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## **CRIMINAL INCRIMINATIONS BASED ON THE UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME IN THE CRIMINAL LEGISLATION OF THE REPUBLIC OF CROATIA AND THE REPUBLIC OF SERBIA**

### ***SUMMARY***

The UN Convention Against Transnational organized crime is the basic international legal document which requires from the states to criminalize offenses of corruption and organized crime in their national legislation, with an emphasis on encouraging and enhancing international cooperation among states parties, while the additional protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against the Smuggling of Migrants by Land, Sea and Air, requires from the states parties to criminalize human trafficking as a criminal offense against public peace and order, and human trafficking as one of the most serious crimes against humanity and human dignity. This paper will provide an overview and analysis of the given and adopted solutions in the national legislation of Croatia and Serbia, as well as possible proposals *de lege ferenda*, all in accordance with the main purpose of the Convention, which is reflected in the promotion of cooperation, in order to increase the effectiveness of preventing and combating transnational organized crime.

**Keywords:** UN Convention against Transnational Organized Crime with the Protocols, Criminal Code of the Republic of Croatia, Criminal Code of the Republic of Serbia, international cooperation

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\*This research has been fully supported by the Croatian Science Foundation, under the project no 1949 *Multidisciplinary Research Cluster on Crime in Transition-Trafficking in Human Beings, Corruption and Economic Crime*

\*\*This paper is the result of the research on project *Development of institutional capacity, standards and procedures for countering organized crime and terrorism in the conditions of international integration*, Ministry of Education and Science of the RS no 179045

## 1. INTRODUCTION

At the beginning of the III millennium, criminality as the most dangerous social phenomenon in peacetime conditions, not only has survived but it has also managed to overcome all the social changes and to adapt to the new terms in society. Nowadays, crime is in expansion and in many areas it even became a way of life, especially in the developing countries and the countries in transition. The consequences of crime reflect on individuals, families, society and international community as a whole; it is especially reflected on casualties and victims of the offenses.

In contemporary moment, crime has received new and significantly more difficult forms and shapes, among which the most dangerous are *terrorism* and *organized crime*, which threaten to destroy all of the heritage of human civilization. As the most common manifestations appear the illegal production and drug trafficking, illegal trafficking or smuggling of contraband weapons or ammunition, human trafficking, high-tech crime and other newer forms. Severity of criminal acts from this corpus, inquietude among the public, victimological dimensions and other elements distinguish these acts, and they are the main reasons why countries give so much importance to these forms of crime. Development of the most severe forms of crime is being significantly contributed by environmental conditions such as the openness of the borders, free trade markets, technological development and other legacies of the developed democratic society that perpetrators abuse for committing a crime.

A special dimension to this issue gives the transnational character, as the preparation of criminal acts, committing a crime and subsequent acts involve perpetrators from several countries, so, both the acts and the consequences can be seen on the territories of various countries. For these reasons, the suppression and the prevention of the most severe crimes is very difficult, and the national authorities are not always completely prepared to respond on time to all challenges, risks and threats. Therefore, it is simply an imperative of survival that states and other entities cooperate on the wider, international level, and to jointly oppose the same enemy. Anti-criminal solidarity among countries is one of the leading principles of the international police and criminal justice cooperation, with appreciation of the specificity of each individual country.

In response to the terrorism, the organized crime and the other forms of the most difficult crimes, countries and the international community have taken numerous measures both on the normative and operational levels. In terms of legislations, several important resolutions, conventions, declarations and other international instruments have been adopted in the framework of the UN, CoE, EU and other organizations. Among these documents, indisputably a source *par excellence* for the combat against organized crime is the UN CATOC. The Convention was adopted at the conference held at the end of 2000 on Sicily, in Italy, in the same-named town of Sicily, which is the cradle of mafia. Also, the following protocols were adopted there: the Protocol to Prevent, Suppress and Punish

Trafficking in Persons, especially Women and Children (I) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (II); and, some time later, the Protocol against the Illicit Manufacturing and Trafficking in Firearm, Their Parts and Components and Ammunition (III). Conventions and additional protocols were an important source for the law in all the countries and in the international community as a whole, because the signatory countries committed to ratify the documents and incorporate their legal solutions into their national legislation. Harmonization of legislation and standardization of (judicial) practice are the most important prerequisites for a successful combat against organized crime on national and international level. The intention was to set up a single legal framework, and in that way to establish standards and cooperation mechanisms that will enable more efficient combat against all forms of organized crime. The most common forms of cooperation implement the exchange of the information, handling the requests, taking actions, joint investigation teams, joint police operations, joint controlled deliveries.

Croatia and Serbia, as well as other signatory countries, have ratified the UN CATOC and incorporated it into the national criminal legislation. Both countries have adopted and amended the regulations in the field of criminal law and procedural law, they have anticipated special investigative methods and techniques, and specialized organs of the police and judiciary to combat organized crime.

## **2. DEFINITION AND CHARACTERISTICS OF TRANSNATIONAL ORGANIZED CRIME**

There is no unique definition of transnational organized crime (Abadinsky:1990), on the contrary, there are more interpretations and approaches to the understanding of its concept (Božić, 2012:28-34). As the two most authoritative standpoints of the definitions are those imposed by the UN and the EU. The UN has tried to determine the concept of transnational organized crime on global level in the 2000. UN CATOC<sup>1</sup> supports the goals of promoting cooperation, in order to increase the effectiveness of preventing and combating transnational organized crime. On the other hand, the EU, with the definition of organized crime, has developed the criteria that must be met in order to be considered as a criminal offense of organized crime. The main characteristic of transnational organized crime is that its actions are transferred across borders of a country, which largely hinders detection of criminal offenses and inevitably requires international collaboration. By this, transnational organized crime legally gains an international character. The concept of organized crime has to be defined, particularly the questions of culpability and responsibility of a single person involved in organized crime. Determination of the term is necessary for demarcation of jurisdiction between the government bodies that work to combat organized crime, and to specify the power of the national authorities to the fundamental right and freedoms of citizens.

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<sup>1</sup>UN CATOC, Treaty Series, vol. 2225

According to UN CATOC, an offence is transnational in nature if: It is committed in more than one State; in one State but a substantial part of its preparation, planning, direction or control takes place in another State; in one State but involves an organized criminal group that engages in criminal activities in more than one State; or in one State but has substantial effects in another State.<sup>2</sup>

According to the recommendations of the EU, in order to work on criminal acts of organized crime, it is necessary to satisfy the following eleven criteria:(Fijnaut,Paoli,2007:242-246)<sup>3</sup>collaboration of more than two people, each having their own appointed tasks,for a prolonged or indefinite period of time,using some form of discipline and control,suspected of the commission of serious criminal offences,operating at international level,using violence or other means suitable for intimidation,using commercial or business structures,engaged in money laundering,exerting influence on politics, the media, public administration, judicial authorities or economy,determined by the pursuit of profit and/or power. At least six of the aforementioned characteristics must be present, three of which must be those numbered 1, 5 and 11, for any crime or criminal group to be classified as organisedcrime.

Attached to the Council Framework Decision from June 13 2002, on the European Arrest Warrant and the Surrender Procedures between Member States,<sup>4</sup> there is a list of total 32 criminal acts that are in most criminal justice systems of the Member States foreseen as a serious offense and they are(Derenčinović,2014:249-270):participation in a criminal organisation, terrorism, trafficking in human beings, sexual exploitation of children and child pornography, trafficking in narcotic drugs and psychotropic substances, trafficking in weapons, munitions and explosives, corruption, fraud, including that affecting the financial interests of the EU within the meaning of the Convention of July 261995 on the protection of the EUfinancial interests, laundering of the proceeds of crime, counterfeiting currency, includingthe euro, computer-related crime, environmental crime, trafficking in endangered animal species, plants and varieties, facilitation of unauthorised entry and residence, murder, grievous bodily harm, trade in human organs and tissue, kidnapping, illegal restraint and hostage-taking, racism and xenophobia, organised or armed robbery, trafficking in cultural goods, antiques and works of art, swindling, racketeering and extortion, counterfeiting and piracy of products, forgery of administrative documents and trafficking therein, means of payment, trafficking in hormonal substances and other growth promoters, nuclear or radioactive materials andstolen

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<sup>2</sup> Art.3. *Ibid.*

<sup>3</sup>EUROPOL (2006) Traffickingof womenand childrenfor sexualexploitationin the EU: theinvolvementof the WesternBalkansorganisedcrime 2006, p.11; Enfopol 161/1994 aneks C; 6204/2/97 ENFOPOL 35 REV 2 (August 20, 2016.)

<sup>4</sup> 2002/584/JHA: Council Framework Decision of June 13, 2002 on the European arrest warrant and the surrender procedures between Member States, OJL 190, p.01–20

vehicles, rape, arson, crimes within the jurisdiction of the ICC, unlawful seizure of aircraft/ships, sabotage.<sup>5</sup>

Organized crime includes systematically planned and prepared criminal offenses of the participants, joined in a criminal organization with a lasting effect, using intimidation, violence, and corruption, regardless of national borders and with the purpose of acquiring financial gain or social power (Sačić, 2001). Here is the following list of indicators that serves for an early detection of forms of organized crime: belonging to a criminal association, conspiratorial activity and preparation of severe crimes, preparing ordered criminal acts, as well as professionalization of feature committing the crime, money laundering, conflicts of members of criminal organizations, team members of the criminal association with the government representatives, intimidation and threats against members and other witnesses of an incriminated event.<sup>6</sup> According to Secretary-General of INTERPOL, the basic constituent elements of transnational organized crime are: 1. border crossing by criminals or victims and/or of things used in the crime or criminal intent; 2. recognition on the international level that it is a criminal offense (Bossard, 1990).

The combat against organized crime is largely different from the fight against general crime, primarily because of the very characteristics of organized crime such as the lack of victims, undercover activities and preparation of acts of corruption followed by large amounts of money.

### **3. UN CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME**

UN CATOC with Protocol I and Protocol II was adopted on the conference that was held in December 2000 in Italy, Palermo, so, it is also known as the Palermo Convention.

Croatia has signed this document among the first signatory states, ratified it by January 24 2003,<sup>7</sup> to enter the Convention into force on September 29 2003.<sup>8</sup>

Serbia proclaimed the Law on Ratification of the UN CATOC and the Additional Protocols on June 22 2001,<sup>9</sup> and it came into force on June 30 2001.<sup>10</sup>

UN CATOC imposes an obligation to Member States of adopting such legislative and other measures that are necessary for establishing it as a criminal offense when committed intentionally, and that it should be related to transnational organized crime (Nikač, 2015:265-290).

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<sup>5</sup>Art.2./2. *Ibid.*

<sup>6</sup>*Ibid.*

<sup>7</sup>The Ministry of Foreign and European Affairs, Organized Crime, <http://www.mvep.hr/hr/vanjska-politika/multilateralni-odnosi0/mir-i-sigurnost/transnacionalne-prijetnje/organizirani-kriminal/> (August 20, 2016.)

<sup>8</sup>Law on Ratification of UN CATOC, Protocol I, II, OG RH, IA No 14/02,13/03,11/04, UN CATOC, Treaty Series, vol. 2225, p.209.

<sup>9</sup>OG SRJ, IA No. 06/01

<sup>10</sup>*Ibid.*

According to the above, it is required the criminalization of participation in an organized criminal group,<sup>11</sup> criminalization of laundering of proceeds of crime,<sup>12</sup> of corruption,<sup>13</sup> of liability of legal persons for participation in serious crimes involving and organized criminal group for specified crimes,<sup>14</sup> including obstruction of justice,<sup>15</sup> and criminalization of seizure and temporary seizure of the benefits arising out of criminal offenses covered by the Convention or property, equipment or other resources that are used or intended to be used in the commission of offenses covered by this Convention.<sup>16</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* stipulates the obligation of the States Parties to criminalize *trafficking in persons* in the national criminal legislation. *Trafficking in persons* shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of putting in a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person, of having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>17</sup>

According to *Protocol against the Smuggling of Migrants by Land, Sea and Air*, smuggling of migrants would mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.<sup>18</sup> The Protocol requires from States Parties to incriminate *Smuggling of migrants* into its penal law.

#### 4. IMPLEMENTATION OF PALERMO CONVENTION IN THE LEGISLATION OF THE REPUBLIC OF CROATIA

The crimes that the UN CATOC requires from Member States to include in their positive penal legislation, are entirely contained in the Penal Code of Croatia<sup>19</sup>, in its special part. In addition, it is necessary that the descriptions of offenses correspond to the prescribed forms of organized crime, as well as that the prescribed criminal sanctions correspond to the severity of offenses.

Prescribed obligation to criminalize participation in an organized criminal group underwent in the CC RC Art.328. - *Criminal association* and Art.329. -

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<sup>11</sup> Art.5. UN CATOC

<sup>12</sup> Art.6.

<sup>13</sup> Art.8.

<sup>14</sup> Art.10.

<sup>15</sup> Art.23.

<sup>16</sup> Art.12.

<sup>17</sup> Art.3.a. Protocol I

<sup>18</sup> Art.3.a. Protocol II

<sup>19</sup> CC RC, OG No 125/11,144/12,56/15,61/15

*Committing a crime within the criminal association.* Criminal association consists of at least three persons who have joined together with the common purpose of committing one or more criminal offenses which are punishable with a prison sentence of three years or more, and that does not include an association that make people accidentally connected directly to committing one criminal offense.<sup>20</sup> The management and organization of criminal association is punishable by imprisonment of six months to five years.<sup>21</sup> Criminalizing the leadership of criminal association is of particular importance because these are people who are mainly located *in the shadows*, so their culpability may otherwise be questionable since they, *de facto*, do not participate as actors in the crime, but they do belong to the greatest benefit of activities in criminal association (Kurtović, 1998:732–733). Merely participation in a criminal group, as well as an action that is not a crime but for which the perpetrator knows that contributes to achieving the objective of criminal association, even though this association has not committed any further criminal offense, the perpetrator shall be sentenced to imprisonment up to three years.<sup>22</sup> The Law has predicted the possibility of an optional exemption of punishment for that offender of criminal offense of a criminal association whom with timely detection of criminal association stops the commission of this crime.<sup>23</sup> Criminalization of criminal association is in line with Art.2. EU Framework Decision 2008/841/ JHA.<sup>24</sup>

Committing or encouraging another person to commit a criminal offense within the criminal enterprise, knowing the purpose of the criminal association or its criminal activities is punishable under Art.329.CC of *Committing a crime within the criminal association*,<sup>25</sup> while assisting in the commission of a criminal offense within the criminal enterprise, knowing the purpose of the criminal association or its criminal activities, can be punished less severely.<sup>26</sup> Lenient punishment is predicted by the Law for offender who significantly contributes to the detection of criminal association.<sup>27</sup> A significant portion of organized crime refers to money laundering (Pavlović, 1998:787-801) that is provided in Art. 265. CC of the RC and belongs to Chapter XIV of the Penal Code (offenses against the economy). Money laundering involves the execution of actions that conceal the source of money or other property, suspected to be illegally acquired in the country or abroad, and involves the exchange or any other transfer of money or other such property, concealing the true nature, source, location, disposition, movement, ownership, or right concerning money or other such property, acquisition, possession or use of money or other such property.<sup>28</sup> The criminal legislation of Croatia is in relation with the criminalization of the offense of money laundering and forfeiture of

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<sup>20</sup> Art.328/4 *Ibid.*

<sup>21</sup> Art.328/1

<sup>22</sup> Art.328/2

<sup>23</sup> Art.328/3

<sup>24</sup> The EU Framework Decision 2008/841 / JHA of October 24 2008, OJL 300

<sup>25</sup> Art.329/1 CC RC

<sup>26</sup> Art.329/2

<sup>27</sup> Art.329/3

<sup>28</sup> Art. 2/1 of the Law on prevention of money laundering and terrorist financing, OG 87/08, 25/12

property, and it is used in line with Directive 2014/42/ EU of the EU Parliament and the Council of April 3 2014 on the freezing and seizure of objects and proceeds of crime offenses in the EU.<sup>29</sup> For the offense of money laundering can be accused a physical person, legal entity and the responsible person within the legal entity. Investment, taking over, converting, transferring or replacing property of crime<sup>30</sup> with the aim of concealing its illicit origin<sup>31</sup> as well as the concealment of the true nature, origin, location, disposition, transfer and the existence of rights or ownership of the property, gain indirectly derived from a criminal offense,<sup>32</sup> is punishable by imprisonment of 6 months to 5 years. The same penalty shall be imposed on the acquisition, possession and use of property, made by the other in a criminal offense.<sup>33</sup> If the crime was committed by acting with negligence, they envisioned a sanction as a sentence of imprisonment up to 3 years.<sup>34</sup> Qualified forms of committing the crime of money laundering is predicted in cases of committing crimes in the financial or other operations, then in the case when the perpetrator is engaged in money laundering or any benefits of great value.<sup>35</sup> By the law, it is punishable with imprisonment of 1 to 8 years.<sup>36</sup> Facultative exemption from the penalties provided by the law is foreseen for offenders who voluntarily contribute to the discovery of a criminal offense with which is acquired pecuniary gain.<sup>37</sup> The definition of money laundering under the *Law on Prevention of Money Laundering and Financing of Terrorism*, as *lex specialis*, is not completely identical with the definition of money laundering in the CC. It would be good to completely equalize the two mentioned definitions. For example, an investment of the proceeds of offenses alleged by the Penal Code, according to the Law on Prevention of Money Laundering and Terrorist Financing, can be considered as other transfer of money or other such property or the use of money.

The CC stipulates the principle of property assets<sup>38</sup> and defines criminal offenses in Art.77. -*The conditions and manner of forfeiture of property assets*, according to which monetary gain seize the court decision, which established that there was an unlawful act,<sup>39</sup> and Art.78. - *Extended confiscation of proceeds*. If the value of property assets as a whole or in parts cannot be determined, the court shall order the offender to pay the equivalent amount of the money that can be determined and in installments.<sup>40</sup> The Law has left an option to the court not to take away

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<sup>29</sup>Directive 2014/42/EU, OJL 127/39.

<sup>30</sup>*Property gain*, See:Art.87/22 CC RC, *Proceeds*, See:Directive 2014/42/EU of the EU

<sup>31</sup> Art.265/1 CC RC

<sup>32</sup> Art.265/2

<sup>33</sup> Art.265/3

<sup>34</sup> Art.265/5

<sup>35</sup>Art. 89/29, The value of the property is great if you exceed HRK 60,000.00

<sup>36</sup> Art.265/4

<sup>37</sup> Art.265/7

<sup>38</sup>Art.5, No one can keep the proceeds of illegal activity.

<sup>39</sup> The property gain shall be confiscated and from the person to whom it is transferred, if not acquired in good faith.

<sup>40</sup> Art.77/4



material gain if it is insignificant.<sup>41</sup> For offenses under the jurisdiction of The Law of the Office for Combating Corruption and Organized Crime<sup>42</sup> for criminal offenses from Chapter XVII (criminal acts of sexual abuse and exploitation of a child) and Chapter XXV (offenses against computer systems, programs and data), applies only criminalization of Art.78. Extended confiscation of proceeds is applied for any property which is disproportionate to the lawful income and is assumed to be a material benefit of a criminal offense, unless the offender proves that its origin is legal.<sup>43</sup>

Items and resources produced by the perpetration of a criminal offense shall be confiscated,<sup>44</sup> as well as those intended or used for committing a criminal offense,<sup>45</sup> if there is a risk that they might be used for committing a criminal offense or if their confiscation is necessary to protect the public safety, public order or for moral reasons.

Criminalize liability of legal persons for participation in serious crimes involving an organized criminal group for criminal offenses prescribed by the Law on liability of legal persons for criminal offenses,<sup>46</sup> thus the provisions of the CC, CPC and the Law on the OCCOC.

Criminalization of obstruction of justice is predicted in the Convention through two forms: the first, which refers to the use of physical force, threats or intimidation, the promising, offering or giving benefits to illegal inducements to *false testimony or interference with testimony or evidence in a proceeding* related to the commission of criminal acts covered by Convention,<sup>47</sup> and the other form, which refers to the use of physical force, threats or intimidation to *interference with the exercise of official duties of the judicial or executive officers* in connection with the commission of offenses covered by this Convention.<sup>48</sup> The difference between these two forms is to observe whether the used physical force, threats and intimidation are directed towards judicial official or towards the witness.

*Tampering With Evidence*, according to Art.306 of the CC RC, is punishable by imprisonment of one to eight years, refers to the incitement to perjury or preventing or obstructing the proof to superior witness, witness or expert in the previous criminal proceedings, proceedings before a court, an international court whose jurisdiction Croatia accepts, arbitration in such proceedings, administrative proceedings, proceedings before a notary public or disciplinary proceedings along, using a force, threat or any other form of coercion or promise, offering or giving a gift or some other benefit.<sup>49</sup>

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<sup>41</sup> Art.77/6

<sup>42</sup> See: The Law on the Office for CCOC, OGN 76/09,116/10,145/10, 57/11,136/12,148/13

<sup>43</sup> Art.78/2

<sup>44</sup> Art.79/1

<sup>45</sup> Art.79/2

<sup>46</sup> Art.3/1 Law on liability of legal persons for criminal offenses, OG No 151/03,110/07,45/11,143/12

<sup>47</sup> Art.23.a. UN CATOC

<sup>48</sup> Art.23.b.

<sup>49</sup> Art.306/1 CC RC

By imprisonment of 6 months to 5 years shall be inflicted the one who conceals, damages or destroys the object or document serving as evidence, who falsifies evidence or who submits such evidence, knowing that it is a forgery with the aim of preventing or hampering the collection of evidence in proceedings before the court, an international court whose jurisdiction Croatia accepts for arbitration in such proceedings, administrative proceedings, proceedings before a notary public or disciplinary proceedings.<sup>50</sup>

By imprisonment up to three years shall be inflicted the one who removes, destroys, moves or dislocates boundary stone, geodetic mark, or even a sign on the property or other right, or uses water, or with the same aim falsely places such sign, with the aim of preventing or making presentation of evidence in court proceedings or in administrative proceedings.<sup>51</sup>

*Coercion against judicial official* is a criminal offense prescribed by the Art.312 CC RC, which somebody makes by force or some evil threat in order to prevent the judge, state attorney, notary public or other judicial officials or servants to take any action or make a decision within their power, or forces them to undertake actions or make a decision within or beyond their powers. It is punishable by the law with imprisonment of six months to five years.<sup>52</sup> In preparing CC RC, the legislator had considered the possibility of introducing a new name to the offense *Obstruction of Justice*, in accordance with international documents, but nevertheless decided to leave the old name.

In accordance with the Convention and the obligation to criminalize corruption, corruptive criminal offenses (Božić, 2016:829-846) under the CC RC are: *Giving and receiving bribe* Art.293-294, *Giving and receiving bribes in business operations* Art.252-253, *Trading in influence* Art.295, *Bribery for trading in influence* Art.296, *Illegal facilitation* Art.292, *Abuse of the public procurement procedure* Art.254, *Abuse of office and authority* Art.291, *Active and passive bribery in the bankruptcy proceedings* Art.251, *Bribing representative* Art.339, *Money laundering* Art.265 (Božić, Kesic, 2016:455).

According to the Protocol I, and mandatory obligation to criminalize human trafficking, a criminal offense is *Illegal entry, movement and stay in the Republic of Croatia, another Member State of the EU or signatories of the Schengen Agreement stipulates* Art.326. CC RC (Božić, Lisičar, Mudrić, 2015:283-301). In accordance with the Protocol II, Art.106 CC RC, criminalizes the *Trafficking in Persons* (Božić, 2015:845-874).

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<sup>50</sup> Art.306/2

<sup>51</sup> Art.306/3

<sup>52</sup> Art.312

## 5. IMPLEMENTATION OF THE PROVISIONS OF PALERMO CONVENTION IN THE LEGISLATION OF THE REPUBLIC OF SERBIA

The CC RS, Art.346, stipulates criminal offense of *Conspiracy to commit offenses* which criminalizes an *organized group* aimed at committing criminal offenses, which is punishable by imprisonment of three years or more, if the law for such an organization does not provide a more severe punishment. By the Law, it is punishable with imprisonment of six months to five years.<sup>53</sup> A person will also be punished for simply belonging to a group, with imprisonment of three months to three years.<sup>54</sup> Unlike CC RC that left the concept the *group* and talks about *association*, CC RS defines it as a group of people with at least three persons who are connected for permanent or temporary commission of offenses that do not need to have defined roles for its members, continuity of its membership or a developed structure.<sup>55</sup> Furthermore, the CC RS speaks about organizing a group, but not the leadership, while the height of criminal sanctions are equivalent to the above mentioned in the CC RC, except for the membership in the Association in the CC RC where there are not any prescribed specific minimum penalties.

*The organization of organized criminal groups* is punishable with imprisonment of one to eight years, provided if such organizing is not predicted with more severe punishment,<sup>56</sup> while belonging to such criminal group is punishable with imprisonment of six months to five years.<sup>57</sup> An *organized criminal group* is a group of three or more persons, that exists for a period of time and acts jointly with the aim of committing one or more criminal offenses, for which there is a predicted punishment of imprisonment of four years and more, in order to acquire direct or indirect financial or other benefits.<sup>58</sup> The difference, compared to the CC RC, is that it does not make distinction between *group that aims to carry out criminal acts* and *organized criminal group*, but it talks about a concept of *criminal association*.

A qualified form of commission of the offense is when a group or organized criminal group commits the offense for which it is predicted a prison sentence of twenty years or imprisonment of thirty to forty years, in which case *the organizer* of the group or organized criminal group can be sentenced to a minimum of ten years, or imprisonment of thirty to forty years, while a *member* of the group or the organized criminal group can be sentenced to imprisonment of six months to five years.<sup>59</sup> The organizer of the group or the organized criminal group<sup>60</sup> who exposes or otherwise prevents the commission of the offenses, for which performance a group or organized criminal group is created, shall be punished with imprisonment up to

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<sup>53</sup> Art.346/1 CC RS, OG No 85/05,88/05,107/05,72/09,111/09,121/12,104/13,08/14

<sup>54</sup> Art.346/3

<sup>55</sup> Art.112/2

<sup>56</sup> Art.346/2

<sup>57</sup> Art.346/4

<sup>58</sup> Art.112/35

<sup>59</sup> Art.346/5

<sup>60</sup> Par.1, 2, 5.

three years, but may be released from punishment,<sup>61</sup> while a member of the group or the organized criminal group,<sup>62</sup> who made a criminal offense before, may be subject to a fine or imprisonment that does not exceed one year, but may also be released from punishment.<sup>63</sup>

*Money laundering* according to the Art.231 of the CC RS, criminalizes the execution of the conversion or transfer of property for which the perpetrator knows that is derived from the crime, with the aim of concealing or misrepresenting facts about the assets or acquisition, possession or use of property with the knowledge, at the time of receipt, that such property proceeds from a crime. The Law envisages the same penalty as the CC RC, a prison sentence of six months to five years and a fine.<sup>64</sup> A qualified form of the criminal offense, with imprisonment sentence of one to ten years and a fine, is scheduled for the case when the amount of money or property is higher than one million and five hundred thousand dinars,<sup>65</sup> and in cases where the crime was committed in a group, the Act foresees a prison sentence of one to twelve years and a fine.<sup>66</sup> Guilty is the perpetrator who could and ought to know that money or assets are the proceeds of a crime<sup>67</sup>, and for that there is an imprisonment sentence of up to 3 years.<sup>68</sup> The person in legal entity<sup>69</sup> shall be responsible if that person could have known or was obliged to know that money or assets are the proceeds of crime. The money and property acquired through criminal offense of Money laundering shall be confiscated.<sup>70</sup>

The basis, conditions and manner of *forfeiture of property gain* are prescribed in the Art.91 and Art.92 of the CC RS and fully comply with the provisions of the CC RC concerning the forfeiture of property gain, but the CC RS does not state under a separate heading of extended confiscation of material gain. Material gain is considered to be good of any kind, tangible or intangible, movable or immovable, thus estimates any invaluable documents in any form, evidencing title to interest in respect of such property. Also, property is considered to be an income or other benefit that is realized, directly or indirectly, from a criminal offense, as well in which it is converted or with which it is mixed.<sup>71</sup>

Criminalization of corporate liability is done by the law on liability of legal persons for criminal offenses,<sup>72</sup> as well as in the CC RS.

*Prevention and disruption of proof* is a criminal offense provided in the Art.336 of the CC RS. Also, it incriminates the output or promising gifts or other

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<sup>61</sup> Art.346/6

<sup>62</sup> Par.3,4, 5.

<sup>63</sup> Art.346/7

<sup>64</sup> Art.231/1

<sup>65</sup> Art.231/2

<sup>66</sup> Art.231/4

<sup>67</sup> According par.1. i 2. *Ibid.*

<sup>68</sup> Art.231/5

<sup>69</sup> According par.1. i 2. i 5. *Ibid.*

<sup>70</sup> Art.231/7

<sup>71</sup> Art.112/36

<sup>72</sup> Law on liability of legal persons for criminal offenses, OG No 97/08

benefits, to use force or threat witness, expert witness or other participant on the proceeding before the court or other state bodies, with the intention of that person to give false testimony and thereby affect the outcome of the proceedings. The law has predicted the punishment of imprisonment of six months to five years and a fine,<sup>73</sup> which is less than in the CC RC (prison sentence of one to eight years). The prison sentence of three months to three years and a fine shall be imposed to a person who conceals, destroys, damages partially or completely a document and makes it unusable, or some other objects that serve to demonstrate the intention of preventing or obstructing the proof.<sup>74</sup> A qualified form of the offense is committed in the criminal proceedings for which a prison sentence is predicted of six months to five years and a fine.<sup>75</sup> A sentence of imprisonment of three months to three years shall be imposed to a person who removes, destroys, breaks down, moves or displaces a boundary marker, a landline mark, or any sign of ownership of the real property or the right to use water, or with the same intent to put this sign in false lineup.<sup>76</sup>

The reference to resistance or failure of judicial decisions or disruption of legal proceedings in another way is provided in the Art.336b of the CC RS as a criminal offense *Obstruction of Justice* which carries a prison sentence of up to three years and a fine.<sup>77</sup> Three types of qualified commission are predicted for this crime. The first case refers to the actions of interrupting or preventing, insulting, threatening etc. of a judge, a prosecutor, a deputy public prosecutor or a lawyer of judicial or prosecutorial function, or a lawyer's service, which is punishable with imprisonment of six months to five years and a fine.<sup>78</sup> The second case is designed for offenders who inflict light bodily injury or threaten to use weapons towards a judge, a public prosecutor, or a lawyer, for which there is a predicted punishment of imprisonment of one to eight years.<sup>79</sup> The third case related to the perpetrators who inflict serious bodily harm to a judge, a public prosecutor, or a lawyer, for which there is a predicted punishment of imprisonment of two to ten years.<sup>80</sup>

The CC RS<sup>81</sup> states six leading corruption offenses:<sup>82</sup> *Abuse of office* Art.359, *Trading in influence* Art.366, *Accepting Bribe* Art.367, (Božić, 2015:101-150), *Bribery* Art.368, *Abuse of position of responsible person* Art.234, and *Abuse in connection with public procurement* Art.234a.<sup>83</sup>

According to the *Palermo Protocol I, Illegal border crossing and smuggling of people* is a criminal offense under the Art.350 of the CC RS. The distinction in

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<sup>73</sup> Art.336/1 CC RS

<sup>74</sup> Art.336/2

<sup>75</sup> Art.336/4

<sup>76</sup> Art.336/3

<sup>77</sup> Art.336a/1

<sup>78</sup> Art.336a/2

<sup>79</sup> Art.336a/3

<sup>80</sup> Art.336a/4

<sup>81</sup> CC RS, OG No 85/05,88/05,107/05,72/09,111/09,121/12,104/13,108/14

<sup>82</sup> The joint project of the EU and the Council of Europe *Strengthening the capacity of the police and judiciary to fight corruption in Serbia* (PACS), 2014, p.41.

<sup>83</sup> Op.cit. no 62.

relation to the criminalization of human trafficking in the CC RC refers to the independent and voluntary crossing of the state border of Serbia without proper license, under arms or with the use of violence. In accordance with Palermo *Protocol II*, Art.388 in the CC RS *Human Trafficking* is considered to be a criminal act (Božić, 2016:261-276).

## 6. COMPARATIVE OVERVIEW OF CRIMES IN THE CRIMINAL CODES OF THE REPUBLIC OF CROATIA AND THE REPUBLIC OF SERBIA BASED ON PALERMO CONVENTION

In Table No.1 the basic fundamental forms of joint criminal offenses and criminal sanctions in Croatia and Serbia are presented, which are based on the Palermo Convention. It may be noticed that the names of crimes are generally identical, with certain exceptions, relating to offenses of Illegal migration, Obstruction of Justice (Coercion against judicial official), and Abuse of official position (office and authority).

Table No. 1. Comparative overview of the basic, fundamental forms of joint criminal offenses and criminal sanctions in the RC and RS based on the Palermo Convention<sup>84</sup>

CRIMES IN THE REPUBLIC OF CROATIA	CRIMES IN THE REPUBLIC OF SERBIA
<b>Art.328. The criminal association</b> -Imprisonment of 6 months to 5 years	<b>Art.346. Conspiracy to commit criminal acts</b> -Imprisonment of 6 months to 5 years
<b>Art.265. Money laundering</b> -Imprisonment of 6 months to 5 years	<b>Art.231. Money laundering</b> -Imprisonment of 6 months to 5 years and a fine
<b>Art.306. Tampering With Evidence</b> -Imprisonment of 1 year to 8 years	<b>Art.336. Prevention and Obstruction of Evidence</b> -Imprisonment of 6 months to 5 years and a fine
<b>Art.312. Coercion against judicial official</b> -Imprisonment of 6 months to 5 years	<b>Art.336.b. Obstruction of Justice</b> -Imprisonment up to 3 years and a fine
<b>Art.294. Bribery</b> -Imprisonment of 1 year to 8 years	<b>Art.368. Bribery</b> -Imprisonment of 6 months to 5 years
<b>Art.293. Receiving Bribe</b> -Imprisonment of 1 year to 10 years	<b>Art.367 Receiving Bribe</b> -Imprisonment of 2 year to 12 years
<b>Art.295. Trading in influence</b> -Imprisonment of 6 months to 5 years	<b>Art.366. Trading in influence</b> - Imprisonment of 6 months to 5 years
<b>Art.254. The abuse in public</b>	<b>Art.234.a. The abuse in public</b>

<sup>84</sup> CC RC, OG No 125/11,144/12,56/15,61/15

CC RS, OG No 88/05,107/05,72/09,111/09,121/12,104/13,108/14

<b>procurement</b> -Imprisonment of 6 months to 5 years	<b>procurement</b> -Imprisonment of 6 months to 5 years
<b>Art.291. The abuse of position and authority</b> -Imprisonment of 6 months to 5 years	<b>Art.359. The abuse of position and authority</b> -Imprisonment of 6 months to 5 years
<b>Art.326. Illegal entry, movement and stay in the Republic of Croatia, another Member State of the European Union or signatories of the Schengen Agreement</b> -Imprisonment of 6 months to 5 years -Independant illegal border crossing is not punishable	<b>Art.350. Illegal crossing of the state border and people smuggling</b>  -Imprisonment of 6 months to 5 years -Imprisonment up to one year for illegal bordercrossing with the use of violence and weapons
<b>Art.106. Human Trafficking</b> -Imprisonment of 1 year to 10 years	<b>Art.388. Human Trafficking</b> -Imprisonment of 3 years to 12 years

Even though the prescribed criminal sanctions are largely uniformed, there are few exceptions. They are related to the offenses of *Tampering with Evidence* (Prevention and Obstruction of Evidence), *Coercion against judicial official* (Obstruction of Justice), and *Bribery* in which the CC RC foresees higher penalty. On the other hand, for the offenses of *Receiving Bribery* and *Human Trafficking*, the CC RS has prescribed a higher penalty than the CC RC.

Table No.2 shows the numerical strength of the previous 2015, relating to convicted adults for criminal offenses prescribed by Palermo Convention. First of all, it can be seen that certain criminal offenses prescribed by the CC RC have not been introduced in the CC RS. This applies to offenses of Bribery in business transactions, Bribery for trading in influence, Bribery in the bankruptcy proceedings. It is proposed to the legislature of Serbia to consider the incrimination of these acts.

Table No. 2. Comparative overview of adult persons convicted for criminal offenses prescribed Palermo Convention<sup>85</sup>

CRIMES IN THE REPUBLIC OF CROATIA	CRIMES IN THE REPUBLIC OF SERBIA	CONVICTIONS - 2015 RH RS	
Art.328. <i>The criminal association</i>	Art.346. <i>Conspiracy to commit criminal acts</i>	15	20
Art.329. <i>The commission of the offense within the criminal association</i>	-	-	-
Art.265. <i>Money laundering</i>	Art.231. <i>Money laundering</i>	8	2
Art.306. <i>Tampering With Evidence</i>	Art.336. <i>Prevention and Obstruction of</i>	1	21

<sup>85</sup> Adult criminal offenders, application, prosecution and conviction in 2015, the National Bureau of Statistics, Zagreb, 2016, Republic Fund for Statistics, adult offenders in the RS in 2015

	<i>Evidence</i>		
<i>Art.312. Coercion against judicial official</i>	<i>Art.336.b. Obstruction of Justice</i>	1	5
<i>Art.294.Bribery</i>	<i>Art.368.Bribery</i>	30	43
<i>Art.293. Taking Bribe</i>	<i>Art.367.Taking Bribe</i>	59	40
<i>Art.253. Giving a bribe in economic transactions</i>	-	-	-
<i>Art.252.Receiving a bribe in economic transactions</i>	-	2	-
<i>Art.295. Trading in influence</i>	<i>Art.366. Trading in influence</i>	5	6
<i>Art.296. Giving a bribe for trading in influence</i>	-	3	-
<i>Art.292. Illegal facilitation</i>	-	1	-
<i>Art.254. The abuse in public procurement</i>	<i>Art.234.a.The abuse in public procurement</i>	-	1
<i>Art.291.The abuse of position and authority</i>	<i>Art.359.Abuse of Office</i>	116	156
-	<i>Art.234.Abuse of the position of the responsible person</i>	-	317
<i>Art.251.Bribery in bankruptcy proceedings</i>	-	-	-
<i>Art.339.Bribing MPs</i>	-	1	-
<i>Art.326. Illegal entry, movement and stay in the Republic of Croatia, another Member State of the EU or signatories of the Schengen Agreement</i>	<i>Art.350.Illegal crossing of the state border and people smuggling</i>	54	407
<i>Art.106. Human Trafficking</i>	<i>Art.388. Human Trafficking</i>	2	14
	<b>TOTAL</b>	<b>298</b>	<b>1032</b>

The most convicted in 2015 in the RS were for a criminal offense under Art. 350. *Illegal crossing of the state border and smuggling of human beings* (407 convictions), while the second place takes criminal conviction from the Art.234. *Abuse of position of the responsible person* (317 convicted).

A slightly different situation was recorded in Croatia. The most convicted were of a criminal offense under Art.291. *The abuse of position and authority* (116 convictions), while on the second place it was the criminal conviction from the Art.293. *Taking bribe* (59 convicted).



As for the total number of convicted for criminal offenses prescribed by the Palermo Convention, the number of prisoners in Serbia was three times larger than in Croatia.

## **7. INTERNATIONAL COOPERATION BETWEEN STATES IN PREVENTION AND FIGHT AGAINST TRANSNATIONAL ORGANIZED CRIME**

Fighting organized crime requires a continuous study of this phenomenon, monitoring trends, harmonization of legislation and harmonization of legal practice, as well as a joint operational response of the police, judiciary and other organs. Social reaction to organized crime has normative and operational aspects that are manifested in the national and international level (Nikač,2015:48-55).

Inside, the answer includes reaction of the national authorities, that first starts from legislative activities and the adoption of legislative solutions. In the matter of combating organized crime, the leaders are the USA and the developed Western countries that were first to meet this problem. Thus, the USA adopted a number of laws and by-laws, among which are the most significant: the Law on Control of Organised Crime (OCC Act, 1973), RICO Act (Racketeer Influence and Corrupt Organizations Statute), Continuing Criminal Enterprise (CCE statutes), Act on Narcotic drugs (Comprehensive Drug Abuse Prevention and Control Act), Law on witness protection, Law on money laundering and others. Italy has adopted the anti-mafia law (Law on Organized Crime No. 646/82) and several other important legislations in this area. Similarly reacted *Germany*, which adopted the Law on Organized Crime (Sačić,1997:25-34), and it continued, which was important, after the reunification of Germany<sup>86</sup> in order to combat criminal. An identical approach had other European countries, especially countries of the former socialist bloc (Nikač,2005:722-745) and those in transition. In most countries, the practice is to form special units and authorities to combat organized crime. Such is the case in the USA (FBI, DEA), The UK (SOCA), Italy (DIA), etc.

Member states of the former Yugoslavia reacted identically, according to the US and the EU model, but have adopted a *lex specialis* regulations. Serbia was unfortunately late, and after the assassination of PM Z. Djindjic, PhD, it adopted the Law on organization and jurisdiction of state authorities in fighting organized crime, corruption and other especially serious crimes<sup>87</sup> which have accepted the decision of the Palermo Convention against transnational crime. On the basis of this regulation, special bodies -Attorney, Police, Court and judicial security have been established. The new CPC adopted general (Art.85-169) and special investigative actions (Art.161-187) which are very important for the fight against organized

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<sup>86</sup>Treaty of 18.May 1990.between the Federal Republic of Germany and the German Democratic Republic establishing a Monetary, Economic and Social Union. The Federal Government, Bonn, 1990.

<sup>87</sup>Law on organization and jurisdiction of state authorities in fighting organized crime, corruption and other especially serious crimes, OG No 42/02,27/03,39 03,67/03,29/04,58/04,45/05,61/05,72/09,72/11, 101/11,32/13

crime.<sup>88</sup> Croatia has adopted the Law on the Office for CCOC,<sup>89</sup> which was established as a special State Prosecution to fight corruption and organized crime, and it also adopted legislative solutions in the field of criminal procedure enactment of Criminal Procedure.<sup>90</sup>

International response includes a common reaction of the countries and the international communities, both on legislative and operational levels, which correlate with the activities of national authorities in the fight against organized crime.

Next to the already mentioned UN CATOC and its Protocols were adopted and signed several important documents on the level of the UN, CoE, EU, regional and bilateral. Both the US and France in 1970 signed the Agreement on cooperation in combating organized crime, on the basis of which was broken *French Connection* drug trafficking (Waller, 1993:193–212). At the multilateral level were adopted important international conventions such as the Single Convention on Narcotic Drugs (1961), UNESCO Convention on the protection of cultural heritage (1970), a set of anti-terrorism documents for security in air transportation (Tokyo, The Hague, Montreal). The regional level adopted the Convention on international Police cooperation in SEE,<sup>91</sup> the Convention SELEC.<sup>92</sup> The purpose of these laws was to facilitate communication between the state and national authorities, then to harmonize the legal standards and to unify the legal practice. At the bilateral level, Member States typically conclude agreements on mutual cooperation, and mainly a function of the application of the aforementioned is accepting international documents. Such is the case with Croatia and Serbia, which have concluded an Agreement on international police cooperation, which emphasizes cooperation in the fight against organized crime (Nikač, Juras, 2015:283-302).

The operational aspects of the fight against organized crime include joint work and cooperation of the national police and the international police organization, which is manifested in the form of exchange of information, joint investigation teams, joint operations etc. The level of cooperation exists between the judicial authorities in criminal law matters, such as the cooperation of prosecutors' offices for organized crime etc. Thus, at the regional level, are established several specialized non-governmental organizations such as the Prosecutors Advisory Group in SEE (*SEEPAG*), Network of Public Prosecutors of the Western Balkans (Lopandić, Kronja, 2010:201-212). The cooperation of judicial authorities is very important for depoliticization of criminal cases, to facilitate the process of

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<sup>88</sup>The Criminal Procedure Act RS, OG No 72/11,101/11,121/12,32/13,45/13,55/14. These are the secret surveillance of communications, secret surveillance and recording, computer search of data, controlled delivery, undercover agent, etc.

<sup>89</sup>The Law on the Office for Combating Corruption and Organized Crime RC, OG No 76/09,116/10, 145/10,57/11,136/12,148/13

<sup>90</sup>The Criminal Procedure Act RC, OG No 152/08,76/09,80/11,121/11,91/12,143/12,56/13,145/13,152/14

<sup>91</sup><http://www.pccseesecretariat.si/> (August 31 2016)

<sup>92</sup> <http://www.secicenter.org/ml06/About+SELEC> (September 5 2016)

extradition, execution of procedural legal actions by letters rogatory (examination of witnesses, hearing the victims, expertise, file deliveries).

Police cooperation is the most important and the most mobile. The leader of cooperation is Interpol, in whose work the Member States participate through joint bodies and through the National Central Bureaus. Interpol has a special department for combating the forms of transnational organized crime such as corruption, cyber crime, drugs, financial crime, trafficking in human beings, trafficking in works of art.<sup>93</sup> In Europe, the most important organization is Europol, but it is an organization that does not have the operational capacity and is responsible for the running of the EU. Europol also has special units to monitor organized crime and other most serious forms of crime (Nikač, Simić, 2015: 341-358). At the regional level there are more International Performances of the police associations that contribute to the fight against crime in general and increase the level of safety. Some of them are: the Association of Southeast Europe Police Chiefs (SEPCA), Network of Police Officers, Police Forum, the Regional Initiative for Migration, Asylum, Refugees Regional Initiative (MARRI) Regional Anti-Corruption Initiative (RAI).

The increasing number of armed robberies in jeweleries that had been made by the famous criminal group *Pink Panther* throughout Europe, the Middle East, Asia and the USA were solved as a result of international cooperation. The group had been formed by criminals at an international level who mainly originated from the former Yugoslavia. Unofficial information indicates that the group in the period from 1999 until today has executed more than 340 robberies in 35 countries, robbing jewelry worth over 330 million euros. Especially spectacular were the robberies in Tokyo (2004, 2007), St Tropez (2005) and Paris (2008).<sup>94</sup> In shedding light on the crimes of this group, a significant role played the police agencies from Serbia, Croatia and other countries because they were sharing information through Interpol, they provided good information, based on which the perpetrators were neutralized and then processed.

In the function of fruitful cooperation is the administration of criminal legal incrimination of offenses based on the decision of the CATOC. This is achieved with a large success in Croatia and Serbia, with a note that Croatia is in a somewhat better position as a member of the EU, but also has additional obligations under the regulations and practices of the EU.

## 8. CONCLUSION

*Organized crime* with its own characteristics, economic power and transnational character, in addition to terrorism, is the most dangerous form of endangering society in peacetime. The most severe manifestations and forms of organized crime, such as illegal drug trafficking, racketeering, arms smuggling, human trafficking, cyber crime etc., cause enormous anxiety among the public and threaten to demolish all the achievements of human civilization. The problem

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<sup>93</sup> [www.interpol.int](http://www.interpol.int). (september 5 2016)

<sup>94</sup> *Ibid.*

becomes even more complex because organized crime has a transnational character and knows no boundaries and barriers, while criminal groups are excellently organized and mobile. The special weight of the whole issue gives the methodology of operation of the organized criminal groups, especially corruption, because by bribing people of the state apparatus they are trying to dull the edge of combating this scourge and to send a message that the mafia is stronger than the state.

In response to the challenges of the organized crime, the country and the international communities take measures, which are, by their nature, normative and operational. At the international level several legislative measures had been taken, such as the level of the UN, CoE, EU and other organizations adopted relevant international conventions, resolutions, declarations and other documents as normative-legal basis for the fight against organized crime. Undoubtedly, the most important source of this type is *the UN CATOC and its Additional Protocols I-III*. The Convention is a revolutionary document in the fight against transnational organized crime because it introduced legislation with special bodies, special investigative techniques and methods, mechanisms of international cooperation among states etc. The Convention has been a powerful source for the law and for support to States Parties to adopt it into their national legislation, it has significantly contributed to harmonization of the legal norms and created a basis for harmonization of legal practices of authorities. Some other international documents also have a special influence, and, at the regional level, such is the Convention on International Police Cooperation in SEE and SELEC Convention.

International documents were the basis for the adoption of national legislation and in the work they were used to specify criminal justice legislation passed in Croatia and Serbia, especially criminal incriminations based on the UN CATOC. In particular, it provided an overview of the most serious crimes and carried out their comparative legal analysis, indicated on previous achievements in the legislative activities of the Republic of Croatia and the Republic of Serbia in every way. It is our opinion that, in accordance with Serbia's application for EU membership, it will have to harmonize its legislation with the EU regulations. In this case it means that the legislator in Serbia will most likely have to bring in the remaining criminal incrimination introduced by Croatia and listed in the comparative legal analysis. This refers to several offenses, such as: committing a crime within the criminal association, bribery in business operations, giving a bribe to trade in influence, undue influence, bribery in the bankruptcy proceedings, bribery of MPs, etc. If necessary, the introduction of these or related offenses in the legislation must be thought through, with adequate expert analysis and in close consultation with legislative bodies of the EU.

At operational level, the significance of the multi agency access to engagement at the national level is pointed out, because the combat against organized crime requires coordinated and joint efforts of the special police, intelligence services, customs, tax police and other authorities. At the international level, the fight against transnational organized crime leads to the multilateral, regional and bilateral level. A leader in international police cooperation is certainly

Interpol, but Europol and other international organizations also have an important role. Basic types and forms of cooperation are current information exchange, joint investigation teams, joint operations, liaison officers, controlled delivery etc. According to the Schengen Agreement in the EU, the active mechanisms are exchange of information, cross-border monitoring and cross-border pursuit. Croatia and Serbia cooperate with Interpol and Europol via their national contact points, noting that Croatia is in a better position as a member of the EU. The two countries have very good mutual cooperation, which is above the political level, as demonstrated in specific criminal cases (the assassination of the journalist Pukanic, the extradition of the accused of the murder of the PM).

We believe that *de lege ferenda* there is room for expansion of certain provisions of criminal-substantive and procedural law. In the future, we should consider the application of certain provisions of the law, and based on that give some suggestions according to the demands of time and expertise. This is supported already by regularizing some "non-traditional" methods, such as public promise of reward, raster (rafter) of computer time, etc.<sup>95</sup> We should also consider more relaxing application of some specific actions of proving, because, without good tools to work, state authorities are powerless in the fight against crime. Of course, all that should be supported with adequate mechanisms to protect human rights, civil liberties and other universal values.

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<sup>95</sup>Police Act RS, OG No 06/16

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**МЕЃУНАРОДНА НАУЧНА  
КОНФЕРЕНЦИЈА**

***СВЕТИКЛИМЕНТОВИТЕ  
ПОРАКИ ЗА ЕТИКАТА,  
МОРАЛОТ И ВРЕДНОСТИТЕ***

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***ST. CLEMENT'S MESSAGES FOR ETHICS,  
MORALITY AND VALUES***

***ЗБОРНИК НА ТРУДОВИ***  
***CONFERENCE PROCEEDINGS***

***Скопје, 5-ти декември, 2016***

***Skopje, December 5th, 2016***



**Издавач:**  
**ФАКУЛТЕТ ЗА БЕЗБЕДНОСТ -**  
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**Печати:**  
"Ван Гог" - Скопје

**Адреса на редакцијата**  
Факултет за безбедност- Скопје  
1000 Скопје  
Пош. фах 103  
тел: +++(02)2546211

**Publisher:**  
**FACULTY OF SECURITY –**  
**Skopje**

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**Design and Computer Processing:**  
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**Print:**  
"Van Gog" - Skopje

**Address of the Publisher**  
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1000 Skopje  
P.O. Box 103  
tel : +++(02)2546211

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