

BC RESEARCH NEWS

MPPG's Continuation Approved

Anna-Maria Getoš Kalac & Michael Kilchling

In December, 2015, the President of the Max Planck Society, Prof. Dr. Martin Stratmann, officially approved the extension of the Max Planck Partner Group for Balkan Criminology until 2018.

The President's decision was based on the evaluation report of MPPG's international Scientific Advisory Board (see Balkan Criminology News 2/2015). In the course of their evaluation the board members conducted an extensive review of the Partner Group's general concept, its research program, the Balkan Criminology Network (BCNet), publications, scientific conferences and courses as well as its various further activities outlined in detail in the Scientific Report 2013-2015.



The assessment of MPPG's performance and achievements puts explicit emphasis on several criteria. First and foremost, the quality of the research conducted has been found excellent, which includes both the concept and methodology of the research projects conducted (completed and ongoing ones) and the publications. The advisory board supports the publication strategy which uses to likewise address the local and regional research and policy communities and the international scientific community. The report's second substantial point of reference is on the BCNet and its impact on the development of criminology in the region. The Network and its activities have been assessed to be a very effective instrument in creating an interregional research community, fostering intra-regional and inter-regional research exchanges and raising international interest for criminological research in the region. Particular

emphasis has been put of the ESC Working Group on Balkan Criminology and the regular panels at the annual conferences of the European Society of Criminology.

Particular attention has also been put on MPPG's visibility and impact. The international experts appreciate the various publication tools, including the book series, the website and the Newsletter. Also the

clear and appealing visual identity concept itself was emphasized as an expression of excellence. Further points of the evaluation report address the financial and personnel management. The advisory board, last but not least, explicitly stressed the generous financial and logistic support provided by the Max Planck Society for the Advancement of Science, Germany, and the Zagreb Faculty of Law.

The Scientific Report 2013-2015 is available at www.balkan-criminology.eu/en/publications/scientific_report/.

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BC RESEARCH PROJECTS

Criminal Enterprises in Politics: Responsibility of Political Parties for Criminal Offences

Aleksandar Maršavelski

The main purpose of this study is to elucidate an entirely new subject in criminological, legal and political science discourse – the problem of delinquent political parties and their liability. The topic initially deserved academic attention in March 2014, when a Croatian court convicted and sentenced a political party for the first time in the democratic world. An inquiry into the factual and legal background of this case is used as a source of empirical data to address the general research question: Do we need criminal liability of political parties? The comprehensive case study – which includes several interviews, inquiry into court documents, media articles and opinion polls data – reveals that the criminal justice intervention produced a shaming effect and a temporary marginalization of the delinquent party. From the methodological point of view, an innovation of this study is that it uses opinion polls data to evaluate the effects of the justice system on political parties' popularity.

Furthermore, this thesis provides a detailed analysis of the structure of delinquent political parties, based on the hypothesis that organisational deficiencies are often among the root causes of collective criminal behaviour. It also reveals other main causes of criminal acts of political parties by bringing them in connection with the imbalance between two colliding interests: *the duty to act for the welfare of the people vs. the will to power*. When the prevailing goal of activities of political parties is the satisfaction of their will to power, there is a tendency to criminal behaviour. Furthermore, in settings with poor mechanisms of control over their activities, especially in anomic underdeveloped and transitional societies, such conditions are favourable to delinquent political parties.

The phenomenological study of criminal behaviour of political parties reveals that the most heinous crimes in the history of humanity have been largely committed by ruling political parties. This discovery

undermines the dominant notion of 'state crime' in the literature as well as the efforts towards the criminal responsibility of states. This thesis also established a categorization of crimes committed by political parties depending on whether they act: (a) in power or opposition; (b) in totalitarian, transitional or democratic settings; and (c) in wartime or peacetime.

This study also provides insight into the historical roots of two main contemporary models of collective criminal liability – corporate model and criminal organization model – discovering that they have originally been used to suppress political opposition. The collective criminal liability faces a renaissance today, and this development directly affects political parties. One of the neglected aspects of the Nuremberg trials was the prosecution and conviction of bodies of the German Nazi Party, an international justice precedent that demonstrates the need of introducing criminal liability of political parties in international law.

While discussing the alternatives to the criminal liability of delinquent political parties, the presented results point out that the alternatives cannot always produce the same desired effects that the criminal justice and administration can. Based on case studies and theoretical discussion, this thesis introduces a special goal of criminal justice system applicable to delinquent political parties: *marginalizational shaming*. The bedrock idea behind this theory is that political parties as collective perpetrators are too well integrated into the society. This suggests that – unlike in cases involving ordinary perpetrators, where contemporary criminal sanctions ought to fulfil a reintegrative purpose – the shaming content of sentencing political parties should produce an effect of marginalization, because this is the only way to satisfy the general purposes of punishment.

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NEWS FROM BC PARTNERS

Launch Event for Policy Paper on Reducing Prison Overcrowding in Albania (Tirana, 15 December 2015)

Evisa Kambellari

A Policy Paper on Reducing Prison Overcrowding in Albania was presented at a special launch event organized by the Ministry of Justice of Albania, on 15 December 2015.

The Policy Paper was part of a joint project between the OSCE presence in Albania and the Albanian General Directorate of Prisons; it aims to address the situation of overcrowding in prisons and pre-trial detention facilities.

The activity brought together distinguished members of the criminal justice system, members of diplomatic missions, representatives of NGOs and legal professionals to discuss future actions regarding the reforming of the Albanian penitentiary system, with a focus on reducing prison overcrowding. The activity started with the plenary speeches of the Minister of Justice of the Republic of Albania, the Head of the OSCE Presence in Albania, and the ambassador of the United Kingdom. Then, the agenda followed with the presentation of the main findings of the study, and the recommendations for future action.

As noted in the Policy Paper, official figures show that the prison population in Albania has continuously increased since 2012, reaching its most critical level in 2014. In 2014, overcrowding was at the level of 30% over the placement capacity. The document identifies the main factors that have been influencing the situation of overcrowding in Albanian prisons and pre-trial detention facilities, which are related to: political pressures towards harsher punitive policy, increase of the number of pre-trial detainees due to the over use of the detention as a remand measure, the general punitive trend in the courts sentencing practice, delays in procedural deadlines, harsher sentences provided in the criminal legislation, low application of alternatives to imprisonment, and the treatment of convicts with mental problems in the regular penitentiary system.

The last part of the Policy Paper provided valuable recommendations on issues that should be the subject of reevaluation by policymakers in order to address prison overcrowding. It was noted that revision of the criminal policy towards a more rational approach is of crucial importance. It is necessary to shift from the position of using criminal law as a security tool. The solution should not be to seek out harsher criminal sanctions but rather to enforce social control institutions. Increased attention must be given to non-custodial policies, in order to prevent crime and criminal behavior. The document calls for the enhancement of the application of alternatives to imprisonment by improving the infrastructure and the related capacities, enhancing community controls, restructuring the penitentiary system, broadening the use of restorative justice in criminal cases, and introducing plea bargaining practices for minor offenses.

Special focus was given to the idea of establishment of Attendance Centers, which appear to be a very innovative and promising tool for the effective implementation of alternatives to sentencing. These centers would serve as special points for the provision of basic services and programs to delinquent minors, as well for the accomplishment of community service sanctions for those convicts placed on probation or under semi-release measures.

The document stresses the necessity of establishing a Risk Assessment and Management System for prisoners, including assessment tools for juveniles and young adults. This seems to be a point of very actual importance at the moment as the Albanian legislator is currently considering whether to pass a law on open regime prisons. The premise is that to efficiently manage the prison population it is fundamentally important to assign prisoners to establishments in relation to their risk of harm.

In his keynote address, the Albanian Minister of Justice, Mr. Ylli Manjani, said that “Criminal policy should have its rules and principles, and our aim is to build a criminal policy, based strictly on the interests of the law, rather than on political goals.”

The elaboration of the criminal policy should follow a scientific methodology and not a trend of the

moment to punish certain exposed models of criminal behavior. He also drew attention to the need to increase the use of alternatives to sentencing as a penalty. In this regard, it is of specific importance to increase the confidence of prosecutors and judges in the effectiveness of alternatives to sentencing – said Mr. Manjani. He concluded that the policy paper’s recommendations will become part of his future working agenda.

Present at the meeting, the OSCE ambassador, Mr. Florian Raunig, emphasized that measures aimed at combating prison overcrowding and reducing the size of the prison population need to be part of a coherent and rational criminal policy. Future action has to be directed towards the prevention of crime and criminal behavior, effective law enforcement, public safety and protection, the proper individualization of sanctions, as well as the social reintegration of offenders. He added that such measures should be supported by political and administrative leaders, judges, prosecutors and the general public. He recommended a revision of the punitive approach, a re-classification of criminal offences in the criminal legislation, and the increased use of alternatives to imprisonment. “Deprivation of liberty should be applied where the seriousness of the offence would make any other measure clearly inadequate,” Raunig said.

The British Ambassador, Mr. Nicholas Cannon, shared the view that the Albanian courts have a wealth of alternative sentences at their disposal, and yet, they are rarely used – instead, sentences continue to be almost exclusively custodial and punitive. Of particular concern is the fact that even petty offences attract custodial sentences. This leads to a prison system overcrowded by non-dangerous offenders, who simply use up spaces, deplete the system of funding and add to the current inefficiency of the prison system – said Mr. Cannon. He commented that the Policy Paper outlines a re-structuring of the prison system with the creation of ‘open prisons’ and ‘attendance centers’. Open Prisons will allow the prison system to accommodate low risk individuals at low cost and will allow them to prepare for a useful return to the community. ‘Attendance centers’ are something new. These institutions are planned to enable the courts to award an alternative community sentence in the knowledge that the sentence will be carried out with real rigor, by the related monitoring structures.

Participants concluded that the Policy Paper presented a very useful piece of work to help reform the Albanian penitentiary system. It offers a comprehensive evaluation of the factors that have influenced the situation of overcrowding and is complemented by solid practical solutions that have been developed in collaboration with practitioners. It provides a blueprint for a reduction in overcrowding in the prison system as well as a vision for a progressive, sustainable and modern alternative.

*Dr. Evisa Kambellari,
Faculty of Law, University of Tirana*

First National Conference on Safety and Security in Local Communities in Slovenia

Gorazd Meško

In cooperation with the Municipality of Ljubljana, the Faculty of Criminal Justice and Security, University of Maribor, organized the first *National Conference on Safety and Security in Local Communities*. The event took place on 27 November 2015, in the City Hall of the Municipality of Ljubljana.

The initiative for the conference on safety and security in local communities stems from the research carried out within the FCJS’s research programme named *Security and Safety in Local Communities*. One of its primary aims is to divert researchers’ attention from theoretical verification of scientific knowledge to its practical implementation. Namely, the analysis of the current situation reveals that the main problem in providing effective security is a lack of cooperation between theory and practice. Due to the complex interaction of various influences, security challenges in urban areas need to be regarded interdisciplinary and comprehensively if recognised and harnessed to implement long-term changes.

At the conference, 12 scientific and professional discussions were presented. But what is more even important, the participants included mayors and deputy mayors of Slovenian municipalities, directors of (inter-)municipal administrations, heads of municipal inspectorates, municipal administration staff, as well as representatives of NGOs, civil protection, and the police along with students of the Faculty of Criminal Justice and Security and other stakeholders, all of

them contributing significantly to the success of this content-oriented conference with their discussions and proposals. More information about the event is available at <http://www.fvv.um.si/vls/>, where the conference proceedings are also published.

*Prof. Dr. Gorazd Meško,
Faculty of Criminal Justice and Security,
University of Maribor*

Eleventh Biennial International Conference Criminal Justice and Security in Central and Eastern Europe: Safety, Security, and Social Control in Local Communities

Gorazd Meško

The Faculty of Criminal Justice and Security, University of Maribor, and its partners are organizing the international conference Criminal Justice and Security in Central and Eastern Europe: Safety, Security, and Social Control in Local Communities to be held on 26-27 September 2016, in Ljubljana, Slovenia. The primary aim of the eleventh biennial conference is to facilitate the exchange of the latest views, concepts, and research findings from criminal-justice studies on safety, security, and social control in local communities among scientists, researchers, and practitioners from all over the globe. Further details about the conference are available at <http://www.fvv.um.si/conf2016/>.

*Prof. Dr. Gorazd Meško,
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Czech-German-Croatian Seminar European and International Criminal Law: Human Rights in Criminal Proceedings

Danijel Javorić Barić & Željka Bogović

The seminar was held at Masaryk University, Faculty of Law, Brno, Czech Republic from 14–17 October 2015 under the title *Human Rights in Criminal Proceedings*. The seminar was a collaboration between the University of Passau, the University of Plzeň, the Masaryk University and the Max Planck Partner Group for Balkan Criminology.

Participants visited the Constitutional Court of the Czech Republic where a lecture was given on the Constitutional Court of the Czech Republic as a specialized type of court which has a goal to protect the people of the Czech Republic against violations of the constitution by either the legislature or by the government. The presentation explained the Court's history, jurisdiction and composition.

Thereafter, a seminar on Human Rights in Criminal Proceedings took place at the Masaryk University, Faculty of Law. After the opening ceremony, Doc. JUDr. Josef Kuchta, Prof. Dr. Robert Esser, JUDr. Petr Skvain and Reana Bezić introduced the Human Rights in Criminal Proceedings Seminar and welcomed the participants. A short lecture on the Court System of the Czech Republic was presented after the opening speech. Presentations were delivered by the participating students, followed by discussions on the central issues of human rights in criminal proceedings.

The first topic was presented by Friederike Egloffstein, on the Presumption of Innocence – findings of guilt about persons outside the actual charge (Art. 6 § 2 ECHR, Karaman/Germany).

The second lecture was presented by students Adam Budiš and Jakub Siřínek, Plzeň on the topic No Punishment Without Law (ECtHR, Rohlena/Czech Republic), followed by The Dangerousness and Presumption of Innocence in the context of § 57a German Criminal Code (ECtHR, Müller/Germany) by Christopher Fenzl, Passau.

After the break, two more students held their presentations: Raphaela Dichtl, Passau on the Inculpatory Comments in an Acquittal and the Presumption of Innocence (Art. 6 § 2 ECHR, ECtHR, Cleve/Germany) and Habibe Coban, Passau on the topic Deletion of Convictions from the Criminal Record (ECtHR, E.B. and Others/Austria). The informal part of the seminar included gatherings with colleagues over dinner to expand the discussion beyond the formal part of the seminar.

Next morning, a visit to the Supreme Court of the Czech Republic was organised. A short lecture was presented to participants about the Supreme Court of the Czech Republic: the Court's history, jurisdiction and composition were explained in presentation.

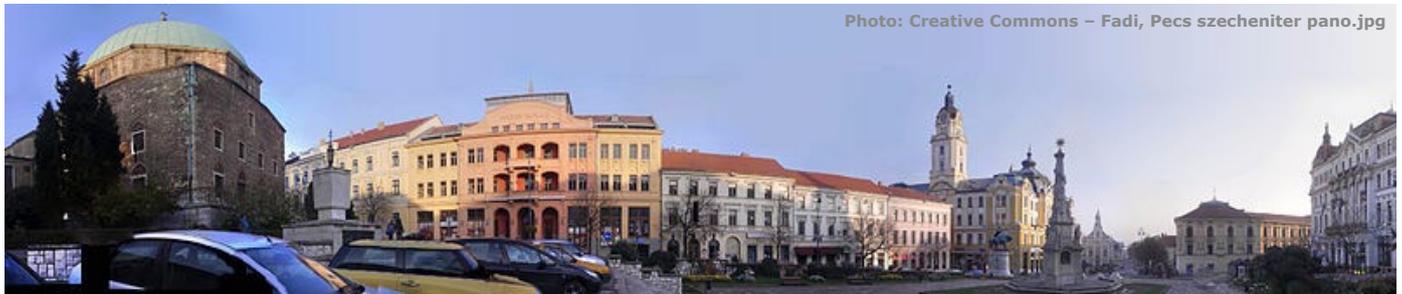
After a lunch break and city sightseeing tour, the seminar was continued at Masaryk University and presentations were delivered by the participating students, followed by discussions on the central issues.

The first topic was presented by students Danijel Javorić Barić and Željka Bogović from Zagreb on the Grounds for pre-trial detention (Art.5 § 3 ECHR, ECtHR, Getoš-Magdić/Croatia), followed by Kathrin Zitzelsberger and Elisabeth Rickert from Passau on the topic Confinement of persons of unsound mind; actio popularis (ECtHR (GC) Centre for Legal Resources on behalf of Valentin Campeanu/Romania and ECtHR, C.W./Switzerland). Veronika Durasová

and Eliška Fischerová from Plzeň gave a presentation on the topic of Home birth seen in the light of human rights (ECtHR, Dubská and Krejzová/Czech Republic).

On Saturday, the project supervisors from the participating universities: Prof. Dr. Robert Esser, JUDr. Petr Skvain and Reana Bezić had an informal meeting where they evaluated the seminar and lectures presented by students. They concluded that the seminar succeeded in reaching its goal and also debated about future co-operation.

Danijel Javorić Barić, Faculty of Law, Zagreb
Željka Bogović, MPPG Student Volunteer



6th Pécs Summer Course in Criminology

Michael Kilchling

The 6th Summer Course in Criminology of the University of Pécs and the Max Planck Institute for Foreign and International Criminal Law will take place from 29 May to 3 June, 2016, at the University of Pécs, Hungary. This year's general theme is **Criminology of Terrorism**.

The program includes lectures, co-presentations by participants and discussions on topics such as:

- theories of terrorism,
- radicalization and recruitment,
- travelling jihadists and foreign fighters,
- criminal-political concepts, in particular new statutory offences,
- financing of terrorism,
- terrorist acts, security and feelings of (in)security.

The city of Pécs is located in the Baranya region in the south of Hungary which is also famous as a wine region. In 2010 it has been a European Capital of

Culture. Besides the academic program, a guided city tour and a wine tasting tour is offered. The summer course is open to students, post graduates, academics and practitioners from Hungary and the entire Balkan region. Following the local tradition the course will be held in German language.

For more information please contact the local organizers: kohalmi.laszlo@ajk.pte.hu.

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□ DISCUSSION

A call for a Balkan Crime Prevention Consortium

*John Winterdyk**

As is the case in most parts of the world, criminal justice budgets are being stretched thin and in (partial) response, we are being witness to such alternative response mechanisms as crime prevention. As opposed to relying on a reactive model of crime control, crime prevention (a proactive response model) initiatives and national and international consortiums are springing up everywhere. In fact, crime prevention and criminal justice was the primary focal point of the 13th United Nations Congress meeting in Doha, in April 2015.

Consistent with the theme of the UN Congress, it might be instructive for the Balkan community members to form its own coalition of municipalities and form a regional network with a primary focus on building effective response mechanisms to promote more effective and cost efficient ways to both prevent and reduce crime. For example, even though a 2008 UNODC report noted that the region is “one of the safest in Europe...,” the report points out that until the social and political conditions normalize, the crime trend “trajectory is distinctly upwards.” With this in mind, one of the first steps in the pro-

cess would be to begin to identify known risk factors in high-risk places and among high-risk populations. As extensive literature has shown, municipalities can play a significant role in both preventing and reducing crime by using evidence-based information and through promoting collaboration while also taking into account local realities (e.g., resources, social and political factors, etc.).

Such an initiative could potentially be spearheaded by the Balkan Criminology Network where researchers could not only facilitate the relevant research through the Balkan region but provide the objective measures, conduct cost benefit analysis, and perform cost effective assessments of crime prevention initiatives.

- * John is currently completing an edited book on international crime prevention (CRC Press) which will cover a wide range of topics including, among others: corporate crime, domestic violence, terrorism, human trafficking, and several chapters which will focus on different aspects of implementation and sustainability.

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Mount Royal University, Calgary, AB, Canada*

■ BC EVENTS 2016

PREVIEW

- BCNet at the 16th Annual Conference of the European Society of Criminology: Münster, Germany, 21 to 24 September 2016

Info at: www.eurocrim2016.com

- Third one week intensive course on Balkan Criminology: Dubrovnik, Croatia, 10 to 14 October 2016

Info at: www.balkan-criminology.eu/en/events/event/201610141.html



Photo: Udar 2010

Third Annual Conference of the Max Planck Partner Group for Balkan Criminology, 1 to 4 September 2016:

'Violence in the Balkans'

Andra-Roxana Trandafir

The Third Annual Conference of the Max Planck Partner Group for Balkan Criminology 'Violence in the Balkans' will be held from 1-4 September 2016 in Bucharest, Romania. The subject of the conference is linked to the current MPPG research project on the prevalence and impact of violence in the Balkans.

The conference will be hosted by the Faculty of Law, University of Bucharest, which is the oldest law school in Romania.

We encourage all interested persons to apply as early as possible. Deadline for registration is the 1st of July, 2016. For registration and information requests please contact andra-roxana.trandafir@drept.unibuc.ro.

The conference programme and further information will be available at: www.balkan-criminology.eu/en/events/event/201609041.html.

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