

## A NEW MODEL OF CRIMINAL INTELLIGENCE IN THE SLOVAK REPUBLIC

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### Abstract

The purpose of this article is to examine the issue of criminal intelligence in the Slovak Republic with emphasis on determining its functionality and whether it reflects the requirements formulated in the European models of criminal intelligence. The authors comprehensively examine the current legislation in the subject area in the Slovak Republic. The paper is a partial output from the realized scientific research task VYSK. no. 231 “National Model of Criminal Intelligence Service in the Slovak Republic”. The authors came to the conclusion that the current legal regulation of criminal intelligence in the Slovak Republic is not in line with the recommendations of the European Criminal Intelligence Model. In this context, it can be expected that it will be necessary to adopt legislative changes and accept the authors’ proposed New Concept of Criminal Intelligence in order to align the criminal intelligence system with the recommendations of the European Union institutions.

### Keywords

Operative-investigative Activity, Means of Operative-investigative Activity, Criminal Intelligence, Crime Detection

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### I. Introduction

In the conditions of the Slovak Republic, legislative changes in the activities of the Police Force and other security forces related to the use of criminal intelligence in criminal proceedings are currently being prepared. The ambition of the authors is to actively participate in this process, especially through the results of the scientific research task VYSK. no. 231 “National Model of Criminal Intelligence Service in the Slovak Republic”. The scientific study presents the results of the first stage of the scientific research task VYSK. no. 231 “National Criminal Intelligence Model in the Slovak Republic”. The

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scientific study in its first part, in short form, describes methodological approaches and solutions to this scientific-research task, formulates the basic scientific problem, the object and subject of the research, the aim and tasks of the research, as well as methods of the research. In the following parts of the paper, the author analyses the theoretical, content, legal and practice bases of building a new model of criminal intelligence in the Slovak Republic. In individual sections, the paper contains “preliminary” conclusions and suggestions of a possible legal solution in the implementation of the new concept of criminal intelligence in the Slovak Republic. The article can also provide stimulating information for the professional public in other countries, especially from the former Eastern bloc, which are devoted to the implementation of the model of criminal intelligence in practice.

In accordance with The Hague Program, in its Resolution No. 163 of 12 March 2008, the Government of the Slovak Republic accepted the task of introducing a European Criminal Intelligence Model (ECIM) into police practice with a view to launch it in 2008. It is this commitment that became a very important and perhaps a very decisive initiative, which has influenced not only the opinion of the professional public on the theoretical definition of the European Criminal Intelligence Model, but also on the need for further changes in law in redefining operative search activity and criminal intelligence in the Slovak Republic. In an assessment of the Government Resolution of February 2010, the Ministry of Interior Affairs states, among other things, that the full implementation of the ECIM into police practice consists of several activities, namely information flow, analytical activity, processing of analytical reports and own strategic analysis for management and their application to the direct performance of police services. At the same time, it was stated that the ECIM was introduced at the level of information flow into police practice by building the Acheron information system intended to store and process all information of participating police departments obtained and processed during the performance of the operational-investigative activity.

However, the basic attribute necessary for the introduction of the European Criminal Intelligence Model into police practice, i.e. primary and secondary legislation in the field of operational search and criminal intelligence, has so far been addressed only marginally. For successful introduction of the European Criminal Intelligence Model into police practice and creating its own national criminal intelligence model, some changes in the field of operational intelligence and criminal intelligence are necessary to harmonize the concept of criminal intelligence in the Slovak Republic so it is understood the same way as it is by Europol officials and police specialists, so-called ‘old countries’ of the European Union. When defining, it is necessary to take into account basic theoretical starting points, namely that the concept of intelligence is a ‘universal’ way of working with information. Intelligence can be focused on getting to know different objects, e.g. activities endangering the constitutional establishment, territorial integrity and sovereignty of the state, activities directed against the security of the state, activities of foreign intelligence services, activities endangering the state’s defence, etc. Then we can talk about internal intelligence, external intelligence, military intelligence, etc. If crime is the object that is recognized by the intelligence, we can talk about criminal intelligence.

The management of the Police Force Presidium is also aware of the need to assess the possibility of introducing the National Criminal Intelligence Model in the Slovak Republic based on the European Criminal Intelligence Model. In his letter to the Rector of the Police Academy in Bratislava of 21/11/2016, the 1st Vice-President of the Police Corps initiated the creation of a joint solution team composed of representatives of the police and representatives of the academic community which would elaborate a summary of legislative, methodological and tactical proposals and recommendations necessary to create the National Criminal Intelligence Model in the Slovak Republic. On the basis of this initiative, the “National Criminal Intelligence Model in the Slovak Republic” VYSK scientific and research task no. 231 is implemented at the Police Academy in Bratislava.

## **II. Methodological examination basis of the new concept of criminal intelligence in the Slovak Republic**

The theoretical definition of the solved scientific research task topic is still minimal and the knowledge is not complex. The theory of detecting crimes and their perpetrators and the theory of criminal intelligence is basically just being developed and built, so the research team of the scientific research task has started to define a descriptive research problem in the form of the following research questions:

- \* How can the creation of the National Criminal Intelligence Model in the Slovak Republic contribute to a more effective fight against crime?
- \* What changes in the area of criminal intelligence and operational investigative activities in the Slovak Republic must be made in order to meet the needs of the European Union’s practice and recommendations?
- \* What changes in the field of police information systems and in the field of criminal analysis need to be made to make the National Criminal Intelligence Model an effective tool for preventing, predicting and detecting crimes and their perpetrators?
- \* What changes in the organization and management of the affected units of the Police Force will be necessary to implement the National Criminal Intelligence Model into police practice in the Slovak Republic?
- \* How to ensure a consistent quality application of the National Criminal Intelligence Model in police practice?

Given that the researchers have built a descriptive scientific problem, there is no need to set hypotheses when solving the scientific research task and to verify them in the course of the research task. The investigators will seek answers to the scientific problem formulated in the form of scientific questions. Based on the nature of the scientific problem, as well as the fact that the problem under investigation is generally poorly defined and theoretically inadequately developed, the researchers chose qualitative research as the base approach. It is the qualitative research that is used to investigate a specific and very narrowly specialized research problem, which is undoubtedly the possible creation of a National Criminal Intelligence Model in the Slovak Republic. Qualitative research allows deeper penetration of the examined phenomena and encompasses all elements as the input into the examined phenomena. Another advantage is that some researchers participate directly in

the investigated activities, which in a suitable way complements the scientific observation itself and at the same time ensures reliability of the acquired knowledge. Qualitative research provides researchers with the opportunity to create hypotheses, modify them and, if necessary, verify them based on the data collected. In applying qualitative research, researchers will utilize a wide range of different research methods depending on the phases of the research and on the particular problems examined. In Stage 1 of the research, theoretical research was carried out, in which the following were used:

- \* The historical method as a mean of getting to know the historical development of the problem and the attitudes towards its solution, to know the genesis of legal regulations governing the area, as well as to know the historical development of the organization and management of intelligence and criminal intelligence in all its stages.
- \* Method of analysis of legal norms and problems in relation to the object and subject of the research, especially in the study of professional literature, articles in professional journals, materials from national and foreign seminars and conferences, laws, international documents.
- \* Comparative method, especially in the study of legal norms, literature, as well as respondents' views on the organization, management and understanding of intelligence, criminal intelligence, operative search and detection. From the point of view of approximation of legislation in the Slovak Republic with the law of the European Union, using the method of comparison of our legal norms regulating the above mentioned issue with the legal norms of selected European states and with the law and recommendations of the European Union and Europol.
- \* Synthesis method in processing acquired knowledge from qualitative analyses and empirical research carried out in order to identify problems in legislation, but also in the institutional aspects of crime detection, criminal intelligence, intelligence and operational search.

In the next phase of research, theoretical research will be extended to empirical research, which is currently under preparation. In the implementation of empirical research, the following scientific methods will be used mainly:

- \* the Delphi Method as an expert prognostic method of group search will be used mainly for its pros, including the possibility of comparing the degree of agreement and diversity of opinions, estimates of several experts who first express their opinions independently of each other. Its desirable side effect is that experts can reflect on new, sometimes unconventional approaches when becoming familiar with new perspectives and bring knowledge to a new qualitative level,
- \* questionnaire method,
- \* guided interviews with selected experts working in the field of intelligence, criminal intelligence and in the area of detection of criminal offenses and their perpetrators will be conducted as:
  - \* structured interviews with open questions,
  - \* informal and problem-based interviews.

The object of research in the scientific research task is intelligence as a purposeful, systematic cognitive activity, used by competent authorities utilizing specific methods, means and forms to secretly systematically acquire (collect), sort, analyse, store and distribute (provide) information for specific users (addressees) in order to increase their level of knowledge necessary to carry out their activities. Information the competent subjects work with in the reporting process presents potential threats in various areas of security practice, notably political threats, military threats, economic threats, threats to financial interests, energy security, threats to terrorism, espionage, crime, etc. With regards to the above, it can be seen that the object of investigation is “multi-component” and wide, therefore its investigation will focus only on one area of interest, namely the aspect of latent crime. Researchers will abstract the scientific research task from other threats and aspects. However, this does not mean that they will be ignored but aspects of latent, especially organized crime forming security threats will be rather examined as a priority. Based on this understanding, the subject of the research will be narrowed to criminal intelligence as a process of a set of activities aimed at recognizing latent crime, especially organized crime, which can be identified in many theoretical aspects with detection.

The primary objective of the scientific-research task is to create a methodological basis for the elaboration of legislative, methodological and tactical proposals and recommendations necessary to create the National Criminal Intelligence Model in the Slovak Republic, based on the European Criminal Intelligence Model.

In order to fulfil the main objective, partial objectives have been set. The partial objectives are based on individual partial scientific research tasks (hereinafter referred to as “PSRT”). Within the PSRT 1 – “Criminal intelligence as a tool for preventing, predicting and detecting crimes and their perpetrators”, the following objective was set: To clarify, develop and describe theoretical, methodological and legal basis of criminal intelligence process as a system for preventing, predicting and detecting crimes and their perpetrators.

Within the PSRT 2 – “Analytical-Information System and Criminal Intelligence Analysis” the following objective was set: To identify new analytical tools for preventing, predicting and detecting crimes and their perpetrators based on the analysis of current situation in the field of criminal analyses and on the base of evaluating the use of the existing analytical-information system in order to extend automated multilevel information processing in the criminal intelligence process.

Within the PSRT 3 – “Intelligence and criminal intelligence models in selected countries of the European Union”, the following objective was set: To analyse and compare the system and models of intelligence and criminal intelligence in selected countries of the European Union.

Within the PSRT 4 – “Educational modules of the National Criminal Intelligence Model”, the following objective was set: To develop training modules for the National Criminal Intelligence Model in the Slovak Republic to ensure comprehensive and continuous education of police officers involved in the detection of offenses and their perpetrators.

### Research Tasks:

In order to fulfil the objectives and partial objectives of the scientific research task, the following tasks have been fulfilled:

- a) To define and characterize theoretically the general European Criminal Intelligence Model.
- b) To analyse and compare specific forms, methods and means for prevention and detection of criminal offenses and their offenders in the Slovak Republic and in selected countries of the European Union.
- c) To analyse the genesis of automated information processing in the police force in the Slovak Republic for the purpose of preventing, detecting and preventing crime.
- d) To develop a comprehensive analysis of the analytical tools used to conduct criminal and intelligence analyses to prevent, predict and detect offenses and their perpetrators.
- e) To carry out an analysis of legal documents that create a framework for the implementation and organization of analytical activities within the police forces of the Slovak Republic as well as documents regulating the existence, functioning and use of the analytical-information system.
- f) To carry out a qualitative analysis of intelligence and criminal intelligence legislation in selected European Union countries.
- g) To carry out a qualitative analysis of the organizational integration and management of reporting agents in selected countries of the European Union.
- h) To characterize specific forms, methods and means of intelligence and criminal intelligence in selected countries of the European Union.
- i) To carry out an analysis of criminal intelligence legislation in selected European Union countries.
- j) To carry out a qualitative analysis of the organizational integration and management of reporting agents in selected countries of the European Union.
- k) To conduct empirical research in individual subjects carrying out criminal intelligence or are involved in the detection of crime and their perpetrators with a view to assess the effectiveness of current legislative, methodological and organizational measures.
- l) To carry out empirical research in individual criminal intelligence subjects carrying out criminal intelligence or are involved in detecting crime and their perpetrators with a view to assess the quality of education in this area.

Responsible researchers within the Stage 1 of the implementation of this VYSK scientific and research task No. 231 carried out a detailed analysis of the current situation of the research object and they analysed:

- \* baseline of current knowledge in the field of the theory of criminal-security activities,
- \* legislative bases in the field of operative search and criminal intelligence,
- \* practical baselines.

The results of the Stage 1 of the scientific-research task in a shortened version can be found in this scientific study.

### **III. Analysis of the theoretical content of the new concept of criminal intelligence**

In security theory, there are theoretically elaborated and characterized terms such as operative-investigative activity, operative activity, intelligence activity, criminal intelligence, search, detection of crime, criminalization. At the same time, it can be stated that there is no consistent view of their content in the theory and in police practice these terms are often used incorrectly thus causing various interpretative problems.

Pursuant to the valid and effective Slovak legislation, the purpose of the operational and investigative activity (hereinafter referred to as the “OIA”) is to ensure protection of designated persons and guarded premises, technically protected premises, to secure and provide protection and assistance to endangered witnesses and protected witness, to protect state borders as well as:

- \* to prevent and stop crime,
- \* to detect crime,
- \* to detect perpetrators,
- \* to search for people and things.

With the reference to the above, we can conclude that using the OIA mainly identifies, clarifies and also searches for perpetrators. However, the concepts of detection, clarification and search are not defined and characterized in the relevant laws. In security theory, however, there is a theoretical definition of these terms, where clarifying a criminal activity constitutes such activities of the police (or designated financial authorities) and law enforcement authorities which ascertain all facts related to the commission of the crime (to the perpetrator, to the participants, circumstances of such criminal activity, etc.) if the criminal proceedings have already been initiated.<sup>3</sup> Clarification should therefore be understood in relation to known (registered) crime.

Detection of criminal activity is an activity carried out to ascertain the very existence of an act that can be classified as a criminal offense and which has not been reported to the police (or designated financial authorities) and has not otherwise been recorded in the relevant statistics.<sup>4</sup> An essential feature of crime detection is that detection is initiated at a time when no other investigation is under way to characterize a reasonable suspicion of crime, since the manifestations of such activity are latent. From this point of view, it is clear and logical that detection of crime is associated with latent crime and not with reported crime and therefore already registered crime. Detection will mean such activities that make a latent crime evident. Such a definition of detection has a well-founded basis and is shared by most experts (prof. Pješčák, prof. Nesnídal, prof. Porada). The detection process should be understood only in relation to latency.

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<sup>3</sup> Nesnídal (1989).

<sup>4</sup> Nesnídal (1989).

Searching is an activity aimed at finding certain specific, individual objects. This implies that the object sought actually had existed at a certain time, can be recognized and distinguished from other objects of the same kind. Successful search is associated with detention, retention, demonstration or handing over of the object sought, etc.

The term intelligence or intelligence, which is defined as *a purposeful, systematic cognitive activity, by which the competent state administration authorities (members of the Police Force, Slovak Information Service, Military Defence Intelligence and others), using specific methods, means (techniques) and forms, secretly, obtain (collect), classify, analyse, store and distribute (provide) information to specific users (addressees) in order to raise the level of knowledge necessary to perform their activities.* There is also another definition of intelligence activity in the literature. *Intelligence is understood as a process of gathering, collecting and evaluating information.* The aim of reporting is to provide the sponsor with the necessary, timely and accurate information. Those who want to make informed decisions accurately need unconditionally such information.<sup>5</sup> Similarly, intelligence activities are also characterized in the “Encyclopaedia of Espionage” stating that intelligence is an activity consisting of collecting, sorting and processing information. In the case of intelligence (secret) services, unlike open intelligence, such as mass media, it is treated secretly (conspiratorially) and special intelligence means are used. Information is obtained that is undetectable by other legal channels.<sup>6</sup>

The term intelligence, as opposed to operative-investigative activity, is not precisely defined in the current applicable legislation of the Slovak Republic. However, police and security practice uses it and can be expected to be legally codified in the future. For example, the present draft law on state intelligence and intelligence services defines the concept of state intelligence as a system of measures implemented by the intelligence service aimed at protecting, promoting and supporting basic security, defence foreign and economic interests of the Slovak Republic, detecting and preventing activities, phenomena and events capable of endangering these interests, as well as at supporting the activities and decisions of the highest constitutional bodies of the Slovak Republic and other public authorities – Draft Act on Civilian Intelligence and Military Intelligence and on changes and amendments to certain acts (State Intelligence and Intelligence Services Act) , KM-OPVA-2015/001214. The final form of the content of the term intelligence or intelligence activities will also be further refined on the basis of scientific research conducted in this regard at the Police Academy in Bratislava in the “National Criminal Intelligence Model” scientific-research task.

If we compare the content of the concepts of intelligence and detection from the theory point of view, we can see their close content similarity, including a number of common features and characteristics, which include in particular:

- \* nature of the cognitive activity,
- \* working with information,
- \* procedural character,

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<sup>5</sup> Zrún, Řehořová (2007).

<sup>6</sup> Encyklopédia špiónáže (1993).

- \* cyclicity,
- \* use of specific forms, methods and means,
- \* similar principles.

The nature of the cognitive activity (cognitive process) means the pursuit of activities where, from the stage of ignorance it is proceeded to a particular cognition. When it comes to knowing it is very important to capture the changes that the crime or threats have left or triggered in their environment, i.e. to capture indicators of crime or threats. The methodological basis of both intelligence and detection is the same and is mainly based on the theory of reflection. The essence of the reflection of a crime is the ability of one material system and objects to reflect in another form of the properties of the other material systems and objects. In a reflecting system, changes occur under the influence of a reflected system. These changes show to some extent, reproducing the characteristics of the reflected system. The interaction results in a reflection in the form of changes in the material environment (material traces) and changes in human consciousness (memory traces).<sup>7</sup>

Working with information forms the content both in detection and intelligence activities. In essence, it is about obtaining and working with information having a character of indicators of crime, or threat indicators. It is an active activity aimed at finding unknown information, which has not been known until that time, characterizing the criminal event, or compromised protected interests. In this case, a criminal incident is synonymous with a police relevant incident.<sup>8</sup> It is about fulfilling a number of independent but mutually harmonized, logically related and complementary activities. These activities are crimes to be known for the purpose of their control, while crime control can be understood as fulfilling tasks in protecting citizens from crime. It includes all societal strategies and sanctions aimed at achieving citizens' compliance with legal standards.<sup>9</sup>

The procedural nature of detection and intelligence emphasizes that these activities are not a single act but constitute a set of activities that are carried out in a sequence. When carrying out intelligence and detection activities, it is very important to *capture, from the very beginning (in the first stage), the changes* that the crime, or violations of protected interests made or evoked in their surroundings. It means to capture indicators of crime, or threat indicators. The indicator represents the primary knowledge of possible, planned, committed crime, or violations of protected interests. The term indicator has a multidimensional character. First of all, it is the initial knowledge of a phenomenon, on the basis of which the process of its recognition begins. It can also be understood as a signal indicating the occurrence of an event that gives rise to interest or suspicion on the part of the observer, or as a "deviation from a normal situation that we are well aware of corresponding to compliance with laws, regulations and other social standards."<sup>10</sup> In addition, it can also represent a specific form of manifestation of a phenomenon externally,

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<sup>7</sup> Porada, Straus (1999).

<sup>8</sup> Šimovček (1997).

<sup>9</sup> Novotný, Zapletal (2001).

<sup>10</sup> Látal (1996).

that is to say, objects and phenomena are learned through their external manifestations, and vice versa.

In the next step (second stage), the crime and threat indicators are complemented by *collecting and gathering further information*, focusing on all aspects of the facts confirming or rejecting the initial signals of committing crimes, or violations of protected interests. For this purpose, existing information systems and knowledge funds processed by the Police Force of the Slovak Republic and other security forces (e.g. intelligence services) are mainly used. Additional information can also be obtained using specific methods and means.

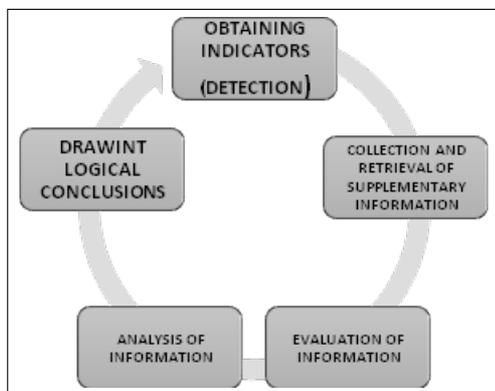
It is essential to *determine the authenticity and truthfulness of all the information obtained*. During the intelligence process as well as the detection, police officers or other security forces receive a great deal of information of varying quality from many sources of information. Therefore, it is essential that the information is evaluated immediately after receiving it. However, a proper evaluation requires a separate assessment of the reliability of the information source and a separate evaluation of the truthfulness of the content of the information. The evaluation of information is very important especially in terms of the subsequent analysis of the obtained information and making logical conclusions. Therefore, a standardized information evaluation system has been developed, allowing different information to be compared and recognized equally by interested parties. The information gathered should be sorted and fixed (kept) according to its quality. Mainly information that can be used in accordance with the objectives set. By fixation documentation reflection (documentation) of all essential facts is created characterizing the course and results of detection.

*Analysing the information obtained* is a separate phase of detection and intelligence. Analysing information is an activity where the relationships between the evaluated information are examined. Criminal or intelligence analysis is defined as examining all the information gathered, focused and available, evaluating interrelations and interpreting the information with the aim of making crime control more effective – Regulation of the Police Forces Presidium No. 11/2019 on Criminal Analyzes. By depicting the crime to the fullest extent of its characteristics and relationships, it is possible to penetrate into its substance and to clarify the hidden context. The basic objective of analysing the information obtained is to create and “test” logical conclusions that reflect who, what, when, where, why and how committed the crime. Various structured analyses are used to visualize the sequence of events, activities or commodities in time and space. In practice, these are analyses focusing on crime, protected interests and perpetrators. Mainly case analyses, comparative case analyses, analyses of a group of offenders, analyses of a specific profile of the offender, analyses of investigations, etc. are used. If the partial results of the analyses carried out are of such nature that it is possible to draw logical conclusions that would reflect the commission of crime, the overall conclusions (interpretation of conclusions) will be processed, while respecting the principles of the theory of analytical activity.

Phasing and cyclicity are significant features of detection as a cognitive process. Detection as a process in which the activities above are carried out takes place in individual phases of the cycle. Multiple detection stages can be performed at a certain time. At the same time,

in the process of discovery, obtaining information can return to the previous stage. The process of detecting crimes and their perpetrators is similar to the intelligence cycle. The core of detection and intelligence is an information cycle that can be graphically depicted as follows:

**Figure 1: Illustration of the sequence of activities performed in the detection of crime**



Source: Authors

A common feature of detection and intelligence is also the application of similar principles in their implementation, namely:

- \* principle of constitutionality,
- \* principle of legality,
- \* principle of pacta sunt servanda,
- \* principles of effectiveness, adequacy and appropriateness of the use of methods, forms and means,
- \* principles of mutual cooperation,
- \* principles of planning,
- \* principles of objectivity and timeliness,
- \* principles of intelligence and operational intuition and principles of erudition,
- \* principles of confidentiality respectively or conspiracy,
- \* need to know principles.

*The principle of constitutionality* consists in observing the individual articles of the Constitution, in particular Article 2, Article 16(1) Article 19(2 and 3), Article 21(1), Article 22. This principle also includes observing fundamental human rights and freedoms as stipulated in international and European law, and in Articles 7, 10(2), 12(1 and 3), and Article 13 of the Charter of Fundamental Rights and Freedoms.

*The principle of legality* is an immanent part of both detection and intelligence. In the broadest sense, legality indicates that there are certain rules of conduct that are

implemented in legal standards and that the actions of all entities comply with those rules. There is no exception to the legality of the activities of state authorities or public authorities, so they are always obliged to act in accordance with generally binding legal regulations. This is undoubtedly the case for the Police Force and other security forces and for all their activities, including detection and intelligence.

*The principle of pacta sunt servanda* (conventions should be observed) is based on Article 2 of the UN Charter, which implies that the Slovak Republic, as a separate body of international law, is obliged to honestly fulfil the obligations under the principles of international law and contracts.

*The principle of efficiency, proportionality and appropriateness of the methods, forms and means used* should be understood in relation to the time needed to achieve the objective, the energy expended by the entities carrying out these activities and the results achieved. Adequacy will be the choice of best practice under specific conditions and the use of appropriate methods, forms and means. In carrying out detection and intelligence activities, it is really important to choose adequate and appropriate means, methods and forms (e.g. in obtaining information from different sources of information with an emphasis on efficiency). If it is possible to obtain information from some open sources, it will not be necessary to choose a more expensive way of obtaining it through informants or other specific sources of information. Of course, the same applies to the processing of information, the choice of appropriate and appropriate analytical methods, etc.

*The principle of mutual cooperation* is important to observe when cooperating within the department carrying out the activity in question, i.e. detection or intelligence. Equally important is its application also in cooperation between the detection unit and other units of the Police Force. However, interdepartmental cooperation is also essential, especially between departments that also carry out the detection and/or intelligence activities. The need for cooperation is conditioned by the object of cognition, its objectives and tasks, which play important roles in cognition and control of crime as well as in taking concrete measures to eliminate negative facts. Compliance with the principle of cooperation has a special place in carrying out detection and intelligence activities. Cooperation is an important prerequisite for the efficient and rational use of all forces and means to achieve the objectives set.

*The principle of planning* highlights the qualitative level of detection and intelligence and removes the element of random action. The principle is reflected throughout the process, especially in obtaining information when it is necessary to plan who and which information sources, and in what order and when they will be used. However, not only the planning of information collection is linked to the principle of planning. Planning of specific means and methods to carry out detection and intelligence activities is also very important in terms of their effectiveness. The principle of planning provides both activities with overall aiming.

*The principle of objectivity and timeliness* must be present throughout the whole process of detection and intelligence. Already at the stage of information collection, it is necessary to obtain information without being biased, without prejudice and not to “embellish” the information. Of course, it is also necessary to objectively evaluate its qualitative aspect

in terms of the source of information and its value. Processing of information must be based on facts only. It is not possible to introduce subjective opinions into the analysis of information. However, to some extent this cannot be avoided altogether, since something new needs to be added in the analytical work of using inductive logic. However, this must be based on objective facts. Objectivity during the cognitive process ensures that specific results will be objective. They will not be “tendentious” and adjusted due to being bias, etc. The outcome of both detection and intelligence must be up-to-date in order to take an effective action.

When applying the *principle of operational and intelligence intuition and erudition*, it is so-called “attention to detail”. Similarly, J. Pješčak characterized the essence<sup>11</sup> of the so-called investigative intuition in the process of creating investigative versions, it can be applied analogically to the detection and intelligence activities. In this case, the operational or intelligence intuition can be characterized as the ability of a police officer, based on their experience and knowledge, immediately, directly, as if they suddenly found themselves in a difficult situation facing their journey to a correct task solution when detecting or performing intelligence activities. Practice confirms that intuitive thinking is “more successful” with a police officer, who has a wealth of experience gained through intelligence activities and crime detection. The above statement can also be confirmed by the characteristic of intuitive methods which K. Holcr<sup>12</sup> incorporates as methods of scientific knowledge.

The *need to know principle* expresses the relationship of need and knowledge. It is a principle that the person who needs intelligence or operational information must know it fully and vice versa, the person who does not need specific intelligence or operational information must not know it.

The *principle of confidentiality* does not only apply to information but also to other elements of detection and intelligence that need to be protected from ‘unauthorized’ persons. In applying this principle, it is mainly the protection of:

- \* information sources (especially specific, such as informers),
- \* tactics and methodology of methods, forms and means used,
- \* identities of detecting and intelligence officers.

The protection of these elements of intelligence and detection is carried out through several measures, whether legislative, organizational-technical and personnel-psychological. All these measures are intended to prevent information leakage and its possible misuse.

Detection and intelligence have, in addition to common features and characteristics, certain differences, consisting mainly of:

- \* an object that is being recognized,
- \* goals and tasks,
- \* entity performing the detection or intelligence activity.

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<sup>11</sup> Pješčak (1976).

<sup>12</sup> Holcr (1996).

One of the differences is the object, which is revealed or the intelligence activities are aimed at. In intelligence activities in general, the object of knowledge may be activities threatening the constitutional establishment, territorial integrity and sovereignty of the state, activities directed against the security of the state, activities of foreign intelligence services, activities threatening the defence of the state, etc., including organized crime and terrorism. In detecting crime an object (subject of knowledge) is latent crime in general, i.e. simple but also organized crime. It is true that the object of knowledge is much wider in the realization of intelligence than in the detection. The intersection of these two activities is criminal intelligence the object, i.e. the object of knowledge, of which is organized latent crime.

Another feature that distinguishes crime detection and intelligence is their objective and tasks, which are determined by the object itself known by these activities. If one accepts the thesis that the object of detection is a total latent crime and that the object of intelligence is the threats to the constitutional establishment, territorial integrity, etc., including only latent organized crime, then the aims and tasks of detection are mainly to detect and document the specific crime. Accepting the above, then the aim of the intelligence activity will be to identify actions capable of jeopardizing protected interests, including latent organized crime. However, the ultimate aim of intelligence does not have to be to document a specific crime. The objective may be more general, namely to provide intelligence to authorized users for the decision-making process for taking action.

A significant difference between detection and intelligence is also represented by the subject that will carry out the detection and intelligence activity. The subject revealing the crime may be police or so-called operational elements of the Police Force, which carry out their own “operational activity”, but also members of the Customs Administration, members of the Prison and Judicial Guard Corps who are assigned to “relevant departments”. In the Police Corps it is a service of criminal police, financial police. The subject carrying out intelligence activities may be in general intelligence services, special government agencies, the Police Force and others. In the Police Corps, especially in performing tasks of decomposing and destructing criminal groups, it is a specialized workplace – Department of Specialized Services of the Police Corps Presidium. This Department, among other tasks, prepares especially the conditions and the possibility of deploying a legalizer and agent into the environment of interest.

#### **IV. Analysis of the legal bases of the new concept of criminal intelligence**

Operational and investigative activity in the Slovak Republic is defined in two acts, namely the Act no. 171/93 Coll. on the Police Force, as subsequently amended, and in the Act No. 35/2019 Coll. on financial management and on amendments to certain acts. S. 38a) of the Act no. 171/93 Coll. on Police Corps, as subsequently amended, identifies the OIA as a system of generally secret, intelligence measures carried out by the Police Corps for the purpose of preventing, deterring, detecting and documenting crime and detecting its perpetrators, ensuring the protection of designated persons and guarded objects, providing protection and assistance to endangered and protected witnesses, state

*border protection and tracing of persons and things.* It is similarly defined in S. 15 of Act No. 35/2019 Coll. on financial administration and on amendments to certain laws, where *the operative-investigative activity is a system of generally secret intelligence measures carried out by the financial administration for the purpose of preventing, deterring, detecting and documenting intentional crime referred to in S. 9(2h) and deliberate criminal acts committed by members of the financial administration in the exercise of public service or by employees of the financial directorate in the performance of public service and ascertaining offenders.* By comparing the content of the OIA in both Acts, it is possible to see that the purpose of the OIA according to the Act no. 171/93 Coll. on the Police Force, as subsequently amended, compared to the purpose pursuant to S. 15 of the Act no. 35/2019 Coll. on financial management and on amendments to certain acts, it is broader, i.e. to ensure the protection of the state border and to provide protection and assistance to endangered and protected witnesses (see Table 1).

**Table 1: Comparison of the purpose of the OIA**

S. 38a of Act no. 171/93 Coll. on the Police Force	S. 15 of the Act no. 35/2019 Coll. on financial management and on amendments to certain acts
Prevention	Prevention
Elimination	Elimination
Detection and Documentation	Detection and Documentation
Detection of offenders	Detection of offenders
Ensuring the protection of designated persons, guarded buildings and technically protected buildings	
Tracing people and things	
Ensuring border control	
Providing protection and assistance to endangered and protected witnesses	

*Source: Authors*

The means of operative and investigative activity are defined in the Slovak legislation in four Acts, namely:

- \* The Act no. 171/93 Coll. on the Police Force, as subsequently amended,
- \* The Act no. 35/2019 Coll. on financial management and on amendments to certain acts,
- \* The Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, as subsequently amended,
- \* The Act no. 301/2005 Coll. the Code of Criminal Procedure, as subsequently amended.

In the Act no. 301/2005 Coll. the Code of Criminal Procedure, as subsequently amended, the “procedural institutions” can be used in criminal proceedings. These are the following institutes:

- \* tracking people and things,
- \* controlled delivery,
- \* fake transfer of things,
- \* replacement of the contents of shipments,
- \* agent.

Pursuant to S. 113 of the Code of Criminal Procedure, tracking of a person and thing (hereinafter referred to as “tracking”) means obtaining information on the movement and activity of a person or the movement of a thing, which is carried out in a classified manner; monitoring may be carried out in a criminal proceeding on a deliberate crime, provided that it can reasonably be expected that it will establish facts relevant to the criminal proceedings. An order to monitor is issued in writing by the Presiding Judge before commencing the prosecution or a prosecutor in the preparatory proceeding.

Under S. 111 of the Code of Criminal Procedure, controlled delivery means tracking the movement of a consignment from the consignor to the consignee when it is imported, exported or transported if the circumstances of the case justify the presumption that the consignment contains narcotics, psychotropic substances, poisons, precursors, nuclear or similar radioactive material or high-risk chemical, counterfeit or falsified money, counterfeit or falsified securities, counterfeit, altered or illegally produced revenue stamps, postal stamps, stamps and postage stamps, electronic payment instrument or other payment card or object capable of performing such a function, firearms or mass-effective weapons, ammunition and explosives, cultural heritage or other items for which special authorization is required, or things designed for committing an offense, or things originated from criminal activities for the purposes to identify persons involved in the handling of this consignment. The order for the procedure under paragraph 1 shall be issued by the Presiding Judge before commencing the prosecution or a prosecutor in the pre-trial proceeding. Monitoring of the consignment is carried out by the police in cooperation with the customs authorities, which must be informed in advance of such procedure.

Pursuant to S. 112 of the Code of Criminal Procedure, a mock transfer is pretending to purchase, sell or otherwise transfer the subject of performance the possession of which is subject to a special permit, is prohibited, the subject originating from a criminal activity or is intended for committing an offense. In criminal proceeding mock transfer may be intended for an intentional offense for which the law provides for a maximum term of imprisonment of more than three years, corruption or for any other intentional offense on which to commit is bounded by an international treaty, if it can reasonably be assumed that it will establish facts relevant to criminal proceedings. A written order for a mock transfer is issued by the Presiding Judge before commencing the prosecution or a prosecutor in the preparatory proceeding.

In accordance with Section 110 of the Code of Criminal Procedure, the exchange of contents shall be used to identify persons involved in the handling of a consignment

containing narcotic drugs, psychotropic substances, poisons, precursors, nuclear or other similar radioactive material, high-risk chemicals, counterfeit or altered money, counterfeit or altered securities, counterfeit, falsified or tampered stamps, postal stamps, stamps and postage stamps, firearms or mass weapons, ammunition, explosives, cultural heritage, other items for which special authorization is required, items intended for the commission of the offense or the thing arising from the offense, the President of the Senate and before the prosecution or pre-trial prosecution or with his consent the police may order that the content of such a consignment is surrendered under S. 108(1 or 2) exchanged for another and the shipment so modified was given for further transport.

Pursuant to S. 117 of the Code of Criminal Procedure, the agent shall be used as a mean of operative and investigative activity for detecting, finding and convicting offenders of crimes, corruption, offense of abuse of authority of a public official or criminal offense of money laundering. Its use is permissible only if the detection, investigation and conviction of the perpetrators of the offenses referred to above would be significantly impeded in any other way and the knowledge obtained justifies the suspicion that the offense has been committed or is to be committed. The agent's conduct shall be in accordance with the purpose of the Code of Criminal Procedure and shall be commensurate with the unlawfulness of the act of detecting, investigating or convicting it in which it participates. The agent must not incite to commit a crime; this shall not apply in the case of corruption of a public official or a foreign public official and the facts established suggest that the offender would have committed such an offense even if the order to use an agent had not been issued. The agent acts under a temporary or permanent legend or without a legend. A legend is a collection of cover data about an agent's person, in particular their identity, marital status, education and employment. Covering documents may be issued, made out and used under the conditions stipulated in a special act if it is necessary for the creation or preservation of the legend. The agent may use their legend to enter the dwelling with the consent of the authorized person. However, such consent must not be obtained on the basis of a feigned right of entry. The true identity of the agent acting under the legend must be kept secret even after the mission is accomplished. The true identity of the agent shall be notified to the prosecutor or pre-trial judge who are competent to make decisions under paragraphs 5 and 6 of this provision, as well as to the Presiding Judge. The agent may also perform their tasks on the territory of another state. The President of the Police Forces, unless provided otherwise by an international treaty shall decide on the appointment of the agent and sending them abroad upon prior agreement of the competent authorities of the State on whose territory they are to operate and pursuant to an order under paragraph 5 of this provision. The same procedure shall apply if a national of another state is to act as an agent on the territory of the Slovak Republic.

The order for the use of the agent is issued by the President of the Chamber before commencing the prosecution or the pre-trial judge in the pre-trial proceedings on the motion of the prosecutor and must also be justified by factual circumstances.

In the case of a matter that cannot be postponed, the prosecutor may, if the use of the agent is not connected with the entry into another's dwelling, provide an order referred to in paragraph 5 of this provision prior to the prosecution or pre-trial proceedings orally.

However, such order must be confirmed in writing not later than 72 hours after the order has been provided by the judge for pre-trial proceedings, otherwise it will expire. This shall not apply to the procedure under paragraph 2 of this provision, where only the pre-trial judge may issue an order to use an agent.

In the Act no. 171/93 Coll. on the Police Corps, the Act no. 652/2004 Coll. on State Administration Authorities in Customs, the Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, the means of the OIA represent the “out-of-process institutes”.

In accordance with S. 39(a) of the Act no. 171/93 Coll. on the Police Force, as subsequently amended, means of the OIA include:

- \* tracking people and things,
- \* monitoring of persons and means of transport,
- \* controlled delivery,
- \* criminal intelligence, agent, legalizer,
- \* using cover documents,
- \* trap and security technology,
- \* using persons acting on behalf of the Police Force,
- \* objects and places used under the legend,
- \* fake transfer of things.

In accordance with S. 16 of the Act no. 35/2019 Coll. on Financial Management and on changes and amendments to certain acts, the means of OIA are:

- \* tracking people and things,
- \* cross-border surveillance of persons under an international treaty,
- \* controlled delivery,
- \* cover documents,
- \* trap and security technology,
- \* using persons acting on behalf of the financial administration.

In accordance with S. 26 of the Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, as subsequently amended, the means of the OIA are:

- \* tracking people and things,
- \* trap and security technology,
- \* using persons acting on behalf of prison and judicial guard corps.

**Table 2: Comparison of OIA means in various Acts**

S. 39(a) of the Act no. 171/93 Coll. on the Police Force, as subsequently amended	S. 16 of the Act no. 35/2019 Coll. on Financial Management and on changes and amendments to certain acts	The Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, as subsequently amended
Tracking people and things	Tracking people and things	Tracking people and things
Using persons acting on behalf of	Using persons acting on behalf of	Using persons acting on behalf of
Trap and security technology	Trap and security technology	Trap and security technology
Cover documents	Cover documents	
Controlled delivery	Controlled delivery	
Monitoring of persons and means of transport	Cross – border surveillance of persons	
Criminal intelligence, agent, legalizer		
Objects and places used under the legend		
Fake transfer of things		

Source: Authors

Comparison of the OIA means in the Acts quoted shows that the most extensive are the OIA means defined in the Police Forces Act.

Means such as surveillance of persons and things, controlled delivery, trap and security technology and objects and places used under the legend (*not highlighted in the text*) are not explicitly defined in the Act no. 171/93 Coll. on the Police Force, as subsequently amended, and their use is regulated by internal regulations of the Ministry of the Interior Affairs. The same applies to the OIA means in the Act No. 35/2019 Coll. on Financial Management and on changes and amendments to certain acts where surveillance of persons and things, cross-border surveillance, controlled delivery and trap and security technology (*not highlighted in the text*) are not defined in the Act. The OIA means – surveillance of persons and things and trap and security technology are also not defined in the Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, as subsequently amended.

The fact that only some of the OIA resources are defined and characterized in the relevant laws and the use of other OIA resources (surveillance of persons and things, cross-border surveillance, controlled delivery, trap and security technology, objects and premises used under the legend) is governed by a “secondary” legislation, mostly in the form of orders from the relevant ministers, is insufficient, according to several legal experts. The fact that implementing the OIA and using the OIA means pursuant to Act no. 171/1993 Coll., the Act no. 35/2019 Coll. and the Act no. 4/2001 Coll. are not bound to the consent of the competent judge, as it is the case with information and technical means in the Act no. 166/2003 Coll. on the Privacy Protection against Unauthorized Use of Information and

Technical Means and on changes and amendments to certain acts (the Act on Protection against phone-tapping), or as it is regulated by the Act No. 301/2005 Coll. (Criminal Procedure Code).

It is questionable and controversial whether the list of OIA means in the legislation (the Act No. 171/1993 Coll., the Act No. 35/2019 Coll., the Act No. 4/2001 Coll.) without a strict modification is in accordance with Article 13(2) of the Constitution of the Slovak Republic, according to which “the limits of fundamental rights and freedoms can be regulated only by law under the conditions laid down by this Constitution”. Based on these facts, in the opinion of several experts, it will probably be necessary in the future that all OIA means are formally defined in terms of content in a generally binding legal regulation – the Act. The experts interviewed in the survey Sidorjak think that this can be addressed in several ways:

- \* in the Common Criminal Procedure Act,
- \* in a separate Act on Operational and Investigation Activities,
- \* in the Joint Act on Operational and Intelligence Activities,
- \* in a separate section (sections) of the relevant laws (the Police Forces Act, the Act on State Administration Authorities in Customs, the Act on Prison and Judicial Guard Corps).

The discussion about how the OIA and the OIA means above will be formally and legally modified is not finalized yet. It is also questionable whether the professional public can agree on any of the solutions. At the same time, it should be noted that the current “model” of the legal regulation of the OIA and OIA means is based on legislation passed before 1989, when the use of the OIA means was realized on the basis of classified internal regulations, while their use was not supported by generally binding regulations. Keeping the current “status quo” is also insufficient and unsustainable for these reasons. Although many legislative changes have been made since 1989, they can be considered as a touch up rather than systemic changes in this area. An example of a partial systemic change is the legal regulation of the use of information and technical means on the basis of the Act no. 166/2003 Coll. on Privacy Protection against Unauthorized Use of Information and Technical Means and on changes and amendments to some acts (the Act on Protection against Interception). A systemic change in the regulation of the OIA and the OIA means in the Slovak Republic has not yet occurred.

Personally, I believe that the legal regulation of the OIA and OIA means could be done in an analogical manner as it was with the legal regulation of using information and technical means, i.e. a separate act regulating the use of the OIA and the OIA means for all armed corps. As an alternative, this Act is binding on armed forces other than intelligence services (police force, prison and judicial administration, criminal financial administration authority). At the same time, in such new legislation, the use of the OIA and individual means of the OIA (with the exception of some, for example, persons acting in favour of the Police Forces) would be subject to the consent of the competent judge, as provided for in the Act no. 166/2003 Coll. or with the prosecutor’s consent.

In addition to this formal and legal change, it would be necessary to abandon the use of the terms operational-investigative activity and means of operational-investigative activity and to replace them with another more appropriate and concise concept. In this context, it is necessary to state once again that the term “operative-investigative activity” does not correspond to the needs of the police practice as well as its content itself, i.e. it does not express exactly all the activities aimed at the detection of crime. In the title itself, it “prefers” one of the activities in detecting crime, namely searching. Experts in the field of theory, but also of practice, comment on this problem in similar way.

In the new legislation, it would also be desirable to redefine the concept in terms of content, which would replace the concept of the OIA. The concrete form of the term and its content should be based on the conclusions of the discussions of the general professional public so as to respect the aspects of timelessness, simplicity, clarity, concise content, systematicity and, last but not least consistency, with terms used in other EU countries. The legislation of most European countries usually uses the term “intelligence” or “criminal intelligence”. When creating new legislation on the content of these activities, it is necessary to consider that the purpose of these activities (currently referred to as the OIA) is to create conditions for the conduct of criminal proceedings and that it is also a cognitive activity based on information and for their collection, acquisition, evaluation, storage, sorting, analysis and utilization (for details see Part 2 of the paper). This is also the reason why the new legal regulation of these activities, which are mainly focused on detection of criminal offenses and their perpetrators, would also need to redefine the content of current OIA means. For example, to define the term of ‘persons acting on behalf of’ in more details by their possible categorization. To abandon the term criminal intelligence as a mean of the OIA, since in most European Union countries it is understood in much broader sense than in our Republic and it is not understood only as a mean but as a set of activities aimed at detecting crime. For example, criminal intelligence in the United Kingdom is understood by the National Centre for the Development of Police Activities (NCPE) as a system of police service activities ranging from the lowest ranks to the highest levels of police control, including minimum system requirements and defining basic information sources. The representative of the European Union and Europol have similar understanding of criminal intelligence, who have developed the European Criminal Intelligence Model (ECIM), which they intend to implement in police practice across all European Union countries. The European Criminal Intelligence Model is understood as a standardized system of working with information, collection, processing, analysis, follow-up and use of information. The information is not the property of the police officer who obtained it, but of the Police Force requiring the police officer to obtain such information and creates legal, organizational and material conditions for them to obtain the information. The police officer is obliged to hand over this information to the Police Force in a prescribed manner and to effectively handle the information in accordance with the applicable legal regulations.

However, the information itself will in most cases not have sufficient information value and ultimately can slow down the activities of the Police Force. Only the summary of all relevant information on a given criminal act or crime as a whole and knowledge of mutual relations and relations to other relevant objects will serve the Police Force in the fulfilment

of their tasks. Taking into account the importance of such information, it is necessary to manage its flow, processing and use and to create an effective information management system including necessary organizational, personnel and material prerequisites. Any information received should go through the process of evaluating, sorting, storing, identifying relationships to other information and objects, and providing it to the addressee of the Police Force, including its interpretation, so it should be analysed.

The European Criminal Intelligence Model is a de facto set of activities aimed at detecting crimes and their perpetrators, as well as ‘information support’ in the detection of crime. It is therefore necessary to develop a clear concept of information management in the process of clarifying, detecting and documenting crime. Effective information collection, information flows, information databases and the development of criminal and strategic analysis infrastructure need to be built.

At the same time, with the redefinition of some resources, the new generally binding legislation will need to extend the resources diapason with new resources and methods of obtaining information. This is necessary, in particular, because the OIA means currently used cannot adequately respond to new forms and sophisticated ways of committing crime, especially organized crime, “cyber-crime”, etc. Partial attempts to introduce new means were continuously made by academic experts and police practitioners, but they have not yet been enforced by legislation. It would be appropriate to complement the new legislation with a detailed content characterization of the means and methods of obtaining information.

## **V. Analysis of the Police Practice Approach to the New Concept of Criminal Intelligence**

Police practice in the Slovak Republic narrowed the understanding and implementation of the European Model into police practice only in the area of information flow and coordination of analytical activities, which was ensured by the creation of the ACHERON information system. Although the problems following the implementation of the ACHERON IS in practice in 2010 have been partially eliminated in the area of analytical activities and information flows, the situation in this area has been unsatisfactory and unsustainable in the long term. Currently, the Police Force of the Slovak Republic has an information flow and analytical activity organized autonomously, often times within individual services and departments, or authorities. The autonomous management and organization of the analytical activities resulted in the Police Corps creating their own information systems and separate databases in which they gather the information obtained through their activities, including operational and intelligence activities. It is the services of the Police Force, the main task of which is to detect and clarify crime, such as the National Criminal Agency and the Criminal Police Office Presidiums of the Police Force, including regional and district criminal police departments, and which have been directed towards creating autonomous information systems. This approach has the consequence that the information systems created are closely focused on the needs of the service, which developed them for an individual way of collecting, sorting and distributing the data needed for its specific activity. Such information systems are not compatible with

each other, they are subject to individual administration and as a result it is difficult to obtain information for another Police Corps service and even in some cases almost impossible. This often causes duplication of activities and does not allow coordination of operational and intelligence activities, including analytical activities of the Police Force. Existing autonomous analytical workplaces in individual departments and offices often use different software tools, the incompatibility of which does not allow automatic processing of the full width of available data, resulting in a lot of manual work and lengthy and uncomplicated outputs. Operated single and non-cooperating information systems do not provide the required efficiency and comfort of work, what is today common and expected standard from information systems. It can be stated that such coexistence of different data systems is inefficient. The problems identified in the area of coordination of operational activities carried out by the Police Force, including the organization and management of analytical activities, have been largely eliminated by the establishment of a central analytical unit – Criminal Analysis Management Department, which is only competent for those departments under the management of the 1st Vice-President of the Police Forces. So far, it has not been possible to build a central office for the entire Police Force, including the National Criminal Agency, which would ultimately make the operation of the Police Force as a whole more effective.

So far, particular interests have prevailed and are still prevalent and there is little willingness of individual departments to enter relevant operational, criminal and other information into the central information system. This is often justified by security risks, the possibility of leaking sensitive information into the criminal environment. There is still some distrust of individual services and, on the other hand, the ‘rivalry’ of these services in terms of performance.

Police practice, as well as the current legislation in the Slovak Republic, understands and defines criminal intelligence as a mean of operative search activity used in connection with the use of an agent, while in this field the police officers perform their tasks under permanent, temporary or no legend. Criminal intelligence is carried out only by a narrow group of police officers who are assigned to a specialized workplace – the Criminal Intelligence Department of the Special Services and Operations Office of the Police Force Presidium. Therefore, in the Slovak Republic, criminal intelligence in police practice is used only by a limited number of police officers and its application is minimal. On the contrary, in the old countries of the European Union, criminal intelligence is not only understood as a mean of bringing an agent into the criminal environment, but as a set of activities aimed at detecting crime. The understanding of criminal intelligence is much wider in these countries and therefore its use in police practice is much more important. For example, criminal intelligence in the United Kingdom is understood by the National Centre for the Development of Police Activities (NCPE) as a system of police service activities ranging from the lowest ranks to the highest levels of police control, including minimum system requirements and defining basic information sources. The National Centre for the Development of Police Activities has developed a methodology for the ‘National Criminal Intelligence Model’ describing this model as an operationally oriented approach to police practice and as an information-based practical system that underpins the management

of police and security services. This definition clearly stipulates that the use of criminal intelligence in the UK is not limited to a small circle of police specialists but to a wide range of police and security services and is understood as a system of work and management. The representatives of the European Union and Europol have similar understanding of criminal intelligence, who have developed the ECIM, which they intend to implement in police practice across all European Union countries. The ECIM is understood as a standardized system of work with information, its collection, processing, analysis and its use in the fight against crime. The ECIM is a de facto set of activities aimed at detecting crimes and their perpetrators, as well as ‘information support’ in criminal investigation and crime control.

## **VI. Conclusion**

Responsible investigators within the Stage 1 of the implementation of the “National Criminal Intelligence” – VYSK no. 231 scientific-research task conducted at the Police Academy in Bratislava carried out theoretical research in relation to the object of research, when they analysed the basic foundations of current knowledge in the theoretical field of crime-security activities, legislative bases in the field of operative and search activities and criminal intelligence and practical baselines and they analysed the approaches of police practice to the new concept of criminal intelligence. Based on the results of Stage 1 of theoretical research, the following conclusions can be drawn:

Criminal intelligence is a systematic cognitive activity used to come to conclusions based on the information obtained, collected, evaluated and analysed relating to criminal activities and their perpetrators and which are provided to law enforcement authorities for further procedural proceedings.

Criminal intelligence is a procedural and cyclical activity, which is based on the theory of reflection and information cycle, which includes obtaining indicators of crime, collecting and gathering additional information, evaluating information and adopting logical conclusions. However, criminal intelligence is not an ideal cycle of information, as at a given moment several activities can be carried out at different stages of the process at the same time, and the process can also return to the previous stage.

When conducting criminal intelligence, it is necessary to observe a number of principles, in particular: the principle of constitutionality, the principle of legality or the principle of *pacta sunt servanda*, the principle of effectiveness, reasonability and appropriateness of using methods, forms and means, the principle of mutual cooperation, the principle of planning, the principle of objectivity and timeliness, the principle of intelligence and operational intuition and erudition, confidentiality or conspiracy principle, the need to know principle.

The applicable legal definition of criminal intelligence in the Slovak Republic as a mean of operational search activity does not meet the requirements of police practice and is incompatible with Europol’s recommendations on the implementation of the European Criminal Intelligence Model.

The police practice in the Slovak Republic narrowed the understanding and implementation of the European Criminal Intelligence Model into practice only in the area of information flow and coordination of analytical activities.

In the police practice in the Slovak Republic, there are still particular interests in the processing and keeping criminal information and there is little willingness of individual units of the Police Forces to enter relevant criminal information and other information into the central information system, which is a basic prerequisite for successful fight against crime.

In the future, it is probably necessary that criminal intelligence to define the content on a formal and legal base in a generally binding legal regulation – the law. Specifically, how and in which act will be recommended by the researchers after the empirical part of the research.

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