

# THE IMPORTANCE OF THE INTERINSTITUTIONAL COOPERATION IN THE FIGHT AGAINST ECONOMIC – FINANCIAL CRIMINALITY

Research Article  
35.072.3:[343.9.024:336.7

Muazam Halili & Svetlana Nikoloska

## *Abstract*

In different countries, depending on the social regulation system and the legal provisions, there are different institutions whose role is to fight criminality involving the economic and financial criminality. In principle, institutions fighting criminality can be divided into institutions that directly fight criminality<sup>1</sup> and institutions that indirectly fight criminality.<sup>2</sup> Each institution, in terms of combating this negative phenomenon, complies with the legal regulations foreseen for the concrete scope.

Despite the separation and naming of these institutions as well as their activity or their role against general criminality and in particular economic-financial criminality, one is certain, their success in this regard depends on sound inter-institutional cooperation. A cooperation of yours is inevitable especially when it comes to financial-economic criminality.

From this perspective, this paper will mainly address the role of interinstitutional cooperation in the fight against economic-financial criminality, which through specific examples will strive to defend the hypothesis put forward.

**Key words:** Economic-financial criminality, institutions, interinstitutional cooperation, Law on Criminal Procedure.

## **1. State Bodies and Institutions in the Republic of Macedonia Competent to Research the Economic - Financial Criminality**

There are certain bodies and institutions to fight crime in each state.

In the Republic of Macedonia, the authorities directly involved in the fight are the Public Prosecutor's Office, the Ministry of Interior, the Financial Police, the Customs Administration, which powers derived from the Law on Criminal Procedure and the laws regulating their organization and functioning. Significant contribution to the discovery and provision of evidence in the process of research, clarification and proving of criminal offenses with elements of abuse of official position have the State Audit Office, the State Commission for Prevention of Corruption, the Financial Intelligence Directorate, and other inspection services. Inter-institutional cooperation is regulated by the provisions of the LCP (Law on Criminal Procedure) of the Republic of Macedonia<sup>3</sup>, as well as other legal and sub-

---

<sup>1</sup> ex. Prosecution Office, Internal Affairs Sector, Financial Police etc.

<sup>2</sup> ex. Different inspections and committees operating within the respective state

<sup>3</sup> Official Gazette of RM No. 150/10, 51/11 and 100/12.

legal acts of the state, and in accordance with these acts and with international legal acts, the cooperation is carried out internationally with the relevant state bodies and institutions.

In order to be more successful in the cooperation, the institutions sign a memorandum of cooperation, bilateral and regional agreements, which specify the mutual obligations.

## **2. Cooperation of the Institutions of the System in the Research of Criminal Works in the Field of Economic - Financial Criminality**

For a successful fight against organized crime with elements of abuse of official position and authority as the most common deed in the field of economic financial criminality, in every state, it is necessary for all state bodies specialized for prosecuting such a crime to fulfill the legal competences, because it is a very dangerous form of crime and it is necessary to act together and to be coordinated in order to achieve greater efficiency in suppressing crime.

Significant contribution to the discovery and provision of evidence in the investigation, clarification and proving of criminal offenses with elements of abuse of official position, have the State Audit Office<sup>1</sup>, State Commission for Prevention of Corruption<sup>2</sup>, Financial Intelligence Directorate<sup>3</sup>, as well as other inspection services.

---

<sup>1</sup> The State Audit Office was established by an act of the Assembly of the Republic of Macedonia and the Law on State Audit (Official Gazette of the Republic of Macedonia No. 65/97, 31/03, 73/04, 70/06 and 24/07). It is an audit institution that audits the Budget of the Republic of Macedonia, the budgets of the funds, the beneficiaries and the units of the funds from the budgets and public enterprises, the budgets of the units of local self-government, the political parties financed by the budget, other institutions financed by public funds and users of funds from the European Union and other international organizations. The state audit is performed obligatory at least once a year in accordance with the dynamics established by the annual program of the State Audit Office.

<sup>2</sup> The State Commission for the Prevention of Corruption in the Republic of Macedonia was established by the Law on Prevention of the Corruption (Official Gazette of the Republic of Macedonia No. 28/02, 46/04, 83/04, 126/06, 10/08, 161/08, 145/10), as an independent body competent to apply the measures and activities for preventing corruption in the exercise of power, public authorizations, official duty and politics, measures and activities for preventing conflict of interests, measures and activities for preventing corruption in performing activities of public interest of legal entities related to the exercise of public authorizations, as well as measures and activities for preventing corruptions in trade companies. This Law defines the notion of corruption as "Take advantage of the function, public authorization, official duty or position for realization of any benefit for yourself or for another person." In fact, this definition contains the features of the crime "Abuse of official position and authority" provided for in Art. 353 of the Criminal Code of the Republic of Macedonia.

<sup>3</sup> According to the Law on Prevention of Money Laundering and Other Proceeds from Crime and Financing of Terrorism (Official Gazette of the Republic of Macedonia No. 4/08, 57/10, 35/11, 44/12 and 43/14) for the collection, processing, analysis, storage and submission of data received from the entities that are obliged to undertake measures and actions for detection and prevention of money laundering and financing of terrorism, the Financial Intelligence Directorate is established as a body within the Ministry of Finance with the capacity of a legal entity. The competencies of the Directorate are: to request, collect, process, analyze, store and submit data received from the entities based on this Law; obtains financial, administrative and other data and information necessary for the performance of its competencies; prepare and submit reports with an opinion to the competent state authorities, whenever there is a basis for suspicion of committed criminal act money laundering and financing of terrorism; notify the competent state authorities for the existence of grounds for suspicion of another criminal offense; issue a written order to the entity with which the transaction is temporarily held; submit a request for submitting a proposal for determining interim measures to the competent public prosecutor; submit a request for initiating a misdemeanor procedure before the competent court; cooperates with the Ministry of Interior, the Financial Police, the Public Prosecutor's Office, the Customs Administration, the Public Revenue Office, the State Foreign Exchange Inspectorate, the

Interinstitutional cooperation is an inevitable factor in the suppression of criminal offenses in the area of economic criminality in that context the criminal offenses are deeds with elements of "Abuse of official position and authority". Coordination of institutions and state bodies is necessary for the reconciliation of certain activities, because with the existence of several institutions and state bodies with the same or similar competences, strategic tasks and tasks, there often arises a conflict of competence that is reflected in simultaneous action or parallelism, duplication when undertaking certain legal powers in solving the same criminal case. The advantage of interinstitutional cooperation, if it can be understood in this way, is the role of a corrector in the work of another institution or complementing certain activities, but of course professionalism in the institutions as well as professionalism in their actions should have the main role, because subjectivism is a danger of not revealing certain elements in the clarification, and especially in proving the criminal behavior, and questions the successful completion of the pre-trial procedure, as well as the successful conduct of the further criminal proceedings.

*I will give an example<sup>1</sup> of the positive aspects of inter-institutional cooperation, especially their role as a reviser in the work of another institution or filling up certain activities. By the State Audit Office, check was carried out at the Municipal High School "Nikola Shtejn" from Tetovo, where final reports were prepared for audited financial statements and compliance audit for 2009, where a number of irregularities were identified, especially in relation to the implementation of public procurement procedures and the assigning of public procurement contracts also they did not provide legal use and protection of assets owned by the high school, thus causing damage to the educational institution and to the national budget funds. The same reports were reviewed by the State Commission for Prevention of Corruption, which according to Article 49 paragraph 1 line 6 of the Law on Prevention of Corruption (Official Gazette of the Republic of Macedonia No. 28 / 02,46 / 04,126 / 06,10 / 08,161 / 08 and 145/2010 that made a decision to initiate a procedure for criminal prosecution of person XX, at the position Headmaster until 01.04.2004 to 17.08.2009 and XX, at the position Headmaster until 18.08.2009 on the Municipal Secondary Medical School "Nikola Shtejn" from Tetovo, on the grounds of suspicion that during 2009 they committed a crime "Abuse of official position and authorization, referred to in Article 353, paragraph 3 and paragraph 5, v.v with paragraph 1 of the Criminal Code of the Republic of Macedonia.*

*According to the State Commission for Prevention of Corruption, which acts in accordance with the duties determined in the Law on Prevention of Corruption, taking into account the data contained in the audit reports, it has been established that the activities of the management of the mentioned school and the implemented financial transactions are not in accordance with the legislation, especially with the regulations of the Law on Public Procurement in the way of planning, implementation and realization of the public procurement procedures conducted in 2009, which gives reasons for the suspicion that when*

---

Securities and Exchange Commission of the Republic of Macedonia, the National Bank of the Republic of Macedonia, the Agency for Supervision of Fully Funded Pension Insurance, the Insurance Supervision Agency, the State Commission for Prevention of Corruption and other state bodies and institutions, as well as other organizations, bodies to combat money laundering and against the financing of terrorism; exchange data and information with authorized bodies of other countries and international organizations; supervises the entities for the implementation of the measures and activities determined by this Law, and performs other activities determined by law.

<sup>1</sup> Халили Муазам, Криминолошко – Криминалистички аспекти на злоупотребите на службената положба и овластување во Република Македонија, Докторска дисертација, Факултет за безбедност, Скопје, 2015 г, стр.141.

*disposing of the funds of the above mentioned school, in the implementation of public procurement procedures and the assigning of public procurement contracts, the legal use and protection of the assets in its possession were not ensured, it follows that there is a basis for suspicion that there is illegal and unintentional use of funds in the total amount of 8,004,000.00 denars.*

*This example can confirm the contribution of the State Audit Office as an expert for ascertaining irregularities, especially in the implementation of the law on public procurement, as well as the role of interinstitutional cooperation in the direction of entirely clarification and argumentation of the criminal act.*

Recently, the institutions for the fight against organized crime, corruption and money laundering have been reformed in the Republic of Macedonia, other activities have been undertaken regarding the adjustment of the legal regulations to the European and international conventions, as well as national strategies and action plans for acting are prepared.

According to the undertaken obligations from the London Conference on Combating Organized Crime in Southeast Europe, in 2003, the Republic of Macedonia prepared a document containing specific measures and activities of the Ministry of the Interior, the Ministry of Finance and the Ministry of Justice for interinstitutional cooperation and coordination by taking specific measures and activities. This document emphasizes the following priorities in cooperation and coordination:

Establish a regional network of prosecutors;

- Improving regional cooperation in accordance with international standards in the field of justice;

- Strengthening the institutional capacity to prevent money laundering and financial crime within the Ministry of Finance;

- Establishing a Department for fighting organized crime and corruption within the Public Prosecutor's Office of the Republic of Macedonia;

- Specialization of judges;

A comprehensive department for fighting against organized crime within the Public Prosecutor's Office, a team of professional investigators;

- Establishing a central unit for criminal intelligence.

The interinstitutional cooperation between the bodies that directly or indirectly contribute to solving criminal cases, we should not forget the fact that all these bodies, depending on their legal powers for clearing criminal cases, cooperate with other bodies such as banks, services that are located within the ministries, municipalities, legal entities with public authorizations, chambers, etc., which have the role of internal supervision. Their statements about a certain phenomenon of criminal character are of great importance for the prosecution services, because it is about findings, opinions and conclusions made by experts for a particular issue. But not always, operational officers need to have confidence in those conclusions, especially when they result from a request by the police, because it can happen for a certain objective or subjective factor, these conclusions do not correspond with the actual situation. It would be good to consult another expert who understood the specific issue.

Inspection services that are treated as indirect bodies in the fight against economic and financial crime have recently contributed to the fight against economic and financial crime. Namely, the inspection services, each in their area, recognize the criminal behavior, in the course of their work, if they receive such information, they should inform the competent authorities officially.

Example:<sup>1</sup> SVR Gostivar, upon request by forestry inspector, submit an application against two authorized persons in the Public Enterprise Macedonian Forests, branch in Gostivar for committed criminal act "Abuse of official position and authorization" according to the Article 353 of the Criminal Code of the Republic of Macedonia, against the director and the referent, firstly, they got oral instructions, and then they concluded a contract with the person B. J. who was ordered, in section 90 of the SEE Duf Mazdracha, to carry out a supply and cut of firewood in which a department previously with a decision of the forestry inspector had a ban on cutting, causing a huge property damage to PE Macedonian Forests in favor of the person B. J.

The disclosure process cannot be effective if the interinstitutional cooperation with other institutions is not at a satisfactory level. The cooperation and the coordinated approach of the institutions of the system such as the Public Prosecutor's Office, the Financial Police, the Financial Intelligence Directorate, the Public Revenue Office, the State Commission for the Prevention of Corruption, the State Audit Office, etc., can give an adequate contribution to the fight against this kind of crime. It has been proved that continuous communication and exchange of information between the bodies are directly or indirectly involved in the suppression of crime, which gives positive results in the direction of detection, clarification and proving of criminal offenses, especially when it comes to economic and financial criminality. The cooperation of the financial police with the Ministry of Internal Affairs is most often carried out in the part of the expertise in determining the reliability of the traces of the crime, the reliability of signatures, forgery, exchange of criminal data as well as in other cases depending on the criminal situation.

*An example<sup>2</sup> of the cooperation between the Financial Police where the need for expert witnessing is required. During 2013, the Office for Financial Police filed an application against the mayor of Tetovo, in which among other things it was stated that during the period from 2009 to 2013, the mayor committed incriminated actions, and he is suspected of committing a criminal act abuse of the official position and authority. From the performed checks, it turned out that the Mayor of Tetovo was involved in incriminating actions with reference to non-compliance the law on public procurement, but it was necessary to determine whether other persons were involved in the specific case. So, there was a need to give an expert opinion on the signatures listed in the construction actions with the undisputable signatures of the people who were authorized to sign. In the specific case, the cooperation between the Financial Police and the Ministry of Interior is reflected in the need to submit the undisputed signatures of all the executors and construction inspectors in the Municipality of Tetovo to the Ministry of Interior - Department of Criminology - Skopje for an expert opinion, i.e. comparison of the signatures of the people mentioned above with the signatures of the construction situations, which were submitted to the municipality of Tetovo by the mentioned company for payment.*

---

<sup>1</sup> Halili, M., from quotations, p.143

<sup>2</sup> Halili, M., from quotations, p.144

The above mentioned authorities should constantly and vigilantly keep an eye on the events, and also they should constantly communication and exchange information among them, in order to make it easier to discover and eliminate crime.

Successful fight against organized economic and financial criminality in conditions of the socio-economic and political system in our country should take place in three phases<sup>1</sup>:

1. The first phase which has a preventive character and in which the state participates with all competent authorities and institutions in order to eliminate the conditions that affect the occurrence and development of criminality through its numerous shapes and forms.
2. The second phase consists of the operational activities of the Police and other competent bodies and institutions for identifying the existing phenomena and taking criminal actions through criminal ways, methods and means for detecting, clarifying and documenting the specific crimes of each particular criminal case, as well as detection of the doers of all individual criminal acts and, of course, securing the objects and traces of the criminal event as evidence for further criminal procedure.
3. The third stage involves the criminal prosecution of the perpetrators and their conviction, which according to the competence belongs to the Public Prosecutor's Office and the Court. Certain Articles of the new LCP (Law on Criminal procedure) define the role of the state bodies and institutions involved in the investigation of criminality, as well as their mutual cooperation.

For example, according to Art. 287 of the Law on Criminal Procedure<sup>2</sup> upon the request of the public prosecutor, state organizations, local self-government units, organizations, legal entities and natural persons who perform public authorizations or other legal entities will submit to them the data which they requested. The public prosecutor of these entities may require control of the work of a legal entity and a natural person and temporary confiscation until the effective verdict of money, equities, objects and documents is taken, that can serve as evidence. The public prosecutor may also require tax control and these data can serve as evidence of committed criminal act or acquired property by committing a criminal act, to perform inspection control and to request information about unusual and doubtful money transactions. At the request of the public prosecutor, the operators of public communications networks and providers of public communication services are obligated to submit data for the realized contacts in the communication network.

According to Article 8 of the Law on Criminal Procedure<sup>3</sup> interinstitutional cooperation and legal assistance are provided for the Judicial Police, the Public Prosecutor and the Court for the conduct of the criminal procedure, which may request assistance from the courts, the Public Prosecution, the state administration bodies and other state bodies, institutions that perform public authorizations and from the bodies of the local self-government. These authorities are obliged to respond to the request as soon as possible, and to remove the possible obstacles without delay. The restriction exists in cases of requested classified information until the moment of the cancellation of that obligation by the competent authority.

---

<sup>1</sup>Николоска Сетлана, „Методика на истражување на економско – финансиски криминалитет“, Факултет за безбедност, Скопје, 2013 г.

<sup>2</sup> Official Gazette of RM no. 150/10, 51/11 and 100/2012

<sup>3</sup> Official Gazette of RM no. 150/10, 51/11 and 100/2012

The interinstitutional cooperation to be more efficient and to give better results, memorandums, protocols of cooperation, bilateral and regional agreements are concluded between state institutions that have direct or indirect competence in the investigation of economic and financial crime. Such memorandums are concluded in order to stimulate and strength the mutual cooperation in the process of implementation of Criminal Procedure Law, the Police Law, the Public Prosecution Law and other regulations that are important in the fight against crime.

## References

1. Банович Б., “Обезбедување доказа у криминалистичкој обради кривичних дела привредног криминалитета”, Београд, 2002.
2. Бабич М., “Злоупотреба службеног положаја или овласчења - Основно антикорупцијско кривично дело”, Модерна управа, Часопис за управно - правну теорију и праксу, Република Српска, април, 2009.
3. Benson I., Michael i Simpson S., Sally, 2009, White - Collar Crime: An Opportunity Perspective, taylor and Français, New York.
4. Франк Х. Норвич и Хауард Сејден, “Спорни документи - Форензика”, Вовед во научни и истражни техники, Второ издание, Табернакуп, 2009, Дел од програмата на владата на РМ за преведување на 500 стручни, научни книги и учебници од кои се учи на врвните, најдобрите и најреномираните универзитети во САД и ЕУ.
5. Helmkamp James., Richard Ball and Kitty Townsend, Editors, 1996, Definitional Dilemma: Can and should there be a Universal Definition of White - Collar Crime? Proceedings of the Academic Workshop, Morgantown, WV: National White - Collar Crime Center.
6. Muazam Halili, ,, Abuse of power and authority in Republic of Macedonia – form of economic crime,, ,, The Macrotheme Review,, 4(6) – 2015, Dubrovnik, 2015
7. Муазам Халили, ,, Криминолошко – Криминалистички аспекти на злоупотребите на службената положба и овластување во Република Македонија,, Докторска дисертација, Универзитете Свети Климент Охридски Битола,, Безбедносен факултет Скопје,2015 г.
8. Николоска Светлана., “Методика на истражување на економско - финансиски криминалитет”, Факултет за безбедност, Скопје, 2013 г.
9. Сл. весник на РМ бр. 150/10, 51/11 и 100/12)
10. [www.mvr.gov.mk](http://www.mvr.gov.mk)
11. [www.finpolic.gov.mk](http://www.finpolic.gov.mk)