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Suppression Of Organized Crime and Serbia's Accession to the European Union

Abstract: *Fight against organized crime is a proactive, strategically oriented activity of all contemporary, democratic states, both nationally and at the international level. The set limits of more efficient suppression of the most serious crimes are the result of active reforms of national normative frameworks, ratified international documents, but also intensive professional cooperation between countries in the field of detecting, combating and prosecuting organized crime. Security threats, which are extremely high when it comes to organized crime, would be difficult to combat without adequate international cooperation between democratic states. One of the countries that actively participate in international cooperation, emphasizing cooperation with European agencies is Serbia. Namely, there is a justified question of the efficiency of Serbia's cooperation with European agencies in the suppression of organized crime, the harmonization of the national framework with the *acquis communautaire*, which is the goal of research in this paper. In accordance with that, the author, through expert and critical analysis of normative solutions, results of practical application and valid theoretical views, analyses the subject matter from the following aspects: first, introductory considerations; second, the effectiveness of financial investigations and the Action Plan for Chapter 23; third, Serbia's cooperation with European agencies in combating organized crime and reforming the normative framework; fourth, concluding remarks.*

Keywords: *organized crime, European agencies, confiscation of illegal assets*

Introductory considerations

Organized crime represents a great threat to contemporary, democratic states, but it also sets the standards for the necessary improvement of the normative framework aiming at detecting, proving and prosecuting organized crime more effectively. In its decades-long presence in Europe, organized crime has been characterized as having a special type of network structure, especially when it comes to international organized crime, which does not recognize the authorities of various police and judicial bodies. These facts support the argument that the use of regular methods of detecting and proving these crimes is not enough and that it is important for countries, including Serbia, to take up new steps to fight even more effectively to suppress this form of crime. These requirements do not arise only from the aforementioned fact, but also from ratified international documents and the process of Serbia's accession to the European Union, which through fundamental rights and procedural guarantees, requires a reform of the regulatory framework with the aim of more efficient action of specialized bodies.

Efficiency of financial investigations and Action Plan for Chapter 23

The key characteristics of organized crime which determine more a proactive approach of states in its suppression are: limited number of members in criminal organization, hierarchical structure, durability of criminal organization, monopolistic character and - what is the key characteristic of organized crime - its non-ideological character. Namely, the organized group does not have ideological, political goals as their key motives and goals are money and power. The stated ideology of organized criminal groups indicates the necessity of a state reaction to the stated form of crime, precisely in the sphere of assets, enrichment of members of organized criminal groups, which continue to exist using illegally acquired property. When we first take into consideration this general point of view, Serbia has taken a number of steps to more efficiently detect, prove and confiscate illegal assets, especially illegally acquired property from organized crime. Accordingly, one of the key instruments in order to suppress organized crime in a more effective manner, but also confiscate illegal assets, is the adoption of the Law

on Seizure and Confiscation of the Proceeds from Crime (LSCPC).¹ Namely, the mentioned legal text is the result of the steps taken by Serbia with the aim of creating a normative basis for practical implementation of financial investigations. The Criminal Code of Serbia² provides for a measure of confiscation of proceeds, but this is not a criminal sanction, but a measure of *sui generis* character. Accordingly, if it is not proven that the specific proceeds come from a criminal offense, the stated measure prescribed in the Criminal Code cannot be applied. In accordance with that, a justified question arises as to how to confiscate the proceeds that are suspected to originate from the committed criminal offense yet have not been proven to in the legally finalized procedure. Serbia has responded to this question by introducing legal mechanisms where the appropriate degree of suspicion as a material condition is sufficient to initiate a special procedure, to confiscate temporarily or permanently such proceeds as have not been proven to originate from the crime the person was convicted of. Accordingly, the LSCPC was passed as a consequence of the reformed criminal legislation of Serbia (Bejatović, 2014; Škulić, 2014a), the new Criminal Procedure Code³, in this case *lex generalis*, and the necessity of harmonizing these two mentioned legal texts. Entities specialized, for conducting financial investigations under the LSCPC include the following: public prosecutor, court that decides on temporary or permanent confiscation of proceeds from crime, organizational unit of the Ministry of Interior, Directorate for Management of Confiscated Property as a body that takes care of temporarily or permanently confiscated property.

In addition to Serbia's response at the national level, the international character of this form of crime requires contemporary responses from international organizations, which, in the comprehensiveness of their activities, manifest the standards of more efficient fight against organized crime through the adoption of international acts. Among the most important ones when it comes to confiscation of proceeds from crime are: Convention on Laundering, Search, Seizure and Confiscation

1 *Law on Seizure and Confiscation of the Proceeds from Crime*, Official Gazette of the Republic of Serbia, No. 32/2013, 94/2016 and 35/2019

2 *Criminal Code*, Official Gazette of the Republic of Serbia, No. 85/2005,88/2005, 107/2005,72/2009, 111/2009, 121/2012, 104 /2013,108 /2014, 94/2016 and 35 /2019

3 *Criminal Procedure Code*, Official Gazette of the Republic of Serbia, No.72/11, 101/11, 121/12, 32/13, 55/14 and 35/2019.

of the Proceeds from Crime of 8 November 1990⁴, Criminal Law Convention on the Suppression of Corruption of 27 January 1999⁵, United Nations Convention against Transnational Organized Crime and Additional Protocols adopted in Palermo from 12 to 15 December 2000⁶ and others.

In accordance with the above, Serbia has also, in addition to previously implemented international documents, adopted new legal texts, successfully responded to the requests of the European Commission. Namely, Serbia received the Screening Report for Negotiating Chapter 23: Justice and Fundamental Rights on July 28, 2014⁷. In response to the recommendations of the Screening Report, Serbia has, inter alia, adopted an Action Plan for Chapter 23 (AC 23)⁸ which was adopted by the Government of the Republic of Serbia on April 27, 2016. The AC 23 includes the recommendations of the European Commission in field of justice, corruption, fundamental rights and procedural guarantees. Recommendations related to financial investigations are directly envisaged in segment related to corruption, but also indirectly in other parts through the segments of independent, impartial, efficient judiciary, by providing procedural guarantees in criminal proceedings of confiscation of proceeds (Škulić, 2014b), respect for fundamental rights as a guarantor of a contemporary democratic state and the realization of the rule of law.

Accordingly, the institutional framework for strengthening the capacity of more successful fight against organized crime, corruption, given that corrupt crimes (Mijalkovic et al., 2019a) are often associated with various forms of economic crime, emphasizing parallels with organized crime by developed countries, requires the improvement of the normative framework through the segments of the preventive and repressive framework of state action. Namely, conducting efficient financial investigations, improving position of specialized bodies

4 *Law on Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*, Official Gazette of the FRY - International Agreements, No. 07/02 and Official Gazette of Serbia and Montenegro - International Agreements, No. 18/05

5 *Law on Ratification of the Criminal Law Convention on the Suppression of Corruption*, Official Gazette of the FRY - International Agreements , No. 02/02 and Official Gazette of Serbia and Montenegro - International Agreements, No. 18/05

6 *Law on Ratification of United Nations Convention against Transnational Organized Crime and Additional Protocols*, Official Gazette of the FRY - International Agreements, No. 06/01

7 *Screening Report for Negotiating Chapter 23: Justice and Fundamental Rights*. https://www.mei.gov.rs/upload/documents/skrining/izvestaj_pg_23_16.pdf , accessed 10. 12. 2021. year

8 *Chapter 23 Action Plan*. <http://www.mpravde.gov.rs/files/Akcioni%20plan%20PG%2023.pdf>, accessed 10. 12. 2021. year

for detecting, proving and prosecuting criminal offenses of this form of crime through the segment of repressive framework, are just some of the European Commission's demands in Chapter 23 of the AC. It is necessary to point out that regardless of the sphere of improvement of the normative framework, the European Commission demands to ensure that the legislation of Serbia is harmonized with the legislation of the EU which includes segment of efficient financial investigations and realization of key principles in combating criminal offenses of organized crime. The principles that stand out when it comes to effective financial investigations are independent and specialized bodies for the prosecution and conduct of financial investigations of criminal offences of organized crime, which act urgently, whereas the information obtained by the financial investigation is confidential and represents classified information determined accordingly with the law that deals with the confidentiality of data⁹. These principles can best be implemented through the following recommendations made by the European Commission in the AC 23: 1. implement measures to strengthen the independence of all investigative and judicial bodies involved in financial investigations, in order to be more effectively protected from political pressure,¹⁰ 2. provide adequate resources (budget, personnel and through specialist training) for all bodies in the fields of investigation which are in a charge of corruption, organized crime, 3. improve cooperation and exchange of information between bodies that are in charge of the fight against organized crime through better interconnection of the database, respecting the rules on personal data protection and through the establishment of a secure platform for communication (point 2.3.2 of the AC 23). Adding to this the principle of more efficient action of the bodies responsible for combating this form of crime, the European Commission, through its recommendation, emphasizes the need for full implementation of the new standards of the Financial Action Task Force (FATF)¹¹, enabling

⁹ *Data Secrecy Law*, Official Gazette of the Republic of Serbia, No.104/2009

¹⁰ Reduction of political influence, in the sphere of more efficient fight against organized crime and corruption, is highlighted in the normative framework of the preventive aspect of corruption, which includes the following legal texts: *Law on Financing Political Activities*, Official Gazette of the Republic of Serbia, No. 43/2011, 123/2014 and 88/2019, *Law on Prevention of Corruption*, Official Gazette of the Republic of Serbia, No. 35/2019, 88/2019

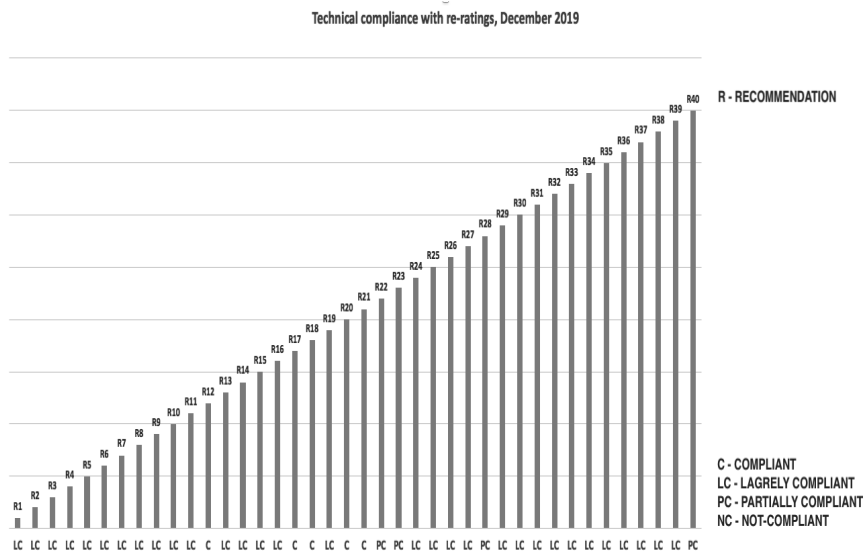
¹¹ Financial Action Task Force is the inter-governmental body established with the aim of preventing global money laundering and financing terrorist which set up recommendations. <https://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>, accessed_10. 12. 2021. year

more efficient conduct of complex financial investigations along with criminal inter alia by strengthening of a specialized unit in the Ministry of Interior and through appropriate training (point 2.3.2 of the AC23). To be able to more effectively implement above recommendation of the European Commission, it is necessary to analyse how state bodies are organized and what their powers are in relation to the fight against this forme of crime (point 2.3.2.1 of the AC). Strengthening independence of institutions responsible for combating organized crime and corruption requires that the police and prosecutors are constantly trained to conduct financial investigations, monitor cash flows, and act proactively as well as special investigative techniques (point 2.3.2.8 of the AC23). Also, there is need for strengthening the competent institution of unit of the Ministry of Interior of Serbia and enabling the interconnection of the database for criminal investigations, i.e., a secure system for electronic exchange of information between the prosecutor's office, police, customs administration, tax administration, etc. (point 2.3.2.9 of the AC 23). Along with strengthening capacity of specialized authorities responsible for combating this form of crime, the adopted strategic document, reformed legal texts, implemented recommendations of international bodies in the national framework of Serbia, are important instruments of state response to combating organized crime. In accordance with that, as pointed out, the recommendation of the European Commission refers to the necessity of implementing FATF recommendations in positive regulations of Serbia, and as a result of responding to the said recommendation, Serbia adopted the Financial Crime Investigation Strategy for 2015-2016.¹² This strategy is a comprehensive document, aimed at improving coordination and cooperation between state bodies responsible for supervision, data collection, investigation of money laundering and terrorist financing and confiscation of proceeds from crime. Also, in February 2020, Serbia, in response to the need to meet the standards set out in the FATF recommendations, adopted a Strategy for Combating Money Laundering and Terrorist Financing for the period 2020-2024.¹³ When it comes to the degree of compliance of Serbia with FATF recommendations, the Council of Europe Committee Moneyval

¹² *Financial Crime Investigation Strategy for the period 2015-2016*, Official Gazette of the Republic of Serbia, No. 43/2015

¹³ *National Strategy for Combating Money Laundering and Terrorist Financing for the period 2020-2024*, Official Gazette of the Republic of Serbia, No. 14/2020

published a report in which it pointed out the improvement of Serbia's position in the fight against this form of the crime due to fulfilment of FATF recommendations. Namely, Serbia has fully complied with 5 of the 40 recommendations, it is assessed as "largely compliant" with 31 recommendations, while the situation with recommendations 22, 23, 28 and 40 was assessed as partially compliant.



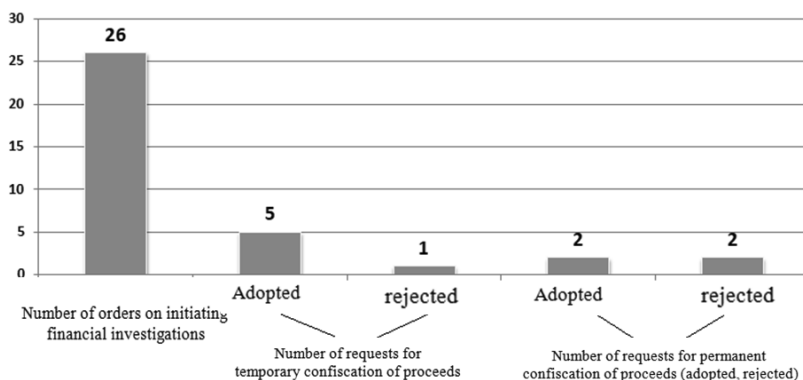
Graph 1 – Report of the Council of Europe Committee Moneyval on improving Serbia's position in the fight against money laundering and terrorist financing due to the fulfilment of FATF recommendations.¹⁴

In addition to Serbia's compliance with European standards, the importance of conducting financial investigations as an important instrument for detecting and proving illegally obtained property is legally and politically justified for several reasons, and Serbia has taken a significant step to create opportunities for undertaking financial investigations by the adoption of LSCPC. Also, adequacy of Serbia's response to the European Commission's requests to make sure that the institutional framework allows for efficient temporary and permanent

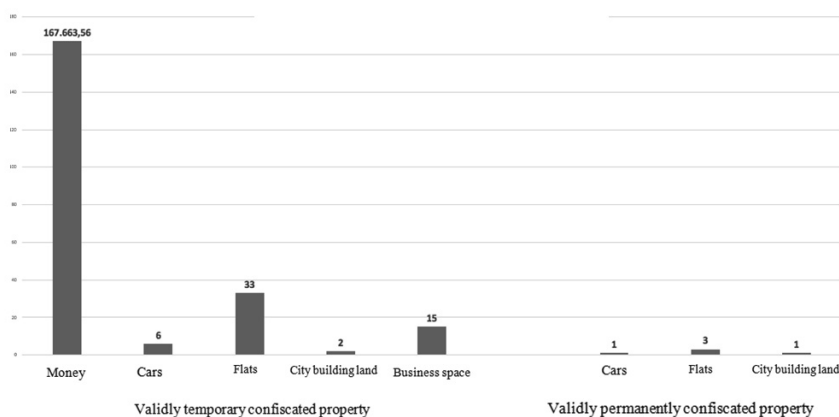
¹⁴ Source: Moneyval Annual Report, <https://rm.coe.int/moneyval-annual-report-2019/1680a07d48>, accessed 11.12.2021. year

confiscation and management of proceeds from crime, which would lead to more confiscation cases (point 2.3.5 of the AC23), can best be seen through the adoption of the above legal text, relevant bylaws, but also the previously mentioned strategic documents as a significant step of modernization and the European approach of Serbia in an efficient fight against contemporary forms of crime. Accordingly, the European Commission, in addition to the need to enact the LSCPC in order to improve efficiency, based on EU Directive 2014/42¹⁵, recommended the adoption of appropriate bylaws that will be in charge of keeping records, manner of management of confiscated property and valuation (item 2.3.5.2 of the AC 23). We can see that, accordingly the recommendations of the European Commission, strengthening the capacity of specialized state authorities responsible for conducting more efficient financial investigations is one of key instruments of adequacy of the state response to this form of crime. Also, the new LSCPC, together with other legal texts, enables the realization of most of the principles set out in the AC, ratified international documents, strategic goals of more efficient fight against organized crime. Together with the adequacy of legal norm, the mutual relationship of the subjects of detection, proof and prosecution of criminal acts of this form of crime, the adequate application of the legal norm is one of the key instruments for implementation of international standards. Accordingly, the positive effects of the new legal texts can best be observed through the statistical indicators of the submitted orders on initiating financial investigations, the statistical indicators of requests for temporary confiscation of assets and permanent confiscation of illegal assets, validly temporary and permanent confiscated assets by the Prosecutor's Office for Organized Crime (POOC) in 2019.

¹⁵ Directive (EU) 2014/42 of the European Parliament and the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, *Official Journal of the European Union*, L 127, 29 April 2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0042>, accessed 11. 12. 2021. year



Graph 2 - Statistical indicators of the submitted orders on initiating financial investigations, requests for temporary confiscation of assets and permanent confiscation of illegal assets, data for 2019¹⁶



Graph 3- Statistical indicators of the validly temporarily and permanently confiscated assets, data for 2019

Accordingly, the previously presented statistical indicators, we can see that new legal texts have given positive results in terms of increasing the efficiency of financial investigations, i.e., harmonization of criminal policy of legislator and policies of entities applying the relevant norm of criminal legislation.

¹⁶ Source for the graphics 2, 3, 4, 5, 6, 7, 8, 9, 10, 11: The Report of the Republic Public Prosecutor's Office

Serbia's cooperation with European agencies in combating organized crime and reforming the normative framework

As regards combating organized crime and reforming normative framework of Serbia and cooperation with European agencies, the AC 23 and AC 24 are of special importance.¹⁷ Namely, the mentioned Action Plans highlight the recommendations of the European Commission regarding the reform of legal texts, cooperation with European agencies, with the aim of more efficient proof and prosecution of criminal offences of organized crime and other extremely serious crimes (Đokić, Čvorović 2019: 1035) which are the subject of interest of European agencies. Regarding the need to reform legal texts in order to more effectively combat organized crime, the European Commission, among other things, especially emphasized the importance of reforming the Criminal Procedure Code (CPC), which was highlighted in the AC 23 and the Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Terrorism and Corruption¹⁸ (LOJSASOC) within the AC 23 and AC 24. Namely, by attaching importance to the reforms of the CPC and LOJSASOC as *lex specialis*, the European Union once again pointed out the need to find adequate instruments of state response to contemporary forms of crime, emphasizing as the key reform of regulatory frameworks and international cooperation between countries, both within the EU and with third countries. In the process of reforming the previously presented legal texts, Serbia is facing serious challenges, in order to successfully respond to the requirements of the European Commission, and on the other hand to increase the degree of efficiency in detecting and proving organized crime (Mijalković et al., 2019b).

Namely, observed from the aspect of realization of preventive and repressive aspect of criminal policy of organized crime, in the AC 23 within segments of justice, fight against corruption and fundamental rights, certain recommendations, impact indicators and final results are given when it comes to the field of more successful legal response in the fight against this form of crime.

Accordingly, within the framework of justice and fundamental rights, there are procedural guarantees for more efficient fight against organized

¹⁷ *Action Plan for Chapter 24*. <https://media.cpes.org.rs/2020/09/Akcioni-plan-PG-24.pdf>, accessed 15. 12. 2021. year

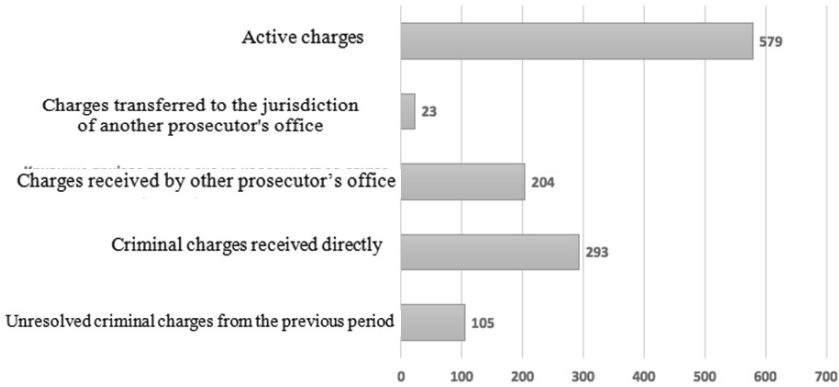
¹⁸ *Law on Organization and Jurisdiction of State Authorities in Suppression of Organized Crime, Terrorism and Corruption*, Official Gazette of the Republic of Serbia, No. 94/2016

crime, which primarily include amendments to the CPC, establishment of an adequate monitoring mechanism over the implementation of the CPC and harmonization of the CPC with European standards. Namely, the CPC as a key instrument of combating organized crime, through provisions on special evidentiary actions, special conditions for examination of witnesses and experts, time determinants of actions in cases of organized crime, contributes to more efficient fight, but also raises the issue of adequate monitoring mechanism. These facts are especially important in relation to the changes that occurred with adoption of the new CPC, primarily the introduction of prosecutorial investigation (Čvorović, 2019; Čvorović, Vince, 2020) and the efficiency of criminal proceedings (Mijalković et al., 2019c). In line with the above, the reports forwarded to the European Commission for 2018 and 2019 indicate that the efficiency of criminal proceedings has increased in general, including criminal proceedings for organized crime, and that most criminal proceedings have ended by applying the principle of opportunity and plea agreement.

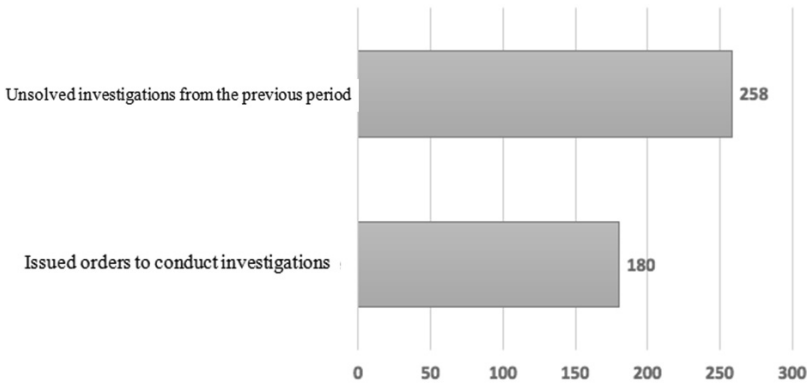
In addition to the reform of the CPC, the European Commission highlighted the need to reform the Law on the Organization and Competences of State Authorities in Suppression of Organized Crime, Corruption and Other Extremely Serious Crimes as priority activities of Serbia's criminal law response to the fight against organized crime¹⁹ within the AC 23 and the AC 24. Accordingly, Serbia has successfully responded to the requests of the European Commission and passed a new LOJSASOC (point 2.3.2.2 of the AC 23). Namely, a large number of recommendations from the AC 23 relate to ensuring independent, effective and specialized bodies (point 2.3.2 of the AC 23) for prosecuting crimes of organized crime, corruption, strengthening independence measures, but also a proactive approach when it comes to improving cooperation and exchange of information between specialized bodies, better interconnection of databases, etc. In the new legal text of the LOCSACOCTC, the recommendations from the Action Plan (point 2.3.2.4 of the AC 23) have been implemented by introducing the Financial Forensics Service (Article 19 of the LOCSACOCTC), liaison officer (Article 20 of the LOCSACOCTC) and establishing task forces (Article 21 of the LOCSACOCTC).

¹⁹ *Law on the Organization and Competences of State Authorities in Suppression of Organized Crime, Corruption and Other Extremely Serious Crimes*, Official Gazette of the Republic of Serbia, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – separate law, 45/2005, 61/2005

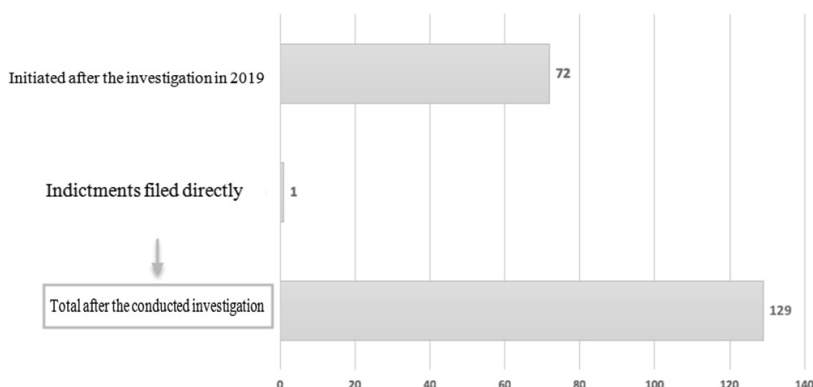
Efficiency as an international standard of the previously mentioned specialized bodies can be best seen through the total number of filed criminal charges, initiated investigations and indictments filed by the POOC for 2019.



Graph 4- Criminal charges in 2019 in relation to the number of people against whom they are charged



Graph 5- Investigations in 2019 in relation to the number of persons against whom they are charged



Graph 6- Indictments filed in 2019 in relation to the number of persons against whom they were initiated

The presented statistical indicators indicate the efficiency of the actions of specialized bodies and that new legal text achieves positive results in practical application.

We can see that the suppression of the aforementioned criminal offences of organized crime is one of the priorities of the EU's security policy, which is envisaged within the third pillar of the EU under former name of cooperation in justice and internal affairs (then Title VI of the Treaty on European Union, TEU). Later, the Treaty of Lisbon provided for within the third pillar of the EU, in the Treaty on the Functioning of the European Union (TFEU), to add "Area of Freedom, Security and Justice" instead of the previous title, consisting of five chapters. The Area of Freedom, Justice and Security is regulated by Articles 67-89 of the TFEU.²⁰ Through these provisions, the European Union emphasized the need to respect fundamental rights and different legal systems, as well as the traditions of the Member States (Article 67 of the TFEU). As priority goals, the European Union envisages ensuring a high level of security through measures to prevent and fight crime, racism and xenophobia and through measures for coordination between police and judicial authorities (Article 67, para 3 of the TFEU). Also, the Treaty of Amsterdam recognized the need to achieve a higher level of protection

²⁰ *Consolidated Version of the Treaty on the Functioning of the European Union*. 2012. Official Journal of the European Union, C 326, October 26. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>. Accessed 15. 12. 2021. year

of European Union citizens, strengthening and improving cooperation between the police and judicial authorities, emphasizing a more efficiently fight against organized crime, drug and arms smuggling, etc. Accordingly, at the European Council in Tampere in October 1999 an action plan in the field of police and judicial cooperation in relation to criminal offenses was adopted. The mentioned Action Plan envisaged, the formation of joint investigation teams, the establishment of a European Agency for Cooperation with the aim to more efficiently detect, proof and prosecute of organized crime, but also harmonization of the national framework of Member States in terms of minimum standards in the field of criminal legal response to contemporary crime. The EU requires the establishment of minimum standards and harmonization of normative frameworks with the European *acquis* not only from the Member States, but also from the states which are still not the members of the EU, including Serbia. When it comes to the analytical review of the harmonization of Serbian legislation with the *acquis communautaire* and standards of the EU in the field of justice, freedom and security, Serbia received on July 25, 2014 the Screening Report for Negotiating Chapter 24²¹: justice, freedom and security. In response to the recommendations of the Screening Report, Serbia has developed and adopted an AC 24, which was adopted by the Government of the RS on April 27, 2016. Activities envisaged in the AC 24 in order to meet recommendations of the European Commission include twelve sub-areas: asylum, migration, visas, external borders and the Schengen *acquis*, combating organized crime, combating drug abuse, combating trafficking in human beings, combating terrorism, judicial cooperation in civil and economic affairs, judicial cooperation in criminal matters, police cooperation and customs cooperation.

The goal of realization of the mentioned activities and reaching the degree of harmonization with European *acquis* is greater security of citizens, more efficient suppression of organized crime, but also more intensive cooperation between non-Member States with the EU in the field of international legal assistance in criminal matters (ILACM). Namely, international cooperation in field of justice and internal affairs realizes the effective implementation of the policy of the EU which is increasingly taking on elements of supranationalism and taking precedence over interstateness. With reference to ILACM

21 *Screening Report for Negotiating Chapter 24*. https://www.mei.gov.rs/upload/documents/skrining/izvestaj_pg_24_16.pdf, accessed 15. 12. 2021. year

and implementation of activities envisaged by the AC 24, the Republic Public Prosecutor's Office (RPPO) continues to actively participate with other competent bodies, especially in the segment of more efficient fight against organized crime. Among more important, if not the most important instruments of the efficiency of the criminal policy, is the cooperation of the RPPO with European Agencies, primarily Eurojust, the European Judicial Network (EJN), the European Public Prosecutor's Office (EPPO) and the formation of joint investigation teams. Accordingly, the representative of the RPPO, Department for International Cooperation achieves significant results in the field of international cooperation and assistance in criminal matters, which is confirmed by statistical indicators of activities undertaken in 2019, 2018 and 2017, which strengthens the capacity of the competent public prosecutor's office in combating organized crime and meeting EU standards. When it comes to cooperation between the RPPO and Eurojust, it should be noted that it was formalized by signing a cooperation agreement in 2019, which significantly strengthened capacities in the fight against organized crime, but also that before the agreement Serbia cooperated intensively with Eurojust on the basis of ratified international documents. By signing the agreement, more efficient cooperation was achieved. The EU responded to the shortcomings of judicial cooperation in criminal matters and the growing threat of organized crime that transcends national boundaries with the establishment of Eurojust by a 2001 Council decision. Accordingly, the objectives of Eurojust are more efficient coordination of investigations and conducting criminal proceedings between specialized bodies within the framework of the Member States of the EU, but also cooperation with third countries. Namely, formation of Eurojust enabled national authorities to communicate directly with representatives in the Eurojust collegium, thus bypassing the most intensive mechanism of international cooperation between countries in combating organized crime through ratified international documents, the ministries of justice and thus the principle of supranationalism provides faster exchange of information between stakeholders and strengthening relations with partners and third countries, including Serbia. Strengthening of Eurojust's mechanisms with the aim of more efficient suppression of organized crime and other extremely serious crimes is also taking place through intensive cooperation of Eurojust with other European Union agencies, which is yet another indicator of exceptional activity of the competent body in order to exchange judicial data more efficiently, and Serbia cooperates with them as well.

In accordance with that, Eurojust cooperates with the EPPO, OLAF, Europol, Frontex, CEPOL, the European Network for Judicial Cooperation and others. As regards criminal offenses under the jurisdiction of Eurojust, the following are foreseen: organized crime, criminal offenses against children, high-tech crime, drug trafficking, economic crime, human trafficking, money laundering, criminal offenses affecting the financial interests of the European Union.²² When it comes to criminal offences affecting the financial interests of the European Union, Eurojust cooperates most intensively with OLAF and the EPPO, which is expected to be even more active in the future. To be able to more efficiently prove and prosecute these crimes in the national frameworks of Member States and third countries, Eurojust uses adequate judicial instruments such as: European arrest warrant, European investigation warrant, formation of joint investigation teams, extradition, special investigative measures, etc. We can see that Serbia, when it comes to these judicial instruments, takes an active part in international cooperation through ratified international documents, primarily the European Convention on Mutual Assistance in Criminal Matters (ECMACM).²³, European Convention on Extradition (ECE)²⁴ and UN Convention against Transnational Organized Crime and additional protocols²⁵ and at the moment has signed agreements with 17 Member States of the EU.²⁶

As it was pointed out, the cooperation between Serbia and Eurojust was formalized by signing an agreement in 2019, but intensive cooperation existed even before the conclusion of the agreement based on concluded bilateral agreements, ratified ECMACM and other additional protocol²⁷ etc. In accordance with that, Serbia in 2019 achieved effective cooperation with Eurojust with regard to 36 requests

²² Eurojust is European Union Agency for Criminal Justice Cooperation. 1999. "States and Partners". Accessed 2021. <https://www.eurojust.europa.eu/>

²³ *European Convention on Mutual Assistance in Criminal Matters*, Official Gazette of the FRY - International Agreements, No. 10/2001

²⁴ *European Convention on Extradition*, Official Gazette of the FRY - International Agreements, No. 10/2001

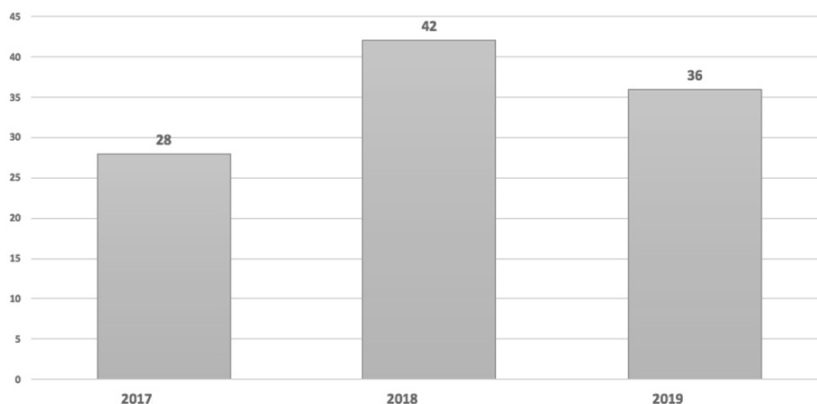
²⁵ *UN Conventions against Transnational Organized Crime with additional protocols*, Official Gazette of the FRY - International Agreements, No. 6/2001

²⁶ Ministry of Justice. 2021. "Bilateral agreements in criminal matters" mpravde.gov.rs/sr/tekst/25262/bilateralni-sporazumi-u-krivicnim-stvarima-.php, accessed 11. 12. 2021. year

²⁷ *European Convention on Mutual Assistance in Criminal Matters and other additional protocols*, Official Gazette of Serbia and Montenegro - International Agreements, No. 2/2006

for assistance received but also sent to Eurojust. Also, according to the scope of cooperation and the number of cases in 2019, Serbia is in the fourth place of non-member countries that it shares with Norway, behind Switzerland, Ukraine and the United States, whereas representatives of the PPO in 2019 participated in four coordination meetings within Eurojust. A representative of the special department for international cooperation and legal assistance of the RPPO is envisaged for cooperation with Eurojust, and the liaison prosecutor was elected in 2020 as the contact point of Serbia within Eurojust and a liaison officer has been appointed within Eurojust.

Cooperation between Eurojust and Serbia was intensive both in 2018 and in 2017, when Serbia in 2018 achieved effective cooperation with Eurojust in terms of 42 requests for assistance received, but also sent to Eurojust and was in the second place in terms of scope of cooperation of non-member countries, behind Switzerland, while in 2017 Serbia achieved effective cooperation with Eurojust regarding 28 requests.



Graph 7- Cooperation between Serbia and Eurojust – received and sent requests

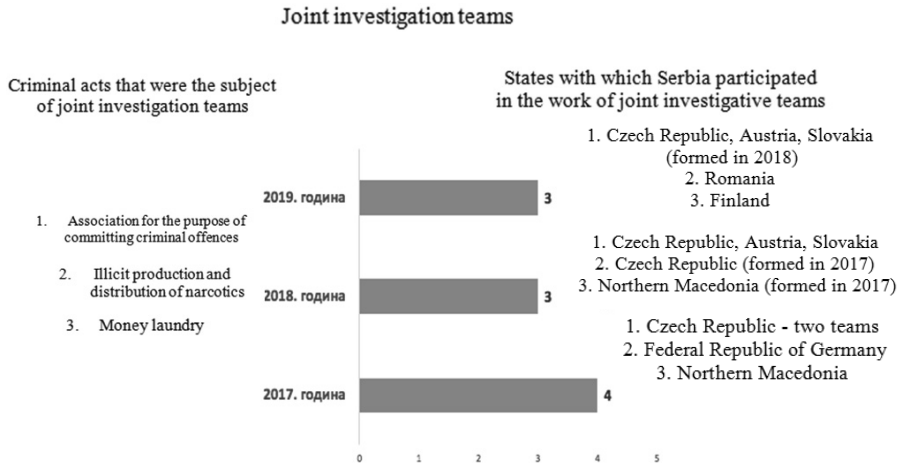
While on the subject, the importance of the efficiency of judicial cooperation in criminal matters and the establishment of an agency that would contribute to establishment of simpler cooperation between the judicial bodies of two or more member states was recognized in 1998 when the EJM was set up, which, with the establishment of Eurojust, is perceived more as a body assisting Eurojust. Each Member State has its representatives in the EJM marked as contact persons, and they

are also appointed by third countries, including Serbia. Namely, Serbia is intensively cooperating with the EJM, i.e., a representative of the Department for International Cooperation and Legal Assistance of the Republic Public Prosecutor's Office (DICLA) on the basis of confirmed international conventions, bilateral agreements, national legislation and memoranda of cooperation. In accordance with that, the representative of the DICLA in 2019 participated in the meeting of the EJM on judicial cooperation between the countries of the EU and the Western Balkans and in 2018 he participated at the meeting of contact points of the EJM on the topic of confiscation of property and financial investigations, where the contact person from Serbia informed the representatives of other countries about the legislative framework, results and experiences of Serbia in the process of more efficient financial investigations and organized crime. Also, intensive cooperation existed in 2017 when at the meeting they discussed the European Investigation Order, a European arrest warrant aimed at facilitating cooperation between EU Member States, third countries that would contribute to a more effective fight against transnational organized crime. Adding to this Eurojust and the EJM mechanisms for closer cooperation in judicial cooperation in criminal matters include the EPPO as the first supranational European body responsible for investigating and prosecuting crimes affecting the financial interests of the EU. Namely, proposal of the European Commission for the establishment of the EPPO did not initially receive approval from the Member States, considering the issue an extremely sensitive area of legal encroachment in national frameworks, but the Lisbon Treaty provided a legal basis for its establishment within Eurojust, but also a number of questions about its future functioning were thus raised. Namely, the issue of criminal offenses that will be the subject of the EPPO application of criminal procedure provisions, protection of fundamental rights, relations with national authorities are just some of the issues that must be resolved by increasing the efficiency of detecting and proving such offense by the EPPO but also more efficient cooperation with national authorities, which includes cooperation with Serbia. By the way, the Council of the European Union in 2020 appointed prosecutors of the EPPO and a Working Arrangement to facilitate cooperation between the EPPO and Eurojust²⁸ was concluded in February 2021

28 Working Arrangement between Eurojust and European Public's Prosecutor Office. 2021. <https://www.eurojust.europa.eu/eurojust-and-epo-sign-working-arrangement-facilitate-cooperation>, accessed 15. 12. 2021. year

which provides for, inter alia, the establishment of liaison teams to establish smooth cooperation, procedural guarantees, active participation in meetings, seminars and staff training, data protection through close cooperation with the European Data Protection Supervisor, etc. (Article 9, 10, 12, 13, 18 of the Working arrangement). It is also important that the EPPO started working on 1 June 2021 within operational activities and that in the future through practical results of actions will provide answers to a number of questions that were the subject of analysis by the scientific and professional public. Also, during the visit of the representative of the RPPO to the newly elected Prosecutor of the EPPO Laura Kovesi in 2019, Serbia expressed full readiness to cooperate with the European Union Agency in charge of investigation, prosecution and bringing to judgement criminal acts concerning the financial interests of the EU and it did the same in 2018 when the RPPO participated as an observer in an important conference on the EPPO. Besides Serbia's cooperation with these European agencies, more efficient detection and proving of criminal offences of organized crime and other extremely serious crimes can hardly be imagined without the formation of joint investigation teams, which was recognized at the 1999 Tampere session through the adopted action plan in the field of police and judicial cooperation in relation to criminal offenses. Joint investigation teams are made up of investigators and representatives of the judiciary of two or more states with precisely defined rights and powers with the aim of more efficiently combating transnational organized crime. The formation of joint investigation teams between Serbia and other countries is based on bilateral agreements that take precedence over the national framework, i.e., the Law on International Legal Assistance in Criminal Matters (LILACM). Serbia participated in three joint investigation teams in 2019, of which the POOC is a member. Namely, one was formed in 2018 with the Czech Republic, Austria and Slovakia for criminal offences of forming criminal association for the purpose of committing criminal offenses, illicit production and distribution of narcotics and money laundering for a period of two years. In 2019 one research team was formed with Romania and one with Finland with the aim of efficiently detecting and proving criminal acts of association for the purpose of committing criminal acts and illicit production and distribution of narcotics. In addition to the investigative team formed in 2018, POOC operated two other joint investigative teams formed in 2017 - one with the Czech Republic and one with the Republic of Macedonia.

In both cases they dealt with criminal acts of association for the purpose of committing criminal acts and illicit production and distribution of narcotics. In addition to the formation of two investigative teams in 2017, POOC participated in work of two other joint investigative teams formed in 2015 with the Czech Republic and the Federal Republic of Germany.

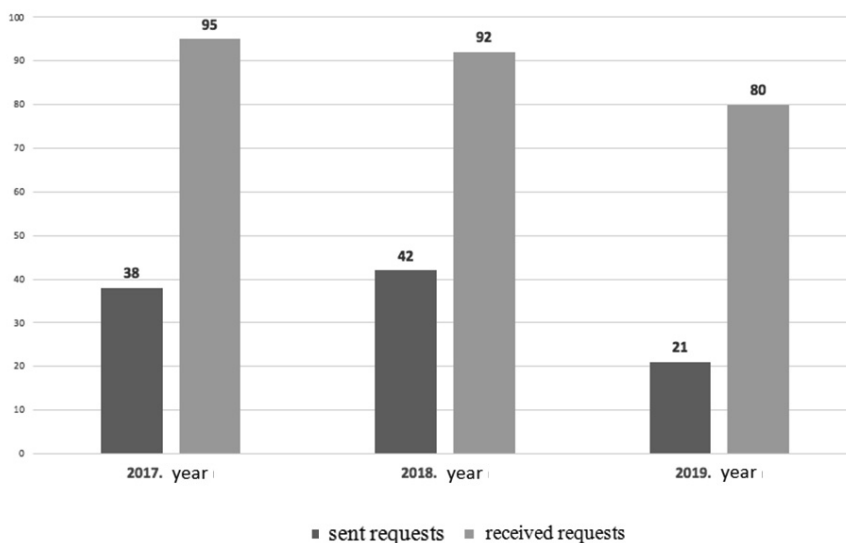


Graph 8- Joint investigation teams

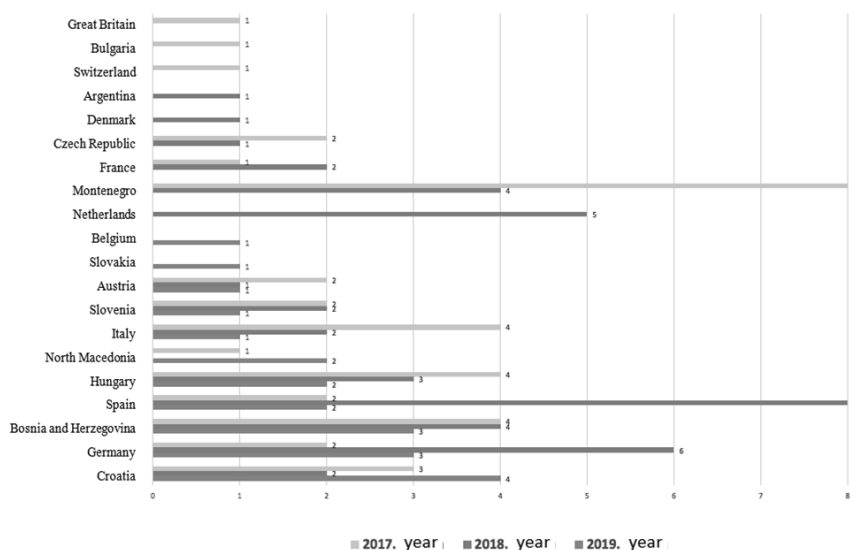
Besides cooperation with European agencies when it comes to efficiently combating organized crime, it is important to emphasize Serbia's activities in providing international legal assistance within the POOC, which is important in implementing criminal policy but also considering the relationship between principles of supranationalism and interstatehood as key factors for suppression of organized crime. Namely, the POOC in 2019 received 80 requests for international legal assistance were submitted, while the POOC sent 21 requests for international legal assistance, of which 9 were sent directly to the competent judicial body, and three both directly and through the Ministry of Justice. Requests were most often sent to the competent authorities in Croatia, Germany, Bosnia and Herzegovina, Spain, Hungary and Northern Macedonia, and one request each was sent to the competent judicial authorities in Italy, Slovenia, Austria, Slovakia and Belgium. Accordingly with the goals of international cooperation in criminal matters, the subject of the request most often referred to the submission of evidence, files or documents, examination of witnesses, application of secret surveillance

of communication, secret monitoring and recording and 1 request for hiring an undercover investigator. It should be noted that there were no requests for international legal assistance in the proceedings for the crime of money laundering. When it comes to 2018, 92 requests for international legal assistance were sent to the POOC, while this office sent 42 requests for international legal assistance, of which 34 were sent directly to the competent judicial body and 6 through the Ministry of Justice. Requests for international legal assistance were most often sent to the competent authorities in Spain 8, Germany 6, the Netherlands 5, Montenegro 4, Bosnia and Herzegovina 4, Hungary 3, Italy, Croatia, Slovenia and France 2 each and 1 to the Czech Republic, Denmark, Austria and Argentina. The subject of the request most often referred to the submission of evidence, files or documents 10, examination of witnesses 2, search of premises 8, application of secret surveillance of communications 10, secret surveillance and recording 8, two direct pieces of information were submitted without prior request and three requests were submitted that relate to the finding of proceeds from crime. When it comes to 2017, 95 requests for international legal assistance were sent to the POOC, while the POOC sent 38 requests for international legal assistance, of which 26 were sent directly to the competent judicial body, 6 directly and through the Ministry of Justice, while 12 requests were sent only through the Ministry of Justice, the Sector for International Legal Aid, the Department for International Legal Aid. Serbia most often addressed requests to the competent authorities in Montenegro 8, Bosnia and Herzegovina 4, Hungary 4, Italy 4, Croatia 3, two requests were sent to the competent authorities in Austria, Germany, Spain, Slovenia and the Czech Republic and one request each was sent to the competent authorities in France, Macedonia, Switzerland, Bulgaria and Great Britain. The subject of the request in most cases was the exchange of information and delivery of letters and cases related to criminal proceedings in the requesting state 22, examination of witnesses 5, verification of accounts and suspicious transactions 3, search of premises 1, application of secret communication surveillance 5, secret surveillance and recordings 4 and three immediate pieces of information were provided without prior request.

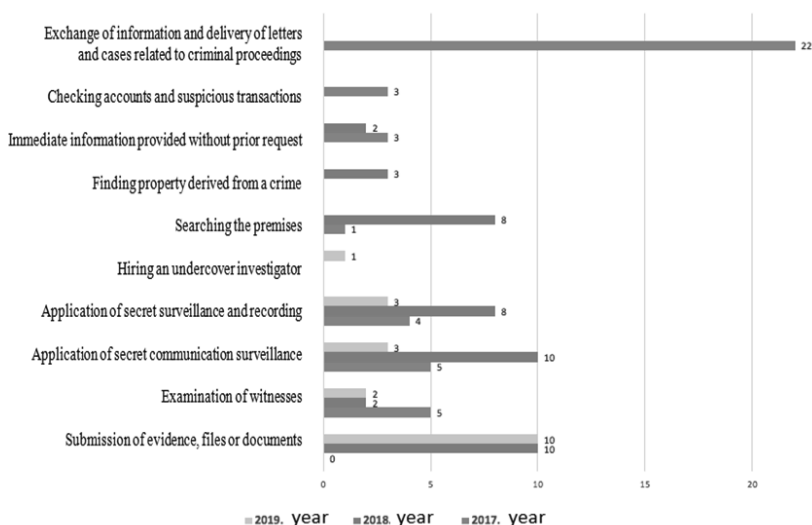
Suppression Of Organized Crime and Serbia's Accession to the European Union



Graph 9- Prosecutor's Office for Organized Crime - received and sent requests for international legal assistance



Graph 10- Request for international legal assistance - countries addressed by Serbia



Graph 11- The subject of international legal assistance - the number and type of action regarding which Serbia addressed to another country

In accordance with the above statistical indicators and Serbia's international cooperation with other countries and with European agencies, which is increasingly adopting the principle of supranationalism, we can see Serbia's readiness to more effectively combat contemporary crime and that Serbia has largely met European Commission requirements for compliance of normative framework of Serbia with the *acquis communautaire* of the EU, but also increasing degree of efficiency in detecting and proving organized crime.

Conclusion

Essential explanations of the new legal solutions for more efficient fight against organized crime, as well as of legal, political and procedural reasons for which they were established, indicate that a number of legal solutions are in the function of increasing efficiency as an international legal standard. In accordance with that, Serbia has improved the normative framework on the European path through new legal texts, strategic documents, which represents another step forward in the process of reforming criminal procedure legislation and more

efficient suppression of organized crime. Also, by standardizing the instruments for the realization of the efficiency of criminal proceedings for organized crime, Serbia has harmonized the legal system with the European acquis, tendencies present in contemporary science of criminal procedure law and with solutions present in contemporary, comparative criminal procedure legislation. Positive aspects of improving normative framework of Serbia do not mean that the process of reforming the normative framework of Serbia is over and that the standards of the European Union have been fully met. On the contrary, it is important to continue the work on this reform, especially bearing in mind fact that the realization of several factors contributes to increasing the efficiency of detecting, proving organized crime and that the best legal solutions do not give a good effect in practice, without appropriate social, cultural, political and general normative environment.

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Сузбијање организованог криминалитета и приступање Србије Европској унији

Апстракт: Борба против организованог криминалитета представља проактивну, стратешки орјентисану активност свих савремених, демократских држава, како унутар њених граница, тако и на међународном нивоу. Постављене границе ефикаснијег сузбијања најтежих кривичних дела представљају резултат активних реформи националних нормативних оквира, ратификованих међународних докумената, али и интензивне, професионалне сарадње између држава која се одвија на пољу откривања, сузбијања и процесуирања кривичних дела организованог криминалитета. Безбедносне претње, које су изузетно високог степена када су у питању кривична дела организованог криминалитета, тешко би се могле сузбијати без адекватне међународне сарадње демократских држава. Једна од земаља која активно учествује у међународној сарадњи, истичући сарадњу са европским агенцијама је Србија. Наиме, поставља се оправдано питање ефикасности сарадње Србије са европским агенцијама у сузбијању организованог криминалитета, усклађености националног оквира са европским тековинама, што представља и циљ истраживања у овом раду. У складу са тим, аутор кроз стручно-критичку анализу нормативних решења, резултата практичне примене и валидна теоријска гледишта, анализира предметну проблематику са следећих аспеката: прво, уводна разматрања; друго, ефикасност финансијских истрага и акциони план за поглавље 23; треће, сарадња Србије са европским агенцијама у сузбијање организованог криминала и реформа нормативног оквира; четврто, закључна разматрања

Кључне речи: Организовани криминал, Европске агенције, одузимање незаконито стечене имовине