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# **SOCIOLOGY AND SOCIAL WORK REVIEW**

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# **The impact of a global crisis on the world of work**

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## **Abstract**

The global crisis caused by the spread of coronavirus was firstly acute and visible for the sanitary system, but the economic and social life were equally affected also. Work, professions, jobs were already suffering rapid transformations before the outbreak of Covid 19 and the pandemic brought new patterns, directions, hierarchies, preferences and necessities for companies, employees or entrepreneurs.

Using data from the International Labour Organization and Eurostat, this paper aims to understand how the crisis determined by the Covid 19 outbreak influenced the work domain, from a comparative perspective, at global and European level. Several indicators, like employment and unemployment rates evolution, the share of temporary or part-time contracts or changes regarding remote work are captured. Several issues as work-family balance, blurrier boundaries between the two, remote working and the impossibility to perform frontline jobs remotely, the challenges caused by the pause in providing care and educational activities are also discussed.

**Keywords:** *Changes; Covid 19; crisis; employment; work.*

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## **1. Introduction**

Although the course of humankind has always been littered with unexpected events, natural disasters or sanitary impairments, the actual global world, characterized by rapid, instant communication, constant economic relations, intense travelling between regions, countries and continents, certainly represents an unprecedented context for the spread of a virus. The crisis caused by the outbreak of the Covid 19 pandemic affected and continues to influence all life sectors, people of all ages and professions, from countries and territories all around the globe. Work domain represents no exception. For some professionals, their home also became their office and sometimes even their children's school or playground, while for other jobs remote work was not possible, and employees were confronted with higher medical risks, longer programs, difficulties in meeting their family requests. Official data also speak about job loses, increasing gaps, reduced earnings and unemployment (Eurostat, 2021; International Labour Organization, 2021).

Another particularity of this pandemic determined by the actual context consists in the existing possibilities of study and analysis present in every scientific domain. Medical sciences, biology, economy, engineering, law and social sciences, for example, and probably the list can be easily extended, contributed to developing tools for fighting with

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the effects of this medical issue. Furthermore, research in all domains benefits from this natural study environment, which brings to light aspects that can be analysed, enriching thus scientific knowledge.

The International Labour Organization displays a rather pessimistic perspective concerning the actual context and considers that the consequences of the repeated and recurrent waves of the coronavirus will continue to produce short and even medium- and long-term undesirable effects: “The COVID-19 pandemic has caused unparalleled disruption worldwide through its devastating impact on public health, employment and livelihoods. Governments and workers’ and employers’ organizations everywhere have taken immediate measures to tackle the crisis, preserve jobs and protect incomes, though these measures have differed in scope and generosity. While such measures have been crucial in mitigating the crisis, all countries have suffered a sharp deterioration in employment and national income, which has aggravated existing inequalities and risks inflicting longer-term “scarring” effects on workers and enterprises.” (International Labour Organisation, 2021:3). In the following lines the conceptual and methodological framework is presented, followed by an analysis of data available at European level (Eurostat) and global (International Labour Organisation).

## **2. Conceptual and methodological background**

Acknowledging that sociology itself was also considered a science of crisis, some authors state that “professional sociology currently lacks an understanding of crisis that would allow it to accurately interpret the ongoing upheavals” (Aulenbacher et al., 2017: 4). The authors referred to claim the absence of a generally accepted and inclusive definition of crisis. We may use the help of an older perspective here. Thus, without neglecting the “provisionality and problematic nature of the ‘normal’”, Holton defines crisis by differentiating it from normal (Holton, 1987: 502), accusing also the large-scale use of the “crisis” concept, in all domains. Starting from the broader understanding of the concept of crisis as a “decisive moment in the resolution of a narrative or illness” (Holton, 1987: 502), one can certainly include the actual context, determined by the Covid 19 pandemic in the crises category.

For the present paper, the aspect that is most interesting in terms of crisis is their transformative effect. Thus, our construction is built on the idea of understanding the transformations brought by the global spread of Coronavirus in terms of labour. Work is among the major life domains impacting both individuals and economies, while communities may group and develop around potent working environments. Although the concepts “work” and “labour” have different connotations (Pogan, 2019), in the present paper they are used as interchangeable.

An objective indicator used at a large scale when analysing the work domain, is the labour force status, according to which people are divided between three main groups: employed, unemployed and outside the labour force, usually reported to the reference week (European Commission Eurostat Directorate F: Social statistics, 2021). For assigning respondents to the three main categories above mentioned, the legal framework is defined by the guidelines of the International Labour Organisation (ILO), through the resolution issued in 1982, at the International Conference of Labour Statisticians. At European level, these regulations are doubled by the Integrated European Social Statistics Framework Regulation 1700/2019 (European Parliament, 2019) and the Implementing Regulation 2240/2019 (European Commission, 2019).

The European Labour Force Survey (EU-LFS) provides information regarding the labour force status quarterly and annually, from 2005 onwards. Besides demographic variables as age, sex, education, other indicators are also targeted: activity rates, employment status, part-time/temporary/self-employment, unemployment, working time etc. The working definitions for the categories of the labour force status, above mentioned, are reported to the reference week and defined as follows, according to the unitary provisions of the International Labour Organisation and the European Commission, as explained previously.

Employed persons are the ones aged 15 to 89 who:

- “worked for at least 1 hour for pay or profit, including contributing family workers” (International Labour Organisation, European Commission, 2021).
- “have a job or business, who were temporarily not at work during the reference week but had an attachment to their job, where the following groups have a job attachment: persons not at work due to holidays, working time arrangements, sick leave, maternity or paternity leave; persons in job-related training; persons on parental leave, either receiving and/or being entitled to job-related income or benefits, or whose parental leave is expected to be 3 months or less; seasonal workers during the off-season, where they continue to regularly perform tasks and duties for the job or business, excluding fulfilment of legal or administrative obligations; persons temporarily not at work for other reasons where the expected duration of the absence is 3 months or less” (Idem).
- “persons that produce agricultural goods whose main part is intended for sale or barter” (Idem).

Starting with 2021, people that produce agricultural goods only or mainly for their own consumption, are excluded from employment, as new regulations for the Labour Force Survey state, both at European level and in Romania.

Unemployed persons are aged 15 to 74 who were “not employed during the reference week according to the definition of employment described above (...) and were currently available for work, (...) or were actively seeking work” (International Labour Organisation, European Commission, 2021). According to the same Guidelines of the European Labour Force Survey, among the activities considered as indicators of active job search are: “studying job advertisements, placing or answering job advertisements, placing or updating CVs online, contacting employers directly, asking friends, relatives or acquaintances, contacting a public employment service, contacting a private employment agency, taking a test, interview or examination as part of a recruitment process and making preparations to set up a business” (Idem).

Working time is another valuable indicator present in statistics dealing with labour. In analysing the data presented in the following section, the understanding of the working time is again the one agreed about at European and international level. Thus, the used indicators are:

- usual working hours, defined as “all hours including extra hours, either paid or unpaid, which the person normally works, but excludes the travelling time between home and workplace and the time taken for the main meal break (usually at lunchtime). The number of hours per week usually worked is collected for both the main and second job” (International Labour Organisation, European Commission, 2021).

- actual working hours, seen as “all hours including extra hours regardless of whether they were paid or not” (Idem).

### Data analysis

The report issued by the International Labour Organisation estimates a working hours decrease of more than 8 percent, for the entire year 2020, while the recurrent waves of the pandemic maintained the same trend for 2021 also, but at a slower pace, of approximately four percent (ILO, 2021). The decrease of working hours was caused by both reduced programmes and unemployment. At global level, compared to 2019, at the beginning of 2021, 108 million more workers are estimated to be extremely or moderately poor (less than 3 dollars/day for living), which is the level of 2015. The same report draw attention on the already increasing gaps between developed economies and less developed ones and on the risk of bankruptcy for micro and small businesses, doubled by the uncertain future for the ones still surviving (ILO, 2021: 3). Based on a survey and a sample of more than 4500 companies, distributed worldwide, from approximately 45 countries, the “World Employment and Social Outlook” report of the ILO draws attention that around three quarters of the micro and small business were already confronted with debts, jeopardised future development plans and a series of financial problems due the repeated disruptions in their activity (Idem).

For the European Union, the unemployment rate increased in 2020 for the first time after six years of continuous decrease, reaching 7%, for the entire population aged 15 to 74 (Eurostat a, 2021). Shifting our attention to employment rates for different categories of respondents, the young are the most affected by unemployment, as seen in the following table (Table 1).

Table 1. Employment rates for different categories– EU and Romania, comparison between 2020 and 2019

Year	2020		2019	
	Romania	EU	RO	EU
<b>Total</b>	70,8%	72,4%	70,9%	73,1%
<b>Female</b>	61%	66,8%	61,3%	67,3%
<b>Male</b>	80,3%	78,1%	80,3%	79%
<b>Young</b>	24,6%	31,5%	24,7%	33,5%
<b>Senior</b>	48,5%	59,6%	47,8%	59,2%

Source: Own elaboration based on the data provided by Eurostat, available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Employment\\_-\\_annual\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Employment_-_annual_statistics)

While for the Romanian men the employment rate remained the same in 2020 as in 2019, at UE level decreased with almost one percent and for seniors increased for the entire Union (average) and in Romania also. Employment rates for the young population are the smallest, at both levels and decreased from 33,5 in 2019 to 31,5 in 2020 in Europe. The International Labour Organization emphasizes the same negative trend, concluding that “The crisis has affected many young people at a critical moment in their lives, disrupting their transition from school or university to work. Evidence from previous crises shows that entering the labour market during a recession reduces longer-term employment

probabilities, wages and the prospects for on-the-job skills development” (International Labour Organization, 2021: 4). The information available at the beginning of 2021 regarding data from 2020, for 33 countries shows that in 24 of those countries the proportion of young people in education, employment or other forms of training decreased. A possible explanation, besides the shortage in the number of available jobs might be represented by difficulties of attending school in areas or contexts with difficulties or even impossibility to access distance learning or other digital resources.

The National Institute for Statistics of Romania provides data regarding these issues for 2021 already, but as the methodology of the Household Labour Force Survey changed, numbers cannot be compared with those from previous years. Namely, persons producing agricultural goods intended exclusively or mainly for self-consumption are no more considered as part of the employment (INSE, 2021).

Table 2. Unemployment rate by age groups, sex and area, in the first quarter of 2021 in Romania

Age	Male	Female	Urban	Rural
15-24 years	21,5%	21,6%	14,1%	25,8%
25-34 years	7,6%	6,5%	4,1%	11,9%
35-44 years	4,9%	4,2%	3,0%	7,2%
45-54 years	4,3%	4,0%	2,6%	6,4%
55 years and over	4,0%	3,4%	2,9%	4,8%

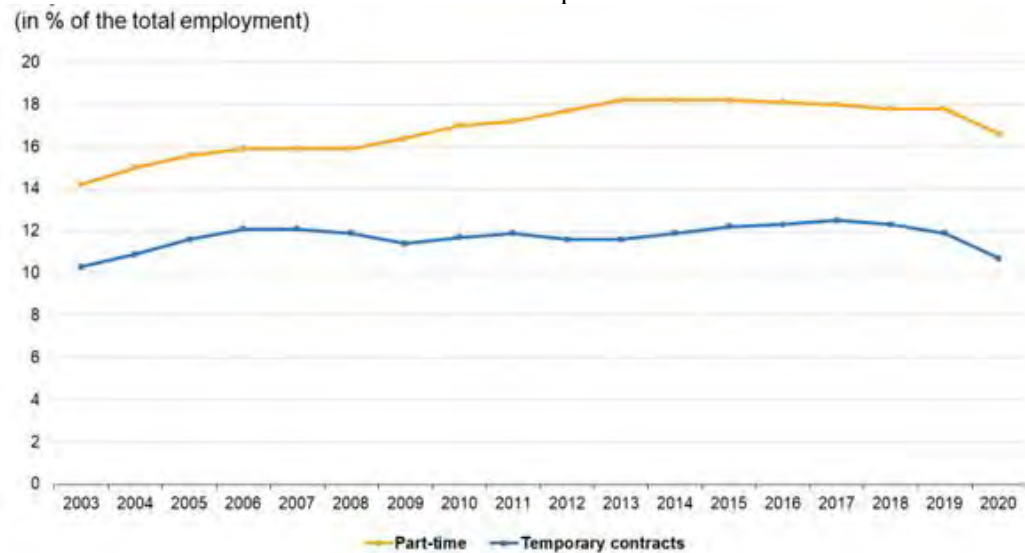
Source: Romania National Institute of Statistics

[https://insse.ro/cms/sites/default/files/com\\_presa/com\\_pdf/somaj\\_tr1e\\_21](https://insse.ro/cms/sites/default/files/com_presa/com_pdf/somaj_tr1e_21)

The same negative trend noticed at global and European level, of lowest occupation rates for the young population is visible for Romania also, with great differences between urban and rural areas, for all age categories. The unemployment rate is almost double and sometimes more than double in rural areas than for the inhabitants of cities, from 4,8% for those aged 55 and more, to 25,8% for the 15-24 age category. Women have lower occupation rates than men, no matter their age, with the greatest differences for the 25-34 years category (Romania National Institute of Statistics, 2021).

Besides, after a relatively stable evolution of the part-time and temporary contracts for the last ten years, 2020 brought a decrease in the share of this working arrangements, compared to the previous years. The following figure (No. 1) suggestively presents this evolution, as available on the site of the Eurostat (2021 b). The share of temporary contracts decreased, reaching approximately the level from 2003 and a possible explanation might be the restrictions imposed in travelling across the continent, if we consider seasonal working performed by immigrants in agriculture or tourism as a significant part of such working arrangements.

Figure 1. Evolution of temporary and part-time employment contracts between 2003 and 2020 in the European Union



Source: Eurostat 2021b ([https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Evolution\\_of\\_temporary\\_contracts\\_and\\_part-time\\_employment\\_in\\_the\\_EU,\\_2003-2020\\_\(in\\_%25\\_of\\_the\\_total\\_employment\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Evolution_of_temporary_contracts_and_part-time_employment_in_the_EU,_2003-2020_(in_%25_of_the_total_employment).png))

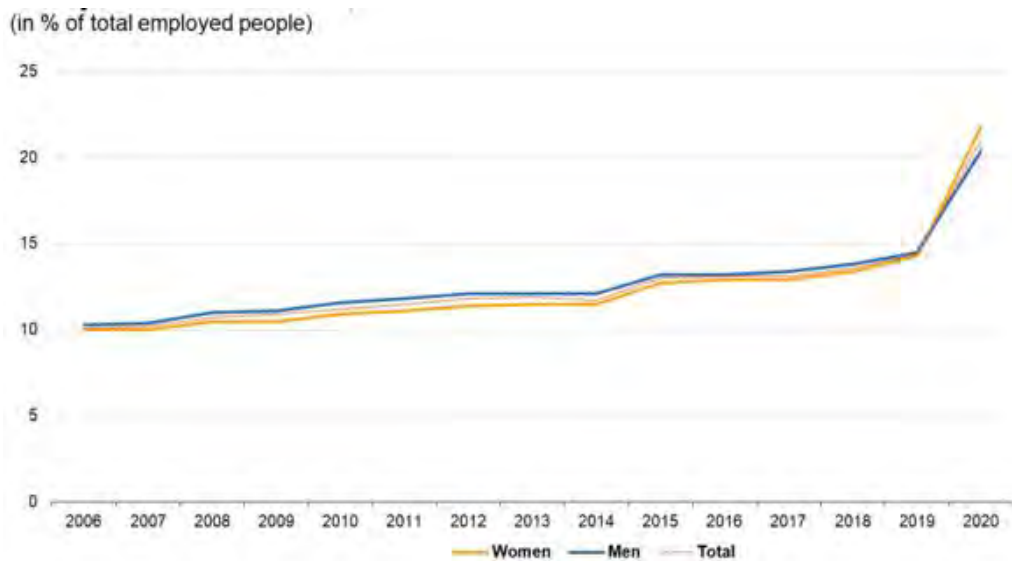
Furthermore, the International Labour Organization also addresses the precarity and vulnerability of migrant workers in the pandemic context, with negative consequences for individuals, as reduced earnings, restricted or no access to social protection services, impossibility to travel in order to find a job. These abrupt disruptions also impacted origin countries through reduced remittances, unemployment and destination countries which had to face new challenges in finding and maintaining the workforce in domains dependent of migrant workers. In such conditions the vulnerability of seasonal migrant workers increased, facing new challenges (International Labour Organization, 2021). Regarding the European Union, in terms of national economies, “legal migration can bring along significant and highly remarkable contribution to the welfare of the European Union’s Member States (...) offering viable solutions to the lack of workforce, providing high-skilled professionals for the European developing economies, and ensuring aid in solving the issue of aging population throughout the European continent” (Porumbescu, 2019: 38).

Another worth mentioning aspect regarding the challenges of the Covid-19 pandemics over the work domain is the differentiated impact on different domains, types of jobs, skills and even areas. Thus, if for some professionals shifting to remote working is accessible and feasible, for many domains this is not possible or the existing infrastructure does not allow such adaptation. Moreover, the pause in providing care facilities for children or the online education brought new sets of challenges for those parents working from home and for the parents absent from home also. About increased inequalities regarding class and gender speaks a report deployed in the United Kingdom, stating that “More than a year on from the first lockdowns in the UK, we found that the Covid-19 pandemic has highlighted the key, essential but under-valued work performed by working class women. It both exposed and intensified the deep gender and class inequalities that, together, impact the women’s working lives, with pandemic pressures resulting in further job and financial

insecurity, heavier care responsibilities, and real challenges in managing unpaid and paid work” (Warren and Lyonette, 2021: 1).

On all continents and in every country remote work was not a possibility for the so-called front-line workers like medical staff, delivery, employees from shops, restaurants, constructions, agriculture or care facilities, for example. European aggregated data show that just over 20% employed Europeans worked from home usually or sometimes in 2020 (Eurostat 2021b). Their share reported to the total employed population increased though compared to the previous years, doubling if compared with 2006, as visible in Figure 2.

Figure 2. Distribution by gender of employed people who usually or sometimes work from home in the European Union – Evolution between 2006-2020



Source: Eurostat 2021b ([https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Evolution\\_of\\_employed\\_people\\_by\\_gender\\_who\\_work\\_sometimes\\_or\\_usually\\_from\\_home\\_in\\_the\\_EU\\_,\\_2006-2020\\_\(in\\_%25\\_of\\_total\\_employed\\_people\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Evolution_of_employed_people_by_gender_who_work_sometimes_or_usually_from_home_in_the_EU_,_2006-2020_(in_%25_of_total_employed_people).png))

Comparing data from 2020 to the ones in 2019, the increase in remote work exceeds five percent for both men and women, although for employed females working from home is more common than in the case of men. The gender discussion was frequently put in relation with this new context, regarding blurrier boundaries between teleworking and child care or cooking and other household responsibilities (Schieman and Badawy, 2020; Allen et al, 2021; Schieman et al, 2021).

### 3. Discussions and conclusions

The global impact of the coronavirus pandemic represents a major preoccupation for the general public and an intriguing research topic for the science world. All life domains are abruptly transformed by crisis, as emphasised in the theoretical part of this paper and described in the literature (Holton, 1987). Covid-19 brought a new, unexpected context that

changed relations between persons, work contexts and possibilities, economies, restructuring individual and collective priorities.

Regarding the work domain, some inequalities persisted, others sharpened while new risks, challenges and opportunities emerged. If for some professions remote work is a plausible option, still are domains constrained by direct interaction or physical presence. Moreover, existing unequal development in terms of infrastructure or access to digital resources fostered disparities in using such tools or ways for working or learning. Some areas, like rural ones or poorer countries are the ones most probably to remain disconnected from many possibilities, work and study opportunities and the rapid transformations of the actual global world.

The risk of increasing gaps between the so-called global north and global south, the low-skilled and the high-skilled workers, inhabitants of rural or urban areas and between households with different economic status is generally amplified by such abrupt social transformations, as the Coronavirus pandemic is.

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# **The role of social services in the reintegration of domestic violence victims**

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## **Abstract**

Violence manifested in the family environment is one of the major problems of Romanian society. Over time, significant steps have been taken in terms of social services provided to victims of domestic violence, but there are still many impediments to their proper functioning, such as the lack of response from civil society, which has placed domestic violence strictly inside the family, without considering the devastating effects of this phenomenon. The social-applicative investigation carried out on this topic includes a complex analysis regarding the role of social services in the reintegration of domestic violence victims. The quantitative research consisted in applying a questionnaire to a number of 100 women from Caraş - Severin County. Providing social services to abused women in the family environment is essential, because the functions they perform simplify the intervention process and facilitate the social reintegration of the victims of this phenomenon.

**Keywords:** *Social reintegration; domestic violence; family; social services; welfare intervention; repercussions.*

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## **1. Introduction**

Domestic violence is a phenomenon with a poignant history dating back to the Roman Empire, but it has really become a social issue in recent decades, as the number of victims of domestic violence has alarmingly increased, and this has generated increased attention from the part of the authorities, the media and the social service providers. Intra-family violence not only affects the direct victims, but also has repercussions on society as a whole. In order for persons to develop harmoniously from a social, psychological and emotional point of view, they need a favourable environment, both in the society in which they carry out his activity and within the family. (Bogeanu 2013: p.221 in Rujoiu (coord.)). Specialists now devote more time to the study of this phenomenon to lay the groundwork for intervention strategies and protection systems meant to support of domestic violence victims (according to Edleson 2000). In order for the involvement of specialists to demonstrate efficiency and effectiveness, skills and competences (general but also specific), appropriate policies and procedures, appropriate legislation and supervisory systems are needed.

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## 2. The concept of domestic violence

Domestic violence is a very complex phenomenon that has developed in the context of a society generating dissatisfaction, frustrations that produce all the premises for the occurrence of violent behaviours. Even though domestic violence has always existed, its recognition as a social problem took place five decades ago. The late awareness as a social problem of domestic violence was due to the fact that, at least in the Western world, the family was perceived as a "sanctuary" detached from the constraints of public space, as a private space with a "taboo" character, in which no outside intervention is allowed. In the former socialist countries, the family was the "basic cell of society", and for this reason it had to bear all the consequences of an authoritarian regime, in which any social institution had to be "integrated" into the public space and subject to external demands. On the other hand, under the communist regime, domestic violence was not officially recognized as a social problem (Rădulescu 2011: p.16).

The specialists in sociology define the social problem as a condition harmful for society, which causes concern to the population and captures public attention, causing controversy and concerns that may ultimately lead to collective action. Starting from this idea, any social problem has two fundamental elements:

- **an objective condition**, which consists of the real, measurable content of the issue in question, and which is more or less highlighted in official statistics;
- **a subjective condition**, consisting of the legitimate concerns that the issue in question raises for a significant number of people.

As domestic violence is characterized by these two elements, it remains a major problem of contemporary society both because the appropriate solutions have not been identified and because there is no concordance between the opinions of specialists and the public on the definition of domestic violence as such (Hogaş 2010: p.39).

"Violence in the couple relationship means those attitudes and behaviors with a hetero-aggressive character that occur between family members, in the context of a severe conflict climate that indicates a significant deterioration of family functionality" (Mitrofan 1989: p.90).

According to the Explanatory Dictionary of the Romanian language, "the term violence is associated with the following actions: to force, to coerce, to constrain.

The same dictionary defines the violent person as follows: a person characterized by impulsivity, uncontrollability, aggression and brutality ". The heterosexual couple (either in a de facto relationship or as married couple) from the "structural and functional viewpoint, is the manner in which two persons of opposite genders inter-shape them creatively, developing and complementing each other, through interaction and fusion that are at the same time biological, psychological and social" (Mitrofan 1989: p.60).

"Violence means the rational, deliberate use of physical force, in order to obtain something or to determine the victim to commit a deed. From a legal perspective, violence involves "harming a person's integrity" (Rădulescu 2010: p.437).

## 3. The consequences of domestic violence, their role in the victim's decision to end the abusive relationship

Domestic violence has many negative, serious, both long-term and short-term effects, direct (on the victim) and indirect (on the persons who witness those acts of violence) ( Institutul Național de Sănătate Publică 2015).

From the of physical health perspective, victims of domestic violence can suffer minor body injuries, but in some cases the abuse can even lead to death. The World Health Organization conducted a study in 2005 that showed that people who have been victims of physical and sexual violence at any time after the age of 15 are more prone to poor health, chronic pain, memory loss and difficulties in carrying out daily activities (Garcia-Moreno et al., 2005 according to WHO 2012). Also, women who are sexually abused in a relationship can experience gynecological problems such as bleeding, infections, ruptured vagina, ulcers, chronic pelvic pain (apud OMS 2012). One of the worst consequences of sexual abuse is an unwanted pregnancy. In an abusive relationship, the risks of an unwanted pregnancy are very high, because most of the time the aggressor rejects the idea of the use of a condom or of birth control pills. Women who face such situations may resort to reckless gestures such as provoking an abortion by administering a prohibited medication during pregnancy or appealing to persons without medical qualifications for this purpose. In the case of women who take the pregnancy to term, but still do not want their child, there is a risk of their failure to love their child, because the child reminds them of the abuses suffered in the relationship. In such conditions, the whole life of the child suffers, and once they reach maturity, they perceive the domestic violence as a normality and apply them in their own family (Bogeanu 2013 in Rujoiu).

As regards the mental health of domestic violence victims, it can suffer because we witness the occurrence of stress disorders, emotional disorders, cognitive problems including dissociation, memory loss, panic attacks, fear, shame, low self-esteem, guilt and suicidal tendencies (WHO 2012; Popa 2009; Rujoiu and Rujoiu 2010; Sînzianu 2016; Walker 1988). All these effects are part of the post-traumatic stress syndrome and are found in most victims of domestic violence, characterized by the fact that it occurs voluntarily and causes suffering (Elklit and Christiansen 2010). It has been observed that people who show symptoms of post-traumatic stress have an increased risk of morbidity and mortality, an increased prevalence of cardiac, respiratory and gastrointestinal disorders (according to Woods 2005).

The psychological effects of domestic violence influence the victim's decision to end the abusive relation. She develops a self-defense mechanism and acquires a behavior that helps her survive in the relationship with the aggressor. The victim focuses her attention on actions that please the abusive partner to prevent new episodes of violence. When the partner manifests a violent behavior dominated by insults and dissatisfaction, the victim tends to blame herself, looking for excuses for the abuser and ending up devaluing herself and considering that she deserves to be abused (Oprea 2013: p.198 in Rujoiu).

#### **4. The role of social services in the context of the reintegration of domestic violence victims**

The specialized intervention in the case of domestic violence is on the one hand very delicate, given the nature of the problem, and on the other hand it is extremely complex as the consequences of this phenomenon are multiple, affecting the victim at different levels of her life. Specialists working with victims of domestic violence need to know and understand the importance of teamwork and collaboration with a number of institutions and courts designed to address the issue from a holistic perspective. It is obvious that victims of domestic violence can have a lot of needs such as the need to have a source of income, the need for housing, and if there are children, the need for child education and protection (Cojocaru and Cojocaru 2008: p.28).

From a legislative perspective, social services are defined as "the complex set of measures and actions taken to meet social needs of individuals, families or groups, in order to prevent and overcome situations of difficulty, vulnerability or dependence and to preserve autonomy and protection of the individual, for the elimination of marginalization and social exclusion, meant to the promotion of social inclusion in order to increase life quality " (Ordinance no. 86 of 19 August 2004 amending and supplementing Government Ordinance No. 68/2003 on social services).

"Support services are support networks that have the role of supporting victims of domestic violence during the recovery / rehabilitation process. They aim at a long-term intervention and represent a component of social services" (Rujoiu 2010: p.260 in Buzducea). Support services for domestic violence victims can perform several functions such as an emotional function, a cognitive or informational function and a material, instrumental support function. The emotional function is the most important form of social support, as it provides people who face problematic situations with psychological stability and self-esteem, aiming at activities based on empathic communication, assistance through psychological and care counselling, which is achieved by demonstrating confidence and unconditional support.

Social services are particularly important for the reintegration of victims subjected to domestic violence. Social service providers can assist victims in finding a job, if after the separation from the aggressors they are left without financial support, the members of the multidisciplinary team, social workers, psychologists can provide them with information about local vacancies, teach them how to write a CV or a letter of intent and the job-related rules to follow (Manea 2007/2008: p. 60). Also, within the institutions providing social services, victims of domestic violence can find support in discovering internal resources and acquire new skills to help them overcome thorny situations and social reintegration through their own efforts (Oprea 2013: p.198 in Rujoiu).

## **5. The opinion of the population on the role of social services in the reintegration of victims of domestic violence.**

### **Quantitative research**

#### **5.1 Research presentation**

The purpose of quantitative research is to identify the perception of the population regarding the role of social services in the reintegration of domestic violence victims.

In the research process, an individual survey was applied to a group of 100 women from the Reșița Municipality aged between 28 and 60 years. The data collection method used to prove the hypotheses was the individual survey, and the tool used was the questionnaire.

The purpose of the approach contains objectives, including quantifiable criteria related to the success of the research, and its limits indicate what is included and excluded from the project. The operationalization of the objectives proposed in the results is achieved by the people from the target group and represents what is done to reach the established goal and objectives.

The operationalization of the objectives in the results helps to prevent the risks and threats that appear during the research and to determine the analysis indicators.

## **5.2 Applied research objectives**

The objectives aim at sizing the social perception regarding the role of social services in the reintegration of victims of domestic violence, increasing their social cohesion by activating a new social support network; analysing the causes, which determine the abused women not to seek the help of a specialist, the problems being complex, conditioned by factors generating consequences (in the family, society, community); detecting the interference of internal, external, psychological, social or environmental factors, which determine the victims of domestic violence to remain in a relationship with the abusive man.

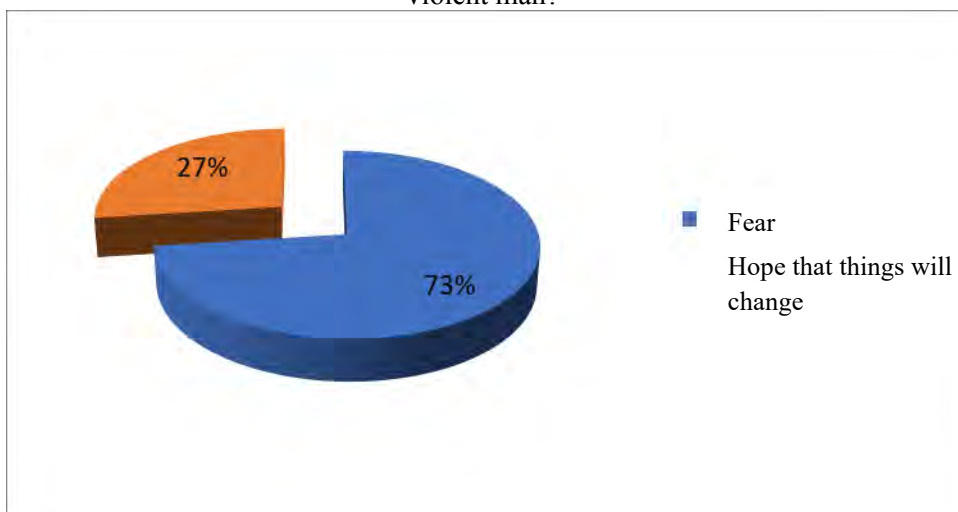
## **5.3 Data analysis and interpretation**

The individual survey was conducted using the sociological questionnaire applied to a number of 100 women subjected to domestic violence in Caras-Severin County.

- The reasons that lead women to remain in the abusive relationship;
- Opinion of respondents on the role of social services in the social reintegration of domestic violence victims;
- The importance of specialists' intervention.

Fig. no. 1 Complacency in the abusive relation

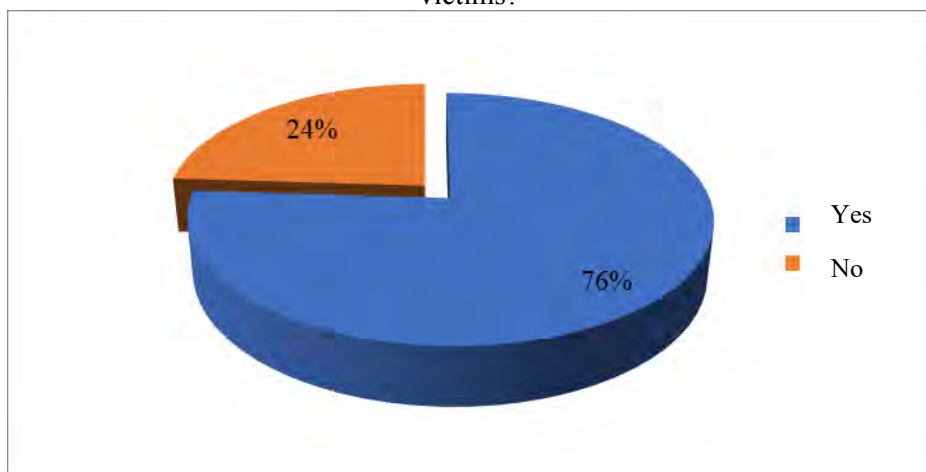
1. What are the main reasons why many women do not end a relationship with a violent man?



To this question, 73% of respondents answered that fear is what makes most women not to end their relationship with a violent partner, and 27% said that the hope that things will change for the better causes them to stay with the violent man, many of them have children and for their sake they preserve the hope that the episodes of violence will disappear.

Fig. no. 2 The usefulness of social services

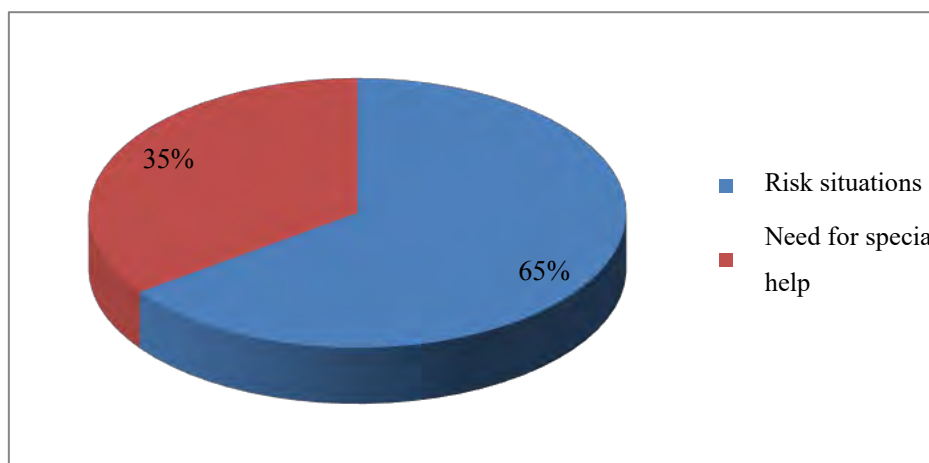
2. Do social services contribute to the social reintegration of domestic violence victims?



76% of respondents chose Yes because they consider that social services contribute to the reintegration of victims of intra-family violence, and 24% of subjects chose No because they do not consider that social services are useful to facilitate the social reintegration of the people abused within their family.

Figure no. 3. Intervention of specialists

3. Is the intervention of specialists important for the social reintegration of domestic violence victims?



When asked this question, 65% of the women surveyed consider the intervention of specialists to be important for the social reintegration of the people abused in the family environment, and 35% consider that the intervention of specialists is not necessary.

The diversity of family, educational, economic factors and the pressure of the entourage leave their mark on the behaviour of women who are subjected to domestic

violence, these factors influencing their social behavior. Domestic violence in Caraș-Severin is not so closely linked to economic deficits, lack of work alternatives for beneficiaries or poverty. In some cases, the precarious material and financial situation and the climate lead to psychological imbalances, generating major abuses. Despite the solutions offered by local specialized services, women subjected to domestic violence refuse this help out of fear of their partners or because they do not trust them.

## **6. Conclusions**

The violence manifested in the family environment has traumatic effects on the victims of this phenomenon. In everyday life, the woman plays an important role in the aggression of her life partner, due to her physical inferiority and her psycho-behavioral characteristics. Fear and helplessness are the feelings that dominate the women victims, and the psychological abuse they are constantly subjected to has devastating consequences on self-esteem, emotional balance and they are severely affected. Most of the time, women choose to remain in the abusive relationship in the hope that their life partner will change, for the sake of the children, for the sake of the years spent together, but unfortunately in most cases the change never occurs, the episodes of aggression become more and more frequent, and their effects are more and more profound.

In order to have the courage to end the relationship with the aggressive man and to get socially reintegrated, the victims of domestic violence need specialized help, they need the social services to come with solutions to their problems.

The role of social services in domestic violence is essential, as the functions they perform simplify the intervention process and help resolve cases. Social services have the role of intervening when a person is facing a problematic situation and does not have the necessary resources to overcome it alone. The multidisciplinary team intervenes to provide people in difficulty with specialized support and all the information they need about the problems they are facing.

The intervention of a multidisciplinary team, made of a social worker, a psychologist and a social mediator is essential, because with their help abused women can understand the seriousness of the situation and the repercussions of violence, both on themselves and on their children. In the case of women, violence has the following effects: social isolation, apathy, depression, anxiety, suicidal thoughts. The abused children who witness the scenes of violence between parents have problems integrating into the school environment, communication problems, isolation, often adopting elements from their parents' behaviour.

Therefore, the phenomenon of domestic violence is generated by a multitude of factors, which can be financial, social, psychological or emotional. In order to prevent this phenomenon, the intervention of the authorities is also needed, as they have to pass effective laws meant to protect both women and their families.

In order to prevent and overcome the "isolation" of women subjected to domestic violence, various measures must be taken: change of attitude vis-à-vis the roles and stereotypes that make violence against women accepted, creation of specialized support services, etc.

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# Suicide and the crime of determining or facilitating the suicide. A social and legal perspective

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## Abstract

This article gives a brief overview of the suicide phenomenon, starting from a theoretical approach and a worldwide statistical analysis to an analysis of this phenomenon in Romania. In the context of the analysis of the suicide phenomenon in our country, emphasis is also placed on the legislative part, taking into account the fact that in the Romanian Criminal Code we find the crime of "determining or facilitating the suicide".

**Keywords:** *Suicide; theoretical analysis; statistical analysis; Romania; criminal law; the crime of "determining or facilitating the suicide".*

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## 1. A theoretical analysis of the phenomenon of suicide

Suicide is viewed differently by people. In a way it is seen by sociologists, in another way by psychologists, lawyers, religious people etc.

For some, suicide is a free manifestation, a liberation from the problems of life, while for others it is something inconceivable, to be condemned as an extreme gesture.

Suicide is a awful phenomenon with tragic effects for individuals, families and communities. This behavior "can be the extreme form of manifestation of mental health problems in everyday life and the most violent form of self-destructive behavior. However, the emotional and behavioral imbalances that influence the predisposition to suicide are preventable" (Dafinoiu and Boncu 2014: pp. 120-132).

According to Oxford Learner's Dictionary, the suicide is "the act of killing yourself deliberately" (Oxford Learner's Dictionary 2021).

Suicide is defined by National Institute of Mental Health, "as death caused by self-directed injurious behavior with intent to die as a result of the behavior" (National Institute of Mental Health. U.S. Department of Health and Human Services 2021).

Suicide (from the Latin "sui" = self and "cidiun" = murderous) means "any case of death that results directly or indirectly from a positive or negative act, committed by the victim himself, knowing that it will produce that result" (Durkheim 1998: p. 12).

The first author to write about suicide was the philosopher Thomas Browne, in 1642, in his work *Religio medici* (Iabub and Nacu 2017: pp. 45-51). It is believed that he created the term, using the Latin words "sui" and "caedere", hence "self-killing / killing" (Filipschi, 2015: p. 8). After 1650, the term "suicide" spread to the English language

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through the work of lexicographer Thomas Blount and the publisher Walter Charleston (Minos 1999: p. 47).

“Suicide is the act of committing suicide and its result; suppression of one's own life. A self-muderer is a person who has taken (or tried to take) his or her own life” (Romanian Academy, Iorgu Iordan Institute of Linguistics 1998: p. 993).

Another definition given to suicide is: “Suicide is an act by which an individual seeks to destroy himself, with the more or less genuine intention of losing his life being more or less aware of his motives” (Goros 1998 Apud. Butoi, Iftenie, Borui and Butoi, 2002: p. 17 ).

By reporting a certain number of cases of suicide in a given population, a measure of the intensity of the suicide phenomenon at the social level is obtained. Emile Durkheim, in his book “La Suicide”, highlights four types of suicide - anomic, selfish, altruistic and fatalistic. Durkheim used the term *anomie* to describe this temporary condition of social deregulation, and *anomic suicide* to describe the resulting type of self-inflicted death; but in one sphere of life, “anomie is not a temporary disruption but rather a chronic state” (Durkheim 1998). “Durkheim said that there is a relation between a society's suicide rate and the way it performs this important regulative function. Industrial and financial crises, for example, increase the suicide rate, a fact commonly attributed to the decline of economic well-being these crises produce. But the same increase in the suicide rate, Durkheim observed, is produced by crisis resulting in economic prosperity; “Every disturbance of equilibrium,” he insisted, “even though it achieved greater comfort and a heightening of general vitality, is an impulse to voluntary death” (Jones 1986). We can find here, in this “risk societies” (Grignoli and Serban 2018), similar push factors, like those ones in the radicalization process: “poor living conditions, restrictions on health, social work and education, tense relationships with other groups, long periods of isolation, poor policies in key areas” (Ilie Goga 2019: p. 41) and even high criminality (Ilie 2014). “The anomic suicide is favored by anomic situations, characterized by the disintegration of normative and value structures, by the unclear definition of individual goals, by conflict between means and purposes, etc. In situations where the dominant value orientations are individualistic, and low interactions between individual and group, selfish suicides are favored. In altruistic suicide, the motivation is the desire to do good to others (Example: acts of heroism). Fatalistic suicide, occurs as a reaction to overly restrictive norms that block any individual perspective (Example: slave suicide). The phenomenon of suicide was related to the residential community (more intense in cities than in villages), religious beliefs (more intense in Protestants than in Catholics, in free thinkers than in believers), social mobility (favored by descending mobility), stability of family life (suicide more common in divorced women than in married ones), imitation or social contagion, age (suicide increases in frequency with age), sex (suicide more common in men than women, but as a suicide attempt being more frequent in women), social category, period of economic crisis, war etc.(Sandu 1998: p. 543).

World Health Organization recognizes suicide as a public health priority. The first WHO World Suicide Report “Preventing suicide: a global imperative”, was published in 2014 and aimed to increase the awareness of the public health significance of suicide.

According to World Health Organization, worldwide, “more than 700.000 people die due to suicide every year”. In 2019, suicide was the “fourth leading cause of death among 15-29 year-olds”. Also, in 2019, over 77% of global suicides occurred in low- and middle-income countries (World Health Organization, 2021).

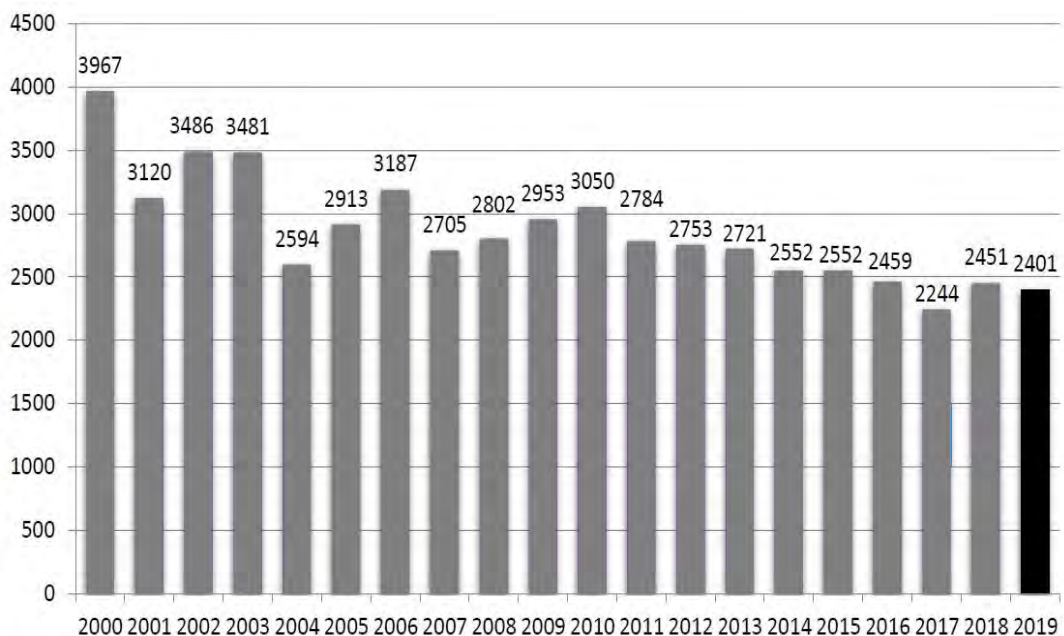
## 2. A statistical and legal analysis of the suicidal phenomenon in Romania

According to the “Report on the activity of the forensic network in 2019”, a report issued in 2020, in Romania, in 2019, a number of 24,766 autopsies were performed. Of the total number of forensic autopsies, 40% were violent deaths and 59% were nonviolent deaths. We note that 25% of all violent deaths are suicides, along with other causes such as road accidents with 21%, domestic and agricultural accidents 16%, homicides 3%, infants homicides 0.16%, accidents at work 2%, train accidents 2%, other traffic accidents 0.13%, accidental deaths in other circumstances 31% (“Mina Minovici” Institute of Forensic Medicine 2020, p. 5).

In 2019, 2401 suicides were registered in Romania, the majority of suicides being registered among men, 84%, as it happened in previous years.

Analyzing the dynamics of suicides in the last 5 years (2015-2019), we notice that their number is relatively constant, ranging between 2,552 cases and 2244 cases, with an average of 2421 cases, slightly decreasing compared to the last 10 years (2010-2019), when they varied from 3050 to 2244, and the average was 2597 cases compared to the last 20 years (2000-2019), when we find a maximum of 3967 cases in 2000, with an average of 2859 cases.

Figure no. 1. The evolution of the number of suicides in Romania in the period 2000-2019



Source: “Mina Minovici” Institute of Forensic Medicine, (2020) *Report on the activity of the forensic network in 2019*, Bucharest, p. 8 [online]. Available: <https://www.inml-mm.ro/?pg=pdf/dds2019> [accessed 14 June 2021].

In 2019, the most commonly used suicide methods were: hanging 66%, voluntary intoxication and burns 8%, precipitation (throwing from a height or in front of the train)

and submersion 6%, self-inflicted wounds by cutting object 2%, electrocution 1%, other methods 3% ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 9).

An analysis made over the last 13 years of the suicidal methods used in our country shows a constant preference for hanging, followed by precipitation and intoxication ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 9).

In 2019, in Bucharest, the capital of Romania, a number of 297 cases were registered, being the highest number of cases registered since 2002, when 342 cases were reported ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 8)

In Romania, suicide or the attempt of suicide are not regulated in criminal law, but we find regulated in Article 191 of the Criminal Code a crime that includes aspects related to suicide, namely "determination or facilitation of suicide", which is a version of homicide, it is also similar to homicide offenses and consists of relationships related to the right to life. However, there are states, such as India, that even today criminalize the attempt of a person to commit suicide. In Romania, according to article 191, paragraph 1, "The act of determining or facilitating the suicide of a person, if the suicide took place, is punishable by imprisonment from 3 to 7 years." According to Article 2, "when the act described in paragraph 1, Article 191 of the Criminal Code, was committed against a minor aged between 13 and 18 years or against a person with diminished judgment, the penalty is imprisonment from 5 to 10 years". Moreover, "the determination or facilitation of suicide, committed against a minor under the age of 13 or against a person who could not realize the consequences of his actions or inactions or could not control them, if suicide has taken place, is punishable by imprisonment from 10 to 20 years and a ban on exercising certain rights" (Criminal Code, art. 191, para. 3). A special situation is mentioned in paragraph 4 of Article 191, namely "if the acts of determination or facilitation of suicide presented in paragraphs 1-3, Article 191 of the Criminal Code, were followed by an attempted suicide, the special limits of punishment are reduced by half."

Determination of suicide can be accomplished not only by exhortation or deception (for example, by tendentious exaggeration of dangers, troubles, conflicts), but also by acts of torture, by being subjected to repeated torture, scandals, and beatings, to bring the victim into despair, culminating in suicide or suicide attempt. For example, the defendant had a totally inappropriate behavior towards his wife: one day he hit her and forced her to sleep overnight, in the cold, in an unarranged room, without windows and without a bed, in another day he hit her and threatened to kill her, and the next day, after other threats, he forbade her to sleep in the house. Desperate for her husband's behavior, the victim ingested a soda. Although he noticed his wife's serious condition, the defendant did not give her any help and did not request the doctor's intervention, so she died. Such acts, which go far beyond the limits of some human relations, were considered to be the elements of the crime of suicide (Supreme Court. Criminal Section, 1977).

Facilitating the suicide of a person involves any action to support the passive subject in the realization of his decision to commit suicide.

The facilitation may consist in procuring or preparing the necessary means, in giving advice, in removing material obstacles (for example, talking to the supervisor placed by the family), in fulfilling some wishes or conditions set by the victim, etc. Facilitation is not to be confused with cooperation in suicide. In this case (for example: unloading a gunfire in the suicide that was superficially shot, to ensure the result, opening the veins with a blade, pouring the rest of the unripe poison on the neck) the act will be a murder offense.

The special legal object of the crime of determination or the facilitation of suicide is formed by the life of the human person (Diaconescu 2007: p. 76) and the social relations regarding the life of the person (Brînza and Stati 2015, p. 146).

It should be noted that through this crime the perpetrator threatens not only the life of a person, the harm can be caused to other social relationships, which suggests the presence of a multiple special legal object (Camarova 2020, pp. 172-175).

Suicide is a complex issue and therefore a national policy is needed to reduce the suicide rate, and suicide prevention efforts require coordination and collaboration between several areas, such as education, justice, the medical sector and the media.

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# **New historical chapter for North American trade United States, México, Canada Agreement - USMCA**

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## **Abstract**

The North American Free Trade Agreement (NAFTA) is a regional agreement signed between the governments of Canada, the United States and Mexico to make the creation of a free trade area effective. It entered into force on 1 January 1994. The conclusion of this agreement has always given rise to conflicting and opposing ideas. Today, this agreement has been in place for 26 years, and even now we have not reached a conclusion that brings the whole of public opinion into agreement. This article will try to see how the agreement has changed trade relations between countries, between the United States and Mexico in particular, analyzing changes in import and export flows and their impact on the trade balance, the role of Foreign Direct Investment and how the Peso crisis changed the impact of the agreement in the early years, thus giving an example of how events outside the agreement directly influence the results of the agreement. The new USMCA agreement, called NAFTA 2.0, will be analyzed and the areas that the three countries wanted to strengthen with the aim of forming a process of globalization and obtaining a single trade area will be addressed.

**Keywords:** *United States; Canada; Mexico; North American Free Trade Agreement; United States-Mexico-Canada Agreement; International trade.*

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On November 30, 2018, Canada, Mexico, and the United States signed the new agreement on the sidelines of the G20 leaders' summit in Buenos Aires. The results of the aforementioned agreement preserve the key elements of the trade relationship, incorporating new and updated provisions that seek to address 21st century trade issues in order to promote opportunities for nearly half a billion people in North America. Inspired by the success of the European Economic Community (1957-1993), with regard to the elimination of tariffs in order to stimulate trade between its members, in 1994 the United States, Mexico and Canada created the largest free trade region in the world under the North American Free Trade Agreement (NAFTA) (Wall 2000)<sup>1</sup>, involving at the time of its creation the North American Free Trade Agreement (NAFTA), 370 million people. Its objective was the removal of trade barriers and investment between signatory countries, with the aim of economic growth (Congressional Research Service 2017).

The TLCAN trilateral agreement - Tratado de Libre Comercio de America del Norte, in its Spanish acronym - was signed by the Heads of State of the Three Countries: the

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President of the United States, George H.W. Bush; The President of the United Mexican States, Carlos Salinas de Gortari, and the Prime Minister of Canada, Brian Mulroney, on December 17, 1992, entered into force on January 1, 1994. The main provisions of NAFTA have affected bilateral trade flows, eliminating tariffs and the many non-tariff barriers to trade, thus affecting exports and imports between participating countries and their trade balances (North American Free Trade Agreement Implementation Act 1993). The countries have therefore begun to specialize in the production of goods, of which they already had an advantage, with the possibility of increasing the availability of goods on the market and thus freely exchanging between them at the market price, without any increase due to the costs that may be involved in an international trade transition (Bureau of Economic Analysis, International Trade in Services).

In late 1994, the Weight crisis in Mexico split public opinion on the negotiation and enforcement of NAFTA. The U.S. Congressional Budget Office, the CBO, had predicted an initial appreciation of pesos, increasing investment and then regaining depreciation when Mexico (Garcia 2012) generated a trade surplus sufficient to repay its debt, so appropriate policies had to be implemented so as not to have harsh consequences. One of the choices that led to the crisis was President Solinas' decision to introduce a new debt instrument: the "Tesobonos" (short-term securities, denominated in pesos but with a dollar adjustment clause that secured dollar repayments), to finance the growing current account deficit. President Solinas, through these financial maneuvers, tolerated banking, some of which resulted in corruption. This scenario caused investors to start selling off their dollar bonds outside Mexico, reducing the Central Bank's reserves. The Mexican Central Bank bought Mexican lenders to keep the monetary base steady instead of letting the monetary supply fall and the peso interest rate rise. The crisis erupted as soon as the new President of Mexico, Ernesto Zedillo Ponce de Leon, took office. There was a 15% devaluation of the pesos, letting it float. With inflation rising, real domestic demand contracted sharply, coinciding with the sharp drop in U.S. exports to Mexico, growth in Mexico's imports, and a sudden and sudden decline in the trade balance. The decrease in the value of the Peso has made Mexican goods less expensive than U.S. goods. As a result, U.S. exports to Mexico tended to increase whenever Mexico experienced economic expansion and clearly increased the U.S. trade balance with Mexico. NAFTA seems to have contributed to a resolution of the Mexican crisis and to the rapid growth of Mexico. The free trade agreement provided for the removal of barriers in the financial sector and therefore capital, by strengthening foreign direct investment (FDI), i.e. all investments made by operators resident in a country aimed at either setting up a subsidiary abroad (investment greenfield) or acquiring holdings of a foreign company (mergers and acquisition), with the aim of guaranteeing the investor a certain power in the management and management of the company (Pastor, 2008). Historically, the United States has been present with substantial investment in the Canadian and Mexican economies, making it the main investor. With NAFTA, the relationship has strengthened further, increasing the amount of investment that the United States allocated to the two countries (Burfisher, Robinson and Thierfelder 2001).

The geographical proximity of the three signatories influenced the decision to concentrate the largest flow of investment within NAFTA. For example, the main destination for US investment is the Mexican "maquiladoras" (Armenti and Pagliula 2009): foreign companies located on the Border between Mexico and the United States, subject to special duty-free tax treatment. The function was to receive the inputs of the central enterprise, assemble and work them thus producing the finished product, resold for the most

part to the company commissioning the work, taking advantage of a relatively less expensive workforce, with the aim of remaining competitive in a globalized market (De Janvry 1996).

The relationship between the three countries has created a competitive and more integrated market, contributing to growth in some industrial sectors such as textiles, electronics and automotive with the annexed establishment of the NAFTA-TAA (Trade Adjustment Assistance) (Cardarelli and Kose 2004) program, which provided assistance to workers operating in companies affected by increasing imports (U.S. Congressional Budget Office 1993). Assistance could cover employment services, support allowances, job search, transfer allowances or training courses. There will also be a further program, "Alternative Trade Adjustment Assistance", for workers over 50 years of age, allowing to accept a re-use with a perception of lower salary and subsistence from the State (having chosen a program, the worker cannot take advantage of both). A business program has also been set up: The Trade Adjustment Assistance for Firms (Bureau of Economic Analysis, International Trade in Services), to help manufacturing companies affected by international competition. It consists of a division of costs between government and enterprise, for projects made ad hoc to improve the competitiveness of a company. When today's President-in-Office of the United States, Donald Trump took office in 2017, he decided to renegotiate NAFTA, calling it the worst trade deal ever concluded, at the heart of his approach, was a promise to bring more production jobs back to the United States. Representatives from Canada, the Mexican United States and the United States began renegotiating the agreement in August 2017 (U.S. International Trade Commission). However, months of negotiations have led to little progress. At the end of August 2018, the United Mexican States and the United States announced that they had reached agreement on a new trade phase that preserved much of NAFTA, but introducing a number of significant changes. Canada, decides to join the new trade agreement, on September 30, under the new name of "United States - Mexico- Canada Agreement"- USMCA, signed by Canadian Prime Minister Justin Trudeau, Mexican President Enrique Peña Nieto and US President Donald Trump (Puig 2019).

Comparing the two agreements, they can present a brief overview of what the new one contains:

- Country of origin rules: vehicles must have 75% of their manufacturing components in Mexico, the United States or Canada in order to benefit from zero tariffs (from 62.5% under NAFTA) (Bureau of Economic Analysis, Trade in Services);

- Work provisions: 40/45% of car parts must be made by workers earning at least \$16 an hour by 2023. Mexico has agreed to pass new labor laws to offer greater protections to workers, including migrants and women (Zahniser, Angadjivand, Hertz, Kuberka and Santos 2015).

It is assumed that these laws facilitate the union of Mexican workers.

- U.S. farmers gain greater access to the Canadian dairy market: The United States has led Canada to open its dairy market to U.S. farmers (Persaud 2014).

- Intellectual property and digital commerce: the agreement extends the terms of copyright to 70 years beyond the author's life (up to 50). It also includes new provisions to manage the digital economy, such as banning duties on things like music, e-books, and protections for internet companies. They are therefore not responsible for the content of the products by their users.

- Sunset clause: the agreement adds a 16-year suspension provision. It is also subject to review every six years, at which point the United States, Mexico, and Canada may decide to extend the USMCA. A revised version was signed on December 10, 2019 and ratified by all three countries.

On March 13, 2020, the USMCA approved, kicking off a new historical chapter for North American trade. After months of negotiations, the USMCA came into force on July 1, 2020 bringing about a major change. As one of the most modern trade agreements in the world, it focuses on the implementation of international standards and seeks to promote best practices for all industrial sectors. The expected result of the USMCA is mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. Some of the chapters with key results include intellectual property, digital commerce, financial services, and the environment. Below are the main points of the various chapters of the Agreement.

Intellectual property: Modernized and high-level provides strong and effective protection and respect for fundamental intellectual property rights to drive innovation, create economic growth, and support American jobs. It requires full national copyright and related rights treatment so that U.S. creators are not deprived of the same protection that domestic creators receive in a foreign market. Continue to provide strong patent protection for innovators by setting patentability standards and patent office best practices to ensure that innovators, including small and medium-sized enterprises, can protect their inventions with patents. Include strong protection for pharmaceutical and agricultural innovators. It requires a minimum copyright duration of the author plus 70 years, and for those works with a copyright duration that is not based on a person's life, a minimum of 75 years after the first authorized publication. There are strict standards against circumvention of technological protection measures that often protect works such as digital music, films, and books. In addition, there are appropriate copyrighted steps to provide IP protection and predictability for legitimate businesses that do not directly benefit from the breach.

Procedures for the recognition of new geographical indications (GIs) are guaranteed, including strict standards for protection against the release of GIs that would prevent manufacturers from using common names, as well as establish a mechanism for consultation between the Parties on future GIs under international agreements. Finally, trademark protection provisions have been improved (including well-known brands), to help companies that have invested efforts and resources in creating goodwill for their brands.

For the first time, a trade agreement will require the following (United States International Trade Commission):

Office Law Enforcement Authority to stop goods suspected of counterfeiting or usurpation at every stage of entry, exit and transit into the territory of any Party: explicit recognition that IP protection procedures must be available to the digital environment for infringement of trademarks and copyrights or related rights; criminal proceedings and significant penalties for unauthorized recording of films, which is a significant source of pirated films online; civil and criminal penalties for theft of satellite and cable signals; protection against the theft of trade secrets, including against state-owned enterprises. In particular, the Chapter has the most robust protection for trade secrets of any previous U.S. trade agreement. It includes all the following protections against the embezzlement of trade secrets, including by state-owned enterprises: civil proceedings and remedies, criminal proceedings and sanctions, prohibitions on preventing the granting of trade secrets licenses, judicial procedures to prevent the disclosure of trade secrets during the litigation process, and penalties for government officials for unauthorized disclosure of trade secrets.

The new chapter of digital commerce, on the other hand, contains the strongest disciplines on digital trade of any international agreement, providing a solid basis for expanding trade and investing in innovative products and services. The new chapter of digital commerce, prohibits the application of customs duties and other discriminatory

measures to electronically distributed digital products (e-books, videos, music, software, games, etc.), ensures that data can be transferred across borders and that limits on where data can be stored and processed are minimized, thus improving and protecting the global digital ecosystem, ensures that suppliers are not limited in the use of electronic authentication or electronic signatures, thus facilitating digital transactions; ensures that protections applicable to consumers apply in the digital market, including for privacy and use requested communications (United States-Mexico-Canada agreement). There is a limit to governments' ability to require the disclosure of algorithms and source code of proprietary computers, to protect the competitiveness of digital providers. It is possible to promote collaboration in addressing cybersecurity challenges, seeking to promote industry best practices to keep networks and services secure. There is also open access to government-generated public data, to improve innovative use in commercial applications and services. Finally, there is a limitation of the civil liability of Internet platforms for the third-party content that these platforms host or process, outside the scope of intellectual property, thus improving the economic profitability of these growth engines that depend on user interaction and user content. To facilitate increased cross-border trade, the United States has reached an agreement with Mexico and Canada to increase their de minimis shipping value levels. Canada will increase its de minimis level for the first time in decades, from C\$20 to C\$40 for taxes. Canada will also provide duty-free shipments up to C\$150. Mexico will continue to provide \$50 USD de minimis tax-free and will also provide duty-free shipments up to the equivalent level of USD\$117. Shipping values up to these levels would enter with minimal formal entry procedures, making it easier for more companies, particularly small and medium-sized enterprises, to participate in cross-border trade (U.S. trade Representative).

The increase in the de minimis level with key trading partners such as Mexico and Canada are a significant achievement for small and medium-sized enterprises (SMEs) in the United States. These SMEs often lack the resources to pay customs duties and taxes, and bear the higher compliance costs that low and restrictive de minimis levels for trade impose on lower-value shipments, which SMEs often have to bear due to their lower business volumes. New traders, who enter the Markets of Mexico and Canada, will also benefit from lower costs to reach consumers. U.S. express couriers, who make many low-value shipments for these merchants, will also benefit from lower costs and greater efficiency. The updated financial services chapter includes commitments to liberalize financial services markets and facilitate a level playing field for US financial institutions, investors and investments in financial institutions and cross-border trade in financial services. The chapter also preserves the discretion of financial regulators to ensure financial stability. The chapter includes key obligations, such as: national treatment, to ensure that US financial service providers receive the same treatment as local providers; most-favored-nation treatment, to ensure that US financial service providers receive the same treatment as those in other countries; market access, which prohibits the imposition of certain quantitative and numerical restrictions that would limit the activity of US financial service providers. This agreement includes a ban on local data storage requirements in circumstances where a financial regulator has access to the data it needs to fulfill its regulatory and supervisory mandate (Wilson and Wood, 2016). The new chapter on financial services includes updated provisions to allow cross-border data transfer and an up-to-date market access obligation; the stronger transparency obligations of any US trade agreement, to ensure good regulatory practices regarding government licenses and other market access authorizations; a separate annex on cross-border trade commitments, including the application of national treatment and market access to an expanded list of cross-border services, such as portfolio management, investment advice and

electronic payment services; specific procedures relating to investor-State dispute resolution requests with Mexico, including provisions on arbitrators' jurisdiction and a special procedural mechanism to facilitate the application of the prudential exception and other exceptions. The renegotiated agreement includes a chapter on macroeconomic policies and exchange rate issues, with new policy commitments and transparency on currency issues. The chapter will address unfair currency practices by requiring high-level commitments to refrain from competitive devaluations and targeting exchange rates, while significantly increasing transparency and providing accountability mechanisms. This approach is unprecedented in the context of a trade agreement and will help to strengthen macroeconomic and exchange rate stability. The United States, Mexico and Canada have agreed on a chapter on work that puts work obligations at the heart of the agreement, makes them fully enforceable, and represents the strongest provisions of any trade agreement.

The chapter on labor includes an annex on employee representation in collective bargaining in Mexico, under which Mexico engages in specific legislative actions to provide effective recognition of the right to collective bargaining (Puig, 2019). It also requires the parties to adopt and maintain in law and practice the labor rights recognized by the International Labor Organization, to apply their labor laws effectively and not to waive or derogate from their labor laws. There are also new provisions to ban the import of goods produced by forced labor, to tackle violence against workers exercising their rights at work and to ensure that migrant workers are protected by labor laws (Ilie Goga 2019). The chapter on dispute resolution establishes a one-of-a-kind US-Mexico Rapid Response Mechanism, which provides for the rapid monitoring and enforcement of labor rights to ensure the effective implementation of Mexico's historic labor reform in particular structures, while respecting sovereignty and due process (Hernandez, 2021). To support jobs in North America, the agreement contains new trade rules of origin to increase wages, requiring 40-45 percent of automotive content to be made by workers earning at least \$16 an hour. The three countries agreed on the most advanced, comprehensive, and high-standard environmental chapter of any trade agreement. Like the chapter on work, the chapter on the environment puts all environmental provisions at the heart of the agreement and makes them applicable. The Environment chapter includes the most comprehensive set of applicable environmental obligations of any previous U.S. agreement, including obligations to combat wildlife, timber, and fish trafficking; strengthening law enforcement networks to stem this trafficking; and to address urgent environmental issues such as air quality and marine litter.

Environmental obligations include: prohibitions on some of the most harmful fishing subsidies, such as those for the benefit of vessels or operators involved in illegal, undeclared and unregulated (INTA) fishing; new protections for marine species such as whales and sea turtles, including a ban on shark pinning and a commitment to work together to protect marine habitat; obligations to improve the effectiveness of customs inspections of shipments containing wild fauna and flora to ports of entry and to ensure strong application to combat INTA fishing; the first ever articles to improve air quality, prevent and reduce marine litter, support sustainable forest management and ensure appropriate procedures for environmental impact assessments; require the parties to adopt, maintain and implement our relevant obligations under seven Multilateral Environmental Agreements (MEAs); robust and modernized mechanisms for public participation and environmental cooperation; the United States and Mexico have negotiated a separate environmental cooperation and customs verification agreement that will help strengthen our efforts to combat the trade in illegally captured wildlife, fish and timber. Very important is the agreement reached for the benefit of American farmers, breeders, and farms. Although agriculture has generally

performed well under NAFTA, major improvements in the agreement will allow food and agriculture to trade more fairly and expand exports of American agricultural products. American milk producers will have new export opportunities to sell dairy products to Canada. Canada will provide new access for U.S. products including fluid milk, cream, butter, skimmed milk powder, cheese, and other dairy products. It will also eliminate its rates on whey and margarine. For poultry, Canada will provide new access for U.S. chicken and eggs and increase its access for turkey. Under a modernized agreement, all other tariffs on agricultural products traded between the United States and Mexico will remain at zero. The top priority for the American dairy industry in these negotiations was for Canada to eliminate its program that allows cheap dairy ingredients to sell off sales of U.S. dairy products to Canada and third-country markets. Following the negotiations, Canada will eliminate the so-called milk classes 6 and 7. In addition, Canada will apply export charges to its exports of skimmed milk powder, milk protein concentrates and infant food at volumes above the agreed threshold, which will allow U.S. producers to expand sales abroad (United States-Mexico-Canada agreement).

The text covers all biotechnology, including new technologies such as genetic editing, while the text of the Trans-Pacific Partnership covers only traditional rDNA technology. They agreed on provisions to improve the exchange of information and cooperation on trade-related issues in agricultural biotechnology. Building on NAFTA, the United States, Mexico, and Canada have decided to work together elsewhere on agricultural issues, improve transparency, and consult on issues affecting trade between countries. They agreed on several provisions to reduce the use of trade-distorting policies, including: do not use export subsidies or special World Trade Organization (WTO) agricultural safeguards for products exported to each other in the market; improving commitments to increase transparency and consultation on the use of export restrictions for food security purposes; if producers are supported, consider the use of internal support measures that have little or no distorting effects on trade or production and ensure the transparency of internal support programs. Canada and the United States have also agreed strict rules to ensure that tariff quotas administered in a fair and transparent manner to ensure operators' ability to use them to the full (United States-Mexico-Canada agreement). Canada has agreed to classify wheat imports from the United States in a way no less favorable than it accords to Canadian wheat, and not to require a country of origin declaration on its degree of quality or inspection certificate. Canada and the United States have also agreed to discuss issues relating to seed regulatory systems. In order to facilitate the marketing of food and agricultural products, Mexico and the United States have agreed that classification standards and services will not be discriminatory for all agricultural products and will establish a dialogue to discuss classification and quality trade issues. In the Chapter on Sanitary and Phytosanitary Measures (SPS), the United States, Mexico and Canada agreed to strengthen the disciplines for science-based SPS measures, while ensuring that the Parties have the sovereign right to protect human, animal and plant life or health (United States-Mexico-Canada agreement). The provisions include greater transparency on the development and implementation of SPS measures; advancement of science-based decision-making; improve processes for certification, regionalization and equivalence determinations; conduct systems-based audits; improving transparency for import controls; and work together to improve the compatibility of measurements. The new agreement will establish a new mechanism for technical consultations to resolve problems between the parties (United States-Mexico-Canada agreement).

The parties agreed to provide important procedural guarantees for the recognition of new geographical indications (GIs), including strict standards for protection against the issuance of GIs that would prevent US manufacturers from using common names, and to establish a mechanism for consultation between the parties on future geographical indications under international agreements. Mexico has agreed not to restrict market access in Mexico for U.S. cheeses labeled with certain names. The United States, Mexico and Canada have agreed on non-discrimination and transparency commitments on sales and distribution, as well as labelling and certification to avoid technical barriers to trade in distilled wine and spirits. They decided to continue the recognition of Bourbon Whisky, Tennessee Whisky, Tequila, Mezcal and Canadian Whisky as distinctive products. To meet regulations and technical standards for prepackaged foods and food additives, governments can request information from companies about proprietary company formulas. The United States, Mexico and Canada have agreed on the Annex on Proprietary Food Formulas, which requires each party to protect the confidentiality of such information in the same way for domestic and imported products. It also limits these information requirements to what is necessary to achieve legitimate objectives. An agreement has been reached that supports North American production and mutually beneficial trade. The new U.S.-Mexico-Canada (USMCA) agreement will create more balanced and reciprocal trade that will support well-paid jobs for Americans and grow North American economies. They concluded substantive discussions on the new rules of origin and procedures of origin, including product-specific rules for passenger vehicles, light trucks and car parts. This update of the rules of origin will provide greater incentives for the supply of goods and materials in the United States and North America, encouraging regional economic growth by requiring that 75% of automotive content be produced in North America.

The rules (United States-Mexico-Canada agreement):

- Helps incentivize up to billions a year;
- Helps preserve and return vehicle and component manufacturing in the United States;
- Transform supply chains to use more U.S. content, especially content that is critical to future car production and well-paid jobs;
- Fill the gaps in the current NAFTA agreement that incentivized low wages in the production of cars and components.

There is the use of trade rules to raise wages by requiring that 40-45% of automotive content be made by workers earning at least \$16 an hour.

The rules: Support better jobs for U.S. manufacturers and workers by requiring a significant portion of the vehicle's content to be made with high-wage labor; ensure that U.S. manufacturers and workers are able to compete on an equal footing and incentivize investment in new vehicles and components in the United States; encourage more investment by car manufacturers in research and development in the region. Countries have agreed on stricter rules of origin that exceed those of NAFTA 1.0 and the Trans-Pacific Partnership (TPP), including for cars and car parts and other industrial products such as chemicals, steel-intensive products, glass, and fiber optics. This agreement surpasses NAFTA 1.0 and the TPP by establishing procedures that simplify certification and verification of rules of origin and promote strong enforcement. This includes new provisions on cooperation and enforcement that help prevent duty evasion before it happens. The new rules will help ensure that only manufacturers using sufficient and significant North American parts and materials receive preferential tariff benefits. New commitments have been included in the "Market Access" chapter, to reflect developments in U.S. trade

agreements addressing non-tariff barriers related to trade in regenerated goods, import licenses, and export licenses (United States-Mexico-Canada agreement). The new chapter on market access will more effectively support trade in manufacturing products between the United States, Mexico and Canada by removing provisions that are no longer relevant, updating key references, and affirming commitments that were gradually introduced by the original agreement. Specifically, the chapter Market access: duty-free treatment for originating goods; prohibition of export duties, taxes and other charges and the waiving of specific customs processing costs; adds new provisions for transparency in import and export licensing procedures; Prohibits parties from applying:

- (a) requirements to use local distributors for import;
- (b) restrictions on the import of commercial goods containing encryption;
- (c) restrictions on imports of used goods for regenerated goods;
- (d) the requirements for consular operations and their tariffs and expenses; updates the provisions for the temporary duty-free admission of goods to cover shipping containers or other substantial holders used in the shipment of goods (United States-Mexico-Canada agreement).

The new provisions on textiles encourage greater North American production in trade in textiles and clothing, strengthen customs enforcement and facilitate wider consultation and cooperation between the parties on matters relating to trade in textiles and clothing.

The provisions: promote greater use of made in USA fibers, yarns, and fabrics. Restrictive rules allowing partial use of non-NAFTA inputs in the textile and clothing trade. Require sewing thread, pocket fabric, tight rubber bands and coated fabric, when incorporated into most garments and other finished products, to be made in the region so that such finished products can benefit from commercial advantages. To establish a chapter on textiles for North American trade, including the specific verification provisions for textiles and customs cooperation which provide new tools to strengthen customs enforcement and prevent fraud and circumvention in this important area.

The provisions of the new chapter on textiles are stronger than those of NAFTA 1.0 as regards the application and promotion of North American textile production (United States-Mexico-Canada agreement).

The United States, Mexico and Canada have also reached agreement on new trade provisions in specific manufacturing sectors, including information and communication technology, pharmaceuticals, medical devices, cosmetics, and chemicals. Each of the annexes includes provisions that exceed NAFTA 1.0 and TPP that promote greater regulatory compatibility, better regulatory practices, and increased trade between countries.

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## **The “human” factor in the economic crisis: a new view in the rules of financial sector**

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### **Abstract**

Among the several reasons of financial global crisis of 2007-2008, many of them can be connected with wrong assumption, underestimation or overestimation of events, and, in general, with choices that are not so much eligible to be defined rational. The importance of behavioural factor in banking and financial sector has been highlighted also by the reputational risk, namely that risk connected with loss in profit due to a negative feeling of bank image from customers, partners, shareholders, investors and Authorities. The aim of this paper is to investigate the role of the “human” factor in the development of the global crisis of 2008, by taking into account the rules of the financial sector.

**Keywords:** *Crisis; economics; finance; uncertainty; banks.*

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Among the several reasons of financial global crisis of 2007-2008, many of them can be connected with wrong assumption, underestimation or overestimation of events, and, in general, with choices that are not so much eligible to be defined rational.

As we already know, from a macroeconomic point of view, such a crisis finds its origin in a long period of expansionary monetary policy (in fact, between 2000 and 2002, FED had decreased the short-term interest rates from 6.5% to 1.25%, and had maintained them at that level for the following two years; and also other big economies followed this kind of policy); low interest rates increased stock and houses prices; moreover, low cost of money increased lending, as shown by very high growth rates in the pre-crisis period. Furthermore, this situation had decreased the risk aversion of institutional investors, such as pension funds, insurance companies and asset management companies, pushing them to make progressively riskier choices (Puglisi and Șerban 2019).

But, from a microeconomic point of view, principal reasons of financial instability belong to:

- a new credit model, the so-called Originate to distribute (OTD): even if in theory this model should increase benefits through a better way to manage risk and a credit expansion, actually it has been often used in an inappropriate way, as for instance in case of securitizations;

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- the development of the Shadow banking system: crisis has highlighted that most of the risk wasn't properly shared, but concentrated in investors ignoring the real amount of such a risk and not able to face it;
- the presence of wrong incentives in financial sector: manager's wages were proportionally to short-term results; this pushed managers to make choices without looking at the long-run effects.

Also when the regulator tried to solve these problems, the solutions, paradoxically, encouraged irrational behaviours.

For instance, when Basel 2 introduced VaR as a new measure of risk, it didn't realize (underestimating) how unusual could be the dynamics of human behaviour during particularly uncertain economic and financial periods.

Several authors underlined that such an oversight had determined a wrong risk evaluation and, consequently, an inadequate accumulation of regulatory capital.

For instance Molinari: "in practice, during ten years of growing in the pre-crisis period, myopia of disaster pushed the operators to use data not enough wider for their models, discarding so the previous negative periods; [...]: the model was wrong because it underestimated the probabilities of stress situations, which were considered too far in the past to be included in the calculation. [...]; all models suppose that correlation between future and past prices of investments are similar, and the one of pre-crisis period was minimum; however, during a big recession this principle is not true anymore: most prices collapse at the same moment, since the investors sell their assets looking for more liquidity and safety, so positive correlations widely increase" (Molinari 2011: pp. 95-96 ).

In the same way Campbell: "risk managers understood that VaR cannot give a full view of bank risks. In particular, it cannot find accurately fat tails or market extreme events: VaR is an instrument created for normal situations, not for stress" (Campbell 2008).

And so Hildebrand: "Basel 2 creates new risks: risks about risk assessments. I am tempted to call them the unknowable unknowns. Under Basel 2, we increase our dependence on risk models" (Hildebrand 2008: p. 4).

Paradoxically, VaR creates a new risk: too much trust in this measurement has pushed most operators to follow the same judgment parameter (*herding behaviour*) (Novarese and Rizzello 2004: p. 40), provoking then a common error.

In an incisive way also Partnoy: "In truth, VAR was dangerous. It gave firms a false sense of complacency, because it ignored certain risks and relied heavily on past price movements. In some markets, VAR actually increased risk, because every trader assessed risk in the same flawed way" (Partnoy 2009: p. 261).

In an article from *The Economist* of 12 October 2000: "So-called value-at-risk models (VAR) blend science and art. They estimate how much a portfolio could lose in a single bad day. If that amount gets too large, the VAR model signals that the bank should sell. The trouble is that lots of banks have similar investments and similar VAR models. In periods when markets everywhere decline, the models can tell everybody to sell the same things at the same time, making market conditions much worse. In effect, they can, and often do, create a vicious feedback loop" (The Economist 2000).

The same opinion for Masera and Mazzoni: “in normal conditions, external risk prevails and operators’ behaviours follow a random walk, that, on average, cancel each other. On the contrary, in situations of stress for financial markets, negative news widely increase and operators’ behaviours become similar. In such situations, endogenous risk prevails. The effect of bad news is to strongly decrease the value of financial instruments. When there is a stress, the sophisticated stochastic models introduced by Basel lose their validity” (Masera and Mazzoni 2012: p. 80).

Definitively, “measurement methodologies, even if advanced, appeared as an approximate and incomplete representation of real world; these instruments showed limits such as to be backward looking, namely based on past data, and so inadequate to find out the impact of extreme events” (Tutino, Birindelli and Ferretti 2011: p. 35).

It is in this context that we can introduce the *Black Swan* theory by Taleb, that underlines how sometimes the apparent rationality behind the statistical measurements could be a barrier instead than an help (since, in using them, the operator feels himself wrongly safe): “*statistics can fool you. In fact it is fooling your government right now. It can even bankrupt the system (let's face it: use of probabilistic methods for the estimation of risks did just blow up the banking system)*” (Taleb 2008).

*Those dynamics are, moreover, well represented by the path-dependence theory from Paul David (David 1985: pp. 332–37) and Brian Arthur (Arthur, 1989: pp. 116–131); they suggest that the important factors in determining decisional processes are the dependence from the past experience, the rigidities and the self-reinforcing mechanisms generated by random events (Novarese and Rizzello 2004: p. 97).*

We can find one more example of irrational behaviour referring to liquidity risk: until 2007, indeed, the high level of market liquidity made the investors to underestimate this kind of risk.

“Because of the diffusion of OTD models, there was a great belief that markets were so liquid to hold up whatever maturity transformation. That had changed the feeling about liquidity risk: the possibility for the intermediaries to continuously disinvest their assets on the market pushed them to underestimate this risk in the capital management policy, increasing so the spread of leverage strategies and off-balance finance” (Tutino, Birindelli and Ferretti 2011: p. 33).

Consequently, “bank liquidity has been characterized for long time by a less attention compared to other kinds of risks” (Tutino, Birindelli and Ferretti 2011: p. 18).

Then, even referring to the liquidity problem, it isn’t possible to discard the cognitive factor among the causes of crisis; so, it is inevitable to introduce Friedrich von Hayek theory about learning process of human being (Hayek 1952) to better understand the determinants of individuals’ choices in the pre-crisis period, which had generated a loss in confidence that quickly moved into a liquidity crisis, blocking so the entire financial system.

However, the latest framework considers more deeply these new factors arisen from crisis, by introducing an innovative “way” of regulation based now on logic not purely economic.

Basel 3 introduced, indeed, the *Capital conservation Buffer* (CCB) and the *Counter-cyclical Buffer* (CCCB).

“The reason of this rule becomes from the experience of crisis, when many institutions, in spite of the deterioration of their financial situations and of the related

market, didn't stop profit sharing, increasing so the weakness of those institutions and of the entire system" (Tutino, Birindelli and Ferretti 2011: p. 14).

"In fact, although the forecast about financial sector had shown from long time a negative outlook, the fear that a less profit sharing compared to the previous one could be felt as a weakness signal deteriorated the solidity of the assets side of the balance sheet of many banks" (Tutino, Birindelli and Ferretti 2011: p. 141).

In the same way can be interpreted the introduction of the *Leverage ratio*: "The supplementary ratio, which is a measure of a bank's Tier 1 capital as a percentage of its assets plus off-balance sheet exposures and derivatives, will serve as an additional safeguard against attempts to "game" the risk-based requirements, and will mitigate model risk" (Bank for International Settlements 2011: p. 65).

Also referring to the new liquidity ratios introduced in Basel 3 (LCR & NSFR), some Authors immediately highlighted the problem connected not with economic but psychological question; in particular, someone (Ottolini and Ubaldi 2014) underlined the difficulty in foreseeing economic agents' behaviour in situations of stress liquidity and, consequently, in determining correctly which balance sheet items could be considered stable or not, to well construct the Net Stable Funding Ratio (NSFR).

In both liquidity ratios there is, moreover, the fear about the effects of concentration (pushed by new rules) in some asset classes by banks. It could generate a "run toward more liquid assets" (namely those with less penalty), generating so a decrease in their returns and making them fixed assets in bank portfolio. At the same time, banks looking for higher returns could choose to invest in those asset classes not bounded in satisfying the new ratios, leading so to a higher risk (Ottolini, Ubaldi, 2014).

"Consequences of rules about asset allocation are reflected both in economic results and in management and cultural change. Every time regulator prepares a list of good or bad assets, this necessarily pushes the investors to choose the good ones, penalizing the others and causing so market distortion" (Molinari 2011: p. 208).

The psychological factor has also a great importance in the well-known phenomenon called "too big to fail", regarding those financial institutions hardly pushed to follow the moral hazard logic, due to the belief in an implicit warranty of public help.

That is the reason why, in some matters, some authors suggest to come back to the structural supervision; in particular: "The division of business lines should limit moral hazard of managers and avoid that investors choose the biggest institutions believing that they will never fail because of government help" (Molinari 2011: p. 214).

We can also find behavioural distortion regarding rating models: someone underlined the risk of a potential divergence between the common approach and the validation procedures defined by National Authorities. This could be due, on the one hand, to the fact that authentication of risk models is a new and unknown activity for the regulator. So it isn't possible to exclude the possibility that local big banks had guided the national regulator in validating their own models. On the other hand, the necessity to increase regulatory capital without decreasing credit too much, makes credible the idea of "easier" validations leading to an illusory increase in capitalization, so to not penalize highly both shareholder and economy (Resti 2013: p. 235).

Moreover, the risk of divergent and not conservative national validation procedures has been strengthened by the so-called “regulatory capture”, that suggests how, after validating a bank risk model, a regulator couldn’t have interest in changing his decision because he doesn’t want to contradict himself (Dal Bò 2006: pp. 203-225); the psychological factor prevails on the economic one once again.

More specifically, critics to 3rd pillar highly has increased the difficulty to consider rational something that actually is dominated by non rational factors: “belief in market discipline is wrong. The hypothesis that creditors and shareholders could control the intermediate’s behaviour in assuming risks doesn’t work in the real world, where there are asymmetric information and, often, irrational behaviours. [...]. When there is a shock, market behaviour is not rational as theorists of behavioural economic say (Auhers 2010). [...]. When intermediates have to face unpredictable events, they try to follow common behaviour instead of making rational choice, to maintain a competitive advantage. [...]. This means that, when there is a bubble, all intermediates (even those knowing that it is only a bubble) are forced to continue investing; otherwise, they could lose some gain. [...]. But, also in normal conditions, markets are imperfect, because of short-run mechanisms: indeed, the investors don’t usually look at the future, but at short-term gain. [...]. This push managers to take high risk in investment and to follow the same profitable strategies chosen by competitors (Haldane, 2011).

For all these reasons, it is not possible to give markets either the chance to judge the survival of bank or being the pillar of system supervision. [...]. The costs of market failure due to irrational behaviour are too high for people” (Molinari 2011: pp. 212-213; Ilie 2014).

In the same way also Hildebrand: “What has become abundantly clear in recent months is that we do not live in an ideal world. Banks and the risks they incur are far from transparent. In fact, banks exist because of asymmetries of information” (Hildebrand, 2008).

The importance of behavioural factor in banking and financial sector has been highlighted also by another kind of risk: reputational risk, namely that risk connected with loss in profit due to a negative feeling of bank image from customers, partners, shareholders, investors and Authorities.

To minimize such a risk, banking and financial sector has recently improved compliance division, whose aim is, indeed, just to avoid that an operational risk could move into a reputational risk, generating therefore a loss in trust and consequently a liquidity crisis (Limentani and Tresoldi 2013: pp. 66-67; Goga Ilie 2020).

Then, it is clear that the health of banking system depends especially on banks ability in maintaining customers’ trust.

So, it is absolutely impossible for banks and financial institutions to discard psychological and behavioural factors, if their aim is “to create a stable economic environment where private individuals and businesses have confidence in the banking system” (Hull 2015: p. 325).

As we can see, it is inevitable the connection between economics and psychology, as first suggested by Herbert Simon and his theory about *bounded rationality* of economic agents (Simon 1955: pp. 99-118). This theory focuses on “real” cognitive and computational abilities of individuals, which are not represented by standard

economic decision models, giving therefore for the first time a valid alternative to the expected utility model proposed by Von Neumann and Morgenstern (that is based, on the contrary, on the assumption that individuals are perfectly rational).

Following this new way, we have also to mention the contribute by Kahneman and Tversky and their *prospect theory* (Kahneman, Tversky, 1979: 263-292); through several experiments of cognitive psychology, the Authors proved Simon's intuition that individuals systematically don't follow economic rationality principles.

And we cannot even forget the *regret theory* proposed by Bell (1982: pp. 961-981), Loomes and Sugden (1982: pp. 805-824): when individuals have to face a choice, they take a decision thinking not only of the potential gain, but also of the potential loss, balancing pleasure for what has been taken and regret for what has been lost.

So, it is necessary to give a new lecture of Basel framework, focusing now on behavioural issues briefly described above; this means to reconsider some rules of banking and financial discipline not only following rational and economic principles, but also the "real" nature of individuals. Perhaps, changing the way to see things, it will be easier to interpret correctly the dynamics of all involved agents, increasing so the possibilities to solve critical events for the whole system (such as bank run, moral hazard, shadow banking system, too big to fail institutions).

And, consequently, it is crucial to rewrite the Committee rules with not only the aim of avoiding new crisis, but also of creating a new system as much as possible ethic and fair for people; in fact they are often the most damaged by negative consequences of potential failure of economic system; we have to highlight that the aim of banking and financial system shouldn't be only to make profit, but also, and essentially, to represent a valid infrastructure of economy: "Lending is a *public good*, worthy to be protected. Bank regulation should be designed also to reach this aim" (Tutino 2014: p. 17). Here, we strongly need behavioural economics: for instance, many experiments about people's participation in public goods showed that "the way to present a problem is crucial" (Novarese and Rizzello 2004: p. 73), and to present it in different ways lead to (sometimes completely) different results (Andreoni 1990: pp. 464-477; Andreoni 1995a; Andreoni 1995b); moreover, the *ultimatum game* (Thaler 1988: pp. 195-206) and the *gift exchange theory* (Fehr, Kirchsteiger and Riedl 1993: pp. 543-569) showed people's desire to be considered in a fair and honest way. Connecting these results to the most important pillar of the banking system, that is the people's trust, we can clearly see that it is possible to lead the actions of banks towards that direction.

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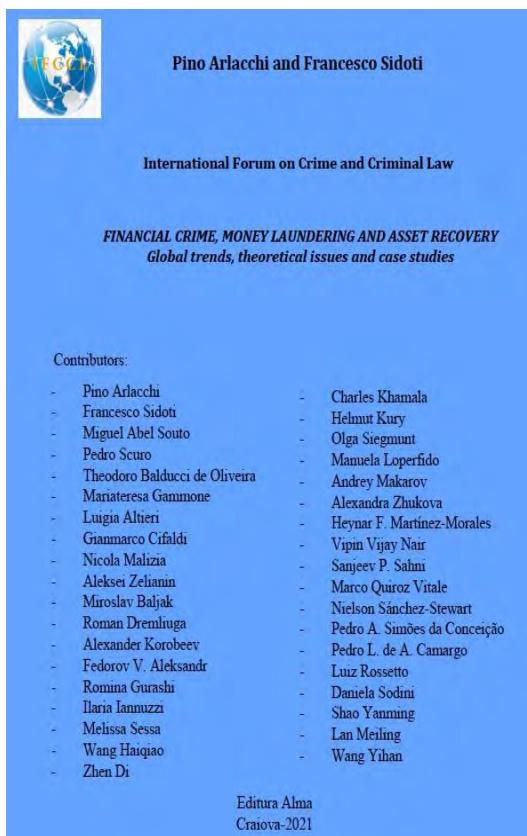
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Book review:

**Pino Arlacchi and Francesco Sidoti (Eds.)  
International Forum on Crime and Criminal Law.  
Financial crime, money laundering and asset recovery.  
Global trends, theoretical issues and case studies  
Craiova, Alma, 2021, 303 pp., ISBN: 978-606-567-423-3**

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Published in 2021, at Alma publishing house in Craiova, the volume, "International Forum on Crime and Criminal Law. Financial crime, money laundering and asset recovery. Global trends, theoretical issues and case studies", coordinated by Pino Arlacchi and Francesco Sidoti, contains the contributions of 37 authors from various continents and is a book published as a result of the 11th International Forum on Crime and Criminal Law, held in Rome in 2020. IFCCCL- The International Forum on Crime and Criminal Law is an international scientific association founded in 2009, in Beijing, by professor He Bingsong. IFCCCL, a Forum with 32 signatory national delegations, has quickly become a global think tank with over 300 leading experts around the world and has the observer status in UNODC and is invited to join meetings of the UN and other international organizations.

Professor Pino Arlacchi, former UN General Undersecretary, a member of the European Parliament and a member of the Italian Senate and Chamber of Deputies is the current President of The International Forum on Crime and Criminal Law.

The collective volume contains 22 papers and provides national and international insight, perspective and interpretation on criminal law, with a focus on the field of financial crime, money laundering and asset recovery.

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Emeritus professor Francesco Sidoti, opens the book with an "Editorial note", in which he talks about the IFCCCL (The International Forum on Crime and Criminal Law), about the topic of the volume, "money laundering and financial crime" and brings special thanks to the members of the editorial board, to the reviewers and the collaborators.

Five articles focus on the global perspective of the phenomenon of economic crime and 17 articles focus more on case studies from various states.

The first article written by Pino Arlacchi, "Financial crime or financial capitalism?", noticed that "The embeddedness of financial crime in the "spirit" and in the practice of present capitalism is very profound. It almost eliminated the determination of the system to save itself. But, the hegemony of financial capitalism - according to Fernand Braudel and to Giovanni Arrighi- is the sign that the "autumn" of a capitalist cycle has arrived. Financial dominance will be once again uperseded by a resurgence of the real economy of trade and industry". According to professor Arlacchi, "today, there is, another powerful global trend that is moving things in the same direction. The rise in East Asia of a form of post-capitalist economic system that the author named "a market social economy". P. Arlacchi concluded that "in this kind of economy most profits are made outside the financial sector, and illegality doesn't play an essential role in bolstering gains or in countering an absent tendency for a falling rate of profit".

The article "Money laundering, COVID-19 and new technologies", written by Miguel Abel Souto, professor and president of the Ibero-American Association of Economic and Business Criminal Law, warns that "the COVID-19 pandemic has increased cybercrime... Most of the profits from these crimes are laundered. Also increased with COVID-19 job offers to potential money launderers through emails that promise easy work at home by providing a bank account. COVID-19 has also affected the total control the population through mobile phones, to monitor the prohibitions of movement or approach, a total control that is also intended to be used in money laundering investigations to achieve greater efficiency. However, total control can lead us to a future, which Orwell described in his 1984 work, of "a boot stamping on a human face – forever".

Pedro Scuro wrote the paper "Corruption and the quest for certainty", in which he points out that "corruption spreads out and deepens; it 'liquefies', emerges as a "spontaneous urge to action" (Keynes 1936:p. 160) against uncertainty, but, by cutting across multiple institutional domains, also generates instability and crises of confidence in many intercurrent ways".

The article "Financial crimes and transnational investigations: lawfare and economic war between countries" of Theodoro Balducci de Oliveira "demonstrates the extraterritorial effects of anti-bribery legislations of central countries, in order to show that they are much more like economic war tools than justice measures".

The paper "We can't breathe this toxic economy. From poor immigrants' banking practice up to the most distinguished financial institutions" written by professors Mariateresa Gammone and Francesco Sidoti, identifies a vicious circle that, starting from the lowest level of society, winds its way up to the top levels of politics. This cycle is composed of two extreme phenomena: the socialization to the money of the most humble and the criminal use of money by powerful men". The article "tries to demonstrate that the vicious circle can be countered by a virtuous circle able to pursue two main goals: a) to promote institutional mechanisms that create, favor, facilitate,

opportunities for disadvantaged and humble people and, b) to promote institutional mechanisms that hinder, discourage, disadvantage, the unscrupulous use of sophisticated tools of predatory finance for the higher social levels”.

Luigia Altieri, Gianmarco Cifaldi, Nicola Malizia and Aleksei Zelianin elaborated the paper “Online finance as the new frontier of organized crime”, that tries to present the “evolution, especially in recent years, of the mafia criminal organizations”. The authors said that “the mafia illegal activities do not have any more only a 'physical' face, but have assumed a virtual' one, through the use of keyboards and 'internet networks. The online finance of the mafias demonstrates the existence of alliances between organized crime and very high-profile professional sectors, able to exploit sophisticated corporate schemes. Ransomware, Phishing and crypto-currencies are only some of the informatics applications that produce very high profitability, useful, also, to recycle enormous sums of illicit money deriving from the sectors in which the mafias are traditionally present”.

In this volume we can encounter numerous case studies, like the one presented by Miroslav Baljak, “Money laundering in Bosnia and Herzegovina”, or “Analysis of illegal financial behaviours in China” edited by Wang Haiqiao and Zhen Di, the article “Beyond criminal or civil asset forfeiture in Kenya” written by Charles Khamala, or the paper “Financial or economic crime in Germany. Definitions, offences, victims, and prevention” elaborated by Helmut Kury and Olga Siegmund, or Manuela Lopefidos’s paper “Report on the precedent offence for money laundering. Controversies in the Argentine penal system”, also the case of “Financial criminological analysis of fugitive economic offenders of India” presented by Vipin Vijay Nair and Sanjeev P. Sahni, the work “Money laundering and asset recovery in Chile” of Nielson Sánchez-Stewart and the paper “Institutional construction, legislative framework and international cooperation of China’s anti-money laundering in the globalization era” written by Shao Yanming, Lan Meiling and Wang Yihan.

In this book we can also find a series of other interesting research in the field of economic crime, thus: “Cryptocrime. Features of a new type of crime” written by Roman Dremljuga and Alexander Korobeev; the study “Economic crimes of legal entities” of Fedorov V. Aleksandr; “White collars and organized crime: sociological profiles and issues” elaborated by Romina Gurashi, Ilaria Iannuzzi and Melissa Sessa; the paper “Criminal law protection of customs and currency control (comparative law study)” by Andrey Makarov and Alexandra Zhukova; “Importance of compliance with the obligation of the suspicious activity report against money laundering. Some general considerations” written by Heynar F. Martínez-Morales; the study “Corruption, criminal laws and deviant discretion” by Marco Quiroz Vitale; the article “Criminal implications of the anti-money laundering risk-based approach” written by Pedro A. Simões da Conceição, Pedro L. de A. Camargo and Luiz Rossetto; the paper “*Asset recovery as a strategy to mitigate the negative impact of organized crime on human rights*” by Daniela Sodini.

The volume ends with some of Pino Arlacchi's thoughts on financial crime. The author concluded “Financial illegality, then, is saving capitalism or, at least, retarding its downfall? At the first glance, it looks like that. But the endgame will be different”.

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