benefit of the neoclassic school can be seen in the direction of the elaboration of the concept of the subjective aspect of the offence and bio-psychological element of the guilt. The schools of positivists, the social school and the school of new social defense have also made serious impacts on the system of criminal law, the system of sanctions in particular and, ultimately, criminal policy.

The criminal policy structure is very broad and complex. It includes an involvement of social institutions, schools, media and the civil sector, but also the criminal justice system.⁵

It is the latter that creates the sentencing policy as a process complementing the overall criminal policy. It is considered that the types and the right measure of the sanction can play the crucial role in preventing the perpetrator to recede, and all the others to act in the prohibited direction – special and general prevention. Therefore, experts can assess that the sentencing policy of a state is very mild, severe, or different depending on the type of crime. Nevertheless, the sentencing policy could be evaluated as adequate if it contributes to the decrease of the recidivism rate, and the crime trend. Another important determinant of the modern sentencing policy is the economic aspect that should be taken care of by the legislator and the courts as well. From a comparative point of view, this trend was noticed in many of the federal states in the USA, who reclassified a range of property crimes from felonies to misdemeanors in order to spare prison terms for minor offences, and save states jail and prosecution costs.⁶

It is obvious that no re-socialization is possible in the conditions of overburdened prisons. Taking into consideration the latter, we can conclude that the efficient sentencing policy aims to decrease crime trends and recidivism rates in the present economic conditions.

⁴ *Milutinovic, M.*, *Kriminalna politika*, Beograd, 1984, page. 3

⁵ *Ibid*, page 67, *Камбовски, В.*, *Казнено право – општ дел*, Скопје, 2004, pages 48-57.

⁶ http://sentencing.typepad.com/sentencing_law_and_policy/2011/11/states-reworking-property-crimes-to-reduce-prison-costs.html

2. On the characteristics of property crime in Republic of Macedonia

Property crime, according to its nature, history and characteristics, is a classic type of crime, known since the appearance of the first forms of social gathering and obtaining of material goods. It is particularly determined as morally wrong behavior in the period when private possession appeared besides its form.⁷ The long history of existence of this type of crime resulted with a vast number of researches, measures and acts towards its prevention. Nonetheless, it has not shown mechanisms of a successful fight against or prevention of it. The problem with the suppression and prevention of the property crime lies in its diverse nature. That is to say, the list of offences making this group of crimes comprises of offences that differ in the objective and subjective legal structure. Some of the offences include a fraud element, necessity of knowledge and even creative insight. Therefore, the perpetrators of some offences are considered smart and intelligent. This was noted even from historical point of view. As one author states "a man who deprived another of his property by force or by stealth was regarded by all as a very evil person, but he who got the better of another in a bargain by means of falsehood was more likely to be regarded by his neighbors as clever than as criminal".⁸

The factors that lead people towards criminal acts of this type are diverse,⁹ but modern criminology points out that the crime is caused by social, socio – economic, political and other factors.¹⁰ The inadequate distribution of wealth in society *via* criminal methods as well as the inappropriate use of the means and methods of the legal justice, and social dissatisfaction brings the situation in the current position. Although poverty is mentioned as one of the crucial factors, it is *per se* a factor in a low percentage of cases. Namely, according to the *H.M.Brenner*, unemployment is considered to be most commonly connected to property crime.¹¹ According to many criminologists, this type of crime is present in the environments of high tolerance of crime and low social control.¹²

In line with the Macedonian Criminal legislation,¹³ the crime against property comprises of criminal acts that connote illegal seizure of others property, rights, or illegal obtaining

⁷ *Кајзер, Г.*, Криминологија, Скопје, 1996, page 364.

⁸ *Perkins, R.M.*, Criminal law, Mineola, New York, 1969, page 231

⁹ *Арнаудовски, Љ.*, Криминологија, Скопје, 2007, page 558.

¹⁰ *Ibid*, page 584.

¹¹ *Brenner, H.M.*, Health cost and benefits of the economic policy, International Journal of Health Services, 7/1977, cited according to *Arnaudovski*, page 621.

¹² *Кајзер, Г.*, Криминологија, Скопје, 1996, page 365.

¹³ See Criminal Code of Republic of Macedonia, chapter XXIII

financial advantage for the perpetrator or for another person. The object of protection of the chapter XXIII of the Criminal Code is the system of plurality of forms of ownership, property rights and interests. The offences incriminated in this chapter can be classified into several subgroups, according to the different criteria: according to the intention of the perpetrator – there are crimes of “greedines”, according to the effects on property - crimes of damaging other’s property, or other acts of increasing the property of the perpetrator or third person, according to the object of attack: offences against property on movable objects¹⁴, and offences against property in general, property rights and interests.¹⁵

Some specific features of these crimes are the following: only the intentional forms of the forbidden actions are punishable; the negligent forms are not incriminated. Regarding specific crimes, if the victim is a member of the family, the procedure is initiated by a private accusation, i.e. it is not the public prosecutor who is in charge in such a case.¹⁶

The occurrence of the element of aggression and violence is noted in several forms and types (e.g. some types of aggravated theft, robbery, armed robbery, etc.).¹⁷ The object of the action is the object on which the forbidden action is performed, and is specific and different according to the actual case.¹⁸ Regarding crimes against movable objects, the theory of apprehension is accepted in Macedonian legislation. Explicitly, theft is considered perpetrated when the factual possession is interrupted, and new possession established.¹⁹ The group of offences against property in general, property rights and interests protects not only the movable objects, but real estate, as well.

It is important to strictly consider the systematization of property crimes in Republic of Macedonia, because it slightly differs among the countries. For example, in most EU member-states, property crime covers the acts of domestic burglary and

¹⁴ The group of offences against movable property (objects) consists of the following crimes: theft, aggravated theft, robbery, armed robbery, embezzlement, unauthorized use of a motor vehicle etc.

¹⁵ The group of offences against property in general, property rights and interests includes: damaging items, damaging others’ rights, illegal construction, damaging residential and commercial buildings and premises, fraud, computer fraud, consumers fraud, insurance fraud, fraudulent bankruptcy, extortion, concealment etc.

¹⁶ Macedonian Criminal Code, chapter XXIII.

¹⁷ See art. 236-238 of the Macedonian Criminal Code.

¹⁸ Камбовски, В., Казнено право – општ дел, Скопје, 2004, page 353.; Марјановиќ, Ѓ., Каневчев, М., Македонско кривично право – општ дел, Скопје, 2010, page 98 and following.

¹⁹ Камбовски, В., Тупанчески, Н., Казнено право – посебен дел, Скопје, 2011, page 284.

thefts, whereas robbery is considered crime of violence.²⁰ In our country, robbery is part of the category of property crimes.

3. The trends of property crime in Republic of Macedonia

Following the short elaboration given above, we will review the situation with existing statistical data related to the trends of property crimes, according to different terms and concepts. The numbers of reported, accused and convicted, the pronounced sentences, the recidivism rates, gender issue etc. will be taken into account. The review and analysis are aimed to portray whether the sentencing policy in Macedonia fulfills the objectives of the criminal policy, in general.

Table 1: Reported, accused and convicted perpetrators of crime in general and of property crimes in the period between 2003 and 2012²¹

	<i>Reported Total/ property crime</i>	<i>Accused Total/ property crime</i>	<i>Convicted Total/ property crime</i>
2003	20161/ 11079	9926/ 3300	7661/ 2852
2004	22591/ 13482	9916/ 3436	8097/ 2995
2005	23814/ 14330	10639/ 4069	8845/ 3589
2006	23514/ 14329	11317/ 4252	9280/ 3690
2007	23305/ 13730	11648/ 4410	9639/ 3888
2008	26409/ 16207	11310/ 4249	9503/ 3770
2009	30404/ 20205	11905/ 4515	9801/ 3952
2010	30004/ 19846	11239/ 4210	9169/ 3612
2011	31284/21956	12219/ 4501	9810/ 3850
2012	31860/ 22292	11311/4263	9042/ 3652

From the figures in Table 1, one can notice that the reported property crime consists of 54.9% of total crime in 2003, 59.6% in 2004, 60% in 2005, 60.9% in 2006, 61.3% in 2008 to 69.9% in 2012. In other words, it encompasses from 50 to 70% of the reported criminal cases.

Only about one third of the total reported cases are followed by an accusation, and the conviction rate ranges from 85 to 88%. Two questions arise from this finding: first, why do only 30% of the reported criminal cases end in accusation? The gap between the reported and accused, and subsequently convicted perpetrators lies in the fact that the number of unknown reported

²⁰ Clarke, S., Trends in crime and criminal justice, 2010, Statistics in focus, EUROSTAT, 18/2013, page 4.

²¹ Data taken from the State Statistical Office's publications: Perpetrators of criminal offences for the years 2007, 2008, 2009, 2010, 2011 and 2012, www.stat.gov.mk

perpetrators is very high, some years it reaches up to 70%. On the other hand, and this is the second question raised, why do over 85% of the accusations end in convictions? Is this related to the quality of the accusations, or do the courts follow the line of accepting lower standards of certainty about the perpetrator's guilt? However, the latter is subject of a different study.

The number of convicted persons constitute about 37% in 2003, 39% in 2006 to 40% in the total crime convicted perpetrators. Therefore, we can conclude that although almost 70% of the total reported cases of crime in general belong to property crimes, the number of convicted is a bit more than the half of that number.

Between 2003 and 2012 the number of total crime convictions increased by 15%, although this percentage was higher compared to 2011 – 21.9%. The property crime convictions rose about 22%.

Table 2: Trends of the different offences against the property in the period 2007 - 2012²²

	2007	2008	2009	2010	2011	2012
<i>Theft</i>	1633	1462	1320	1144	1017	1121
<i>Aggravated theft</i>	1602	1573	1748	1526	1839	1707
<i>Robbery</i>	109	114	104	133	135	121
<i>Armed Robbery</i>	12	4	17	28	13	21
<i>Embezzlement</i>	37	60	49	75	64	55
<i>Fraud</i>	275	276	320	289	311	272
<i>Extortion</i>	20	25	24	17	20	19
<i>Concealment</i>	107	116	124	122	163	119

As we can conclude from the table above, the most frequent property crimes are theft and aggravated theft. Furthermore, the number of thefts generally decreased from 1633 in 2007 to 1121 in 2012. Contrary, the number of aggravated thefts increased from 1602 in 2007 to 1839 in 2011, and 1707 in 2012.

The frauds increased significantly in 2009 and 2011, but then decreased in 2012 to the level of 2007. There is a similar situation with robbery, embezzlement and concealment. The number of extortions is quite constant in the period between 2007 and 2012.

Compared to the EU member-states, where there are trends of robbery decreases, as noted in most of the member-states, whereas they are quite constant in our country. In the EU, the trend dropped by 5% in the period from 2007 to 2010.²³ However, a few

²² Ibid.

²³ See Clarke, op.cit.,page 4.

European countries had large increases in robbery, even up to 100%. Such is the the case in Denmark, Greece and Cyprus.²⁴

Domestic burglary increased in the EU .²⁵ This form of offence in the Macedonian legal classification is considered a form of aggravated theft.²⁶

4. Analysis of sentencing and other criminal law institutes with respect to the property crimes

Table 3: Types of sanctions pronounced for the property crimes in the period 2007-2012²⁷

	<i>Total convictions</i>	<i>Imprisonment</i>	<i>Fine (as main sentence)</i>	<i>Prohibitions (on use of motor vehicle and on performing profession or duty)</i>	<i>Alternative measures (total)</i>	<i>Conditional Sentence (on imprisonment and fine)</i>
2007	3888	1581	399	5	1893	1870
2008	3770	1409	387	2	1969	1952
2009	3952	1662	395	4	1868	1847
2010	3612	1559	409	3	1629	1615
2011	3850	1772	383	/	1689	1672
2012	3652	1604	598	5	1414	1400

The sentencing policy of a state is of crucial significance for the achievement of the objectives of the criminal policy in general. Namely, the right choice of the type of a sanction and its duration is very important for the efficient prevention of the crime, and prevention of recidivism, i.e. accomplishing re-socialization of a former perpetrator.

The Macedonian system of criminal sanctions consists of punishments (imprisonment, fine, two prohibitions (on use of a motor vehicle and on performing profession or duty) and deportation of a foreigner), alternative measures and security measures. This analysis will focus on the most frequently used punishments and alternative measures.

Imprisonment and fines can be pronounced as main punishments, whereas prohibitions and the deportation of a foreigner are subsequent. The fine can also be subsequent when pronounced with imprisonment. Imprisonment takes up 40.6% of the total punishments pronounced for property crimes in 2007, 46% in 2011 to 43.9% in 2012. One cannot fail to notice that the

²⁴ Ibid.

²⁵ Clarke, S., op.cit., page 1.

²⁶ See, Macedonian Criminal Code, art. 236.

²⁷ Ibid.

number of sentences of imprisonment is not low at all, but what makes the sentencing policy relatively inadequate is the short duration of imprisonment and the high rate of pronounced conditional sentences. Explicitly, the rate of conditional sentences varies from 38% to 48% of the total convictions, and is an even higher rate than that of imprisonment. If we take into account that conditional sentences make up to 99% of all the pronounced alternative measures, one can conclude that most of the alternative measures introduced in the Criminal Code in 2004 remained “on paper” only, and have almost never been applied.

The fine is pronounced in 10% to 16% of the cases, which is a low rate considering the fact that the punishment that affects the perpetrator’s property could have the best effect in the prevention of the property crime.

Before conducting an in-depth analysis of the pronounced sentence of imprisonment, we should see the data about the recidivism rate, and the application of the special criminal-law measures of confiscation of property and objects.

Table 4: The rates of recidivism, the gender issue and the application of special criminal law measures²⁸

	<i>Total convictions</i>	<i>Recidivism</i>	<i>Sex/women</i>	<i>Confiscation of property</i>	<i>Confiscation of objects</i>
2007	3888	1165	179	/	122
2008	3770	961	196	3	90
2009	3952	1145	109	6	205
2010	3612	1179	229	16	159
2011	3850	1250	213	23	205
2012	3652	701	189	9	161

Recidivism is a very important institute in criminal law and criminology researches. It is of great importance in the criminal policy, as well as also being indicator of the adequacy of the sentencing policy. The rate of recidivism varies from 20% to more than 34,8% in the adult convicted population. It is a strong signal that the special prevention and re-socialization process does not function properly.

The gender issue figures as follows: women constitute from 4% to 7% of the convicted perpetrators of criminal acts against the property.

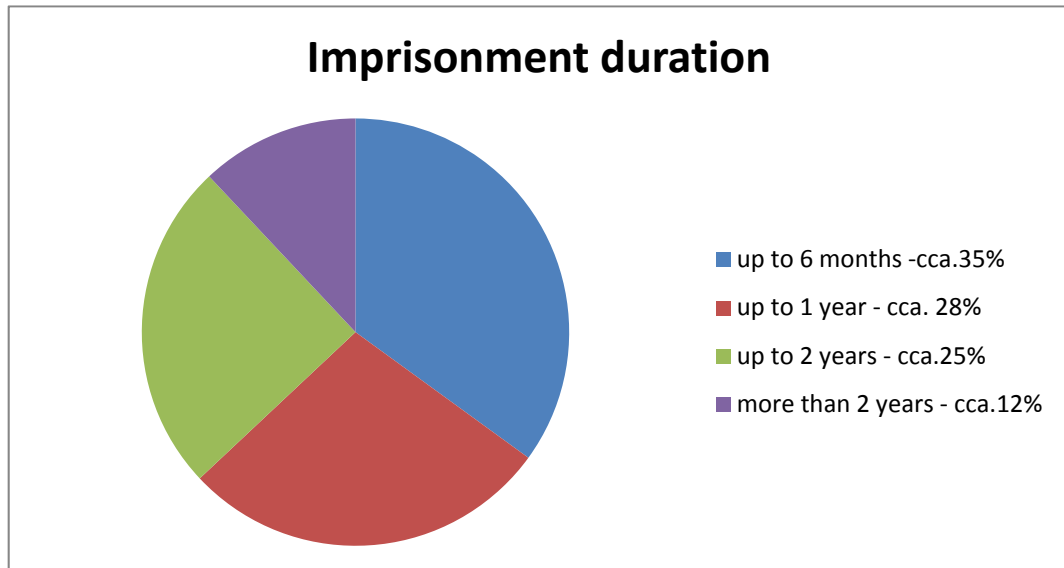
The special criminal – legal measures such as confiscation of property and proceeds of crime and confiscation of objects have been applied in a very limited number of cases (confiscation of property in less than 1% and confiscation of objects in 3-5%).

At this point, what we should additionally analyze is *the issue of the duration of the pronounced sentence of imprisonment.*

²⁸ Ibid.

In this respect, we will inspect the situation in three randomly selected years: 2009, 2010 and 2011. The imprisonment rate was 42, 43% and 46% respectively, and within the imprisonment rate we can find the following distribution:

Chart 1. Duration of the pronounced imprisonment sentences in 2009



If we take a closer look to the duration of the pronounced imprisonment, we can note that in 2009 about 63% were short term sentences (up to 1 year), and if we take into consideration the fact that even the convicted with 2 years of imprisonment could be conditionally released after 1 year, we could put under question the possibility of efficient re-socialization of up to 88% of the convicted with imprisonment.

The situation in 2010 and 2011 is quite similar. Namely, from the chart below we can conclude that the imprisonment sentences are in fact mostly short-term.

Chart 2. Duration of the pronounced imprisonment sentences in 2010 and 2011



It can be clearly seen that about 66% of the pronounced sentences of imprisonment in 2010 and 65% are of duration of up to 1 year. Together with the up to 2 years category, they constitute up to 88% of sentences, where the perpetrator could leave the prison institution in one (or less than one year), causing the state high costs followed by poor chances of special prevention.

Using the data given in the Tables 3 and 4 and the Charts 1 and 2 presented above, we can cross-calculate this figures as percentage in the total sentences range:

Table 5. Presentation of the “milder sentences” in the total sentences figure

	<i>Short-term imprisonment (up to 1 year)</i>	<i>Fine</i>	<i>Conditional sentence</i>	<i>Total</i>	<i>Remaining</i>
2009	26,5%	10%	47%	83,5%	16,5%
2010	28,4%	11,3%	44,7%	84,4%	15,6%
2011	29,9%	10%	43,4%	83,3%	16,7%

Yet, a question that arises is what does the category “remaining” constitute? The following should be given particular attention:

Table 6. Presentation of other sentences in the total convictions rate

	<i>Remaining</i> ²⁹	<i>Sentences from 1-2 years (possibly short-term in practice if conditional release is applied)</i> ³⁰	<i>Other alternative measures and imprisonment of 2 years and higher duration</i> ³¹
2009	16,5%	10, 5%	6%
2010	15,6%	9%	6,6%
2011	16,7%	10,6%	6,1%

In the case of recidivism on average 30%, only cca. 6% of the pronounced sanctions are potentially preventing the perpetrator, and the public from future commitment of these offences. Therefore, at this point we can conclude that in fact, the sentencing policy is mild.

What is also considered important for the right assessment of the influence of the sentencing policy on property crime trends in our country is the issue of joint perpetration, because this points us to the elements of the subjective element of the offence, and the subjective view of the perpetrator to the offence itself.³²

*Table 7: Sole and joint perpetration trends*³³

	<i>Total convictions</i>	<i>Sole perpetrator</i>	<i>Direct perpetrator</i>	<i>Accomplice</i>	<i>Instigator</i>	<i>Accessory</i>
2007	3888	2244	213	1414	/	17
2008	3770	2249	25	1482	1	13
2009	3952	2347	36	1557	/	12
2010	3612	2219	53	1322	5	13
2011	3850	2163	417	1249	5	16
2012	3652	2284	342	1009	2	15

²⁹ This refers to the same category in the Table 5.

³⁰ Percentage of the category “Sentences from 1-2 years” in the total number of convictions.

³¹ Percentage of the category “Other alternative measures and imprisonment of 2 years and higher duration “in the total number of convictions.

³² The joint perpetration is considered to direct to a higher level of guilt. It is obvious that in these cases, when all the accomplices are aware of the crime, it is very unlikely to have momentous intention, but rather premeditation and a situation of planning of the crime, division of the roles etc. –See, *Камбовски В.*, *Казено право – општ дел*, page 703, paragraph 2. In this context, the offenders do not feel threatened that if discovered, they will lose their honor and credibility, but they fear for losing the material benefit and freedom in a long term. (note of the author).

³³ *Ibid.*

The analysis of the numbers of perpetrators shows that over 55% of the crimes have been perpetrated by one person. The accomplices are discovered and convicted in about 36-37% of the cases, whereas the number of instigators is very low – insignificant. The percentage of the accessories is also very small – only 10% of the cases when the crime is perpetrated by more than one person.

Table 8: Number of perpetrators in the cases of joint perpetration
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	<i>Total convictions</i>	<i>One perpetrator</i>	<i>Two perpetrators</i>	<i>Three perpetrators</i>	<i>Four perpetrators</i>	<i>Five perpetrators</i>
2007	3888	2244	846	446	212	140
2008	3770	2249	835	378	206	102
2009	3952	2347	892	433	148	132
2010	3612	2219	814	360	134	85
2011	3850	2163	938	481	149	119
2012	3652	2284	796	323	132	117

According to the figures in Table 8 over 55% of the crimes have been perpetrated by one person. The number of over 40% perpetrated by more than one person is noteworthy! Most of them are done by two perpetrators, but a number of perpetrators that could constitute a criminal group conduct about 20% of the cases. The numbers of cases perpetrated by, for e.g., four or five persons are constant. This should be a strong signal that maybe among these cases undiscovered criminal groups are hidden, because it is not easy spontaneously to perpetrate a crime with four or five persons without having prior contract, division of roles, and so forth. Even these statistic figures could be indicative for the bodies of the criminal justice system.

5. Elaboration of the results of the performed analysis and concluding remarks

The crime against the property is a classic form of crime present since the appearance of the concepts of property and ownership, even in the simplest sense of the word. It is the most committed crime in all states and societies. The classification of these offences differs in the criminal legislation of countries. Whereas in the member-states of the EU property crimes constitute acts of stealing and damaging of the property, and the robbery and similar crimes are considered violent crimes, in Republic of Macedonia all acts against property despite the aggravating elements of conducting violence are within the structure of the property crime chapter of the Criminal Code.

³⁴ Ibid.

Some types of property crime in Europe show significant decrease. However, domestic burglary and the robbery in some European countries are considerably increasing.

In the Republic of Macedonia, property crime generally increased in the period of 10 years. In the last few years the trend is quite stagnant.

According to the elaboration, and the conducted analysis, property offences in Macedonia are 30% to 40% of the total officially perpetrated crime. From a phenomenological point of view, the most frequent type is 'aggravated theft'. This type of theft contains an aggravating circumstance in the system of elements of the offence, sometimes being the element of holding a weapon, of trespass etc.

Men are dominant perpetrators of property crimes; women do not take considerable part in the perpetrators figure. What is disconcerting is the fact that about one third of the convicted perpetrators are recidivists, which means that they have criminal experience, and that they did not become rehabilitated citizens.

Regarding the sentencing policy, one has to point out the following conclusions we arrived at by analyzing the official statistical data:

a. In respect to property crimes, the courts pronounce cca. 42% of imprisonment, 10% fine (as main punishment), 45% of conditional sentences and about 2% other sentences.

b. About 60-70% of the pronounced sentences of imprisonment are short-term sentences, or more precisely, short-term imprisonment constitutes up 30% of all pronounced sentences.

c. If we agree that the short-term sentences, the fine and the conditional sentences are "so-called" mild sentences, we can say, from the analysis, that about 84% of all pronounced sentences are mild. Yet, within the rate of 16% of the remaining sentences, we also decided to take into consideration the imprisonment sentences of duration up to 2 years, for several reasons. From the scope of possibility of re-socialization, even within this frame, it is disputable, because of the possibility the perpetrators to be conditionally released after one year – after serving one half of the sentence, or even after 8 months – after serving one third of the sentence; it is hard to accomplish re-socialization within this time frame. The frame of up to 2 years is relevant to the issue as well because of the fact that this frame is base only for facultative suspension of a previous conditional release, in the case where the perpetrator is a recidivist. If one accepts these arguments, and takes into account the figures for these time-frames as well and the figures for the other alternative measures, we get to the percentage of up to 96% of pronounced sentences for property crimes by the Macedonian courts that cannot derive special prevention and re-

socialization of the perpetrator, because of their type or the duration.

d. At the same time, we should consider the fact that the recidivism rate constitutes about 30%. Further on, we can conclude that the criminal policy does not have positive impact on the decrease of recidivism rate in this type of crime, nor does it contribute to the decrease of the property crime trend.

The latter means that the criminal policy is not efficient, but it still does not prove that it is inherently inadequate. The pronouncement of imprisonment of higher duration would not solve the problem, and is unacceptable for the less serious property crimes. Imprisonment itself is not appropriate at all. The solution should be looked for in another direction.

e. It is the fine that should be reconsidered seriously. Historically observed, it is the first alternative to prison, and comparatively seen it is oriented to replace short-term imprisonment and is the most adequate sentence for the crimes committed for lucrative (profitable) motives.³⁵ Nevertheless, whether it derives from poverty, or the motive of greediness, the motives in case of property crimes are always oriented towards the illegal obtaining of material goods. The poverty in a society should be differently treated, and this is a problem of the social action of a country. It should not be a basis for crime justification, or for the pronouncement of short-term sentences. In order to address the poverty issue, when pronouncing a fine, the court should use the benefits of the daily-fee system of fine introduced in our criminal legislation about a decade ago, which allows pronouncing low fines for the poor perpetrators. Additionally, the confiscation of the proceeds of crime should be more often implemented as well. The message that *one cannot retain the gains derived from a criminal act* would result in better prevention than short-term sentences. Finally, this sentence will not cause costs, but shall rather obtain benefits for the state in conditions where most of the prisons are filled high above their capacity.

An encouraging fact is that in 2012 the courts pronounced more fines for property crimes than was the case in the previous years. What should be monitored in the future whether is whether this is related to a change in the sentencing policy, or just an isolated case.

As a conclusion, it should be pointed out that the present sentencing policy for property crimes of Macedonian criminal courts at first sight appears correct, but it is obvious that it is not efficient enough in order to achieve the criminal policy objectives: a decrease of crime, and successful prevention. Therefore, it is

³⁵ See *Eser/Kaiser/Weigend*, page 371, cited according to *Камбовски, В.*, *Казнено право – општ дел*, page 884.

recommended that the courts apply fines more frequently. instead of short-term imprisonment sentences and conditional sentences.

Finding a solution for property crime is not an easy process, however, it is worth every effort since this type of crime constitutes the core of all crime. Solving this issue and holding property crimes under firm control would solve at least half of the challenges of the modern criminal justice system.

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**THE EFFECTS OF THE SENTENCING POLICY
ON THE TRENDS OF THE CRIME AGAINST PROPERTY
IN MACEDONIA
(Summary)**

The author of this paper elaborates property crime in Macedonia, its forms and etiology, its legislative frame as well as its trends in the period from 2007 to 2012. The analysis of the trends of property offences in Macedonia is brought into correlation with the sentencing policy, and the objectives of criminal policy in general.

The first on the list of property crimes perpetrated in Macedonia are thefts, especially the aggravated theft. The perpetrators are dominantly males and the percentage of female perpetrators is very small – 4-7 %. The recidivism is about 30%. Regarding sentences and measures pronounced, the most pronounced are conditional sentences, then comes imprisonment, and last are the fines. The confiscation of property and objects are insignificantly applied.

In the conclusions of the paper, the author states that the sentencing policy is inadequate, because despite the imprisonment pronounced in about 40% of the convictions, property crime increases every year. This is due to the fact that short-term sentences dominate, and the high percentage of conditional sentences, and the rare application of confiscation have a wrong influence regarding the general and special prevention. At the end, the author recommends a higher application of fines, instead of short-term imprisonment and conditional sentences.