

BRIDGING THE GAP: APPLYING THE PIF DIRECTIVE IN EU CANDIDATE COUNTRIES

Summary

The EU manages an independent budget of more than 200 billion euro annually, making it vulnerable to fraud and corruption, which can undermine financial stability and public trust. To combat this, the PIF Directive (2017/1371/EU) harmonises financial crime definitions and mandates enforcement standards, extending to candidate countries including Serbia. This paper analyses Serbia's compliance with the Directive, testing the hypotheses that despite the legislative reforms, some key challenges remain, notably the lack of a defined 'EU's financial interest' in Serbian law, which hinders prosecution. The analysis also focuses on inter-agency cooperation and legal alignment with EU bodies such as OLAF and EPPO. Using desk research methodology, the paper assesses Serbia's legal and institutional framework, offering recommendations to refine legal definitions, strengthen penalties, and enhance investigative capacities, ensuring Serbia meets its Chapter 23 and 24 EU accession requirements.

Keywords: EU's financial interests, tax fraud, budget, candidate countries, PIF Directive.

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PREVAZILAŽENJE NEDOSTATAKA: PRIMENA PIF DIREKTIVE U ZEMLJAMA KANDIDATIMA ZA ČLANSTVO U EU

Sažetak

Evropska unija (EU) raspolaže nezavisnim budžetom koji premašuje 200 milijardi evra godišnje i koji se raspodeljuje različitim sektorima. Međutim, prilikom distribucije tih sredstava moguće su prevare, korupcija, kao i loše upravljanje finansijama. Ta krivična dela ne samo ugrožavaju finansijsku stabilnost EU, već i podrivaju sprovođenje politike i poverenje javnosti u institucije.

Kako bi se suprotstavila tim izazovima, EU je uspostavila snažan pravni i institucionalni okvir za zaštitu njenih finansijskih interesa. Ključna komponenta tog okvira je Direktiva (EU) 2017/1371 (PIF Direktiva), kojom je usaglašena definicija finansijskog kriminala koji utiče na budžet EU i koja obavezuje države članice da usvoje minimalne standarde u pogledu sankcija, pravnih definicija i mehanizama za sprovođenje. Zahtevi Direktive primenjuju se i na države kandidate za članstvo u EU, kao što je Srbija, koje moraju da usklade svoj pravni okvir sa pravnim tekovinama EU u okviru procesa pristupanja. Obezbeđivanje zaštite finansijskih interesa EU je posebno ključno za Srbiju, imajući u vidu njen status primaoca sredstava EU u okviru programa pretpristupne pomoći.

U radu se analizira usklađenost propisa Srbije sa PIF Direktivom i drugim mehanizmima za finansijsku zaštitu i identifikuju se pravne i institucionalne praznine u domaćem pravnom okviru u Srbiji. Iako je Srbija sprovela određene zakonodavne reforme u delu koji se odnosi na prevare, korupciju i pranje novca, neki ključni izazovi i dalje postoje, uključujući i odsustvo pravne definicije finansijskih interesa EU u Krivičnom zakoniku Srbije. Ovaj propust stvara pravnu nesigurnost za javne tužioce i sudije i otežava krivično gonjenje finansijskih krivičnih dela koja utiču na budžet EU. Takođe, obezbeđivanje efikasne međuagencijske saradnje i prekogranične pravne pomoći i dalje je od ključne važnosti za usklađivanje Srbije sa pravnim tekovinama EU.

Pored ocene trenutnog stanja pravnog okvira Srbije, u radu se daju preporuke za dalje usklađivanje sa standardima EU. Ključne oblasti za poboljšanje uključuju uvođenje pravnih definicija, pooštavanje sankcija za finansijska krivična dela, jačanje istražnih kapaciteta i podsticanje saradnje sa agencijama EU kao što su

Evropska kancelarija za borbu protiv prevara (OLAF) i Kancelarija Evropskog javnog tužioca (EPPO). Sprovođenje ovih reformi je od suštinskog značaja da Srbija ispuni svoje obaveze iz Poglavlja 23 i 24. Jačanje mehanizma za zaštitu finansijskih interesa u skladu je sa širim naporima na integraciji u EU i obezbeđuje spremnost Srbije za punopravno članstvo u Evropskoj uniji.

Ključne reči: finansijski interesi EU, poreske prevare, budžet, države kandidati, PIF Direktiva.

1. Introduction

The European Union, as a supranational entity, operates with an independent annual budget of approximately 200 billion euros (European Council, 2025). This significant financial resource is allocated to various programmes and initiatives across Member States and beyond, broken down to 7 expenditure areas: i) Single Market, Innovation and Digital, ii) Cohesion, Resilience and Values, iii) Natural Resources and Environment, iv) Migration and Border Management, v) Security and Defence, vi) Neighbourhood and the World, and vii) European Public Administration. However, the substantial size of this budget and its wide distribution create opportunities for criminal exploitation. Fraud and other irregularities can significantly impact the financial interest of the EU, leading to substantial economic losses. The scale of this problem is vast. Europol estimates that 40-50 billion annually is lost to organised crime groups' value-added tax (VAT) fraud. This staggering figure exposes both the scale of organised crime's penetration into financial system and the significant threat it poses to the EU's budgetary framework. Considering that a portion of the EU budget is derived from Member States' contributions from VAT revenue, the prevalence of VAT fraud directly undermines the Union's financial stability (European Parliament, 2021).

The damage caused by such crimes extends beyond financial losses. Fraud and corruption compromise the effectiveness of EU policies, disrupting their implementation and eroding trust in institutions. Moreover, these crimes directly harm taxpayers in Member States, as a portion of the EU budget is derived from national contributions from their taxes.

Criminals and fraudulent actors often target the EU budget, employing a range of illicit methods such as false claims, forged documents, fictitious projects, and other deceptive schemes. The criminal behaviour directed at the EU's financial interests is both diverse and complex, reflecting the wide range of areas in which EU funds are utilised (Bellacosa & De Bellis, 2023, p. 15). Cross-border criminal networks often exploit gaps in legal and procedural frameworks, making it challenging

to detect and prevent fraud. In response to these threats, the EU has recognised the critical need to ensure a robust protection of its financial interests.

To ensure the effective, proportionate and dissuasive protection of the EU's financial interests, one of the Union's primary objectives is the establishment of a unified or at least harmonised regulatory framework addressing criminal offences that affect its budget. The complexity and diversity of these offences require a coordinated approach that transcends national boundaries and facilitates robust enforcement.

A key element of this framework is the harmonisation of definitions, sanctions and procedural safeguards across Member States. The adoption of the Directive (EU) 2017/1371,¹ commonly referred to as the PIF Directive, serves as a basis of this effort. The obligation to implement minimum standards set by the PIF Directive extends beyond EU Member States. Candidate countries, such as Serbia, which benefit from EU funds, are also required to align their legal frameworks with the EU *acquis*. As recipients of pre-accession assistance and other EU financial support, candidate countries must demonstrate their commitment to safeguarding these resources by adopting and implementing measures to prevent misuse and ensure accountability.

This paper aims to assess the EU's mechanisms for protecting its financial interests through criminal law, focusing on the Serbian legal framework and its alignment with the EU *acquis*. The paper will go on to analyse the extent to which Serbian legislation incorporates the principles and requirements of the PIF Directive and other relevant EU instruments. Additionally, it will examine the gaps and challenges in Serbia's regulatory framework and institutional frameworks to assess whether current measures effectively address the risks of fraud and other financial crimes.

Based on this analysis, the paper will provide recommendations for improving Serbia's legal and institutional framework to better align with EU standards. These recommendations will focus on enhancing investigating and enforcement capacities, strengthening inter-agency and cross-border cooperation, and ensuring the proportionality and effectiveness of sanctions. This alignment would both safeguard EU funds and enhance public trust and institutional integrity, contributing to the broader goals of economic and political stability.

2. Protecting the EU's Financial Interests

The protection of the EU's financial interests is a cornerstone for ensuring the effective and lawful use of EU funds (Bontempi *et al.*, 2022, p. 373). As the EU budget finances diverse areas including economic cohesion, agricultural development,

¹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

research, education, and external assistance, safeguarding these resources from fraud, corruption, and mismanagement is critical to maintaining the Union's credibility, financial stability, and public trust.

The legal framework for protecting the EU's financial interests is underpinned in EU primary law. Article 325 of the Treaty on the Functioning of the European Union (TFEU) mandates both the EU and its Member States to combat illegal activities adversely affecting the EU's financial resources.² This provision underscores a shared responsibility for implementing preventive and corrective measures across all levels of governance (Miedzińska, 2019, p. 124).

Furthermore, Article 83, para 2, TFEU provides a legal basis for harmonising criminal laws within the EU. It allows for the establishment of minimum standards for defining offences and sanctions in specific fields when such harmonisation is necessary for the effective implementation of EU policies. In the context of protecting of the EU's financial interests, this provision justifies directives such as the Directive (EU) 2017/1371, which sets out common rules for combating fraud and other offences affecting the EU budget.

Article 84 TFEU highlights the EU's role in promoting and supporting Member States' crime prevention activities. While this article does not grant the EU the power to harmonise laws in this area, it provides a foundation for measures to enhance cooperation, exchange best practices, and foster capacity-building initiatives.

In addition, Article 85 TFEU outlines the role of Eurojust, emphasising its importance in promoting and strengthening coordination and cooperation among national authorities in investigating and prosecuting serious cross-border crimes. In the context of protecting the EU's financial interests, Eurojust facilitates collaboration among Member States' judicial authorities, ensuring that complex cases involving multiple jurisdictions are effectively managed. Its tasks include supporting investigations, resolving jurisdictional conflicts, and enhancing mutual trust among judicial authorities.

To operationalise this mandate, the EU has developed a comprehensive suite of legislative and policy instruments. One of the key elements is the PIF Directive (EU), which harmonises definitions, sanctions, and procedures for addressing crimes including fraud, corruption, money laundering, and misappropriation of funds impacting the EU budget. This Directive also establishes minimum criminal penalties and extends liability to legal entities, thereby addressing the enforcement gaps across Member States.

² "The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States and in all Union's institutions, bodies, offices, and agencies" (Art. 325, para. 1, TFEU).

The Directive is complemented by the European Anti-Fraud Office (OLAF), established under Regulation (EU) 883/2013,³ and amended by the new Regulation (EU) 2020/2223, which entered into force in 2021.⁴ OLAF conducts independent investigations into irregularities and fraud affecting the EU's financial interests, collaborates with national authorities, and makes recommendations for financial recovery and system improvements (Matić Bošković, 2022a, p. 127). Moreover, the European Public Prosecutor's Office (EPPO), operational under Regulation (EU) 2017/1939,⁵ is a significant enhancement in the area of transnational enforcement (Vervaele, 2020, p. 411). The EPPO is empowered to investigate and prosecute offences against the EU's financial interests, ensuring a centralised and coordinated judicial response across the participating Member States (Herrnfeld, 2020, p. 383).

Another essential component of the framework is the Financial Regulation 2024/2509,⁶ which governs the budgetary management principles. This regulation emphasises transparency, accountability, and the prudent use of resources, setting out clear obligations for stakeholders to prevent and address financial irregularities.

The scope of the EU's financial interests is broad, encompassing all revenues and expenditures linked to the EU budget. This includes contributions from custom duties, VAT, and gross national income (GNI), as well as funds disbursed through shared management programmes such as the Common Agricultural Policy and the Structural Funds. Additionally, directly managed funds, such as those under Horizon Europe and external assistance programmes targeting non-EU countries, are also within the ambit of this protective framework.

Despite this robust infrastructure, some challenges persist. The multi-level governance inherent in shared management programmes creates vulnerabilities, as funds pass through various national and local authorities. This complexity increases the risk of mismanagement and fraud. Cross-border crimes, such as VAT fraud or money laundering, further complicate enforcement efforts and gathering

³ Regulation (EU, Euroatom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euroatom) No. 1074/1999.

⁴ Regulation (EU, Euroatom) No. 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euroatom) No. 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations.

⁵ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO').

⁶ Regulation (EU, Euroatom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast).

information on crime, necessitating close cooperation among Member States and between the EU and third countries (see: Kostić, 2022, pp. 205-220).

Technological advancements introduce another layer of complexity. While digital tools can streamline processes and enhance monitoring, they also open new avenues for fraud, such as cybercrime and the misuse of digital assets (see: Matić Bošković, 2022b, pp. 451-467).

To address these challenges, the EU is investing in innovative solutions, including advanced data analytics and artificial intelligence, to detect anomalies in financial transactions. Judicial and law enforcement cooperation is also being strengthened through the EPPO, Eurojust, and Europol, ensuring a coordinated approach to combating transnational financial crimes. Furthermore, the EU continuously revises its legislative framework to stay ahead of emerging threats, including those arising from cryptocurrency related activities.

The EU's efforts to protect its financial interests go beyond preventing loss or misuse of resources (Ruccia, 2023, p. 347). They are fundamental to ensuring the credibility of the Union's governance, fostering public trust, and guaranteeing that EU funds deliver maximum benefits to citizens. By aligning national measures with EU standards, Member States play a pivotal role in this collective endeavour, demonstrating a unified commitment to protecting the integrity and effectiveness of the EU's financial system.

3. PIF Directive

The Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law is the foundation of the EU's legislative framework aimed at safeguarding its financial interests. It sets forth comprehensive obligations for Member States to ensure a robust and harmonised approach to combating fraud, corruption, and other offences that threaten the EU budget (Kaiafa-Gbandi, 2019, p. 31).

The PIF Directive provides a unified framework for defining, investigating, and prosecuting criminal offences that harm the EU's financial interests. It identifies specific crimes that Member States must criminalise, including fraud (Art. 3, PIF Directive), corruption (Art. 4), misappropriation (Art. 4), and money laundering (Art. 4). The Directive includes provisions addressing serious forms of tax fraud related to value added tax (VAT), particularly in cases of fraud involving at least 10 million euro damages and having a cross-border dimension (Art. 2).

Under the PIF Directive, fraud includes deliberate actions or omissions leading to the misappropriation or wrongful use of EU funds or revenues. Corruption

is categorised as either active or passive, targeting both those who give bribes and those who receive them. Misappropriation implies the intentional use of property or funds contrary to their designated purpose, while money laundering includes concealing or disguising the origin of assets derived from criminal activities.

The Directive also established minimum penalties (Juszak & Sason, 2017, p. 80). For individuals, penalties must include imprisonment of at least four years for serious offences (Art. 7). For legal entities, penalties range from fines to exclusion from public procurement and funding, judicial supervision, and in severe cases, even dissolution of the entity (Art. 9).

Member States were required to transpose the PIF Directive into their national legal systems by July 2019. Transposition means integrating the Directive's provisions into domestic law, ensuring that the stipulated crimes, penalties, and procedural rules are fully operational within each Member States (Maesa, 2018a, p. 1455). This process required amendments to the existing laws or the creation of new legislation, depending on the compatibility of individual national systems with the Directive's requirements.

The primary obligation of Member States under the PIF Directive is to incorporate its provisions into their national legal systems. This involves adopting and implementing legislation that criminalises offences affecting the EU's financial interests, ensuring that such laws are effective, proportionate, and dissuasive. Member States are required to harmonise the definitions of specific offences, including fraud, corruption, money laundering, and misappropriation, in accordance with the Directive's provisions. This harmonisation seeks to eliminate discrepancies among individual national legal systems that could hinder transnational enforcement and prosecution. Member States must also establish minimum sanctions for individuals and legal entities committing such offences.

Another crucial obligation is the establishment of jurisdictional rules to enable the prosecution of offences affecting the EU's financial interests, irrespective of the Member State where the crime occurs. This includes provisions for extending jurisdiction in cases involving EU officials, citizens, or individuals acting within the EU territory, as well as offences committed outside the EU if they affect its financial interests.

To enhance enforcement, Member States are required to facilitate effective investigations and prosecutions. This entails equipping national law enforcement and judicial authorities with the necessary tools, resources, and training to address the crimes impacting the EU budget. Cooperation with the EPPO is a critical element, as Member States participating in the EPPO framework must ensure seamless collaboration in the investigation and prosecution of PIF-related offences (Grasso, Sicurella & Giuffrida, 2020, p. 23).

The Directive also obligates Member States to address the recovery of misappropriated funds. They must implement mechanisms for freezing, seizing, and confiscating assets derived from criminal activities affecting the EU's financial interests (Art. 10). Additionally, Member States are required to ensure that victims, including the EU itself, can claim restitution or compensation.

A significant aspect of the Directive is its focus on the statute of limitations for prosecuting PIF-related offences (Art. 12). To align with the complexity of such cases, the Directive sets out minimum period for initiating proceedings and extends the timelines for serious offences, ensuring that perpetrators can be brought to justice even in protracted investigations.

Finally, the PIF Directive emphasises the importance of international and inter-agency cooperation (Art. 15). Member States must establish channels for effective information sharing and mutual legal assistance, both among themselves and with EU bodies, such as OLAF (Blanco-Alcántara *et al.*, 2022, p. 74). These measures are essential for tackling cross-border crimes and ensuring that offenders cannot exploit jurisdictional loopholes.

In implementing the PIF Directive, Member States not only fulfil their legal obligations but also reinforce the integrity and resilience of the EU's financial framework. By adhering to these provisions, they contribute to building a robust system that protects the EU budget, ensures accountability, and upholds public trust in the Union's financial governance.

4. Court of Justice of the EU Protecting the Union's Financial Interests

The Court of Justice of the EU has jurisdiction to interpret and rule on issues related to the PIF Directive to ensure its consistent application across Member States. The preliminary ruling mechanism serves as a key tool for clarifying provisions of the EU *acquis*. National courts may refer questions to the Court of Justice of the EU when they encounter ambiguities in interpreting the EU *acquis* in the cases before them (De la Mare & Donnelly, 2011, p. 363). This ensures that the EU *acquis* is applied consistently across all Member States, thereby preventing legal fragmentation and promoting legal certainty. This jurisdiction is particularly relevant in cases where disputes arise over the interpretation of the Directive's provisions or when questions are referred to the Court for a preliminary ruling under **Article 267 TFEU** (Raičević, 2014, p. 825). Such questions may pertain to the definition of criminal offences, the proportionality of penalties, or the scope of Member States' obligations under the Directive.

The principles of the PIF Directive align with broader EU objectives that the Court of Justice of the EU has historically upheld. For example, cases involving

VAT fraud and financial mismanagement often reflect the principles underlying the PIF Directive. The Court's rulings in such cases provide interpretation of key provisions, such as the definition of fraud, the proportionality of penalties, and the responsibilities of Member States in safeguarding the EU budget.

One illustrative case is the *Taricco judgment* (C-105/14), where the Court of Justice of the EU has addressed the interplay between national criminal law and EU requirements for combating VAT fraud (Bonelli, 2018, p. 357). While not directly based on the PIF Directive, the case underscored the importance of ensuring effective sanctions for crimes affecting the EU's financial interests (Timmerman, 2016, p. 779). The judgment has highlighted the need for Member States to prioritise the EU's financial integrity while respecting fundamental rights and national legal traditions (Maesa, 2018b, p. 50).

In its judgment in *Lin* (Case C-107/23 PPU), the Court of Justice of the EU has clarified the obligations of Member States in balancing the protection of the EU's financial interests and the safeguarding of fundamental rights (Viorescu, 2023, p. 24). The case arose from a Romanian court's inquiry into whether EU law required the disapplication of national Constitutional Court rulings that would effectively exonerate individuals from liability for serious fraud affecting the EU's financial interests due to expired limitation periods.

The appellants, convicted in 2020 for tax evasion and organised crime resulting in a €3.2 million loss, argued that their convictions were invalid as the limitation period for criminal liability had expired. They relied on the Romanian Constitutional Court rulings declaring prior limitation rules unconstitutional. Due to legislative inaction, the Romanian Criminal Code lacked grounds for interrupting limitation periods, potentially leading to case dismissals. However, under Romanian law, judges risk disciplinary action for disregarding the Constitutional Court rulings.

Advocate General Sánchez-Bordona argued that while the EU's financial interests are important, they should not override fundamental rights, such as the principle of retroactive application of more lenient criminal laws (*lex mitior*). He advised against requiring the Romanian courts to disapply Constitutional Court decisions.

The Court of Justice of the EU has taken a stricter stance, emphasising that systemic impunity for serious fraud violates Article 325(1) TFEU and the PIF Convention. It found that Romania's failure to address the limitation period since 2018 had created a risk of widespread unpunished fraud, undermining the EU's financial interests. The Court of Justice ruled that Romanian courts had to disapply Constitutional Court judgments that impede prosecutions, as EU law's primacy and effectiveness took precedence over national rules, even if it restricted *lex mitior*.

The Court of Justice of the EU further protected Romanian judges from disciplinary proceedings for complying with this mandate, deeming such actions incompatible with EU law. This has ensured judicial independence and reinforced the enforcement of EU financial protection standards.

5. Serbia's Compliance with PIF Directive

As a candidate country for EU membership, Serbia is obligated to align its domestic legal framework with the European Union's *acquis*, including the PIF Directive. Serbia's compliance with the PIF Directive is essential to fulfil the criteria under the EU accession process Chapter 23 - Judiciary and Fundamental Rights and Chapter 24 - Justice, Freedom and Security (Jacsó & Udvarhelyi, 2022, p. 371).

As a candidate country for EU membership and a recipient of EU funds through programmes such as the Instrument for Pre-accession Assistance (IPA), Serbia bears a significant responsibility to protect the EU's financial interests. This obligation stems both from Serbia's alignment with the EU *acquis* and its commitment to fostering transparency, accountability, and the rule of law. Ensuring that EU funds are used efficiently and without corruption is essential for Serbia's credibility in the accession process (Matić Bošković, 2024, p. 27). Such funding comes with the expectation that Serbia will implement robust mechanisms to prevent fraud, corruption, and mismanagement, ensuring that EU taxpayers' money is safeguarded and used for its intended purposes.

Failure to protect the EU's financial interest has serious consequences, including suspension of funding, loss of credibility, and economic consequences. If misuse of fraud is detected, the EU may suspend financial assistance, directly impacting Serbia's reform and development projects. Non-compliance would undermine Serbia's reputation as a reliable partner in the accession process, and may delay its EU membership ambitions. Mismanagement of EU funds can lead to economic setbacks in critical sectors, particularly infrastructure and governance.

Serbia has undertaken significant reforms to align its legal framework with EU standards (Kostić & Matić Bošković, 2022, p. 153). However, certain areas require further adjustments to ensure full compliance with the PIF Directive.

Serbia's Criminal Code includes provisions addressing fraud, corruption, and money laundering, which are foundational to compliance with the PIF Directive. Serbian Criminal Code criminalises acts of fraud (Arts. 208, 211) and corruption (Arts. 367–368), with penalties aligning with EU standards. Article 245 of the Criminal Code criminalises money laundering, incorporating international and EU norms.

However, the Directive's emphasis on serious VAT fraud requires further clarification and alignment in Serbian legislation. Specifically, Serbia must ensure that its laws comprehensively address cross-border VAT fraud, particularly in cases exceeding the financial threshold defined by the Directive.

The PIF Directive mandates that penalties for offences affecting the EU's financial interests be effective, proportionate, and dissuasive. While Serbia's Criminal Code prescribes imprisonment and financial penalties for relevant offences, the range and severity of these sanctions may require adjustment to meet the Directive's standards, particularly for legal persons.

The Directive emphasises the need for robust jurisdictional provisions to ensure that offences affecting the EU budget can be prosecuted effectively. Serbia has jurisdictional provisions addressing domestic and cross-border offences. However, further alignment is needed to explicitly cover crimes involving the EU budget and ensure cooperation with EU Member States in cases of shared jurisdiction, and there is also a need to address cross-border VAT fraud.

Serbia's legal framework recognises the liability of legal entities under the Law on the Liability of Legal Entities for Criminal Offences. This Law allows for sanctions, including fines and asset confiscation, against legal persons involved in crimes. While this aligns broadly with the Directive, enhanced provisions on corporate accountability and procedural clarity may be required.

While Serbia has ratified international conventions including the UN Convention against Corruption and the Council of Europe's Criminal Law Convention on Corruption, which provide a foundation for protecting financial interests, it still has to integrate specific provisions of the PIF Directive into its national framework to address explicitly crimes against the EU budget.

In addition, the legislation and practice should ensure strengthened cooperation with EU institutions, including the European Public Prosecutor's Office (EPPO), which will be critical as Serbia moves toward EU membership (Matić Bošković, 2024, p. 30).

The Serbian Criminal Code currently does not include a specific definition of the term 'EU's financial interests', which poses challenges in aligning the domestic legal framework with the standards required for Serbia's accession to the European Union (Matić Bošković & Kostić, 2020, p. 67). This may lead to gaps in addressing offences that affect the EU's financial resources, potentially complicating cooperation with EU bodies such as the European Anti-Fraud Office (OLAF) and compliance with the obligations under the PIF (Protection of Financial Interests) Directive.

The absence of a clear definition of 'EU's financial interests' in the Serbian Criminal Code creates significant challenges for public prosecutors and judges in interpreting and applying this term in legal proceedings. Without a precise legal

definition, there is a risk of inconsistent interpretations and judicial practices, which could undermine the effective prosecution and adjudication of cases involving offences against the financial interests of the European Union.

6. Conclusions

The EU has developed a comprehensive legal and institutional framework to safeguard its financial interests. This includes Treaty provisions, mandating both the EU and Member States to combat illegal activities affecting the EU budget, and the PIF Directive, which harmonises definitions, sanctions, and procedures for combating financial crimes. In addition, institutions such as the OLAF, the EPPO, Europol, and Eurojust play crucial roles in detecting, investigating, and prosecuting offences against the EU's financial system. Integrating these mechanisms strengthens cross-border cooperation, ensuring that financial crimes are tackled efficiently across jurisdictions.

Harmonising legal standards across EU Member States and candidate countries is fundamental to the effectiveness of police and judicial cooperation. Member States are required to align their criminal laws with EU directives, ensuring that offences affecting the EU budget are uniformly defined and prosecuted. Candidate countries, including Serbia, must also comply with these standards as part of the EU accession process.

While Serbia's legal framework has made progress in addressing fraud, corruption, and money laundering, gaps still remain in fully aligning with the PID Directive. To address these challenges, it is essential to incorporate a clear and comprehensive definition of 'EU's financial interests' into the Serbian Criminal Code. This definition should align with the PIF Directive, which broadly defines the EU's financial interests to include all revenue, expenditure, and assets covered by the EU budget and/or managed by EU institutions. By codifying this term, Serbia would both enhance legal certainty and consistency and strengthen its ability to fulfil obligations under Chapter 24 of the EU accession process. This step is crucial for fostering effective judicial cooperation with EU institutions and ensuring robust protection of the EU's financial resources.

In addition to incorporating a definition of the term 'EU's financial interests' into Serbian Criminal Code, it is essential to include explicitly the provisions protecting the EU's financial interests within the chapters of the Code that regulate crimes against official duty⁷ and crimes against commerce.⁸ This would ensure that

⁷ Chapter 33 of the Criminal Code – Crimes against Official Duty (Articles 359-369).

⁸ Chapter 22 of the Criminal Code – Crimes against Commerce (Articles 223-245).

offences impacting EU's financial resources are adequately addressed within the broader legal framework governing financial and economic crimes.

Crimes against official duty encompass offences committed by public officials involving abuse of power, corruption, embezzlement, and other breaches of duty that undermine the integrity of public administration. Given that the administration and distribution of EU funds often involves public officials and institutions, any misconduct, such as the fraudulent allocation of EU funds, bribery in connection with EU-funded projects, or embezzlement of financial assistance provided by the EU, should be explicitly classified under crimes against official duty. Integrating the provisions specifically related to the misappropriation or mismanagement of EU funds within this section of the Serbian Criminal Code would enhance legal clarity and strengthen enforcement mechanisms to deter corrupt practices that undermine the EU's financial interests.

Crimes against commerce cover offences such as fraud, forgery, tax evasion, money laundering, and other economic crimes that undermine fair competition and disrupt economic stability. The protection of the EU's financial interests in this domain would prevent also other illicit activities that directly impact the EU budget. Therefore, it is necessary to ensure that Serbian law explicitly criminalises fraudulent schemes targeting EU financial resources, including those involving cross-border VAT fraud, misrepresentation in EU-funded contracts, or falsification of documents used to obtain EU financial assistance.

By incorporating explicit protection for the EU's financial interests under crimes against official duty and crimes against commerce, Serbia would ensure a comprehensive legal framework that could effectively address financial crimes threatening the integrity of EU funds.

Ensuring compliance with EU financial protection measures requires strong enforcement mechanisms and inter-agency cooperation. The EPPO has introduced a centralised prosecutorial approach to financial crimes, ensuring that offences affecting the EU budget are investigated and prosecuted in accordance with uniform standards across participating states. While Serbia is not yet part of the EPPO framework, strengthening its cooperation with EU institutions will be essential as it moves toward EU membership. This will require closer alignment with EU investigative and prosecutorial practices, as well as enhancements to domestic anti-corruption and financial crime enforcement.

For Serbia, aligning with EU standards in police and judicial cooperation is both a legal obligation and a strategic necessity. Strengthening institutional capacities, improving inter-agency coordination, and adopting EU-compliant legislative reforms would enhance Serbia's credibility as a future EU Member State. Addressing the remaining gaps in the legal framework will be critical steps toward full compliance with EU *acquis*.

References

- Bellacosa, M. & De Bellis, M. 2023. The Protection of the EU Financial Interests between Administrative and Criminal Tools: OLAF and EPPO. *Common Market Law Review*. 60(1), pp. 15-50.
- Blanco-Alcántara, D., García-Moreno Rodríguez, F., López-de-Foronda Pérez, Ó. 2022. Fraud and Corruption in EU Funding - The Problematic Use of European Funds and Solutions. Palgrave Macmillan.
- Bonelli, M. 2018. The Taricco saga and the consolidation of judicial dialogue in the European Union: CJEU, C-105/14 Ivo Taricco and others, ECLI:EU:C:2015:555; and C-42/17 M.A.S., M.B., ECLI:EU:C:2017:936 Italian Constitutional Court, Order No. 24/2017. *Maastricht Journal of European and Comparative Law*. 25(3), pp. 357-373.
- Bontempi, V., Rulands, E. K. F., Nato, A., Serowanec, M., Tati, E. 2022. The Protection of the European Financial Interests: From Concrete Practices to Theoretical Recommendations. *International Journal of Public Administration*, 47(6), pp. 373-384.
- De la Mare, T. & Donnelly, C. 2011. Preliminary Rulings and EU Legal Integration: Evolution and Stasis, In: Craig, P. & De Burca, G. (eds.), *The Evolution of EU Law*, pp. 363-393.
- Grasso, G., Sicurella, R. & Giuffrida, F. 2020. European Public Prosecutor Office Material Competence: Analysis of the PIF Directive and Regulation, In: Ligeti, K., Antunes, M. J. & Giuffrida, F. (eds.), *The European Public Prosecutor's Office at Launch*, pp. 23-56.
- Haupt, S. 2023. *EJC: EU Law Protecting the Union's Financial Interests Prevails over National Fundamental Rights*. Euclid.
- Herrnfeld, H. H. 2020. The Draft Regulation on the Establishment of the European Public Prosecutor's Office – Issues of Balance between the Prosecution and the Defence, In: Briere, C. & Weyembergh, A. (eds.) *The Needed Balances in EU Criminal Law – Past, Present and Future*. Hart Publishing, pp. 383-413.
- Jacsó, J. & Udvarhelyi, B. 2022. The Protection of the Financial Interests of the European Union - European Union Requirements and their Implementation by the Central and Eastern-European Countries. In: Váradi-Csema, E. (ed.), *Criminal Legal Studies. European Challenges and Central European Responses in the Criminal Science of the 21st Century*. Miskolc-Budapest: Central European Academic Publishing. pp. 371-401.
- Juszk, A. & Sason, E. 2017. The Directive on the Fight against Fraud to the Union's Financial Interests by Means of Criminal Law (PIF Directive) Laying down the Foundation for a Better Protection of the Union's Financial Interests? *Euclid*. pp. 80-87.
- Kaiafa-Gbandi, M. 2019. Protection of the EU's financial interests by means of criminal law in the context of the Lisbon Treaty and the 2017 Directive (EU 2017/1371) on the fight against fraud to the Union's financial interests. In: Farkas, A., Dannecker, G. & Jacso, J. (eds.), *Criminal Law Aspects of the Protection of Financial Interests of the European Union, with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime*. Wolters Kluwer, pp. 36-51.

- Kostić, J. & Matić Bošković, M. 2022. *Diversification of the criminal procedure vs. adequate criminal policy in the field of financial crime in Serbia*. In: *Restorative Justice, Mediation and Protection of EU Financial Interests Proceedings of the DRAMP Conference University of Perugia*, 28-29 April 2022. University of Perugia, Perugia, pp. 153-173.
- Kostić, J. 2022. *Zaštita uzbunjivača: između javnog i privatnog interesa*. *Strani pravni život*. Vol. 66, No. 2, pp. 205-220.
- Maesa, C. F. 2018b. Effectiveness and Primacy of EU Law v. Higher National Protection of Fundamental Rights and National Identity – A Look through the Lens of the Taricco II Judgement. *Eucrim*. 1, pp. 50-56.
- Maesa, C. F. 2018a. Directive 2017/1371 on the Fight Against Fraud to the Union's Financial Interests by Means of Criminal Law: A Missed Goal. *European Papers*. 3(3), pp. 1455-1469.
- Matić Bošković, M. 2024. *Protection of EU Financial Interests: EPPO's Cooperation with Non-EU States*. *Journal of Criminology and Criminal Law*, 62(3), pp. 27-44.
- Matić Bošković, M. 2022a. *Krivično procesno pravo EU*, Institute of Criminological and Sociological Research, Belgrade.
- Matić Bošković, M. 2022b. Cybercrime money laundering cases and digital evidence, *Foreign Legal Life*, 66(4), pp. 451-467.
- Matić Bošković M. & Kostić, J. 2020. *The Application of the ne bis in idem related to financial offences in the jurisprudence of the European courts*. *NBP - Journal of Criminalistics and Law*, 25(2), pp. 67-77.
- Miedzińska, M. 2019. Legal aspects of protection of the financial interests of the European Union. *European Studies Quarterly*, 3, pp. 121-134.
- Raičević, N. 2014. *Dejstvo odluke Evropskog suda pravde o prethodnom pitanju*. *Zbornik radova Pravnog fakulteta u Nišu*. 68, pp. 825-842.
- Ruccia, N. 2023. The Protection of the EU's Financial Interests in the Next Generation EU: From PIF Directive to RRF Regulation. In: Baumler, J., Binder, C., Bungenberg, M., Krajewski, M., Rühl, G., Tams, C. J., Terhechte, J. P. & Ziegler, A. R. (eds.), *European Yearbook of International Economic Law*, 14, pp. 347-365
- Timmerman, M. 2016. Balancing effective criminal sanctions with effective fundamental rights protection in cases of VAT fraud: Taricco. *Common Market Law Review*. 53(3), pp. 779-796.
- Viorescu, R. 2023. CJEU Decision C-107/23 PPU: Insights on the Protection of the EU Financial Interests and the National principle of "Lex Mitior". *European Journal of Law and Public Administration*, 10(2), pp. 24-33.
- Vervaele, J. A. E. 2020. The Material Scope of Competence of the European Public Prosecutor's Office: *Lex incerta* and *unpraevia*? In: Briere, C. & Weyembergh, A. (eds.), *The Needed Balances in EU Criminal Law – Past, Present and Future*, Hart Publishing, pp. 411-429.

Legal Sources

- Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO').
- Criminal Code of the Republic of Serbia, *Official Gazette of the RS*, No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019, 94/2024.
- Law on the Liability of Legal Entities for Criminal Offences of the Republic of Serbia, *Official Gazette of the RS*, No. 97/2008.
- Regulation (EU, Euroatom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euroatom) No. 1074/1999.
- Regulation (EU, Euroatom) No. 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euroatom) No. 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations.
- Regulation (EU, Euroatom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast).
- Treaty on the Functioning of the European Union (TFEU). Available at: <https://www.wipo.int/wipolex/en/text/592233>, 11. 8. 2025.

Internet Sources

- European Council. 2025. *EU budget for 2025*. Available at: <https://www.consilium.europa.eu/en/policies/eu-annual-budget/2025-budget/>, 11. 8. 2025.
- European Parliament. 2021. *Impact of Organised Crime on the EU's Financial Interests*. Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU\(2021\)697019_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf), 11. 8. 2025.

