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Inter-Institutional Cooperation in the Process of Investigating Economic-Financial Crime in the Republic of Macedonia

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The investigation of the economic-financial crime is a complex problem because of the involvement of more state institutions with police authorisations and it contributes for financial intelligence and tracing of the illicit proceeds gained by the perpetrators. Cooperation, coordination and exchange of information are preconditions for full investigation and collection of the evidences for the crime committed, the organisation of the criminal activity, the perpetrators and the amount of the illicit proceeds. According to the amendments of the Criminal Procedure Law from 2010 (Zakon za krivičnata postapka, 2010), in the Republic of Macedonia the Public Prosecutor has the central role in planning, organisation and coordination of all the activities and measures undertaken in the pre-investigation proceedings and during the criminal proceedings. The purpose is collection of substantial evidences, for successful running of the future procedure. Respect of the legal competences in the area of cooperation, planning and coordination in undertaking concrete measures and actions is in line of full resolution and providing of evidences in the process of criminalistic and financial investigation of the economic-financial criminal activities.
The Public Prosecutor has the main role in managing of every individual case in cooperation with the judicial police (police, financial police and customs), Directorate for financial intelligence and Inspectorates, for full detection, resolution and providing evidences for the perpetrators as well as for the crimes committed. This is precondition for further criminal proceedings with a good quality and future court verdict that along with the penalty for the perpetrator will be accompanied by a measure for confiscation of the proceeds and property gained in a criminal way.

Keywords: inter-institutional cooperation, criminal investigation, competent authorities, economic-financial crime, confiscation

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1 Introduction

The economic-financial crime is a constant and very dynamic socially negative occurrence which skillfully adapts to socio-economic and social state of affairs in the in the society. Throughout history, the economic-financial crime changed its appearance, but from aspect of the perpetrators, it has always distinguished itself as per their character, position and power generated from their privileged position or function in the socio-economic and political structures. The situation in which a person is found or the power which a person possesses in a specific period of his/her life, makes him/her greedy, making criminal from an honest man. It is exactly the position, the status and the power of perpetrators in the society, that make this crime "invisible" in a way and a crime of "the privileged" who cunningly use their position to generate enormous personal wealth and their power for impunity, in this way, obstructing confiscation of proceeds of crime. For the purpose of detection, realization and providing evidence for economic-financial crimes it is necessary to have direct and indirect inter-institutional cooperation with the competent state bodies (inspectorate services) to fully investigate criminal cases, by detecting and realizing all crimes, organization of perpetrators, provisioning of material evidence for the crimes, finding and securing proceeds of crime to be able to successfully conduct criminal procedure to punish perpetrators, but also to confiscate those proceeds. The analysis of reported, charged and convicted perpetrators assists us in getting actual indicators for successful pre-investigative and the judicial procedure, finalizing the criminal procedure and issuing sanctions and measures against perpetrators of economic-financial crimes in the Republic of Macedonia for the period 2007–2011.

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The economic-financial crime is a serious security occurrence present in all societies, considering that citizens have always wanted to get rich, have power in the State, privileges etc. The only thing changing were the forms of crime, depending on the economic arrangement, social and political life in the State. Countries in transition are fertile grounds for the occurrence of new forms of economic-financial crime where perpetrators cunningly use their professional knowledge, current position, and power in the society, especially political powers in adopting laws and decision making. This crime is a reality for our country, as well, especially crimes containing elements of misuses, corruptive behavior, tax evasion, grey economy, fraudulent schemes in construction, insurance, etc. Specific danger for a young society are criminal behaviors though which perpetrators, misusing their position, functions, power, corruption – contributed towards gaining huge personal wealth, and to the detriment of the state and its citizens who gradually sank into the waters of the transition, bringing poverty, uncertainty, loss of personal and social integrity.

The economic-financial crime – which is in fact embedded in the existing economic system, in the set structure of business organizations and institutions in the country, is being realized through organized forms, enabling it to keep low profile in the existing forms of doing business. But, it is also a form of organized crime, connecting several smaller or bigger organizations. This proved to be the case with the pyramidal saving houses, pyramidal tax evasion, construction mafia activities, smuggling etc. What one can extract from these criminal activities is the professionalism in all of its elements, making the phenomenology of the economic-financial crime special, determined by economic-financial relations, but also by the overall political and social ambient in the society. Studying causes, favorable conditions, but also characteristics and status of perpetrators enable us to set up strategies for its detection, realization and proving (Arnaudovski, 2008).

In the last several years, the economic-financial crime became our reality, with senior governmental officials having been found involved in criminal cases of criminal networks in the fields of denationalization, bankruptcy procedures, public procurements and many other areas, where prosecution authorities faced numerous difficulties in the process of realization and provisioning evidence for successful criminal procedure and sanctioning of perpetrators. Large sums of criminal money originating from other forms of organized violent or any other form of crime became legalized by purchasing movable or immovable property for the perpetrators, while prosecution authorities, even though having indications that those are criminal money, were not able to provide relevant evidence and raise charges in pre-investigation procedures due to uncertainties in the laws. Having said this, things in the Republic of Macedonia are moving forward from the aspect of qualitative amendments in the Criminal Code, incriminating some criminal behaviors which were not criminalized previously, amending the criminalization of money laundering, and providing a possibility to initiate money laundering proceedings even when there is no predicate offense, the new qualitative provisions for confiscation of property provide for direct divestiture of a property having already been transferred from the aspect of changing its ownership, supplements made regarding corporate liability – they are enable for most of economic-financial crimes to be qualitatively qualified as such, to successfully conduct criminal and financial investigations and sanctioning perpetrators.

In the first several years of the new millennia, in the Republic of Macedonia, within the Ministry of Finance, was established the Financial Police, having police authorizations in accordance with the Criminal Procedure Law, authorized to investigate economic-financial crimes. The Customs Office has police authorizations and is tasked with prosecution of economic-financial crime as provided by law, relating to customs and border crossing points. Since 2001, we also established the Anti-Money Laundering Prevention Directorate which grew into Anti-Money Laundering and Terrorism Prevention Office having within its competencies – the financial intelligence. It is a tool in the process of investigating financial crime, especially money laundering as the final step in all criminal transactions with elements of organization in committing economic-financial crime, where perpetrators, beside the initial crime of illegal property benefit, they also commit money laundering in order to legalize and legitimize proceeds of crime.

The discovered more complex cases point towards accumulated crime, having been left undetected for years, which is a complex problem for prosecution authorities – to detect all criminal activities. Connections of criminal structures with governmental structures supporting criminal behavior, looking away or failing to act – in a way motivated perpetrators to extend their criminal businesses and now, contributing towards having mafia organizations as a reality in the Republic of Macedonia. The economic-financial crime has several important features: difficult to be noticed, complexity, difficulty in detection procession, mild sanctioning policy, legal imprecision and issues in view of delinquent status. We can speak of its significance, taking into consideration the scope and the severity of consequences, i.e. the caused damage, primarily financial and social consequences, and the mere fact that this type of crime causes specific processes which may lead to destabilization of social relations in their interaction. There are also serious threats to the development of democracy, rule of law and human rights, national security, stabil-

ity and economic development of SEE countries and beyond (Arnaudovski, Nanev, & Nikoloska, 2009).

In the last years, several cases of organized economic-financial crime were discovered, and there were links determined of the perpetrators in their criminal operation, but also in the process of investigation, links were determined between perpetrators and criminal behavior in the area and possibility to use their official position, using the insufficient or selective control of responsible inspection services to conduct series of criminal behaviors, causing enormous financial losses to the State.

Mostly committed crimes in this area are the misuse of official position and authorization, tax evasion and criminal actions with elements of forgery, such as forgery of service documents and forgery and destroying business documents. The perpetrators cunningly use their position, authorization, power, influence, expert and professional knowledge, but also skillful use of gaps in the law. To be able to get into the core and manifesting forms of economic-financial crime it is important to consider the interaction between the three structures: society, economic power and institutional control of the State. The difficultness in establishing the optimum balance among these factors can be seen from the experience of countries opting for the policy for deregulation and soft position towards economy, soon becoming vulnerable in view of having an increase of different misuses. On the other hand, in countries where strong state intervention exists, such misuses involve and infect the state structure itself, to which typical example are countries in transition, where, by nature of things, the State (the Government) has fostered competences in the privatization and the economy restructuring processes - the case with the Republic of Macedonia (Kambovski, 2008).

The changes in the socio-economic system and the establishment of the market economy, the transformation and privatization of the social capital, contributed for performing of criminal activities by which certain category of people, holders of certain positions in the bigger economic capacities, gained great wealth to the detriment of the Republic of Macedonia, which was also a case in the rest of the Eastern Europe after the fall of communism.

The economic-financial crime is a crime involving different criminal behaviors, but one general classification would be crimes by which perpetrators cause damage to the national budget, by crimes of misuses and forgeries. This mostly being public procurement procedures, used to "extract" enormous funds from the State budget for the purpose of personal profit. The second group would include crime where perpetrators avoid law provisions and do contribute into the state budget, crimes with elements of tax evasion and crimes by disrespecting social rights of employees, fraudulent acts between companies or acts with elements of misusing confidence. The next group of crimes would be the "consequence" of any crimes where the motive behind thecrime is profit, money laundering and other proceeds of crime; here, again, perpetrators using their power, influence and corruption of financial institutions and other subjects – legalize cri- minal money, legalize them or hide them at safe places, in foreign banks or countries where money control is not so severe.

The new amendments and the introduction of the new concept of criminal procedure, i.e. by which the main role in investigating organized forms of crimes, including economic--financial crime has the Public Prosecutor, leading the pre-investigation and the investigation. By coordination, cooperation and exchange of information with state bodies with police authorizations, but also with cooperation of other competent state bodies and inspection services – to provide for concentration of the management of the whole case on one centre (Public Prosecutor), and in cooperation and input of other responsible state bodies with police authorizations (law enforcement) to be able to manage the case according to the case studies concept or to fully realize and provide evidence, with the Public Prosecutor being able to successfully present the indictment of the perpetrators before the Court, to provide relevant evidence on the basis of which the Court will decide on the sanctions, but also confiscate proceeds of crime. This investigation concept, specifically criminal and financial investigations is already functional in the Republic of Macedonia in the last 4-5 years and is yielding initial results, having confiscated property and money of perpetrators of organized economic-financial crime, mostly by misuse of official position, tax evasion and money laundering. Below in this paper, we will present the efficiency in investigating economic-financial crime, caused financial damage and efficiency of measures, as well as sanctions towards perpetrators of these criminal acts.

2 Defining Economic-Financial Crime

In former Yugoslavia, the economic-financial crime was studied under the term economic (commercial) crime, which understood all anti-social actions incriminated as crimes as per criminal laws or as economic misdemeanors as per the Law on economic misdemeanors and special provisions, when the object of attack was the system of economic relations to which the previous socialist society was built on; social ownership serving as foundation to develop the socialist system and the functioning of public services. Or, the term economic crime included all incriminations involving attack

of the socialist economic crime built in the previous applicable legislation, of the social ownership constituting the economic grounds of socialist social relations and proper functioning of public services (Petrović, 1978).

Aleksić and Gašić (1993) do not differentiate the contents of the term of economy and economics crime, resulting from the definition that the term economy or economics criminal acts directed against the economic system and its functioning, regardless if they have been undertaken within or outside the economic working.

The widest definition of economic-financial crime or as frequently termed the economic crime is close to the term "white-collar crime". There are different actions of violation of laws when actions are undertaken at the market on the part of natural and legal entities, causing detrimental consequences to the system of economic relations or other subjects at the market (natural or legal entities), to their business relations or acting as goods and services consumers (Kambovski, 2008). The initial definition of the "white-collar crime" as "crimes committed by persons of respect and higher social status in performing their profession" – is being significantly revised today: by using new technologies and mass communication, members of lower layers of the society have a chance to get involved in this type of crime" (Reid, 2000).

The wide range of criminal behavior incriminated as separate crimes in the Criminal Code of the Republic of Macedonia provide for more structures of perpetrators of economic-financial crime, starting with perpetrators at high positions with concentration of power and decision making – getting to smaller responsible positions in the state apparatus, and even any citizen– in a way – can be a perpetrator of economic-financial crime, where the legislator has not provided for special features and status of the perpetrators. (For example: misuse can only be committed by an official, responsible, foreign official or responsible person or person performing public interest work, while tax evasion may be committed by any person who is tax payer, but also legal entity; fraud or forgery may be committed by any person having criminal motives.)

One of the most often cited definitions of the economic crime has origins in Edwin Sutherland, president of the American sociological association, who upon his address in the Association in 1939, uses the term "white collar crime" to explain economic crime. Sutherland defines this crime which appears in the field of economic business, the forms of which most often are expressed by machinations related to sell and purchase of various shares, fake advertising of goods, false presentation of the financial situation and of the business activities of various corporations, bribing business partners, direct or indirect bribing of the officials with an aim of securing profitable business arrangement, embezzlement, unassigned spending of assets, tax evasion etc. Later Sutherland gave new definition of the "white collar crime", elaborating that it is a "crime which in the frames of a professional activity is performed by persons of high social reputation (status)" (Banović, 2002). The given definition for the economic- financial crime as a crime of the rich people, the privileged social layers composed of the economic, financial and political oligarchy, or as a sum of punitive acts committed by persons enjoying higher social status in frames of their profession.

In the academic literature, there are three most common groups of definitions with regard to three aspects of the economic crime, including the causes and the conditions for the crime, the motives and the characteristics of the perpetrators, the appearance and forms, methods, measures and activities in the process of detection, clarification and proving.

The first view is related to the economic crime as act sanctioned by the law where the main motivation of the offender is financial gain (Fagan & Freeman, 1999). Thus, the term of criminality covers all the activities where one or more persons aim to gain financial gain in illegal way, such as: abuse of power and authority, illegal trade and illegal manufacture, breach of law regulations, tax evasion, computer crime, and abuse of welfare benefits.

The second view focuses on illegal acts that successfully provide offenders with an economic return (Chamlin & Kennedy, 1991). A variation of this standpoint defines economic crime as offences for which victims incur economic cost. Typical victims are individuals, groups or organisations but also much wider groups which may have been indirectly affected by such crimes. This occurs in cases in which a criminal act subverts or undermines the commercial effectiveness of normative business practices and the negative consequences extend beyond those at whom the specific immediate harm was intended (e.g., computer hacking, insider trading in stock market transactions).

The third view contends that the processes that lead to criminal behavior are the same as those that guide consumer behavior in the marketplace. This reasoning covers the point of view of the economists since the late 1960s. Its most cogent statement is found in Gary Becker's neoclassical or «economic» approach to explaining crime. According to him people chose to commit crime using the same cost benefit analysis used in the daily commercial work: the decision to commit crime is a result of normal, rational calculation based on the assessment for economic gain in legal way with the economic gain with commitment of crime.

In the case of the economic-financial crime, known by the scholars as "unconventional crime", there is a common agreement that it is a problem of the modern society, mainly because of its close association with the economical and political activities, as well as because of the fact that the elements of the so called illegal activities are on the edge of the legal business. In the academic research studies, there is no unified definition of the economic-financial crime vs. the corporate crime, white collar crime, corruption and etc. Defining of the economic-financial crime in this way is most commonly accepted for our current socio-economic conditions, because in some way illustrates the current state of the economic crime in the country. On daily basis the media inform about corruption of certain people holding positions (ministers, secretaries, doctors, judges and etc.), the general public is shocked by financial scandals with non-earmarked spending of public money, purchase of enterprises and catering companies for much lower price than the one on the market and similar.

The Committee of Ministers of the Council of Europe in the recommendation no. R (81) 12 (Council of Europe, Committee of Ministers, 1981), defines economic financial crime through separate criminal behaviors: cartel criminal acts, fraud and abuse of the economic situation by multi-national companies, fraud through misuse of state and international donations, computer crime, false companies, fringing the balances of legal entities, accounting offences, fraud considering the economic situation and the corporation capital of companies, breaking the standards for the insurance and protection of the heath of employees, fraud at the detriment of the creditors (bankruptcy, not respecting of the banking or industrial rights), fraud of the consumers, disloyal competence, fiscal offences, customs offences, and offences directed towards control of money and offences at the stock exchange market. Crimes frequently committed on behalf of corporations include tax law violation, security law violations, burglary and theft (in case of trade secrets), and damage to the property of competitors. All of these actions require some actual mental and physical conduct by an individual, but they directly or indirectly benefit the corporation. If it can be shown that the corporate representatives acted, encouraged, or accepted the benefits of these acts, then the corporation may be charged for the crime.

The mentioned criminal behaviors cover almost all of the criminal activities from the economic-financial sphere, while the perpetrators of this crime are mostly coming from the society, eminent and respected citizens, but the cause damages are of a greater scope. Characteristic of this crime is that it functions under the support or directions by the governing power, which places this crime in the group of criminal behaviors which are hard to detect, even more difficult to solve by the competent authorities, because in the most of the cases there is connection with these structures as serious organized criminal networks. The economic-financial crime is present almost in all parts of the human life with a sole purpose of gaining substantial profits. This type of crime happens in the area "Abuse of trust", which is a leading principle of work in this area, i.e. these are crimes which threaten both personal and social interest by the nature of its proliferation.

When defining economic-financial crime we must mention that there are three principle approaches, namely: penal – legal approach, criminological approach and criminalistics approach (Arnaudovski, 2008).

Penal-legal approach (criminal-legal approach) starts with the criterion attacked object determined and agreed in specific part of the penal code – criminal acts whose object of immediate attack are the economic relations, economy and the economic system. However, this benchmarks does not solve the problem, because the economic relations are complementary and encompass several domains of economic system protection (economic relations) with penal provisions and norms. In accordance with the nomenclature by which the competent authorities perform their work to research in economic-financial crime, this encompasses criminal acts from different chapters of the Criminal Code of the Republic of Macedonia, namely the following: criminal offences against employment relations, people's health, people's property, official service, against the public assets, payment turnover and economy, against the legal traffic, legislation, etc.

Criminological approach towards defining the economy-financial crime starts with the emerging forms of the crime, taking account also of the etiological aspect of the crime, i.e. the reasons and conditions which are favorable for this crime.

And the third approach, is accompanying the previously mentioned, which is the criminalistics approach, being very important because to detect economic-financial crime are required specialized skills and knowledge, as well as appropriate planning, combining and executing operative measures, investigation measures aimed at procurement of material evidence, crucial for the process of proving crime offences. Having in mind the fact that the criminalistics takes more eminent places in the corpus of scientific disciplines dealing with the phenomenon of crime, a dynamic social phenomenon characterized by its own dynamics, both structural and quantitative, it is necessary to upgrade and advance all the scientific and practical knowledge aimed at crime prevention. This imposes the necessity this criminal activity to become more science-based by implementing scientific and practical methods, measures and actions in the research process. It should be

taken in account that the application of the criminal law is impossible without securing evidence-proven legal and relevant facts, and this is impossible by applying the provisions and rules of the criminal procedure without the knowledge of the contemporary criminalistics and active application of the scientific developments and experience, it would present a great peril and metamorphosis of its set-off the implementation of the criminalistics approach (Marinković, 2010).

The use of the criminalistic approach in defining of the economic crime is necessary because its appearance is in new forms of manifestation, and the use of IT in all areas of business contributes for the need to use new modern means and methods in detection of the crime. Because it is not enough that certain form of manifestation of crime is mentioned, and incriminated in the Criminal Code, if the criminalistics doesn't not have sufficient means in the process of providing evidences as necessity for implementation of the criminal law (Vodinelić, 1995).

The role of the criminalistics and criminalistics approach is a crucial point, because without criminalistics investigation, there is no point in conducting criminal proceeding. Criminalistics contributes to detection of criminal offences and to comprehend the perpetrators who will be subject to prosecution of the criminal proceeding, based on evidence provided in criminalistics investigation which entails use of legal methods, techniques and actions.

The most comprehensive definition would be: Economic – financial crime is non-violent crime perpetrated on the part of the perpetrators having lawful attributes, use the power and authorities of position in the society and acts criminally in the frames of their authorizations and duties, they organize themselves depending on the legal authorizations, the criminal role and the possibilities to commit crime in order to perform criminal activities, planned in advance as well tailored criminal operation, aimed at acquiring unlawful property benefit, with no violence included, but using forgery, coverage, frauds and illegal transfer of the proceeds of crime and securing the criminal assets from the reach of the prosecution powers in national frames (Nikoloska, 2013).

According to the research of reported perpetrators of economic financial crime in the Republic of Macedonia, for the period between 1997 and 2006, out of the total number of reported perpetrators, there were 39.9% reported perpetrators of criminal acts against public finance, payment operations and companies, 48.4% criminal acts against the official duty officers, 0.7% criminal acts against work relations, 0.5% criminal acts against people's health, and 0.4% criminal acts against property. In regard to criminal acts against legal traffic, the most common criminal acts were against public finance, payment operations, economy and official duty officers (Dzukleski & Nikoloska, 2008).

More detailed research was made in the period from 1997–2006 on reported, accused and convicted perpetrators against the official duty, as most dominant criminal offences in the field of economic-financial crime, or the crime damaging the national budget by committing criminal activities connected to breaching the laws, trespassing the authorizations or conflict of interests. The data of the research teach us that from the total number of reported perpetrators who committed criminal offence of abusing their official service/duties, were accused 43.5% people, and from the number of the accused 53.2% were convicted. From the total number of reported persons, only 12.7% were convicted, which shows that in the research period regarding these criminal offences, sufficient quality and relevant evidence of the perpetrators having committed these crimes and correlating evidence (matching the perpetrators with the crimes) were not supplied (Nikoloska, 2008).

According to the research regarding the duration of the procedure, from the reporting to reaching the final effective court judgment, most time-consuming proceedings of misuse of official position and authorizations and tax evasion, where in more than 70% of the cases, more than a year has passed before reaching the final effective judgment (Lažetić-Bužarovska, 2008).

Table 1: Scale and dynamics of the perpetrators (PE) of the economic and financial crimes

YEAR	OFFENSES AGAINST PUBLIC FINANCES, PAYMENT OPERATIONS, AND THE COMMERCIAL					OFFENSES AGAINST OFFICIAL DUTY					TOTAL				
	REPORTED	CHARGED		CONVICTED		REPORTED	CHARGED		CONVICTED		REPORTED	CHARGED		CONVICTED	
		PE	%	PE	%		PE	%	PE	%		PE	%	PE	%
2007	569	365	641	268	73.4	930	256	41786	153	59.8	1499	621	41.4	421	67.8
2008	596	312	52.3	251	80.4	1112	291	41696	175	60.1	1708	603	35.3	426	70.6
2009	543	266	48.9	204	76.7	1061	343	32.3	167	48.7	1604	609	37.9	371	60.9
2010	620	263	42.4	293	111.4	1067	262	41783	142	54.2	1687	525	41670	435	82.8
2011	472	308	65.2	240	77.9	825	365	44.2	133	36.4	1297	673	51.9	373	55.4
ALL	**2800**	**1514**	**54.1**	**1256**	**82.9**	**4995**	**1517**	**41759**	**770**	**50.8**	**7795**	**3031**	**38.9**	**2026**	**66.8**

Source: Report of perpetrators (State Statistical Office of the Republic of Macedonia, 2007–2011).

This study has its primary focus on obtaining data regarding how many perpetrators are reported for these two groups of criminal offences, most frequently found in the group of economic-financial criminal offences, since the so far findings imply to the fact that most dominant of this group of crime are exactly these two mentioned groups (Dzukleski & Nikoloska, 2008). These crimes are systematized in separated chapters of the Criminal Code of the Republic of Macedonia, which from its adoption in 1996 until the present time has undergone many amendments and supplementations, most relevant one having been made in 2004 (Krivičniot zakonik [Criminal Code], 2004) and 2009 (Krivičniot zakonik [Criminal Code], 2009), when it underwent redefining of the existing incriminations in the domain of economic-financial crime and introduction of new incriminations aligned with the recommendations of the international community in the process of harmonization of Macedonian penal legislation with the EU one. This research pays due attention to obtaining data on reported, accused and convicted perpetrators of criminal offences in two groups classified criminal offences in the Criminal Code of the Republic of Macedonia, being most frequently committed offences in the domain of economic-financial crime, with a purpose of making comparison with the previous researches in terms of whether the situation moved towards greater percentage of convictions of the reported, i.e. the accused perpetrators of these criminal offences. Namely, in the past years in the Republic of Macedonia greater attention is given to the this topic in order in the process of research with inter-institutional co-operation to improve the process of controls and securing relevant evidence material for the offences and perpetrators due to the reasons that these offences provoke great public interest, but also are caused additional damages to the state by paying for non-material damage for the time the reported persons spend in prison. The evidence and the securing of evidence are basis for pronouncing court verdict of the perpetrators, but the process of securing evidence is a complex matter for which investigators should have specialized (expertise) knowledge and professional experience, and not least important is the method of implementation, especially the implementation of the laws and the by-laws, having in mind that this type of crime is related in most cases to breaching the laws or the standards and procedures in performing business activities.

In the research the period from 2007–2011 regarding the offences against the public finances, payment turnover and the economy, the total number of reported persons is 2800 perpetrators, while for the criminal offences - misuse of the official position and authorizations, this number amounts to 4995 perpetrators, or an overall total of 7795 perpetrators. From the overall number of reported perpetrators 38.9% are convicted, and from the convicted 66.8% are convicts of criminal offences. In other words, from the total of reported 7795 perpetrators for the two groups of economic-financial criminal offences, 2026 are convicted perpetrators, which presents 25.9% of the convicts that were reported perpetrators. This conviction percentage, if compared with the group of criminal offences against official duties, is 15.41% or from the total of the reported 4995 perpetrators were convicted 770 perpetrators. From the reported for criminal offences violating the official duties, 30.4% were accused, and from the accused 50.8% were convicted perpetrators. In view of the data it can be concluded that regarding the period of research the situation with court resolution of the criminal cases

referring to the most frequently perpetrated offences in the field of economic-financial crimes. However, taking the analyzed practical cases, there are more cases where beside the pronounced sanction to the perpetrators, there is pronounced executive measure for confiscation of the criminal proceeds and property.

The analysis of the imposed measure confiscation of property for the research period points to the fact that confiscation is imposed in cases were the perpetrators despite of repeating the offence they are suspects of money laundering and other criminal incomes. In 2007, not even one measure of property confiscation was imposed; in 2008, in total 7 measures of property confiscation were imposed as follows: 2 for smuggling, 3 for tax evasion and 2 for money laundering and other criminal incomes; in 2009, in total 10 measures were imposed, of which 4 measures for money laundering, one for smuggling and customs fraud, and 4 for misconduct and abuse of authorization; in 2010, in total 11 measures were imposed, of which 6 for tax evasion, 2 for misconduct and abuse of authorization, 1 for counterfeiting money, 1 for illegal mediation, and one from the category of other offences, in 2011, in total 27 measures were imposed of which 23 for tax evasion, 1 for customs fraud and 3 measures confiscation of property for the offences of misconduct and abuse of authorization. In total, for the research period 48 measures of confiscation of property were imposed, mainly 32 measures for tax evasion, 9 measures for misconduct and abuse of authorization and 7 measures of property confiscation for other offences. In total, 41 perpetrators faced with confiscation of property, mainly for tax evasion, misconduct and abuse of authorization which presents 2.02%. In accordance with the data analysis this measure is rarely imposed, still the damage is present with every execution of economic-financial offence, and the biggest damage is made by these two offences: tax evasion, misconduct and abuse of authorization. Imposing this measure or rather said not imposing this measure, according the judicial opinion is because of inconsistency of the Law on criminal proceeding and because of insufficient provision of property during the investigation thereby causing the problem of not having any property to confiscate after ending the criminal proceeding, all the criminal income gained by the perpetrators is successfully being hidden from the authorities during the criminal proceeding. In connection with imposing the measure confiscation of property gained by corruption (above mentioned offences are corruption offences), all the judges being interviewed are shearing the same opinion, that the fight against corruption will be unique only if all the criminal income is confiscated so it cannot be used to expand criminal activities (Programa za nabljuduvanje na sudskite predmeti vo vrska so korupcijata vo Republika Makedonija – monitoring, 2008).

3 Inter-Institutional Cooperation in the Investigating Economic-Financial Crime

There are many manifestations of economic-financial crime, which could reasonably be called corporate, business – crime, and for investigating this type of offences, according to the recommendations of international agreements and conventions it is necessary to found and establish a system of more specialized bodies whose responsibility will be monitoring, investigation, detection, evidence, documenting, sanctioning and prevention of this type of criminal behavior.

The London Conference for fight against organized crime in Southeast Europe emphasized the necessity to prepare a document which will contain certain measures and activities of the Ministry of Interior, Ministry of Justice and the Ministry of Finance for inter-institutional cooperation and coordination through conducting certain measures and activities for detection and monitoring of suspicious financial transactions. This document should highlight the following priorities for coordination and cooperation:

- Establishing regional network of public prosecutor's;
- Improving regional cooperation in accordance with international standards in the field of Justice;
- Strengthening institutional capacities of suppressing money laundering and financial crime in the frame of the Ministry of Finance;
- Founding a Department for fight against organized crime and corruption in the frame of the Public Prosecutor's Office;
- Specialization of Judges;
- Comprehensive Department for fight against organized crime in the frame of the Public Prosecutor's Office, team of professional investigators;
- Establishing Central Unit for criminal intelligence

In recent years, in Republic of Macedonia large part of the recommendations coming from the International Agreements and Conventions were accepted. The recommendations are established or in the process of establishing bodies, institutions in the system for investigation and prevention of economic-financial crime, and the already established institutions and bodies are being reformed and building strategy for mutual cooperation and coordination. There are established bodies for direct Law Enforcement (Criminal Code of the Republic of Macedonia and Criminal Procedure Law) and institutions that indirectly contribute in the investigation and prevention of economic-financial crime.

The bodies authorized for direct law enforcement are Ministry of Interior – Department for Organized Crime –

Unit for economic crime suppression, Unit for financial crime and money laundering suppression and Unit for cybercrime suppression and they are authorized in all economic-financial offences. The Financial Police is authorized for: tax evasion, money laundering and other offences for gaining criminal income, smuggling, illegal trafficking, and other offences which includes large and significant tax income, customs or other income. The Customs Administration is authorized for: Manufacturing and releasing in trade hazardous food products, manufacturing and releasing in trade hazardous medications, money laundering and other criminal incomes, smuggling, customs fraud, hiding goods subject to smuggling and customs fraud, tax evasion and offences stipulated by the Excise Goods Law and other offences related to export, import and transit of goods through state borders (Zakon za krivičnata postapka [Criminal Procedure Law], 2005). In accordance with the new legislation a judicial police will be established with personnel employed in the authorized bodies for direct law enforcement and Public prosecutor will be appointed as Head of the judicial police who will manage the investigations of all forms of organized crime from one Center (Zakon za krivičnata postapka [Criminal Procedure Law], 2010).

Inter-institutional cooperation is defined by Law and bylaws of the State, and this bylaws defines the cooperation on international plan (police through INTERPOL, financial intelligence through EGMOND), and signing Memorandums of Cooperation, Bilateral and Regional agreements are used in order to deepen the cooperation.

Inter-institutional cooperation is a complicated process whose preconditions are harmonizing the Laws and bylaws, than establishing system for data exchange, establishing joint teams for operative functioning, development of joint analysis for certain criminal situation, establishing models for liaison officers, accessibility to data base, electronic connection and communication, mutual expert and material assistance, education and exchange of experience.

The term cooperation implies to a process mutual action and operation and can be accomplished through intentionally or unintentionally engaging official personnel to cooperate. The cooperation can be accomplished through direct arrangement of state bodies and institutions, written communication through sending requests and giving answers to the requests, and by electronic communication which is more and more developed and provide fast and simple manner of data and information exchange.

Mainly, instruments for establishing inter-institutional cooperation are Memorandums, Protocols, and Agreements made between two or more state bodies or institutions with defined rules for cooperation, communication and exchange of information or Agreement for electronic connection and communication. The cooperation should be coordinated with agreed manner of communication and exchange of information and data by taking into consideration the Law on Classified Information's. The coordination presents synchronized action of official personnel who has previously defined goals and authorities defined by Law, every official acts in the frames of its own authorization in order not to have interference or overlapping of authority. For example: coordination of officials from the police and from the Office for Preventing Money Laundering and Financing Terrorism-everybody executes tasks In accordance with its own authorization, the police have police authorization to summon suspects, conduct interviews, arrest suspects etc. and financial intelligence is gathering data for the flow of the money and for the financial transactions of the same suspect-they have mutual aim (securing evidence for certain criminal offences and securing criminal incomes) but by use of different methods and different authorizations.

Successfully suppressing organized economic-financial crime in conditions of social-economic and political system, in our country should develop in three phases: The first phase has preventive character and the state participate with all authorized bodies and institutions in order to eliminate the conditions which are instigating the occurrence and development of crime through its numerous manifestations and forms. The second phase consists in the operational activities of the police and other authorized bodies and institutions to identify the current manifestations and taking criminal action through criminal means, methods and tools in order to detect, clarify and document certain crimes of each criminal case and also to detect perpetrators of individual criminal offences and to provide items and traces of a criminal event as evidence of further criminal proceedings. The third phase includes prosecution of the perpetrators and their conviction, which falls under the jurisdiction of the Public Prosecutor and the Court.

Inter-institutional cooperation is the concept of action in terms of existence of trust, good communication and cooperation; it should not be understood as opportunity for compete or as rivalry. In a way, the concept of inter-institutional cooperation especially of the state bodies which have police authorizations should understand this concept as possibility to make correction or to supplement the things left in the process of investigation in aspect of securing relevant evidence material. Expertise, human resources and technical capacities of all the bodies are different, but they should be used by maximum. For example, the capacities of the Customs Administration should be used for the International econom-

ic-financial crime, through control of records for entrance and exit of goods subject to the investigation, records analysis of Customs etc.

What remains a great danger is the corruption as serious danger, as indicated by more and more criminal cases of involvement in the crime of officials from authorities tasked with detection, realization and proving this crime. Coordination of institutions and state authorities is necessary in order to harmonize activities, because when different institutions and state authorities with the same or similar competences, strategies, work and working tasks – exist, there is often conflict of competences as seen in overlapping, undertaken the same activities to achieve the same goal, specifically when using legal authorizations to solve one and the same criminal case. There is also another danger, which is transfer of competence to act of one authority to another due to different reasons, and the most dangerous reason for inaction or transfer of competence is the corruption itself. The purpose of the coordination is to have mutual communication, cooperation and planning joint actions when conducting controls and financial investigations for criminal cases, which almost always involve numerous criminal activities, committed at different places and at different times.

The legal framework for criminal investigation grants police authorizations and competences for the Police forces and several other law enforcement government agencies that are independent in their work, or work under coordination of the public prosecutor. Because of that, it is very important that experienced and competent officers, with profiles of professionals who possess an adequate level of appropriate professional knowledge and skills participate in the investigations. Bowels and the colleagues report that criminals are becoming more effective in hiding the assets, which becomes a major challenge for law enforcement agencies. Therefore, the law enforcement agencies have to invest in development of the forensic and accounting capacities, using new methods in detecting of the crime and the perpetrators, as well as in detecting of the criminal assets (Bowels, Faure, & Garoupa, 2000). Manning points to the need to determine the level and types of expertise needed to conduct good quality financial investigation, and promotes the thesis according to which a multidisciplinary team of police officers, customs officers, tax and trade inspectors, as well as accounting experts, information technology specialists and prosecutors, is the right solution for appropriate investigative actions (Manning, 2005).

Coordinated cooperation among the law enforcement agencies ensures timely start of the criminal investigation followed by financial investigation. That is an important precondition for detection of the criminal assets, and with appropriate use of the measures and activities in the criminalistics and financial investigation complete resolution of the criminal case becomes possible. Along that, it is possible to identify a number of objective or subjective factors that may affect the success of the financial investigations (Lajić & Milić, 2012). Objective factors are technical equipment, databases, electronic connection with the financial intelligence entities (financial and non-financial institutions), and the application of methods of financial investigation. Significant are the subjective factors as well, such as: professionalism, knowledge and skills of the authorized people who directly implement the measures and methods of financial investigation. The success of financial investigation is an important precondition for providing evidence for the type and the value of the criminal proceeds, their location and for enabling their confiscation by court verdict.

Especially good example in the Republic of Macedonia, for inter-institutional cooperation which is worth presentation and analysis is the **Pajazina** (Cobweb) **case.**

Pajazina (Cobweb) **case** is operation, where in a complex criminalistic situation, the competent authorities (The Ministry of Interior, Financial Crime Department, Financial police in cooperation with the Public Revenue Office and the Directorate for Anti Money Laundering and financing of terrorism) after imposing measures and activities of their competency confirmed their general initial suspicions. 23 people of age between 27-63, citizens of Macedonia (18), Kosovo (4) and Turkey (1) were suspected. They acted in a criminal way from their position of authorised persons in enterprises, managers, owners and founders of companies with headquarters on a same location. The growth and the development of the group is illustrated with cobweb.

Along with the people in capacity of authorised persons, suspected are 10 companies for crimes such as criminal association, tax evasion, money laundering, abuse of position and the powers and privileges of damaging creditors, violation of industrial property and unauthorized use of another company in the period from 2006 to 2010. In the operation that lasted 30 months, before the arrest of the suspects, special investigation measures, operational and tactical measures were applied as well as searches of homes and offices. From the analysis of the evidences provided, it was found that part of the illegal income was used by the suspects for payments to the employes of the companies without paying the taxes and contributions to the state. At the same time, according to previous plan, they created liquidity problems in the companies with intent to damage the creditors who had failed to collect claims in amount of close to 140 million denars, because all the properties of these companies were transferred,

with no real economic basis and Asset-based debt, on other companies controlled by the suspects. The entire criminal operation was coordinated by one person, owner of the facility on the location where all the companies were registered, who appointed his children, relatives, friends and other people as managers to the companies, following his orders and sharing the criminal profit. The total amount of the criminal assets was subject to money laundering through numerous financial fictitious transactions, and part of this money (100.000 euros) were found during the search of one of the homes and part was transferred on company accounts in Croatia, Turkey and USA. The total amount of money subject of money laundering is 18.583.070 denars.

After the successful completion of the operation and the pre investigative proceedings a criminal charge was submitted and the court jailed 18 people for 109 years in total, gave one a probation sentence and acquitted three people. The first person convicted was sentenced for 13 years and the rest of the sentences vary from 2 years to 7 years. Along with the imprisonment, the court almost with no exclusions, ruled for financial fines amounting 2-5.000 euros or total of 61.000 euros, and some of the convicted were charged to compensate jointly the creditors of the companies for 27 million denars. Other obligations generated from the verdict are compensation of debts in millions, based on different grounds . Thus, only the debt for unpaid tax is 286.731.670 denars as well as 18.904.247 denars which were missing from the accounts of the companies owned by the "mastermind of the criminal group" and additional 8.469.523 denars for taxes.

4 Conclusion

The economic-financial crime is composed of wide range of crimes committed by perpetrators using specific positions and power, which is exactly the thing which creates difficulties to the investigators, to detect the crime and provide evidence. Managing criminal cases investigation from one centre provides for their full realization and proving, as well as securing evidence for involvement of all perpetrators, but also to the detection and provisioning of proceeds of crime. Inter-institutional cooperation based on the principles of legality, respect of human rights, coordination, cooperation and exchange of information is a good concept which should be fully applied in order to avoid overlapping or interfering in competencies when undertaking concrete operational measures, investigative actions and special investigation techniques. The coordination should not only be used to undertake measures and actions in determining facts and evidence, but also in providing proceeds of crime. One of the greatest reasons for omitting to use the confiscation of property and proceeds of crime, immediately upon obtaining initial relevant data that perpetrators gained illegal property benefit from commissioning of the acts, to freeze or ban appropriate one. Or, that would mean that with the beginning of criminal investigation to immediately initiate financial investigation in cooperation of prosecution authorities with financial intelligence authorities to be able to provide for timely specification and freezing all forms of proceeds of crime and property (movable and immovable and financial means – money, securities).

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Medinstitucionalno sodelovanje v procesu raziskovanja gospodarsko-finančne kriminalitete v Republiki Makedoniji

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Preiskovanje gospodarsko-finančne kriminalitete je kompleksen problem, saj vključuje več državnih institucij s policijskimi pooblastili in prispeva del finančne obveščevalne dejavnosti za odkrivanje kaznivih dejanj gospodarsko-finančne kriminalitete. Sodelovanje, usklajevanje in izmenjava informacij so predpogoj za celovito preiskavo v kazenskih zadevah in zagotavljanje pridobivanja zanesljivih dokazov o kaznivih dejanjih, organizaciji kriminalnih aktivnosti, storilcih in količini nezakonito pridobljene premoženjske koristi. Državni tožilec ima v skladu z novimi dopolnitvami Zakona o kazenskem postopku (Zakon za krivičnata postapka, 2010) v Republiki Makedoniji osrednjo vlogo pri načrtovanju, organiziranju in koordinaciji vseh ukrepov in dejavnosti v predkazenskem in kazenskem postopku. Cilj je zbiranje trdnih dokazov za uspešno vodenje prihodnjih postopkov. Spoštovanje zakonskih pristojnosti na področju sodelovanja, načrtovanja in usklajevanja pri prevzemanju konkretnih ukrepov in dejanj je v skladu s celotno resolucijo in zagotavljanjem dokazov v procesu kriminalistične in finančne preiskave gospodarsko-finančnih kriminalnih dejavnosti.

Državni tožilec ima glavno vlogo pri upravljanju vsakega posameznega primera v sodelovanju s preiskovalnimi organi (policija, finančna policija in carina), Direktoratom za finančno obveščevalno dejavnost in inšpektorati za popolno odkrivanje, reševanje in zagotavljanje dokazov o storilcih kakor tudi o storjenih zločinih. To je predpogoj za nadaljnje kazenske postopke z dobro kakovostjo in prihodnjo sodno razsodbo, ki bo skupaj s kaznijo za storilca zajemala tudi ukrep za zaplembo premoženjske koristi in lastnine, pridobljenih na nezakonit način.

Ključne besede: medinstitucionalno sodelovanje, preiskovanje, odgovorni organi, gospodarska kriminaliteta

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