

## OBITUARY FOR HOLM SUNDHAUSSEN †

On February 21, Holm Sundhaussen passed away in Regensburg at the age of 72. A renowned expert on the history of the Southeastern Europe and the Balkans, Sundhaussen authored many influential works throughout his career. Prior to his retirement in 2007, Sundhaussen was a professor of Southeast European History at the Free University of Berlin from 1998 to 2009 and co-director of the Berlin College (until 2003: Centre) for Comparative European History, which was jointly sponsored by the Free University of Berlin and the Humboldt University of Berlin.

Throughout his lifetime, Sundhaussen left an indelible mark on Southeastern European research in German-speaking countries. His studies of nation-building and nationalism, ethnic and religious minorities, and the history of migration and expulsion were of a pioneering nature, with findings that were able to also provide criminological research in the Balkans and on the Balkans with meaningful insights. Even after his retirement Sundhaussen continued to publish, including authoritative works on the history of Serbia (2007), Yugoslavia (2012), and the city of Sarajevo (2014). He especially researched and wrote about the history of the Balkans in the 19th and 20th centuries and always sought to look at Balkan history in a pan-European context.

The Max Planck Partner Group is proud that its first publication “Mapping the Criminological Landscape of the Balkans” contains one of Sundhaussen’s last pieces. In the introductory chapter titled “The Balkan Peninsula” the past and current setting of the political, historical, sociological, and criminological landscape of Southeastern Europe in general and the Balkans in particular are portrayed. According to Sundhaussen’s analysis, there can be no doubt that “from a comparative, historical perspective the Balkans constitute a unique historical and cultural region – apart from detailed differences – of Europe or a sub-region of Southeastern Europe”.

The MPPG will continue to honour his memory and work.

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## BC RESEARCH PROJECTS

### Imprisonment in the Balkans: Some Remarks on the Punishment of Life and Long-Term Imprisonment in the Countries of the Former Yugoslavia

*Filip Vojta*

#### Introduction

Following its first scientific milestone, i.e., the “Mapping of the criminological landscape of the Balkans”, a current research focus of the Balkan Criminology Network is put on policies and practices of imprisonment in the Balkans. The results of this empirical inquiry will be presented and discussed during the Second Annual Balkan Criminology Conference in Sarajevo, Bosnia and Herzegovina, on 17-19 September 2015 and will form an integral part of the [third volume in the Balkan Criminology Research Series](#), titled “Imprisonment in the Balkans”.

The punishment of both life and long-term imprisonment represents, next to the death penalty, one of the

core issues of contemporary penology. The paradoxical nature of the “problem” pertains to a relationship between different purposes of punishment, where the retributive-deterrent necessity to convey a proportionate censure for the most serious offences in terms of long incarceration periods is nowadays largely shaped by human rights instruments acting under principle recognition of human dignity of all offenders; thus advocating their right to adequate rehabilitation dur-

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ing imprisonment and subsequently a release – usually well before the full term of sentence is actually served.

Indeed, the conditional release of prisoners (parole) is considered to be “one of the most effective and constructive means of preventing reoffending and promoting resettlement, providing the prisoner with planned, assisted and supervised reintegration into the community”.<sup>1</sup> Being also one of the principle tools against the negative impacts of long-term “prisonization”,<sup>2</sup> conditional release reflects the assumption upon which rehabilitative policies are based – that for the criminal justice system “it is self-defeating to try to prevent crime by using the very means one is trying to eradicate” (Rotman 1994, 284), as they contradict and undermine its very foundations and principles.

### Recent International Developments

A recent decision of the European Court of Human Rights in *Vinter and Others v United Kingdom*<sup>3</sup> has affirmed that even those sentenced to life imprisonment have a right to be considered for release. Implicitly, the decision provides recognition of the human dignity of all offenders and, as such, has once again invoked a discussion on the legitimacy of life and long-term prison sentences; their impact on rehabilitation and other basic prisoners’ rights (see, e.g., van Zyl Smit, Weatherby and Creighton 2014). Consequently, a global project “Life Imprisonment Worldwide” has been launched to provide an under-

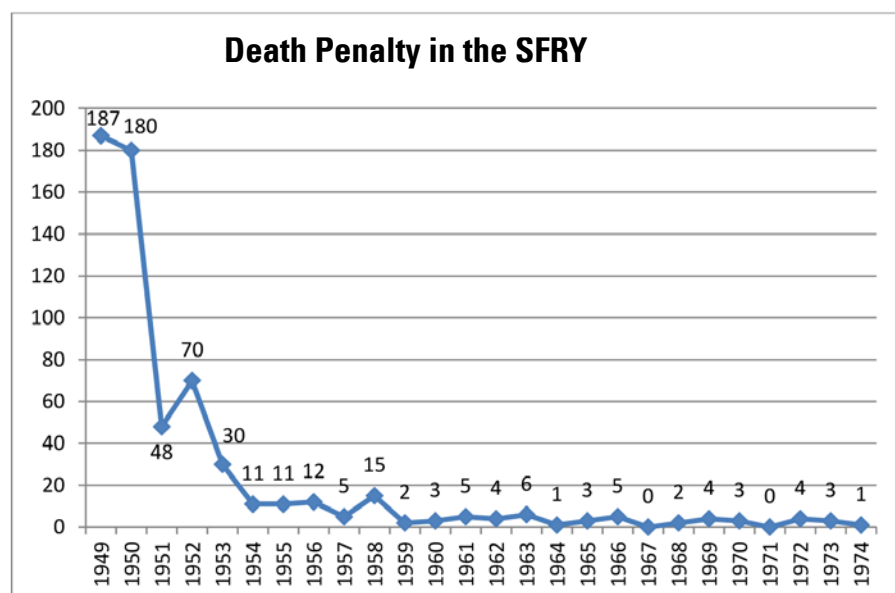
standable and principled guidance on life imprisonment to policy makers, based on a comprehensive critical inquiry into national normative and practical developments (for more information on the participation of the MPPG for Balkan Criminology in the project, see Vojta 2014). While a scientific inquiry into various aspects of life imprisonment has already established a solid basis of knowledge for most Western European countries, the “penological landscape” of the Balkans, encompassing rationale, normative developments and practices of life and long-term imprisonment, has yet to be “mapped”.

### SFR Yugoslavia: Death Penalty and Beyond

Historically, common traits of the Balkans could also be extended to encompass similar punitive policies of most belonging countries. The former Socialist Federal Republic of Yugoslavia (SFRY) presents a good example, where according to the federal Penal Code of 1976 a sentence of imprisonment in the member countries (socialist republics of Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia, with two autonomous provinces Kosovo and Vojvodina) could range between 15 days and 15 years; exceptionally, it could be imposed for the duration of 20 years. The death penalty, while existent, was more of a remnant following the aftermath of WWII with a mostly deterrent purpose for crimes against the established political and social system, international crimes, as well as for the instigation of murder on the

basis of national, ethnic, religious and racial hatred (Tomić 1985, 134-145). Notwithstanding the possibility of its imposition – also in cases of aggravated murder and robbery – its jurisprudential decline (see figure), which from 1970s to 1990s mostly remained below five convictions per year,<sup>4</sup> marked its eventual abolition which, for most countries, came into force with the dissolution of SFRY in the early 1990s.<sup>5</sup> The constitutional abolition of the death penalty was in line with international human rights standards; however, it also created a “normative gap” in penal codes where the sentence of 20 years of imprisonment for perpetrators of the most heinous offences was deemed by governments to be

**Figure: Number of imposed death penalties in the SFRY 1949-1974 (Tomić 1985, 150)**



**Table: Life and long-term imprisonment in the former SFRY countries**

Country	Life Imprisonment	Long-term Imprisonment Sentencing Range (years)	Parole Eligibility	Eligibility for Punishment of Life/Long-term Imprisonment
Slovenia	+	-	25 years	18 years
Croatia	-	21-40 y.; aggregate sentence of 50 y.	1/2 sentence	18 years
Serbia	-	30-40 y.	2/3 sentence	21 years
Bosnia and Herzegovina	-	21-45 y.	3/5 sentence	21 years
A. Federation of the BiH	-	21-45 y.	3/5 sentence	21 years
B. Republika Srpska	-	25-45 y.	3/5 sentence	21 years
C. Brčko District	-	21-45 y.	3/5 sentence	21 years
Montenegro	-	40 y.	2/3 sentence	21 years
Macedonia	+	-	20 years	21 years
Kosovo	+	-	40 years	21 years

too lenient from the viewpoint of the deterrent purpose of punishment (Novoselec 2009, 387).

### Current Penal Frameworks

Consequently, Slovenia and Macedonia (adjoined by the Republic of Kosovo) adopted life imprisonment, while Croatia, Bosnia and Herzegovina, Serbia and Montenegro introduced the punishment of long-term imprisonment in their respective penal codes as a substitute for capital punishment. Both forms of punishment might not substantively detract from each other if introduced with a “safeguard” in a form of parole eligibility. Most European countries endorse life imprisonment; however, their legislations also establish general minimum terms at which persons subject to life imprisonment are to be considered for release. With the exclusion of the former SFRY countries, the mean parole eligibility term for life imprisonment in Europe is 19 years.<sup>6</sup> The choice of adherence to one form of punishment over the other in legislation is usually politically driven and instigated by public perceptions of the deterrent validity of the criminal justice system. Life imprisonment seems harsher and a common misperception is that a strategy of harsh punishments will likely be effective in reducing crime rates (Cavadino & Dignan 2006, 9). Slovenia provides a good example of this practice. In 2008, the new Criminal Code, strongly supported by the right-wing government then in power (which excluded from consulting a very high number of opposing academics and professionals, Šugman Stubbs

& Ambrož 2010, 339), introduced life imprisonment as a response to a perceived public appeal which followed a series of gruesome murders that had taken place a few years before (Life Imprisonment in Slovenia 2013).

Despite adherence to either life or long-term imprisonment, all former SFRY countries support early release of prisoners incarcerated for long periods

of time (see table above). While this is in line with the current tide of European human rights jurisprudence, indications of potential issues are nevertheless present.

The mean parole eligibility term for life and long-term imprisonment (considering highest general range of sentence) in the former SFRY countries is 27 years. This is significantly longer than in most other European countries (see above). One controversial example is Kosovo, where the minimum parole eligibility term in the case of life imprisonment is 40 years. Any form of substantive rehabilitation can hardly be justified by a tariff so high and there is a high probability that “lifers”, when and if they manage to be released, will not be able to lead normal lives any more. It seems that proponents of high parole tariffs also do not account for “aging-out phenomenon” (Adler, Mueller, Laufer 2013, 45), a decrease in the criminal activity of convicts due to older age and consequently less strength, energy and mobility.

Similarly, the Croatian Penal Code of 2011 introduced the possibility of 50 year prison terms for the gravest offences if they were committed concurrently. With parole eligibility at 25 years, this places the Croatian penal system above most European countries in terms of severity. More interestingly, however, is the possibility of imposing such sentences on young adults, aged 18-21, which derogates from the practice of other countries within the examined cluster (with the exception of Slovenia) and represents quite a controversy, especially considering that etiology and phe-

nomenclology of juvenile offenders who are otherwise deemed to be excluded from the most severe forms of punitive reaction. This amendment to the Croatian Penal Code was introduced in 2006, and while no particular reason for its introduction was given (Bojanić, Mrčela 2006, 444) it is safe to assume that certain cases from judicial practice instigated its admittance namely the 2002 murder spree by young adult *Srđan Mlađan* which horrified both the criminal justice system and the general public in Croatia.

Consequently, next to a lowered punitive threshold, the rationale for an increase in the general long-term imprisonment range to 50 years can presumably be found in the policy of incapacitation for younger dangerous offenders. It has been assumed that even when they have served 40 years of their sentence they could reoffend and again and therefore pose a continued threat to society (Turković & Maršavelski 2012, 803).

## Conclusion

The contribution provides a preliminary overview of life and long-term imprisonment frameworks in the countries of the former SFRY and their critical evaluation against recent international human rights developments. The analysis indicates that despite general adherence to the principles of European penal policy, normative frameworks of examined countries do – in certain aspects – tend to deviate towards more punitive solutions. Normative developments in cases of Slovenia and Croatia indicate a “popularization of crime politics” (Simon & Feeley 1995, 168) – an adoption of crime policy as an integral component of general political debate in popular forums and in the electoral process. This, in return, can lead to a policy of incapacitation, instead of the more desirable rehabilitation and consequent reintegration of offenders, which presents a particular risk when applied to young adults; moreover because of etiological and phenomenological traits which they share with juveniles. In extreme instances, adherence to overly incapacitating policies can result in the violation of prisoners’ rights on the basis of Article 3 of the European Convention on Human Rights (prohibition of torture, inhuman and degrading treatment or punishment). Consequently, a high parole tariff for life imprisonment, as observed in Kosovo, indicates a possible decline in substantive rehabilitative attempts in some countries.

These observations present the findings from preliminary research and form the basis for a wide survey of the Balkan Criminology Network on policies and practices of imprisonment in the Balkans.

## Notes

- 1 Preamble of the *Council of Europe Recommendation Rec(2003)22 Committee of Ministers to Member States on Conditional Release (Parole)*.
- 2 *Prisonization* refers to the central impact which prison has on its inmates. The adoption of codes, norms, dogma and myth of an inmate society is deemed to be distinctly harmful to the process of rehabilitation and is considered to develop after six months of incarceration (Wheeler 1961).
- 3 *Application Nos 66069/09, 3896/10 and 130/10, Merits, 9 July 2013 (, Vinter [GC]’)*.
- 4 Source: <http://www.smrtinakazna.rs/sr-latn-rs/teme/statistike/jugoslavija1960-1991.aspx> [21.02.2015].
- 5 Despite calls for the abolition of death penalty in all circumstances (see *Protocol No. 13 to the European Convention on Human Rights*), Republika Srpska, as one of Bosnia and Herzegovina’s entities, still envisages in Article 11 of its constitution a possibility of prescribing and imposing the death penalty for the gravest offences. There is an ongoing appeal from the side of the European Union for the complete abolition of the death penalty in Bosnia and Herzegovina (Europa snažno za ukidanje smrtne kazne 2013).
- 6 In *Vinter [GC]* (supra note 3, at para. 68) a list of 32 European countries was given, together with their parole eligibility thresholds for life imprisonment. Thresholds usually vary between 12 and 25 years among countries.

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## NEWS FROM BC PARTNERS

### Mandatory Sentencing Guidelines in Macedonia

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A permanent focus of interest among Macedonian legal academics and professionals for the past decade has been their country's penal policy. The new Law for Determination of the Type and Severity of the Criminal Sanctions, enacted by the Macedonian Parliament on 30.12.2014, and entering into force on 07.07.2015, is of particular interest here, bearing in mind the fact that criminal policy in Macedonia consists of two elements: the legal drafting of sanctions and their implementation.

This new Law can be considered an obvious intrusion of the Macedonian Legislative Branch into the Judicial Branch. With the civil law systems of continental Europe, it is impossible to find legal texts with a similar content. In the USA, the opinion is that sentencing guidelines may lead to a disparity in sentencing processes and/or may cause legal uncertainty and violation of the principles of the separation of powers. Indeed, in January 2005 the US Supreme Court, in the case of *United States v. Booker*, 543 U.S. 220 (2005), proclaimed the advisory status of sentencing guidelines. Astonishingly, the Macedonian legislature's intention is to deal with the country's criminal

policy problems by implementing exactly the same type of models originating from the US legal system, emphasizing point scales regarding the defendant's prior conviction record and regarding the severity of the crime. This is all the more unusual if we consider the state's European civil law orientation. In addition to this is the fact that the Council of Europe (CoE) issued Recommendation No. R(92)17 in 1992, wherein it suggests to the CoE's member states to be consistent with their criminal sanctions policy, and furthermore explicitly states that a defendant's prior conviction record should not be mechanically considered as an aggravating factor. The Committee for Unification of Penal Policy, which should be structured upon the provisions of this new Law, will in fact act as a parallel body to the Macedonian Supreme Court which, according to the Macedonian Constitution, is obliged to provide uniformity of the implementation of the laws by Macedonian courts.

Through these provisions it is evident that the Macedonian legislature has reacted in an unduly rash manner, since the fact that the determination of the sanctions is within the court's jurisdiction has been overseen. The new Law, furthermore, derogates from the provisions of the Criminal Code, since it proscribes nine categories of mitigating and aggravating factors upon which the judges should determine the

type and severity of criminal sanctions. It has to be acknowledged that instead of support of the judges' liberty for deliberation and evaluation of the facts, the Macedonian judges have received additional agency for control over their work performance. Therefore, the fear is justified that this new Law will lead to a limitation or "framing" of the judges' liberty for deliberation and evaluation of the facts, instead of strengthening the unification of penal policy. Consequently, it can only lead towards the denial of the rules surrounding the separation of powers.

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## **Prevention of Corruption in Montenegro**

*Vesna Ratković*

In 2014, Montenegro significantly improved its legislative anti-corruption framework by adopting several important laws: the Law on Prevention of Corruption, the Law on Financing of Political Parties and the Law on Lobbying. This demonstrates that Montenegro took into account the recommendations in the latest Progress Report of the EC.

When it comes to the Corruption Perceptions Index (CPI) and the relevant list by Transparency International, although Montenegro progressed positively in previous years, the CPI in Montenegro was slightly lower in 2014 and amounted to 42, in comparison to 44 in 2013.

Thus, the latest reports clearly indicate that the fight against corruption cannot remain stagnant and must be raised to a more efficient level, for which there is clear willingness in Montenegro.

Therefore, in the future, the fight against corruption in all areas will be a priority, and the consistent application of the new laws will contribute to a further reduction in the level of corruption, thereby achieving the set targets on the road to EU membership.

In early 2016, the new Agency for the Prevention of Corruption will commence its work and will consolidate the current responsibilities of the Directorate for Anti-Corruption Initiative and the Commission for the Prevention of Conflict of Interests. The Agency will also have new responsibilities in the area of

whistle-blower protection, control of political party financing, and implementation and control of integrity plans; it will also issue opinions in order to reduce corruption and strengthen ethics and integrity in state authorities.

It is expected that the Agency will make a powerful contribution to the overall fight against corruption, which is one of the main conditions for further democratization and successful accession of Montenegro to the EU.

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## **Criminological Study regarding Causes and Consequences of Corruption in Romania**

*Andra-Roxana Trandafir*

Within the auspices of the implementation and the monitoring of the National Anti-corruption Strategy of Romania, a criminological study on the corruption phenomenon in Romania was carried out. The project was financially supported by the Netherlands' Ministry of Foreign Affairs, represented by the embassy of the Netherlands in Romania and it was conducted in a partnership of the Ministry of Justice, the Center for Research in the field of Criminal Sciences of the Faculty of Law of the University of Bucharest and the School of Criminology of the Faculty of Law of VU University Amsterdam, with the support of the National Prison Administration, the National Probation Department, the National Anti-corruption Department and the Prosecutor's Office attached to the High Court of Cassation and Justice.

The goal of the research project was to gain a broader insight into possible causes and consequences of corruption in Romania. The novelty of the study had to do with the identity of the addressees – not the general population, but 315 people convicted for a corruption offence (imprisoned or on suspended sentence). These individuals were administered a questionnaire regarding corruption. Of these 315 respondents, 50 individuals were interviewed to gain a more in-depth insight into their motivations for committing corruption, and the consequences of their conviction for their personal and professional life. All questionnaires and interviews guaranteed the anonymity of the respondents.

The study was carried out mostly in 2014 and the data were analyzed in January 2015. A final report containing the results of both questionnaires and interviews has been drafted and will be made available to the public in spring 2015. Adding a control group to the study, international comparative studies and validation in other countries are also envisaged.

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**Book: “Law on Enforcement of Criminal Sanctions”, by Djordje Ignjatović**

*Natalija Lukić*

The fifth edition of the book *Law on Enforcement of Criminal Sanctions* has given an opportunity to the author (Professor Djordje Ignjatović) to analyze novelties in the law on enforcement of criminal sanctions in both the law in the books and the law in practice. The law on enforcement of criminal sanctions in Serbia was enriched in 2014 with a new Code of Enforcing Criminal Sanctions (CECS) and with a Probation Code.

The CECS introduced the concept of a judge for enforcement of criminal sanctions whereas the aim of the latter was to enable wider use of alternatives to imprisonment. Unfortunately, both novelties were left unfinished because the judge for enforcement of criminal sanctions as well as the probation service have rather limited authority. Moreover, nothing radical has been done in order to widen the scope of human rights of persons deprived of liberty. With regard to real phenomena, it could be asserted on many grounds that this is the weakest link of the mechanism of formal social control. It is a very expensive and at the same time an inefficient mechanism, whereas the biggest problem lies in the fact that the enforcement of the provisions on criminal sanctions are not respected in practice, which as a consequence leads to serious rights violations of persons deprived of their liberty.

The author gives several suggestions in the book:

a) instead of the current model based on many criminal institutions of a general type, a system of specialized institutions should be normatively arranged in order to enable the provision of specialized treatments to prisoners;

b) it is necessary to establish a national expert body to solve priority issues such as: to ensure that the rights of persons deprived of their liberty, enshrined in the CECS, are really respected in practice; to return the enforcement of imprisonment for particularly serious crimes to the serving of the sentence not in isolation but with other inmates; to review the number and structure of employees in the Prison Administration in order to adjust the cumbersome and expensive mechanism for penal sanctions enforcement to the needs and possibilities of the state; to establish special departments designed to prepare convicted persons for life outside the prison; to reallocate health services under the roof of the Ministry of Health; to tighten the criteria for appointment to managerial positions in the system of enforcing criminal sanctions and to precisely outline liability mechanisms; to harmonize penitentiary statistics with international standards.

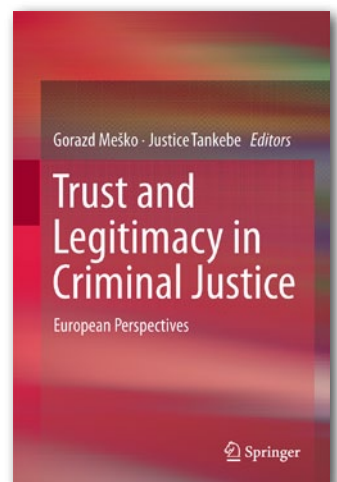
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**Book: “Trust and Legitimacy in Criminal Justice: European Perspective”, by Gorazd Meško and Justice Tankebe (eds.)**

*Rok Hacin*

The book on European perspectives on trust and legitimacy in criminal justice, edited by Gorazd Meško and Justice Tankebe, presents a publication that covers the different meanings of trust and legitimacy of the criminal justice in the European environment. With twelve chapters, this publication provides a clear and detailed insight into European perspectives on trust and legitimacy in the criminal justice system.

The book is divided into two thematic parts. The first covers the field of legitimacy and the criminal justice system and focuses on the study of legitimacy in transitional democracies, the relationship between the nature of sentencing and public perceptions of penal legitimacy, the victims of crime and their perception



of legitimacy, the empowerment of victims of crime, the issue whether police themselves can manage the problem of legitimacy and the legitimacy of criminal justice systems in Central and Eastern Europe. The second part of the book focuses on empirical legitimacy as the sum of two related psychological conditions, the legitimacy as a predictor of compliance of the law and public trust in fairness of justice officials, the public opinion of plural policing, the trust in the German police, the legitimacy of policing in Central and Eastern Europe and the perception of self-legitimacy of police officers in Slovenia.

The editors have reached their goal of spreading knowledge about this evolving field. They argue that the study of legitimacy has been in the hands of American researchers for too long and that European research on legitimacy has focused mainly on improving the methodological and theoretical assumptions and methods within the field of research.

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**Trust and Legitimacy in Policing and Criminal Justice, Journal of Criminal Justice and Security (2014/4), Faculty of Criminal Justice and Security, Ljubljana**

*Katja Eman*

In December 2014, a special issue of the *Journal of Criminal Justice and Security* was published, edited by Gorazd Meško, Edmund McGarrell, Branko Ažman, and Katja Eman. The Journal focuses mainly on the studies of trust and legitimacy in policing and judicial institutions. As the number of empirical

studies in the European area is slowly increasing, the six collected papers in this special issue represent an important contribution to the study of trust and legitimacy in the countries of Southeast Europe and beyond. The papers deal with compliance with laws and lawful functioning of formal social control, as well

as with the beliefs of people that law enforcement authorities are able and willing to carry out supervisory activities in accordance with the principles of democratic policing, while placing special emphasis on legality and legitimacy. The papers represent studies and discussions in Bosnia and Herzegovina, the Czech Republic, Macedonia, Poland, Slovenia, and the United States of America, all addressing questions about legitimacy, legality, and integrity of policing in a democratic society. The findings indicate that legitimacy and trust in police are related to the level of democratization, for authority is most vividly reflected in the contacts with uniformed police officers enforcing, in practice, the laws designed to control crime and disorder in society. The papers show that despite differences between individual countries, the variables including procedural justice, police efficiency, police authority, and legal cynicism have an impact on trust in police and, partly, on legitimacy, as well. Despite the different forms of development and implementation of police reforms in these countries, all police forces should strive to improve their efficiency, procedural justice, authoritativeness, and distributive justice.

The goal of the special issue to discuss legitimacy, legality, and integrity of responding to crime and of enforcement of criminal sanctions in European countries was accomplished. The editors believe that the articles included therein are of outstanding importance for the understanding and interpretation of the results of studies on trust and legitimacy in the future, as well as for the general social development associated with citizens' viewpoints on fairness, legitimacy, credibility, efficiency, and authority of formal social control agencies.

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**International Self-Report Delinquency Study (ISR3) in Bosnia and Herzegovina**

*Srđan Vujović*

Launched in 1990, the International Self-Report Delinquency (ISR3) study is the largest international collaborative study of delinquency and victimization of 12-15 year-old students. Data has so far been collected in three sweeps (ISR1, ISR2 and ISR3); the third round of data collection (ISR3) is



ongoing in Bosnia and Herzegovina. The study aims to assess the actual scope and structure of pre-delinquent and delinquent behaviour in children, compare Bosnia-Herzegovina's results with those from other countries, and inform future juvenile-offending policies and practices within Bosnia and Herzegovina.

ISRD-3 is a school-based study that uses random sampling on the state level. The study includes 2,400 pupils from the target population of seventh, eighth, and ninth graders originating from more than 40 schools in 28 cities throughout the country. The data will be collected from February to April 2015, using an online survey and following the ISRD standardized methodological requirements.

The study in Bosnia and Herzegovina is conducted by the Criminal Policy Research Centre ([www.cprc.ba](http://www.cprc.ba)), with support from UNICEF. The ISRD-3 research team is composed of criminologists with significant experience in scientific research, external experts, and IT professionals. Preparatory work for the study included testing online questionnaires in April 2014, and the research team's participation in several training sessions.

Bosnia and Herzegovina's participation in ISRD-2 in 2006 revealed some unexpected outcomes, including results which were at odds with the official statistics, particularly concerning unreported juvenile delinquency. The results point to a need for changes to current juvenile offending policies and practices; it is anticipated that the results from ISRD-3 will provide further evidence to support the case for these changes.

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## **The European Day for the Victims of Crime in Hungary**

*Eszter Sárík*

The Council of Europe adopted the European Convention on the Compensation of the Victims of Violent Crimes on 22 February 1990. From 1993 onwards, Hungary has commemorated the European Day for the Victims of Crime with an annual conference where experts of victims' protection and support discuss current issues.

This year's conference, held on 23 February, was particularly important as several current legislative modifications relate to the issue. On the one hand, changes will be introduced in the institutional system of Victims' Support, and on the other hand, the codification process of the new Act on the Criminal Procedure has commenced this year.

From 1 April 2015, the financial and professional governing will be separated. In the terms of Victims' Support it means that the role previously managed by the Office of Justice will now be managed by so-called 'government offices' placed directly under the supervision of the Ministry of Justice. Although the outcome of the institutional reform is as yet unpredictable, it should be mentioned that in regards to the legal and institutional system of victims' protection and support, Hungary is well-developed among the states of the European Union.

The Minister of Justice László Trócsányi emphasized that besides the practical reforms the government is devoted to this issue which is considered to be among the most important ones within the procedural legislation. The new Act on Criminal Procedure must take into consideration the legal obligation of Hungary to implement the 2012/29/EU directive establishing minimum standards on the rights, support and protection of victims of crime. Partly due to this obligation, the new Act's most important guideline will be the so-called 'fair trial', identical with 'fair procedure' in the continental term.

The injured party's procedural rights will be strengthened: his/her dignity and human rights will be given more emphasis in the procedure and his/her damages should be compensated. This compensation will make criminal mediation crucially important among procedural institutions. This focus on mediation is welcome as it can help relieve the overwhelmed justice system and represent the accused persons' interests. All in all, by strengthening the victims' rights a real opportunity for crime prevention to fulfill its mission will hopefully arise.

*Eszter Sárík, Prosecutor, Research fellow,  
National Institute of Criminology, Hungary*

## **Closing Conference of the FIGAS Project: “On the Future of National Rapporteurs on Human Trafficking in Europe” (Warsaw, 9 March 2015)**

*Karlo Ressler*

On 9 March 2015, the closing conference of the research project “Filling the gaps in the system of combating human trafficking in Poland” (FIGAS) was held at the University of Warsaw. The conference titled “On the Future of National Rapporteurs on Human Trafficking in Europe” was organized by the Human Trafficking Studies Centre (HTSC), the University of Warsaw, the National Border Guard Headquarters and the Main Border Guard Training Centre (MBGTC). It was attended by about 80 participants, including a number of police and border guard officers.

The main aim of the conference was to present the findings and conclusions of the FIGAS Project, funded by the European Commission within the programme “Prevention of and fight against crime 2011”. This project attempted to improve the system of preventing and combating human trafficking in Poland, the country with one of the longest Schengen borders (over 1,100 kilometers). This was one of the reasons why the National Border Guard and its training center were also included in the project.

After short welcoming remarks by the project leader Professor Zbigniew Lasocik, the conference was officially opened by Professor Tadeusz Tomaszewski, Vice-Rector of the University of Warsaw and former guest researcher at the Max Planck Institute for Foreign and International Criminal Law in Freiburg. The programme consisted of three main thematic sessions: (i) Presentation of results of the FIGAS Project, (ii) Achievements of the institutions of the national rapporteur in human trafficking in the EU countries and (iii) National rapporteurs in Europe – what next?

First, the project goal, objectives, as well as expected and achieved results were presented by Professor Lasocik and other members of the project team. The specific project objectives that were discussed at the conference were, inter alia, to develop a new methodology of setting up a long-term anti-trafficking strategy and to draft a new model of an institutionalized national rapporteur on human trafficking. In order to do this, legal qualifications from relevant case law examples were examined, profiles of victims were made, large

numbers of interviews with border guards were conducted and different international documents regarding human trafficking were compared.

Secondly, key note speaker Ms. Corinne Dettmeijer-Vermeulen shared her experience of being the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children for the last eight and a half years. She emphasized that her most important task is to objectively report to the government about human trafficking, its nature, scope and consequences. Her reports, however, go beyond that. Because she also has a mandate to monitor government policies, the reports include a wide range of recommendations regarding measures to combat trafficking. The position of the National Rapporteur, she explained, is very specific. Although the Office is not an NGO, nor a government institution or a lobbyist organization, it has some characteristics of each of these sectors.

Thirdly, the consequences of Article 19 of the Directive on preventing and combating trafficking in human beings and protecting its victims, which stipulates that Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms, were discussed in detail. It has been convincingly argued that Article 19 was at the same time a considerable success and a failure. On the one hand, it enabled the establishment of the two widely respected independent National Rapporteur Offices, in the Netherlands and in Finland. On the other hand, however, it did not create an obligation for Member States to introduce the institution in their systems since it allowed the establishment of an alternative – “equivalent mechanisms”.

Some of the participants directly challenged one of the basic implicit premises of the project, namely that border control represents a significant element in combating human trafficking. It has been argued that the role of border controls in the identification of trafficked victims is exaggerated. Although there may be some truth to this, it seems that the importance of efficient border control methods cannot be regarded as irrelevant. On the contrary, controls at border crossings can often provide a unique opportunity to detect victims of human trafficking.

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**International Scientific Symposium on “Criminal Justice System and the Social Welfare” (Tirana, 5/6 March 2015)**

*Reana Bezić*

An International Scientific Symposium on “Criminal Justice System and the Social Welfare” was held in Tirana from 5-6 March 2015. The Symposium was jointly organized by the Faculty of Law of the University of Tirana, Albania and the Konrad Adenauer Stiftung, Rule of Law Program South East Europe. The Max Planck Partner Group for Balkan Criminology was represented by Univ.-Assist. Reana Bezić.

The Symposium was opened by Prof. Dr. Altin Shegani, Dean of the Faculty of Law, University of Tirana, followed by an introduction into the topic by Dr. Evisa Kambellari (Faculty of Law, University of Tirana). The speakers explained the main goal of the symposium, i.e., an exchange of ideas between criminologists from Albania and the Balkan region and experts from Western European countries about the possible links between the economic situation – as indicated by levels of social welfare – and crime and criminal justice. Theoretical approaches, empirical research as well as best practices about the subject matter were discussed.

Keynote presentations by Thorsten Geissler (Director of the KAS Rule of Law Program South East Europe) and John A. Carver (Chief of Party to the USAID Albanian Justice Sector Strengthening Project – JuST) emphasized that, although legal standards in Albania have improved significantly over the years, corruption and a lack of transparency are still a major problem in the country. Prof. Dr. Hans-Jörg Albrecht (Director at the Max Planck Institute for Foreign and International Criminal Law, Freiburg, Germany) presented a detailed overview about systems of sanctions and criminal control which was vibrantly discussed by participants. Prof. Dr. Ernesto U. Savona (Director

of Transcrime, Università Cattolica del Sacro Cuore di Milano) presented findings from empirical surveys about crime control mechanisms, followed by a presentation by the Deputy Minister of Justice, Dr. Ildir Peçi, Pd.D., on “Video and audio recording by the traffic police and the right to private life”. Further contributions addressed the topics “Correctional system effectiveness in reducing criminal behavior” by Alba Jorgaxhi (National Legal Officer, Rule of Law and Human Rights Department, OSCE Presence in Albania) and “The Probation Service – challenges on the individualisation of the criminal sanctions – focused in Kosovo Judiciary” by Lavdim Krasniqi (Director of the Kosovo Judicial Institute). In the following session, Dr. Bruna Bara (Head of the Judicial and Documentation Department of the Constitutional Court of Albania) emphasized the need to improve the legal framework for witness protection in Albania; this was followed by a presentation by Dr. Evisa Kambellari (lecturer of Criminal Law, Faculty of Law, University of Tirana) on recent trends in juvenile delinquency and youth crime control mechanisms in Albania. The general theme of the symposium was further explored by Alma Bela from the University of Tirana who presented the main theses of her current Ph.D. research about criminal law and the welfare state and by Reana Bezić from the University of Zagreb who summarized theories about the potential of social welfare policy to reduce criminal motivations.

Participants concluded that the Symposium produced a useful baseline for the development of empirical research on the main problems of the criminal justice system and related crime control mechanisms. Effective evaluation is a precondition for the development of recommendations and further reform steps.

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Photos: University of Tirana, Faculty of Law



## BC PUBLICATIONS

### Preview: Second Volume of the Research Series of the MPPG for Balkan Criminology

#### “Serious (Transitional) Economic Crimes as Crimes Against Humanity – Development of International Criminal Law”

*Sunčana Roksandić Vidlička*

Serious economic crimes and violations of economic, social and cultural rights have often been neglected in criminal proceedings and/or reports of truth commissions following economic transitions or armed conflicts. Although economic crimes have often resulted in a substantial loss of profit to economies and societies at large, they have neither been widely nor effectively prosecuted. Central-Eastern Europe and the Balkan region are not exceptions to this rule. However, as argued in the book, from Nuremberg on, there have been attempts and successful examples of prosecuting war profiteering cases. Even quite recently, the International Criminal Court’s prosecutor called for such a prosecution to be conducted before the ICC.

The study focuses on criminal responsibility for severe economic offences committed in transitional periods, as well as on establishing serious economic criminal offences as crimes under international law. It explores legal and social preconditions under which serious economic offences may be character-

ized as crimes under international criminal law. It searches for answers concerning why such crimes have often been left outside the focus of mainstream international criminal law development since the end of WWII.

The study connects international criminal law with discourses of international human rights law, security studies, (supranational) criminology, political sciences, transitional justice, (economic) criminal law and international criminal justice in order to find arguments as to why it is necessary to start prosecuting serious (transitional) economic offences as crimes under international law and why these crimes should find their place in the ICC Statute.

In conclusion it is argued that Art. 7(1)(k) of the Statute is the most plausible solution for prosecuting serious economic crimes and that those crimes that heavily violate economic and social rights should be prosecuted as “other inhumane acts”. This is possible without violating the principle of legality.

*The book will be available in fall, 2015.*

*Dr.sc. Sunčana Roksandić Vidlička,  
Senior assistant lecturer, Zagreb Faculty of Law,  
Department of Criminal Law, and member of the MPPG*

## DISCUSSION

#### The Walkout of Foreign Investors from Kosovo: A Bad Image and Signal to Policymakers

*Bujar Bujupi*

A positive climate for doing business and attracting foreign direct investment, in terms of economic development and integration into foreign markets, is essential for countries who aspire to benefit from the work and social opportunities that can be provided by a developed market economy.

At the same time, these factors pose challenges for governments, especially concerning their commitment and seriousness about enforcing effective eco-

nomics policies, taxation systems, rules of law, and the elimination (or at least minimization) of corruption and bureaucratic procedures<sup>1</sup>.

The business environment in Kosovo is characterized by numerous difficulties and problems including extremely high levels of corruption, a lack of clear rules, informal markets, bureaucracy, and political instability. These issues have negatively impacted the investment climate: Kosovo has the poorest economy in the region (and beyond) as well as the lowest level of foreign direct investment. Indeed, foreign investment in Kosovo has been decreasing on an annual basis, placing a heavy burden on the economy and the development of new businesses as well as the viability of existing ones.



However, despite the many negative indicators of economic development, Kosovo has natural and human capacities to become a prosperous developed country. Strengthening the rule of law and democratic processes, identifying the factors attracting or deterring foreign investment, spreading technology, improving infrastructure, and creating favorable conditions for young entrepreneurs are just a few factors that policymakers and stakeholders should take far more seriously.<sup>2</sup>

## Notes

- 1 *B. Bujupi*, *Trendet e Globalizmit me ndikim në NVM – Rast studimi NVM-të e Kosovës*, BPrAL AAB, shtator 2014.
- 2 *B. Bujupi*, *T.G. në NVM – Rast studimi NVM-të e Kosovës*, reomandimet, BPrAL AAB, shtator 2014.

*Bujar Bujupi, MA, Officer for graduates  
PPoHE AAB / Prishtina*

## Juvenile Delinquency in the Balkans: Do not wait for others to bring change

*John A. Winterdyk*

Juvenile delinquency is something of a universal enigma. Ever since the venerated English lawyer William Blackstone, in the 1760s, first wrote about ‘infants’ not being capable of committing a crime to the concept of ‘delinquency’ being introduced in the late 1800s by a small legion of moral entrepreneurs in Chicago, there has been no shortage of discourse about how best to control, prevent, intervene, or simply respond in the best interest of young persons – who are often among society’s most vulnerable citizens.

Over the past 150-plus years, it has been widely recognized that young persons not only have less well

developed cognitive skills than (most) adults but that as developing young persons, they have different needs that should be considered when determining criminal responsibility and how best to respond to their transgressions.

Today, there are at least six different models of juvenile justice systems that characterize how different states respond to juvenile delinquency (see Winterdyk 2015). Despite the relatively small geographic footprint that the Balkan region has, it is composed of nearly a dozen different countries (depending on how one counts regional states) and one can find several different models being used throughout the region. In addition, various regional, international, and comparative studies have shown that despite a number of countries making noteworthy reforms to their juvenile justice legislation, there are varying accounts that juvenile offenders’ safety, security, and attention to their needs are not being fully actualized.

Although Balkan Criminology (BC) members such as Ms. Reana Bezić and Dr. Almir Maljević, among others, are involved in country specific studies relating to delinquency, the time would appear ripe to capitalize on cooperation between MPPG BC members to perhaps pull together a working group to conduct a comparative overview of respective juvenile justice models as well as research to explore how best to inform juvenile justice reform throughout the Balkans because our youth are too precious to lose.

## Reference

*Winterdyk, J.* (ed.). (2015). *Juvenile justice: International perspectives, models and trends*. Boca Raton, FL: CRC Press.

*Professor John A. Winterdyk, Dept. of Justice Studies,  
Mount Royal University, Calgary, AB, Canada*

## BC EVENTS 2015

### Second Annual Conference of the Max Planck Partner Group for Balkan Criminology: Imprisonment in the Balkans

The Second Annual Conference of the Max Planck Partner Group for Balkan Criminology ‘Imprisonment in the Balkans’ will be held in Sarajevo (Bosnia and Herzegovina) from 17-19 September 2015. We

encourage all individuals who would like to participate to apply as early as possible; the last date for registration is 1 June 2015. Please register your interest with [k.ressler@balkan-criminology.eu](mailto:k.ressler@balkan-criminology.eu).

## One-Week International Intensive Course, Dubrovnik/Croatia, 5-9 October 2015

### Crime and Criminology in the Balkans

The 'Balkan Criminology' One-Week Intensive Course provides in-depth and up-to-date knowledge about the state of art in crime research in the Balkans, while introducing its participants to the basics of criminological methodology, phenomenology, and etiology. The course serves as a platform for the dissemination of criminological expertise gathered through the MPPG scientific activities: the MPPG research focuses (Violence, Organized Crime and Illegal Markets; Feelings and Perceptions of (In)Security and Crime; International Sentencing), as well as the expertise gathered at the annual conferences. This concept of transforming recent research findings and expertise from and for the region into transmittable knowledge for course participants ensures a holistic approach that combines education with science and research. The added value for course participants is, besides the knowledge itself, the networking opportunity with colleagues from the region and the possibility to present their PhD/Master/Diploma thesis before internationally and regionally renowned experts.



day on Friday. The program includes keynote lectures, student presentations, soft skills training, and extensive exchange and discussion. The best student paper will be published in the European Journal of Criminology. In addition, a Dubrovnik city tour is offered.

The course is accredited by the Zagreb Faculty of Law and offers 4 ECTS credits. Precondition is the regular attendance of the course and the delivery of a participant presentation in oral and written form.

The Course fee for participants is 150 €. It includes enrolment, participation in the lectures and student materials. For early registration by 15 June, a reduced early bird fee of 100 € is available. Participants are expected to make their own travel and accommodation arrangements and to cover these costs by themselves. In addition to the Course fee, all participants are required to pay an additional 40 € fee to the IUC Dubrovnik upon arrival. The course manager can provide help with organizing travel and accommodation arrangements.

### Basic Course Structure

Participants arrive on Sunday, 4 October 2015. The course starts on Monday morning and lasts until mid-

For further information please visit [www.balkan-criminology.eu/en/events](http://www.balkan-criminology.eu/en/events) or contact our course manager Ms. Reana Bezić at: [r.bezic@balkan-criminology.eu](mailto:r.bezic@balkan-criminology.eu).

#### IMPRINT

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