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## **FUGITIVE WARRANT AS AN INSTRUMENT FOR SEARCH OF WANTED PERSONS**

### **Abstract**

In the history of mankind, there is no notion of social order without crime, which finds its roots in the individual violation of established norms of behavior, and then in street gangs and groups that over time have been organized and joined together for mutual undertaking of incriminated acts. The development of science and technology started in the nineteenth century, contributed toward changing the habits of people, the way of life and its perception. The development, together with the consequences of the large number of wars and crises, has also contributed toward changing forms, manners of committing and increasing trend of crime. The beginning of the last century is characterized by appearance of new forms of crime. Taking into account the consequences of this phenomenon, especially the organized types, one of the key questions is how to deal with crime. Globalization, as an inevitable process of modern society, has changed the legal, political, social and economic areas, but also the crime. Due to its new forms and methods of action, it has become a world phenomenon and as such is constantly at the center of the human, professional and scientific interest. One has to admit that existing instruments for dealing with crime are even not appropriate for the new types of crime or are practiced with significant delay. Organized crime constantly monitors and uses such conditions and is constantly a step ahead from the authorities in charge for dealing with it. The nature of crime and its discovery, as a diverse, non-exhaustive and variable phenomenon, constantly requires specific measures for dealing with it and use of counter-measures appropriate for its conditions. Bearing in mind that this is a phenomenon that is characteristic for the new age, the modernization and promotion of the methods, resources and instruments are main conditions for greater efficiency in dealing with the new challenges of crime and together with it, with the fugitives from the law.

According to our research, so far, joint measures, mutual cooperation and instruments, which are or could be used by the police and judicial authorities to overcome and improve such unfavorable situations with crime and warrants, have not been researched. The practical experience and scientific knowledge of the authors show that the lack of coordination in the procedures for issuing and canceling the fugitive warrants in the Republic of Macedonia causes a number of negative consequences, for the person subject of the warrant, for the police and judicial authorities, as well as for the state itself. In this context, the situation with crime, search of fugitives, warrants as an instrument for dealing with fugitives and objects, institutional cooperation and coordination between the competent authorities, need to be closely analyzed. In order to obtain a more complete picture for the existing problems, that arise nearly every day, during the work of the competent authorities, the place and the role of the same in the procedure with the fugitive warrants will be handled with a practical case. After the analysis, conclusions will be drawn and there is a proposal for overcoming the issue of fugitive warrants in the Republic of Macedonia, primarily regarding to the establishment of a common electronic database of the competent authorities, by which the cooperation and coordination will be improved and overcome.

The authors consider that this paper will be a challenge and a contribution at the same time to taking further and concrete steps in overcoming problems, notified by authors, with the issue of warrants, in the sense of unifying the procedures for their recording and sharing. The procedure will require a comprehensive, thorough and profound analysis of the existing situation in the competent authorities.

**Key words:** crime, cooperation, criminal law authorities, fugitive warrant.

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## **I. CRIME AND HOW TO DEAL WITH IT**

Crime as a socially negative phenomenon is as old as humanity itself. It has appeared and existed in various forms and types depending on the period of interest. Prostitution, gambling, drug trafficking, alcoholism and other socio-pathological phenomenon are considered to be its products and followers. It has been considered as most adaptable social problem that develops and follows the development of every social system.

Global changes in each area are a suitable ground for the emergence of new forms of crime that have now become from national toward more global in its nature. Globalization shall be understood as a reflexive concept, which means modernization and developing cultures in transition, from one side, but the relentless globalization, unfortunately, is a suitable ground for high rates of criminality, as well.<sup>1</sup> The new type of crime differs in many ways from its predecessor - organizing, new forms and type, applying violent methods, diversity, professionalism, specialization. Unprecedented openness in trade, finance, travel and communication has created economic growth and well-being, it has also given rise to massive opportunities for criminals to make their business prosper.<sup>2</sup> Transnational crime is a new only for the manner in which law enforcement and international agencies have recently identified it as a priority.<sup>3</sup>

The new conditions and forms of organized action of the perpetrators of criminal acts are the reason for the increased number of persons who are not available to the criminal justice authorities. Because of this, the number of warrants issued is constantly increasing. Although the number of located and arrested persons for whom a fugitive warrant has been issued is rising, the number of search for persons is also constantly increasing.

Dealing with crime involves the engagement of several state institutions at the same time. Their coordinated approach involves undertaking activities that begin with the detection and clarification of the criminal act, detection and location of the perpetrator and continue with the initiation and conducting the criminal procedure and its completion by pronouncing and executing the verdict.

Due to the fact, that very often, it is a matter of professionals, repeat offenders and specialized perpetrators of criminal acts, who take and use all necessary measures for their own protection, using scientific, technical and technological achievements, the clearing up of criminal offenses and locating of unacceptable perpetrators – fugitives from the law<sup>4</sup>, represents a difficult and complex task for the respective state authorities.

Fugitives undermine the criminal justice system and presents a serious threat to public safety, as well. Fugitives from justice means a person who avoids the criminal justice and therefore is the subject of a issued warrant. They are also known as “a wanted persons” or “person of interest to law enforcement”. Fugitive warrant is a type of arrest warrant that is used

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<sup>1</sup> Bauman, Z (1998) *Globalisation: The human consequences*, Polity, Cambridge; Harvey, D (1989) *The Conditions of Postmodernity*, Blackwell, Oxford; Robertson, R (1992) *Globalization*, Sage, London.

<sup>2</sup> *The Globalization of Crime a Transnational Organized Crime Threat Assessment*, United Nations Office on Drugs and Crime, Vienna, 2010.

<sup>3</sup> Mark Findlay, *The Globalisation of Crime, Understanding Transitional Relationships in Context*, Cambridge University Press, 1999.

<sup>4</sup> <http://dictionary.reference.com/browse/fugitive>.

to arrest a fugitive person and shall be understood as a first step in getting a fugitive back to the state where the warrant was issued.

In one recent research,<sup>5</sup> regarding the number of issued and cancelled fugitive warrants conducted in the period 2005-2012, the author points out that the trend of increase of the issued warrants is constantly higher than the trend of the cancelled warrants, i.e. that the trend of increase of the cancelled arrest warrants based on deprivation of liberty of wanted persons does not follow the upward trend of the issued warrants<sup>6</sup>. In the same research 97.7% of the police officers<sup>7</sup> stated that the establishment of a unique base for record of the warrants will contribute in the direction of increased and efficient operation.

## II. COOPERATION

The rapid development of technology for sharing information also contributed to the fact that in the last fifty years, by using this technology, more information has been produced than ever before. Modern technical solutions offer the ability for anyone to search, collect, store information and data from any area and at any time. Knowledge, overcoming and use of modern information technology, among others, enable fast and efficient communication between the competent authorities. As a process and procedure, the fight against crime implies and lasts from finding out about the existence of a criminal act, the discovery and finding of its perpetrator, continues with conducting pre-investigative and investigative procedures, trial, conviction and ending with pronouncement and execution of the imposed punishment.

The citizens expect from the authorities, while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal migration, trafficking and smuggling of human beings, terrorism and organized crime, as well as the prevention thereof. There is an inevitable need for securing police, customs and judicial cooperation and a coordinated policy.<sup>8</sup>

The realization of the basic assumptions for realization of the set tasks and goals, especially in finding the fugitives from the law among others, requires the use of modern information technology, greater and more efficient cooperation among all law enforcement agencies. Tackling crime as a complex activity implies the activation of the measures for prevention and repression provided by the laws and by law rules that are used and applied and are available to the competent authorities.

The diversity of the undertaken measures depends from the stage and from the authority, in which they are undertaken and can be divided into two groups:

- Informal or police - usually taken in detection of criminal act and its perpetrator;<sup>9</sup> and
- Formal or special - primarily with procedural nature, undertaken during the conducting of the criminal procedure.<sup>10</sup>

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<sup>5</sup> Стојановски С., „Бегалците од законот и екстрадицијата“, 2014, Скопје.

<sup>6</sup> Ibid. p.357.

<sup>7</sup> Ibid. p.384

<sup>8</sup> The Hague Programme: Strengthening Freedom, Security and Justice in the European Union (2005/C 53/01).

<sup>9</sup> Measures and activities refer to identification, searches, gathering information from citizens, using organized sources of information, surveillance, ambush, raids, patrol service, insight into certain documentation, intensified surveillance, searching for persons and objects, use of official dogs, photography, fingerprinting etc..

<sup>10</sup> The measures are consist of investigation on the spot, searches of apartments, persons and other premises, deprivation of liberty, temporary seizure of objects, examination of witnesses, experts testimony, examination of the suspect, confrontation, recognition, checks of alibi's, use of polygraph etc.

Some of these measures are solely used by the police, parts of them are used by the judicial authorities, and some are taken in a mutually coordinated way. Due to such interlacing of the measures and activities between the competent authorities, their mutual cooperation and coordination becomes a necessity with the tendency of its constant modernization and promotion.

There is a need for facilitating mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters particularly regarding serious crime with cross-border dimensions.<sup>11</sup>

The increased number of reported criminal acts and the reported and convicted persons, the long lasting and slow criminal and other procedural procedures, of one and the rapid changes in the structure of crime, on the other hand, are one of the reasons for the inefficiency of the competent authorities.<sup>12</sup> Attempts to adjust the existing criminal justice instruments to new situations remain unsuccessful, because they are not a solution to existing problems.

The matter of particular concern should be the fact that after 2014 there is decreasing number of reported criminal acts.<sup>13</sup> This should be analyzed in the context of increasing dark figures of crime and inefficiency in discovering the committed offences.

The suppression of criminality, especially the organized type and the attempt of the perpetrator of the criminal act to avoid criminal responsibility, also imposes the inevitable need for cooperation among the competent authorities.

At European level, there is a need for closer practical cooperation that shall encompass different aspects, such as technical assistance, training, and exchange of information, monitoring of the adequate and timely implementation and application of instruments.<sup>14</sup>

The fast procedure of the criminal justice authorities in finding and convicting perpetrators of criminal acts creates presumptions to reduce the criminal offenses, and to reduce the opportunity of the perpetrators to escape the criminal responsibility and justice.

### III. SEARCH FOR FUGITIVES FROM JUSTICE

After receiving the criminal charges or after obtained information for committed criminal act prosecuted *ex officio* by the public prosecutor, the police is obliged to take the necessary activities and measures for finding the perpetrator of the crime, preventing the perpetrator or the accomplice from hiding or escaping, to discover, provide and fix the traces of the crime and the objects that can be used as evidence, as well as to collect all the information that might be useful for the successful conduct of the criminal procedure.

Among those police competences is issuing the fugitive warrant as an instrument for finding fugitives from justice and objects.<sup>15</sup>

According to the provisions of Article 559, paragraph 2 of the Code of Criminal Procedure, the order for fugitive warrant is issued by the competent authority, meaning the

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<sup>11</sup> The Hague Programme: Strengthening Freedom, Security and Justice in the European Union (2005/C 53/01); Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organized crime, OJ L 300, 11.11.2008, p. 42–45;

<sup>12</sup> Стојановски С., Op. cit. p. 350.

<sup>13</sup> Perpetrators of criminal offences in 2016, Statistical Review: Population and Social Statistics, Skopje, State Statistical Office of the Republic of Macedonia, July 2017, p. 12.

<sup>14</sup> The Hague Programme: Strengthening Freedom, Security and Justice in the European Union (2005/C 53/01);

<sup>15</sup> In accordance with Art. 276 para. 2 p. 5, Code of Criminal Procedure, Official Gazette no. 150/2010.

authority that is conducting the criminal procedure. According to this, depending on the phase of the criminal procedure, the order can be issued by the Public prosecutor office, the courts and penitentiary institutions. Namely, depending on the stage of the criminal procedure, the search can be initiated upon the order of the Public Prosecutor's Office, during the investigation phase, by the trial chamber at the trial stage or in the phase of executing a criminal sanction by the order of the penitentiary institutions where the person serves the sentence or the measure of detention and had escaped from there. The order for issuing a fugitive warrant for persons undertaking the security measure of compulsory psychiatric treatment in specialized healthcare institutions in which they were sent with a court decision, in cases of their escape from that institution, a fugitive warrant shall be issued by the court that ordered the security measure.

Regarding above mention, there are often cases in practice when one person is a subject of a fugitive warrant at different stages of the criminal procedure or for various criminal acts and procedures by the same or different authorities. In such cases, when a person is a subject of fugitive warrant based on an order of one authority, after discovering his location and deprivation of liberty, he is taken to the authority that issued the order (fugitive warrant).

There is a problem in the practice, also, regarding the case when more than one fugitive warrant has been issued for the same person. Namely, when an authority gets the arrested person based on its issued warrant, has no knowledge that there is another active fugitive warrant for the same person issued by the same or another authority with the purpose to inform it that the person has already been located and arrested.

In practice, very often there are cases when a wanted person has been arrested and taken for serving a measure of detention or a prison sentence upon one issued fugitive warrant, and in the same time for the same person there have been more active fugitive warrants, issued by different authorities and at different stages of the procedure. The main problem is when one or more fugitive warrants remain active, despite the fact that the person has already been arrested and detained.

In addition, there are cases when the person has been deprived of his liberty abroad and extradition procedure has been initiated for a particular criminal procedure, while at the same time for the same person there are other on going criminal proceedings, but for them there is no notification so there is no possibility all necessary documentation to be prepared timely and submitted to the existing extradition request.

After taking into consideration all abovementioned, there is a need for establishing a common system that will unify the orders (fugitive warrants) of the competent authorities in a single database. The system will ensure the connection of the persons for whom a fugitive warrant has been issued into a common database that will be available for all criminal justice authorities. The way and level of access will be determined depending on the needs of the authorities. This approach will provide each authority, within its competencies, to have access to data whether the person, for whom a warrant has been issued and which is arrested, appears in another criminal procedure conducted by another authority.

### **1. Concept of fugitive warrant**

The fugitive warrant, as a separate part or as a part of the overall police activity in the process of dealing with crime, is undertaken with the aim to find wanted persons and objects and to collect information about certain events relevant to the criminal or other type of procedure. Contrary to the notion that the fight against crime is based only on its prevention and repression

by all social actors, the search is characterized as the exclusive competence of certain bodies that are not authorized only for issuing but also for taking necessary activities for its implementation.

The definitions of the fugitive warrant as well as all activities and actions connected with it, which constitute a form of organized response in dealing with crime, differs in domestic and foreign criminal literature. There are not any authors that put special attention to individual segments of fugitive warrant through research. Within criminal literature the fugitive warrant is dealing only on the theoretical level while analyzing criminal procedure system, since the provisions are part of CCP. However, practitioners are undertaking necessary activities regarding the fugitive warrant on daily basis within the overall operational activity of the Ministry of Internal Affairs.

The fugitive warrant is an act of a competent authority empowered to order the police to conduct a search for persons and objects, to collect information about them and to determine the identity of unknown persons. In accordance with the Law on Police, the police in the pre-trial procedure are authorized to conduct measures of searching for persons and objects.<sup>16</sup>

The measures for search are warrant, circular<sup>17</sup> and announcement<sup>18</sup>.

A warrant is issued for persons for whom a detention order has been issued in accordance with the Code of criminal procedure. There is a provision regarding the steps that need to be taken by the police officer in case of issued fugitive warrant based on law, upon Law on police and the Rulebook on performing the work of the police.<sup>19</sup> In accordance with the provisions of the Rulebook, warrants shall be announced to the information system of the police and published in the Register of persons and objects that are being searched. The fugitive warrant is a measure of a competent state authority aimed to find and bring the perpetrator to the competent court that conducts the procedure, or to find and return to the institution a person who fled from that institution in which he was serving the criminal sanction. As an instrument of search, the warrant itself covers all the moments of the decision to be issued, announced and cancelled. The issuance of the order for announcing and canceling is the exclusive competence of the competent authorities, and only the police authorities are responsible for its execution. In the scope of its activities, the police perform recording, announcing, changes and cancellation, publishing in the official media, proposing measures and activities for its realization, monitoring their realization, conducts transport of the found fugitives in the Republic of Macedonia and conducting the extraditions procedures of persons in and from the Republic of Macedonia.

The warrant is an order to apprehend a person who is on the run, meaning a written act for search issued by a competent authority for finding, deprivation of liberty, apprehension and enforcement of the person to the competent authority (defendants, convicted persons or persons serving a prison sentence or other sanction related to deprivation of liberty).

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<sup>16</sup> Art. 51, Law on police, Official Gazette nos. 114/2006, 6/2009, 145/2012, 41/2014, 33/2015, 31/2016, 106/2016, 120/2016, 21/2018 and 64/2018.

<sup>17</sup> A circular is issued for a person, for whom there are grounds for suspicion that s/he has committed a criminal act or misdemeanour, or a person, who can provide information on committed criminal acts or misdemeanour, or on the perpetrators of such acts or a missing persons, Art. 51, Law on police.

<sup>18</sup> An announcement is issued for: 1. establishing a domicile or residence of a person; 2. establishing a person's identity who is not capable of giving personal data, or of a corpse of a person, whose identity cannot be established; 3. finding objects related to a criminal act or misdemeanour, as well as missing objects, Art. 51, Law on police.

<sup>19</sup> Article 28, Official Gazette nos. 149/2007, 110/2011, 117/2014, 14/2017 and 49/2017.

## 2. Search through the history

The search as an activity is characteristic of the period of the Roman Empire, a time when the search for the escaped perpetrators was entrusted to the execution of various state servants. Because of the tasks that they were supposed to carry out, they also had the role of mailers "*cursus publicus*" or "*curss fiscalis*", which meant a postal service, meaning that at the same time executed police and postal affairs. The orders (warrants) that were supposed to pass through the Roman Empire were issued by the central government in Rome, and were recorded on tablets whose surface was waxed or on a parchment (*papirus*). They were transmitted by fast couriers called "*tabs*" (according to the tables they were distributing with light cars).<sup>20</sup>

At the beginning of the XX century (1903), the Hamburg police at an exhibition in Dresden to the publicly presented an original arrest warrant<sup>21</sup> issued in Alexandria in the year 106.<sup>22</sup>

In the late XIX and early XX centuries, expert journals and journals from the Kingdom of Serbia have spoken about the significance of the search for the Balkan areas, especially in the part of finding persons, perpetrators of the criminal acts. The police bulletin was published in Belgrade in 1879, once a week. Among other articles and contents, texts related to crime and its perpetrators were published.

The magazine "Police" was published in Belgrade from 1910 until 1940. It contained articles in the area of law, the organization of the police and the courts, and cases of police and judicial practice.<sup>23</sup>

The facts about the significance of the search and warrants in the past that can be considered as a model of today's instruments of search are obvious, primarily because of the abundance of details and particular signs which are described.

## 3. Fugitive warrant in dealing with crime

The purpose of the perpetrators of crimes is always to commit "a perfect crime" by using the benefits of technical and technological achievements without being discovered and arrested. In order to achieve this goal and to make their identification difficult, not to be found, deprived of their liberty and prosecuted, they endeavor, after committing the crime, not to leave traces, changes or signs that are usually the consequence of committed criminal act and would be connected with them.

In this sense, for the protection and defense of its criminal activities, interests and members, the organized crime provides i.e. it establishes its own system of relations, rules and control, applies the most modern technical means, bribery, pressures, threats and blackmail directed to all those who can threaten or jeopardize their activity, making it untouchable for the existing legal system.<sup>24</sup>

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<sup>20</sup> Umberta Leoni and Giovanni Zbaderini, "Sull Appra Antica", the text is described by Simonovic J., editor of the "Policiski glasnik" under the heading "Kako se vrshilo izdavanje poternica u rimskoj eposi", p.970-973 (972)

<sup>21</sup> Edmond Locard, head of the police lab in Lyon, in his book "Identification of Returnees" (L'identification des récidivistes 1909, Maloine, Paris) cites an arrest warrant in which special attention is paid to the personal description of the wanted persons.

<sup>22</sup>The detailed description is given in the "Arhiven fur Kriminal Antropologie, III", s.318, and for it also wrote Eugene Stockis in the text "L'identification judiciaire et le signalement international" published in Revue de Droit Penal et de Criminology, Bruhelles, book for January and February 1908

<sup>23</sup> Pravni leksikon, drugo izmenjeno i dopunjeno izdanje, (1970) Savremena administracija, Beograd, s.790.

<sup>24</sup> See: United Nations Office on drugs and crime (UNODC); Interregional research Institute of United Nations on matters of crime and justice (UNICRI); The UN Convention against Transnational Organized Crime.

On the other hand, professional perpetrators of criminal acts are determined to commit certain crimes, constantly working on developing their abilities, techniques and methods, often changing the place of residence and living, by using false or forged personal documents, changing their personal description and carefully disperse the stolen items.

Regarding the above, it can be concluded that the inventiveness of the criminals in the plan of undertaking self-protection measures is infinite and endless. In order to avoid criminal responsibility and sanction, the perpetrators among other measures of self-protection usually leave the scene of the criminal act and reside at an unknown address. So, the detection, clarification and proving of the committed crime and finding its perpetrator, due to such measures of protection, is not simple at all.

#### **4. Search for persons and objects**

The common ground for initiating activities for search of persons and objects are found in their inaccessibility to law enforcement agencies (police and judicial authorities), because of their unknown address of residence, they are on the run or they need to be identified and found.

The legal bases for initiating the search for persons and objects are provided in the provisions of the CCP,<sup>25</sup> in the Law of execution of sanctions,<sup>26</sup> other laws and bylaws.

The search for persons may be organized for finding persons with familiar identity who are on the run, meaning suspected persons (police search),<sup>27</sup> the defendants and convicted persons and persons who have escaped from the institutions for execution of sanctions,<sup>28</sup> or from the health institutions in which they were sent with a court decision.

The main categories of perpetrators of criminal acts, who can be the subject of fugitive warrant are: suspects (person against whom a preliminary procedure is being conducted); the accused (against whom the indictment was approved, or an indictment proposal, a motion for applying a security measure, a private lawsuit or proposal for issuing a penal order was submitted); and convicted (who has been found guilty of committed criminal offense with a final verdict). The term “accused” is used as a common term covering the suspects, the defendants and the convicted persons.<sup>29</sup>

The detention orders for their arrest may be issued at all stages of the criminal procedure by the competent authorities. The need for the presence of the defendant in the procedure is highlighted in the Code of criminal procedure, by foreseeing measures to ensure his presence and to prevent their escape or hiding.<sup>30</sup>

The criminal sanction can be pronounced in different forms, but depending on whether it is a matter of execution of a pronounced sanction or escape from a prison or correctional institution, the order for announcing a fugitive warrant is issued by the authority competent for conducting the procedure or by the director of the penitentiary institution.

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<sup>25</sup> Article 276 and Articles 558 to 564, Code of Criminal Procedure.

<sup>26</sup> Articles 87, 153-a, 191 and 302, Law of execution of sanctions.

<sup>27</sup> According to the legal regulations, a search can be issued as police search and warrant

<sup>28</sup> Convicted persons and persons who are serving a prison sentence or other sanction related to deprivation of liberty for which a warrant can be issued

<sup>29</sup> Article 21, Code of criminal procedure. See: Г. Лажетик – Бужаровска/Г. Калајциев/Д. Илиќ/Б. Мисоски, Казнено процесно право – учебно помагало, Правен факултет „Јустинијан Први“ – Скопје, 2015.

<sup>30</sup> The measures for ensuring the presence of the defendant and for the smooth conduct of the criminal procedure are provided in the Article 144 and refer to: invitation, precautionary measures, bail, apprehension, deprivation of liberty, short-term detention, house arrest and detention, See: Г. Лажетик – Бужаровска/Г. Калајциев/Д. Илиќ/Б. Мисоски, Казнено процесно право – учебно помагало, Правен факултет „Јустинијан Први“ – Скопје, 2015.



The grounds for determining the place of residence of the suspect, the defendant or the witness are provided with the CCP as well as competent authority that can issue a detention order against the person who is on the run. The CCP also determine the basis for issuing the order, the authority that executes, registers and cancels, as well as determine the cases where announcement can be released for finding and identifying a person or object.<sup>31</sup>

### **5. Instruments of fugitive warrant**

For the needs of the fugitive warrant, various and numerous instruments are used, which should follow the technological and scientific development and constantly improve themselves. The instruments that can be used for communication among the participants can be in written, electronic form or in practicing the appropriate technique.

The currently used instruments as well as the criminal-tactical methods that are used, are constantly susceptible to change and improve. The type of instruments, the timing and the manner how they will be applied and used is *question facti*, meaning it depends on the type and seriousness of the criminal act, as well as from the opinion and assessment whether it meets the purposes.

The instruments that can be useful for successfully launching and completing the fugitive warrant, basically serve to fast exchange data and information, submitting acts and photos, at the same time to multiple users.

Practical experiences of the authors, point to the fact that in the daily functioning of the search, written form is still used in a large number of cases as a instrument of communication between the participants. This is due to the insufficient technical equipment of all participants in the search area and inadequate technical solution to the searches.

Taking into consideration the latest scientific knowledge, technical and technological findings, above all computer technology and capabilities, availability, speed of data transmission and information they offer, their application in the area of search should not be put into question. The realization of an efficient search cannot be possible without well-organized, prompt and arranged operative criminal records in written or electronic form. They should always be the primary source of preliminary data and knowledge of the criminal acts, especially in cases involving repeated offenders or professional perpetrators of criminal offenses. The skill of their use in the search depends on the actor himself. According to the provisions of the Code on Criminal Procedure, only the police are obliged to keep records of the issued orders for arrest warrants.

The above mentioned laws (CCP, Law on police etc.) contain a provision regarding the instruments (warrant, circular and announcement), which are the basis for starting the search process, the conditions that need to be fulfilled for their issuance, the authority that can issue them, and the authority that should carried them out.

## **IV. EMPIRICAL DATA AND PROBLEMS**

The authors made a short survey and have analyzed the situation with the fugitive warrants in the Republic of Macedonia. For the needs of the survey, data of the Ministry of the Interior related to the searches for the period 2005 and 2012 were used. Although, those data are

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<sup>31</sup> Article 558 and Articles from 559 to 564, CCP.

older than five years or more, the authors consider that the situation with the crime and warrants today, has not been significantly changed, so the survey will present the real picture of the actual situation. From the survey and the analysis, it has been established that one of the assumptions for successful conduct of the criminal procedure is the presence of the defendant during the duration of the entire course of the criminal proceedings. In this direction, the CCP provides a greater number of measures for ensuring the presence of the person in the procedure.<sup>32</sup> At the same time, the CCP also provides more repressive measures for finding and deprivation of liberty for persons who are not available to the prosecution authorities.

In the framework of the analysis, the practice shows that there are cases in which for one person multiple fugitive warrants have been issued in different stages of the criminal procedure, for different criminal acts or the order for issuing an arrest warrant is ordered by one or more competent authorities.

According to the data, until March 2012, for 16 persons 5 warrants were issued, for 8 persons 6 warrants were issued and for 16 persons 7 or more warrants were issued.<sup>33</sup>

In such cases after finding the wanted person, since the MOI has insight into all the issued warrants, the police officers who implement it, always inform the authority about the existence and other warrants in an appropriate manner, and also send written notification to all authorities that issued orders for announcing of fugitive warrant for the purpose of their further coordination.

However, the most frequent existence of objective or subjective reasons and due to the lack of a single system for recording and monitoring of issued orders for announcing a fugitive warrant occurs that some warrants are considered and cancelled, and some of them remain still active. Based on the fact, that the person in most of the cases, in practice, will be released by the authority to which it was brought, unless the measure of detention is pronounced for him, for the police the obligation remains to continue the search, to find and deprive them of liberty. In cases, when a person has been found and detained after an international fugitive warrant has been issued due to the stated problems in the request for extradition, it may not be possible to list all the warrants or criminal proceedings that have been issued, which then creates additional problems for the Ministry of Justice to submit an additional request for extradition.

At the moment, an electronic system for recording all issued orders for announcing a warrant has been built and operates only within the MOI, in accordance with the provisions of Article 559, paragraph 6 of the Code of Criminal Procedure.

After the consultations with the Ministry of Justice – Department for execution of sanctions, it has been established, that certain forms of records exist for persons who are serving prison sentences or the measure of detention, as well as for those who are on the run, in each prison institution. Due to the fact, that they are not connected in a single system for monitoring the situation, the same can be used only for that certain prison or for a certain number of users in the Ministry of Justice. The competent criminal courts till now do not have any records on the issued orders for announcing warrants.

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<sup>32</sup> Code of criminal procedure - Chapter XVI - Measures to ensure the presence of persons and the smooth conduct of criminal proceedings

<sup>33</sup> Стојановски С., „Бегалците од законот и екстрадицијата“, 2014, Скопје., стр. 426

## 1. Case study

In order to get a more realistic image, as part of the activities and problems in the area of search that the Search Service meets on a daily basis, a case from the practice will be presented, which should additionally support the need for a joint database and record of issued warrants.

The case process, is only part of the large number of examples, similar to those in which a person, is subject to a warrant or warrants issued by the same or different competent authorities, subject to warrants issued at different stages of the criminal proceedings, including international warrants for persons, who are subject to extradition on several occasions for the same or another criminal offense, or persons, who continuously make the same illicit act, without having felt the consequences as an aggravating circumstance in each new criminal offense or act itself to trigger a new criminal procedure. Persons, which are not available to the criminal justice authorities, for securing their existence often commit new crimes in the places where they are staying, which complicates the existing situation even further, with new discoveries being initiated in the state or the countries where they were committed.

Issuing an order for announcing a fugitive warrant from a competent authority shall present the initiative for undertaking the search for the inaccessible person. Upon receipt of the order for announcement, the mechanism of search for the person is activated with the purpose of finding and deprivation of liberty. In cases, where the person has been found, it will be conducted to the authority that issued the order, and if the facts indicate that the person is outside the state borders, an international fugitive warrant will be issued. In such cases, it is stated that in case of its location and arrest, extradition from the country where the person will be arrested will be requested.

On December 2, 2016, the person AA foreign citizen, together with several others, participated in the international trade in narcotic drugs. Namely, on the stated date, around 6 am, the person BB with a passenger motor vehicle with foreign license plates, passed the state border and entered the Republic of Macedonia. After entered the Republic of Macedonia, the person BB got in contact with the person AA, handing over to him about fifteen pounds of narcotic drug marijuana. The person AA takes the drugs and places it in the vehicle with which he arrives at the place of the meeting and later drives in the direction of the city of Tetovo. In front of the vehicle, another vehicle with the persons CC, DC and DD is driving with a task, in case of a police patrol to inform the person AA on time. After the arrival of the person AA with the vehicle in the city of Tetovo, he parks the vehicle in front of a residential building at "B.T." street. The same day, the vehicle was spotted by the police, after which checks were made, an examination was carried out, and it was determined that there are three bags containing about 15 kilograms of narcotic marijuana in the vehicle. Upon completion of the investigation procedure, it was determined that AA is the owner of the vehicle and that it was driven and parked at the above mentioned address.

Regarding the fact that AA was not found on the spot and he is unavailable for the prosecution authorities, for successful conducting the criminal procedure in accordance with Article 559, paragraph 2 of the CCP, the Public prosecutor in charge for the case ordered issuing an arrest warrant for the person AA. The order was processed in the Ministry of Interior and the mechanism of search for the person was activated. After additional field checks, in order to find the unavailable person, and regarding the fact that AA is a foreign citizen, in accordance with the legal provisions, the order for issuing an international arrest warrant and statement for extradition were required by the authority that conducts the procedure. After providing the necessary material an international arrest warrant was issued for the wanted person through the Interpol

channel. A few days after the announcement of the international warrant through the Interpol channel, we got information that the wanted person AA is in prison in Skopje. The information was from the state whose citizen is AA. After receiving this information, checks were carried out, and it was determined that the wanted person was deprived of liberty in the Republic of Macedonia and was detained. There was immediate cancellation of the search for the person.

From the analysis of the case, it can be established that the lack of information or the uncoordinated approach in acting, in the opinion of the authors, the lack of joint records leads to such situations, which basically is a failure that could lead to unwanted consequences for the criminal justice authorities in case of some procedure initiated by the person concerned and thereby disturbing the reputation of the involved institutions and the legal system of the state itself.

## **V. CONCLUDING REMARKS**

Technological and scientific development takes place at a tremendous pace, and it is thought because of the fact that a technology is changing over the years. This provokes the need for necessary, organized, professional, additional and continuing education and training of staff as well as simplification of proceedings. The existing level and further improvement of the technical and technological equipment of the competent services should be placed in the immediate function of achieving the goal - creating a unified system for monitoring the problem with the issued warrants.

Raising the technical level of the information system, facilitating the procedures and the better connection of individual IT solutions should be a priority in this regard. In the direction of more efficient working, it is necessary to take steps for overcoming existing problems. While doing this, the need to adequately solve the problem of availability of data from the unique information system for all participants should not be underestimated.

Simplification of certain proceedings and provision of uninterrupted access to the data of their subsystems will contribute toward greater diligence in the part of data entry and will enable fast and direct involvement of the appropriate service in solving the problem. In this way, the time needed to work will be reduced in many ways, compared to the current mode of operation.

The connection of the individual subsystems and their availability also applies to those that will be established in other authorities (primarily with the Public prosecutor office, the court and prison institutions) that are directly related to the activities of the warrants. This way, among other things, will enable faster data exchange among all participants. Implementation of these measures will also mean more efficient communication with the end-users of the system.

Electronic records should be part of the integrated databases of records that are important for more effective achievement of the goal.

The creation of databases for the issued and proclaimed warrants in the Public prosecutor office and the court and their connection to the appropriate bases within Ministry of interior, i.e. the creation of a single, common data base, are in the direction of greater mutual information and exchange of data and knowledge about the persons subject of the arrest warrant.

Measures that can be undertaken, which refer to increasing the efficiency in the current conditions, are those that refer to overcoming the situation regarding mutual cooperation between all entities in the procedures with the arrest warrants.

The cooperation (for which everyone declaratively advocates in everyday performances) between the direct subjects that actively participate in the process of searching, in practice, does

not take place at the desired level and scope. Individual contacts are being realized, but quality cooperation is particularly lacking in the mutual reporting of new knowledge and the exchange of data, regarding the already issued arrest warrants.

The lack of a single database of issued arrest warrants, in electronic form, makes the status of the arrest warrants even more unfavorable and complicated. This situation leads to the appearance of announcing a larger number of warrants for one person for different criminal acts issued by several authorities. In such cases, the Ministry of Internal Affairs as an authority has no problem, because all the arrest warrants for one person are connected. The problem occurs with the competent judicial authorities, especially, if they are more in number and in the courts, if more cases are dealt with, by different judges or at different stages of the criminal procedure. Such situations require additional efforts to organize, primarily in court.

Problems in co-operation also arises in cases of mutual non-information of the different judicial authorities, when the subject of the arrest warrant is the same person, while several authorities have been issued, at the same time, arrest warrants for its location and deprivation of liberty. Neglecting the obligation or impossibility of mutual information, contributes to the occurrence of non-coordination of the activities and presents an obligation for further unnecessary engagement. Because of this, the cases of detention of persons are not rare, until clearing of the misunderstanding. In addition, the orders for announcing and canceling the arrest warrant, often come to the Ministry of Internal Affairs as regular acts, and very often with a delay or after a long period of time (non-working days, holidays etc.) until the announcement or cancellation take a place.

The lack of joint databases on issued orders and issued warrants and the inadequate approach to cooperation with courts and imprisonment institutions, can often be the basis for issuing an arrest warrant for a person that already serves a prison sentence<sup>34</sup> and for issuing orders for arrest warrants for the same person in several stages of the criminal procedure or by several competent authorities and institutions for execution of sanctions. In this part, problems arise, also during the act of implementation of the arrest warrants and bringing the person to the competent authority, in the sense of which order should be prioritized. The failure to prioritize the cases, in which there is an order for issuing a warrant and the lack of information about the existence of several warrants (from the same or from several competent authorities in the Republic of Macedonia), may be the reason for not acting upon a certain order, the person to be released and later a new order to be issued again.

The frequent modification of the strategies, legislation and bylaws, as well as the long period for their full implementation and application are the reasons for inefficiency, incompetence and modern organization of the competent authorities.

The improvement of the current situation should be realized with better, comprehensive, direct, tight and quality cooperation of all holders of activities in the process of issuing and registering the warrants.

Effective dealing with crime, the increased number of detected crimes and found fugitives from the law certainly has:

- a positive reflection on the public opinion and the growth of trust in the institutions of the system in charge of it, primarily in the police and criminal justice authorities, and

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<sup>34</sup> This is important because there are rare cases in which convicted persons themselves appear in the facilities for serving the sentence, for which the police have not been notified, and the arrest warrant remains active. Also, there are no cases of arbitrary detention of minors from correctional institutions and institutions, and in whose absence they commit new criminal offences.

- preventive influence on potential perpetrators of criminal acts, knowing that they will soon be discovered and found and will ask themselves how valuable it is to commit the crime.

The establishments of a single database for persons, for whom an order for issuing arrest warrant, among other benefits will also, contribute to:

- reduction of the number of newly issued warrants, especially those with international characteristics, which will leave more place for undertaking measures and activities for the previously announced ones;
- reducing the costs of proceedings, in particular, in extradition procedures and repeated procedures;
- paying more attention to previously issued warrants will give its contribution to reducing the number of outdated warrants;
- the provided participation of the defendants in the criminal procedure will contribute to its successful starting, conducting and completing the procedure;
- the introduction of the warrants into the automatic data system will contribute to overcoming the problem, i.e. to shorten the way and period of their submission from the authority that issues the order to those who should act accordingly;
- giving the possibility for determining a more strengthened measure for securing the person in the further course of the criminal procedure, and
- faster data and information exchange.

Since, police and judicial authorities, participate in the procedure with the arrest warrants, in order to overcome this problem, it is necessary to create a single database that will be available for use by all authorities. The proposal provides the establishment of individual databases in all competent authorities, which then, in the appropriate way, would be joined together and would form the only database for issued arrest warrants. The acceptance of the proposal implies the elaboration of a project, which will, among other things, envisage the administrative, financial, material, technical and other types of assets and needs, meaning that the organization and implementation of the modernization project, should take into account both the expediency and the economy of the whole procedure from its beginning to the end.

As for the numerous measures and activities, at their disposal and which are undertaken in the area of arrest warrants, and the limited number of participating authorities in that process, on one hand and the place and role of each of them in the procedure and their connection and conditionality in the process for prevention and dealing with crime, on the other hand, the labor is intended, primarily for members of the criminal justice authorities, then for the scientific and other institutions that monitor and study this phenomenon.

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