

COUNTRY CASE STUDIES – SERBIA

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Country profile¹

A census² was last conducted in the Republic of Serbia in 2011. According to that census, the total number of inhabitants was 7,186,862. As the principal two characteristics, in comparison to previous censuses, the negative birth rate was emphasised (in comparison to the census from 2002, the birth rate was -4.3%), as well as that Serbia was among the demographically oldest countries of the world (the average inhabitant was 42.2 years old). ([RZS, 2015: 47.](#); [MARINKOVIĆ, 2013: 2.](#)) According to the estimate of the Statistical Office of the Republic of Serbia (hereinafter: the Office), the total number of inhabitants in 2020 was 6,899,126 (in comparison to 2011 there was a notable decrease in the number of inhabitants -4%). In 2020 there were circa 47% more deaths than births. This further contributes to the statement that the trend of negative birth rate is continuing. The average age was 43.4 (women were on average older than men by 2.8 years). If we look at the structure of the population in relation to their age, most inhabitants (64.6%) were 15-64 years old, then +65 (21.1%), while the group of those up to 14 years (14.3%) was the smallest. If we look at the internal migration of inhabitants, it is noticeable that most inhabitants lived in the Belgrade region (the city of Belgrade and the surrounding places), which also had the only positive migration rate, while emigration of people was biggest in the regions of Sumadija and western Serbia, as well as southern and eastern Serbia. As for international migrations, which issue is especially topical in recent years in the whole of Europe, data are not available, since the Office does not record data on this. ([RZS, 2021a](#))

GDP in 2020 amounted to USD 52.96 billion (0.05% of the world economy) which is the highest in the 1995–2020 period.³ GDP Annual Growth rate was -1% in comparison to 2019, where we should state that all countries recorded a fall (the world average was -3.6; Europe -6.7;

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¹ Presented data relate to the year 2020. In situations where there were no data for the said year, last published data were used.

² The census did not include people who lived in the territory of the Autonomous Province of Kosovo.

³ Serbia's economy depends on manufacturing and exports, driven by foreign direct investments. The FDI are concentrated in a variety of industries, including metal processing, building, textile, beverage, electronics and financial. On the expenditure side, household consumption is the main component of GDP and accounts for 76 percent of its total use, followed by gross fixed capital formation (17 percent) and government expenditure (18 percent). Exports of goods and services account for 44 percent of GDP while imports account for 54 percent, subtracting 10 percent of total GDP. Source: <https://tradingeconomics.com/serbia/gdp-growth>

and the EU -6.2). In this sense, we can state that the drop in GDP was smaller in comparison to the European average. The total world GDP decline could be explained by problems connected with the consequences of the COVID-19 virus on the world economy. GDP per capita growth (annual %) in Serbia was -0.4 (the world: -4.6; EURO: -6.8 and the EU: -6.9). Inflation rate (annual %) in Serbia was circa 1.8, which is somewhat higher in comparison to the average inflation rate in all countries (1.7), the EU (1.4) and the EUR region (1.2).⁴

Employment: The number of employed people in 2020 was 2,894,800. The unemployment rate was 9%, which is a fall of 1.4% in comparison to 2019, while employment rate was 49.1%, which is an increase of 0.1%. The multi-year trend of increasing formal and decreasing informal employment continued in 2020. The most informally employed people were recorded in the 25-54 age, group and among those self-employed with no employees. Looking at activities, the biggest fall in total employment was recorded in agriculture, forestry and fishing industry, while the biggest increase in employment was recorded in construction, media and communications. The trend of permanent employment growth, which began in 2015, continued in 2020. The number of permanently employed people in 2020 was greater by 59,600 in comparison to 2019, while the number of people working on contracts, temporary or seasonal jobs, in the same period was smaller by 43,600. In 2020, the smallest unemployment rate was recorded in the Belgrade region, as well as the biggest employment rate (employment rate growth of 0.9%). The average net income in December 2020 was RSD 66,092.00 (USD 660), where the net nominal value of income in comparison to January 2020 increased by 10.6%. It is important to state that median at the end of 2020 was RSD 48,676.00 (USD 486), which means that around 50% of employed people had a net income up to that amount. ([RZS, 2021b](#))

Safety / Homicide rate: According to the available data published by EUROSTAT for the year 2018, the murder rate in Serbia was 1.42 (EURO average: 0.96)⁵, which puts it in seventh place (it is behind Latvia, Lithuania, Estonia, Malta, Cyprus and Romania)⁶. According to the World Bank data, this rate is somewhat lower, and is 1.23.

Democracy / Elections: The last parliamentary elections were held on June 21 and July 1, 2020, when 48.9% of citizens on the list of voters made use of their voting right. The Serbian Progressive Party won 75.2% of mandates (somewhat less than 61% of all voters voted for this list from the 22 offered lists). ([RZS, 2020: 8–9.](#)) The last presidential elections were held on April 2 2017, when 54.34% of citizens on the list of voters made use of their voting right. Citizens could choose between 11 candidates, and *Aleksandar Vučić* was elected President with 55.08%

⁴ Source: <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=RS>

⁵ According to the World Bank data for 2018, intentional homicides rate in Serbia was 1. Source: <https://data.worldbank.org/indicator/VC.IHR.PSRC.P5?locations=RS>

⁶ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Crime_statistics#intentional_homicides_in_the_EU-27_in_2018

votes won. ([RZS, 2017: 8–9.](#)) The issue of democracy and respect for human, i.e. citizens' rights has often been raised in recent years, with a special accent put on the freedom of the media, i.e., its unequal treatment of the governing and opposition parties. Corruption and the judiciary are highlighted as special problems with regard to the rule of law, especially concerning the "Savamala", "Krušik", "Jovanjica", "Telekom" and other affairs. As for the European integration of Serbia, this issue has been made topical through negotiations regarding Chapter 23 (Judiciary and Fundamental Rights) and Chapter 10 (Information Society and Media), where EU reports point to the above problems and the need to solve them.⁷

Corruption profile in law

Innumerable definitions of corruption are available and each of them focuses on corruption in different ways, highlighting different elements as its main characteristics. There are several international legal acts that seek to unify anti-corruption mechanisms at the universal level. The United Nations Convention against Corruption (UNCAC, Merida 2003) is a fundamental legal instrument for the fight against corruption worldwide and its implementation is one of the priority development goals of the UN.

The Republic of Serbia has ratified UNCAC since 2005. Considering the nature of legal obligation, UNCAC contains different types of clauses: binding; clauses to be considered by the State party; optional; and limiting. Binding provisions for signatory states establish obligations that must be implemented what was in principle done when it comes to the Republic of Serbia.

Having in mind that the Republic of Serbia became a member of the Council of Europe in 2003, the normative acts of the Council of Europe related to the fight against corruption are also in force. Serbia has thus ratified the anti-corruption regulations of the Council of Europe. The Convention on Criminal Corruption (Strasbourg, 1999) was ratified by the Law on Ratification of the Criminal Law Convention on Corruption⁸ as well as the Law on Ratification. (Additional Protocol to the Criminal Law Convention on Corruption⁹) The Convention on Civil Law Corruption (Strasbourg, 1999) was ratified by the Law on Ratification of the Civil Law Convention on Corruption.¹⁰

The prevailing view in the domestic literature is that the term corruption should include only those forms of behaviour that are incriminated in criminal law. ([IGNJATOVIĆ, 2016: 121.](#)) If we look at corruption through the prism of criminal law, it should be noted that criminal legislation

⁷ https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf

⁸ Official Gazette of the FRY, International Treaties, No. 2/2002 and Official Gazette of Serbia and Montenegro-International Treaties, No. 18/2005.

⁹ The Official Gazette of the Republic of Serbia, International Agreements, No. 102/2007.

¹⁰ *ibid.*

in the Republic of Serbia did not know the concept of corruption as a legal term until the amendments to the Criminal Code from 2002, when a separate chapter provided for corruption. With the adoption of the Criminal Code in force today, this special chapter has been deleted, and criminal acts that fall into the area of corruption are clearly defined.

The concept of corruption is legally defined in the Law on Prevention of Corruption¹¹, so that corruption is a relationship that arises from the use of one's official or social position or influence in order to gain benefits for oneself or others. It seems that, based on the legal definition of corruption, it can be concluded that the legislator in the Republic of Serbia has joined the global tendency to prevent corruption in the private sector, since corruption is defined not only as an abuse of official, but also as a social position.¹²

Corrupt criminal offenses in the narrower sense (active / passive bribery, private / public bribery, trading in influence and abuse of public office) are provided for in the Criminal Code, while certain corrupt criminal offences in the broader sense are also provided for in other laws.

In the following, we will analyse the criminal offenses prescribed by art. 367 of the Criminal Code – *taking bribes*; art. 368 of the Criminal Code – *offering bribes*; art. 366 of the Criminal Code – *trading in influence*; and art. 359 of the Criminal Code – *abuse of office*.

Taking bribes (passive bribery)

The criminal offence of *taking bribes* is contained in the chapter on criminal offences against official duty and is prescribed by art. 367 of the Criminal Code as follows: “*An official who directly or indirectly solicits or accepts a gift or other benefit, or the promise of a gift or other benefit for himself or another to perform an official act within his competence that should not be performed, or not to perform an official act that should be performed, shall be punished by imprisonment of from two to twelve years.*”

In addition to the basic form of crime cited above, the legislation proposes another form that differs from the basic in that a corrupt action refers to what an official person would have to do or not do what he should not do. The crime is punishable by one to two year in prison. The legislator also prescribed a more serious form of this criminal act by underlining certain activities that should be especially protected from corrupt influence. Hence, the more severe form of bribery is prescribed as follows: “*An official, who commits the offence in connection with the*

¹¹ The Official Gazette of the Republic of Serbia, Nos. 35/2019; 88/2019; 11/2021.

¹² However, in that sense, the legal definition of corruption from the previous Law on the Anti-Corruption Agency was much better and more precise, since corruption was defined as a relationship based on abuse of official or social position or influence, *in the public or private sector*, in for the purpose of gaining personal benefit or benefit for another.

detection of a criminal offence, instigation or conduct of criminal proceedings, or pronouncement or enforcement of criminal sanctions, shall be punished by imprisonment from three to fifteen years.”

The law also stipulates that an official who, after performing or failing to perform an official act accepts a gift or other benefit will be punished for the crime of taking bribes. Finally, a foreign official and responsible officer in an enterprise, institution or other entity who commits the offence will be punished with the penalty prescribed for that offence.

In order to achieve the complete goal of criminalising the crime of taking bribes, the received gift or material gain shall be seized: When it comes to the capacity of the perpetrator, for the existence of the criminal offence of taking bribes, it is necessary to determine whether the one who receives the bribe or requests it, is acting as an official person. In order for the perpetrator's actions to acquire the legal characteristics of the criminal offence of taking bribes, he must have the status of an official person.

Art. 112 of the Criminal Code, defines the term official as follows: An official is a person discharging official duties in government authority; an elected, appointed or assigned person in a government authority, local self-government body or a person permanently or periodically discharging an official duty or office in such bodies; a person in an institution, enterprise or other entity who is assigned periodic discharge of public authority, who rules on the rights, obligations or interests of natural or legal persons or on public interest.

Of particular importance is the provision according to which a person who is de facto assigned to discharge official duties or tasks is going to be considered as an official person. A criminal offence is committed by requesting a bribe, so an attempted criminal offence is not possible. For the existence of this criminal offence, it is irrelevant whether the official has subsequently performed an official act or not, or whether he has done or failed to do something in accordance with or contrary to the law.

Intent is the only form of guilt in committing all forms of the crime of taking bribes. The relation of this criminal offence to the criminal offense of abuse of office is completely determined in the decision of the Supreme Court, which states that there is a principle of inclusion, i.e., that when in the same actions of the perpetrator there are elements of abuse and bribery, there will only be the crime of bribery. Taking bribes and illegal performance of official duties are functionally related to the required bribe, since it is only a further phase in the illegal conduct of the official duty. ([JOCIĆ, 2018: 61](#))

Offering bribes (active bribery)

The legislator prescribed the basic form of this criminal offence as follows: Whoever makes or offers a gift or other benefit to an official to, within his official competence, perform an official act that should not be performed or not to perform an official act that should be performed, or who acts as intermediary in such bribery of an official, shall be punished by imprisonment of from six months to five years.

It is obvious that the legislator is stricter towards persons who commit passive bribery, i.e. take bribes.

The legislator prescribes another form of this criminal offence as follows: Whoever makes or offers a gift or other benefit to an official to, within his official competence, perform an official act that he is obliged to perform or not to perform an official act that he may not perform or who acts as intermediary in such bribery of an official, shall be punished by imprisonment of up to three years.

The legislator prescribed that the criminal offence of offering bribes will be committed when the bribe is given or promised to a responsible officer in an enterprise, institution or other entity. Within this incrimination, the legislator also encourages anti-corruption awareness by prescribing that an offender who reports the offence before becoming aware that it has been detected may avoid punishment. Additionally, the gift or other benefit seized from the person accepting the bribe may be returned to the persons giving the bribe.

Trading in influence

The Criminal Code provides as follows: Whoever solicits or accepts, directly or through a third party, reward or other advantage for himself or another to use his official or social position or his real or assumed influence to intercede for performance or failure to perform an official act, shall be punished by imprisonment of from six months to five years.

The following paragraph prescribes the active form of this criminal offence: Whoever promises, offers or gives, directly or through a third party, a reward or other benefit to another to intercede through using his official or social position or his real or assumed influence for performance of or failure to perform an official act, shall be punished by imprisonment of up to three years.

The next paragraph incriminates mediation to perform an official action that should not be performed or not to perform an official action that should be performed. This form is a more severe form and is punishable by imprisonment from one to eight years.

If any reward or advantage has been received for trading in influence, the offender shall be punished by imprisonment of from two to ten years.

An active form of mediation to perform an official action that should not be performed or not to perform an official action that should be performed is also prescribed. The offender shall be punished by imprisonment from six months to five years.

Abuse of office

Art. 359 of the Criminal Code provides for a criminal offence as follows: An official who, by abuse of office or authority, by exceeding the limits of his official authority or by dereliction of duty acquires any benefit for himself or another or a physical or legal person, or causes damage to a third party or seriously violates the rights of another, shall be punished by imprisonment of from six months to five years.

This is a basic criminal offence against official duty. The object of protection is an official duty and its correct, purposeful and lawful performance in order to preserve the trust in the authorities and in the entire legal order. The offence has three basic forms of manifestation. These are: a) exploitation of official positions, b) exceeding official authority and c) non-performance of an official duty.

The legislator also prescribed two more serious forms according to the degree of the consequence, measured in money. Thus, it was stated that if the commission of the offence results in acquiring material gain exceeding four hundred and fifty thousand dinars in value, the offender shall be punished by imprisonment of from one to eight years and if the value of acquired material gain exceeds one million five hundred thousand dinars, the offender shall be punished by imprisonment of from two to twelve years.

In the theory of criminal law, the notion of abuse of official duty is divided into its objective and subjective meaning. Official duty is abused in the objective sense when the official acts against the interests of the service by exceeding his own official authority or does not perform his official duties. Official duty is abused in the subjective sense when an official undertakes official actions within his official authority, but he does not do so in the interest of the service but to achieve some material goal. ([SRZENTIĆ et al., 1995: 844–855.](#))

Criminal procedure and investigation on corruption cases

Criminal procedure in the Republic of Serbia, contain significant components of adversarial criminal procedure and was established by the Criminal Procedure Code.¹³ The public prosecutor is required to conduct a criminal investigation where there are grounds for suspicion that a criminal offence has been committed or that a certain person has committed a criminal offence that is prosecutable *ex officio*. For certain criminal offences, where so prescribed by law, the public prosecutor may undertake criminal prosecution only on a motion by the injured party. Thus, the public prosecutor is the holder of the function of criminal prosecution for acts that are prosecuted *ex officio*. He is the head of the pre-criminal procedure for official criminal acts and, as such, he coordinates the activities of state bodies and all other entities, especially when it comes to the police.

The public prosecutor will file an indictment when there is justified suspicion that a certain person has committed a criminal offence. The law also allows the possibility of an indictment to be filed even without having to conduct an investigation, if the data collected about the criminal offence and the perpetrator provide sufficient grounds for filing charges. The non-trial panel of the court will confirm the indictment by a ruling on whether the indictment was made in accordance with the law.

According to art. 161–162 of the Criminal Procedure Code, special evidentiary actions may be ordered against a person regarding whom there are grounds for suspicion that he/she has committed a criminal offence referred to; among others, those criminal offences that we defined above as corrupt criminal offences in a narrower sense. It is an indisputable position of practitioners that, in most cases, the criminal offense of taking bribes is detected with the use of marked banknotes; in other words, with the use of simulated deals as a special evidentiary action provided by the Criminal Code. Apart from using simulated deals, the following special evidentiary actions may be used in the Serbian criminal procedure: covert supervision of communication, covert surveillance and recording, computer data search, controlled delivery and an undercover investigator.

The establishment, organisation, competence and authorisations of state authorities and special organisational units of state authorities for the purpose of detection, criminal prosecution and trial for corrupt criminal offences in a narrower sense was set in the Law on the organisation and Competences of State Bodies in the Suppression of Organised Crime, Terrorism and

¹³ The Official Gazette of the Republic of Serbia, Nos. 72/2011; 101/2011; 121/2012; 32/2013; 45/2013; 55/2014; 35/2019; 27/2021.

Corruption.¹⁴ Faster and more concrete changes in the fight against corruption came with the entry into force of that Law since March 1st 2018. With the formation of special departments at higher prosecutor's offices and through financial investigations, the application of this law is starting to give the first results. ([PAVLOVIĆ – GÁL, 2020: 304.](#))

The Prosecutor's Office for Organised Crime is competent to act in the subject matters of the criminal offences of Taking/Offering Bribes, Trading in Influence and Abuse of Office when the defendant, i.e. the person to whom the bribe is given, is an official or responsible person performing a public function on the basis of election, appointment or appointment by the National Assembly, the President of the Republic, the Government, the general session of the Supreme Court of Cassation, the High Judicial Council or the State Prosecutorial Council. For the purpose of acting in the subject matters of the criminal offences in that case, the Higher Court in Belgrade shall be competent, being the first instance one, for the territory of the Republic of Serbia.

For other criminal offences of corruption, the special departments of the higher public prosecutor's offices are competent for combating corruption; the Ministry of Interior is another organisational unit responsible for combating corruption and the Special departments of the higher courts are competent for the suppression of corruption.

Theorists and practitioners especially emphasize, in a positive sense, the possibility of using strike groups and financial forensics for investigating crimes of corruption. Task forces may be established at the Prosecutor's Office for Organised Crime and at the special departments of higher public prosecutor's offices, pursuant to the decision of the Prosecutor, i.e. the decision of the competent senior public prosecutor, upon receiving the consent of the Republic Public Prosecutor for the suppression of corruption, for the purpose of working on detection and prosecution of the criminal offences that are the task force's work.

According to the Law, a financial forensics service may be established at the Prosecutor's Office for Organised Crime and at special departments of higher public prosecutor's offices referred to in this Law. The tasks of the financial forensics service will be carried out by its specialists i.e. the persons helping the Public Prosecutor in the analysis of cash flows and financial transactions for the purpose of criminal prosecution.

The Law on Prevention of Corruption establishes the competence of the regulatory agency - the Agency for the Prevention of Corruption. The basic competences of the Agency are to supervise the implementation of strategic documents, submit a report on their implementation with recommendations for action to the National Assembly, give responsible entities

¹⁴ The Official Gazette of the Republic of Serbia, Nos. 94/16; 87/18.

recommendations on how to eliminate shortcomings in the implementation of strategic documents and initiate amendments to strategic documents, decide on conflicts of interest of the initiates and conduct procedures in which the existence of violations of this law has been determined and impose non-criminal sanctions in accordance with this law. In terms of prosecuting corruption, the basic role of the Agency is, as an expert body, to detect corrupt practices and file criminal charges.

Apart from the Agency for the Prevention of Corruption, within the anti-corruption system of the Republic of Serbia, there is also the Anti-Corruption Council 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 oversee 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 creating regulations, programmes and other acts and measures in this area.

The main difference between those two anti-corruption regulatory bodies is that the Agency for the Prevention of Corruption is an independent state body, which is accountable only to the National Assembly for the performance of tasks within its competence. On the other hand, the Anti-Corruption Council has six members appointed by and accountable to The Government.

Measuring corruption

Objective approaches to measuring corruption are usually quantifiable and based on datasets that are verifiable. Examples of these objective indicators of corruption are the number of official complaints to the police, or relevant anti-corruption body, the actual number of convictions, and audits of company accounts. ([BROOKS et al., 2013](#))

Corruption statistics are only partially reliable, comparable and transparent. Public prosecutors and courts publish only annual activity reports and the Ministry of the Interior publishes data on police actions against participants in corruption, together with data on perpetrators of other types of criminal acts, primarily acts of economic crime.

This year, Serbia is still considered as a country where the level of corruption is high because it has 38 out of the ideal 100 points (one point less in relation to the CPI 2019 result). With that score, Serbia, for the second year in a row, takes the place in the lower half of the world list – because it is 94th out of 180 countries and has as many as five points fewer than the global average rating (43).

Corrupt criminal offences in the narrower sense (active / passive bribery, private / public bribery, trading in influence and abuse of public office) are provided for in the Criminal Code in Chapter 33 – *Criminal Offences Against Official Duty*.

According to the Statistical Office of the Republic of Serbia, there were 2642 criminal complaints of criminal offences against official duty in 2015, 2764 in 2016, 2612 in 2017, 1815 in 2018, 1429 in 2019 and 1384 in 2020.

Indictments for criminal offences against official duty were filed 1008 times in 2015, 867 times in 2016, 800 times in 2017, 779 times in 2018, 582 times in 2019 and 515 times in 2020.

Finally, there were 524 convictions criminal offences against official Duty in 2015, 489 in 2016, 490 in 2017, 466 in 2018, 433 in 2019 and 355 in 2020.

Viewed individually, the most common crime of corruption in the narrower sense in official statistics is abuse of office.

Corruption and the local context – corruption profile in practice

In each report by the European Commission, Serbia has received a reminder that “there is no progress” when it comes to final court decisions for “high-level corruption”, and recently the European Parliament pointed out some specific cases that it believes should be investigated. Serbian legislation does not explicitly recognize the concept of “high-level corruption”. This term is used informally for cases under the jurisdiction of the Prosecutor’s Office for Organised Crime. In any case, there has been no conviction for high-level corruption in recent decades. In line with that assertion, the President of the High Court in Belgrade gave an interview at the end of 2020 in which he said: *“Let’s not lie, we don’t have any single case of high corruption in the High Court. I am not in a position to tell you – we had a member of the Serbian government or we had a director of a public company who is being tried.”*

The last two cases that we can define as conducting criminal proceedings for high corruption concerned two former ministers from the previous regime.

In 2017, a Serbian court sentenced a former government minister to three and a half years in prison for abuse of power. *Oliver Dulic*, Serbia’s minister of environment and urban development in the previous Democratic Party-led government, was found guilty of having favoured a Slovenian company when issuing licences for an optical cable network. Dulic has denied the accusations, explaining that it was a political decision.¹⁵ However, the Belgrade Court of Appeals overturned the verdict and ordered a new trial of former Environment Minister Dulic and the case is still pending. The verdict was revoked because

¹⁵ Source: <https://www.rferl.org/a/serbian-court-jails-former-minister-dulic-associates-abuse-power-case/28613539.html>

the higher court found it incomprehensible and did not explain what the perpetration of the criminal offence of extended duration comprised.

The second case became public on 3 September 2010, when the Anti-Corruption Council of Serbia made public a list of persons facing criminal charges related to the privatisation of the Port of Belgrade Company. The criminal complaint had been filed three months earlier against 17 persons for abusing their official position during the 2005 privatisation. Among them were former minister *Predrag Bubalo* and officials of the Privatisation Agency of Serbia. The group was charged with abuses committed during the September 2005 sale of state-owned shares in the Port of Belgrade (Luka Beograd) company, previously owned by the Stock and PIO Fund, to the Luxembourg-based World Fin, were sold in 2005 to the company World Fin from Luxembourg, owned by *Milan Beko* and *Miroslav Mišković*. Their company then bought the shares of small shareholders in Port of Belgrade. At that time, the prime minister was *Vojislav Koštunica*, and Predrag Bubalo was the minister of the economy and privatisation. Three years after the sale of the Port of Belgrade, *Verica Barać*, in front of the Anti-Corruption Council, submitted a report to the Government, which drew attention to the fact that the state lost 21 million euros during that trade.

Bubalo and Beko were interrogated by the police in early 2013, three years after the report was filed, five years after the Council's report and eight years after the disputed sale. The trial began in July 2014. Bubalo presented his defence in detail and denied accusations of abuse of office.¹⁶

In 2017, The Special Court in Belgrade acquitted former Economy Minister Predrag Bubalo and the others who stood trial in the Port of Belgrade case. However, in April 2019, the Court of Appeals overturned the acquittal, not accepting the conclusion of the first instance court that the responsible persons of the Privatization Agency and the Share Fund were not liable in the "Port of Belgrade" case, which meant that minister Bubalo had no criminal liability. Finally, in January 2020, the Special Court in Belgrade upheld Bubalo's and the other defendants' acquittal. The Prosecutor's Office for Organized Crime announced that it will appeal after receiving a written copy and analysing the reasons given in the court verdict.

In fact, even during the former and current regime, numerous corruption scandals with huge negative consequences remained without a final and enforceable judgment or with the court passing disputable judgments.

For instance, in the sale of *Sartid*, including five subsidiaries which were bankrupt, the Commercial Court actually upheld the agreement between the Minister for Privatization, *Aleksandar Vlahovic*, and the privileged buyer, with a drastic violation of the creditors'

¹⁶ Source: <https://www.istinomer.rs/akter/predrag-bubalo/>

rights and at the expense of the state. The way in which it was sold casts suspicion of corruption involving the highest executive and judicial authorities. The bankruptcy of *Sartid* showed all the weakness of judicial power in Serbia in relation to executive power.¹⁷

In the case of the *National Savings Bank, Mladjan Dinkic*, the NBY¹⁸ governor at that time, enabled *Nacionalna stedionica (National Savings Bank)*, a private bank, controlled by *Vuk Hamovic* and *Vojin Lazarevic*, to use the equipment and office premises of the former Payment Operations Service (ZOP) free of charge, and awarded it, without a tender, the task of paying out a great part of the old hard currency savings and other privileges. At the same time, the NBY failed to find out that related persons had acquired the controlling interest in *Nacionalna stedionica*, and that, in one day, a significant amount of hard currency had been transferred from Vienna, Moscow and Belgrade on the basis of a fictitious transaction and eventually this transaction was used for the purchase of the shares of the Bank. The statements from the Report were investigated by the special police unit – UBPOK, but the case has never been brought to the court.¹⁹

We have already mentioned before the “Savamala”, “Krušik”, “Jovanjica” and “Telekom” cases, which attracted much attention and public interest, but the general impression is that the judiciary listened to the will of politicians when making decisions.

One more landmark case of “high-level corruption” that raised suspicions among the judiciary concerns the former Minister of Defence and current Minister of the Interior, *Aleksandar Vulin*. When questioned by the agency about his ability to afford the 107 square metre property, Vulin’s dubious explanations raised suspicion of criminal activity. The anti-corruption agency contended that Vulin couldn’t have even paid the first instalment of his Belgrade property with the small amount that he received from his brother and pushed him for another explanation. This time, Vulin told the agency that he had borrowed €205,000 from his wife’s aunt in Canada, handing as proof a ten-year loan agreement, signed by his wife, confirming that she received the money. The signature from the purported aunt in Canada was missing, however. The thousands of euros in cash that Vulin claims his wife’s aunt lent the couple couldn’t have passed international borders without being declared to customs and without an explanation of its origins, KRIK remarked. The law states that a maximum of €10,000 can be brought into the country without being declared – anything over that amount is a crime. The anti-corruption agency brought

¹⁷ Source: <http://www.antikorupcija-savet.gov.rs/en-GB/questions-left-unanswered/cid1013-1465/major-reports-and-initiatives-regarding-the-system-corruption-phenomena-submitted-by-the-anti-corruption-council-to-the-government-and-to-the-prosecutors-office>

¹⁸ National Bank of Yugoslavia

¹⁹ Source: <http://www.antikorupcija-savet.gov.rs/en-GB/questions-left-unanswered/cid1013-1465/major-reports-and-initiatives-regarding-the-system-corruption-phenomena-submitted-by-the-anti-corruption-council-to-the-government-and-to-the-prosecutors-office>

Vulin's case to the Prosecution for Organised Crime in Belgrade but the case was dropped, citing insufficient evidence that the minister had committed a crime.²⁰

All the mentioned cases do not send a strong message to potential perpetrators or the public as they point to the slowness and shortcomings of the judicial system in preventing corruption. In this regard, one may easily get the impression that the fight against corruption is still largely driven by political rather than legal motives.²¹

National anti-corruption strategies

The National Anti-Corruption Strategy in the Republic of Serbia and the Revised Action Plan for the Implementation of the National Anti-Corruption Strategy represent a strategic normative framework for the fight against corruption in the Republic of Serbia.

The general goal of the Strategy is to eliminate corruption, as an obstacle to the economic, social and democratic development of the Republic of Serbia, as much as possible. The consequences of corruption are not only the impoverishment of society and the state, and the uncertainty and instability of the economic system, which is reflected, among other things, in the reduction of investments.

The National Anti-Corruption Strategy and the accompanying Action Plan underline key areas for the fight against corruption, such as political activities, public finances, privatisation and public-private partnerships, justice, police, urbanisation and construction, health, education and sports, the media and corruption, prevention, as well as concrete measures to fight corruption in vulnerable areas such as health, taxes, education, customs and local self-government. The implementation of measures in these areas in 2017 was harmonised with the recommendations of the European Commission and with the measures of priority reforms after the adoption of the Action Plan for Chapter 23, through the adoption of the Revised Action Plan for the implementation of the National Anti-Corruption Strategy.

In November 2016, Serbia adopted extensive amendments to the Criminal Code, which revised the chapter on criminal offences against the economy and crimes against official duty. With these changes, the Criminal Code has been modernised, and provides a good framework for the work of the police and the public prosecutors. Also, in November 2016, a new Law on the Organisation and Competences of State Bodies in the Suppression of Organized Crime,

²⁰ Source: <https://www.krik.rs/en/defense-minister-vulin-cant-explain-origins-e200000-cash/>

²¹ Although the subject of this paper is not confiscation of criminal assets, we think it is good to mention that the scope of the Law on Confiscation of Property derived from a Criminal Offence (*also applies to corrupt criminal offenses*) is not adequate. Based on the data submitted for the needs of the EU project "Prevention against corruption", which relate to 2018 and 2019, the Prosecutor's Office for Organized Crime has brought only two decisions on permanent confiscation of property. See more: MILORADOVIĆ – VUJIČIĆ, 2020.

Terrorism and corruption introduced full specialization of the police, prosecutors and courts, for this type of crime, and introduced modern tools for prosecuting crimes of corruption. Also, the Law on Tax Procedure and Tax Administration²² prescribes the legal mechanisms for cross-checking property.

In the implementation of the Strategy, the authorities involved in preventing and fighting corruption, are required to exercise their competence in accordance with the following general principles: rule of law, principle of “zero tolerance” on corruption, principle of responsibility, principle of comprehensive application of measures and the cooperation of subjects, principle of efficiency and principle of transparency.²³

Conclusion

The fight against corruption is a basic precondition for Serbia’s accession as a member state of the European Union. The Serbian government has set the task of “zero tolerance” on corruption. Despite that fact, Serbia ranks 91st out of 180 countries according to the Corruption Perceptions Index for 2019.

According to the European Commission’s 2019 Report on Serbia, *“Corruption is ubiquitous in many spheres and continues to be a concern. Strong political will is needed to tackle corruption effectively, as well as a strong response from prosecutors and the judiciary to cases of high corruption. Serbia should in particular: improve concrete results on investigations, indictments and final judgments in cases of high corruption, including the seizure and confiscation of criminally acquired property...”*

The fight against corruption in Serbia is still a political mantra and a means of raising political ratings. When it is necessary to present the results of the fight against corruption to the citizens then, as a rule, lower-ranking civil servants or officials who find themselves in disfavour with the most powerful political figures in the country are prosecuted. Many of these cases do not end up with finality at court in the form of a verdict, so one can get the impression that the criminal mechanism is initiated at the request of politicians without a foothold in valid evidence and the law in general. Also, it is not uncommon for proceedings never to be instituted against officials when their actions have aroused great public suspicion.

²² The Official Gazette of the Republic of Serbia, Nos. 80/2002, 84/2002 – ispr., 23/2003 – ispr., 70/2003, 55/2004, 61/2005, 85/2005 – dr. zakon, 62/2006 – dr. zakon, 63/2006 – ispr. dr. zakona, 61/2007, 20/2009, 72/2009 – dr. zakon, 53/2010, 101/2011, 2/2012 – ispr., 93/2012, 47/2013, 108/2013, 68/2014, 105/2014, 91/2015 – autentično tumačenje, 112/2015, 15/2016, 108/2016, 30/2018, 95/2018, 86/2019 i 144/2020.

²³ National Anti-Corruption Strategy in the Republic of Serbia and the Revised Action Plan for the Implementation of the National Anti-Corruption Strategy.

The number of proactive investigations is worryingly small. The largest number of corruption scandals were discovered through investigative journalism and that seems to be the main reason for extremely bad behaviour by the authorities towards the media that try to expose corruption.

The Republic of Serbia has modern and more or less harmonised its anti-corruption legislation with community law and recommendations. By this we, mean the adoption of new anti-corruption laws, regulations and legal institutions, such as the recent adoption of the Law on lobbying (see more [PAVLOVIĆ et al., 2020](#)) or the Law on the protection of whistleblowers. However, it seems that the adequate application of these regulations has been lacking, and that they mostly serve as political promotion. At the end, the main conclusion is that the fight against corruption, especially high-level corruption, remains a political issue.

REFERENCES

- BROOKS, Graham – WALSH, David – LEWIS, Chris – KIM, Hakkyong (2013): *Prevention of corruption: Investigation, enforcement and governance*. Basingstoke: Palgrave Macmillan.
- IGNJATOVIĆ, Đorđe (2016): *Kriminologija (trinaesto izdanje)*. Beograd: Pravni fakultet Univerziteta u Beogradu.
- JOCIĆ, Dragan (2018): *Primanje mita u službi i privrednoj delatnosti*. Beograd: Bilten Vrhovnog kasacionog suda, 2.
- MARINKOVIĆ, Ivan (2013): Popis stanovništva 2011. godine: osnovne strukture populacije Srbije. *Demografski pregled*, 13(47).
- MILORADOVIĆ, Olgica – VUJIČIĆ, Nikola (2020): *Report on the results of application of the Law on confiscation of property derived from a criminal offence, with special reference to the management of seized property (EU project "Prevention against corruption")*. Belgrade.
- PAVLOVIĆ, Zoran – GÁL, István László (2020): Corruption in Healthcare and New regulations: One step forward, two back. In: KOSTIĆ, Jelena – STEVANOVIĆ, Aleksandar (eds.): *Uloga Društva u Borbi Protiv Korupcije / The Role of Society in the Fight Against Corruption*. Beograd: Institut za uporedno pravo – Beograd Institute of Comparative Law – Belgrade Institut za kriminološka i sociološka istraživanja – Institute of Criminological and Sociological Research, 2020.
http://www.iksi.ac.rs/izdanja/uloga_drustva_u_borbi_protiv_korupcije_2020.pdf
- PAVLOVIĆ, Zoran – KOSTIĆ, Jelena – STEVANOVIĆ, Aleksandar (2020): *Komentar Zakona o lobiranju*. Beograd: Službeni glasnik.
- (RZS) REPUBLIČKI ZAVOD ZA STATISTIKU (2015): *Popis stanovništva, domaćinstava i stanova 2011. godine u Republici Srbiji: Populacija Srbije početkom 21. veka*. Beograd: RZS.
- (RZS) REPUBLIČKI ZAVOD ZA STATISTIKU (2017): *Izbori za predsednika Republike Srbije – 2017. godina*. Beograd: RZS.
- (RZS) REPUBLIČKI ZAVOD ZA STATISTIKU (2020): *Izbori za narodne poslanike Narodne skupštine Republike Srbije – 2020. godina*. Beograd: RZS.
- (RZS) REPUBLIČKI ZAVOD ZA STATISTIKU (2021a): *Saopštenje: Unutrašnje migracije u 2020. godini*. Beograd: RZS.
- (RZS) REPUBLIČKI ZAVOD ZA STATISTIKU (2021b): *Bilten: Anketa o radnoj snazi u Republici Srbiji u 2020. godini*. Beograd: RZS.
- SRZENTIĆ, Nikola et al. (1995): *Komentar Krivičnog zakona Republike Srbije*. Beograd: Savremena administracija.