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LEGAL AND ORGANIZATIONAL ASPECTS OF FIGHT AGAINST NARCO-CRIMES IN SERBIA: STATE AND DEVELOPMENT

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Abstract

Paper deals with the problem of drug abuse in Republic Serbia which is one of the most difficult forms of the organized crime. The first part gives an overview of the concept, type and characteristics of the drug. The second part is dedicated to the national legislative framework for combating drug abuse. Particular attention is paid to solutions in the Criminal Code, strategic documents and action plans, then to authorized bodies (court, prosecution, police, and medical institutions) as well as multi-agency co-operation on the national level. The situation and the movement of narco crime were based on data from investigations of charged and convicted persons within ten years period. In concluding considerations state the need for harmonization of legal solutions in accordance with court practice and EU standards as well as strengthening the social response.

Key words: drugs, narcotics, illegal production and trade, crime, Serbia.

1. INTRODUCTION

Drug abuse is a problem *par excellence* of contemporary society and the international community as a whole, which has equally affected all countries of the world. As a special form of organized crime it seriously threatens to demolish all the achievements of human civilization. There is a large number of destroyed lives of narcotic consumers who are the main victims, but also of destroyed families and broken communities. Of particular concern is the vast popularity of the drug among young people and children in recent times. The problem of gaining weight if one takes into account that the profit from the illegal production and traffic of drugs finances terrorist organizations and other criminal activities.

The International Community has reacted through the UN as the most important international organization, i.e. the League of Nations as its legal predecessor. Several international conferences were held and several international documents were adopted, both before and after the World War II. States Parties undertook to ratify these documents and to incorporate solutions into national legislation, including Serbia as the legal predecessor and then the successor of the SFRY.

The states have harmonized criminal legislation, formed specialized bodies for the suppression of drug abuse, and implemented special investigative techniques for detecting felonies and perpetrators. In addition to legal, states have launched medical and social measures to assist and support drug victims and their families.

Serbia has adopted all international conventions aimed at combating drug abuse, novelled national criminal legislation and incorporated modern solutions into Criminal (Procedure) Code. Organizational changes were made and special law enforcement services were established: Police (Criminal police directorate, within Fight against Organised Crime Service and Fight against Narcotics Service), the Prosecutor's Office (Organized Crime Prosecution Office), the Court (Specialized Courts for Organized Crime), Criminal Sanction Services (Special Detention Unit) and within Government (Office for Combating Drugs etc). The novel model was largely built on the basis of good practice and solutions of the USA and EU who were the first to meet with the most severe manifestations of organized crime, especially drug abuse.

Significant places in the fight against drug abuse have Strategy for the Prevention of Drug Abuse 2014-2021 and the Action Plan for Implementation of the Strategy for 2014-2017. Within the policy of combating crime, especially emphasized is the suppression of drug abuse, since victims are mostly young.

Successful fight against drug abuse and organized crime implies international (criminal) cooperation on the multilateral, regional and bilateral level with the aim of anti-criminal solidarity in the fight against organized (narco) crime.

2. LEGISLATIVE FRAMEWORK FOR COMBATING NARCO CRIME

The most important law framework to fight against narco crime in Serbia are Law on Psychoactive Controlled Substances, Law on Substances Used in Illicit Manufacturing of Narcotic Drugs and Psychotropic Substances, Criminal Code, Criminal Procedure Code and the Law on Seizure and Confiscation of the Proceeds from Crime. The framework is complemented by the Drugs Prevention Strategy 2014-2021 and the Action Plan for Implementing the Strategy 2014-2017 which is now being questioned, bearing in mind that the new Strategy and Action Plan after 2021 have not been adopted.

At the top of the pyramid is the ***Law on Psychoactive Controlled Substances***, which regulates the conditions for the production and circulation of psychoactive controlled substances; conditions and procedure for issuing a license for production, trade, export, import and transit of psychoactive controlled substances; conditions for cultivation, processing and trade of plants from which psychoactive controlled substances can be obtained; application of psychoactive controlled substances; supervision of law enforcement, as well as other issues in this area important for the protection of people's lives and health. In other words, this law establishes a legal framework in which certain entities that participate in work with psychoactive controlled substances can operate, all with the aim of protecting the lives and health of people in Serbia. The Ministry of Health is responsible for the implementation of this law, which, among other things, determines which substances are psychoactive, authorizes laboratories for testing psychoactive substances, controls the production of these substances, issues permits for import, export and transit of these substances, etc.

Law on Substances Used in Illicit Manufacturing of Narcotic Drugs and Psychotropic Substances regulates the conditions for the production and wholesale trade of substances used in the illegal production of narcotic drugs and psychotropic substances, supervision in this area to

prevent their abuse or use for illegal purposes, as well as other issues of importance for this area. It follows the previously mentioned and they complement each other. The Ministry of Health is also responsible for the implementation of this law.

Criminal Code is the most important criminal justice legislation which incriminates concrete specific felonies involved in Title XXIII - Criminal Offense against Human Health. Systematization of these felonies has been made on the model of European criminal law, with respect to Serbian legal tradition and good practice. In combating narcotics Serbia have issued felonies: Unlawful Production and Circulation of Narcotics (art.246), Unauthorized Possession of Narcotics (Art.246a) and Facilitating the Taking of Narcotics (Art.247).

Unlawful Production and Circulation of Narcotics (art.246) is the first in a series of felonies that have incriminated the following acts: unlawful production, processing, sale, offer or purchase for the purpose of further sale, holding, transfer or brokerage, purchase or otherwise unlawful placing on the market of substances or preparations that are the subject of a drug. For the basic form of this felony a prison of 3 to 12 years is issued (paragraph 1).

Imprisonment from 6 months to 5 years shall be imposed on a person who unlawfully grows opium poppy, psychoactive hemp or other plants from which narcotic drugs are produced or which themselves contain narcotic drugs (par.2)

The first qualified form refers to the commission of the felony by a group and when the perpetrator organizes a network of resellers or mediators, with a prison sentence of 5 to 15 years (par.3).

The same punishment (5-15 years) is issued for those who sell, offer for sale or give narcotic drugs to a specific category of persons without compensation for the purpose of further marketing. These are minors, mentally ill persons (permanently or temporarily), severely mentally retarded persons and persons undergoing treatment for addiction to narcotic drugs. In addition, the same penalty is also punishable if someone puts on the market a narcotic drug mixed with a substance that can lead to severe damage to health (this includes various substances in any aggregate state that are harmful to the human body, such as poisons, artificial fertilizers, medications and the like). The following group of execution actions related to paragraph 1 of this article and to a special place of execution where more severe punishment is issued if it is done in an educational institution or in its immediate vicinity or an institution for the execution of criminal sanctions or in a public place or at a public event. The next form of the felony is related to the nature of the perpetrator and the forms from paragraphs 1 and 2 of this article, and a heavier punishment is issued for an official, doctor, social worker, priest or person employed in an educational institution. A special condition for this form is that it was carried out by taking advantage of the position of the perpetrator or that a minor is used for the execution of that felony (par.4). This type was introduced in 2019 in the process of harmonization with European legislation (Djordjević, 2020: 60).

The other form includes execution by an organized criminal group, which is punishable by minimal imprisonment of 10 years (par.5).

The facultative possibility of exemption from punishment (par.6) exists if the perpetrator of a felony finds out who he/she is procuring narcotic drugs from.

Imprisonment from 2 to 5 years shall be imposed on any person who, without authorization, procures, possesses or gives for use the equipment, material or substances that they know are intended for the production of narcotic drugs (par.7). Narcotic drugs and resources for their production and processing are subject to confiscation (par.8).

Second felony related to the abuse of narcotic drugs is *Unauthorized Possession of Narcotics* (Art.246a) introduced in 2009. The first form refers to unauthorized possession of lesser amounts for own use of substances or preparations that have been proclaimed as narcotic drugs, a fine or imprisonment of up to 3 years is issued and may be exempt from punishment (par.1). The second form refers to unauthorized possession of a large quantity of a substance or preparation that has been declared a narcotic drug and is punishable by a prison sentence of three to ten years (par.2). In both cases the court also has the optional possibility to release the perpetrators from punishment in the case they reveal who supplied them with narcotic drugs (par.3). If the perpetrator of the felony referred to in par.2 is sentenced to prison, that sentence cannot be served in the premises where he/she lives. Obligatory seizure of narcotic drugs as a subject of a felony (par.3) has been issued.¹

Possession of narcotics was criminalized in the criminal legislation of Serbia in 2003 because it was not possible to prove the intention to further resell narcotics. However, it must be taken into account that a drug addict is not a crime, but sick from addiction, and that before consumption, he/she simply has to possess the drug. Also, most drug addicts become dealers in order to finance their own addiction. Current incrimination is questionable from the point of view of practice and the intent of decriminalizing possession of narcotic drugs for personal needs. There is also the question of distinguishing between smaller and larger quantities of drugs, as well as establishing the facts as to which quantity is needed for one's own needs. In some countries, possession of a drug for personal needs is permitted and does not constitute a felony, while in some cases it has been transferred to the misdemeanour area. Also, double offense (misdemeanour and criminal) would be contrary to the principle of *ne bis in idem*² and Protocol No.7 with the Convention for the Protection of Human Rights and Fundamental Freedoms.³

Circumstances related to the way of packaging may also be relevant, more specifically, whether the drug is in a lump or divided into a larger number of packets, as well as the number of those packets and their weight. If the packets are of different weights and in such dosages that none correspond to what the defendant stated were his daily amounts, those arguments challenge the defendant's defence to the manipulative allegations that he intended to keep the drugs for his own use. The circumstances of the specific criminal event, i.e. the way and place where the defendant kept the narcotic drug, should also be appreciated, which points to his intention and awareness to keep a small or large amount of narcotic drug, as well as whether other items related to consumption or distributing narcotic drugs, such as precision weighing scales, narcotic drug bags, substances mixed with narcotic drugs, money, mobile phones, etc. The next group of criteria of importance for levelling the amount of narcotic drugs are those related to the personality of the defendant, i.e. the motives for acquiring illegal substances, the course and form of addiction to narcotic drugs and his current mental state, the frequency of narcotic drug consumption, his/her personal and family circumstances and previous convictions, i.e. whether the defendant is a returnee and whether he previously committed the same or the same type of crime, e.g. whether he was convicted of possessing a small quantity of intoxicating drugs, or of selling, enabling enjoyment, etc. (Krstić, 2022:115-116).

One of the criteria is how much of a certain type of narcotic drug the average user of that narcotic drug needs in a few days. As a rule, in specific cases where this criminal offense has been

¹ See more: Delić, 2020: 117-130

² See more in case law of European Court of Human Rights: Zolotukhin v. Russia, Marešić v. Croatia, Muslija v. Bosnia and Herzegovina and Milenković v. Serbia

³ See more: Rodić, 2021: 49-82; Mrvić Petrović, 2014:27-39; Ilić, 2017:21-34.

applied, these are minor amounts, which, when it comes to marijuana, range up to several grams (Kolarić, 2020:81). The fact that the defendant was holding the drugs for their personal consumption must be established by the finding and opinion of a psychiatric court expert (Verdict of Belgrade Higher Court, Kž.1 656/17).

For *Facilitating the Taking of Narcotics* (art.247) as felony imprisonment from 6 months to 5 years is issued for the person who induces another person to take narcotics or gives narcotics that he/she or another person uses, or renders available premises for the enjoyment of narcotic drugs or in another way allows others to enjoy narcotics (par.1).

A qualified form exists if the felony referred to in paragraph 1 of this article was committed against a special category of person (a minor, a mentally ill person (temporarily or permanently), a person with severe mental retardation or a person being treated for addiction to narcotic drugs, or according to several persons. This form also exists if it was done in a special place, namely: in an educational institution or in its immediate vicinity, an institution for the execution of criminal sanctions, in a public place or at a public event. A qualified form also exists considering the nature of the perpetrator if he/she is an official, doctor, social worker, priest or a person employed in an educational institution. This form must also be executed while taking advantage of its position. The issued penalty is imprisonment from 2 to 10 years.

A particularly difficult aggravated form (par.3) exists if a person's death is caused by the execution of the felony issued in par.1, when the perpetrator is punished by imprisonment of 3 to 15 years. As with previous felonies, mandatory seizure of drugs is issued.

In practice, there is a dilemma about interpreting a situation when a person is renting an apartment for example, and uses it for enjoying narcotic drugs. Such situations should be interpreted restrictively and functionally, only if the facilities were explicitly provided for the enjoyment of narcotic drugs. The same is the case with the misuse of public premises when the owner can't know what his/her guests are doing, as well as when healthcare workers allow the drug addicts to overuse the narcotics because this 'treatment' is not known in the regular medical procedure (Ignjatović, Škulić, 2019:212).

Criminal Procedure Code introduces a solution to the contemporary concept of Prosecution Investigation. The Police and the Prosecution have at their disposal *general* (art.85-159) and *special* acts of proving (art.160-187) which include special investigative methods and techniques to combat the most serious forms of organized crime and terrorism.

Law on Seizure and Confiscation of the Proceeds from Crime resulting from the criminal act was made on the basis of the UNCATOC Convention, which provides modern software for the fight against organized crime (Božić, Nikač, 2017:239-241). The purpose of the regulation is to prevent the funding of organized criminal groups and their bosses. The law envisages financial investigations, temporary and permanent seizure of property.

The strategic documents of importance to combating abuse of narcotics are Drugs Prevention Strategy 2014-2021 and Action Plan for Implementing the Drugs Prevention Strategy 2014-2017. These are by-laws that highlight multi-agency approach and international cooperation with other countries and international organizations. When we talk about strategic documents, we must also mention the Strategic Assessment of Public Safety (SAPS) and the Serious and Organized Crime Threat Assessment (SOCTA), which are part of the Intelligence-Led Policing⁴ methodology. Since their introduction at the end of 2015 (first SOCTA) and 2017 (first SAPS) until today, both documents recognize narco crime as a priority in the policing of the Serbian police.

⁴ See more Djurdjević, Leštanin, 2017:3-16

3. AUTHORIZED SERBIAN BODIES FOR COMBATING NARCO CRIMES

The most important organs for combating drug abuse are Police, State prosecution and Court. In addition to the body of narco crimes, there are important Agencies in the RS Government and Ministries, including the Office for Combating Drugs, Commission for Psychoactive Controlled Substances, Commission for Precursors, and Centre for Monitoring Drugs and Drug Addiction.

Police are the most important body to combat drug abuse. In the criminal proceedings, the police are subordinated to the prosecutor's office and work under his/her supervision and supervision in detecting and prosecuting crimes. The organization, tasks of the police and policing are defined in more detail by the Police Law and the Law on Ministries (art.11).

Within the MOI RS General Police Directorate is the Criminal Police Directorate, which is an integral part of the *Fight against Organised Crime Service* established in 2001, within which is the specialized Department for the Suppression of Organized Drug Trafficking⁵. Service is directly subordinate to the Prosecutor's Office for Organized Crime to whom it answers for its work, and the chief of the Service is appointed on the basis of the opinion of the Special Prosecutor's Office. The same regulation issues striking groups to combat certain manifest forms of organized crime.

Fight against Narcotics Service established in 2013 conduct proactive investigations aimed at combating the illicit traffic of all types of narcotics and precursors on the territory of the entire country. It also has the mandate to implement strategic projects related to the prevention of drug abuse. The framework of the Service also includes the supervision of all investigative actions aimed at suppressing narcotics, which are carried out by regional police departments (together with prosecutors), all with the aim of establishing and maintaining equivalent practices and methodologies for the fight against narcotics throughout the country, as well as spreading examples best practices in the prevention of crime related to drug abuse. In addition to the prosecutor's office, Service also cooperates with other public authorities at the national and international level in order to achieve the set goals (<http://mup.gov.rs>).

Public Prosecutor for Organized Crime manages criminal prosecution of perpetrators of organized crimes. Public Prosecutor is responsible for criminal offenses that are prosecuted ex officio, and in this sense it: a) manages the pre-investigation, b) decides on not starting or postponing prosecution, c) conducts investigations, d) concludes the agreement on the recognition of the offense and the agreement of evidence, s) raises and represents the charges, f) may terminate the charges, g) submits regular and extraordinary legal remedies, h) takes other actions.

All state organs are obliged to act on the prosecutor's request to detect criminal offenses and perpetrators. The police and other state organs are obliged to comply with each request of the competent public prosecutor, and in case of non-prosecution the prosecutor may inform the Government and the National Assembly and request the initiation of disciplinary proceedings against the responsible person.

⁵ The department performs tasks of monitoring and trends in the forms of organized smuggling of narcotic drugs and activities of organized criminal groups in this area in the Republic of Serbia and at the international level. Department directs activities to cut smuggling channels. It also acts in complex criminal cases from this area, by order of the competent prosecution and the court. Organizes and participates in police actions at the international and national level. Conducts trainings and conducts trainings of police officers and participates in the education of other entities that participate in the suppression of narcotic drug offenses. According to <http://mup.gov.rs/wps/portal/sr/arhiva/informator+o+radu> (05.10.2023)

Special Department of Higher Court in Belgrade for Organized Crime is competent in cases of abuse of narcotic drugs when it comes to organized crime in the first step. In appeal proceedings as a second step the Special Department of Appellate Court in Belgrade for Organized Crime is competent.

Office for Combating Drugs is a Government's agency that coordinates the work of state administration bodies and carries out professional, administrative and operational affairs relating to the fight against drugs. Organization, jobs, tasks and other issues are regulated in more detail by the RS Government Decree on the Establishment of the Office for Combating Drugs.

The task of **Commission for Psychoactive Controlled Substances** is to harmonize expert opinions in the field of psychoactive controlled substances, to provide expert opinions in accordance with the law, to update the list of psychoactive controlled substances, to monitor the harmonization and implementation of program activities in the field of psychoactive controlled substances, etc. The **Commission for Precursors** proposes to the Minister the List of Precursors; monitors the use of substances outside the List of Precursors; gives expert opinions and monitors the situation in the area of precursors; cooperates with all subjects in solving observed problems related to production, that is, the circulation of precursors, as well as substances outside the list of precursors, that is, it provides them with the necessary professional information and more. The **Centre for Monitoring Drugs and Drug Addiction** performs tasks related to the early warning system in order to quickly exchange data on the production, trade, use and risks of the appearance of new psychoactive substances in order to prevent their harmful consequences, to respond in a timely manner in the event of the appearance of a new psychoactive substance on the market and achieved rapid communication between the competent bodies at the national and European level and the work of a contact point for cooperation with the EMCDDA⁶.

Other organs of importance for the suppression of drug abuse are the organization and body for logistical support. The Department of Dependence Disease (*Special Hospital for Dependence Disease*) is one of the most competent institutions for treatment and drug treatment of drug addicts and other forms of addiction (<https://www.drajzerova.org.rs/content/vizija-misija-i-vrednosti>). At this point, it must be noted that health institutions, educational institutions (preschools, schools and universities), social protection institutions, sports organizations, local governments (municipalities and cities), civil society organizations and the Red Cross have their role in the fight against narco crime.

4. STATE AND DEVELOPMENT OF NARCO CRIMES IN SERBIA: RESULTS AND DISCUSSION

State and development of narco crimes in Serbia have been explored in ten years period between 2013 and 2022 in relation to three aforementioned felonies according to the following variables: 1) Reported perpetrators of narco crime in Serbia 2013-2022; 2) Reported perpetrators of narco crimes by age; 3) Convicted perpetrators of narco crime in Serbia 2013-2022; 4) Convicted perpetrators of narco crimes by age; 5) Reported perpetrators of narco crimes according to type of felony; 6) Convicted perpetrators of narco crimes according to type of felony; 7) The quantity of seized narcotics in the period 2013-2021⁷; 8) Types of seized narcotics in Serbia 2015-

⁶ The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is the reference point on drugs and drug addiction information in Europe. Inaugurated in Lisbon in 1995, it is one of the EU's decentralised agencies. Retrieved from https://www.emcdda.europa.eu/index_en (05.10.2023)

⁷ Data on seized drugs in 2022 have not yet been published by the Ministry of Interior

2021⁸; 9) Imposed criminal sanctions for narco crimes toward adults 2013-2022; and 10) Educational measures for narco crimes toward juveniles 2013-2022.

The data were taken from the official reports of the Statistical Office of Republic of Serbia⁹ and the Ministry of Interior of Republic of Serbia¹⁰, on the basis of which the tables and charts were created. The results obtained in this way were analyzed in terms of state and trends.

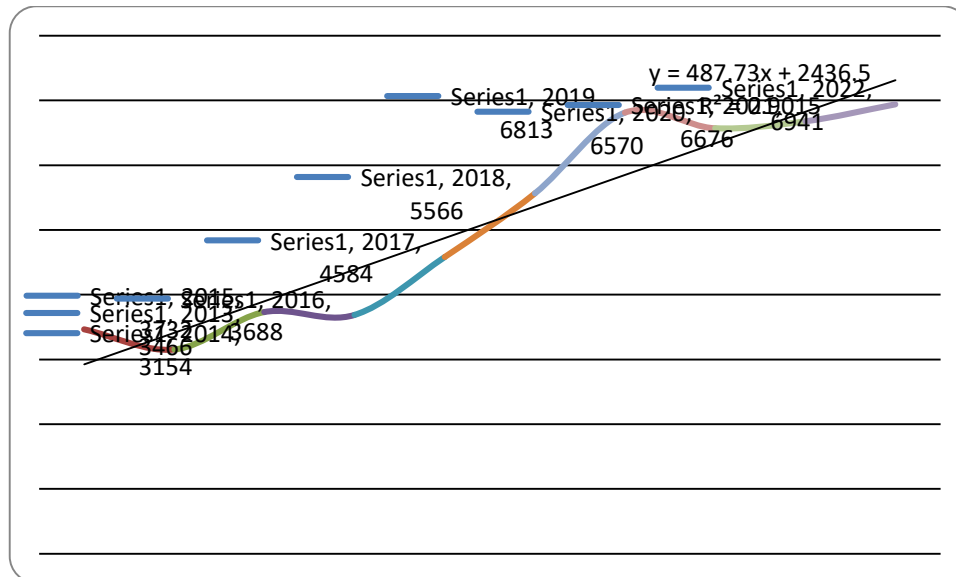


Chart 1 – Reported perpetrators of narco crimes in Serbia 2013-2022 (Source: Statistical Office)

As can be seen from Chart 1, narco crime in Serbia increased during the observed period. In the initial years 2013-2016, the increase is barely noticeable by some 6%. However, from 2017 to 2019 we see a sudden increase of 100% in total and individually 2017-20%, 2018-18%, 2019-19%. In the last three years, we have noticed a slowdown in growth, but the number of persons reported for narco crimes is approaching the figure of 7,000 persons. Authors relate this trend to the adoption of the aforementioned strategic documents in the work of the Serbian police (SAPS and SOCTA).

⁸ Data on types of seized drugs in 2013, 2014 and 2022 have not been published by the Ministry of Interior

⁹ <https://www.stat.gov.rs/sr-Latn/oblasti/pravosudje/maloletni-ucinioci-krivicnih-dela> and <https://www.stat.gov.rs/sr-Latn/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela> (27.09.2023)

¹⁰ <http://mup.gov.rs/wps/portal/sr/arhiva/informator+o+radu> (05.10.2023)

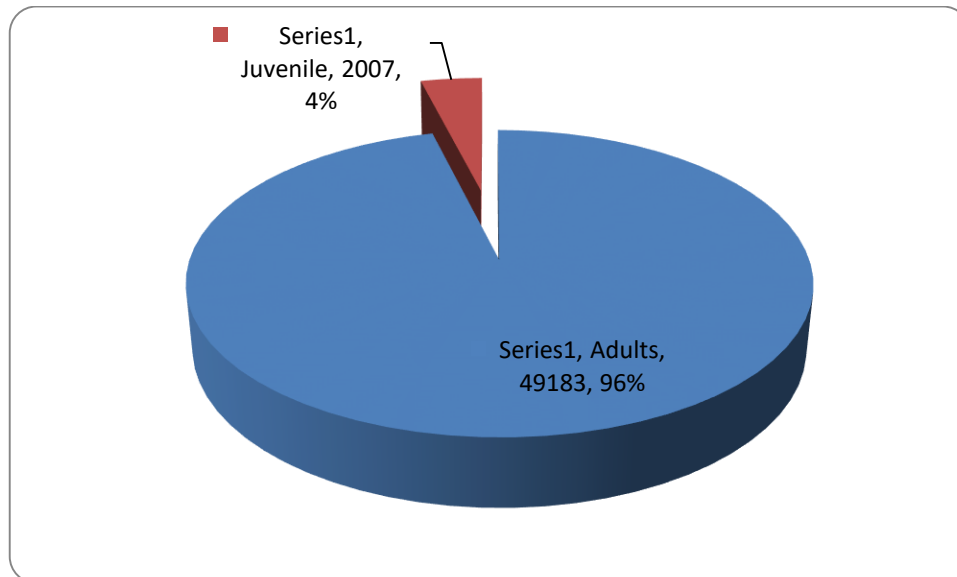


Chart 2 – Reported perpetrators of narco crimes by age (Source: Statistical Office)

When we look at the reported perpetrators by age (Chart 2), we notice that the majority of reported persons are adults and that the participation of juvenile delinquency is minimal. One research in Serbia showed that juvenile narco crime is increasing, and in this sense, it should draw attention to the need to conduct research that would enable finding a practical solution to the problem of the increase in the number of juvenile perpetrators of narco crimes.¹¹

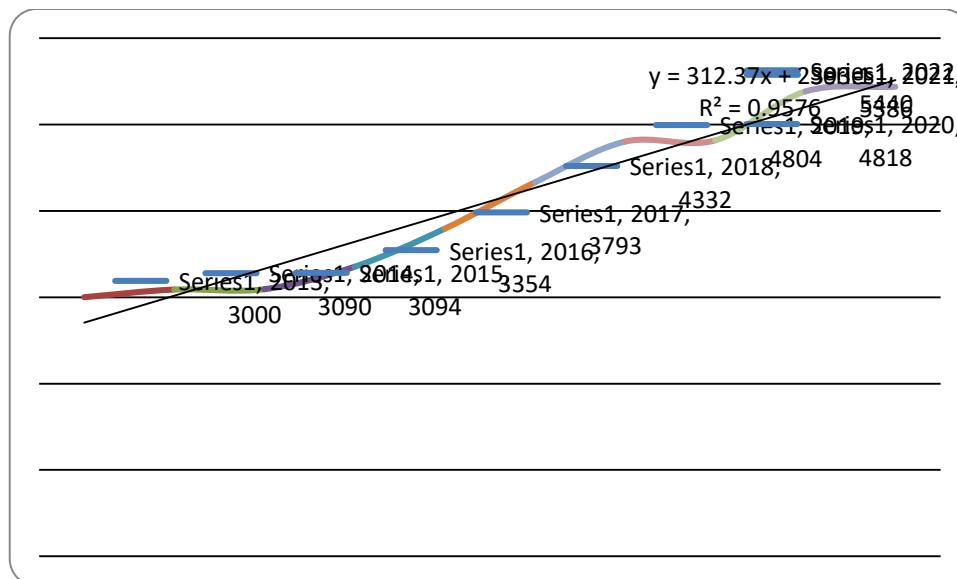


Chart 3 – Convicted perpetrators of narco crimes in Serbia 2013-2022 (Source: Statistical Office)

¹¹ Lajić, O., & Didanović, A. (2022). Juvenile Drug-related Crime in Serbia: Current Situation and Tendencies. *Bezbednost, Beograd*, 64(3), 42 (22-45)

On the other hand, if we investigate the number of people convicted of narco crimes in the given period (Chart 3), we see that the parable looks somewhat different than that of the reported perpetrators, but we also see a trend of almost 100% increase. However, looking individually by year, the growth starts in 2016 until 2019, but again in 2020 an increase of about 10% is observed. As we can see, the courts follow the increased number of cases discovered by the police.

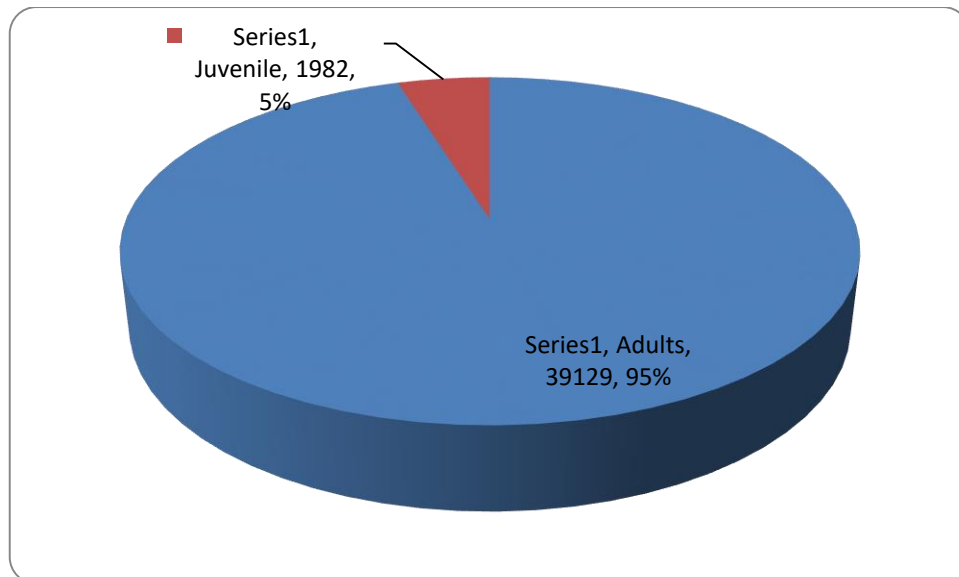


Chart 4 – Convicted perpetrators of narco crimes by age (Source: Statistical Office)

Looking at the convicted perpetrators of narco crimes in Serbia (Chart 4), we see that juvenile delinquency has a higher share than reported perpetrators by 1%, which is a significant shift. Here it must be taken into account that certain categories of young people can be judged as juvenile delinquents regardless of the fact that they have reached the age of 18.

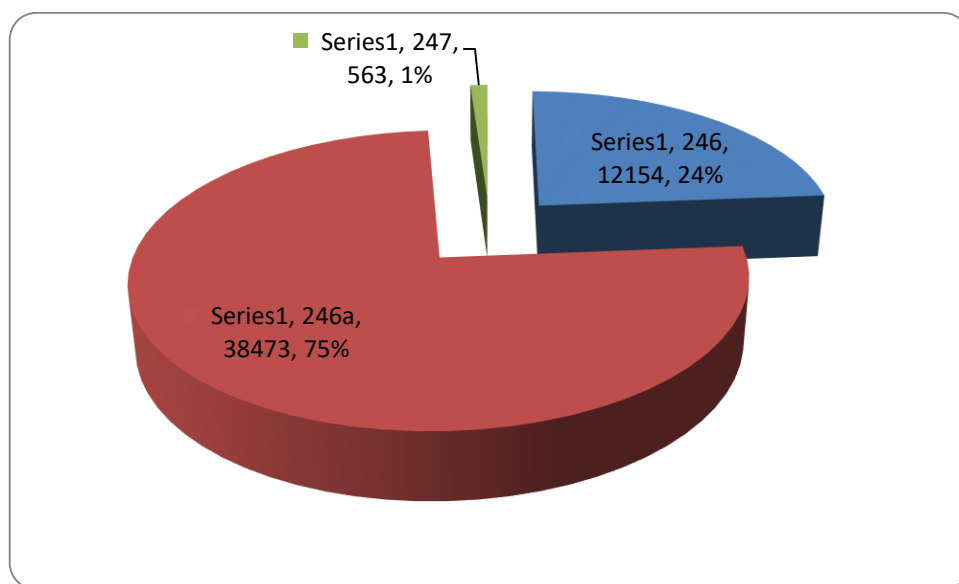


Chart 5 – Reported perpetrators of narco crimes according to type of felony (Source: Statistical Office)

As we pointed out, narco crime in Serbia has three types according to the criminal legislation (Unlawful Production and Circulation of Narcotics – art.246, Unauthorized Possession of Narcotics – art.246a and Facilitating the Taking of Narcotics – art.247). Looking at this issue according to its types of reported perpetrators (Chart 5), we see that in 75% it appears as Unauthorized Possession of Narcotics, in 24% as Unlawful Production and Circulation of Narcotics and only in 1% as Facilitating the Taking of Narcotics. From these results, we can see that policing is focused on drug possession and street search and seizure. Here, the philosophy must be changed and policing must be focused on organized crime. Street search and seizure should not be neglected because it can represent a significant source of intelligence in policing.

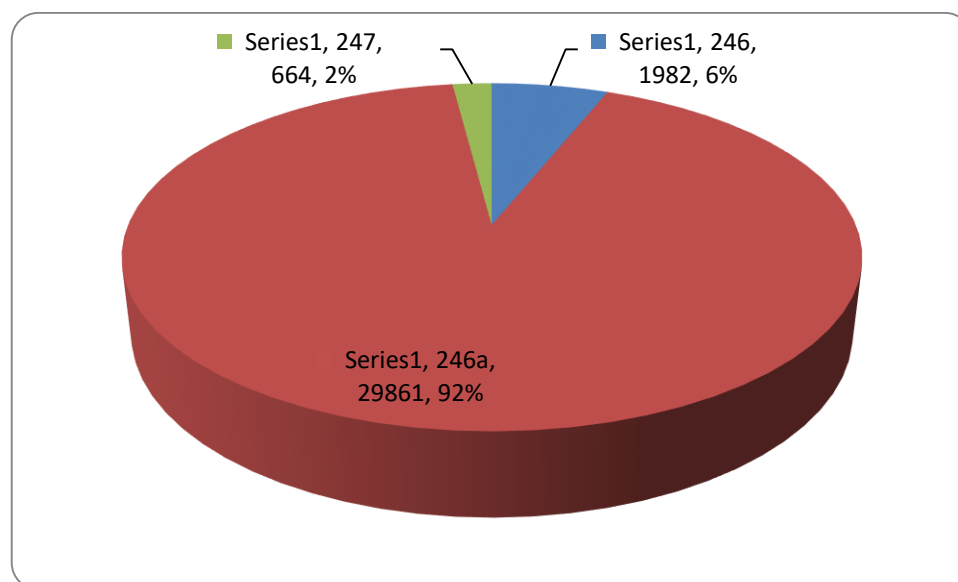


Chart 6 – Convicted perpetrators of narco crimes according to type of felony (Source: Statistical Office)

The situation is somewhat different if we look through the prism of types of narco crimes and convicted perpetrators (Chart 6). There, the primacy of Unauthorized Possession of Narcotics is observed in as much as 92%, to the detriment of Unlawful Production and Circulation of Narcotics which appears in only 6% and a slightly higher percentage of Facilitating the Taking of Narcotics of 2%. A significant ‘overflow’ from Unlawful Production and Circulation of Narcotics to Unauthorized Possession of Narcotics can be observed here, because the understanding of the police and the prosecution does not coincide with judicial case law. A significant number of perpetrators were previously accused for Unlawful Production and Circulation of Narcotics as a more serious felony, but during the proceedings they were convicted of a milder felony of Unauthorized Possession of Narcotics.

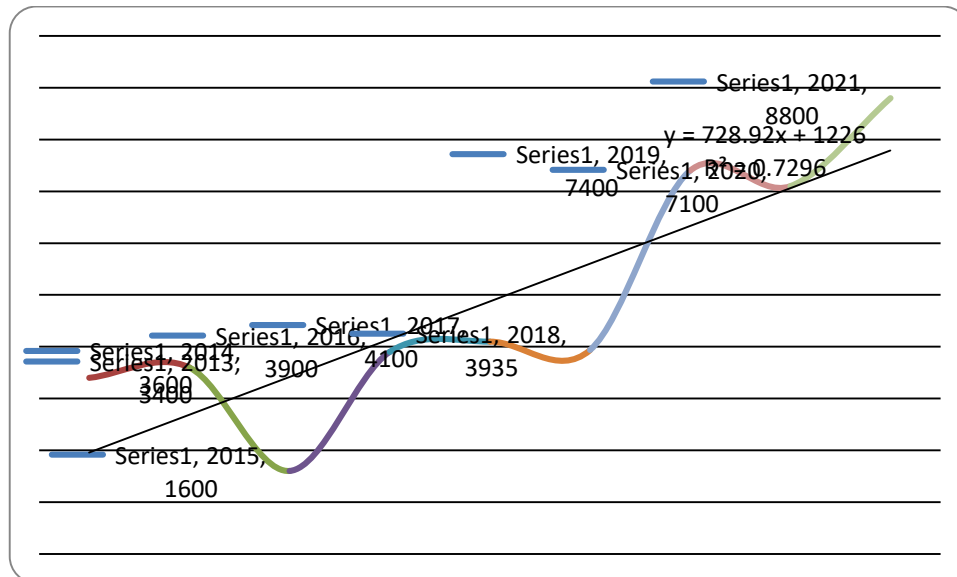


Chart 7 – The quantity of seized narcotics (kg) in the period 2013-2021 (Source: Ministry of Interior)

One of the probably most important parameters in the fight against narco crime, not only in Serbia but in general, is the amount of seized narcotics by police (Chart 7). In Serbia, this parameter records different trends from year to year, but generally records an increase of 77%. Individually by year, we observe a sharp drop of 55% in 2015, in the period 2016-2018 it returns to the old trend, while 2019 records an increase of 47% and 2021 of 19%.

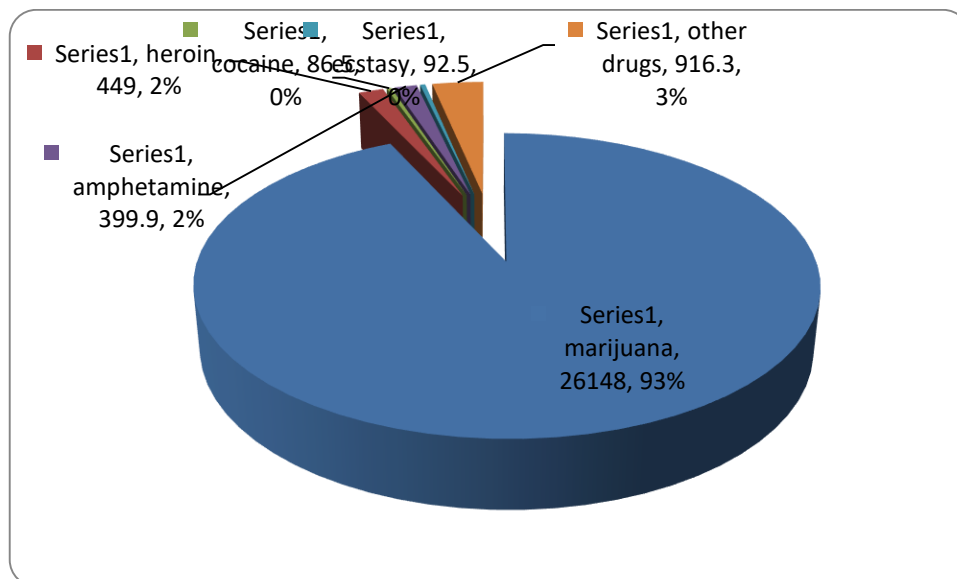


Chart 8 – Types of seized narcotics in Serbia 2015-2021 (Source: Ministry of Interior)

The Serbian police is mostly concentrated on confiscation of marijuana (93%), heroin and amphetamine 2% each, cocaine and ecstasy are at the level of statistical error (118.5 kg of cocaine and 92.5 kg of ecstasy) and other types of narcotics appear in only 3% (Chart 8). Analyzing the work of the police in Serbia in the fight against narco crime, we can see that it is largely aimed at

discovering laboratories for growing marijuana, which is also confirmed by this chart. The number of uncovered laboratories and the amount of confiscated drugs in the last two decades suggest that the illicit production of drugs, especially synthetic drugs, is a serious social problem in our country. The largest number of laboratories has been uncovered in Belgrade, where the highest numbers of organized criminal groups were registered - criminal groups whose predominant criminal activity is illegal drug production and trafficking (Otašević, Kolarević, Radovanovic, 2020:1137-1138).¹² On the other hand the legalization of marijuana took over portion of organized crime group profits and transferred them to state budget through taxes. Furthermore, police resources are freed up to deal with other types of crime and improved clearance rates. However, black market continues to exist in parallel with legalization of marijuana due to complex legislation and high taxes (Matić Bošković, 2020:387). Risimović (2018:262) states that research so far has not proven a cause-and-effect relationship between the medical use of cannabis and the growth of prevalence on the market.¹³

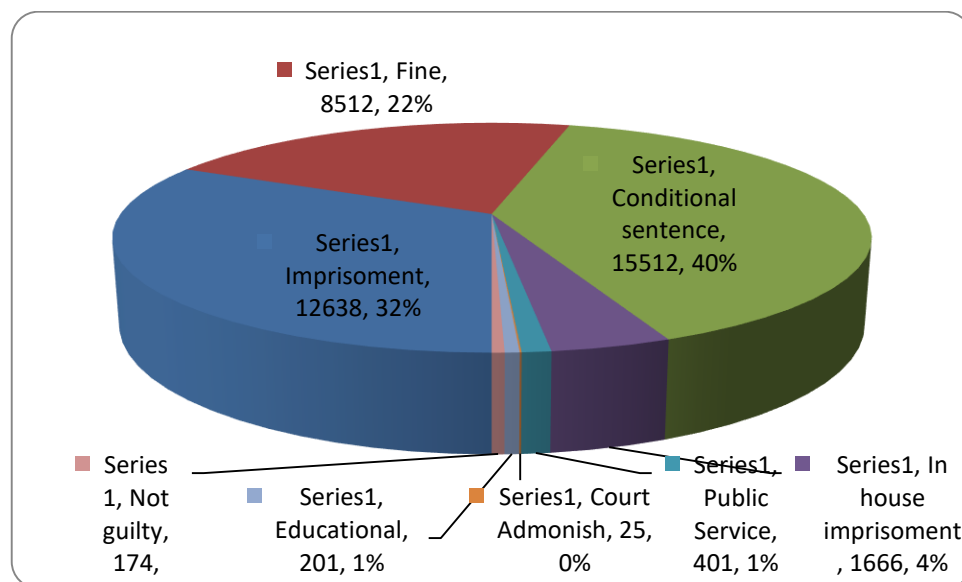


Chart 9 – Imposed criminal sanctions for narco crimes toward adults 2013-2022
(Source: Statistical Office)

We need to take into account that criminal legislation, through the criminal sanctioning of the perpetrator, affects both crime in general and drug crime. Investigating the criminal sanctions imposed by the courts on the adult perpetrators, we see that a conditional sentence is the most common type of impact on narco crime (40%), a imprisonment in 32%, a fine in 22%, in-house imprisonment in 4%, public service and educational measures in 1% each, while court warnings and not guilty are at the level of statistical error and below 1% (Chart 9).

¹² See also: Otašević, Kolarević, 2020:5-27

¹³ Same in Otašević, 2023:201

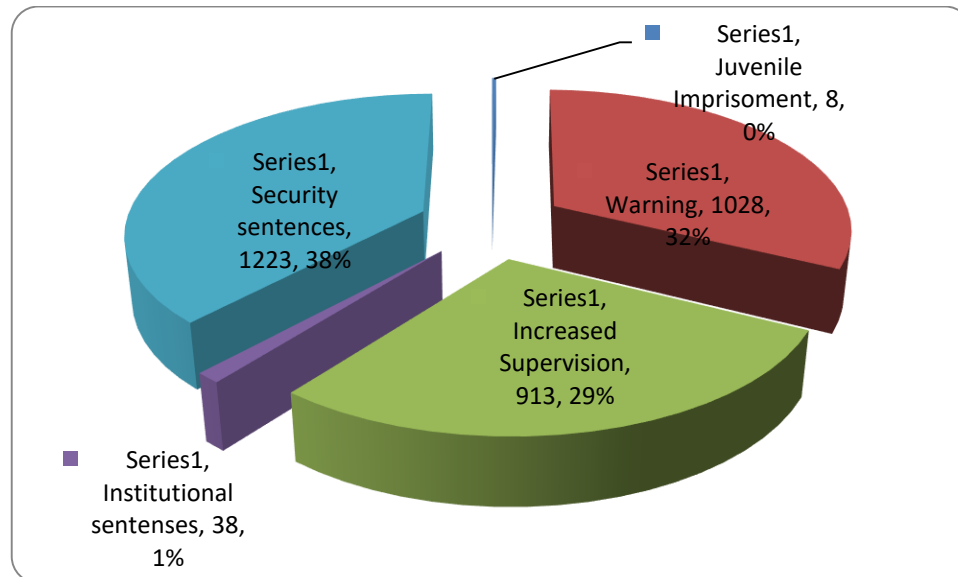


Chart 10 – Educational measures for narco crimes toward juveniles 2013-2022 (Source: Statistical Office)

As we have seen, juvenile narco crime is at a minimal level and prosecutions are rare. However, if it is assessed that criminal proceedings are necessary (Chart 10), it most often ends with the imposition of a security sentence (38%), a warning (32%) and increased supervision (29%). Institutional sentences are pronounced in only 1% of cases, while juvenile imprisonment is at the level of statistical error and below 1% (in the observed period, juvenile imprisonment was pronounced in only 8 cases).

5. CONCLUSION

The legal system of Serbia has norms that enable the fight against narco crime, but interventions are necessary in certain areas. It must be borne in mind that the law cannot regulate everything and influence all spheres of life. Legal norms must maintain their level of generality when issuing certain behaviors. As far as narcotics is concerned, the Serbian legal system has two legal acts which are the *lex generalis* in this area and which, generally speaking, issues permitted actions with narcotics and precursors. They are followed by the Criminal Code, which determines which actions involving narcotics and precursors are punishable and determines the penalties for that. Serbian Criminal Code has incorporated important incrimination within the criminal offences of human health protection. Their amendments should foresee the relocation of lighter offenses into the misdemeanour law relating to the ‘smaller’ amounts of narcotics and psychotropic substances for personal use. A drug addict (narcoman) is a patient who must be treated, and a narco crime is a danger to society and as such should be rigorously punished by the court. Possession of drugs in large quantities regardless of intent must be part of criminal legislation. The ‘criminal zone’ must move within the framework of the protection of human being and other fundamental social values and must not enter into solving the issues of medicine and psychiatry. The legislator's attention must also be focused on the decriminalization of marijuana in terms of harmonization with European legislation. This would contribute to the harmonization of RS national regulations with EU law in the application process for membership.

Serbia has enough public authorities involved in the fight against narco crime. Their cooperation, organization and coordinated work must be aimed at both prevention and repression. Prevention must be aimed primarily at 'reducing the market' so that with the decriminalization of certain forms, there would also be a real reduction in narco crime. By influencing the young population, through adequate education and depopulation of narcotism as a taboo issue, the 'souls and hearts' of young people as potential drug users can be influenced.

From the research, we noticed that the repressive activity of public authorities is getting bigger and bigger, but it still seems to be insufficient. Serbia has long been not only a transit country, but also a favorable market for narco crime. Organized crime groups are adapting to the latest technologies so policing must also follow the trends. The social reaction to narco crime is not enough only by the police, prosecutors, court and other public authorities. All levers of society must be involved in this fight, and the beginning must be the family as the basic social unit, and further, through the educational process, influence the very causes of narco crime.

REFERENCES

1. Božić V, Nikač Ž, Criminal Law and Criminological aspects of combating organized crime, *International scientific conference 'Problems of combating crime and training the personnel for law enforcement agencies'*, Conference Proceedings, Minsk, Belarus, 2017, p.239-241.
2. Criminal Code (*Official Gazette of Republic of Serbia* no.85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/14, 108/14, 94/16 and 35/19)
3. Criminal Procedure Code (*Official Gazette of Republic of Serbia* no.72/11, 101/11, 121/12, 32/13, 45/13, 55/14, 35/19, 27/21 – CC and 62/21 – CC)
4. Drugs Prevention Strategy 2014-2021 (*Official Gazette of Republic of Serbia* No. 1/15)
5. Djurdjević Z., Leštanin B. (2017) Intelligence-led policing in Ministry of interior of the Republic of Serbia, in *Thematic conference proceedings of international significance "Archibald Reiss Days"* no 3, p. 3-16
6. Djurdjević Dj (2020). Penal Policy for Criminal Offences of Drug Abuse. in *Thematic conference proceedings of international significance International Scientific Thematic Conference 'Drugs and Drug Addiction: Legal, Criminological, Sociological and Medical Issues'*, Institute of Criminological and Sociological Research, Belgrade, p. 57-68
7. Delić N. (2020). Unlawful Possession of Narcotics (Article 246a of the Serbian Criminal Code): Progressive or Regressive Regulation. in *Thematic conference proceedings of international significance International Scientific Thematic Conference 'Drugs and Drug Addiction : Legal, Criminological, Sociological and Medical Issues'*, Institute of Criminological and Sociological Research, Belgrade, p.117-130
8. Ilić, G. P. (2017). Ne bis in idem Principle in Practice of the European Court of Human Rights. *Strani pravni život*, vol 61, no 3, p. 21-34.
9. Ignjatović Đ, Škulić M. (2019). *Organizovani kriminalitet*, Law Faculty of Belgrade University
10. Kolarić D. (2020). Suppression of Narcotic Drug Abuse in the Criminal Law of Serbia - Review of the Law on Amendments to 2019 Criminal Code -. in *Thematic conference proceedings of international significance International Scientific Thematic Conference 'Drugs and Drug Addiction : Legal, Criminological, Sociological and Medical Issues'*, Institute of Criminological and Sociological Research, Belgrade, p.69-86

11. Krstić G. (2022). The Quantity of Drugs as a Fair Limit of the Criminal Zone in Serbian and German Criminal Legislation. In *Court Proceedings – Justice and Fairness: Collection of Papers from the 35th Meeting of Kopaonik School of Natural Law - Slobodan Perović*, Kopaonik, p. 115-116
12. Law on Psychoactive Controlled Substances (*Official Gazette of Republic of Serbia* no 99/10 and 57/18)
13. Law on Substances Used in Illicit Manufacturing of Narcotic Drugs and Psychotropic Substances (*Official Gazette of Republic of Serbia* 107/05 and 25/19)
14. Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of Republic of Serbia* No.32/13, 94/16 and 35/19)
15. Law on Ministries (*Official Gazette of Republic of Serbia* No. 128/20, 116/22 and 92/23 – other law)
16. Law on Organization and Jurisdiction of State Authorities in Combating Organized Crime, Terrorism and Corruption (*Official Gazette of Republic of Serbia* No. 94/16, 84/18 – other law and 10/23)
17. Lajić, O., Didanović, A. (2022). Juvenile Drug-related Crime in Serbia: Current Situation and Tendencies. *Bezbednost, Beograd*, vol. 64, no. 3, p.22-45
18. Maresti v. Croatia, Application no. 55759/07, Judgment from 25 June 2009
19. Milenković v. Serbia, Application no. 50124/13, Judgment from 1 March 2016
20. Matić Bošković M. (2020). Legalization And Decriminalization Of Marijuana: Effects On Organized Crime And Criminal Justice. in *Thematic conference proceedings of international significance International Scientific Thematic Conference 'Drugs and Drug Addiction: Legal, Criminological, Sociological and Medical Issues'*, Institute of Criminological and Sociological Research, Belgrade, p.379-390
21. Mrvić Petrović, N. (2014). Respect ne bis in idem Principle of the Trial for Similar Criminal Offenses and Misdemeanors. *NBP. Nauka, bezbednost, policija*, no 2, 27-39
22. Muslija v. Bosnia and Herzegovina, Application no. 32042/11, Judgment from 14 January 2014
23. Otašević, B., & Kolarević, D. (2020). Characteristics of Illegal Laboratories for Marijuana Production in Serbia. *Bezbednost*, vol. 62, no. 2, p. 5-27
24. Otašević B., Kolarević D., Radovanovic I. (2020). Clandestine Drug Production Laboratories in Serbia. *Teme*, vol. 43, no. 4, p. 1125–1140
25. Otašević B. (2023). Specific Insights during the Detection of Illegal Plantations for the Production of Cannabis. In *Conference Proceedings 'Strateški i normativni okvir Republike Srbije za reagovanje na savremene bezbednosne rizike'*, p.188-204
26. Risimović, R. (2018). Is the legalization of medical and recreational use of cannabis justified?. *NBP. Nauka, bezbednost, policija*, vol. 23, no. 3, p. 251-265
27. Rodić V. (2021). Primena načela Ne bis in idem – Razvoj prakse Evropskog suda za ljudska prava. *Supreme Court Bulletin*, Belgrade, p. 49-82
28. RS Government Decree on the Establishment of the Office for Combating Drugs (*Official Gazette of Republic of Serbia* no.79/14)
29. Verdict of Belgrade Higher Court, Kž.1 656/17
30. Zolotukhin v. Russia, Application no. 14939/03, Judgment from 10 February 2009

Internet:

- <https://hudoc.echr.coe.int/>
- <http://www.mup.gov.rs/wps/wcm/connect/98632591-2b0d-4cba-9cd1-e7ff993705a6/Strateska+procena+javne+bezbednosti+MUP.pdf?MOD=AJPERES&CVI=D=nYH6yro> (05.10.2023)
- <http://mup.gov.rs/wps/wcm/connect/fb61b551-a863-42b3-a208-53892082f851/SOCTA+2019+-+Procena+pretnje+od+teskog+i+organizovanog+kriminala.pdf?MOD=AJPERES&CVID=nl6aHQ2> (05.10.2023)
- <http://mup.gov.rs/wps/portal/sr/arhiva/informator+o+radu> (05.10.2023)
- <http://mup.gov.rs/wps/portal/sr/direkcija-policije/ojdpp/uprava+kriminalisticke+policije/szpniskn> (05.10.2023)
- https://www.emcdda.europa.eu/index_en (05.10.2023)
- <https://www.drajzerova.org.rs/content/vizija-misija-i-vrednosti> (05.10.2023)
- <https://www.stat.gov.rs/sr-Latn/oblasti/pravosudje/maloletni-ucinioci-krivicnih-dela> (27.09.2023)
- <https://www.stat.gov.rs/sr-Latn/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela> (27.09.2023)
- <http://mup.gov.rs/wps/portal/sr/arhiva/informator+o+radu> (05.10.2023)