

## COMPARATIVE OVERVIEW OF MONEY LAUNDERING IN CRIMINAL LEGISLATION OF THE REPUBLIC OF CROATIA AND THE REPUBLIC OF SERBIA

**Vanda Bozic**

*Department of Criminal Law, Faculty of Law, Zagreb  
vanda.bozic@pravo.hr*

**Zeljko Nikac**

*The Academy of Criminalistic and Police Studies, Belgrade  
zeljko.nikac@kpa.edu.rs*

### **ABSTRACT**

*Money laundering today is the most dangerous corruption offense whose main motive is the acquisition of unlawful property gains by concealing its unlawful origin. The aggravating circumstances in detecting this criminal offense relate to sophisticated perpetration and organization of perpetrators, different modes of execution, but also to its transnational character. In this paper the authors have presented a comparative overview of the criminal offense of money laundering in the legislation of Croatia, a EU Member State and Serbia, an applicant country. The first part of the paper sets forth the basic concepts of money laundering, its characteristics and forms. Furthermore, given is the international legal framework for the suppression of money laundering and, accordingly, the criminal justice framework of Croatia and Serbia with a goal of fighting this very widespread economic crime. A survey was conducted and an analysis of the state and movements of the corruptive criminal offenses of money laundering in Croatia and Serbia in the last two years. Attention was drawn to the jurisdiction in the criminal proceedings as well as the necessary international cooperation of the states in the suppression of this, in most cases, transnational criminal offense. Concluding considerations include de lege ferenda proposals to improve the normative legal framework and measures are proposed to prevent money laundering in order to successfully combat this progressive financial crime of today.*

**Keywords:** *money laundering, corruption, economic crime, EU, Croatia, Serbia*

### **1. INTRODUCTION**

Transnational organized crime today is, in addition to the terrorist threat, a threat to human civilization in peacetime, as well as its achievements. A special problem today are countries in transition that are in the phase of economic change, have no established legal and institutional mechanisms for combating crime, are very vulnerable and can not adequately protect their national interests. Criminal groups liberally use the current situation in these and other countries, expanding their affairs, and greatly affecting political and other developments in these areas. Organized crime groups have multiplied illegal property gains from various illegal activities, including illegal production and narcotics trafficking, smuggling of weapons, human trafficking and human organs. Particularly active is the post-communist mafia, primarily Russian and Albanian, who had a strong breakthrough in the US and other developed countries, took over the narcotics market and other businesses. There is evidence that a large number of banks are associated with criminal groups and that they carry out suspicious financial transactions with the aim of legalizing criminal profits.<sup>1</sup> A similar situation exists in the former Yugoslavia where during the war and in the aftermath of the war, an ex-YU mafia has been formed that has crossed all borders and barriers, with the aim of achieving enormous financial

---

<sup>1</sup> Nikač Ž, *Međunarodna policijska saradnja*, KPA, Belgrade, 2015, p.48-55.

gains and power in newly-established states. The development of organized crime was favored by the slow release of the relics of the past and the later beginning of transition. In order to conceal unlawfully acquired criminal proceeds, its legalization, retention and use of the funds, organized criminal group carry out operations known as money laundering. It is a process that includes one or more criminal activities with the aim of concealing the traces of criminal money, its "laundering" and then reinvestment into legal financial flows for the purpose of using it and retaining the benefits. Laundered money is further used to finance new criminal activities and acts of terrorism,<sup>2</sup> which is particularly dangerous for states and the international community in the current migration crisis in the world. The social response to organized crime and money laundering has its legislative and operational aspect. At the international level, several important international documents were adopted, and based on these, the states have adopted national anti-money laundering regulations. The operational aspect includes the measures and activities of states and specialized international organizations in combating money laundering at the local, regional and global level. Similarly, Croatia, which is now a member of the EU, has adapted its legislation and activities to the EU, as well as Serbia, which has applied for admission to the EU and is in the process of the harmonization of standards and practices. Both countries have ratified relevant international documents and adopted national criminal and other anti-money laundering regulations.

## 2. CONCEPT, TYPES AND CHARACTERISTICS OF MONEY LAUNDERING

Money laundering is a term that has long been believed to stem from a prohibition period in the United States. However, the term came into use later when a Mafia accountant Meyer Lansky, after the conviction of the famous Al Capone for tax evasion, applied one of the first money laundering techniques by opening of numerous accounts in Swiss banks. Lansky further improved the technique through the so-called concept of loan repayment that can be used to record illegal money through foreign bank loans, which is recorded as business income or tax deduction.<sup>3</sup> After the famous Watergate affair in the United States (1973), the term money laundering was first established in the media and then in the professional public. Money laundering today is linked to the criminal offenses of illegal production and trafficking of drugs, theft and smuggling of vehicles, trafficking in human beings, prostitution and other forms of organized crime.

- a) Money laundering means criminal activity of illegal entry or withdrawal of money in or out of a country, in order to launder illegally acquired money in banks that perform such transactions for profit.<sup>4</sup> This is an attempt to legalize the proceeds obtained by a criminal offense or other unlawful acts of the so-called main or predicate criminal offense. Clean money is then reinvested, invested in legal flows and uses in banking, trading, sales, investment, entrepreneurship and other economic activities.<sup>5</sup>
- b) Money laundering is not an individual act, but a process that, according to the concepts in the professional literature, has multiple phases: placement, layering and integraton.<sup>6</sup>

---

<sup>2</sup> Mijalković S, Bošković G, Nikač Ž, *Međunarodno-pravni napori u sprečavanju finansiranja terorizma prljavim novcem*, Strani pravni život, br. 1/11, Institut za uporedno pravo, Belgrade, 2011, p.109–128.

See more: Nikač Ž, Božić V, *International Criminal Police Cooperation and EU Countries in the Fight Against Terrorism with Reference to the Republic of Serbia as a Candidate for Membership*, Tematska monografija “Integralna bezbednost Republike Srbije,” FPSP, Belgrade, 2017, p.235-250.

<sup>3</sup> Katušić-Jergović S, *Pranje novca - pojam, karakteristike, pravna regulativa i praktični problemi*, Hrvatski ljetopis za kazneno pravo i praksu no.o2/07, vol.14, Zagreb, 2007, p.619-642.

<sup>4</sup> Op.cit. in note.1, p.97-98.

<sup>5</sup> Palijaš D, Hržina D, Biluš A, *Preventivni sustav i kazneni progon pranja novca*, Pravosudna akademija, Zagreb, 2017, p.4-5.

<sup>6</sup> Cindori S, *Sustav sprečavanja pranja novca*, Financijska teorija i praksa 31(1) 2007, p.56. The Financial Crimes Enforcement Network -FinCEN described the process of money laundering through the three mentioned phases.

The placement stage is the initial stage of money laundering, where cash is usually introduced into financial flows and is used for purchases of different valuables. Funds acquired through criminal activities are introduced into legitimate business flows, and this usually occurs in smaller amounts (street sales of narcotics, prostitution, trafficking in human beings), but also in larger amounts (sales of larger quantities of narcotics, weapons smuggling, robbery, corruption). The aim is to avoid the possibility of identifying the origin of money and entities that carry out the money laundering activities. At this stage there is a real possibility of detecting dirty money when it is much easier to detect the origin and nature of money. Especially cash in high amounts causes attention and suspicion about the origin of the money, so the perpetrators try to transfer it to lesser amounts. According to current regulations, most banks and financial institutions are under obligation to report all bigger cash transactions, and the potential for detection at this stage is extremely high.<sup>7</sup> The layering stage is a stage that includes multiple transactions that conceal the right origin of the funds, all with the aim of concealing the traces of the money source. These are individual legitimate transactions that have the illegal purpose of extracting funds from an illegal source. In this sense, known techniques are used such as: exchange and smuggling of currency, funds transfer, shell companies, insurance companies, box office and resident mail, use of import-export companies, manipulation of accounts, guarantees, bonds and securities, gambling, offshore zone operations and cash purchases.<sup>8</sup> At this stage, there are more transfers between banks, then telegram, telephone and modern Internet funds transfers between accounts opened in different names, in several countries and for different types of purchases.<sup>9</sup> The integration phase is the stage in which actors permeate their funds into the economy and the financial system, and mix them with legitimate funds. At this stage there are very popular money laundering techniques that include:

- the establishment of anonymous companies in countries where there is protection of privacy, followed by legal loans from the "clean" money funds and increase of revenues with the possibility of rejection of the tax due to the repayment of the loan and collection of interest for the loan;
- sending fictitious invoices that overestimate the value of the goods, on the basis of which money launderers can transfer funds from one country to another and have formal proof of origin of the funds;
- transfer of money to a legitimate bank from a launderer's bank because such (suspicious) banks can be purchased in countries that are tax havens.

At this stage, it is also very difficult to detect money sources, which is the goal of money laundering. "Dirty" money is further reinvested in lawful businesses or criminal affairs, while part of the funds is spent on personal spending of the perpetrators.<sup>10</sup>

- c) Money laundering techniques are very different and numerous, so we will only remind ourselves of the most important manifestations in practice. The most common money laundering mechanisms are: simulated commercial transactions (in the country or abroad), through service agencies (marketing, brokerage), banking and financial institutions (money transactions) and others.<sup>11</sup>

The following techniques are popular in the doctrine and practice of financial transactions:

---

<sup>7</sup> Op.cit. in note.5, p.5-9.

<sup>8</sup> *Ibid.*

<sup>9</sup> Iljkić D, *Pranje novca u domaćem i stranom zakonodavstvu*, FIP – Financije i pravo, Vol.3, No.1, Zagreb, 2015, p.37-58.

<sup>10</sup> *Ibid.*, p.38-39.

<sup>11</sup> Bošković G, *Metodika otkrivanja i dokazivanja krivičnih dela pranja novca*, MUP RS, Bezbednost no.3/05, Belgrade, 2005, p. 401–443.

- smurfing (building a deposit), which involves breaking large amounts of money into smaller ones, which do not go over the limit amounts and cause no suspicion
- overseas banks that perform transfer of money that launderers sent over offshore accounts in countries that have a banking secret system and allow anonymous use of accounts for any purpose and amount
- alternative banking that exists in some countries (Asia) permits undocumented deposits, withdrawal and transfer of money, while institutions of this type do not leave written evidence, work on trust and are out of control of government; when depositing money, the launderer uses non-official evidence (e.g. a cut playing card or postcard whose one half is retained by the launderer and the other is forwarded to an overseas banker) and after the presentation of his half he can withdraw the money (without risk of detection when taking out the funds)
- fictitious companies are established companies for money laundering that take dirty money to pay for fictitious goods and services, which provide the illusion of legitimate transactions through fake invoices and accounting balance
- investing in legitimate affairs when the perpetrators are investing dirty money to launder it and often use mediation agencies and casinos, or go through smaller players (cafe clubs, bars, car washes), with the possibility for a legal entity to declare a higher income from the real one.<sup>12</sup>

### 3. INTERNATIONAL LEGAL FRAMEWORK FOR FIGHTING MONEY LAUNDERING

Internationally, at the UN level, the Council of Europe and the EU adopted several international documents that are important for the fight against money laundering and the suppression of the most serious forms of organized crime.

- a) The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)<sup>13</sup> is the first comprehensive international document as a framework for combating the illicit production and trade of narcotics. The convention was in continuity with earlier agreements - the International Opium Convention (1912) and the Convention on the Limitation of the Production of Narcotic Drugs (1931). The document represents a powerful step in the fight against traffic in narcotics on an international scale, with the aim of taking preventive and repressive measures against money laundering. UN International Convention for the Suppression of the Financing of Terrorism (1999)<sup>14</sup> regulates the prevention and detection of money laundering in connection with terrorism. The document envisages mandatory incrimination of terrorist financing and promotes a new approach to countering terrorism - demolishing economic levers of power on a global scale.<sup>15</sup> UN Convention against Transnational Organized Crime (2000)<sup>16</sup> is a revolutionary document in the fight against organized crime and its most severe forms. The Palermo Convention has established special investigative trials, methods and organs for combating organized crime and laundering of money that spurs from criminal activities. According to article 12-14, confiscation and seizure of money or property derived from crime or used for these

---

<sup>12</sup> Op.cit. in note.3, p.624-626.

<sup>13</sup> Law on the ratification of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, *Official Gazzete SFRJ* no.14/90.

<sup>14</sup> UN International Convention for the Suppression of the Financing of Terrorism, UNTC 10 April 2002, No.38349.

<sup>15</sup> More: Giraldo J, Trinkunas H, *Terrorism Financing and State Responses: A Comparative Perspective*, Stanford University Press, Paolo Alto, CA, 2007.

<sup>16</sup> UNCATOC - UN Convention against Transnational Organized Crime, United Nations, Treaty Series, vol. 2225.

purposes, as well as international co-operation in cases of confiscation and loss of property.<sup>17</sup>

- b) Council of Europe Convention on Laundering, Search, Temporary Seizure and Confiscation of Proceeds from Criminal Offenses (1990)<sup>18</sup> is an act is made with the aim of creating a common criminal policy and depriving the perpetrators of the perpetrators of such proceeds. States Parties undertook to implement adopted measures in internal legislation and practices in order to incriminate the laundering of proceeds from criminal offenses and to deduct profits or property corresponding to those amounts. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005)<sup>19</sup> has replaced the previous one with a remark that the Council of Europe's Framework Decision was adopted before.<sup>20</sup>The Warsaw Convention brings a number of news to address the whole problem of money laundering and threatening the states by funding terrorist groups and their actions as a threat to world peace and security. Financing terrorism is legally treated as a criminal offense and it is important to take preventive measures in the area of money laundering as well as the activities of financial intelligence units.<sup>21</sup>
- c) European Union has adopted several important regulations in the area of money laundering and terrorist financing. Of the most important directives and regulations, the following are emphasized:
- Directive 91/308 EEC of the Council of the 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, OJ L 166,<sup>22</sup>
  - Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering - Commission Declaration,<sup>23</sup>
  - Directive 2005/60/EC of the European parliament and of the Council of 26 october 2005 on the prevention of the use of the financial system for the purpose of money laundering
  - and terorist financing, OJ L 309,<sup>24</sup>
  - Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC,OJ L 214<sup>25</sup> and
  - Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing regulation (ec) no 1889/2005, COM/2016/0825 final - 2016/0413 (COD).<sup>26</sup>

---

<sup>17</sup> See more: Božić V, Nikač Ž, *Criminal incriminations based on the United nations Convention Against Transnational Organized crime in the criminal legislation of the Republic of Croatia and the Republic of Serbia*, Faculty of Security in Skopje, Book of Proceedings, Tom I, 2016, p. 89-111.

<sup>18</sup> Council of Europe Convention on Laundering, Search, Temporary Seizure and Confiscation of Proceeds from Criminal Offenses, Council of Europe Treaty Series - No. 198

<sup>19</sup> Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Council of Europe Treaty Series - No. 198, Warsaw, 16.05.2005.

<sup>20</sup> Council Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, 2001/500/JHA. Official Journal L 182, 05.07. 2001.

<sup>21</sup> Op.cit. in note.9.

<sup>22</sup> Directive 91/308 EEC of the Council of the 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, OJ L 166

<sup>23</sup> Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering - Commission Declaration.

<sup>24</sup> Directive 2005/60/EC of the European parliament and of the Council of 26 october 2005 on the prevention of the use of the financial system for the purpose of money laundering and terorist financing, OJ L 309.

<sup>25</sup> Directive 2006/70/EZ, which sets out the implementing measures for the Directive 2005/60/EZ Official Journal L 214 of 04.08.2006

<sup>26</sup> Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing regulation (ec) no 1889/2005, COM/2016/0825 final - 2016/0413 (COD).

The first directive has set high standards and the signatories are mandated to embark on a ban on money laundering in national legislation and to increase cooperation in investigations and prosecution of money launderers.<sup>27</sup> The second directive introduces changes in terms of: inclusion of branches of credit and financial institutions with obligation to report suspicious transactions; the view that the money changers and money transfer services are exposed to money laundering risks; incorporating investment funds into the circle of taxpayers and extending the scope of predicate offenses.<sup>28</sup> The third directive is aimed at preventing the use of the financial system for the purpose of money laundering and terrorist financing, especially in the case of payments exceeding the amount of 15.000 Euros. The Directive foresees that National Financial Offices submit reports on suspicious transactions, more closely determine the actions of money laundering and the financing of terrorism.<sup>29</sup> The last directive, fourth, sets out the precautionary measures and states modification relating to: casinos and payments of more than € 7,500, risk assessment, enhanced customer monitoring, beneficiary information control, introduction of administrative sanctions for the service financial sector, cooperation between financial services of member states, enhanced role of the European Supervisory Authority and protection of personal data.<sup>30</sup> We add that a significant international legal source in this area is also made of the well-known recommendations (40) of the Financial Action Task Force (FATF), within the "G7" club of the most developed countries.<sup>31</sup>

#### 4. NATIONAL LEGAL FRAMEWORK FOR FIGHTING MONEY LAUNDERING

- a) Republic of Croatia has foreseen money laundering as an autonomous criminal offense in art. 265 CC RC.<sup>32</sup> The aforementioned criminal offense has existed in the former CC as Concealment of Illegally Obtained Money (Article 279 CC / 97). In the meantime, the criminal offense has been amended in accordance with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and the Financing of Terrorism (2005) and the Framework Decision of the Council of Europe 2001/500/PUP on money laundering, monitoring, freezing, appropriating and confiscating of assets and proceeds of crime. A special distinction was made in relation to the criminal offense of concealment (art.244.CC) and a clearer demarcation, since the above mentioned part was overlapping with some previous resolutions (before art.236 CC/97). According to art. 265 the criminal offense of money laundering is as follows:
1. Whoever invests, takes over, converts, transfers or exchanges proceeds of crime for the purpose of concealing of its unlawful origin shall be punished by imprisonment for a term of six months to five years.
  2. The sentence in par.1 shall be imposed on whoever conceals the true nature, origin, location, disposition, transfer, rights or ownership of the proceeds, which another person has obtained by illegal means.
  3. The sentence in par.1 shall be imposed on everyone who acquires, possesses or uses the proceeds, which another person has obtained through a criminal offense.
  4. Whoever commits an offense referred to in par. 1 or 2 in financial or other business or the perpetrator is engaged in money laundering or proceeds referred to in paragraphs 1, 2 or 3 of this Article are of high value, will be sentenced to prison of 1 to 8 years

---

<sup>27</sup> Op.cit. in note.22.

<sup>28</sup> Op.cit. in note.23.

<sup>29</sup> Op.cit. in note.24.

<sup>30</sup> Op.cit. in note.25.

<sup>31</sup> Op.cit. in note.3.

<sup>32</sup> CC RC, *Official Gazzete* no.125/11, 144/12, 56/15, 61/15, 101/2017.

5. Whoever takes action under par.1, 2 or 4 by acting in negligence with regard to the circumstance that the proceeds were obtained by a criminal offense, will be sentenced to prison of up to 3 years
6. If the property gain in par.1-5 was obtained by a criminal offense committed in a foreign country, the perpetrator shall be punished if it is also a criminal offense according to the law of the state in which it was committed.
7. The court may release from punishment the perpetrator from par.1-5 who voluntarily contributes to the discovery of a criminal offense that has resulted in property gain.<sup>33</sup>

In the legal analysis of the criminal offense we point out that already in par.1 there has been some improvement over the previous solution, as it is now possible to have money laundering as a predicate criminal offense, considering that various objects are protected. Par.2 gives a more precise formulation that is identical to the conceptual definition of money laundering under the Law on the Prevention of Money Laundering and Financing of Terrorism, which will be discussed in the forthcoming section. In the event that the legal requirement is not fulfilled that it is the so called third person who conceals the true nature, origin and other elements, it is a classic act of concealing as a subsequent unpunishable offense. Par.3, foresees incriminations provided for in art. 9 par. 1 of the Convention on Money Laundering, which the signatory states are required to provide under national law. Focus is placed on the intention in the commission of criminal acts in the form of acquisition, possession or use of property, for which is known at the time of receipt, that it constituted an illegal income. Par.4 is a qualified form of criminal offense when someone is involved in money laundering (*delictum collectivum*) or has "laundered" property gain of a high value. According to the legal view of the Supreme Court of RH "property gain of great value" in the criminal offense of money laundering under art. 265 par. 4. CC exists if the property gain exceeds 60,000.00 kn.<sup>34</sup> Under par.5 a criminal negligence offense is incriminated when the person did not know, but they could or should have known, and this is a neglect of due diligence. The penultimate par.6 provides identity of standards (not complete) in order to undertake criminal prosecution for the offense of money laundering. It is sufficient that the main offense is punishable by a foreign state as well as Croatia, but it does not necessarily have to be the main (predicate) criminal offense in a foreign state. The same solution has also been harmonized with the provisions of the Convention on Money Laundering, art.9 par.7.<sup>35</sup> The last par.7 provides for an effective remorse as a solution stimulating a perpetrator who voluntarily, through his or hers activities, contributes to the discovery of the main criminal offense of money laundering. We are of the opinion that the actual solution of the CC RC is in line with the relevant norms of international law, especially the EU law of which Croatia is an equal member. In addition to CC, money laundering is also treated by several other regulations of criminal law, including the Criminal Procedure Code<sup>36</sup> and the Law on Responsibility of Legal Persons for Criminal Offenses.<sup>37</sup> Money laundering is further treated by the accompanying laws of financial character, which emphasize: The Law on Foreign Exchange<sup>38</sup>, the Law on Banks<sup>39</sup>, the Law on Credit Institutions<sup>40</sup>, the Law on Payment

---

<sup>33</sup>*Ibid.*

<sup>34</sup> Supreme Court RC no. Su-IV k-4/2012-57, 27.12.2012.

<sup>35</sup> Op.cit. in note.9.

The author states that some CC RC solutions within this criminal offense are modeled on solutions from CC Germany, §261. Geldwäsche Ab.5,8,9.

<sup>36</sup> Criminal Procedure Code, OG no.121/11, 140/12, 56/13, 145/13, 152/14, 70/17.

<sup>37</sup> Law on Responsibility of Legal Persons for Criminal Offenses, OG no.151/03, 110/07, 45/11, 143/12.

<sup>38</sup> The Law on Foreign Exchange, OG no.96/03, 140/05, 132/06, 150/08, 92/09,153/09, 145/10, 76/13.

<sup>39</sup> Law on Banks, OG no.84/02, 141/06.

<sup>40</sup> The Law on Credit Institutions, OG no 117/08, 74/09, 153/09, 108/12, 54/13,159/13.

Transactions<sup>41</sup>, the Law on Financial Inspectorate<sup>42</sup>, the Law on the Croatian National Bank<sup>43</sup> and the Law on the Protection of Data Secrets.<sup>44</sup> The Law on the Prevention of Money Laundering and Financing of Terrorism<sup>45</sup> has been revised and a new text was adopted in 2017 with a view to harmonize the norms with the legal acts of the EU and the Fourth Directive. According to the proponents' suggestions, the good practices of the entities involved in the prevention of money laundering and terrorist financing have been incorporated into the text as well as the results of the national risk assessment carried out.<sup>46</sup> According to art.3 of the Law, money laundering is defined as: 1. replacement or transfer of assets acquired by crime in order to conceal or disguise the illegal origin or to assist another person in such activities; 2. concealment or disguise of the nature, source, location, disposition, movement, rights related to property acquired by crime; 3. acquisition, possession or use of assets acquired by crime; 4. participation in committing, associating for the purpose of committing, attempting, encouraging, counseling and facilitating any of the activities. Money laundering also includes activities in the territory of another EU member or a third country.<sup>47</sup> It further regulates the National Risk Assessment of Money Laundering and Financing of Terrorism as well as the measures, actions and procedures undertaken by the taxpayers to prevent and detect money laundering and terrorist financing. The following important solution is a due diligence analysis of the customer that starts from the type of transaction, cash and non-cash payments (withdrawals) above 105,000 kn. The law specifically states: manner of conducting in-depth checks, the implementation of measures of establishing and verifying the identity of customers, measures of establishing and verifying the identity of the real owner, the register of real owners and the implementation of measures of ongoing monitoring of the business relationship, the manner of implementation of measures for constant monitoring of the business relationship, due diligence analysis of the customer through a third party, simplified and strengthened due diligence analysis of the party.<sup>48</sup> One of the most important solutions is the statutory obligation to inform the Office for the Prevention of Money Laundering on Suspicious Transactions, Assets and Persons (Art.56-61). The law further includes other subjects, obligations of national and international co-operation, as well as the office, role and tasks of the Money Laundering Prevention Office.

- b) Republic of Serbia has foreseen money laundering as an independent criminal offense within the framework of Chapter XX, which includes criminal offenses against the economy. According to art.245 CC RS<sup>49</sup>, the criminal offense of money laundering is as follows:
1. Whoever makes a conversion or transfer of property, knowing that such property is derived from criminal activity, in order to conceal or misrepresent the unlawful origin of property, or conceal or mislead the property facts with the knowledge that such property is derived from criminal activity, or acquires, holds or uses the property with knowledge at the time of receipt, that such property was derived from criminal activity, shall be punished by imprisonment of six months to five years and fined.

---

<sup>41</sup> The Law on Payment Transactions, OG no.133/09, 136/12.

<sup>42</sup> The Law on Financial Inspectorate, OG no.85/08,55/11, 25/12.

<sup>43</sup> The Law on the Croatian National Bank, OG no.36/01, 135/06, 75/08 i 54/13.

<sup>44</sup> The Law on the Protection of Data Secrets, OG no.108/96.

<sup>45</sup> The Law on the Prevention of Money Laundering and Financing of Terrorism, OG no.108/17.

<sup>46</sup> Available at: <https://vlada.gov.hr/sjednice/9?trazi=1&datumod=&datumdo=&pojzam=&page=7> (15.05.2018).

<sup>47</sup> Op.cit. in note. 45.

<sup>48</sup> *Ibid.*

<sup>49</sup> Criminal Code Republic of Serbia, Official Gazzete no.85/05,88/05,107/05,72/09,111/09,121/12,104/13,108/14 i 94/16.



2. If the amount of money or property referred to in par.1 exceeds one million and five hundred thousand dinars, the perpetrator shall be punished by imprisonment for one to ten years and a fine.
3. Whoever commits the offense from par.1-2. of this Article with the property they themselves gained with criminal activity, shall be punished by a fine prescribed in par.1-2.
4. Whoever commits the act from par.1-2 in a group, will be punished by a prison sentence of two to twelve years and a fine.
5. Whoever performs the act from par.1-2 and could and was obliged to know that money or property represents proceeds of criminal activity, shall be punished by imprisonment for up to three years.
6. Responsible legal person who performs acts in par.1-2 and 5 shall be punished by a fine prescribed for this act if they knew or could have known that the money or property represented proceeds of criminal activity.
7. Money and assets referred to in par.1 to 6 of this Article shall be confiscated.

In the analysis of the criminal offense, we point out that par. 1 gives a broad range of executions of the basic act when the perpetrator performs a conversion or transfer of property, or acquires, holds or uses property for which he or she is aware that it derives from criminal activity and does this with the intent to conceal or false representation of the illegally acquired property. In these cases, the perpetrator will be sentenced from 6 months to up to 5 years in prison and a fine. Par. 2 provides a prison sentence of 1 to 10 years and a fine if the amount of property (money) in par.1 exceeds 1,500,000 RSD. The legislator in par.3 foresees the possibility of carrying out a criminal offense from par.1-2 by using illegally obtained property. Following in the par.4 is the aggravated form of the execution of this criminal offense in a group for which a prison sentence of 2 to 12 years and a fine are foreseen. Subsequent paragraph (5) incriminates the negligent commission of a criminal offense when a person did not know, but could have known about the origin of the property. It is a failure of due diligence for which a prison is sentenced to a prison sentence of up to 3 years. The penultimate paragraph (6) provides for the responsibility of the person responsible for the work committed in par.1-2 and 5, if the person has known, could have known and was obliged to know that money or assets represent the proceeds of criminal activity. Finally (par.7), there is obligatory seizure of money and assets for the actions envisaged in the previous paragraphs. The current solution to the CC RS is largely complementary to relevant international law norms and strives to harmonize with EU regulations, which is particularly important for Serbia's application for the EU membership. In addition to CC, money laundering is also treated by several other regulations of criminal law, including the Criminal Procedure Code<sup>50</sup> and the Law on Responsibility of Legal Persons for Criminal Offenses.<sup>51</sup> Money laundering is further treated by the accompanying laws of financial character such as: The Law on Foreign Exchange<sup>52</sup>, the Law on Banks<sup>53</sup>, the Law on Payment Transactions<sup>54</sup>, the Law on the National Bank of Serbia<sup>55</sup> and the Law on Personal Data Protection.<sup>56</sup> The Law on the Prevention of Money Laundering and Financing of Terrorism<sup>57</sup> was adopted in the form of a new regulation during 2017 with the aim of harmonizing the solution with EU legal norms, given that Serbia is a candidate country for EU accession.

---

<sup>50</sup> Criminal Procedure Code, OG no.72/11,101/11, 121/12, 32/13, 45/13 i 55/14.

<sup>51</sup> The Law on Responsibility of Legal Persons for Criminal Offense, OG 97/08.

<sup>52</sup> The Law on Foreign Exchange, OG no.62/06,31/11,119/12,139/14 i 30/18.

<sup>53</sup> The Law on Banks, OG no.107/05,91/10 i 14/15.

<sup>54</sup> The Law on Payment Transactions, OG no..3/02,5/03,43/04,62/06,11/09,31/11 i 139/14.

<sup>55</sup> The Law on the National Bank of Serbia, oG no.72/03,55/04,85/05,44/10,76/12,106/12,14/15 i 40/15-SC.

<sup>56</sup> The Law on Personal Data Protectio, OG no.97/08,104/09,68/12-SC,107/12.

<sup>57</sup> The Law on the Prevention of Money Laundering and Financing of Terrorism, OG no.113/17.

According to art.2 money laundering is defined similar to RC (EU) solutions as: a) conversion or transfer of property acquired by commission of a criminal offense; b) concealment or misrepresentation of the true nature, origin, place of destination, movement, disposition, ownership or rights in relation to the property acquired by the commission of the criminal offense; c) acquisition, possession or use of property acquired by the commission of the criminal offense.<sup>58</sup> Obligated persons to which the provisions of this regulation apply are the following entities: financial institutions (banks, exchange offices), investment and voluntary pension fund management companies, financial leasing providers, insurance and related companies, brokerage-dealers, organizers of games of chance, audit firms, payment and electronic institutions, real estate brokers, factoring companies, accountants, tax advisers, postal operators, sales and virtual currency transfer agencies and lawyers engaged in these business operations.<sup>59</sup> In order to prevent and detect money laundering and terrorist financing, entities are obliged to take measures and actions before, during and after the transaction (art.5-56). These activities are preceded by an important activity of risk analysis (art.6) in relation to the taxpayer's business, covering various types of risk (party risk, geography, transactions and services) and in relation to a particular group. By category, the risks can be low, medium and high intensity as well as additional risk categories.<sup>60</sup> The importance of combating money laundering and terrorist financing is highlighted by more important measures and actions: knowing and monitoring the party and business; providing information and data to the Anti-Money Laundering Directorate; designation of an authorized person for the fulfillment of legal obligations; education of personnel; internal control and internal auditing; creation of indicators for identifying suspicious transactions and carriers etc.;<sup>61</sup> More detailed provisions are provided for knowing and monitoring the client and its business, transferring funds, providing services, identifying the identity of the client and the real owner, obtaining the purpose and purpose of the business relationship. Special forms of measures and actions such as enhanced and simplified measures and actions have particular significance.<sup>62</sup> There are legal constraints on dealing with clients that refer to concealing the identity of the client, ban on quasi-bank operations, and limitations on cash payments. Of course, one of the most important solutions is the legal obligation to provide information, data and documentation to the Anti-Money Laundering Directorate, which is also done in accordance with relevant international standards of the EU. The law further includes measures and actions taken by lawyers, public notaries, national and international cooperation in combating money laundering and in particular the place, role and tasks of the Anti-Money Laundering Directorate.

## **5. REVIEW AND ANALYSIS OF REPORTED, ACCUSED AND CONVICTED PERSONS FOR MONEY LAUNDERING OFFENSE IN JUDICIAL PRACTICE**

### **5.1. Judicial Practice in Republic of Croatia**

Table no.1 shows the number of reported, accused and convicted persons for money laundering in Croatia in 2015 and 2016. In 2015, a smaller number was reported than in 2016, while the number of accuses is slightly higher, and those convicted is identical. In 2015 there is a smaller number of reported, 34.21% less compared to 2016, which can be seen as the first positive steps in combating money laundering. Data for the previous 2017 have not yet been published as official and this is why they are not mentioned in this research.

---

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*, art.3.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*, art.34-41.

<b>Art.265. CC RC – Money laundering</b>		
	<b>2015</b>	<b>2016</b>
<b>REPORTED</b>	13	38
<b>ACCUSED</b>	11	8
<b>CONVICTED</b>	8	8

Table no.1. Reported, accused and convicted for Criminal Offense from Art.265 CC RC. <sup>63</sup>

## 5.2. Judicial Practice in Republic of Croatia

Table no. 2 shows the number of reported, accused and convicted persons for the money laundering offense for 2015 and 2016. We can immediately notice that there is an equal number of reported and accused for money laundering in 2015 and 2016 years. However, a steep increase in the number of accused in 2016 is noticeable compared to 2015. The same can be attributed to the good initial results of state organs in combating money laundering. Data for the previous 2017 have not yet been published as official and this is why they are not mentioned in this research.

<b>Art.245. CC RS – Money laundering</b>		
	<b>2015</b>	<b>2016</b>
<b>REPORTED</b>	14	13
<b>ACCUSED</b>	8	11
<b>CONVICTED</b>	2	11

Table no. 2. Reported, accused and convicted for Criminal Offense of art. 245 CC RS. <sup>64</sup>

Looking at the relation of reported, accused and convicted persons for criminal offenses of money laundering in the jurisprudence of Croatia and Serbia, the situation is almost similar and without major oscillations. It is only noticeable that Croatia in 2016 is recording almost three times the number of applications compared to Serbia, as well as compared to 2015. There is also a difference in the number of prisoners convicted in RS in 2015 compared to 2016, as well as in both years in the Republic of Croatia.

## 6. CONCLUSION

Money laundering is one of the most dangerous forms of organized crime that has long overtaken the national and regional frameworks, has become a global problem and a par excellence issue in criminal law cooperation. Legislative solutions at the international and national level are a preliminary issue because without good normative basis there are no real opportunities for the state and the international community to achieve more effective results in combating money laundering. Adopted solutions are largely complex due to the fact that money laundering is provided for by criminal, financial and other regulations. In this process, governments, their judicial and law enforcement agencies, as well as lawyers and persons from

<sup>63</sup> DZS, *Punoljetni počinitelji kaznenih djela, prijave, optužbe i osude u 2015. godini*, available at: portal DZS, [http://www.dzs.hr/Hrv\\_Eng/publication/2016/SI-1576.pdf](http://www.dzs.hr/Hrv_Eng/publication/2016/SI-1576.pdf) (20.05.2018).

DZS, *Punoljetni počinitelji kaznenih djela, prijave, optužbe i osude u 2016. godini*, available at: portal DZS, [https://www.dzs.hr/Hrv\\_Eng/publication/2017/SI-1605.pdf](https://www.dzs.hr/Hrv_Eng/publication/2017/SI-1605.pdf) (20.05.2018).

<sup>64</sup> Republički zavod za statistiku RS: *Punoletni učinioi krivičnih dela u Republici Srbiji u 2015 i 2016, prijave, optuženja i osude*, available at:

[http://webrzs.stat.gov.rs/WebSite/repository/documents/00/01/97/01/SB\\_603\\_Punoletni\\_ucinioci\\_KD\\_2015.pdf](http://webrzs.stat.gov.rs/WebSite/repository/documents/00/01/97/01/SB_603_Punoletni_ucinioci_KD_2015.pdf)

<http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=146> (20.05.2018)

Republički zavod za statistiku RS: *Punoletni učinioi krivičnih dela u Republici Srbiji u 2015, prijave, optuženja i osude, Saopštenje, broj 189, god. LXVI, 20.05.2018*, available at:

[http://webrzs.stat.gov.rs/WebSite/repository/documents/00/02/19/06/SK12\\_189-srb-punoletni-2015.pdf](http://webrzs.stat.gov.rs/WebSite/repository/documents/00/02/19/06/SK12_189-srb-punoletni-2015.pdf) (20.05.2018)

other professions that are engaged in detecting money laundering. Estimated value of laundered money in one year is 2 - 5% of the global gross domestic product, or \$ 800 billion - \$ 2 trillion. It is a very serious state and international problem, even when it comes to much smaller amounts.<sup>65</sup> The harmonization of EU norms and practices with the law and the EU was carried out in the Republic of Croatia upon accession to the EU in 2013, while RS as a candidate country for EU accession in the process of harmonizing individual chapters (no.23-24) with EU law. The Directives adopted by the EU are of primary importance in the protection of the financial system of the EU and the EU, with the respect of guaranteed freedoms and rights. Accordingly, the relevant international conventions at the level of UN, Council of Europe and the EU are relevant at national, regional and global level. The indispensable part of the anti-money laundering are *lex specialis* regulations such as The Law on the Prevention of Money Laundering and Financing of Terrorism in RC and RS. In review of these laws it was pointed to their most important solutions and among them, particularly at the implementation of in-depth analysis, risk assessment and the obligation to report suspicious transactions with elements of money laundering. The paper gives a special account of the criminal offense of money laundering in CC RC (art.265) and CC RS (art.245), as well as legal analysis of provisions based on developed countries' solutions. The problem is that Croatia and Serbia do not have a long and developed judicial and police law practice in this area, and when detecting money laundering, they have to rely on the solutions of the leading EU countries. In addition, the states have also adopted sound financial regulations that enable the fight against money laundering, and are complementary to criminal law provisions. We are of the opinion that the mentioned legislative solutions are a good basis for undertaking measures and actions in the fight against money laundering. In the light of the *de lege ferenda* proposal, we suggest that consideration be given to the possibility of concluding a regional agreement of the Balkan states in the fight against money laundering, which would make the organs of states and specialized international organizations more operational and mobile.

**ACKNOWLEDGMENT:** *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.*

#### **LITERATURE:**

1. 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering - Commission Declaration.
2. Božić V, Nikač Ž, *Criminal incriminations based on the United nations Convention Against Transnational Organized crime in the criminal legislation of the Republic of Croatia and the Republic of Serbia*, Faculty of Security in Skopje, Book of Proceedings, Tom I, 2016, p. 89-111.
3. Cindori S, *Sustav sprječavanja pranja novca*, Financijska teorija i praksa 31(1) 2007, str.56. Američki Ured za sprječavanje pranja novca (The Financial Crimes Enforcement Network -FinCEN) je opisao proces pranja novca kroz pomenute tri faze.
4. Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC, OJ L 214
5. Council Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, 2001/500/JHA. Official Journal L 182 od 05.07. 2001.

---

<sup>65</sup> <http://www.unodc.org/unodc/en/money-laundering/globalization.html> 20.05.2018

6. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Council of Europe Treaty Series - No. 198, Warsaw, 16.05.2005.
7. Criminal Code of Germany, §261. Geldwäsche Ab.5,8,9.
8. Criminal Code Republic of Croatia, *Official Gazzete* no.125/11, 144/12, 56/15, 61/15, 101/2017.
9. Criminal Code Republic of Serbia, *Official Gazzete* no.85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16.
10. Criminal Procedure Code, **RC** OG no.121/11, 140/12, 56/13, 145/13, 152/14, 70/17.
11. Criminal Procedure Code, **RS** OG no.72/11,101/11, 121/12, 32/13, 45/13 i 55/14.
12. Directive 2001/97/EC of the European Parliament and of the Council of 4 December
13. Directive 2005/60/EC of the European parliament and of the Council of 26 october 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309.
14. Directive 91/308 EEC of the Council of the 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, OJ L 166
15. DZS, *Punoljetni počinitelji kaznenih djela, prijave, optužbe i osude u 2015. godini*, dostupno na: portal DZS, [http://www.dzs.hr/Hrv\\_Eng/publication/2016/SI-1576.pdf](http://www.dzs.hr/Hrv_Eng/publication/2016/SI-1576.pdf) (20.05.2018).
16. DZS, *Punoljetni počinitelji kaznenih djela, prijave, optužbe i osude u 2016. godini*, dostupno na: portal DZS, [https://www.dzs.hr/Hrv\\_Eng/publication/2017/SI-1605.pdf](https://www.dzs.hr/Hrv_Eng/publication/2017/SI-1605.pdf) (20.05.2018).
17. Giraldo J, Trinkunas H, *Terrorism Financing and State Responses: A Comparative Perspective*, Stanford University Press, Paolo Alto, CA, 2007.
18. Hrvatski ljetopis za kazneno pravo i praksu br.o2/07, vol.14, Zagreb,2007, p.619-642.
19. <https://vlada.gov.hr/sjednice/9?trazi=1&datumod=&datumdo=&pojам=&page=7> (15.05.2018).
20. Iljkić D, *Pranje novca u domaćem i stranom zakonodavstvu*, FIP – Financije i pravo, Vol.3, No.1, Zagreb, 2015, p.37-58.
21. International Convention for the Suppression of the Financing of Terrorism, Adopted by the General Assembly of the United Nations in resolution 54/109 of 9 December 1999, <http://www.un.org/law/cod/finterr.htm> (20.05.2018).
22. Katušić-Jergović S, *Pranje novca - pojam, karakteristike, pravna regulativa i praktični problemi*,
23. Law on Banks, OG no.84/02, 141/06.
24. Law on Responsibility of Legal Persons for Criminal Offenses, OG no.151/03, 110/07, 45/11, 143/12.
25. Law on the ratification of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, *Official Gazzete SFRJ* no.14/90.
26. Mijalković S, Bošković G, Nikač Ž, *Međunarodno-pravni napori u sprečavanju finansiranja terorizma prljavim novcem*, Strani pravni život, br. 1/11, Institut za uporedno pravo, Beograd, 2011, p.109–128.
27. Nikač Ž, Božić V, *International Criminal Police Cooperation and EU Countries in the Fight Against Terrorism with Reference to the Republic of Serbia as a Candidate for Membership*, Tematska monografija “Integralna bezbednost Republike Srbije,” FPSP, Belgrade, 2017, p.235-250.
28. Nikač Ž, *Međunarodna policijska saradnja*, KPA, Beograd, 2015, p.48-55.
29. Palijaš D, Hržina D, Biluš A, *Preventivni sustav i kazneni progon pranja novca*, Pravosudna akademija, Zagreb, 2017, p.4-5.

30. Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing regulation (ec) no 1889/2005, COM/2016/0825 final - 2016/0413 (COD).
31. Republički zavod za statistiku RS: Punoletni učinioci krivičnih dela u Republici Srbiji u 2015 i 2016, prijave, optuženja i osude, dostupno na:  
[http://webrzs.stat.gov.rs/WebSite/repository/documents/00/01/97/01/SB\\_603\\_Punoletni\\_u\\_cinioci\\_KD\\_2015.pdf](http://webrzs.stat.gov.rs/WebSite/repository/documents/00/01/97/01/SB_603_Punoletni_u_cinioci_KD_2015.pdf)  
<http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=146> (20.05.2018)
32. Supreme Court RC, no. Su-IV k-4/2012-57, 27.12.2012.
33. The Law on Banks, OG no.107/05,91/10 i 14/15.
34. The Law on Credit Institutions, OG no 117/08, 74/09, 153/09, 108/12, 54/13,159/13.
35. The Law on Financial Inspectorate, OG no.85/08,55/11, 25/12.
36. The Law on Foreign Exchange, OG no.62/06,31/11,119/12,139/14 i 30/18.
37. The Law on Foreign Exchange, OG no.96/03, 140/05, 132/06, 150/08, 92/09,153/09, 145/10, 76/13.
38. The Law on Payment Transactions, OG no..3/02,5/03,43/04,62/06,11/09,31/11 i 139/14.
39. The Law on Payment Transactions, OG no.133/09, 136/12.
40. The Law on Personal Data Protectio, OG no.97/08,104/09,68/12-SC,107/12.
41. The Law on Responsibility of Legal Persons for Criminal Offense, OG 97/08.
42. The Law on the Croatian National Bank, OG no.36/01, 135/06, 75/08 i 54/13.
43. The Law on the National Bank of Serbia, oG no.72/03, 55/04, 85/05, 44/10, 76/12, 106/12, 14/15 i 40/15-SC.
44. The Law on the Prevention of Money Laundering and Financing of Terrorism, OG no.113/17.
45. The Law on the Protection of Data Secrets, OG no.108/96.
46. The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
47. UN Convention against Transnational Organized Crime (UNCATOC),Treaty Series, vol. 2225.
48. UN International Convention for the Suppression of the Financing of Terrorism, UNTC 10 April 2002, No.38349.



**Varazdin Development and Entrepreneurship Agency**

in cooperation with

**Faculty of Law University of Split**

**University of Split**

**University Department for Forensic Sciences**

**Faculty of Law University of Mostar**

**University North**

**Faculty of Management University of Warsaw**

**Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat**



# Economic and Social Development

31<sup>st</sup> International Scientific Conference on Economic and Social Development -  
“Legal Challenges of Modern World”

Editors:

**Marijan Cingula, Douglas Rhein, Mustapha Machrafi**

ISSN 1849-7535



9 771849 753006 >

**Book of Proceedings**

Split, 7-8 June 2018

**Varazdin Development and Entrepreneurship Agency**  
in cooperation with  
**Faculty of Law University of Split**  
**University of Split**  
**University Department for Forensic Sciences**  
**Faculty of Law University of Mostar**  
**University North**  
**Faculty of Management University of Warsaw**  
**Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat**

Editors:  
**Marijan Cingula, Douglas Rhein, Mustapha Machrafi**

## **Economic and Social Development**

31<sup>st</sup> International Scientific Conference on Economic and Social Development -  
“Legal Challenges of Modern World”

## **Book of Proceedings**

Split, 7-8 June 2018



**Title** ■ Economic and Social Development (Book of Proceedings), 31st International Scientific Conference on Economic and Social Development - “Legal Challenges of Modern World”

**Editors** ■ Marijan Cingula, Douglas Rhein, Mustapha Machrafi

**Scientific Committee** ■ Marijan Cingula, University of Zagreb, Croatia (President); Ayuba A. Aminu, University of Maiduguri, Maiduguri, Nigeria; Anona Armstrong, Victoria University, Australia; Gouri Sankar Bandyopadhyay, The University of Burdwan, Rajbati Bardhaman, India; Haimanti Banerji, Indian Institute of Technology, Kharagpur, India; Alla Bobyleva, The Lomonosov Moscow State University, Russia; Leonid K. Bobrov, State University of Economics and Management, Novosibirsk, Russia; Rado Bohinc, University of Ljubljana, Slovenia; Elisabeth de Jesus Oliveira Brito - University of Aveiro, Portugal; Zeki Atil Bulut, Dokuz Eylul University, Turkey; Adnan Celik, Selcuk University - Konya, Turkey; Angelo Maia Cister, Federal University of Rio de Janeiro, Brasil; Mirela Cristea, University of Craiova, Romania; Sreten Cuzovic, University of Nis, Serbia; Oguz Demir, Istanbul Commerce University, Turkey; T.S. Devaraja, University of Mysore, India; Onur Dogan, Dokuz Eylul University, Turkey; Darko Dukic, University of Osijek, Croatia; Gordana Dukic, University of Osijek, Croatia; Alba Dumi, Vlora University, Vlore, Albania; Ksenija Dumcic, University of Zagreb, Croatia; Galina Pavlovna Gagarinskaya, Samara State University, Russia; Fran Galetic, Zagreb University, Croatia; Mirjana Gligoric, Faculty of Economics, Belgrade University, Serbia; Mehmet Emre Gorgulu, Afyon Kocatepe University, Turkey; Aleksandra Grobelna, Gdynia Maritime University, Poland; Liudmila Guzikova, Peter the Great Saint-Petersburg Polytechnic University, Russia; Anica Hunjet, University North, Koprivnica, Croatia; Oxana Ivanova, Ulyanovsk State University, Ulyanovsk, Russia; Irena Jankovic, Faculty of Economics, Belgrade University, Serbia; Lara Jelenc, University of Rijeka, Croatia; Myrl Jones, Radford University, USA; Gorazd Justinek, Graduate School of Government and European Studies, Slovenia; Hacer Simay Karaalp, Pamukkale University, Turkey; Grzegorz Karasiewicz, University of Warsaw, Poland; Dafna Kariv, The College of Management Academic Studies, Rishon Le Zion, Israel; Salih Katircioglu, Eastern Mediterranean University, Northern Cyprus, Turkey; Hilal Yildirim Keser, Uludag University, Bursa, Turkey; Martina Dragija Kostic; Sophia Khalimova, Institute of Economics and Industrial Engineering of Siberian Branch of Russian Academy of Science, Novosibirsk, Russia; Marina Klacmer Calopa, University of Zagreb, Croatia; Vladimir Kovsca, University of Zagreb, Croatia; Goran Kozina, University North, Koprivnica, Croatia; Dzenan Kulovic, University of Zenica, Bosnia and Herzegovina; Robert Lewis, Les Roches Gruyère University of Applied Sciences, Bulle, Switzerland; Ladislav Lukas, Univ. of West Bohemia, Faculty of Economics, Czech Republic; Pascal Marty, University of La Rochelle, France; Vaidotas Matutis, Vilnius University, Lithuania; Marjana Merkak Skok, GEA College of Entrepreneurship, Ljubljana, Slovenija; Daniel Francois Meyer, North West University, South Africa; Marin Milkovic, Rector, University North, Koprivnica, Croatia; Gratiela Georgiana Noja, West University of Timisoara, Romania; Zsuzsanna Novak, Corvinus University of Budapest, Hungary; Alojzy Z. Nowak, University of Warsaw, Poland; Mislav Ante Omazic, University of Zagreb, Croatia; Vera Palea, Università degli Studi di Torino, Italy; Dusko Pavlovic, Libertas International University, Zagreb, Croatia; Igor Pihir, University of Zagreb, Croatia; Dinko Primorac, University North, Koprivnica, Croatia; Zeljka Primorac, University of Split, Croatia; Mirosław Przygoda, University of Warsaw, Poland; Nicholas Recker, Metropolitan State University of Denver, USA; Kerry Redican, Virginia Tech, Blacksburg, USA; Humberto Ribeiro, University of Aveiro, Portugal; Robert Rybnicek, University of Graz, Austria; Elzbieta Szymanska, Bialystok University of Technology, Poland; Katarzyna Szymanska, The State Higher School of Vocational Education in Ciechanow, Poland; Jan Turyna, University of Warsaw, Poland; Ilaria Tutore, University of Naples Parthenope, Italy; Claudia Miranda Veloso - University of Aveiro, Portugal; Rebeka Danijela Vlahov, University of Zagreb; Ilko Vrankic, University of Zagreb, Croatia; Thomas Will, Agnes Scott College, USA; Li Yongqiang, Victoria University, Australia; Peter Zabielskis, University of Macau, China; Tao Zeng, Wilfrid Laurier University, Waterloo, Canada; Snezana Zivkovic, University of Nis, Serbia.

**Review Committee** ■ Marina Klacmer Calopa (President); Ana Aleksic; Sandra Raquel Alves; Ayuba Aminu; Mihovil Andjelinovic; Josip Arneric; Lidija Bagaric; Tomislav Bakovic; Sanja Blazevic; Leonid Bobrov; Ruzica Breccic; Anita Ceh Casni; Mirela Cristea; Oguz Demir; Jasmina Dvorski; Stjepan Dvorski; Robert Fabac; Ivica Filipovic; Fran Galetic; Mirjana Gligoric; Tomislav Globan; Anita Goltnik Urnaut; Tomislav Herceg; Irena Jankovic; Emina Jerkovic; Dafna Kariv; Oliver Kesar; Hilal Yildirim Keser; Tatjana Kovac; Vladimir Kovsca; Angelo Maia Cister; Katarina Marosevic; Vaidotas Matutis; Marjana Merkak Skok; Josip Mikulic; Ljubica Milanovic Glavan; Daniel Francois Meyer; Natanya Meyer; Guenter Mueller; Ivana Nacinovic Braje; Zlatko Nedelko; Gratiela Georgiana Noja; Zsuzsanna Novak; Alka Obadic; Claudia Ogreen; Igor Pihir; Najla Podrug; Vojko Potocan; Dinko Primorac; Zeljka Primorac; Sanda Renko; Humberto Ribeiro; Vlasta Roska; Souhaila Said; Armando Javier Sanchez Diaz; Tomislav Sekur; Lorena Skuflic; Mirko Smoljic; Petar Soric; Mario Spremic; Matjaz Stor; Tomasz Studzieniecki; Lejla Tijanic; Daniel Tomic; Boris Tusek; Rebeka Daniela Vlahov; Ilko Vrankic; Thomas Will; Zoran Wittine; Tao Zeng; Snezana Zivkovic; Berislav Zmuk.

**Organizing Committee** ■ Zeljka Primorac (President); Simun Andjelinovic; Marina Klacmer Calopa; Domagoj Cingula; Marijan Cingula; Ivica Filipovic; Sabrina Horovic; Mirosław Przygoda; Zeljko Radic.

**Publishing Editor** ■ Domagoj Cingula

**Publisher** ■ **Design** ■ **Print** ■ Varazdin Development and Entrepreneurship Agency, Varazdin, Croatia / Faculty of Law University of Split, Croatia / University of Split, Croatia / University Department for Forensic Sciences, Croatia / Faculty of Law University of Mostar, Bosnia and Herzegovina / Faculty of Management University of Warsaw, Poland / University North, Croatia / Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat, Morocco

**Printing** ■ Online Edition

**ISSN 1849-7535**

The Book is open access and double-blind peer reviewed.

Our past Books are indexed and abstracted by ProQuest, EconBIZ, CPCI (WoS) and EconLit databases and available for download in a PDF format from the Economic and Social Development Conference website: <http://www.esd-conference.com>

© 2018 Varazdin Development and Entrepreneurship Agency, Varazdin, Croatia / Faculty of Law University of Split, Croatia / University of Split, Croatia / University Department for Forensic Sciences, Croatia / Faculty of Law University of Mostar, Bosnia and Herzegovina / Faculty of Management University of Warsaw, Poland / University North, Croatia / Faculty of Law, Economics and Social Sciences Sale - Mohammed V University in Rabat, Morocco.

All rights reserved. Authors are responsible for the linguistic and technical accuracy of their contributions. Authors keep their copyrights for further publishing.

## **CONTENTS**

<b>CURT RESOLVE OF THE COMMERCIAL DISPUTES IN THE REPUBLIC OF KOSOVO IN THE PERIOD 2013-2015.....</b>	<b>1</b>
Adnan Jashari, Egzone Osmanaj	
<b>POSSIBILITIES AND CHALLENGES OF APPLICATION OF FLEXICURITY MODEL IN CROATIAN LABOR LAW.....</b>	<b>17</b>
Anton Petricevic	
<b>NEXUS BETWEEN HUMAN CAPITAL DEVELOPMENT AND HUMAN CAPITAL INVESTMENT IN NIGERIA.....</b>	<b>25</b>
Awe Isaac Tope	
<b>POLISH LABOR MARKET: ISSUES OF OVER AND UNDEREMPLOYMENT AMONG HIGHLY EDUCATED EMPLOYEES.....</b>	<b>37</b>
Anna Bebel, Maria Piotrowska, Marek Kosny	
<b>CIVIL LAW PROTECTION FROM EMISSIONS IN THE CASE OF LANDFILL.....</b>	<b>47</b>
Blanka Kacer	
<b>THE APPLICATION OF THE EUROPEAN PRINCIPLES FOR GOOD ADMINISTRATION IN THE REPUBLIC OF MACEDONIA DE LEGE LATA AND DE LEGE FERENDA.....</b>	<b>54</b>
Borce Davitkovski, Ana Pavlovska Daneva, Ivana Shumanovska Spasovska, Elena Davitkovska	
<b>SAFETY AND LEGAL FRAMEWORK ON PREVENTING OF USE OF THE FINANCIAL SYSTEM FOR MONEY LAUNDERING ACCORDING TO SOLUTIONS OF DIRECTIVE (EU) 2015/849.....</b>	<b>67</b>
Damir Primorac, Nenad Miletic, Marko Pilic	
<b>CIVIL SOCIETY IN THE REPUBLIC OF CROATIA.....</b>	<b>79</b>
Dasa Panjakovic Senjic	
<b>SOME ASPECTS OF CIVIL AND CRIMINAL LAW REGULATION OF FOOD QUALITY – CROATIAN AND EUROPEAN POINT OF VIEW.....</b>	<b>84</b>
Ivan Vukusic, Dinka Sago	
<b>DYNAMICS AND FACTORS OF BUSINESS SUCCESS OF MIDDLE-SIZED ‘GAZELLE ENTERPRISES’ IN RUSSIA.....</b>	<b>96</b>
Dmitri Pletnev, Ekaterina Nikolaeva	
<b>MONITORING EMPLOYEES COLLABORATION IN WORKING TEAMS – LEADER’S PERSPECTIVE.....</b>	<b>105</b>
Dorota Grego-Planer, Agata Sudolska	
<b>REVISION OF THE POSTED WORKERS DIRECTIVE - IS THERE EQUALITY OF OPPORTUNITY FOR POSTED WORKERS?.....</b>	<b>115</b>
Kosjenka Dumancic, Barbara Preloznjak	

<b>DAMAGES CLAIMS FOR THE INFRINGEMENT OF COMPETITION LAW IN THE EUROPEAN UNION AND CROATIA.....</b>	<b>122</b>
Durda Bolanca Kekez	
<b>SCIENTIFIC AND TECHNOLOGICAL «BREAK» IN RUSSIA: CAPACITY OF MONOPOLISTIC STRUCTURES.....</b>	<b>132</b>
Viktor Barkhatov, Elena Silova, Daria Bents, Iuner Kapkaev	
<b>POVERTY AS A PROBLEM OF THE GLOBALIZED WORLD.....</b>	<b>141</b>
Eva Pongracz, Iveta Szaboova	
<b>REGIONAL DISPARITIES IN THE SLOVAK REPUBLIC .....</b>	<b>146</b>
Eva Rievajova, Roman Klimko	
<b>USING THE RISK-LIST METHOD FOR RISK ASSESSMENT IN THE PROJECT</b>	<b>152</b>
Ewa Kozien	
<b>ACCOUNTING INFORMATION AS INDICATOR OF MONEY LAUNDERING....</b>	<b>159</b>
Ivica Filipovic, Marijana Bartulovic, Toni Susak	
<b>WRITTEN COMMUNICATION OF A LARGE ORGANIZATION WITH MATURE CONSUMERS .....</b>	<b>164</b>
Grazyna Rosa, Izabela Ostrowska, Leszek Gracz, Kamila Slupinska	
<b>AN ANALYSIS OF WORKING CAPITAL MANAGEMENT IN CENTRAL UNITS OF GROUP PURCHASING ORGANIZATIONS .....</b>	<b>173</b>
Grzegorz Zimon	
<b>SOCIETAS UNIUS PERSONAE – POSSIBILITY FOR ENHANCING CROSS BORDER BUSINESS OF SMALL AND MEDIUM SIZED ENTERPRISES?.....</b>	<b>180</b>
Hana Horak	
<b>COURT SETTLEMENT – THE HISTORICAL CHALLENGE OF THE CIVIL PROCEDURE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA.....</b>	<b>187</b>
Viktorija Haubrich, Ivona Segó-Maric	
<b>ONLINE DISPUTE RESOLUTION IN RUSSIA AND EUROPE - CURRENT SITUATION AND PROSPECTS OF DEVELOPMENT .....</b>	<b>197</b>
Ivan Liubin	
<b>CHALLENGING OF THE COURT SETTLEMENT .....</b>	<b>204</b>
Ivan Tironi	
<b>GLOBALIZATION AND NEW SOCIO - ECONOMIC PROCESSES.....</b>	<b>211</b>
Jarmila Vidova	
<b>PROMISING METHODS FOR ASSESSING THE WELL - BEING AND QUALITY OF LIFE OF PEOPLE IN DIFFERENT REGIONS.....</b>	<b>219</b>
Kapkaev Iuner, Leshinina Vera	

<b>MONEY LAUNDERING IN INTERNATIONAL COMMERCIAL ARBITRATION</b>	<b>227</b>
Klara Drlickova	
<b>PASSENGER (CONSUMER) LEGAL POSITION IN PACKAGE TRAVEL REGULATIONS</b> .....	<b>235</b>
Maja Proso	
<b>PRINCIPLES FOR EFFECTIVE PUBLIC ADMINISTRATION UNDER MODERN CONDITIONS OF «TECHNICALIZATION» OF HUMAN ACTIVITY</b> .....	<b>244</b>
Mariia Kapustina	
<b>STATE OF THE EARLY STAGE MARKET IN CROATIA</b> .....	<b>254</b>
Marija Simic Saric, Sandra Pepur, Josip Viskovic	
<b>COURT SETTLEMENT BETWEEN PARTIES IN CONTEMPORARY CRIMINAL PROCEDURAL LAW</b> .....	<b>264</b>
Marina Caric	
<b>DATA RETENTION IN THE FIELD OF TELECOMMUNICATIONS – PRIVACY AND ELECTRONIC COMMUNICATIONS DIRECTIVE IN THE RECENT CJEU JURISPRUDENCE AND ITS IMPACT ON FIGHTING ECONOMIC CRIME</b> .....	<b>277</b>
Matko Pajcic	
<b>MEDIATION IN BUILDING MANAGEMENT – AUSTRIAN AND CROATIAN PRACTICE</b> .....	<b>286</b>
Mia Grgic	
<b>SOCIAL AND RENTAL HOUSING AS ONE OF THE CONDITIONS OF INTERNAL MIGRATION FOR WORK - ON THE EXAMPLE OF THE SLOVAK REPUBLIC.</b>	<b>296</b>
Michaela Novakova	
<b>IMPLEMENTATION OF THE STRATEGY FOR PUBLIC ADMINISTRATION DEVELOPMENT IN CROATIA (2015-2020): A MID-TERM EVALUATION</b> .....	<b>302</b>
Mihovil Skarica	
<b>CERTAIN LEGAL ASPECTS OF EFFICIENT USE OF WATER RESOURCES IN THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS</b> .....	<b>314</b>
Mirna Cambj	
<b>THE IMPORTANCE OF INFORMATION TECHNOLOGY EDUCATION FOR THE FUTURE</b> .....	<b>323</b>
Djordje Nadrljanski, Mila Nadrljanski, Veronika Domitrovic	
<b>QUESTION OF ENTREPRENEURIAL DECISION: THE EVIDENCE FROM CROATIAN LAW</b> .....	<b>329</b>
Ratko Brnabic	
<b>TOWARD NEW STRATEGY OF INTEGRATION OF WESTERN BALKANS</b> .....	<b>337</b>
Natalija Nikolovska, Nadica Jovanovska Boshkovska	

<b>COURT AND OUT-OF-COURT SETTLEMENT IN CRIMINAL PROCEEDINGS AS THE SIMPLEST WAY TO COMPLETE THE PROCEDURE.....</b>	<b>347</b>
Nevena Aljinovic	
<b>INDEPENDENCE AND IMPARTIALITY OF EXPERT WITNESSES IN PROCEEDINGS DAMAGES FOR MEDICAL NEGLIGENCE IN THE LIGHT OF PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS .....</b>	<b>358</b>
Nina Misic Radanovic	
<b>OPACITY AND SILENCE SURROUNDING THE CULTURAL PROPERTIES TRADE .....</b>	<b>369</b>
Raffaele Aveta	
<b>PERSONAL REQUIREMENTS FOR SUPERVISORY BOARD MEMBERS AND CONFLICT OF INTERESTS.....</b>	<b>376</b>
Ratko Brnabic, Zvonimir Kuzmanic	
<b>RESEARCH PROJECT PROPOSAL ON INFORMATICS IN EDUCATION .....</b>	<b>384</b>
Djordje Nadrljanski, Mila Nadrljanski, Veronika Domitrovic	
<b>PERSONS WITH DISABILITIES IN THE LABOUR MARKET OF THE CITY OF SPLIT: REALITY AND PERSPECTIVES.....</b>	<b>393</b>
Renata Relja, Toni Popovic, Toni Rakic	
<b>THE FLAT TAX: THE HOLY GRAIL FOR THE FUTURE OF EUROPEAN'S TAXATION SYSTEMS?.....</b>	<b>407</b>
Alessia Sbroiavacca	
<b>AMICABLE RESOLUTION OF FAMILY DISPUTES.....</b>	<b>415</b>
Senija Ledic	
<b>MONEY LAUNDERING PHENOMENOLOGY.....</b>	<b>421</b>
Sinisa Franjic	
<b>NEW COAT FOR LABOUR LAW?.....</b>	<b>427</b>
Peter Sipka, Agnes Puskas	
<b>IMPLEMENTATION OF DIRECTIVE 2013/11/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 21 MAY 2013. ON ALTERNATIVE DISPUTE RESOLUTION FOR CONSUMER DISPUTES AND THE EXPERIENCES OF THE COURT OF HONOUR OF CROATIAN CHAMBER OF TRADES AND CRAFTS BEFORE AND AFTER IMPLEMENTATION .....</b>	<b>436</b>
Suzana Kolesar, Mirna Pudak	
<b>THE FORMAL - ORGANIZATIONAL CONCEPT OF STATE ADMINISTRATION .....</b>	<b>446</b>
Blerton Sinani	

<b>COMPARATIVE OVERVIEW OF MONEY LAUNDERING IN CRIMINAL LEGISLATION OF THE REPUBLIC OF CROATIA AND THE REPUBLIC OF SERBIA .....</b>	<b>454</b>
Vanda Bozic, Zeljko Nikac	
<b>SMEs ENCOURAGING ECONOMIC DEVELOPMENT.....</b>	<b>468</b>
Brikene Dionizi	
<b>LEGAL AND ECONOMIC MECHANISMS OF INSTITUTIONAL SUPPORT OF IMPLEMENTATION OF EUROPEAN PROJECTS IN VIEW OF THE EUROPEAN UNION LAW .....</b>	<b>474</b>
Ewa Kozien, Adam Kozien	
<b>THE BANKRUPTCY DRAFT LAW OF THE FEDERATION OF BOSNIA AND HERZEGOVINA .....</b>	<b>485</b>
Marinko Jurilj, Marija Vidic	
<b>THE EXPORT COMPETITIVENESS OF NAFTA COUNTRIES.....</b>	<b>493</b>
Tomislav Galovic, Heri Bezic, Dinko Primorac	
<b>USE OF CONSUMPTION INDICATORS IN RESEARCH INTO SOCIO-ECONOMIC DEVELOPMENT ON AN EXAMPLE OF POLAND .....</b>	<b>502</b>
Urszula Grzega	
<b>THE STATE CAPITALISM IN RUSSIA: NEW ECONOMIC IDEOLOGY.....</b>	<b>512</b>
Viktor Barkhatov, Antonio Campa, Daria Bents, Iuner Kapkaev	
<b>DEBT TO EQUITY RATIO OF LISTED COMPANIES IN CROATIA AND POLAND .....</b>	<b>518</b>
Vlasta Roska, Marzena Remlein	
<b>HOW DO PENSION EXPENSES AND BENEFIT PENSIONS IN RUSSIA MEET THE IFRS REQUIREMENTS? .....</b>	<b>527</b>
Anna Vysotskaya, Elena Mikhalkina	
<b>DOING BUSINESS IN THE FASTEST GROWING LEAST DEVELOPED COUNTRIES .....</b>	<b>537</b>
Wioletta Nowak	
<b>COURT SETTLEMENT AS A WAY OF DISPUTE RESOLUTION AND THE PRINCIPLE OF JUDICIAL EFFICIENCY .....</b>	<b>544</b>
Zaklina Harasic, Marin Kersic	
<b>EU CONSUMER PROTECTION ISSUES REGARDING PAYMENT PROTECTION INSURANCE .....</b>	<b>552</b>
Zeljka Primorac, Josip Gojak	
<b>SUBJECT MATTER AND CONTENT OF COURT SETTLEMENT .....</b>	<b>561</b>
Zrinka Tironi	

**DOES IFRS ADOPTION AFFECT THE QUALITY OF FINANCIAL REPORTING IN RUSSIA? - THE HISTORICAL ASPECT ..... 567**

Anna Vysotskaya, Elena Mikhalkina

**HAS THE IMPLEMENTATION OF THE ONE-STOP-SHOP (POINT OF SINGLE CONTACT) ENABLED SIMPLIFICATION OF THE CROATIAN ADMINISTRATIVE PROCEDURE TO INCREASE THE EFFICIENCY OF PUBLIC ADMINISTRATION? ..... 580**

Ana Djanic Ceko

**DIFFICULTIES IN PROCEDURE OF OBTAINING EVIDENCE ON MONEY LAUNDERING THROUGH CRYPTOCURRENCIES AS A POSSIBLE THREAT TO THE MARKET STABILITY..... 589**

Nikolina Maleta, Ivana Stipanovic



*This Conference is co-financed by the Split-Dalmatia County*

