

MEĐUNARODNI NAUČNI SKUP „DANI ARČIBALDA RAJSA“
TEMATSKI ZBORNIK RADOVA MEĐUNARODNOG ZNAČAJA

INTERNATIONAL SCIENTIFIC CONFERENCE “ARCHIBALD REISS DAYS”
THEMATIC CONFERENCE PROCEEDINGS OF INTERNATIONAL SIGNIFICANCE

MEĐUNARODNI NAUČNI SKUP
INTERNATIONAL SCIENTIFIC CONFERENCE

„DANI ARČIBALDA RAJSA“
“ARCHIBALD REISS DAYS”

Beograd, 3-4. mart 2014.
Belgrade, 3-4 March 2014

TEMATSKI ZBORNIK RADOVA
MEĐUNARODNOG ZNAČAJA

THEMATIC CONFERENCE PROCEEDINGS
OF INTERNATIONAL SIGNIFICANCE

TOM III
VOLUME III

KRIMINALISTIČKO-POLICIJSKA AKADEMIJA
NEMAČKA FONDACIJA ZA MEĐUNARODNU PRAVNU SARADNJU (IRZ)
Beograd, 2014

ACADEMY OF CRIMINALISTIC AND POLICE STUDIES
GERMAN FOUNDATION FOR INTERNATIONAL LEGAL COOPERATION (IRZ)
Belgrade, 2014

Publishers

ACADEMY OF CRIMINALISTIC AND POLICE STUDIES
196 Cara Dušana Street, Zemun, Belgrade
GERMAN FOUNDATION FOR INTERNATIONAL LEGAL COOPERATION (IRZ)
Bonn, Germany

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Computer Design

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Impression

200 copies

Print

ArtGrbić Illustrated Studio, Belgrade

THE CONFERENCE AND THE PUBLISHING OF PROCEEDINGS WERE SUPPORTED
BY THE MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGICAL
DEVELOPMENT OF THE REPUBLIC OF SERBIA AND GERMAN FOUNDATION
FOR INTERNATIONAL LEGAL COOPERATION (IRZ)

© 2014 Academy of Criminalistic and Police Studies, Belgrade
German Foundation for International Legal Cooperation (IRZ)

ISBN 978-86-7020-190-3

ISBN 978-86-7020-280-1

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Tehničko uređenje
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Tiraž
200 primeraka

Štampa
ArtGrbić Illustrated Studio, Beograd

ODRŽAVANJE SKUPA I ŠTAMPANJE OVOG ZBORNIKA PODRŽALO JE
MINISTARSTVO PROSVETE, NAUKE I TEHNOLOŠKOG
RAZVOJA REPUBLIKE SRBIJE
I NEMAČKA FONDACIJA ZA MEĐUNARODNU PRAVNU SARADNJU (IRZ)

© 2014 Kriminalističko-policijska akademija, Beograd
Nemačka fondacija za međunarodnu pravnu saradnju (IRZ)

ISBN 978-86-7020-190-3
ISBN 978-86-7020-280-1

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P R E F A C E

Dear readers,

In front of you is the Thematic Collection of Papers presented at the International Scientific Conference “Archibald Reiss Days”, which was organized by the Academy of Criminalistic and Police Studies in Belgrade, in co-operation with the IRZ Foundation from Bonn, Germany, the Ministry of Interior and the Ministry of Education, Science and Technological Development of the Republic of Serbia, China Criminal Police University, Lviv State University of Internal Affairs, Volgograd Academy of the Russian Internal Affairs Ministry, Faculty of Security in Skopje, Faculty of Criminal Justice and Security in Ljubljana, Police Academy “Alexandru Ioan Cuza” in Bucharest, Academy of Police Force in Bratislava and Police College in Banjaluka, and held at the Academy of Criminalistic and Police Studies, on 3 and 4 March 2014.

International Scientific Conference “Archibald Reiss Days” is organized for the fourth time in a row, in memory of the founder and director of the first modern higher police school in Serbia, Rodolphe Archibald Reiss, PhD, after whom the Conference was named.

The Thematic Collection of Papers contains 130 papers written by eminent scholars in the field of law, security, criminalistics, police studies, forensics, medicine, as well as members of national security system participating in education of the police, army and other security services from Germany, Russia, Ukraine, Belarus, China, Poland, Slovakia, Moldova, Lithuania, Latvia, Czech Republic, Hungary, Slovenia, Macedonia, Bosnia and Herzegovina, Croatia, Montenegro, Republic of Srpska and Serbia. Each paper has been reviewed by two reviewers, international experts competent for the field to which the paper is related, and the Thematic Conference Proceedings in whole has been reviewed by five competent international reviewers.

The papers published in the Thematic Collection of Papers contain the overview of contemporary trends in the development of police education system, development of the police and contemporary security, criminalistic and forensic concepts. Furthermore, they provide us with the analysis of the rule of law activities in crime suppression, situation and trends in the above-mentioned fields, as well as suggestions on how to systematically deal with these issues. The Collection of Papers represents a significant contribution to the existing fund of scientific and expert knowledge in the field of criminalistic, security, penal and legal theory and practice. Publication of this Collection contributes to improving of mutual cooperation between educational, scientific and expert institutions at national, regional and international level.

The Thematic Collection of Papers “Archibald Reiss Days”, according to the Rules of procedure and way of evaluation and quantitative expression of scientific results of researchers, passed by the National Council for Scientific and Technological Development of the Republic of Serbia, as scientific publication, meets the criteria for obtaining the status of thematic collection of papers of international importance.

Finally, we wish to extend our gratitude to all the authors and participants at the Conference, as well as to all those who contributed to or supported the Conference and publishing of this Collection, especially to the IRZ Foundation from Bonn, the Ministry of Interior of the Republic of Serbia and the Ministry of Education, Science and Technological Development of the Republic of Serbia.

Belgrade, March 2014

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STRENGTHENING INSTITUTIONS OF RULE OF LAW AND FIGHT AGAINST CORRUPTION

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Abstract: The Republic of Serbia has been implementing successfully the legal regime the objective of which is to fight against corruption. Legal regime implies intensive legislative and institutional reforms. Intensive reforms imply previous activities which refer to the analysis of the present state *de legelata*, but also *de legeferenda* activities. When the legislative reforms are concerned in the anti-corruption field, it should be pointed out that the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 has been adopted. In addition to the strategy, and at the recommendation of the Ministry of Justice and Public Administration, on August 25, 2013, the Government of Serbia brought a Resolution to adopt the *Action Plan for the implementation of the National Anti-Corruption Strategy in the Republic of Serbia* for the period 2013-2018. In the anti-corruption field, we would first point to the Law on Amendments and Additions to the Criminal Code of the Republic of Serbia from 2012. Thus the standards set by the Council of Europe Criminal Law Convention on Corruption (Third evaluation GRECO report for the Republic of Serbia – Incriminations (ETS 173 and 1919)) have been met. The new Law on Criminal Proceedings provides for the application of special evidentiary activities for corruption-related criminal offences. Only the period to come will show to what extent the legislative reform has influenced the suppression of corruption. Other important laws in anti-corruption field have also been adopted in Serbia, such as: Law on Seizure and Confiscation of the Proceeds from Crime; Law on the Liability of Legal Entities for Criminal Offences; Law on Prevention of Money Laundering and Financing of Terrorism; Law on Financing Political Activities and Public Procurement Law. In the field of institutional regulation, we shall deal with the establishing and work of Anti-Corruption Agency, Anti-Corruption Council, Administration for the Prevention of Money Laundering, Republican Auditing Institution and other institutions important in the fight against corruption.

Keywords: corruption, legal regime, institutional capacities

INTRODUCTORY REMARKS¹

Successfully established national legal framework for prevention and suppression of corruption includes both permanent strengthening of institutions of a rule of law, which are of crucial importance for the fight against corruption, and the establishing of normative assumptions (corresponding incriminations within criminal legislation, prevention of conflict of interest in the public sector, involvement in both regional and international fight against corruption, as well as establishing ethical standards and transparent financing of political parties). The estimates regarding how much the corruption is widespread tell us that corruption is a true problem of any modern state. Although in historical terms corruption has always existed, it has flourished since the introduction of the contemporary administration in 19th century. Corruptive behaviour is damaging in many ways. It endangers legality of social functions, decreases moral values, hinders public administration, and makes judiciary inefficient. However, the greatest damage reflects in the fact that corruption distorts priorities in political decision-making and is detrimental to public responsibility and social morality. According to the corruption index for 2013, Serbia is on 72nd place. These are the reasons why a comprehensive approach is required to this phenomenon, which implies a number of measures and activities directed at strengthening of legal institutions of the state. This is the only true way to protect democratic values, human rights, as well as social and economic progress.

¹ This paper is the result of the work on the research project titled "The Development of Institutional Capacities, Standards and Procedures to fight against organized crime and terrorism under the conditions of international integrations". The Project is funded by the Ministry of Education, Science and Technological Development of the Republic of Serbia (No. 179045), and the research is done at the Academy of Criminalistic and Police Studies in Belgrade (2011-2014).

SOME REMARKS RELATED TO THE NOTION OF CORRUPTION

Corruption has existed since the dawn of time as one of the worst and at the same time the most widespread forms of conduct detrimental to public affair management. Naturally, the customary, as well as historical and geographical circumstances have changed considerably over time, which has led to high sensitivity of the public to such behaviour. As a result of this, the treatment of this form of conduct by laws and regulations has also essentially changed.

Etymologically the word corruption originates from Latin *corruptio*, which has several meanings, depending on the specific circumstance, such as illegal, bad or dishonest behaviour, deviance, bribery, bribe-giving or bribe-taking, corrupt state or condition...²Corruption is the problem which requires multidisciplinary approach, and this is why there is not a unique definition. Depending on the aspects from which this phenomenon is observed (psychological, sociological, criminological, etc.) the meanings may differ. This is why corruption is mostly defined descriptively, which clearly indicates possible indeterminacy of the concept.³It is hardly possible to determine the concept of corruption from the aspect of the criminal law. Considering the criminal law aspect of the problem, it is obvious that it should avoid general clauses or behaviours which represent criminal offence as much as possible and the penalties for it must be determined to the greatest extent possible (*lex certa*). Otherwise there is great risk of interpretation of understated provisions which would reflect on the legal safety of citizens. There is no need to introduce the notion of corruption into the titles of chapters of criminal offences or to individual incriminations in order to leave the impression that appropriate measures have been undertaken in the field.⁴ In Europe, French Napoleonic Code from 1810 can be considered a turning point in terms of introduction of severe penalties in order to suppress corruption in public life, including both the offences which were not contrary to the official obligations of a public servant and those that were. Criminal Law Convention,⁵ although having as an objective to develop the general standards related to individual crimes of corruption, does not offer a unified definition of corruption. Multidisciplinary Group against Corruption (GMC)⁶ within the Council of Europe has started its operation based on the following temporary definition: “*Corruption ... is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public or private sector, which violates the duties that follow from their status as a public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or for others.*”⁷ The purpose of this definition was to make sure nothing is left out beyond the scope of its influence. Although such a definition would not necessarily correspond to the legal definition of corruption in the majority member countries, particularly not to the criminal law definition, its advantage

² M. Vujaklija, *Leksikon stranih reči i izraza*, Beograd, 1975, str. 479.

³ N. Mrvić-Petrović, *Korupcija i strategija njenog suzbijanja*, Temida, 4/2001, str. 21.

⁴ Former situation in the Criminal Code of Serbia (from 2002 until January 1, 2006), concerning crimes of corruption was proclaimed atypical in theory for many reasons. First, due to the very title of the chapter that did not relate to the protective object. Second, the description of these crimes mostly corresponded with the existing ones, which resulted in the unnecessary duplication of incriminations and serious problems in practice to delimit between newly prescribed and the existing criminal offences. If the legislator's motive was to make the penalties more severe, this could have been done by the additions to the existing solutions. Third, such casuistic approach was unacceptable concerning criminal law standards. Fourth, the term “corruption” was used both in the title of the chapter and in the title of individual criminal offences, while it was not in the legal description of individual criminal offences, and it was not defined precisely.

⁵ *The Official Gazette of the Republic of Serbia – International Agreements*, No. 102/2007.

⁶ At their XIX conference held in Valetta in 1994, European ministers of justice concluded that corruption is serious threat for democracy, rule of law and human rights. Council of Europe, as a leading European institution for the protection of the essential values, has been invited to respond to this threat. The ministers of justice recommended to the Committee of Ministers to create a Multidisciplinary group against Corruption. Within the context of these recommendations, the Committee of Ministers set up the Multidisciplinary Group against Corruption (GMC) in September 1994, which prepared the Programme of Action against Corruption (PAC), the document which attempts to cover all aspects of the international fight against this phenomenon. The reference task of this Group was to draft one or several international conventions against corruption under the responsibility of the European Committee on Crime Problems and the European Committee on Legal Co-operation. In accordance with the objectives determined by the PAC, criminal law work group within the GMC started the work on the Draft Criminal Law Convention.

⁷ *Criminal Law Convention on Corruption*, ETS 173, 1999, *Explanatory report*.

was in that such a definition would not put the discussion into too narrow a framework. As the draft of the Convention progressed, so the said general definition was conveyed into several other definitions (active and passive bribery, bribery in the private sector, trading in influence, that are all closely connected with bribery), which could be implemented into respective national legislations. The UN Convention against Corruption,⁸ similarly to the previous one, does not determine the notion of corruption, but in the Chapter titled “Criminalization and Law Enforcement” it determines individual forms of corruptive behaviour. As stated in Article 1, its aim is to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery, and to promote integrity, accountability and proper management of public affairs and public property. Taking into account that the most important international documents in the field of the fight against corruption criminalize only certain forms of corruptive behaviours avoiding to offer a unified definition of corruption confirms the statement made earlier that it is difficult to come to the definition not only within criminal legislation but in general as well.

However, systemic combat against corruption requires the appropriate normative framework within which a starting point would be to determine a problem whose solution should be approached. Therefore, Anti-Corruption Agency Act⁹ determines “corruption” as a relation based on abuse of office or social status and influence, in the public or private sector, with the aim of acquiring personal benefits for oneself or another. National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018¹⁰ defines corruption as a relation based on abuse of an official or social position or influence, in the public or private sector, aimed at gaining personal benefit, benefit for others, violation of a right or harming others (“*abuse of power for private gain*”). This concept is used in the UN Global Programme against Corruption, which has been accepted in the EU practice as well (especially mentioned by the EU anti-corruption report of 2011).¹¹

NORMATIVE ANTI-CORRUPTION FRAMEWORK IN THE REPUBLIC OF SERBIA

The fact that corruption is widely discussed about in some countries, while it is not discussed at all in some other, does not suggest in any way that it does not exist in the latter since there is not a single governmental system immune to corruption. Silence referring to corruption suggests that the citizens came to terms with ever-present corruption. In such cases corruption is not experienced as unacceptable criminal behaviour which is subject to severe penalties but as normal behaviour which is tolerated.

National Anti-Corruption Strategy in the Republic of Serbia proclaims the principle of “zero tolerance” of corruption. In order to achieve it, it is necessary to establish an applicable normative framework which would, first of all, shape provisions starting from the analysis of social circumstances in the environment we live in.

Our country has adopted a set of significant anti-corruption laws and strategic documents.

First, there is National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018. In addition to it, the Government of the Republic of Serbia, at the recommendation of the Ministry of Justice and Public Administration, brought on August 25, 2013, the Resolution to adopt the *Action Plan for the implementation* of the National *Anti-Corruption Strategy* in the Republic of Serbia for the period 2013-2018. The structure of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 (hereinafter referred to as “the Strategy”) is such that it first states the priority field of action, there is a short description of the state-of-affairs and key problems, and then the objectives are formulated the achievement of which would remove the detected problems. The general objective of the Strategy is to remove corruption as much as possible as an obstacle to economic, social and democratic development

⁸ *The Official Gazette of Serbia and Montenegro* – International Agreements, No. 12/2005

⁹ *The Official Gazette of the Republic of Serbia*, No. 97/08, 53/10 and 66/11 – Constitutional Court

¹⁰ *The Official Gazette of the Republic of Serbia*, No. 57/2013.

¹¹ More in: National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018.

of the Republic of Serbia. In the implementation of this Strategy, authorities and holders of public powers that are involved in the prevention of and fight against corruption, are obliged to exercise their powers in accordance with the following general principles: the principle of the rule of law – a guarantee of the legality of actions (equality before the law and rights of all citizens to legal remedies), “zero tolerance” to corruption (nondiscriminate application of the law in all forms of corruption), the principle of accountability (an obligation to assume full accountability for creating public policies and their efficient implementation), the principle of universality of implementation of measures and cooperation of entities (a duty to implement measures comprehensively and consistently in all fields, and in cooperation, as well as to exchange experiences and harmonize actions of relevant entities at all levels of the government with established good practice), the principle of efficiency (a duty to regularly conduct anti-corruption measures within one’s own powers, and to conduct ongoing training for the purposes of improving efficiency in the fight against corruption), and the principle of transparency (a guarantee of publicity in the process of adoption and implementation of decisions, as well as enabling citizens to access information, in accordance with the law). Although corruption represents a phenomenon that permeates the entire society, the Strategy highlights individual areas of priority which have been recognized as crucial for building and strengthening of system anti-corruption mechanisms (political activities, public finances, public expenditures, public internal financial control, external auditing and protection of financial interests of the EU, legislation, police, urban planning and construction, health care system, education and sports and media).

Second, there is the Anti-Corruption Agency Act¹² which governs establishment, legal status, competencies, organization and operation of the Agency for combating corruption, rules concerning prevention of conflicts of interest in discharge of public office and property disclosure reports of persons holding public office, and introduction of integrity plans. The Agency is an autonomous and independent state body. The Agency is accountable to the National Assembly of the Republic of Serbia for performance of duties from its purview. The most important competencies of the Agency are: to rule on conflicts of interest (“conflict of interest” is a situation where an official has a private interest that affects, may affect or may be perceived to affect actions of an official in discharge of office or official duty in a manner that compromises public interest); to keep a register of the officials; to keep a register of property and income of officials; to monitor the implementation of the National strategy for fight against corruption and the Action plan for the implementation of the National strategy for the fight against corruption; to launch initiatives for amending and enacting regulations in the field of combating corruption, etc.

Third, the Criminal Code includes provisions which are important for suppression of corruption. The Criminal Code of the Republic of Serbia meets the standards set by the international documents in the field of combat against corruption to a great extent.¹³ The international sources in the anti-corruption field relevant for criminal law response are the Council of Europe Criminal Law Convention on Corruption,¹⁴ the Additional Protocol to the Criminal Law Convention on Corruption of the Council of Europe¹⁵ and the UN Convention against Corruption.¹⁶ The majority of obligations taken over by the ratification of the international documents have been fulfilled by

¹² *The Official Gazette of the Republic of Serbia*, No. 97/2008, 53/2010, 66/2011 – Decision of the Constitutional Court and 67/2013 - Decision of the Constitutional Court

¹³ Groupe of States against Corruption, *Third Evaluation Round, Evaluation Report on the Republic of Serbia-Incriminations (ETS 173 and 191, GPC 2)*, Adopted by Greco at its 48th Plenary Meeting (Strasbourg, 27 September – 1 October 2010).

¹⁴ The Convention was open for ratification on January 27, 1999, and it came into force on July 1, 2002. Serbia ratified this Convention and thus undertook an obligation to harmonize the provisions of this Law with the source of law. See: *Official Gazette of Serbia and Montenegro*, International Agreements, No. 2/2002

¹⁵ The Agreement was open for ratification on May 15, 2003, and entered into force on February 01, 2005. The Additional Protocol to the Criminal Law Convention on Corruption was ratified by Serbia on November 6, 2007. See: *Official Gazette of the Republic of Serbia*, International Agreements, No. 102/2007

¹⁶ The Republic of Serbia ratified the UN Convention against Corruption. The Convention entered into force in Serbia on October 30, 2005. See: *Official Gazette of Serbia and Montenegro*, International Agreements, No. 12/2005.

Serbia in the previous period when the Criminal Code of the Republic of Serbia came into force on January 01, 2006. Criminal offences related to suppression of corruption in the Criminal Code of Serbia are classified primarily in the group of criminal offences against the official duty. These are: abuse of office (Article 359 of the Criminal Code), unlawful mediation (Article 366 of the Criminal Code), soliciting and accepting bribes (Article 367 of the Criminal Code) and bribery (Article 368 of the Criminal Code). The Code has corresponding incriminations for other criminal offences mentioned in the Criminal Law Convention of the Council of Europe and the UN Convention against Corruption, which are directed at suppression of some forms of corruptive actions, i.e. they are directed at commitment or concealing of criminal offences of corruption or other corruption-related criminal offences. These criminal offences may not be titled in the same manner as in the said conventions but their objective is the same. These offences include: money laundering¹⁷ (Article 231 of the Criminal Code), reset (Article 221 of the Criminal Code), embezzlement¹⁸ (Article 364 of the Criminal Code) and other. It should be particularly pointed out that all international documents in the field of the fight against corruption insist on introduction of criminal liability for legal entities. Our country has fulfilled this obligation as well when the Law on the Liability of Legal Entities for Criminal Offences was brought in 2008.¹⁹

Law on Amendments and Additions to the Criminal Code from December 2012²⁰ adopted the recommendations of the Group of States against Corruption of the Council of Europe (GRECO),²¹ which were made within the third round of evaluation and which refer to criminal offences of corruption. Law on Amendments and Additions to the Criminal Code from 2012 gives the following amendments fulfilling the recommendations presented in the GRECO report.²² First of all, Article 2 extends the possibility to apply the criminal legislation of the Republic of Serbia even in cases when criminal offence is not punishable according to the law of the country where it was committed (Art. 10, paragraph 2 of the Criminal Code). The exception from dual culpability for criminal prosecution and the application of the domestic criminal law was foreseen only in cases if there was a permission of the Republic Public Prosecutor. The suggested amendment extends this possibility to the cases provided for by the ratified international agreements, as is the case with the criminal offences of corruption. This manner of regulation would not require further amendments and additions to the Criminal Code in the future if an international agreement provides for the obligation by the Republic of Serbia to implement its criminal law although such conduct does not represent a criminal offence in the country where it was committed. Article 12 of the Law on Amendments and Additions to the Criminal Code also adds to Article 112 of the Criminal Code, which determines the meaning of the terms used in the Code. According to GRECO recommendations the meaning of the terms of official, foreign official and responsible person is defined and extended. To that effect the provision determining the term of official has been changed to include the following: public notary, executor and arbitrator, as well as a person in an institution, enterprise or other subject who has been vested a public authority, who decides about the rights, obligations or interests of physical persons or legal entities or public interest. A foreign official is a person who is a member of a legislative, executive or judicial authority of a foreign State, a judge, a juror, a member, an official or an officer of a foreign state or international court, public official or officer of an

17 The Criminal Law Convention of the Council of Europe mentions "Money laundering of proceeds from corruption offences, and the UN Convention against Corruption mentions "Laundering of proceeds of crime".

18 The UN Convention uses the title "Embezzlement, misappropriation or other diversion of property by a public official" and particularly "Embezzlement of property in the private sector"

19 *The Official Gazette of the Republic of Serbia, No. 97/08.*

20 *The Official Gazette of the Republic of Serbia, No. 121/2012.*

21 GRECO (Group of States against Corruption) is the mechanism of the Council of Europe devised in order to improve the anti-corruption regulations and their implementation in the member countries, primarily the implementation of the Council of Europe anti-corruption conventions. Our country is GRECO member as of 2003. The main part of the GRECO work is carried out in cycles – evaluation rounds performed by qualified representatives of member countries in other member countries. Evaluation rounds cover specific themes important for the fight against corruption.

22 More details about the amendments and additions in: Z. Stojanović, D. Kolarić, Novarešenjaukrivični omzakoniku Srbije, *Bezbednost*, br. 3/2012, Beograd: MinistarstvounutrašnjihposlovaRepublikeSrbije, str. 7-33.

international organisation or bodies thereof, judge or other official of an international tribunal. The notion of a responsible officer has also been defined differently, and the most important difference in comparison with the old solution is that the owner of a business enterprise is not automatically considered a responsible officer unless he/she performs an office and tasks which give him/her the position of a responsible officer. Therefore, a responsible officer in a legal entity is a person in a company, institution or other entity to whom, by virtue of his/her office, invested funds are entrusted or who is authorised to perform a specific scope of tasks in respect of management of the property, production or other activity or in supervision thereof, or is in fact entrusted with the discharge of particular duties. A responsible officer shall also be the official in case of criminal offences designating the responsible person as perpetrator, when such offences are not provided in the Chapter on criminal offences against official duty or criminal offences of an official. Articles 36 and 37 of the Law, and in accordance with GRECO recommendations amend and make additions to the provisions of Article 367 and 368 of the Criminal Code, incriminating the criminal offences of active and passive bribery in such a way that these offences can be committed not only as a part of someone's power but also related to it. In addition to this, paragraph 6 of Article 368 of the Criminal Code is deleted, also pursuant to the recommendations, which used to provide for the possibility to return the bribe to the person who gave it.

It is important to point out that the Law on Amendments and Additions to the Criminal Code from 2012, when dealing with the issue of suppression of corruption, introduces also new criminal offences (criminal offences related to public procurement). Also, there were changes of some criminal offences where criminal scope was too wide, so that instead of offering more efficient criminal law protection from the offences which included some form of corruption they jeopardized some important values and interests of both the citizens and society (criminal offence of misuse of office).²³ We can conclude at the end of this part of discussion that these requirements, which refer to harmonization with Criminal Law Convention on Corruption and its Additional Protocol, have been met.

The fourth round of GRECO evaluation has started. Serbia will be in the focus of observation in December 2014. The fourth round refers to "Corruption prevention in respect of members of parliament, judges and prosecutors."

Fourth, the Law on the Liability of Legal Entities for Criminal Offences regulates the conditions for liability of legal entities for criminal offences, criminal penalties which can be given to legal entities and the rules of procedure in which it is decided about the liability of legal entities. As for the scope of criminal offences legal entities can be found liable for, our legislator could choose between the two alternatives – to itemize all criminal offences for which legal entities can be found liable or to provide for the liability for all criminal offences – and the legislator chose the latter. Therefore, Article 2 of the Law says that a legal entity may be liable for criminal offences constituted under a special part of the Criminal Code and under other laws if the conditions governing the liability of legal entities provided for by this Law are satisfied. In other words, the Law does not regulate the matter of the special part but refers to the Criminal Code of Serbia and other laws, i.e. to secondary criminal legislation. Many specific features referring to legal entities as subjects of criminal offences resulted in this matter being regulated by a separate law. This is, actually, special criminal law for legal entities.²⁴ It is the respect of the basic criminal law principles that influenced the adoption of the basic starting concept regarding the liability of legal entities for criminal offences, and this is derivative liability based on the liability of a natural person for a criminal offence.²⁵ Article 6 of the Law sets several conditions which must be satisfied cumulatively in order for the liability of a legal entity to exist. First, it is necessary that a criminal offence has been committed by a natural person. Second, this person must hold the position of a responsible person in a legal entity. Third condition points out that it is necessary for a responsible person to act within the scope of his/her powers. Finally, the

²³ More on this in: D. Kolarić, Učinilackrivičnogdelazloupotrebeslužbenogpoložaja – jedanosvrtnačlan 359. KrivičnogzakonikaSrbije, *Pravnariječ*, BanjaLuka: UdruženjepravnikaRepublikeSrpske, Vol. IX, br. 33/2012, str. 347-365.

²⁴ Z. Stojanović, R. Shine, *KomentarZakonaodgovornostipravnihlicakrivičnadjela*, Podgorica, 2007. godina, str. 15.

²⁵ Ibidem.

fourth condition requires the existence of intent on the part of a responsible person to commit criminal offence for the benefit of the legal person. Therefore, when talking about a legal entity in relation to which the question of criminal liability is posed, we differentiate between a natural person as a source subject and a legal entity as a derivative subject of criminal liability. This concept has been adopted by the majority of contemporary criminal legislations which accepted the idea of criminal liability of a legal entity. The model of original liability would create serious difficulties in implementation when the existence of guilt should be determined, or a criminal offence of a legal entity which, according to this model, exists independently from the criminal liability of a responsible natural person.²⁶ The concept of derivative liability suggests that legal entity is not liable for its own criminal offence but for the criminal offence of its responsible person. As it is pointed out in Article 7 paragraph 1 of the Law, liability of legal entities shall be based upon culpability of the responsible person. It is necessary at that for all features of a criminal offence provided for by the Criminal Code to be present, i.e. that it is the action which is labelled as a criminal offence by the law, that it is wrongful and committed with guilt.

Fifth, the Public Procurement Law²⁷ and the Law on Financing of Political Activities²⁸ have significantly increased transparency and efficiency in fighting against corruption. The new Public Procurement Law which came into force on April 1, 2013, together with the novelties of the Criminal Code referring to misuses in the procedures of public procurement, have significantly strengthened the system of prevention and suppression of corruption in public procurement. Also, the Law on Financing of Political Activities includes the anti-corruption provisions. This Law regulates the sources and manner of financing, records and control of financing of activities of political parties, coalitions and citizens' group. With the purpose of more efficient control, the contributions can be made only by payments through the donor's account, with the obligation of a political party to make records of each payment and to publish each donation exceeding at annual level one average monthly salary. The Law prohibits giving a donation to a political entity through a third party, concealing identity of donor or amount of donation. The parties must keep records and submit financial reports which are controlled by the Anti-corruption Agency and in case of breaking of law the Agency launches the procedure and undertakes the corresponding measures. There is an obligation of a political entity for the purpose of raising funds for election campaign financing to open a separate account that may not be used for other purposes. It is stated in detail that the Anti-Corruption Agency may, after conducting control of financial reports of a political entity, forward a request to the State Audit Institution to audit these reports, in accordance with the law governing competencies of the State Audit Institution.

Sixth, the Draft Law on Protection of Whistleblowers which regulates whistleblowing, whistleblowing procedure, rights of whistleblowers, obligations of the state authorities and other authorities and organizations in relation to whistleblowing, as well as other issues of importance for whistleblowing and protection of whistleblowers is in the stage of public debate.

FIGHT AGAINST CORRUPTION AND INSTITUTIONAL CAPACITIES OF THE REPUBLIC OF SERBIA

The efficient institutional approach means cooperation and coordinated activities of the most important institutions that work on prevention, detection and sanctioning of corruption. In Serbia these institutions are: the Administration for the Prevention of Money Laundering, the Republic Prosecutor Office, the Administration for Public Procurement, the Tax Administration, the Anti-corruption Agency,²⁹ the Criminal Force Directorate, the State Audit Institution and the Anti-corruption Council.

The Administration for the Prevention of Money Laundering is the financial-intelligence unit of the Republic of Serbia, which is the central anti-money laundering and counter-terrorist financing body in the system. The Administration's powers and responsibilities are provided for in the Law on the Prevention of Money Laundering and Terrorist Financing. The obliged entities under the Law on the Prevention of Money Laundering and Terrorist Financing send

²⁶ Ibidem.

²⁷ *The Official Gazette of the Republic of Serbia*, No. 124/2012.

²⁸ *The Official Gazette of the Republic of Serbia*, No. 43/2011.

²⁹ More on the competencies of the Agency has already been said in previous presentation.

to the Administration the reports on suspicious transactions and persons; the Administration then further analyses these reports and collects the additional data about them, and if it finds reasonable grounds to suspect money laundering or terrorist financing in a specific case, the Administration then discloses such data to the relevant bodies, primarily to the competent prosecutors' offices and police. The Administration can suspect based on its own analyses and assessments and without a prior report of suspicious transaction that a person or an organised crime syndicate launders money or finances terrorism, and then request the additional data from obligors and other state authorities. Also, the Administration can start collecting and analysing data upon the initiative of another state authority, such as the court, prosecutors' office, Security Information Agency, Privatisation Agency, Securities Commission, police, etc.

The Anti-Corruption Council was established by The Decision of The Government of The Republic of Serbia on 11th October 2001. The Council is an expert, advisory body of the Government, founded with a mission to see all the aspects of anti-corruption activities, to propose measures to be taken in order to fight corruption effectively, to monitor their implementation, and to make proposals for bringing regulations, programs and other acts and measures in this area.

The Public Prosecution for Organized Crime was established by the Law on Public Prosecution,³⁰ and it started its work on January 01, 2010. Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal Offences³¹ in Article 2 defines the criminal offences the public prosecution is competent for. The Law is applied for detection, criminal prosecution and processing of: 1) Criminal offences of organised crime; 2) Criminal offences against constitutional order and security of the Republic of Serbia (Articles 310 through 312 of the Criminal Code); 3) Criminal offences of the abuse against official duty (Articles 359, 366, 367 and 368 of the Criminal Code), when an accused, that is, a person receiving the bribe, is an official or a responsible person holding public office, on the grounds of the election, designation, or appointment by the National Assembly, the Government, High Judicial Council, or the State Prosecutorial Council; 4) Criminal offence of the abuse of an official position (Article 359, paragraph 3 of the Criminal Code), when the value of the acquired property gain exceeds the amount of 200,000,000 Dinars; 5) Criminal offence of the international terrorism and criminal offence of financing terrorism (Articles 391 and 393 of the Criminal Code); 6) Criminal offence of money laundering (Article 231 of the Criminal Code), when the property which is the object of money laundering originates from the criminal offences from the subparagraphs 1), 3), 4) and 5) of this Article, 7) Criminal offences against government authorities (Article 322, paragraphs 3 and 4 Article 323, paragraphs 3 and 4 of the Criminal Code) and criminal offences against judiciary (Articles 333 and 335, Article 336, paragraphs 1, 2 and 4, and Articles 336b, 337 and 339 of the Criminal Code), if they are committed in relation to criminal offences in the subparagraphs 1 through 6 of this Article.

The Public Procurement Office is set up as an independent governmental organization which supervises the implementation of the Public Procurement Law, participates in drafting the regulations pertaining to public procurement, provides consulting services in the field of public procurement, monitors the public procurement procedures, controls the application of certain procedures, manages the Public Procurement Portal, prepares reports on public procurements, recommends measures to improve public procurement system, provides consulting services to procuring entities and bidders, and contributes to creation of conditions for economic, efficient and transparent use of public funds in the public procurement procedure. In monitoring the implementation of the Public Procurement Law, all state organs and organizations, services and organs of territorial autonomy and local government, bidders and procuring entities are obliged to submit to the Public Procurement Office the requested information and documents which are in their possession or under their control within the period of time determined by the Public Procurement Office.

State Audit Institution is the highest authority for auditing of public funds in the Republic of Serbia. It was founded in 2005, by virtue of the Law on the State Audit Institution.

³⁰ *The Official Gazette of the Republic of Serbia* No. 116/2008 and 104/2009.

³¹ *The Official Gazette of the Republic of Serbia* No. 42/02, 27/03, 39/03, 60/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09.

State Audit Institution is an independent state authority. The Institution performs activities stemming from its competence pursuant to the Constitution of the Republic of Serbia, the Law on the State Audit Institution and the Rules of Procedures of the State Audit Institution, which, pursuant to the Law, defines in detail the manner and procedure for performing activities stemming from the competence of the Institution, manner of ensuring transparent operation, decision-making process and other matters significant for the work of the Institution pursuant to the Law. Audit departments are managed by the Supreme State Auditors. Audit activities are conducted by state auditors (state auditor and certified state auditor).

The activities of the Ministry of Internal Affairs in the fight against corruption at all levels, both preventive and repressive, represent crucial assumption to create conditions for efficient and effective conduct of criminal procedures against perpetrators of these crimes. The Ministry of Internal Affairs adopted in January 2011 the Strategy of the Development of the Ministry of Internal Affairs, in which one of the objectives is to “develop capacities of criminal police for more efficient and effective action.” In order to strengthen police capacities in the fight against corruption, it is necessary to establish a special task force. The National Anti-Corruption Strategy points out as the main objectives the strengthened capacities of the police to conduct investigations of criminal offences with the elements of corruption and the strengthening of integrity and internal control mechanisms in order to suppress corruption within police organization.

CONCLUDING REMARKS

When the fight against corruption is concerned, both prevention and repression are equally important. In addition to repression, which primarily includes criminal law, there are also preventive means available to contemporary societies, which should take the main place in successfully set strategy of the fight against corruption. The most important fact in the field of prevention is to strengthen the rule of law, the institutions involved in the fight against corruption, transparency in decision-making and efficient normative framework. In brief, prevention is characterised by building of institutions and their integrity. Criminal law, in addition to its distinctly repressive component, has also prevention as its final objective, since sanctions tend to have influence not only on crime perpetrators but also on potential perpetrators.³² Therefore, prevention of corruption implies successful detection, prosecution, efficient application of criminal penalties and, what is the most important, the incrimination of corruptive behaviours, taking into account at that the obligations undertaken based on the international conventions.

When we are talking about combating corruption *de lege ferenda*, it should consider introducing into the criminal law a new criminal offence of illicit enrichment since it is also recommended by the UN Convention against Corruption. Also, the crime titled “failure to report property or reporting false information” in the Anti-Corruption Agency Act (Article 72 of the Act) requires certain amendments. It is necessary to establish a normative framework to protect the rights of whistleblowers, which is in accordance with the provisions of the Civil Law Convention on Corruption, but also with the European Committee Progress Report on Serbia for 2013. It is also important to prepare for the fourth round of GRECO evaluation which started in 2012, and which refers to rather sensitive areas: conflict of interest, register of property of public officials, gifts, lobbying and transparency of political processes.

REFERENCES

1. *Criminal Law Convention on Corruption*, ETS 173, 1999, *Explanatory report*.
 2. Groupe of States against Corruption, *Third Evaluation Round, Evaluation Report on the Republic of Serbia-Incriminations (ETS 173 and 191, GPC 2)*, Adopted by Greco at its 48th Plenary Meeting (Strasbourg, 27 September – 1 October 2010).
 3. Kolarić, D; Učiničac krivičnog dela zloupotrebe službenog položaja – jedan osvrt na član 359. Krivičnog zakonika Srbije, *Pravna riječ*, Banja Luka: Udruženje pravnik
- 32 Z. Stojanović, *Krivičnopravo-opšti deo*, Beograd, 2013, strana 6.

-
- Republike Srpske, Vol. IX, br. 33/2012.
 4. Mrvić-Petrović, N; Korupcija i strategija njenog suzbijanja, Temida, 4/2001.
 5. Stojanović, Z; Krivično pravo-opšti deo, Beograd, 2013.
 6. Stojanović, Z, Shine, R; Komentar Zakona o odgovornosti pravnih lica za krivična djela, Podgorica, 2007.
 7. Stojanović, Z, Kolarić, D; NovarešenjaukrivičnomzakonikuSrbije, Beograd, *Bezbednost*, br. 3/2012.
 8. *The Official Gazette of the Republic of Serbia* No. 42/02, 27/03, 39/03, 60/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09.
 9. *The Official Gazette of the Republic of Serbia* No. 116/2008 and 104/2009.
 10. *The Official Gazette of the Republic of Serbia*, No. 43/2011.
 11. *The Official Gazette of the Republic of Serbia*, No. 124/2012.
 12. *The Official Gazette of the Republic of Serbia*, No. 97/08.
 13. *The Official Gazette of the Republic of Serbia*, No. 121/2012.
 14. *The Official Gazette of the Republic of Serbia*, No. 57/2013.
 15. Vujaklija, M; Leksikon stranih reči i izraza, Beograd, 1975.