

**FIGHT AGAINST ORGANIZED CRIME IN THE STATES OF
THE REGION AND EU MEMBER STATES***

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Abstract: In addition to terrorism, organized crime today is a first-rate global problem that equally endangers the security of developed and underdeveloped countries of the world. In response to all the challenges, risks and threats arising from the perpetration of organized crime, strong anti-criminal solidarity of states has been established in the international community. The absence of a single definition of the concept of organized crime and its elements was not an obstacle for states to initiate the adoption of the International Convention against Transnational Organized Crime. On this basis, the states have harmonized their national legislations, formed special bodies to combat organized crime, and started to apply special investigative techniques and methods. At the multilateral, regional and bilateral level, states and international organizations have realized criminal-law cooperation in combating organized crime and its most severe forms. Cooperation between the EU and the countries of the Region is of particular importance given that Europe is a crossroads of trafficking routes for drugs, weapons, narcotics and human beings. The problem is gaining importance with the escalation of the migrant crisis that threatens to collapse the legal system and the achievements of human civilization. In the final part of the paper, proposals are made de lege

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ferenda for the improvement of the legal framework and the forms of cooperation in suppressing the manifest forms of organized crime.

Key words: *UN Convention against Transnational Organized Crime (CATOC)*, special bodies and techniques, suppression of criminal offences, cooperation between the EU and the Region.

INTRODUCTION

Organized crime is today alongside terrorism, one of the most dangerous challenges of the modern world that threatens to collapse the achievements of human civilization and the rule of law. Since its inception, early in the last century, organized crime has progressed rapidly and has even become a system of life in a large number of developing countries.

The most significant manifestations of organized crime nowadays have gained completely new forms of criminal offences, which are characterized by new and increasingly difficult modes of execution, which causes enormous damage to the community. The essential characteristic of criminal offences of organized crime is reflected in the difficulty of detecting offenders because perpetrators are members of organized criminal groups. The problem is even more pronounced and underlined due to the lack of a single legal regulation, inadequate criminal operational tools and specialized personnel to prove the criminal offences of organized crime. Among the most difficult forms of organized crime is drug trafficking, weapons trafficking, kidnapping, extortion, human trafficking, cybercrime and corruption.

At the international level, there is awareness on the need for a common fight against organized crime and the further development of international criminal and state cooperation between states and international organizations. The cooperation has been established and improved on the multilateral, bilateral and regional level, which in our case primarily applies to the countries of the Region and EU member states.

The adoption of the UN Convention against Transnational Organized Crime (UN CATOC Palermo Convention, 2000)⁵⁵³ is undoubtedly the most important step in the fight against all forms of organized crime. The Convention stipulates the obligation of the signatory states to harmonize their national criminal legislation, prescribes criminal offences of organized crime, provides special investigative methods and techniques for the detection of

⁵⁵³ UN Convention against Transnational Organized Crime, United Nations, Treaty Series, vol. 2225.

criminal offences, and establishes specialized bodies for the fight against organized crime. In the context of the application of the provisions of the Palermo Convention, the following Additional protocols supplementing the United Nations Convention against Transnational Organized Crime were also adopted: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (I), Protocol against the Smuggling of Migrants by Land, Sea and Air (II) and Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (III).

EU member states are particularly affected by the most severe forms of organized crime because of their economic power, geographic position and contemporary migration processes. Organized crime groups target their actions towards EU countries in an effort to make extreme profits in a swift and efficient way, abusing the right to free flow of people, goods, services and capital. Countries of our Region are also on this route, through which the most significant (criminal) ways of trafficking and smuggling of people, narcotics and weapons go. In combating the criminal offences of organized crime, states of the Region have been referred to close cooperation with member states and specialized EU bodies. This is also supported by the fact that some of the countries of the region are EU members themselves. The most important forms of assistance and cooperation relate to the handling of applications, taking of procedural legal actions, exchange of information, joint police operation and work of joint investigative teams.

PROBLEM OF DEFINING THE TERM ORGANIZED CRIME IN THE ABSENCE OF A SINGLE DEFINITION

Organized crime is the most dangerous and toughest form of associating multiple persons with the intent of perpetrating a criminal offence.⁵⁵⁴ Unfortunately, in doctrine and practice, there is no single definition of the concept of organized crime and its elements and characteristics. Distinctions in the definition of the term exist both in relation to individual legal systems and in relation to the specific states in their dealing with the dangers of criminal offences of organized crime. The problem gains in importance in countries where, for internal political reasons, for many years

⁵⁵⁴ Božić V, *Suzbijanje organiziranog kriminaliteta u svjetlu pozitivnog kaznenog zakonodavstva Republike Hrvatske*, Zbornik radova «Suzbijanje organizovanog kriminala kao preduslov vladavine prava,» Institut za uporedno pravo, Beograd, 2016, p. 285-300.

the existence of organized crime has been neglected, thus neglecting its disastrous consequences.

Organized crime was first seen in the wider sense as a form of professional crime, which implies the commission of criminal offences in a professional manner and in the performance of an activity.⁵⁵⁵ The initial definition of the concept of organized crime slowly evolved over time in accordance with the social changes, demands and needs of today's modern age. Today, there are numerous notions of the concept of organized crime, its features and elements. In our view, one of the more comprehensive and generally accepted views is the understanding reached by the US Presidential Commission in 1967 after the killing of President Kennedy and evidence of mafia's involvement in this crime. In its Report, the Commission states that organized crime groups are involved in any illegal activity with maximum profits, and with minimal risk of disclosure. Activities include market of goods and services that fit a wider range of citizens, even when it comes to illegal services and goods. Executors of criminal activities are organizations with a large number of members who act unified as large systems with established division of labour and planning of activities over a long period.⁵⁵⁶

The Federal Criminal Police Commission of Germany, in 1974, held a similar view that organized crime is conscious and willing joint action, involving the division of labour of a number of persons for the purpose of committing criminal offences, with the use of infrastructure in order to achieve high financial gains as quickly as possible.⁵⁵⁷ Of particular relevance are the indications identified by the Commission in relation to organized crime, among which are: planning and manner of perpetration of criminal offences, national and international character of criminal offences and perpetrators, hierarchy of relations within the criminal group, conspiracy, criminal solidarity, disruption of justice and corruption.⁵⁵⁸

In the doctrine, there are numerous different theoretical definitions of the concept of organized crime, its characteristics and elements.⁵⁵⁹ In our opinion, it is necessary to accept an extensive interpretation, according to which organized crime is an organized criminal activity by a criminal

⁵⁵⁵ See also: Krainki N, *Kriminalna psihologija*, Beograd, 1934.

⁵⁵⁶ More: Vodinelić V, *Kriminalitet sa mrežnom strukturom i organizovani kriminalitet profita*, Bezbednost, No.1, Beograd, 1992.

⁵⁵⁷ Steinke W, *Das organisierte Verbrechen*, Der Kriminalist No.2, 1982, p.80-98

⁵⁵⁸ See more in: Božić V, Nikač Ž, Simić B, *Borba protiv organizovanog kriminaliteta s osvrtom na permanentnu edukaciju policijskih službenika*, KPA Beograd, Zbornik radova, Tom 2, Tara 2017.

⁵⁵⁹ More: Ignjatović Đ, *Organizovani kriminalitet-drugi deo*, Policijska akademija, Beograd, 1998, also: Bošković M, *Organizovani kriminalitet*, Policijska akademija, Beograd, 1998.

organization with a properly established hierarchy of relationships, division of labor, network structure, methodology of action which implies systematicity, conspiracy, corruption and connection with parts of state structures with the aim of achieving extra profits, avoiding criminal responsibility and legalizing criminal proceeds. Regarding the fulfilment of the conditions for the existence of criminal offences in the field of organized crime, we consider that it is necessary to respect the legally established conditions of the Palermo Convention, with which the provisions of the national criminal law of most states have been harmonized.⁵⁶⁰

Organized crime groups differ according to the type of internal organization and the mode of action and are divided into classical, professional and adaptable model of criminal organization.⁵⁶¹ According to the geographical criterion and the distribution of organized crime at the national and international levels, today the most famous in the world are Italian, Russian, Nigerian, Chinese and Japanese mafia organizations. As a consequence of the transition in the countries of the former socialist bloc, the mafia of the post-communist society emerges,⁵⁶² which today largely assumes the primacy from the earlier criminal organizations. The same case happened with the countries of the Region that, in addition to the transitional problems were also affected by the consequences of warfare, which was conducive to the development of transnational organized crime and its most difficult forms.

CRIMINAL OFFENCES OF ORGANIZED CRIME CRIMINALIZED BY THE UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

The UN Convention Against Transnational Organized Crime (Palermo Convention) with Supplementary Protocols I-III concerning Trafficking in Persons, Smuggling of Migrants and Illegal Arms Trade, provides for the harmonization of national legislations, the application of special investigative techniques and the establishment of special investigative bodies.

⁵⁶⁰ *Law on the Office for Combating Corruption and Organized Crime* is adopted in the Republic of Croatia (ZUSKOK), OG RH 76/09, 116/10, 145/10, 57/11, 136/12, 148/13. In the Republic of Serbia is adopted *Law on organization and jurisdiction of state authorities in fighting organized crime, corruption and other especially serious crimes* (ZONDOSOK), OG RS 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09, 72/11, 101/11, 32/13.

⁵⁶¹ More: Sačić Ž, *Organizirani kriminalitet u Hrvatskoj*, MUP RH, Zagreb, 1997.

⁵⁶² More: Fatić A, *Kriminal i društvena kontrola u istočnoj Evropi*, Institut za međunarodnu politiku i privredu, Beograd, 1997.

The Convention prescribes the obligation on member states to criminalize criminal offences of organized crime committed with intent in their national criminal law.⁵⁶³ This primarily refers to the following criminal offences: participation in an organized criminal group, money laundering, corruption, responsibility of legal persons for participation in serious crimes, interference with justice, confiscation of the proceeds of criminal offences and the confiscation of property, equipment or other means that were used or intended to be used in execution of criminal offences of organized crime.⁵⁶⁴ Supplementary Protocols, brought about in the context of the application of the Convention, among other things indicate certain forms of organized crime related to Trafficking in Persons, Women and Children,⁵⁶⁵ Smuggling of Migrants⁵⁶⁶ and Illegal Arms Trade.⁵⁶⁷

In the process of harmonization of national criminal legislations, the signatory states have accepted and incorporated into their national legislation criminal offences that criminalize the most severe forms of organized crime. The Republic of Croatia adopted the *Law on the Ratification of the UN Convention against Transnational Organized Crime and Supplementary Protocols* on 24 January 2003,⁵⁶⁸ and the Convention entered into force on 29 September 2003. The Republic of Serbia adopted the *Law on the Ratification of the UN Convention on Transnational Organized Crime and Supplementary Protocols*,⁵⁶⁹ on 22 June 2001, which came into force on 30 June 2001.

⁵⁶³ Nikač Ž, *Palermo konvencija i Dopunski Protokoli u funkciji suzbijanja organizovanog kriminala*, Zbornik KPA, Projekat MPNTR, KPA, Beograd, 2015, p.265-290.

⁵⁶⁴ Op.cit. in note 1. art.6-12.

⁵⁶⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN CATOC, United Nations, Treaty Series, vol. 2225.

⁵⁶⁶ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN CATOC, United Nations, Treaty Series, vol. 2225.

⁵⁶⁷ Protocol against the Illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the UN CATOC, United Nations, Treaty Series, vol. 2225.

⁵⁶⁸ Law on Ratification of UN Convention against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Act, OG, IA No 14/02, 13/03, 11/04.

⁵⁶⁹ Law on Ratification of United Nations Convention against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Act, OG SFRJ, IA No 6/01.

a) The provisions of the applicable Criminal Code of the Republic of Croatia prescribe several criminal offences of organized crime.⁵⁷⁰ Among the most important criminal offences are: *Criminal Association (Art. 328)*,⁵⁷¹ *Criminal Offence Within a Criminal Association (Art. 329)*, *Prohibition of Evidence (Art. 306)* and *Coercion against the Judicial Officer (Art. 312)*.

Criminal Legislation of the Republic of Croatia, in accordance with the Convention, provides for the following criminal offences of corruption: *Giving and Receiving Bribes (Art. 293 and 294)*,⁵⁷² *Giving and Receiving Bribes in Economic Business (Articles 252 and 253)*, *Trading in Influence (Art. 295)*, *Bribing for Trading in Influence (Art. 296)*, *Illegal Convenience (art (Art. 251)*, *Abuse in the Public Procurement Procedure (Art. 254)*, *Abuse of Position and Authority (Art. 291)*, *Receiving and Giving Bribes in Bankruptcy Proceedings (Art. 251)*, *Bribing Agents (art. 339)*, *Money Laundering (Art. 265)*.⁵⁷³

Protocol I, CC RC provides for the criminal offence of smuggling of people under the title *Criminal Entry, Movement and Stay in the Republic of Croatia, another EU Member State or Signatory of the Schengen Agreement (Art. 326)*,⁵⁷⁴ while according to Protocol II, CC RC criminalizes the criminal offence of *Trafficking in Human Beings (Art. 106)*.⁵⁷⁵

⁵⁷⁰ Criminal code of the Republic of Croatia, OG No 125/11, 144/12, 56/15, 61/15.

⁵⁷¹ Criminal Association is made of at least three people who have joined with the common purpose of committing one or more criminal offences for which a prison sentence of three years or more is prescribed, and it does not include the association of persons accidentally for directly committing one offence. The leadership and organization of a criminal association is punishable by a prison sentence of six months to five years. Participation in a criminal association, as well as taking action that is not a criminal offence but for which a perpetrator knows that will contribute to the attainment of the purpose of the criminal association as well as financial or other support of a criminal association, although the perpetrator has not yet committed any criminal offence, is punishable by imprisonment for up to three years.

⁵⁷² Božić V, *Koruptivno kazneno djelo davanja mita kao nezakonita protuusluga za uslugu*, Zbornik Pravnog fakulteta u Kragujevcu, Institut za društvene i pravne nauke, 2016, p. 829-846. See also: Božić V, *Kazneno djelo primanja mita kroz prizmu korupcije između ugovornih liječnika obiteljske medicine i tvornice lijekova*, Godišnjak Akademije pravnih znanosti Hrvatske, 2015, p.101-150.

⁵⁷³ Božić V, Kesić T, *Kaznenopravni odgovori na korupciju uz prijedloge de lege ferenda*, KPA Beograd, Zbornik radova Evropske integracije: pravda, sloboda i bezbednost, Tara, 2016, p.455-483.

⁵⁷⁴ Božić V, Lisičar H, Mudrić M: *Kaznenopravni aspekti krijumčarenja ljudi u Republici Hrvatskoj s osvrtom na mediteransku krizu – analiza stanja i preporuke de lege ferenda*, Pravni život, 2015, p. 283-301.

⁵⁷⁵ Božić V, *Krijumčarenje ljudi i trgovanje ljudima u hrvatskom kaznenom zakonodavstvu i sudskoj praksi (analiza stanja de lege lata uz prijedloge de lege ferenda)*, Zbornik Pravnog fakulteta u Rijeci, 2/2015, v. 36, p. 845-874.

The criminal offence of the criminal association is aligned with Art. 2 of the *Framework Decision EU 2008/841/PUP* as of 24 October 2008.⁵⁷⁶ Criminal offences of money laundering and the confiscation of property gains have been aligned with the *Directive 2014/42/EU of the European Parliament and the Council of 3 April 2014 on the freezing and confiscation of instruments and proceeds of crime in the European Union*.⁵⁷⁷ At the time of the adoption of the new CC RH, the legislator considered the possibility of introducing a new name of the criminal offence *Obstruction of the judiciary* in accordance with international documents, but decided to leave the old name *Coercion Towards a Judicial Official*.

Law on liability of legal persons for criminal offences of the Republic of Croatia,⁵⁷⁸ provisions of the Criminal Code, the Criminal Procedure Act and the Law on the Office for Combating Corruption and Organized Crime state provisions regulating the liability of legal persons for participation in serious crimes involving an organized criminal group.

b) Provisions of the applicable Criminal Code of the Republic of Serbia⁵⁷⁹ also prescribe the criminal offences of Organized Crime. Among the most important offences are: *Association for the Execution of Criminal Offences (Art. 346)*, *Prevention and Obstruction of Evidence (Art. 336)*, *Obstruction of Justice (Art. 336b)* and *Money Laundering (Art. 231)*.

The Criminal Code of the Republic of Serbia criminalizes the following criminal offences of corruption: *Misuse of Official Position (Art. 359)*, *Trading in Influence (Art. 366)*, *Receiving a Bribe (Art. 367)*, *Giving a Bribe (Art. 368)* *Misuse of the Position of a Responsible Person (Art. 234)* and *Misuse Related to Public Procurement (Art. 234. a)*.⁵⁸⁰

While the Criminal Code of the Republic of Croatia has left the term *group* and speaks about the *association*, the Criminal Code of the Republic of Serbia defines a group of people of at least three persons associated with a permanent or occasional perpetration of criminal offences. Associated persons

⁵⁷⁶ Framework Decision EU 2008/841/PUP, 24.10.2008, SL L 300, 11.11.2008.

⁵⁷⁷ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, Official Journal of the European Union L 127/39.

⁵⁷⁸ A legal person shall be punished for the criminal offence committed by a responsible person if it violates a duty of a legal person, or if a legal person has or should obtain unlawful property gain for themselves or others. Art. 3/1 *Law on liability of legal persons for criminal offences of the Republic of Croatia*, OG 151/03, 110/07, 45/11, 143/12.

⁵⁷⁹ Criminal Code of the Republic of Serbia, OG 85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16.

⁵⁸⁰ Op.cit. in note 21.

do not have to have defined roles, continuity of membership, or a developed structure.⁵⁸¹ CCRS incriminates the organization of a group, but not the leadership of a criminal group itself. Unlike the CC RS, the CC RH does not distinguish between a *group whose purpose is to carry out criminal offences* and an *organized crime group*, but speaks of a concept of *criminal association*.

Table 1: Comparative representation of basic forms of criminal offences in Croatia and Serbia according to Palermo Convention⁵⁸²

CRIMINAL OFFENCES RH	CRIMINAL OFFENCES RS
Art.328. Criminal Association	Art. 346. Associating for the purpose of performing criminal offences
Art. 265 Money laundering	Art. 231. Money laundering
Art. 306. Preventing Evidence	Art. 336. Preventing and hindering evidence
Art. 312. Coercion against a judicial official	Art. 336. b. Obstruction of justice
Art. 294. Giving bribe	Art. 368. Giving bribe
Art. 293. Receiving bribe	Art. 367. Receiving bribe
Art. 295. Trading with influence	Art. 366. Trading with influence
Art. 254. Misuse in the Public Procurement Procedure	Art. 234. a. Misuse related to public procurement
Art. 291. Misuse of position and authority	Art. 359. Misuse of official position
Art. 326. Illegal entry, movement and residence in the Republic of Croatia, another EU Member State or Signatory of the Schengen Agreement	Art. 350. Unauthorized crossing of the state border and smuggling of people
Art. 106. Human trafficking	Art. 388. Human trafficking

Law on liability of legal persons for criminal offences of the Republic of Serbia⁵⁸³ and Criminal Code of the Republic of Serbia envisages responsibility of legal entities for criminal acts of organized crime.

Unauthorized crossing of the state border and smuggling of people (Art. 350) is a criminal offence harmonized with Protocol Palermo Convention. Smuggling of people is treated as a criminal offence and in the case of an

⁵⁸¹ Op.cit. in note 27. Art. 112/2.

⁵⁸² Op.cit. in note 18, 27

⁵⁸³ Law on liability of legal persons for criminal offences of the Republic of Serbia, OG No 97/08

independent and arbitrary crossing of the state border without permission, under arms or by using violence. *Human trafficking (Art. 388)* is a criminal offence in accordance with the Protocol II of the Palermo Convention.⁵⁸⁴

CRIMINAL JUSTICE COOPERATION BETWEEN REGIONAL STATES AND EU MEMBERS IN COMBATING ORGANIZED CRIME

The fight against organized crime is not only a national internal issue of states but it implies international cooperation of states and international organizations on a bilateral, regional and multilateral basis. In this regard, the international criminal and legal cooperation of states carried out through specialized bodies is of particular importance.⁵⁸⁵

The *legislative framework* is the basis for suppressing the criminal offences of organized and other forms of crime. As stated, the States Parties to Palermo Convention have agreed to harmonize their national legislation, provide for special investigative techniques and specialized institutional bodies for the suppression of organized crime. It is understandable that the United States and the other developed countries have done the most in this area as they have first met with this monster and adopted significant legal solutions and mechanisms for combating organized crime and developed legal practice and established mutual criminal justice cooperation. The following major legislation has been adopted in the United States: *Organized Crime Control Act, 1970, i.e. the RICO Act* (Racketeer Influence and Corrupt Organizations Statute), *Witnesses Protection Act, Money Laundering Act*.⁵⁸⁶ The same procedure was followed by Italy, which adopted the “*Anti-mafia act*” (Law on Organized Crime No. 646/1982), as well as Germany, which passed the *Organized Crime Law* (1992).⁵⁸⁷ Other developed states and countries in transition have reacted in a similar way, particularly those affected by the most severe forms of organized crime.

Following the example of developed countries, Serbia in 2003 adopted the *Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal*

⁵⁸⁴ More: Božić V, *Comparative legislative analysis of criminal legislation of the Republic of Croatia and the Republic of Serbia in terms of human trafficking as the most brutal violations of fundamental human rights*, Thematic Conference Proceedings of International Significance Archibald Reiss Days, 2016, Vol.1, p. 261-277

⁵⁸⁵ Nikač Ž, *Međunarodna policijska saradnja*, KPA, Beograd, 2015, p. 48-55.

⁵⁸⁶ *Ibid.*

⁵⁸⁷ *Op.cit.* in note 9. p. 25–34.

Offences (ZONDOSOK),⁵⁸⁸ while Croatia in 2009 passed the *Law on the Office for Combating Corruption and Organized Crime (ZUSKOK)*.⁵⁸⁹ The process laws in criminal matters in both states regulate general and special evidentiary actions used to suppress the emerging forms of organized crime.

In addition to the Palermo Convention, the international legal framework for combating organized crime also includes numerous international documents available at bilateral, regional and multilateral levels. Concerning the format, those are international treaties, agreements, memoranda of cooperation, conventions, resolutions and declarations.⁵⁹⁰

The operational aspect of the fight against organized crime includes measures and actions of police and judicial bodies at the domestic and international level. The core aspects of this activity are the collection and exchange of operational information, joint police operations, joint investigative teams and other mechanisms of criminal cooperation in the fight against organized crime. Of particular importance is the international criminal justice cooperation that takes place through judicial bodies such as the specialized prosecutor's offices for organized crime and through international associations of prosecutors (SEEPAG – *Southeast European Prosecutors Advisory Group* and WBPN – *Western Balkans Prosecutors Network*).⁵⁹¹

The prerequisite for dealing with cases of organized crime is cooperation between security services and police of the states of the region, as well as other surrounding countries. Significant cooperation has been established in the Region of South East Europe following the signing of the Agreement on International Police Cooperation of the states of the Region of 2006 in Vienna.⁵⁹² Cooperation was further promoted through the SELEC organization, founded in 2009 with its headquarters in Bucharest, which brings together liaison officers from the police, customs and other specialized bodies of member states.⁵⁹³ On a broader plan, the cooperation of the countries of the Region with the EU and its specialized bodies is of great importance, since some of the countries of the region are already members of the EU, while

⁵⁸⁸ *Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal Offences (ZONDOSOK)*, OG RS 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09, 72/11, 101/11, 32/13.

⁵⁸⁹ *Law on the Office for Combating Corruption and Organized Crime (ZUSKOK)*, OG RH 76/09, 116/10, 145/10, 57/11, 136/12, 148/13.

⁵⁹⁰ More: Nikač Ž, Juras D, *Međunarodna policijska saradnja u JIE u funkciji bezbednosti*, Institut za uporedno pravo, Strani pravni život No.3, Beograd, 2015.

⁵⁹¹ Lopandić D, Kronja J, *Regionalne inicijative i multilateralna saradnja na Balkanu*, Evropski pokret Srbija i Friedrich Ebert Stiftung, Beograd, 2010, p.211-212.

⁵⁹² More available at: <http://www.pccseesecretariat.si/>, (01.06.2017).

⁵⁹³ More available at: <http://www.selec.org/>, (01.06.2017).

others are in the process of accession. In this regard, cooperation of judicial and police bodies with EUROPOL, EUROJUST and other bodies of the Union is extremely important. This cooperation is legally regulated by the conclusion of an agreement on the strategic and operational cooperation of the countries of the Region with the EU bodies.⁵⁹⁴

On the multilateral plan, certainly the most significant is the cooperation that takes place through INTERPOL as a specialized international organization of criminal police. At its headquarters, Interpol is composed of departments dealing with combating the most serious forms of transnational organized crime in the areas of drug trafficking, arms trade, human trafficking, cyber crime, corruption.⁵⁹⁵ An important place in the Interpol system belongs to the National Central Bureaus (NCB) of member states that coordinate activities in the joint fight against crime. International

Criminal Justice Cooperation is particularly significant today, given the current issue of illegal migrations caused by the war in Syria, Afghanistan and other countries of the Middle East and South Africa. Cooperation is necessary in the fight against organized crime and terrorism that are closely related, given the fact that the proceeds from illegal drug trafficking provide funding for terrorist activities.

CONCLUSION

In addition to terrorism, organized crime today is an indisputable first-rate security problem of contemporary society that has a transnational character and equally endangers the interests of developed countries, those developing and especially the countries in transition. The most difficult manifestations, such as trafficking in human beings, narcotics, weapons, high-tech crime, various forms of smuggling, in addition to the great insecurity and public disturbance, seriously undermine fundamental human rights and civil liberties. Furthermore, organized crime seeks to undermine the democratic values of the developed world, the rule of law and legal security, as state bodies are often powerless in the fight against organized crime. Another aspect

⁵⁹⁴ *Law on Confirmation of the Agreement on Strategic Cooperation between the Republic of Serbia and the European Police Office*, OG RS, IC No. 38/09, *Law on Confirmation of the Agreement on Operational and Strategic Cooperation between the Republic of Serbia and the European Police Bureaus*, available at: <http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2014/1614-14.pdf>. (01.06.2017) *Agreement on Operational and Strategic Cooperation between the Republic of Croatia and the European Police Office*, OG RH, No.07/06.

⁵⁹⁵ More available at: www.interpol.int. (01.06.2017).

of this problem is corruption, used by the perpetrators of organized crime with an aim of avoiding criminal responsibility and the preservation of illegally acquired criminal proceeds.

The adoption of the UN Convention Against Transnational Organized Crime (Palermo Convention) and the Supplementary Protocols I-III, concerning the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children (I), Smuggling of Migrants by Land, Sea and Air (II) and Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (III), was of decisive importance in the fight against organized crime and its most serious forms. UN CATOC has mandated States Parties to harmonize national criminal legislation, criminalize criminal offences of organized crime, provide special investigative techniques and methods for proving these offences and establish specialized bodies for combating organized crime. Legislative solutions adopted by this Convention are largely the result of good legal practices and solutions of developed countries, on the basis of which the other countries have largely aligned their national legislation. Serbia and Croatia acted in the same way and aligned their national legislation with the provisions of the Convention.

Organized crime today has a transnational character, so the fight against the most difficult forms of crime is not performed at the national level only, but primarily at the international level, with the participation of states and specialized international organizations. At the international level, measures and actions are undertaken at bilateral, regional and multilateral levels. In this regard, the cooperation of the states of our Region in the fight against organized crime, which is favoured by the proximity of the territory, related languages, cultures, customs and other elements, is of special importance. In response to the profitable association of organized crime groups, the states of the Region have expressed strong anticriminal solidarity and legally articulated the future cooperation through a special Agreement on International Police Cooperation (2006), as well as other aspects of international criminal justice cooperation. This led to solving of a large number of the most serious criminal offences (e.g. the assassination of the Prime Minister of Serbia in Belgrade, the murder of a journalists of a journal Nacional in Zagreb) and the prosecution of perpetrators, and above all to an increase of mutual trust and solidarity among the states of the Region. International Criminal Justice Assistance and Co-operation are rounded up with the activities that take place in the cooperation of the states through Interpol and Europol, today the most famous organizations in the world for the fight against organized crime.

We propose *de lege ferenda* to critically consider the current legislative solutions and especially their application in practice. In the previous

period, the convalidation and legalization of several good criminal operational mechanisms for proving the most serious criminal offences such as polygraphic investigation, targeted searches, computer tests, banking searches, which was done through solutions in complementary regulations and blanket norms (police law). In any case, the solutions must be in the spirit of the protection of fundamental human rights, civil liberties and other universal values of international documents. In this regard, we believe that the mechanisms of international criminal assistance and cooperation should be facilitated with regard to intensifying exchanges of information, participation in joint investigative teams and other forms of anti-criminal solidarity and partnership.

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**BORBA PROTIV ORGANIZOVANOG KRIMINALITETA NA
PODRUČJU DRŽAVA REGIONA I ČLANICA EU***

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Apstrakt: Pored terorizma, u današnje vreme, organizovani kriminalitet predstavlja prvorazredni globalni problem koji podjednako ugrožava sigurnost razvijenih i nerazvijenih država svijeta. U odgovoru na sve izazove, rizike i pretnje koji dolaze izvršenjem krivičnih dela organizovanog kriminaliteta u međunarodnoj zajednici je uspostavljena snažna antikriminalna solidarnost država. Odsustvo jedinstvenog određenja pojma organizovanog kriminaliteta i njegovih elemenata nije bila smetnja da države iniciraju usvajanje međunarodne Konvencije protiv transnacionalnog organizovanog kriminaliteta. Na toj osnovi države su uskladile nacionalno zakonodavstvo, formirale specijalizovane organe za suzbijanje organizovanog kriminaliteta i počele primenjivati specijalne istražne tehnike i metode. Na multilateralnom, regionalnom i bilateralnom planu države i međunarodne organizacije ostvarile su krivičnopravnu saradnju na suzbijanju organizovanog kriminaliteta i njegovih najtežih pojava oblika. Od posebnog značaja je uspostavljena saradnja država EU i država Regiona s obzirom da je Evropa raskrsnica kriminalnih puteva za trgovinu drogama, oružjem, narkoticima, ali i ljudima. Problem dobija na značenju eskalacijom migrantske krize koja pretila da uruši pravni sistem i tekovine ljudske civilizacije. U završnom delu rada dati su predlozi de lege ferenda za unapređenje pravnog okvira i vidova saradnje u suzbijanju pojava oblika organizovanog kriminaliteta.

* Rad je pisan u okviru potpore Hrvatske zaklade za znanost i odobrenog projekta pod br.1949. „Multidisciplinary Research Cluster on Crime in Transition - Trafficking in Human Beings, Corruption and Economic Crime.“ Rad je i rezultat rada na projektu „Razvoj institucionalnih kapaciteta, standarda i procedura za suprotstavljanje organizovanom kriminalu i terorizmu u uslovima međunarodnih integracija.“ MPNTR RS br.179045 i aktivnosti na Internom naučno-istraživačkom projektu KPA Upravljanje policijskom organizacijom u sprečavanju i suzbijanju pretnji bezbednosti u Republici Srbiji, 2015-2019.

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Ključne reči: Konvencija UN protiv transnacionalnog organizovanog kriminaliteta, specijalni organi i tehnike, suzbijanje krivičnih dela, saradnja država EU i Regiona.

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