Eavesdropping or Tapping in Relation to The Value of Probation and Issues in The Procedural Aspect (Aspects from The Analysis of The Practice of Judicial Investigation)

Aleks Prifti

Leonora Prifti

Ismail Qemali Vlora University

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Abstract

Eavesdropping nowadays is a technique widely applied and effective in the fight against organized crime and terrorism, but also represents one of the most disturbing problems worldwide in relation to non-compliance of legal procedures and violations of human rights. In our country, taking occasion by the judicial practice in Albania, where eavesdropping serves as probation search tool and presents itself the problematic with positive and negative elements regarding the validity or without validation of evidence during the judicial investigation of the case. This paper is an attempt to better understand the flow, the use, probative value and impact of eavesdropping into people's lives. The paper aims to understand the decisions, prohibitions regarding the use of eavesdropping and eavesdropping by other procedures. In addition, this work aims to make a historical overview of eavesdropping in Albania, as a procedural tool to evidence research (presenting it in different periods). Eavesdropping is a delicate tool, so its use should be done very carefully. Environmental and phone tapping give priority value and necessity in order of searching evidence tools. However, on the other hand, we should know that, is there certain limit and up to where reaches the target of eavesdropping use as research tool of proof?

Keywords: Tapping or eavesdropping, probation search tool, crime, investigation, procedure, legislation.

1. Historical Overview about the Use of eavesdropping

1.1 Tapping during the kingdom in Albania

Albanian legislation inherited a kingdom that was based almost entirely on the Ottoman Law, but King Zog tried to adapt domestic legislation to the occidental of that time. In the Fundamental Statute of the Kingdom, in the chapter on human rights, as constitutional rights are provided the inviolability of the dwelling and confidentiality of telegraph and telephone correspondence. Concretely, Article 196 of the Fundamental Statute of the Kingdom of Albania cites: (Reference: the Fundamental Statute of the Kingdom of Albania, year 1928, Art. 196): "Accommodation is inviolable, no unwillingly entered cannot be done, only when the law commands". Secrecy of papers, telegraph and telephone correspondence is inviolable, except in case of war, mobilization and serious delicts".

Meanwhile, in the Criminal Code of the Republic of Albania of 1927 year, at that time, concretely, in Chapter IV "Delicts against the iniquity of residence", article 173, provided :

"Anyone who arbitrarily inserted or stays in residence of an another, or in dependence of this, against banning him who has the right to stop or to draw out the apartment and he who has entered there or stays secretly or slyness, severely punished by imprisonment from one to thirty months and a hefty fine of up to three hundred francs gold."¹ So, during the period of the Kingdom of Albania did not find any legal provision to visualize the forms and ways of realization of eavesdropping, of course, in terms of technological possibilities of that time, which were inexistent, but also through traditional tapping (secretly listening in windows, etc..), achieved to violate the right of privacy, etc...

¹ (Reference: Republic of Albania, Ministry of Justice, the Albanian Penal Code, Chapter IV, Article 173. Vlorë, Printing House "Vlora" Direttore G. & C. 1927

1.2 Tapping during the communist period

Based on the Code of Criminal Procedure of 1959 and 1979, tapping is not provided as the probation search tool. So, is not allowed by law. But, as the secrecy of correspondence, as well as the inviolability of residence, treated as a fundamental right and taken to safeguard not only the Constitution, but also by the Criminal Code. Violation of these rights allowed only in cases of investigating a crime, in the case of a state of war and in exceptional circumstances. In criminal law, of year 1979, in the second chapter, which was silent on offenses against the person and family, was quoted *"Entering or staying without right into someone's house condemned ..."*

*"Violation of the secrecy of correspondence and other means of communication shall be punished..."*²

In the 1959's penal code, Chapter XIV "checks and seizures", Article 184, provided that: *"When is the need to be sequestered post and telegraph correspondence, the investigator informs the post-telegraph office, to hold correspondence and requests to prosecutor, the permission to make seizure"*.³

So, throughout the 45-year communist period we conclude that, even tapping it was designated as the search tool of probation, because it made it possible for communist dictatorship to awake 24 to 24 hours, anyone, of any kind for any reason and without any restriction.

But, in fact, although not involved in criminal procedure, tapping is used as a tool to ensure operative data, which help the investigating authorities, not only in the creation of their obedience to the guilt of the suspect, but also serve as an orientation for the road that would followed investigative organs to perform further - investigation actions for detecting and locating proofs and the offender.

This practice used at the time, violated a fundamental right of the individual without any means of protection against possible arbitrariness. We say arbitrariness because the protection of these rights remains up to this stage, and the legislation of those years did not provide effective remedies to protect against possible violations of these rights.

So, "De jure", tapping not anticipated at that time but "de facto" because of the dictatorial regime and the communist ideology, everything was intercepted at any moment, and openly violated flagrantly the human rights.

Using the technique of tapping into this period based on, *"Operative Platform for Labor"* of the "State" Party of the Politburo and in orders and instructions of the Minister of Internal Affairs. Moreover tapping used by State Security, especially in the context of crimes against the state as espionage, sabotage, escape abroad, agitation and propaganda against the state, etc.

2. Tapping After the Democratic Changes in 1990 and Some of the Problems Encountered in Procedural Aspect.

In 1995, was approved by the Assembly of the Republic of Albania new Code of Criminal Procedure by the law No. 7905, dated 21.03.1995⁴ where for the first time provided as integral part of it also tapping, as proof search tool. This search tool of proof, in this code is included in Chapter III, Session IV, Article 221 and the following and this section under the above law, entitled "Tapping of Conversation or Interception of communications". By law no. 9187, dated 02.12.2004, amended the Title of Section IV of Chapter III and is called "eavesdropping", and we think that this new label of this section is determined by the legislators because it is a more inclusive term and not exclude any form of communication, which may be subject to interception. In the interpretation of paragraph 1 of article 221 of Law no. 7905, we realize that we have to do with interception of telephone conversations or communications and other forms of communication. This kind of eavesdropping is allowed only in case of:

- a. Intentional crimes, that is foreseen sentence to imprisonment not less, to the maximum, than five years.
- b. Crimes associated with guns and explosives, narcotic substances and contraband.
- c. Criminal acts of aggression and intimidation through phone.

While the law no. 9187, dated 12.2.2004⁵, the changes were introduced as below:

1. Interception of communications of a person or a phone number by phone, fax, computer or other means of any

² Penal Code of 1979's, People's Socialist Republic of Albania

³ Penal Code of 1959 year, the People's Socialist Republic of Albania,)

⁴ The Assembly of the Republic of Albania. Criminal Procedure Code, approved by Law no. 7905, dated 21.03.1995, which entered into force on 1 August 1995

⁵ Law no. 9187 "On some amendments to the Code of Criminal Procedure"

- kind of secret interception by technical means in private conversations, audio and video tapping into private places and registration numbers phone, incoming and outgoing, are permitted only when is proceeding for:
- a) Crimes committed intentionally, for which is provided sentence to imprisonment not less, to the maximum, than seven years;
 - b) for criminal offenses of insult and intimidation committed by telecommunication tools.
2. Photographic, filmic or video covert monitoring/eavesdropping of people in public places and the use of location tracking devices are permitted only in case of crimes committed intentionally, that is foreseen the sentence to imprisonment not less, at maximum, than two years .
 3. Eavesdropping can be ordered against:
 - a) suspected of committing a criminal offense;
 - b) Suspected person that receives or transmits communications by the suspect;
 - c) Person who enters into transactions with the suspect ;
 - d) Person, whose observation can lead to the discovery of the identity or the location of the suspect.
 4. Tapping result is valid for all communicators.
 5. Preventive tapping regulated by a special law. His results can not be used as evidence.

Based on changes made to Article 221 of the Code of Criminal Procedure, according to law no. 9187, dated 12.2.2004, we conclude that: legislator, this time, has reformulated the article 221 of this code with descriptive legal and procedural nature, by expanding and describing in more detail the scope of interception and, accordingly and by adhering assist law enforcement bodies as prosecution, tribunal and other law enforcement structures depending on these bodies, in order to understand and implement as accurately the aim of legislator in relation to this section in its entirety. Not only that, but, in paragraph 3 of Article 221 of the Criminal Procedure Code, added by Law no. 9187, dated 12.2.2004, legislator predicted, for the first time, cases of doubt that may be ordered against whom the interception.

The particularity of this point is that, except where ordered tapping of the suspect for committing a criminal act, individually, provided by the issuance of an order to wiretap persons who were allegedly complicit in the commission of a criminal offense, giving an organic relation to Article 221 paragraph 3 with the paragraph 4 of this Article, where provided that: "Tapping result is valid for all communicators".

Based on the Article 222 of this code, telephone tapping, as a rule, can be done at the request of the prosecutor or the accuser and by motivated decision of the court. Only in exceptional cases, on reasonable grounds, that the delay can severely damage the investigation, the prosecutor decides who shall inform the court within 24 hours. The latter ultimately decide within forty-eight hours, if the prosecutor's decision is based or not. The decision must be indicated manner and duration of the tapping operations, which may not exceed fifteen days.

In this case raises some questions:

- When the prosecutor, issues, tapping emergency order, that may be damaged investigations without court order and the order is given on the results that a reasonable doubt based on evidence up to that moment, but by the court within forty eight hours is not done tapping validation of the order issued by the prosecutor, then, why the legislator, in this case, has predicted that tapping ordered by the prosecutor can not proceed and its results can not be used?
- In this case, we did not think that was leaving, an excessive or unnecessary discretion court by the legislator, or perhaps remain to be reviewed by the latter?
- If the court pronounces against eavesdropping order issued by the prosecutor in cases of emergency, why the legislator has not provided the latter's right to appeal the court's decision in a higher degree of judiciary?

Based on the above, we believe that, while the legislator has left under the jurisdiction of the court to answer within forty-eight hours, about validation of the order of tapping, issued by the prosecutor in cases of emergency, will or inner conviction of the court should be manifested and materialized imperatively, although the latter will be in favor or against this order.

Also, in relation to the last question cited above, we think that should necessarily provided in the Code of Criminal Procedure the prosecutor's right to appeal the court's decision, if the latter is expressed against eavesdropping order issued by the prosecution in cases of emergency. We base the present opinion that until the court will express in relation to validation of this order, which can be realized minimally 24 hours of eavesdropping, up to her announcement. Logically, if the verify and control the tapping time interval, somehow short, not excluded the possibility that in its content, lead us to important facts of a criminal offense committed, that is currently being committed or that will be carried out in the future.

To see specifically which represents tapping issues as proof search tool in Albania, I think that I present in this paper, some cases of judicial practice.

First case: The court of first instance for serious crimes, in its decision no. 493, dated 07.11.2011⁶ "On the authorization of telephone tapping", observes that:

Prosecutor at the Court of First Instance for Serious Crimes, Tirana, has registered the criminal proceeding no. 73, of year 2011, for the criminal offense; "The trafficking of arms and ammunition" in cooperation provided by the article 278/a/2 of Penal Code.

"Criminal proceeding is in the preliminary investigation stage. The prosecution, pursuant to investigative actions, in order to identify of criminal activity, for concrete persons and other potential collaborators, who may have committed the offense (or can also perform other criminal offenses under this activity), has submitted before the court, the request with object the authorization of interception of telephone communications, which can be realized with the telephone number, for a period of 15-days beginning with the date and time of the authorization of the court, for conducting this interception, to be charged the officers of the Judicial Police, at the National Centre of tapping, the permission Judicial Police Officers, in the Prosecution for Serious Crimes, to make the transcription of intercepted conversations and postponing of deposit of material, tape and transcript of records on eavesdropping, in the secretary of Prosecution for Serious Crimes, until the completion of preliminary investigations."

Referred to the concrete case the court concludes that the legal requirements expressed in Article 221/1/a of Criminal Procedure Code, "permission limits", Section IV, "interceptions". In continuation of, performance of emergent investigative actions to identify and other persons potentially possible as collaborators of this criminal activity, as well as documentation of this criminal activity through the evidence to be taken in a legal way, the court finds that the prosecution's request for Serious Crimes is right, legally supported and as such should be accepted.

Second case: Court of First Instance for Serious Crimes, in its decision no. 104, dated 25.01.2014⁷ "Legal validation and authorization for phone tapping", observes that:

The proceeding authority, based on the above circumstances, claims that there is a reasonable suspicion that here we are before elements of the offense of "trafficking in narcotics", because suspected persons are preparing to import in Italy illegal narcotic substances."

"On 01/23/2014 judicial police officer in the Directorate General of State Police charged with prosecuting this proceeding has forwarded the information to the Prosecutor for Serious Crimes which suggests putting on eavesdropping, in emergency conditions, the number....., which allegedly used by citizen....."

"From the interception of conversations eavesdropped by Italian numbers is evidenced the numberwhich allegedly used by citizen"

"In these circumstances, the proceeding organ on 23.01.2014, at 17.00, has valued necessary the authorization of interception of all communications to the mobile telephone number..... which allegedly used by citizen....., because it was very important for the continuation of investigations and by the delay might put a serious damage to investigations, provided by Article 222/2 of the Code of Criminal Procedure."

"As above, the prosecutor requires validation of lawful authorization, dated 01/23/2014 for mobile telephone tapping, of the number, because it considers that this eavesdropping is fair and based on Article 221 of the Criminal Procedure Code, which provided the borders of permitting wiretapping and eavesdropping considers that this is necessary because we are faced with the fact of consumption of a serious offense , the investigation of which is impossible without using interception of telephone communications and the purpose of gathering evidence for the identification of perpetrators."

"The Court considers that we are in the cases of boundaries of allowing telephone communications interception, because by the prosecution is proceeded for crimes provided from the articles 283/a-2 of Penal Code, condition required by Article 221/1, letter "a" of the Criminal Procedure Code and consequently must be validated as legitimate prosecutorial authorization for interception of cellular telephone number:which allegedly used by citizen"

Referring to the case cited above, we conclude that: if the prosecutor in his request for permission for interception, but also the court eventually observes and approves the prosecutor's request to allow tapping on the grounds that the suspects may have committed the offense (or also perform other offenses under this activity).

Referring to the above, we believe that:

⁶ (Reference: Republic of Albania. The Court of First Instance for Serious Crimes, Tirana. No. Act 493, dated 07.11.2011 no. Decision 493, dated 07.11.2011)"

⁷ Reference: Republic of Albania. The Court of First Instance for Serious Crimes, Tirana. No. Act 104, dated 24.01.2014 no. Decision 104, dated 25/01/2014)

Firstly: the right to appeal of prosecutor in this case against the decision of the court of first instance should definitely provided either in favor of or against the prosecutor's request to allow interception. Against the decision of the First Instance Court should not bring 1) termination or 2) suspension of the interception order issued by the prosecutor in an emergency, until the right of appeal of the latter be reviewed by the Court of Appeal. If the latter is expressed, against, the prosecutor's decision, consequently, tapping, can not proceed and its results can not be used by one part.

Secondly: Based on the last paragraph of section 2 of article 222 of the Criminal Procedure Code, which says that "When validation is not done in term appointed, tapping can not continue and its results can not be used", which implies that the is left, in the full discretion of the court, to be expressed or not within forty-eight hours, and do not exclude the possibility about losing the preventive effect committing criminal offenses if the court would have verified, checked and will be stated on the prosecutor's decision, that would result that there were important facts on the content of interception, which can lead to the prevention of the commission of a criminal offense in the future.

Referring to paragraph 3 of Article 222 of the Code of Criminal Procedure, which provides that: "The decision to intercept indicates the manner of performance and duration of action, which may not exceed fifteen days. This time, at the request of the prosecutor, may be extended by the court whenever it is necessary, for a period of 20 days, in case of crimes and 40 days, in case of serious crimes"

We believe that the use of terms "crimes" or "serious crimes" by the legislator, related to the extension of an interception, gives space of subjectivity and arbitrariness in material terms by the court, regarding the evaluation of offenses as crimes or serious crimes.

In many of the provisions of the Criminal Procedure Code, the legislator provides appropriate terminology for example: "*Crimes committed intentionally, for which, provided, imprisonment not less, to the maximum (or minimum, depending on the case), than x years*" without leaving any space misinterpretation in favor of the court, in possible cases, which could be provided even in non-concrete case.

We think that this should be seen, clarified and specified by the legislator in order to pin down as clearly and accurately by the prosecutor and the court that when we deal with crimes or serious crimes!

3. How Albanian Court has Evaluated the Results of Interception Conducted by "Respecting" Criminal Procedural Law?

In the context of a much more extended treatment, to the extent possible in this paper, we referred to the jurisprudence of criminal judge of the high court...

As a reference for analyzing and answering the above question we explored in Albanian jurisprudence and among the many observed cases in relation with this issue, we have selected some of them.

3.1 First case:

We are based on the Decision no. 24, dated 14. 07. 2010 of the Penal College of High Court,

For more qualitative performance of this paper, it was necessary the practical study of this judicial practice, since its inception (Prosecution and Judicial District Court) to a final decision (Criminal Chamber of the Supreme Court).

Below we are pose the claims of the parties in the process:

- "From the materials of the case does not appear to be violated procedures for using these tools, or be prejudice the rights and freedoms of the person, as the court stated in its decision.
- In the interpretation of the provisions of Articles 222/1, second paragraph and Article 222 / a, point 2, it is clear that authorizations for eavesdropping in public places issued by order of the prosecutor and that there is no need to make the necessary court approvals, as is done, for private places.
- In relation with the authorization of the prosecutor, the law does not refer to the length and the way it handles, and consequently will not stop the prosecutor this right, given to public places, to use in the interest of the case and under dictated during the investigation".

Majority of the members of this college in the decision cited above note that:

"The demander (the defendant), who executed the doctor profession, in the framework of his duties, has participated as a member of the committee to review the documentation for persons with disabilities, who receive a disability pension. From the information of police authority results that existed information that the applicant and other members of the commission who worked with him during the official duty was exorcized problem, to persons who were presented on the committee, to force them to pay money. On this basis issued by the prosecutor, the interception

authorization dated on 16.10.2009. On 30.11.2009, on the basis of the authorization activities are performed by the judicial police. These actions of tapping and filming are fixed on CDs and DVDs, even their transcription is performed".

"This college considers that in the Article 222, paragraph 2 of the Criminal Procedure Code, is clearly defined, that only in cases of public facilities, the prosecutor must issue authorization of tapping, but in this case it results that the surveillance was authorized in an environment that was office, where doctors of commission exercised their duty and this office can not be considered a public place,....."?

While the minority in this decision thinks that:

".....Certainly in the case of authorization of interception, filming in public places by the prosecutor, the latter must give authorization and motivation that has happened in the concrete case. But, as the prosecutor authorization is given at the beginning, when is registered criminal prosecution charged to the applicant, then doubts, for performing by hand of seekers of a criminal offense have born from, indicia and information obtained in operational route by the police and that from the result of tapping has resulted than have been based....."

".....In relation with the conclusion of the majority that bugged environment there is not a public environment and the authorization of the prosecutor consequently must be validated by the court. I thought that the lawmaker, in the provisions concerning the definition of interception and concretely of Articles 221, 222, 222 / aof the Code of Criminal Procedure has made the division and distinction of tapping on private and public places. Of course, given the place where the claimant (defendant) exercised his duty as a public doctor in the composition of medical committee that evaluated the documentation of persons with disabilities (disabled), can not be said that it is not public environment (on the conditions do not have legal definition of public and private environment concepts)...."

Based on the above, on the one hand we think that minority opinion is correct because:

First, at least for the simple reason that in the procedural law, to date, is not provided concretely who can be called public or private environment, and consequently, how could the court to provide a priori such a thing?

Second, despite the specific function that could have the doctor's office (the defendants) as claimed by the Court, the fact that this office is located within a public institution hospital as is the case of concrete hospital (or Simply stated, condominium, in the state ownership and with public function) and hence the doctor's office (the defendants) should definitely be a public environment. We believe that doctor's office in a public hospital is the office in which every citizen can go (every human being) to be visited and, ultimately, this is the mission of the doctor.

Third: in this case, to "the object of interception" by a material viewpoint of the criminal law, we ascertain the consumption of figure elements of a criminal offense (proven fact and is not disputed nor of the majority), but the court (this majority of this committee) rejects it as invalid.

While on the other hand, we ascertain that:

First: Failure to clearly and accurately by the legislators who will be called public or private environment, resulting in a subjective and arbitrary judicial decisions.

Second: referring to the cases mentioned above, but also many other cases up to now, despite the numerous problems, which are found in the judicial practice regarding the Section IV "eavesdropping", Chapter III, of the Code of Criminal Procedure not seen the "appropriate" by the Supreme Court to unify the judicial practice on this topic.

3.2 Second case

In the decision no. 129, dated 12.10.2011 of the Criminal College of the Supreme Court⁸this college says that:

Point 10: "At the time, the material of procedure development activities, of research information SIS, probation, can not serve objectively and does not serve as proof to the defendant guilty.", and consequently has called, based on the law the decisions of lower courts, which have approved the prosecutor's request to allow eavesdropping based only on the information of SIS,.

Point 11: Second, the SIS information, the information from foreign services and other operational data, subjective evaluation to satisfy the court on "sufficient evidence" to verify the fact criminal, because at the time of permitting eavesdropping, can not talk about the subject possessor guilt, telephone number under surveillance.

Point 12: Protection of the person under investigation, in its recourse to a hearing and present, more than once, in

⁸ Republic of Albania. The Criminal College of the Supreme Court Nr.61003-00911-00-2011 Reg. Fundamental. Nr.00-2011-946 of Decision (129),

a general way, without concrete titles, has referred to the practice of the ECHR, implying a violation of relationships protected by Article 8 of the European Convention "On Protection of Human Rights and Fundamental Freedoms". The defense claims and assessments are not only unfounded in regulation of the Convention, but also in the practice of the ECHR.

While the decision no. 33, dated 13.10.2010, of the Criminal College of the Supreme Court, this college (with another trial panel) states that:

Firstly: "The Penal College of the Supreme Court considers that the above decisions of the courts should be reversed and should fall, the Prosecution request of Tirana District Court, for allowing the interception of telephone communications, incoming and outgoing in mobile phone numbers of citizens.....", as consequence has called ungrounded in the law the decisions of lower courts, which have approved the prosecutor's request for allowing the wiretapping based only on information the SIS.

Secondly: Tapping preventive regulated by a special law. His results can not be used as evidence. "Contrary to this commandment the courts have put at the core of their reasoning and decision, considering and using as evidence the results of preventive eavesdropping, information as reflected in S.I.S

Thirdly: The Penal College of the Supreme Court finds that the strict observance of the above provisions of the Criminal Procedure Code (and the criteria required to them) is a legal obligation that stems primarily from the report that they create with Article 17 of the Constitution, according to which: "the limitations of human rights can only be made by law and these limitations may not violate the essence of freedoms and rights, and in any case can not exceed the limits laid down in the European Convention on Human Rights".

Based on the above-mentioned two decisions ascertain that the: The Penal College of the Supreme Court, acted with two standards and consequently raises some questions:

First, while, whether in the decision no. 129, dated 12.10.2011 of the Criminal College of the Supreme Court, as well as in decision no. 33, dated 13.10.2010, of the college, we conclude that in the both cases the prosecutor's request for allowing the eavesdropping is based only on information available to the prosecution by the NIS (National Intelligence Service), in the both cases request of the prosecutor is approved by the Court of First Instance and Appeals, then, why this college once criminal valuable appreciates the prosecutor's request for permission for interception, and the next time not valid, despite the requirement in both cases is based on the same source?

Second: while in the decision no. 129, dated 12.10.2011 of the Criminal College of the Supreme Court, considers the college NIS information as "fun for subjective evaluation of court on "sufficient evidence"(having as evidence for allowing the eavesdropping only the information of this institution), why in the decision no. 33, dated 13.10.2010, of the college, information of the same state institution (NIS) describes as a "preventive Eavesdropping, which is regulated by a special law." "His results cannot be used as evidence", i.e. as evidence of insufficient and invalid?

Third: Why The Penal College of the Supreme Court operates with two standards, given that in the two decisions cited above, in the relation to compliance and limiting human rights, refers to the same legal sources, like as Procedure Criminal Code, Constitution, ECHR, etc.,?...

Fourth, we think that many times in the Albanian judicial practice, misinterpreted or spoke bluntly for the sake of truth, abused for various interests in connection with the concept of "Tapping", because "Tapping" is a legal-procedural tool to going to find, discovery, evidence of identification evidence is not proof, that means tapping Prosecutor requires permission-tapping, to go to the evidence.

4. Conclusions

Prevention or detection of criminal activity can not be successfully realized without a continuous process of recognition of legal proceedings, provided for the collection of evidence. No offense can not be detected or punished legally without evidence and material evidence collected in different ways, in accordance with the law.

Strict enforcement of the legal procedures provided for the collection of evidence in general and in particular in the implementation of interception, as more efficient tool to search for evidence, would make it possible to carry out procedural acts valid and usable by the court, avoiding useless acts and which is found invalid during the trial.

Therefore it is very essential that judicial police officers, prosecutors, judges take the necessary knowledge regarding the meaning and importance over the interception of conversations and eavesdropping categories, rules of application and management of interception, searching for evidence and during police's operations, as one of the most important activities of specialists to investigate crimes.

Finally, we think that the legislator should necessarily make the necessary changes to criminal procedural law for

not having in the future, misrepresentations, subjectivisms or arbitrary decision making on the one hand, but the Supreme Court should unify the judicial practice about "intercepts", as legal-procedural lot of important research finding evidence of criminal discovery, but more in preventing the commission of offenses, on the other

References

- The Criminal Code of the People's Socialist Republic of Albania (1979)
Criminal Procedure Code 1995
Criminal Code of Republic of Albania, Tirana 1995
Law No. 9187 "On Eavesdropping"
Law No. 8677 date 02.11.2010 "On Organization and Functioning of the Judicial Police", Law No. 8677, date 2.11.2000 "on Organization and Functioning of the Judicial Police" (As amended by Law no. 9241, dated 06/10/2004) (amended by Law no. 10301, dated 15.07.2010)
6. Joint order of the Minister of Interior and Prosecutor General no. 1075/1 Prot. Dt. 15. 04. 2008
7. Law no. 10192 dated 24.12.2009 "On prevention and fight against organized crime and trafficking through preventive measures against property".
Panda, I. Islami, H. Hoxha, A. "Criminal Procedure, Commentary," Tirana 2012
Panda. Ilir, "Investigative techniques in the crimes of murder and acts of procedural subjects of prosecution, during their investigation "Legal Tribune, a publication of the Foundation" For democratic culture, "Tirana, 2002, page, 23-32
"Law on Prevention and Suppression of Organized Crime"9284, dated 30.09.