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MODERN TENDENCIES OF THE POLICE ACTION IN CRIMINAL PROCEDURAL LEGISLATION OF GERMANY*

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The comparative analysis of the criminal procedural laws of Europe implies modern tendencies of consistency, as well as the pretensions of reaching the ideal of justice as an international standard. The segment of consistency can be best observed through the analysis of criminal procedural institutes, which are to a large extent taken from the German criminal procedural legislation, including the criminal procedural legislation of the Republic of Serbia (Principle of Opportunity, etc.), while when it comes to the implementation of the international standards, the police stands out as an extremely important subject of the prior, or investigating the criminal procedure of the Federal Republic of Germany, which successfully meets all challenges of modern society, which once again shows the importance of said subject for achieving efficiency of criminal procedure. Setting the contemporary foundations of the police procedures in Germany, alongside the implementation of elements of Anglo-Saxon legal system, determine the determinants of an adequate legislative framework and legitimacy of the police, which, viewed from the perspective of the author, determine the following questions: First, the police as the key subject of previous criminal proceeding (introductory considerations); Secondly, the correlation of the public prosecutor and the police as an instrument of

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efficiency of criminal procedure; Thirdly, the police and the international standard of the deprivation of liberty; the legitimacy of the German police and the concluding observations.

KEY WORDS: police / preliminary proceedings / legitimacy / international standard

1. THE POLICE AS THE KEY SUBJECT OF PREVIOUS CRIMINAL PROCEEDINGS (INTRODUCTORY CONSIDERATIONS)

“While the Germans are torturing themselves trying to solve philosophical problems, the English, with their practical way of thinking, are laughing at us and winning the world”, Johann Peter Eckermann, Conversation with Goethe towards the end of his life (sep. 1, 1829), (H. U. Störzer, 1991)

The reform of the criminal procedure laws of the European countries manifested itself as an effective instrument for countering contemporary forms of crime, which pose a great threat to the modern, democratic society, and as such require the adequate national response, which should sublimate the constant improvement of the normative framework as the key determinant in the fight against crime.

The Federal Republic of German, is certainly one of the European countries which successfully follows the modern trends, adapting them to their historical and legal heritage. The Federal Republic of German with the constant reform of criminal legislation, which as a result manifest the Code of Criminal Procedure of the Federal Republic of Germany as a model of the explicit legal texts of other European countries, by which not only the adequate criminal police is achieved, but also the consistency at the European level. Those guidelines set the criminal procedural legislation of the Federal Republic of Germany as being crucial in contemporary doctrine, not only in reflecting the important criminal-procedure institute, but also in the distinguished and far more explicit and more active role of the police in the previous Criminal Procedure Code of the Federal Republic of Germany. By moving to the prosecutorial investigation model, the unity of the preliminary procedure, grading doubt, the active role of the police and not limiting principle of material truth, or very active role of the court evidence implicate the modern determinants of criminal proceedings of the Federal Republic of Germany, while retaining the Euro-continental elements (court as a master of the evidentiary proceedings), which set its foundation in proven doctrinal explications.

As noted, the adequacy of the normative framework in Germany is achieved through a multi-year reform of the Code of Criminal Procedure (Beulke, 2008; Kuhne, 2010;

Meyer & Gossner 2011; Roxin & Schunemann 2012) (Strafprozessordnung)¹. This reform separates the police as the key subject of preliminary or investigative criminal proceedings or the process of preparing public complaints by the public prosecutor (Albrecht, 2000). The notions of the preliminary or investigative proceedings, in other words the process of preparing public complaints require a valid theoretical point of view, which already in its commitment remove illogical and critical tone of argumentation². Namely, viewed from the aspect of architectonics of the criminal proceedings of the Federal Republic of Germany three stages are proposed: the first instance proceedings; proceedings on remedies and repetition of criminal proceedings that ended in a final judgment. In the first instance criminal proceedings, the most active role of the police is in the previous investigative or criminal proceedings (Vorverfahren or Ermittlungsverfahren), which manifest themselves both through their own initiative conduct (Verdunkelung der Sache 163 I StPO), as well as the application and the approval of the State Prosecutor (Weisung) or the investigating judge (Ermittlungsrichter) depending on the action to be taken. The structure of the German criminal procedure does not require more theoretical explanations, considering the precisely determined previous criminal and court proceedings, which cannot be initiated without a proper indictment of the public prosecutor (Adversarial Principle 151 StPO) and the existence of sufficient grounds, that is reasonable doubt (170 StPO)³.

In addition to the structure of the criminal proceedings and the grounds for suspicion, it is necessary to point out the conceptual definition of the suspect as a characteristic of the criminal proceedings of the Federal Republic of Germany. This is interesting from the aspect of the reformed criminal procedure legislation of Serbia, which although not making a distinction between the pre-trial phase and phase of the investigation, recognizes only two different conceptual definitions of the defendant⁴ and one in the mid-stage depending on the stage of the criminal proceedings. Namely, in the previous criminal proceedings, it is the suspect (Beschuldigte) up to the moment when the indictment becomes 'Angeschuldigte'. It is interesting that the German terminology is not specified as a defendant, and after initiating the main proceedings, he or she becomes the accused (Angeklagte). A similli, by the proclamations of the criminal procedural legislation of Serbia (Skulic, 2014a; Ilic, 2014; Boskovic& Cvorovic 2014; Tintor, 2014) suspects are provided as, "blamed" and the accused. The distinction is at the moment of

¹ Criminal Procedure Code of the Federal Republic of Germany (Strafprozessordnung), [Bundesgesetzblatt , Part I p. 1074, 1319]; (BGBl. I S. 3799); (BGBl. I S. 410), available at www.gesetze-im-internet.de/englisch_stpo/index.html, date of access 10.10. 2018

² See a contrario Criminal Procedure Code of the Republic of Serbia and the conceptual definition of the preliminary investigation and investigation, regarding the absence of de facto distinction (the same degree of doubt, a suspect, etc.)

³ Namely, given the casuistic approach in the Code of Criminal Procedure of the Republic of Serbia through the comparative analysis of the structure of the criminal proceedings of the Federal Republic of Germany, the degree of suspicion and conceptual definition imply a suspect in a number of illogical, but also proposals de lege that can be of great help in the process of future legislators reforms.

⁴ The common name for the suspect, "the defendant" and the accused.

initiating the main criminal proceedings. In the German criminal procedural legislation recognizes the accusatory principle, in other words, the moment the indictment is initiated, as well as in the American criminal procedure (Carmen, 2010; Hall, 2012: 313). In the Serbian criminal procedure in the Code in the adversarial model of criminal procedure, the court proceedings are initiated *ex officio* (inquisitorial maxim), which additionally reinforces the premise of the explicit contradiction of the CPC / 2011 Serbia (Skulic 2014b; Djurdjic, 2014; Bugarski, 2014). In the German criminal procedural legislation, alongside the proven doctrinal explication, during the process of normative elaboration, they took care of the legal heritage of the land belonging to the Euro-continental legal system.

It must be noted that the Federal Republic of Germany inherited the inquisitorial model of criminal procedure from France, with the implementation of certain adversarial elements. It is important to mention that the France being a role model not only in terms of elements of the Euro-continental legal system, but also in the formation of public prosecutions, not only in Europe, but also in England, the United States, standing as the representatives of the Anglo-Saxon legal system (Cvorovic&Turjanjanin 2015). In support of these facts, although the government introduced prosecutorial investigation, the court remained active proof, in other words the adversarial construction of the main proceedings was not necessarily required. When it comes to the preliminary criminal proceedings, " the master " is the public prosecutor (Staatsanwaltschaft), with a very active role of the police. The active role is manifested both through their own initiative actions of the police, and the delegation of certain evidentiary actions to the police in a number of cases and the entire investigation when it comes to the minor offenses, which actualizes the procedural position of the police.

The organization of the police and the State Prosecutor's Office is in accordance with the federal regulation of the Federal Republic of Germany. It is hierarchically defined through the existence of the federal chief public prosecutor (Generalbundesanwalt) at the federal level, who is responsible to the federal minister of justice (bundesjustizminister) which is superior to the federal public prosecutors (bundesanwälte) but has no jurisdiction at the state level, or superiority over public prosecutors of the Länder. The State Prosecutor is guided by the principle of legality (legalitätsprinzip, I 152 I StPO) or the duty of prosecution (verfolgungs und anklagezwang), with the possibility of deviation through the principle of opportunity (Jung 1986; Riess, 1981). As specified in the organization of the prosecution case, the determinant of a federal system exists at the police organization in Germany, which is divided at the federal level and the state level.

At the state level, each state individually determines the organizational structure, except that there is a high degree of uniformity.

The police⁵ is divided as follows: uniformed police, riot police, waterways police and the criminal investigation department. At the state level, police force can carry out arrests, authenticate arrested persons, but only Hilfsbeamten der Staatsanwaltschaft can carry out further actions in the preliminary proceedings, such as seizures, searches and blood tests. The legal framework of the sovereignty of the police at the state level is set in Article 30 of the Federal German Basic Law of May 23, 1949. Federal police force includes: federal border police, full time officers of the railway police and the federal criminal police office (Bundeskriminalamt) (Ahlf, 1985 Hessel, 1979; Mergen, 1987). The necessity of establishing correlations police at state and federal level is manifested through the needs to combat contemporary forms of crime (international organized crime, terrorism, etc.), which have become a major threat to the modern society, and which is legally implemented in article 73, Nos. 10 and 87, Subparagraph 1, of the Basic Law. The Federal Republic of Germany established Bundeskriminalamt (K. F. Koch & H. Risch 1991)⁶ as an efficient instrument of struggle in the field of contemporary crime, which is the central body of the Federal Republic of Germany, which was formed in 1951 and to Bundeskriminalamt Act. The BKA departments that conduct investigations are: the Drug Squad, the investigation and Analysis Department, the Anti-Terrorist Unit, and the State Security Department. This covers the field of drug offenses, organized crime, economic crime, and other crimes involving financial assets, vident crime, and offenses against property, terrorism, treason, and threats to state security. The relations between state and federal police conduct are extremely important, both from the aspect of combating crime with international topic, as well as from the point of placing the police as a major player in their implementation.

2. CORRELATION OF THE PUBLIC PROSECUTOR AND THE POLICE AS AN INSTRUMENT OF EFFICIENCY OF CRIMINAL PROCEDURE

The efficiency of the criminal procedure in itself sublimes a great number of determinants that are manifested both in the stages before the initiation of the criminal proceedings, and in the criminal proceedings. However, the correlation of

⁵ See: Policing and Justice in Europe. Police and justice systems, in the United Kingdom, France, and Federal Republic of Germany, Spain, and Denmark (1987) in: International Criminal Police Review 42, no. 407, pp 9- 12

⁶ Historically, The Bundeskriminalamt was located in Wiesbaden with a total staff of 395 members, 192 of them being criminal investigation officers. The tendency of growth of the department, new members, training programs, can best be observed through statistics and timelines expansion. Namely, during the first 15 years, the crime fighting work was restricted. Then social developments prompted the adoption of a new direction in criminal policy in the mid- 1960s, in the make of this, the call for new program for the BKA. In the period up to 1980, an office building, laboratory complex with forensic facilities, training building, and modern data processing center had been completed. In 1981, three BKA departments (State Security, the Security Group, and the Technical Services Department) were able to move into new premises at Meckenheim- Merl near Bonn. Statistical data also shows a trend of increase in the total number of Workforce and criminal investigation officers. The total number of employees in the BKA for the period: 1960- 597; 1970- 941; 1980- 3521; 1990- 3826. Of this criminal investigation officers are: 1960- 362; 1970- 565; 1980- 1476; 1990- 1535.

previous criminal proceedings and criminal proceedings is also an important determinant of efficiency and the implementation of international standards in the previous proceedings as an instrument for achieving the desired efficiency in criminal proceedings which begins after the issuance of a public prosecution (principle of prosecution). Accordingly, the police stands out as an extremely important subject of the preliminary proceedings, which, in correlation with the state prosecutor, who is the only authorized entity making the qualities of initiating preliminary proceedings, in other words, raising public complaint, contributes to a great extent to the achievement of international standards.

Namely, one of the peculiarities of the German criminal procedural legislation, in addition to the state prosecutor's investigation, which stands for the contemporary trend of countries of the Euro-continental legal system, is the procedural status of the police in the preliminary proceedings. Namely, before raising public complaint, i.e. the initiation of criminal proceedings⁷, the police stand out as a key subject of the preliminary procedure, which manifests the relation of correlation, in addition to the realization of the efficiency of the previous procedure, in the exclusive decision of the public prosecutor to launch the preliminary proceedings or investigations. Namely, the police without a decision of the State Prosecutor on the initiation of preliminary proceedings, cannot itself decide on researching the facts. In accordance with that, if the public prosecutor decides that it is necessary to reach a decision on initiating public complaint, to conduct an investigation, they activate the police in a considerable number of cases of such entity to undertake certain investigative actions, and not rarely the investigation as a whole.

Accordingly, the correlation between the state prosecutor and the police is manifested through the following guidelines: 1. The state prosecutor (Geisler, 1981; Blakenburg & Treiber 1985) as being the subject of the decision-making on the initiation of preliminary proceedings; 2. The police as an extremely active participant in the process of preparing a public lawsuit by the state prosecutor; 3. assigning certain investigative actions, as well as the police investigation as a whole; 4. The actions of the police at the request of the public prosecutor, the police acting on its own initiative and upon approval of the investigating judge. The determinants of police action in the preliminary proceedings are regulated by a legal framework, but in addition to the Constitution of the Federal Republic of Germany as general guidelines. The following legal texts further specify the actions of the above procedural subject: Criminal Procedure Code, provincial laws on police work, the basic law on courts and others.

As pointed out, the duty of the police conduct at the request of the state prosecutor is determined by the state prosecutor's investigation, whereas the proclamation 161 StPO determines them as follows: The Prosecutor's Office is authorized to request information from all state bodies and carry out investigations of any kind, either independently or through a body or police officers, except where its powers are not regulated by other legal regulations. The authorities and the police officers are

⁷ 152 StPO.

required to act upon the request or order of the prosecution, in which case they are authorized to seek information from all state bodies. In this case, the entire personal and technical apparatus stands at prosecutor's disposal, including the police and to the technical labs such as ballistics, toxicology, forensics, databases, etc. The self initiative determinant of the police action in the preliminary procedure implies the importance of the police, not only through the aspect of entrusting the investigation to the police as a whole, but also through the possibility that the in certain cases prescribed by the law, the police takes certain measures even without the request of the public prosecutor and with the aim of investigating the existence of the criminal offence.

Specifically, the paragraph 163 stipulates that the authorities and officials of the police should investigate crimes and take all measures that cannot be delayed in order to prevent concealment of traces of work. For this purpose, they are authorized to seek information from all bodies, and in the event of delay, to urgently seek information and to undertake all kinds of investigations if their powers are not otherwise established by other legislation. Accordingly, the measures which the police can take, are only those that are permitted and proclaimed primarily by the Criminal Procedure Federal Republic of Germany and the provincial laws on police work. Also, if there is a risk of delay, the police may on their own initiative undertake investigative and judicial actions (81a, paragraph 2, 98, 105, 111, paragraph 2, 163d para. 2 StPO), except that the Federal Constitutional Court has made the criteria stricter when it comes to the existence of a risk of delay, by requiring posting of a duty judge. Regardless of whether it is the investigating court actions or actions within the competence of the State Prosecutor, unsolicited aspect entails the obligation of the police officers who had taken concrete measures to this kind of undertaking them, without delay, inform the State Prosecutor's Office, or directly to the main court (§ 163 para. 2 StPO).

The segment of self-initiative of police action contributes to the realization of criminal procedure viewed from two angles: first, enabling the decision on the initiation of criminal proceedings by the Public Prosecutor; secondly, the aspect of the risk of delay implies the preservation of evidence, or the realization of the quantitative aspect of efficiency. Actions that can be taken by the police, on their own initiative or upon the approval of the public prosecutor or the investigating judge are the following: the identification and verification of documents; interrogation of the suspect (*Vernehmung des Beschuldigten*); examination of witnesses and experts (*Vernehmung der Zeugen*), search for persons, apartment and moveable property; taking pictures and fingerprinting a suspect; setting up checkpoints in the streets and squares; physical examination; DNA analysis; seizure and control of telephone and other conversations and others.

Those determinants of police action, as autonomous or in the correlation with the state prosecutor, indicate a high degree of efficiency. This is especially important from the aspect of implementation of international standards, which through the quantitative aspect (risk of delay, time determinant) and qualitative (taking evidence from police actions), set the police as a major player in the field of combating crime.

3. POLICE AND INTERNATIONAL STANDARD OF THE DEPRIVATION OF LIBERTY

The right to liberty and security of a person as an international standard exists in all modern codes of criminal legislation, whereas the legality of the deprivation of liberty is manifested as an extremely important feature of preliminary criminal proceedings or criminal proceedings of the Federal Republic of Germany, not only as the preventive aspects of combating crime, but also in terms of compliance with international standards.

Given that the police are the extremely important subject in the previous Criminal Procedure Code of the Federal Republic of Germany and that measures of deprivation of liberty often applied, it is necessary to express proclamation of the criminal procedural legislation of the Federal Republic of Germany on the issue of police arrest and not only of criminal but also the constitutional and laws regulating the police conduct in the implementation of those measures. In view of the above, it can be concluded that the police are very active subject of pre-trial and previous proceedings. Also, its procedural status is characterized by the taking the measures of deprivation of liberty and restrictions provided for both StPO and the Law on the tasks of the police of Bavaria, as well as the Constitution of the Federal Republic of Germany which proclaims the general principles of the right to personal liberty. When it comes to measures of deprivation of liberty, StPO provides the following measures: provisional arrest, detention and retention. Detention as the toughest measure of deprivation of liberty is determined by the judge in writing (par. 114 paragraph 1 StPO) and if there is any reasonable suspicion that the suspect committed a criminal offense and if there is a reason for detention (Cvorovic, 2017).

In addition to custody as a measure of deprivation of liberty proclaimed by the StPO whose determination is within the exclusive jurisdiction of the court, the Law on the tasks of the police custody of Bavaria predicts ordering detention which is available to the police, with the subsequent judicial decision allowing or extending the detention. In accordance with the par. 17 of the tasks of the police of Bavaria, police can detain a particular person in the following cases:

- if it is necessary to protect persons and lives, especially in the case of persons who are obviously not in the ability to freely choose or are in another helpless condition;
- if it is necessary to prevent imminent execution or completion of the initiated criminal act or offense which is of importance for the public order and peace. Assumption that a person is to perform or participate in the commission of a specific criminal offence must be based on the following facts: first, that a person has announced or called for the execution of the unlawful acts or that he has the objects which justify such a suspicion that the person calls into criminal activity; secondly, that the person has a significant number of leaflets or other written text of similar content under the further condition that the same is suitable for distribution; third, that the person was found with weapons, tools or other items that are obviously

intended for the commission of offenses, or based on experience indicate that it will be used for this purpose, or if the other persons who were in the company of suspicious persons, have such items with themselves, but circumstances suggest that they know for what purposes these items are intended; fourth, that the person was found more than once during the commission of a crime or more serious offenses and the specific circumstances suggest that one can expect the repetition of such unlawful conduct.

- if it is necessary to implement a measure of prohibiting residence in a particular place in terms of par. 16 StPO.

In the above context, it is necessary to state that in the event of detention (Bejatović, 2005)⁸ of a person on the basis of any of the foregoing reasons, the police are obliged to promptly obtain a court ruling on the admissibility or extension of the deprivation of liberty. However, the court decision would not be needed only in the case if it would be taken after the cessation of the reasons for which the detention was ruled⁹.

Before we present the facts in favor of the above consistency, we present the proclamation of the provisional arrest and detention under StPO. According to it, they can deprive of liberty without a court's order any person caught at the scene of the crime as well as the person sought for, and who are suspected to escape or whose identity cannot be immediately determined. Also, state prosecutors and police officers, in case if there is a risk of delay, are authorized to temporarily apprehend even when there are no prerequisites for making a decision on custody or accommodation in hospital or institution for care and treatment. For deprivation of liberty by the prosecutor or the police authority pursuant to the provisions of par. - 114c 114a StPO. However, the Act proclaims another possibility of temporary deprivation of liberty by the State Prosecutor's Office and police officers¹⁰, in the case of persons caught in the scene of the crime or the person for whom they are seeking for, if:

- the decision is likely to be made in an urgent procedure;
- on the basis of certain facts there is a fear that a person deprived of liberty will not appear at the trial.

In the above case of the deprivation of liberty, the detention order may be issued only if it is expected that the trial would be held within one week after the arrest. The detention on this basis cannot last longer than one week from the date of arrest. A detention order is issued by the judge who is responsible for the implementation of emergency procedure (par. 127b StPO).

⁸ The treatment of detainees is regulated in par. 19. by the Law of the Objectives of the Police of Bavaria.

⁹ Par. 18 of the tasks of the police of Bavaria.

¹⁰ The police have the right to take to the smooth concrete official action, on the spot, until the completion of an official act, detention of a person who intentionally interferes with an official activity or opposes its orders. The deprivation of liberty may last longer than the following day from the day of arrest (para. 164 StPO).

Finally on this issue, we would also like to point out, though critiques on certain provisions of the German criminal procedural legislation when it comes to measures of deprivation and restriction of liberty imply the necessity of reform, monitoring of contemporary trends. Also, the consistency of the universal level, the role of the police in preparing public lawsuit by the state prosecutor is extremely important, as well as the premise of compliance with international standards by the police in taking measures and actions to which it is authorized in pre-trial and the previous criminal procedure Code. These facts indicate to the police as more than important subject of the German criminal procedural legislation, and issues of deprivation and restrictions on freedom of extremely current, which was confirmed through the analysis of legal texts (Cvorovic, 2016).

4. THE LEGITIMACY OF THE GERMAN POLICE AND CONCLUDING OBSERVATIONS

Modern doctrinal foundation implies the criminal procedural legislation of the Federal Republic of Germany as a suitable model of implementation of international standards. In particular, these are the right to liberty and security of person, the right to a fair trial, freedom from torture, inhuman and degrading treatment and punishment and others. In support of the above facts we present results of the research regarding the legitimacy of the police in Germany, indicating a high degree of legitimacy of the police in terms of performing the functions of combating crime, and the material aspects of the treatment of the various structures of society, in other words, if there are the privileged in the police practice. Given that the police practice of the Federal Republic of Germany is one of the most active subjects of previous criminal proceedings, the conducted research is even more significant from the aspect of implementation of criminal procedure, and relations with the public, which is the basis to achieve legitimacy.

Table. 1 Overall trust in the police (Please tell me on a score of 0-10 how much you personally trust the police. 0 means you do not trust the police at all, 10 means you have complete trust)

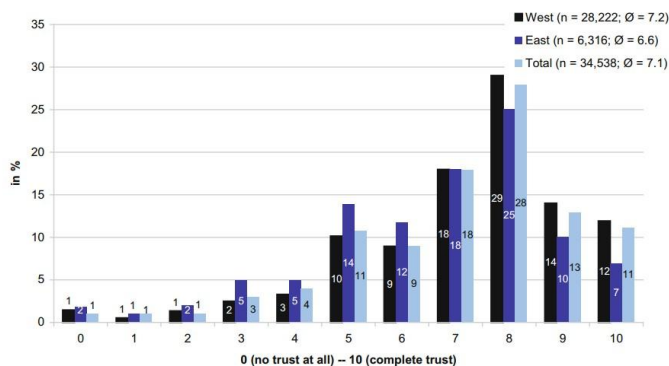


Table. 2 Trust in the distributive fairness of the police
 (When victims report crimes, do you think the local police treat rich people worse, poor people worse, or are rich poor people treated equally?)

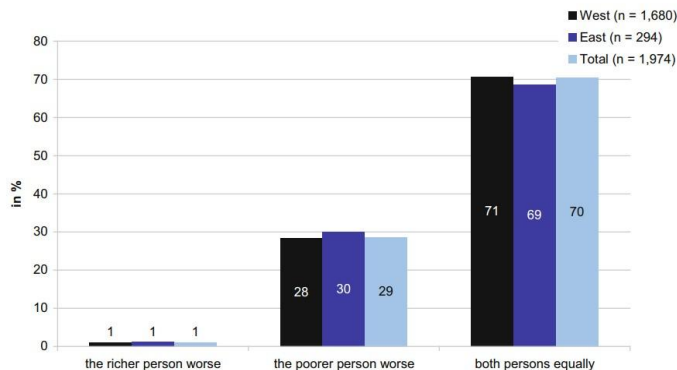
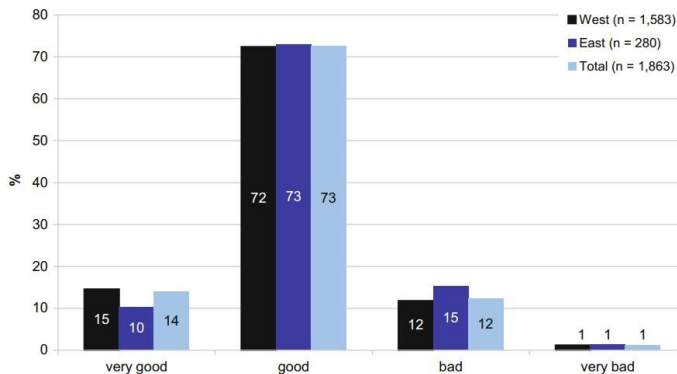


Table. 3 Trust in the effectiveness of the police
 (How well the local police work in controlling crime?)



Source table 1, 2 i 3: Nathalie Guzy and Helmut Hirtenlehner. (2015) Trust in German Police: "Determinants and Consequences for Reporting Behavior", Trust and Legitimacy in Criminal Justice (European perspectives) (ed. Gorazd Mesko & Justice Tankebe), Springer, p. 216- 217

It can be concluded that the police in Germany, according to the survey, are justifiably one of the most important entities in the fight against crime. But when it comes to monitoring current trends, the aspects of development and reforming the criminal justice legislations inevitably are one of the key characteristics that accompany modern criminal proceedings, and according to that, the Federal Republic of Germany is no exception. The critical tone of the argument could be noted with regard to the time determinants of police custody, which may last up to

24 hours, although a large number of criminal proceedings provides for 72 hours, especially in cases of terrorism, which could also be a proposal for future changes practice of the Federal Republic of Germany.

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SAVREMENE TENDENCIJE POLICIJSKOG POSTUPANJA U NEMAČKOM KRIVIČNOPROCESNOM ZAKONODAVSTVU

Komparativna analiza krivičnoprocesnih zakonodavstava Evrope implicira na savremene tendencije konzistentnosti, kao i na pretenzije dostizanja ideala pravičnosti kao međunarodni standard. Segment konzistentnosti se najbolje može sagledati kroz analiziranje krivičnoprocesnih instituta, koji su u velikom stepenu preuzeti iz nemačkog krivičnoprocesnog zakonodavstva, između ostalog i u krivičnoprocesno procesno zakonodavstvo Republike Srbije (načelo oportuniteta i dr.), dok se kada je reč o realizaciji međunarodnog standarda, policija izdvaja kao izuzetno bitan subjekat prethodnog, odnosno istražnog krivičnog postupka Savezne Republike Nemačke, koja uspešno odgovara svim izazovima savremenog društva, čime se još jednom ukazuje na značaj navedenog subjekta za dostizanje efikasnosti krivičnog postupka uopšte. Postavljanje savremenih temelja policijskog postupanja u SR Nemačkoj, uz implementaciju elemenata anglosaksonskog pravnog sistema, određuju determinante adekvatnog normativnog okvira i legitimiteta policije, koje su posmatrano iz ugla autora određene kroz sledeća pitanja: Prvo, policija kao ključni subjekat prethodnog krivičnog postupka (uvodna razmatranja); korelacija javnog tužioca i policije kao instrument efikasnosti krivičnog postupka; treće, policija i međunarodni standard lišenja slobode; legitimitet policije u SR Nemačkoj i zaključna razmatranja.

KLJUČNE REČI: policija / prethodni postupak / legitimiteta / međunarodni standard