

ПРЕГЛЕДНИ НАУЧНИ ЧЛАНАК

PREVENTIVE AND REPRESSIVE METHODS OF
COMBATTING CORRUPTION - GUIDEPOSTS OF THE
NORMATIVE EXPERIENCES OF THE REPUBLIC OF
SERBIA¹

Marina M. Simović²

*Faculty of Legal Sciences of the Pan-European
University "Apeiron" in Banja Luka*

Miomira P. Kostić³

Faculty of Law, University of Niš, Republic of Serbia

Summary: *In this paper, the authors highlight the experience of the Republic of Serbia in standardizing preventive and repressive measures in the fight against corruption. That is why it is necessary to define the concept of corruption in a criminological sense, in a broader and narrower sense, and to indicate the measures of a preventive and repressive nature that are prescribed and improved in the Serbian legislation in order to fight against this phenomenon. It also points to the work of independent state bodies in the fight against corruption, as well as to the directed action of public policies in Serbia, through strategic and planning documents to combat this phenomenon, then to the guidelines for the temporal and substantive order of finding regulations, strategies, reports, planned actions and time agendas of actions of state bodies and independent institutions in the fight against corruption in Serbia. Therefore, normative-analytical and descriptive methods will be used when explaining the subject of research.*

Key words: *corruption, repressive measures, preventive measures.*

¹ This paper is a result of theoretical research, financed by the Ministry of Science, Technological Development and Innovation of the Republic of Serbia, according to the contract no. 451-03-47/2023-1/200120 of 3th February 2023.

² Associate Professor, Secretary of the Ombudsman for Children of the Republika Srpska, Faculty of Legal Sciences of the Pan-European University "Apeiron" in Banja Luka, e-mail: marina.simovic@gmail.com.

³ Full Professor, Faculty of Law, University of Niš, e-mail: kosticm@prafak.ni.ac.rs.

2. INTRODUCTORY REMARKS

Dealing with criminology, like any other social science or scientific discipline, implies a clear, precise determination of the subject and goal/goals of theoretical and empirical research, as well as the application of adequate methodological procedures, in order to gain knowledge of the subject matter being studied. The epistemological point of view involves determining the constitutive principles of scientific activity, that is, what science seeks to achieve, while the methodological point of view refers to how and in what way “the scientist really adapts his behavior to the ideal requirements of the activity in which he participates”.⁴

In criminology, as an independent, theoretical-empirical, interdisciplinary social-humanistic science,⁵ two basic areas of study are clearly distinguished, which, at the same time, include the goals of knowledge set in the description of criminological research. These are the areas of criminal phenomenology and criminal etiology. Most often, observation, learning and description of phenomenological characteristics of the investigated phenomena are determined as starting points in pilot research, and in more comprehensive research, in addition to phenomenological indicators, the uncovering of etiological indicators of criminality is also determined as the goal.

Criminal phenomenology is a part of criminology that deals with the studying of external manifestations of criminality as a mass social phenomenon and fact through which individual criminal behavior is manifested⁶. The basic questions that criminal phenomenology considers and studies relate to: the scope of criminality, the forms of criminality and criminal behavior, the structure and structural changes and the dynamics of criminality.

For the purpose of studying the forms of criminal behavior, there are different classifications and typologies of crime in criminology. Classification is defined in methodology as determining the place of a term in a system of terms or as arranging terms in a scope of matter or law⁷. In literature in the field of criminal law, there is a division into classic and recent criminality. Classic criminality includes criminal offenses against goods and values that are protected in all social systems (life and body, personal dignity and morals, property, etc.), while recent criminality includes incriminations as a result of certain development of social relations and changes in those relations (business or economic

⁴ See for more details: Mihailo Đurić, *Problemi sociološkog metoda* (Beograd: Savremena škola, 1962), 32.

⁵ Slobodanka Konstantinović-Vilić, Vesna Nikolić-Ristanović i Miomira Kostić, *Kriminologija* (Niš: Pravni fakultet, Centar za publikacije, 2012), 20.

⁶ *Ibid*, 26-28.

⁷ Gligoriye Zaječaranović, *Osnovi metodologije nauke* (Beograd: Naučna knjiga, 1987), 112.

crime, traffic delinquency). One of the typologies, admittedly little accepted, refers to the distinction between crimes with victims and crimes without victim⁸.

The topic of this paper refers to the experiences of the Republic of Serbia in standardizing preventive and repressive measures in the fight against corruption. That is why it is necessary to define the concept of corruption in a criminological sense, both in broader and narrower sense, and to indicate the measures of a preventive and repressive nature that are prescribed and improved in the Serbian legislation in order to fight against this phenomenon. It also points to the work of independent state bodies in the fight against corruption, as well as to the targeted action of public policies in Serbia, through strategic and planning documents to combat this phenomenon, then to the guidelines for the temporal and substantive order of finding regulations, strategies, reports, planned actions and time agendas of actions of state bodies and independent institutions in the fight against corruption in Serbia. Therefore, normative-analytical and descriptive methods will be used when explaining the subject of research.

3. BUSINESS (ECONOMIC) CRIME

Business (economic) crime is a complex criminological and legal phenomenon that arose in modern society with the development of economy. This form of crime includes a specific group of offenses against social-property relations and the economic system. The resistance of economic crime to the preventive measures taken, the resourcefulness of its perpetrators, adaptability and persistence and, above all, the pervasiveness, known from its historical past, indicate that there are no socio-economic conditions that crime cannot successfully use for creating illegal, untaxed profits, unexpected enrichment and exploitation of the weak⁹.

An essential characteristic of economic crime is dynamism, the ability to adapt to changes in economic and financial business and the rules of that business. At the time of radical reforms in the economy, when traditional mechanisms of its operation are changed and new forms are introduced, without appropriate legal regulation, there is an increase in crime in various economic areas. Another characteristic of economic crime is concealment, that is, the existence of

⁸The example cited in the criminological literature for victimless crime is most often related to white-collar crime. A subtype of this type of crime is organizational crime, which has broad social consequences and less differentiated victims compared to occupational crime. Direct and indirect forms of corruption are also included into organized crimes, alongside with fraud in the field of business operations, on the stock exchanges, suspicious transactions and fraud in insurance. Konstantinović-Vilić, Nikolić-Ristanović i Kostić, *Kriminologija*, 189.

⁹Janez Pečar, „Kriminalno politička problematika „razdruštvljavanja” imovine u Sloveniji“, *JRKKP*, 2 (1991): 3-15.

such methods of execution that make it impossible or difficult to detect both the criminal offenses and the perpetrators. Due to the existence of a large number of undetected crimes in this area, it is difficult to determine the exact extent of economic crime. Given this circumstance, what the statistics show about economic crime is more an indicator of the efficiency of the prosecuting authorities and the judiciary than an indicator of its prevalence¹⁰.

In the criminological literature, there are different understandings of the *concept of business crime*. In textbook literature in the field of criminology, the thoughts of the doyen of criminological thought in the former SFRY, such as S. Pihler, are still cited. Pihler made his determination precisely at the time of economic expansion and the development of different economic-legal and socio-political relations, by introducing the principle of self-managing socialism and the transition of property from state to social, self-managing, socialist, property of working people. According to Pihler, depending on the nature of individual crimes that can directly or indirectly attack economic relations, it is possible to distinguish economic crime, as a broader term, and economic crime, as a narrower term.¹¹

Crime related to the economy includes all criminal behavior that directly or indirectly attacks the economy, economic relations, processes and activities. Formally determined by law, this term includes criminal offenses (against the economy, market unity, official duties, state finances, constitutional regulation - sabotage in the economy), economic offenses and economic misdemeanors.

Business crime, as a part of crime related to economy, includes criminal offenses that directly attack economic relations, processes and activities. These criminal behaviors arise within the framework of economic relations and are carried out by subjects - legal and natural persons, holders of certain powers regarding the creation, duration, change or termination of these relations, as well as the possibility of indirect or direct disposal of property.

4. CONCEPT AND ELEMENTS OF CORRUPTION

Criminal offenses against business are criminalized in the Criminal Code of the Republic of Serbia (Chapter XXII), namely Art. 223- 245. Article 230 criminalizes behavior called "Accepting bribes in conducting of business activity". The elements of this criminal offense are clearly described. Paragraph 3 states that the gift and material gain received shall be seized. The opposite direction of execution of corruptive actions, which imply active approach in the sense of

¹⁰ Konstantinović-Vilić, Nikolić-Ristanović i Kostić, *Kriminologija*, 172.

¹¹ Stanko Pihler, "Prilog definisanju pojma privredni kriminalitet", *JRKKP*, 1 (1979): 42-61.

giving bribe in conducting of business activity, is prescribed by the legislator in Article 231 under title *giving bribe*.

The concept of corruption is not easy to define because the corruption can be viewed from different aspects: psychological, sociological, criminological or legal. It is considered that the corruption can be defined as a “leaders’ disease”, i.e. as a situation in which a person authorized to make decisions and undertake actions in the public interest modifies his decision and actions guided by private interests.¹²

5. MEASURES FOR COMBATING CORRUPTION - GUIDELINES FOR REGULATIONS

According to UN data, which are cited on the official portals of the world media, corruption causes a loss in the world economy of 2,600 billion (2.6 trillion) dollars every year, while about a trillion dollars is paid in the form of bribes every year. The amount of 2.6 trillion is more than five percent of the total world GDP.¹³ “Corruption is a serious crime that can undermine social and economic development in all societies. No country, region or community is immune”, says the United Nations. The World Organization states that a trillion dollars a year, illegally alienated through corruption, is taken in the form of bribe.¹⁴

The fight against corruption in the Republic of Serbia implies a series of harmonized and coordinated activities of state bodies and independent state institutions, which apply preventive and repressive measures to prevent corruption. For the purposes of this research, without going into the issues of distinguishing between independent (control) and regulatory bodies, about which there are many scientific and professional polemics of researchers¹⁵, we state which independent state institutions are in the Republic of Serbia, with special emphasis on those dealing with fight against corruption: Protector of citizens (Ombudsman)¹⁶, Commissioner for Information of Public Importance and Personal Data Protection¹⁷, Commissioner for Protection of Equality¹⁸, Agency for

¹² Nataša Mrvić-Petrović, “Korupcija i strategije njenog suzbijanja”, *Temida*, 4, 4 (2001): 21.

¹³ *Međunarodni dan borbe protiv korupcije*, <https://www.uniquenewsonline.com/bs/Me%C4%91unarnodni-dan-borbe-protiv-korupcije-2021/>, pristupljeno 8.5.2023.

¹⁴ *Svijet obilježava Dan borbe protiv korupcije, 9 decembar, 2018, Glas Amerike*, pristupljeno 6.5.2023., <https://www.glasamerike.net/amp/svet-obe%C5%BEava-dan-borbe-protiv-korupcije/4692919.html>

¹⁵ See, for example: Luka Glušac, „Razlikovanje nezavisnih (regulatornih) i kontrolnih tela“, *Zbornik radova Pravnog fakulteta u Nišu*, 59, 87 (2020): 197-215. *chrome extension://efaidnbmninnibpcajpegcglcfindmkaj/* <https://scindeks-clanci.ceon.rs/data/pdf/0350-8501/2020/0350-85012087197G.pdf>.

¹⁶ <https://www.ombudsman.rs/>, accessed on 6 May 2023.

¹⁷ <https://www.poverenik.rs/sr/>, accessed on 6 May 2023.

¹⁸ <https://ravnopravnost.gov.rs/>, accessed on 6 May 2023.

Prevention of Corruption (previously: Agency for Combating Corruption)¹⁹ and State Audit Institution²⁰.

The Agency for the Prevention of Corruption was founded in 2008 under the name of the Agency for the Fight against Corruption²¹ - by the Law on the Agency for the Fight against Corruption. The need to improve the original text of the law also arose in the context of the negotiations on Serbia's accession to the European Union, and the Law on the Prevention of Corruption is now in force, which is applicable as of 1 September 2020²².

The Agency for the Prevention of Corruption supervises the implementation of strategic and normative acts in its field. It initiates proceedings and imposes measures for violation of the Law on the Prevention of Corruption, resolves conflicts of interest, performs tasks in accordance with the laws governing the financing of political parties and lobbying. The Agency monitors and performs tasks related to organizing the coordination of the work of state bodies in the fight against corruption, keeps the register of officials, the register of property and income of officials, acts on petitions of legal and natural persons, as well as on reports of state officials, and performs other tasks that are defined by this law.

Long before the establishment of the Agency for the Prevention of Corruption, the fight against corruption in Serbia began with the ratification of international documents for the fight against corruption. There is a list of relevant laws on website of the Agency for the Prevention of Corruption, such as: the Law on Ratification of the United Nations Convention against Corruption²³, the Law on Ratification of the Criminal Law Convention on Corruption²⁴, the Law on Ratification of the Additional Protocol to the Criminal Law Convention on Corruption²⁵ and the Law on Ratification of the Civil Law Convention on Corruption²⁶.

The first National Strategy for the fight against corruption in the Republic of Serbia was adopted in 2005 – by the Decision on establishing the National Strategy for the fight against corruption²⁷, and the Action Plan in 2006. This strategy included three key elements that must be applied simultaneously and in a coordinated manner: efficient application of anti-corruption regulations;

¹⁹ <https://www.acas.rs/cyr>, accessed on 6 May 2023.

²⁰ <https://www.dri.rs/>, accessed on 6 May 2023.

²¹ *Official Gazette of the Republic of Serbia*, nos. 97/2008, 53/2010, 66/2011, 67/2013, 112/2013, 8/2015 and 88/2019.

²² *Official Gazette of the Republic of Serbia*, nos. 35/2019, 88/2019, 11/2021, 94/2021 and 14/2022.

²³ *Official Gazette of Serbia and Montenegro – International Treaties*, number 12/2005.

²⁴ *Official Gazette of the Federal Republic of Yugoslavia – International Treaties*, number 2/2002 and *Official Gazette of Serbia and Montenegro – International Treaties*, number 18/2005.

²⁵ *Official Gazette of the Republic of Serbia - International Treaties*, number 102/2007.

²⁶ *Official Gazette of the Republic of Serbia – International Treaties*, number 102/2007.

²⁷ *Official Gazette of the Republic of Serbia*, number 109/05.

prevention, which implies eliminating the possibility of corruption; raising awareness and educating the public for public support for the implementation of the anti-corruption strategy. From the 2012 report of the Agency for the fight against corruption on the implementation of the Strategy from 2005, it follows that the goals in the area of establishing a legal and institutional framework for the prevention and suppression of corruption, prevention of conflicts of interests in public sector, involvement in regional and the international fight against corruption, as well as the establishment of ethical standards and transparent financing of political parties have been achieved to the greatest extent. On the other hand, certain issues that are the subject of strategic document have not been resolved at all or have only been partially resolved.

Reform of judiciary, which has still not been completed in a satisfactory manner, the processes of privatization and public procurement, which continue to cause concern regarding corruption, insufficient transparency of media ownership and the possibility of unauthorized influence on editorial policy, insufficient public participation in legislative process and budget planning, etc. can be stated as examples. In the aforementioned report, the Agency defined two types of problems and challenges in the process of monitoring the implementation of the Strategy from 2005. First, the process of collecting information and reports from the obligees of the Action Plan from 2006, when numerous difficulties were encountered, due to the obligees not fulfilling their legal duty to report in a timely and complete manner. Second, the inconsistent content of the Strategy from 2005 and the Action Plan from 2006 caused confusion regarding which activities need to be implemented and whose jurisdiction they are.

Starting from the claim that a developed awareness and political will to achieve significant progress in the fight against corruption has been formed in the Republic of Serbia, with respect for democratic values, the rule of law and the protection of fundamental human rights and freedoms, ratified international documents, the second National Strategy for the fight against corruption in the Republic of Serbia for the period from 2013 to 2018, was adopted²⁸.

It is stated in the Introduction of the Strategy: “The concept and constituent elements of corruption have not yet been defined in a unique and uniform way”. The definition used so far in the Republic of Serbia, prescribed by the Law on the Agency for Fight Against Corruption (*Official Gazette of the Republic of Serbia*, nos. 97/08, 53/10 and 66/11 – Constitutional Court), defines corruption as a relationship based on the abuse of official, that is, social position or influence in public or private sector, in order to gain personal benefit or benefit for another. The strategy defined six strategic principles in the fight against corrup-

²⁸ *Official Gazette of the Republic of Serbia*, no. 57/2013.

tion: the principle of the rule of law, the principle of zero tolerance for corruption, responsibility, comprehensive application of measures and cooperation of all levels of government, as well as the principle of efficiency and transparency.

Article 2 of the Law on the Prevention of Corruption defines corruption as a relationship that arises from the use of official or social position or influence in order to obtain illegal benefit for oneself or another. By comparing this definition and the definition of corruption, i.e. receiving and giving bribes from Art. 230 and 231 of the Criminal Code, it is observed that in the criminological sense, the definition of corruption can have a broader and narrower meaning. It is clear that according to the provisions of the Law on the Prevention of Corruption, the concept of corruption is broader than what constitutes the corruptive criminal offenses prescribed by the Criminal Code (Articles 223-245). In a methodological sense, on one hand, in actions of state repressive bodies in the fight against corruption, in the implementation of their powers, it is more acceptable to limit the concept of corruption to those behaviors (actions) that are defined as criminal offenses or misdemeanors under the law, and which possess corruptive elements, given that only such actions have legal basis for the actions of state bodies.

On the other hand, the definition of a broader term in legal and strategic documents enables the fight against corruption in the sense of the wider activities of society in the fight against corruption and changing the awareness of citizens about the destructive effects of corruption. In this regard, the activities of non-governmental organizations, such as Transparency Serbia²⁹, would be particularly distinguished. The state refers to the reports of this organization when preparing previous Strategy for the fight against corruption for the period from 2013 to 2018.

Looking at all previous experiences and knowledge in the institutionalized fight against corruption, Serbia is currently in the phase of drafting a new National Strategy for the fight against corruption for the period from 2023 to 2028³⁰. On the website of the Ministry of Justice of the Republic of Serbia, an overview of anti-corruption regulations is separated by road maps primarily of preventive, and then repressive actions.

²⁹ *Transparentnost Srbija*, <https://www.transparentnost.org.rs/sr/zakoni>.

³⁰ *Republic of Serbia, Ministry of Justice, National Strategy for the Fight Against Corruption for the period from 2023 to 2028*, <https://www.mpravde.gov.rs/tekst/39384/nacionalna-strategija-za-borbu-protiv-korupcije-za-period-od-2023-2028-godine-.php>, accessed on 6 May 2023.

5.1. Preventive effect of anti-corruption regulations

In this part of the prevention of anti-corruption documents in the preparation of the new National Strategy for the fight against corruption for the period from 2023 to 2028, the document entitled “Report on the sectors that will be the subject of the future National Strategy for the fight against corruption and the accompanying Action Plan” is stated in full.³¹

According to the results of the analysis, 13 sectors that are particularly susceptible to corruption were singled out, and these are: healthcare; education; taxation; customs; police; local government; public sector management; infrastructure and spatial planning; financing of political parties; privatization; public procurement; lobbying and protection of whistleblowers. Further, the document states three recommendations: 1) in order to ensure undisturbed work and more efficient implementation of further activities on the assessment of the corruption risk in mentioned sectors, it is recommended to group risks depending on the needs and situation; 2) use the analysis to assess the risk of corruption in all recognized areas as subject matter of the future National Strategy for the fight against corruption and the accompanying Action Plan, according to the methodology developed by the Agency for the Prevention of Corruption; 3) during risk assessment, special attention should be paid to cross-sectoral issues that are common to the mentioned sectors, i.e. to protection of whistleblowers, lobbying, public procurement, privatization, etc. Each of the 13 areas is analyzed separately, presented in tables.

5.2. Repressive effect of anti-corruption regulations

Numerous regulations in the Republic of Serbia have anti-corruption provisions in order to prevent abuse of public authority³². In order to optimize the efficiency of the process, it is suggested to consider the need for changes of certain regulations, which problem should be particularly considered within the work of the subgroup for repressive-legal aspects of the fight against corruption, and to look at the causes and propose measures for more efficient criminal justice response.

³¹ Report on sectors that will be the subject of the future National Strategy for the Fight Against Corruption and accompanying Action Plan, <https://www.mpravde.gov.rs/tekst/39384/nacionalna-strategija-za-borbu-protiv-korupcije-za-period-od-2023-2028-godine-.php>, accessed on 6 May 2023.

³² Overview of anti-corruption regulations, public policy documents and acts of international and non-governmental organizations with recommendations for the work of subgroup for repressive-legal aspect of the fight against corruption, <https://www.mpravde.gov.rs/tekst/39384/nacionalna-strategija-za-borbu-protiv-korupcije-za-period-od-2023-2028-godine-.php>, accessed on 6th May 2023.

The normative framework of the repression of corruption in the narrower sense in the Republic of Serbia consists of regulations relevant to the implementation of criminal proceedings for corruption crimes:³³

- The Criminal Code³⁴ (within a special section - criminal offenses against legal traffic, against the economy, as well as other chapters, prescribes certain corruptive criminal offenses) and the Criminal Procedure Code³⁵. Starting from the concealment of corruptive criminal offenses, the application of special evidentiary actions is enabled to prove them (provisions of Articles 161-187 of the aforementioned Code);
- The Law on Confiscation of Property Resulting from a Criminal Offense³⁶ regulates the procedure for confiscation of property, the management of confiscated property and the manner of international cooperation in the given area. Amendments to the aforementioned law enabled its application even in relation to criminal offenses of corruptive nature that are taxatively prescribed³⁷;
- Law on the Organization and Jurisdiction of State Bodies in the Fight against Organized Crime, Terrorism and Corruption.³⁸ This law established special anti-corruption departments of the higher public prosecutor's offices and higher courts in Belgrade, Kraljevo, Niš and Novi Sad, whereby the Prosecutor's Office for Organized Crime can also act in certain cases, under the conditions stipulated by the law. The network of public prosecutor's offices and courts, whose employees are specially trained and specialized in the fight against corruption, began exercising its jurisdiction in 2018;
- The Law on the Prevention of Corruption regulates the legal position, jurisdiction, organization and work of the Agency for the Prevention of Corruption, the rules on prevention of conflicts of interest when performing public functions, cumulation of public functions, reporting of

³³ In a broader sense, the normative framework of the repression of corruption in the Republic of Serbia also consists of regulations defining jurisdiction of certain state bodies aimed at detecting corruptive criminal offenses and misdemeanors and initiating criminal and misdemeanor proceedings in certain specific areas, and which aim to suppress corruption: Public procurement Law, *Official Gazette of RS*, no. 91/2019, Law on Public-Private Partnership and Concessions, *Official Gazette of RS*, no. 88/2011, 15/2016 and 104/2016, Law on State Audit institution, *Official Gazette of the RS*, no. 101/2005, 54/2007, 36/2010 and 44/2018-dr law and the Law on Budget Inspection, *Official Gazette of the RS*, no. 118/2021.

³⁴ *Official Gazette of RS*, no. 85/05 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19.

³⁵ *Official Gazette of RS*, no. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19, 27/2021- OUS and 62/2021 – OUS.

³⁶ *Official Gazette of RS*, no. 32/13, 94/16 and 35/19.

³⁷ The importance of confiscation of property gained through corruptive criminal offenses is particularly emphasized in the European Commission Report on Progress of the Republic of Serbia from 2022. <https://www.mei.gov.rs/srl/dokumenta/eu-dokumenta/godisnji-izvestaji-ek/>, accessed on 6th May 2023.

³⁸ *Official Gazette of RS* no. 94/2016 and 87/2018.

assets and incomes of public officials, the procedure in which it is decided whether there is a violation of that law and other issues that are important for the prevention of corruption;

- Law on Liability of Legal Entities for Criminal Offenses³⁹;
- Law on misdemeanors⁴⁰.

5.3. Documents of public policies

Among public policy theorists, as well as in the application domain, there is often no agreement on the definition of this term, which, perhaps due to a linguistic discrepancy, is mistakenly identified with the concept and meaning of political power, for example. Therefore, in the literature in the field of administrative law, it is primarily emphasized that public policy is a decision-making system in the public sector. It belongs to the part of public administration management that concerns relations and processes and the sphere of public administration activities⁴¹. More specifically, it means that public policy implies the process of making decisions in the public, not private interest. On the other hand, its foundation lies in the value judgment of its actors, so it represents a choice of values that are implemented in order to achieve a goal determined by the political authorities. Public policy (action, program, measures) is characterized by its goals, the means used, their realization (results), its consequences, its implementation, and the social-economic and institutional environment⁴². The quality of public sector services is also valued by political nature of public administration, in which equality and democracy play an important role.

In the document entitled *Overview of anti-corruption regulations, public policy documents and acts of international and non-governmental organizations with recommendations for the work of the subgroup for the repressive-legal aspect of the fight against corruption* (pages 6 and 7), it is interesting that a series of public policy documents for preventing corruption are listed.

The operational plan for the prevention of corruption in areas of special risk was adopted and published by the competent authorities in order to “overcome” the period from the expiration of the National Strategy for the fight against corruption for the period from 2013 to 2018 until the adoption of the new strategic document⁴³. The Judiciary Development Strategy for the period from 2020

³⁹ *Official Gazette of the Republic of Serbia*, no. 97/2008.

⁴⁰ *Official Gazette of the Republic of Serbia*, no. 65/2013, 13/2016, 98/2016-OUS, 91/2019, 91/2019 and 112/2022.

⁴¹ Predrag Dimitrijević i Dejan Vučetić, *Menadžment javne uprave*, (Beograd: Dosije studio: SeCons – grupa za razvojnu inicijativu; Niš: Univerzitet, 2021), 51.

⁴² *Ibid.*

⁴³ Draft operative plan for preventing corruption in the special risk areas, <https://www.mpravde.gov.rs/tekst/33794/nacrt-operativnog-plana-za-sprecavanje-korupcije-u-oblastima-od-posebnog-rizika.php>, ac-

to 2025⁴⁴, together with the Action Plan for the implementation of the Strategy⁴⁵, established the objectives of development of judiciary and measures for their implementation in the period in question, which is essential for the fight against corruption. The proposed goals and measures have a positive effect on the position of the repression organs, and would contribute to the realization of the principle of an autonomous, independent, efficient, transparent and professional judiciary, as a prerequisite for the essential fight against corruption.

The revised action plan for chapter 23⁴⁶ is a document that, among other things, foresees concrete measures that need to be implemented in the repressive-legal plan of the fight against corruption. The report on the assessment of the impact of strategic documents in the field of the fight against corruption⁴⁷, issued by the Agency for the Prevention of Corruption, contains useful methodological notes for the work of all working groups and subgroups during the preparation and drafting of the new National Strategy for the Fight against Corruption. In addition, a statistical overview of the realization of activities and measures foreseen in the previous strategic documents was provided, and the most significant challenges in assessing the impact of implemented measures on the state of corruption were pointed out. The methodology for assessing the corruption risk in the areas that are the subject of the anti-corruption strategy and action plan, issued by the Agency for the Prevention of Corruption - represents “zero point” for drafting all strategic documents related to the fight against corruption.

6. CONCLUSION

The World Anti-Corruption Day is celebrated every year on 9th December, and it was celebrated for the first time in 2005⁴⁸. On the occasion of World Anti-Corruption Day, Rigoberta Menchu, winner of the Nobel Prize, said in 2021: “Without strong institutions of supervision, impunity becomes only the terrain on which corruption systems are built. And if impunity is not destroyed, all efforts to put an end to corruption are in vain”.⁴⁹

cessed on 8th May 2023.

⁴⁴ *Official Gazette of RS*, no. 101/2020 and 18/2022.

⁴⁵ *Official Gazette of RS*, no. 45/2022.

⁴⁶ *Draft revised action plan for chapter 23 – analysis*, <https://www.mpravde.gov.rs/tekst/22568/nacrt-revidiranog-akcionog-plana-za-poglavlje-23-analize.php>, 123-126, accessed on 8th May 2023.

⁴⁷ *chrome-extension://efaidnbmninnibpcajpcglclefindmkaj/https://www.acas.rs/storage/page_files/Izve%C5%A1taj%20o%20proceni%20uticaja%20strate%C5%A1kih%20dokumenata%20u%20oblasti%20borbe%20protiv%20korupcije.pdf* pristupljeno 8.5.2023.

⁴⁸ *International anti-corruption day*.

⁴⁹ *Ibid.*

On the website of the Ministry of Justice of the Republic of Serbia, the documents clearly state the measures to prevent corruption: strengthening and formalizing the mutual cooperation of state bodies in the fight against corruption (e.g. more frequent establishment of strike groups and use of the institute of liaisons officer provided for by the law); performance of special evidentiary actions when proving corruptive criminal offenses, in accordance with the Code of Criminal Procedure. It is proposed to provide specialized training for holders of judicial functions and judicial assistants in misdemeanor courts and, if necessary, to strengthen personnel capacities, as well as to increase the number of: initiated and completed proceedings for the criminal offense of abuse in connection with public procurement from Article 228 of the Criminal Code and for misdemeanors in the field of public procurement; initiated and completed proceedings for corruptive criminal offenses; proceedings against high-ranking state officials or proceedings in which the perpetrators obtained large illegal financial benefits (“high level corruption” cases) and completed proceedings for the permanent confiscation of property acquired through corruptive criminal offenses.

All the documents, draft strategies and action plans and document archives are clearly, visually and substantively available on the portals of the Ministry of Justice of the Republic of Serbia, the Agency for the Prevention of Corruption and e-Konsultacije.gov.rs under the title: National strategy for the fight against corruption for the period from 2023 to 2028 with the accompanying Action Plan⁵⁰. Finally, let’s not doubt the wise words: “If corruption is a disease, transparency is a key part of its treatment”, Kofi Annan.

LITERATURE:

- Dimitrijević, Predrag i Dejan Vučetić. *Menadžment javne uprave*. Beograd: Dosije studio: SeCons – grupa za razvojnu inicijativu. Niš: Univerzitet, 2021.
- Đurić, Mihailo. *Problemi sociološkog metoda*. Beograd: Savremena škola, 1962.
- Konstantinović-Vilić, Slobodanka, Vesna Nikolić-Ristanović i Miomira Kostić. *Kriminologija*. Niš: *Pravni fakultet, Centar za publikacije*, 2012.
- Milutinović, Milan. *Kriminologija*. Beograd: Savremena administracija, 1989.
- Mrvić-Petrović, Nataša. “Korupcija i strategije njenog suzbijanja”, *Temida*, 4, 4 (2001): 21-25.
- Pečar, Janez. „Kriminalno-politička problematika “razdruštvljavanja” imovine u Sloveniji“. *JRKKP*, 2 (1991): 3-15.
- Petrović, Borislav i Gorazd Meško. *Kriminologija*. Sarajevo: Pravni fakultet Univerziteta u Sarajevu, 2004.

⁵⁰ <https://ekonsultacije.gov.rs/topicOfDiscussionPage/168/1>, accessed on 8th May 2023.

- Pihler, Stanko. “Prilog definisanju pojma privredni kriminalitet”, *JRKKP*, 1 (1979), 42-61.
- Zaječaranović, Gligorije. *Osnovi metodologije nauke*. Beograd: Naučna knjiga, 1987.
- Глушац, Лука. „Разликовање независних (регулаторних) и контролних тела“. *Зборник радова Правног факултета у Нишу*, 59, 87 (2020): 197-215.

ПРЕВЕНТИВНЕ И РЕПРЕСИВНЕ МЕТОДЕ БОРБЕ ПРОТИВ КОРУПЦИЈЕ – ПУТОКАЗИ НОРМАТИВНИХ ИСКУСТАВА РЕПУБЛИКЕ СРБИЈЕ⁵¹

Марина М. Симовић⁵²

Факултет правних наука Паневропског
универзитета “Апеирон” у Бањој Луци

Миомира П. Костић⁵³

Правни факултет Универзитета у Нишу

***Апстракт:** Ауторке у овом раду истичу искуства Републике Србије у нормирању превентивних и репресивних мјера борбе против корупције. Зато је потребно да се у криминолошком смислу одреди појам корупције, у ширем и у ужем смислу и да се назначе мјере превентивног и репресивног карактера које се прописују и унапређују у законодавству Републике Србије ради борбе против ове појаве. Указује се и на рад независних државних тијела у борби против корупције, као и на усмјерено дјеловање јавних политика у Србији, путем стратешких и планских докумената на сузбијање ове појаве, затим на путоказе временског и садржајног редослиједа налажења прописа, стратегија, извјештаја, планских акција и временских агенди поступања државних органа и независних институција у борби против корупције у Србији. Стога, као методе биће коришћене нормативно-аналитичка и дескриптивна, приликом објашњења предмета истраживања.*

***Кључне ријечи:** корупција; Србија; репресивне мјере; превентивне мјере.*

⁵¹ Овај рад је резултат теоријског истраживања, као резултат финансирања Министарства науке, технолошког развоја и иновација Републике Србије, по уговору, регистрованог под број 451-03-47/2023-1/200120 од 03.02.2023.

⁵² Ванредни професор, секретар Омбудсмана за дјецу Републике Српске, Факултет правних наука Паневропског универзитета “Апеирон” у Бањој Луци, контакт: marina.simovic@gmail.com.

⁵³ Редовни професор, Правни факултет Универзитета у Нишу, контакт: kosticm@prafak.ni.ac.rs.