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STUDY OF ORGANISED CRIME IN BOSNIA AND HERZEGOVINA

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Study of Organised Crime in Bosnia and Herzegovina

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The Author's Preface

This Study represents the first step in achieving the European standards in the process of developing and using the methodology for the organised crime threat assessment at the national level. The European practice, resulting from years-long endeavours made within the EU's joint policies to combat and prevent organised crime as one of the priority actions, calls for development of such a strategic paper as a result of cooperation among all relevant law enforcement agencies, emphasizing the significance of the public-private partnership within that process.

Promoting the European dimension of our society, in developing this study we attempted to follow the recommendations and guidance which the European Union is suggesting to its Member States. To the extent possible, we devoted equal attention to comments and suggestions by both the representatives of the judicial and security institutions and individuals and citizens who are not part of government institutions.

We take this opportunity to thank all those who were unselfishly responsive during the collection of information and data for the purposes of this Study, and thereby made immeasurable contribution to improving our capacities and ability to present the results to the public in Bosnia and Herzegovina which will certainly make its most objective judgment about our endeavour.

Our special thanks go to the Delegation of the European Union to Bosnia and Herzegovina which enabled, by providing generous financial and professional support, the implementation of the "Improving Research Instruments in the area of Security and Justice – IRISJ" project. With that, the EU Delegation also provided significant support to building research capacities of the civil society which will allow it to have influence on drafting the public policies in the area of justice and home affairs.

We take this opportunity to express our gratitude to the staff of the Centre for Security Studies engaged in this project, who have devotedly worked on its implementation over the last 18 months.

Sarajevo, 2014

EXECUTIVE SUMMARY

The Study of Organised Crime in Bosnia and Herzegovina is based on the need to make it easier for decision-makers in government institutions to identify the priority strategic areas in the fight against organised crime. It was initiated by the wish to fill the possible gaps that may appear in the public policies developed solely on the information and data in the possession of government institutions. The analysis of the citizens' views and perceptions of the issues falling within the scope of responsibility of the relevant agencies should be one of the sources of information to which officials will give adequate attention, in particular bearing in mind that it is related to the rule of law and threats to human security.

The results presented in this study are the product of the analysis of the qualitative and quantitative data, within a complex approach to the phenomenon of organised crime which had to be examined from various aspects. Hence, the approach to the implementation of the research had to be multi-dimensional, giving the same amount of weight to institutions in the area of justice and security but also to the sources which are not part of government albeit deeply engaged in efforts to fight organised crime through their own activities.

This study does not go deep into or draw attention to either completed or still pending investigations of individual criminal activities conducted by relevant institutions. Rather, its goal is to identify, from the civil society perspective, the areas of real threats which should be taken into consideration when developing national strategies, with recommendations for concrete actions plans to fight organised crime.

- A diverse array of criminality covered under organised crime, the various forms of its manifestation and a multitude of other characteristics organised crime contains resulted in the absence of the general consensus in either theory or legislation over what the term organised crime encompasses.
- Most of domestic and international authors believe that organised crime encompasses the component of the necessary existence of the link between a criminal organisation and the state and its authorities, as an important element of organised crime.
- International literature contains the vast array of definitions of organised crime. Prominent among them is the UN definition under which organised crime is: *"a large scale and complex criminal activity carried on by groups of persons, however loosely or tightly organised, for the illegal enrichment of those participating at the expense of the community and its members"*.

- The *European Union* did not accept the model of developing a single definition of organised crime. Rather, it adopted a list of 11 characteristics of organised crime, of which six must be present for any crime to be classified as organised crime.
- Under the Criminal Code of Bosnia and Herzegovina, an organised crime group is defined as an organised group of at least three persons, which has existed over a certain period of time, operating for the purpose of committing one or more criminal acts which are punishable by imprisonment for a term not less than three years or a heavier punishment.
- The authors from our country and the region share the opinion that the main motivating power of organised crime, as a heterogeneous and complex phenomenon, is financial gain, or more precisely, generation of massive profits quickly, and no risk of exposure in such criminal activities.
- Analysing the significant number of international documents treating organised crime-related issues, we can say that there is a huge number of organised crime activities, although among the most dominant are certainly trafficking in drugs, money laundering, trafficking in human beings, and vehicle theft.
- Bosnia and Herzegovina's institutional capacities for fighting organised crime exist. They are numerous, ranging across a broad spectrum, from legislative, operational, advisory to controlling capacities. At the level of BiH, there are 142 institutions which have a role to play in fighting organised crime.

General security perceptions and general position

- The findings of the research survey show that Bosnia and Herzegovina is perceived by its citizens as a rather safe country. Among the interviewees who represent the general population, 42.9% feel safe in their place of residence, and 19.9% feel very safe. On the other hand, slightly fewer interviewees, 27.3%, said they felt unsafe in their place of residence, and 6.5% of interviewees said they felt very unsafe.
- Regardless of the entity or ethnic background, the interviewees think that *corruption and organised crime* contribute most to their feeling of insecurity (69%), followed by armed violence, 49.3% (robberies of banks, shopping malls, money transport...), and street crime (thefts, shop thefts, pocket-picking), 46.3%.
- For citizens, the leading factor and cause of the increase in organised crime is insufficient activities of the authorities of Bosnia and Herzegovina in fighting organised crime. Most of interviewees, 60%, believe that the BiH authorities are not doing enough to combat organised crime.
- More than one half of interviewees, 54.4%, share the view that the present complex and fragmented judicial system, which comprises four separate systems, is unable to adequately respond to organised crime. 76.8% of citizens believe that the judiciary in BiH lacks resolve and courage to prosecute and try senior officials who are linked to some criminal activities.

- Citizens put the blame for the current level of crime also on the complex police system. Most of interviewees (51.4%) believe that the current complex police system, which comprises 16 police agencies, is unable to provide an adequate response to organised crime.

Key stakeholders assessment

- Most interviewees (between 66.7 and 70.1%) believe the police is the most active authority in combating organised crime. Such a position is shared by the interviewees, who emphasized that the police, in addition to facing numerous problems, such as lack of equipment and experts, are in most cases professional in performing its duties.
- A significant number of interviewees believed that court/courts performed worst in combating organised crime (60.5%). Immediately after courts comes the prosecution's work in combating organised crime. The option under which the prosecution shows the poorest performance in combating organised crime was selected by 58.6% of interviewees, while the third place goes to police (29.1%).
- According to interviewees' position, individuals and groups connected with organised crime, receive the strongest support from the *authorities*. As many as 85.2% of interviewees selected this option. The second place goes to political parties and their representatives (82.3%). Similarly, 59.9% of citizens said they did not have trust in the current government or its intention to combat organised crime successfully.
- The vast majority of interviewees believe that individuals and groups connected with organised crime receive support from all offered key stakeholders whose task is to combat organised crime. Of the offered key stakeholders, citizens believe that individuals and groups receive least support from the police, although, generally, even 57.6% is worrisome.
- Most interviewees said organised crime causes damage first to the society and only then to individuals (68.2% - 18.0%).
- A little less than one half of the interviewees, (47.1%), stated they would be ready to report to the relevant institutions if they had knowledge about certain criminal group's activities or organised crime offenses. A significant number of them would contact the police (41.1%), and a small number would contact the family or friends of those involved in the crime (2.5%). The number of those who would address their local counsellor or municipal security forum is even smaller (1.7%-0.4%).
- As part of the most common reasons why the interviewees, 52.9 % of them, would not be willing to take actions to combat organised crime, were: lack of trust in the prosecution and court, opinion that it is not a matter of their concern, fear of retaliation, or they believe it would not make any difference.
- Most interviewees (66.8%) believe the past sentences for organised crime offences were either too low or inadequate.

- More than a half of interviewees (58.4%) stated that the first priority of the future actions to be taken by the relevant authorities should be combating *illegal drug trade*. A second priority was combating financial economic crime and tax evasion (43.8%), and the third priority was combating corruption of public officials. Combating terrorism and financing of terrorism is a seventh priority for the citizens of Bosnia and Herzegovina.

Trend

- Within a relatively short period of time, Bosnia and Herzegovina became the hub for numerous criminal groups and the region in which almost all possible forms of organised crime are taking place. In addition to this, the findings indicate there is no significant tendency of strengthening connections among criminal groups within Bosnia and Herzegovina. The intention and goal to develop a network is present among groups operating inside BiH and the neighbouring countries.
- Available information and data indicate the existence of various forms of organised crime within the territory of Bosnia and Herzegovina, in its various aspects of manifestation (illegal drug production and trade, illegal trade in weapons and military equipment, human trafficking, smuggling of people and illegal migrations, economic crime and tax evasion, counterfeiting money and other securities, abuse of office, high tech crime, theft and illegal sale of motor vehicles, blackmailing, extortion, kidnapping, armed robbery, etc.).
- Illicit drug production and trade is considered by the majority of interviewees of the research survey as the biggest threat to their own, as well as the safety of their children.
- Statistical indicators within entity-level Ministries of the Interior and the Brcko District BiH Police show that the number of criminal offenses of drug abuse was in slight decrease in 2013, compared with 2012, by 5.65 %.
- The majority of drug abuse criminal offences are committed in Sarajevo Canton (282 – 21.74%), followed by Zenica-Doboj Canton and Tuzla Canton (266 - 233), Una Sana Canton (76), Banja Luka (74), Herzegovina-Neretva Canton (57) and Bijeljina (54).
- According to rough estimates, groups in BiH smuggling drugs have up to twelve members. Depending on the stage of criminal offence, they have different appointed tasks and are not permanent, because, by rule, they make associations based on their needs, and permanent groups have approximately three to five members. Associations by needs require continuous recruitment of new members, who are often engaged temporarily.
- Prosecuted cases and statistics show that an increasing numbers of addicts are among perpetrators of mostly property crimes, most often armed robbery and robbery.
- In Bosnia and Herzegovina, tax and customs fraud is the most common criminal activities of organised criminal groups. Most often, this fraud is based on “bogus companies and exchange”, on the basis of which „bogus“ income tax is presented, and

illegal VAT tax refund is claimed. Such companies are used for trade, and then they “shut down” or claim bankruptcy, to avoid legal obligation of paying the tax.

- The most common economic crime offences are: abuse of office or power in the economy, embezzlement, money counterfeiting, business fraud, forgery or destruction of official identity documents, tax evasion, illicit trade, and organised crime related to tax evasion and customs fraud.
- Corruption is the third form of organised crime that should be a priority for the authorities in their future actions in combating organised crime. The high-risk and significant area for corruption is abuse relating to the application of the Public Procurement Act through as public procurement uses a significant amount of budget resources.
- In 2013, police agencies in BiH registered 377 corruption offences. If we compare these acts with the offences committed in 2012 (447 offences), we will see that there is a decrease in corruption offences in 2013 by 11.85%. Amongst the criminal offences of corruption, the most dominant form in Bosnia and Herzegovina is abuse of office or power.
- When it comes to organised criminal groups that are engaged in corruption offences, we did not manage to identify a particular group that is exclusively engaged in this type of crime. Rather, they are part of other criminal activities linked with other offences. The information that a number of perpetrators of those and other criminal activities managed to obtain cooperation from certain holders of executive and judicial offices by bribing them with cash or other valuables.

INTRODUCTION

Bosnia and Herzegovina, as a potential candidate for membership in the European Union and the state fully committed to the Euro-Atlantic integration process, committed itself to consolidating the rule of law and reinforcing institutions in the areas of justice and home affairs. One of the important activities in this process refers to the adoption and implementation of the public policies against organised crime, knowing that this social scourge in modern times, in all of its forms, poses the biggest threat to the security of citizens and stability at the state, regional or global levels.

The complexity of the fight against organised crime and the problems associated with defying a whole variety of contemporary forms of crime exceed the abilities and efforts undertaken by the relevant agencies and institutions of government. Bosnia and Herzegovina, as it is stated in the European Commission's 2012-2013 Progress Reports for Bosnia and Herzegovina, made little or limited progress in fighting organised crime. It is evident that the government structures are legitimately expecting an increased engagement of the civil society and its increased interest in creating a safer environment as well as raising and developing awareness of citizens about destructive consequences of organised crime activities.

In creating public policies against organised crime, the government institutions rely on their own assessments and international obligations and standards which the country committed itself to by signing and ratifying various international conventions and documents relevant for the fight against organised crime. The country's commitment to fulfilling its international obligations resulted in a new Strategy to Combat Organised Crime in Bosnia and Herzegovina for a period 2014-2016, which is based on the Bosnia and Herzegovina Organised Crime Threat Assessment.

In our effort to make a contribution from the civil society perspective to the process of Bosnia and Herzegovina's integration into the European Union, we chose to conduct a comprehensive research with a view to offering the relevant judicial and security institutions the civil society's view on the national policies and strategies developed to fight organised crime. The strengthening of the research capacities of the civil society in the area of justice and security should be used to improve cooperation and coordination between the government institutions and civil initiatives in their efforts to achieve a shared goal of

reducing the destructive impact of organised crime and to actively promote the rule of law in Bosnia and Herzegovina.

The harmful effects of activities of organised criminal groups have a devastating impact on all countries of the world, regardless of their political systems or levels of their development. Over the past years there has evidently been a significant increase in the number of organised crime offences in all countries, thereby also in Bosnia and Herzegovina. The UN Office on Drugs and Crime has assessed that the groups engaged in international organised crime, ranging from trafficking in drugs and human beings to cyber crime, make around US\$ 870 billion a year. In the European Union alone, 3,600 organisations engaged in organised crime have been identified. It is extremely important to keep in mind the fact that organised crime activities in most cases span multiple jurisdictions, so geographic borders pose no barrier to organised crime, unlike other actors in international law, who are restricted by jurisdictional boundaries. This is why, international cooperation and unselfish exchange of criminal information are an unavoidable factor in fighting the activities of powerful crime organisations.

The forms of organised crime are many and varied. They are developing and changing over time, and easily adapt to new modern-day societal relationships. Organised crime does not take the same forms nor has the same intensity in all countries, rather, its forms of activities are adapting to the current social trends and developments. It is only through a proactive holistic approach of the relevant institutions and the entire society that trends and directions of organised crime development can be predicted and, accordingly, more effective results in reducing the effects of its harmful and dangerous activities on the security of citizens and their environment can be expected.

One of the goals of the authors of this research is to share the findings of the survey of the views and perceptions of citizens about the policies and strategies of the government institutions in the area of justice and home affairs with a broad public in order to raise its awareness about the problems associated with organised crime activities and thereby assist individuals in protecting themselves so that they do not fall victim to organised crime activities. Hence we decided to present in this study somewhat broader context of the fight against organised crime in Bosnia and Herzegovina, through the following chapters:

Defining Organised Crime, Legislation and Institutional Capacities, Public Perception of Organised Crime, Key Stakeholders Assessment, and Trend and Statistical Indicators.

In the end, we hope that this research will be purposeful and will raise the desired interest in the representatives of the government institutions in Bosnia and Herzegovina in order to be able to respond, through development and implementation of public policies in this area, to the interests of citizens as best as they can. The public in Bosnia and Herzegovina is very interested in and sensible to the activities which the relevant institutions are carrying out to combat organised crime, and hence, there is a legitimate need for an increased cooperation between the government institutions and civil society organisations.

RESEARCH SURVEY METHODOLOGY

Survey design

Quantitative and qualitative methods were combined in the implementation of this study. A questionnaire was used to collect the views and opinions of respondents. A survey interview was used to gather data and information on certain issues. For that purpose, we used a standardised and an open-ended survey interview. Moreover, the review of the relevant literature provided comprehensive definitions of organised crime and the analysis of secondary data was used to determine an organised crime trend in Bosnia and Herzegovina.

Primary data was collected through a questionnaire-based public opinion survey. The public opinion survey was administered using a sample of 1,500 respondents, through face-to-face intercept interviews with randomly selected passers-by. The sample was multi-stratified on the following variables: sex, age and ethnicity, level of education, status, cantons and entities. This means that the quotas were set for each entity and the Brcko District of BiH, based on the size of population (under the 1991 census) and then within each entity, based on cantons/regions. Every researcher received a quota sample for his or her geographic area, which consisted of a precise number of respondents. Besides, the interviewers were given for each geographic area of the sample the name of the place (selected at random) where they would start the survey process.

Standardised interviews were conducted with senior police officials, representatives of the BiH Ministry for Security, representatives of the local authorities, prosecution services, courts, the civil society and NGOs. Open-ended interviews were conducted with citizens, and some individuals from risk groups. In addition, meetings were held with the project team members and interviewers, and records were kept during meetings and throughout the survey with reflections on the field research. The public opinion research survey targeted the perception of the security situation, appraisal of performance of stakeholders, identification of the appropriate priorities for future actions against organised crime, as well as the measures that citizens would undertake in fighting organised crime.

The responses, observations of surveyors and the rest of the team, the information and data which we obtained through the interviews, as well as a desk analysis were the main materials

used to develop this study. The survey and interviews were administered by the project team members, with the support of interviewers and other interested parties.

Limitations of the research survey

The research survey shows that it is very difficult to assess the true scope of organised crime in BiH for many reasons, such as the quality of data and the data-sharing procedure, a complex police structure and the lack of unified official statistics. The research does not deal with the etiology of organised crime, but rather, with its phenomenology and trend.

1. DEFINING ORGANISED CRIME

Today organised crime is seriously jeopardising the legal system and undermining democratic institutions in almost every country. The danger of this complex and specific socially negative phenomenon affecting the state and society, wholly or in part, does not solely consist of concrete criminal activities, but rather, of the impact it may have on the decisions of the state in the area of its economy or politics. However, due to its inherent specific characteristics, there are numerous difficulties and dilemmas surrounding prevention and suppression of this criminal phenomenon.

From today's perspective, organised crime is in focus of interest of all the states, and of numerous domestic and international institutions. All of them together are trying to find the appropriate ways, methods and means of prevention or possibly suppression of all of its forms, particularly knowing that this phenomenon, together with international terrorism, represents also the most serious form of threat to national and global security. One of the main reasons why some states and international organisations were unable over a long period of time to find an effective response to the organised crime challenge lies in the fact that it is extremely difficult to define this phenomenon in precise terms. A diverse array of criminality covered under organised crime, the various forms of its manifestation and a multitude of other characteristics it contains were misleading the academic and professional community. This resulted not only in a multitude of definitions but also in sharply opposed opinions and varied theoretical understanding. Anyway, there is no general consensus as yet in theory and legislation over what the term organised crime encompasses.

In considering this phenomenon, the findings of numerous theoretical research show that the basic problem is encountered precisely in defining the content of the term "organised crime". In this regard, most authors often include the forms of criminal group activities which do not necessarily represent organised crime. Supporters of this belief usually emphasize that organised crime requires, in addition to the elements which characterise organised crime activities, one more element – which is the **link between a criminal organisation and the state and its bodies**. Some definitions which support this belief can be found in "Crime in Modern Society". Its author believes that "organised crime in its content encompasses also a certain link with the state and its individual bodies in the form of collaboration between law

enforcement bodies and those who do not abide by the law and want to circumvent it”.¹ Boettcher advocates a similar definition, claiming that “organised crime is characterised by a regulated joint activity of a number of persons aimed at making directly or indirectly covered profits or influence in the public life sphere (...) seeking to realise the real monopolies through illegal methods”.²

However, the analysis of the available literature dealing with this issue and its definitions shows that there are no identical views on the necessary existence of the link between criminal organisation and the state and its individual bodies, as an important element of organised crime. Nevertheless, most of domestic and international authors believe that organised crime encompasses this component. For these reasons and with a view to defining organised crime as comprehensively as possible, we shall be using a number of key definitions contained in domestic and international literature.

1.1. Varied understanding of the term “organised crime”

The phenomenon of organised crime and the term “organised crime” have been dealt with by numerous domestic and international authors, who are most often divided into two groups: the first group comprises the authors who believe there is the link between organised crime and the state and its bodies, while the other group comprises the authors who believe that only the existence of a criminal organisation is enough for the organised crime existence and activity. Varied understanding of organised crime resulted in the absence of a single and generally accepted definition which would alleviate the work of not only young researchers and experts but also a faster acquisition of knowledge at the university departments which provide specialised courses in this matter. Another factor which contributes to the absence of a single definition of organised crime is based on the fact that every country is experiencing the gravity of organised crime, depending on the mechanisms it implements to fight organised crime. For example, the distinguishing characteristics of organised crime may be the same in most countries, although not necessarily the forms of its manifestation.

¹ Elliott, M. A. (1962): *Crime in Modern Society: Kriminal u modernom društvu* – translation, Svjetlost – Sarajevo.

² Petrović, D. (1996): *Organizovanje zločinačkih udruženja*, Srpsko udruženje za krivično pravo, Belgrade.

An unavoidable fact in this context is that different understanding of organised crime resulted in the use of multiple definitions, from those which are similar in many respects to those which are completely different from one another. A number of international criminal law experts, criminologists and criminalists hold that the manifestation of organised crime requires the link with the state and its authorities. At the same time, the opinion prevails among other authors that perpetration of criminal acts requires only the existence of a criminal organisation or a group of individuals with the appointed tasks of carrying out certain criminal activities. Regarding theoreticians in this region, nuanced opinions on a definition of the term “organised crime” are noticeable.

In essence, they can be divided into two groups. There are those who accept the positions maintained by international authors and mainly indicate that regardless of all the difficulties in defining organised crime, there must be the link between a criminal organisation and the state bodies. On the other hand, there are authors who are ignoring this distinguishing element of organised crime, claiming that only the existence of a criminal organisation is necessary. This is why, in considering such a divided opinion, it is possible to notice that there are many similarities and differences among international and domestic authors dealing with defining the notion of organised crime. However, the current classification of their definitions into two separate categories generally prevents identifying the content of the notion of organised crime with precision and finding a single and generally accepted definition.

1.2. Definitions of organised crime in international literature

International literature contains the vast array of definitions of organised crime, prominent among them being the UN definition under which organised crime is: *"a large scale and complex criminal activity carried on by groups of persons, however loosely or tightly organised, for the illegal enrichment of those participating at the expense of the community and its members"*.³ It can be concluded from this definition that an emphasis is placed on a group of persons and on illegal enrichment at the expense of the community or that one of the

³Available at: <http://www.businessdictionary.com/definition/organized-crime.html>

main attributes of organised crime is that it exists and is carried out always for the purpose of illegal enrichment at the expense of the community and territory on which it exists.

A particularly interesting definition of organised crime is provided by the Council of Europe, under which organised crime implies “*illegal activities carried on by structured groups of three or more persons, which last over a longer period of time and whose aim is to commit serious crimes through intimidation, violence and corruption in order to obtain, directly or indirectly, financial or other material benefit*”.⁴ This definition shows that one of important things is examining organised crime is to recognize the significance of a time period, i.e. that organised crime is the activity carried on with the intention to last as long as possible and to exert corrupt influence on the place and persons that it affects for as long as possible. This means that there are no, or just few, organised crime activities or groups which operate during a short period of time. This is why it can be said that one of the specific and main characteristics of organised crime is precisely the length of its operation over time.

The *European Union* did not accept the model of developing a single definition of organised crime. Rather, it adopted a list of 11 characteristics of organised crime, of which six must be present for any crime to be classified as organised crime. Those characteristics are:

1. link and collaboration between two or more people,
2. each having their own appointed tasks,
3. for a prolonged or indefinite period of time,
4. using some form of discipline and control,
5. suspected of the commission of serious criminal offences,
6. operating at international level,
7. using violence or other means suitable for intimidation,
8. using commercial or other businesslike structures,
9. engaged in money laundering,
10. exerting influence on politics, the media, public administration, judicial authorities or economy, and
11. determined by the pursuit of profit and/or power.

⁴ Paoli L. and Fijnaut C. (2006): Organised Crime and its Control Policies. For more information, see: <http://arno.uvt.nl/show.cgi?fid=71401>

As said above, six of the aforementioned characteristics must be present for any crime to be classified as organised crime, as treated by the European Union. Of those six characteristics, four must be those numbered 1, 3, 5 and 11 for a crime to be classified as organised crime, as understood by the EU.

In addition to attempts made by some international organisations to define organised crime, many scientists and professionals, primarily those in the areas of law, economics and other social sciences, have also tried to provide their own as holistic definitions of this phenomenon as possible. For example, Howard Abadinsky, one of the most important experts in the U.S. who is studying organised crime, defines organised crime in his excellent book entitled "Organised Crime" as "*a nonideological enterprise involving a number of persons in close social interaction, organized on a hierarchical basis, with at least three levels/ranks, for the purpose of securing profit and power by engaging in illegal and legal activities*".⁵ In this definition, Abadinsky puts an emphasis on organised crime associations which can be engaged also in legal activities, such as construction of residential and business buildings, provision of utility services, and the like.

Regarding organised crime as a negative social phenomenon and its definition, again it is necessary to differentiate in international literature between two groups of authors. The first group of authors (Elliott, Schneider, Kaicer, etc.) believe that there is an explicit link between the states and organised crime. In this context, they look at organised crime as an enterprise involving, in addition to the existence of a criminal organisation, the maximum level of organisation, a highly organised hierarchy, appointed tasks, discipline and planning of criminal activities, for the purpose of obtaining gain and securing profit.⁶ However, the other group of authors (Kiney, Rosman, Schuler-Springourm, etc.) believe that "the existence and operation of organised crime does not require the link between a criminal organisation and the state, rather, the existence of a criminal organisation is sufficient".⁷ These sharply opposed evaluations lead to a conclusion that numerous international authors do not maintain identical positions on what organised crime is. On the contrary, they maintain opposing opinions, usually based on their own empirical research. The result is numerous definitions of organised crime which are increasing often used by domestic theoreticians.

⁵ Available at: <http://www.organized-crime.de/OCDEF1.htm>

⁶Bošković, M. (2004): Organizovani kriminalitet i korupcija, High Home Affairs School (Visoka škola unutrašnjih poslova), Banja Luka.

⁷ Ibid.

1.3. Definitions of organised crime in the region

Like in the previous example, regarding a definition of organised crime in the region, it is also possible to differentiate between two groups of authors. The first group of authors, who look at organised crime as the link between the state authorities and criminals, comprises the definitions by Abazović, Turek, Aljoš, Bogdanović, etc. This group of authors base their definitions on the opinion that “*organised crime exists when criminals and their activities have penetrated into vital institutional structures of the society and the state, or when there is a functional and operating link and nexus between office holders and criminals*”.⁸ To the same group of authors belongs also Dobrivoje Radovanović. According to his definition, there must be a nexus between organised crime and the state, and there is no organised crime without collaboration with government, irrespective of a political party or regime in power. Radovanović also emphasizes that it depends on the ability of organised crime how far it will reach the top government levels and which structures it will conquer. Smajić says that we always have to look at organised crime in connection with public officials. He corroborates this with the strategic paper for combating organised crime and corruption⁹ where the cause of emergence and development of organised crime is defined as “a fast coalescence of the top levels of government and organised crime which gained momentum and got into full swing during the war, while its exponents in some instances gained even political significance.”¹⁰

In this context, Đorđe Ignjatović's definition seems to be quite interesting. This author holds that there is a broad and a narrow definition of organised crime. *In broader terms*, organised crime means “*criminal activities carried out by a group of persons*”, while *in narrow terms*, this notion implies, in addition to a group of criminals, also some basic requirements, such as “*the existence of a tightly organised criminal organisation with a clear division of the tasks among its members, organisation of a continued economic activity for the purpose of generating profit, the use of violence as a means of achieving goals, contacts with the police,*

⁸ Abazović, D. M. (2008): Ogleđi o bosanskohercegovačkoj zbilji, DES, Sarajevo.

⁹ Bosnia and Herzegovina Strategy to Combat Organised Crime and Corruption (2006-2009), adopted by the BiH Council of Ministers in March, 2006.

¹⁰ Smajić, M. (2010): Organizovani kriminal u Bosni i Hercegovini – Tranzicijske dileme. Sarajevo: Faculty of Political Sciences. Page 148

judiciary and executive authorities, aimed at corrupting them, for the purpose of buying political patronage for immunity from criminal prosecution.”¹¹

On the other hand, the authors who do not explicitly mention the link between the state and organised crime, although it indirectly stems from the analysis of their texts, are Stojanović, Vasiljević, Pavišević and others. According to Stojanović, “*organised crime implies a structure which includes other forms of crime, or abuses various sectors and spheres of illegal economy, infiltrating the economy and even the political and administrative world*”.¹²

Vasiljević¹³ offers a similar definition. In defining organised crime, he starts from the joint elements of the group of punishable acts indicating that they are organised, as an important feature which exists in all forms of organised crime. Those are primarily association of a number of persons over a longer period of time. The purpose of association of that kind is to achieve a multi-layered organisation (management, planning, securing jobs, execution of a planned activity), to meet the needs of citizens or larger or smaller groups, including the state, in contravention of the law, and to secure means and procedures for carrying out an illicit activity. Apart from a myriad of nuanced definitions in the domestic literature, it is peculiar that both groups of authors from our country and the region share the opinion that the main motivating power of organised crime, as a heterogeneous and complex phenomenon, is financial gain, or more precisely, generation of massive profits quickly and no risk of exposure in such criminal activities.

In addition to the above approaches to defining organised crime, there are also various approaches to defining another complex term from the same area. That is the term “organised criminal group”. For the purposes of this study we shall not go into a theoretical analysis of this term and will accept the definition of an organised criminal group adopted for the purposes of the United Nations Convention against Transnational Organized Crime.

Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious

¹¹ Ignjatović, Đ. (1988): Organizovani kriminalitet – drugi deo, Policijska akademija, Belgrade

¹² Stojanović, Z. (1995): Organizovane forme kriminaliteta, Bezbednost i društvena samozaštita, Belgrade.

¹³ Vasiljević, V. (1990): Prevencija i represija organizovanog kriminala, Bezbednost i društvena samozaštita, Belgrade.

crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit. (Article 2 of the Convention).

2. SOME OF THE PROBLEMS IN DEFINING ORGANISED CRIME

As stated above, since there are a huge number of international and domestic authors who study organised crime, there is no single and generally accepted definition of this phenomenon as yet. As a consequence, there is a variety of approaches, which are usually based on opposing views of authors and individual empirical thinking.

2.1. Basic differentiation of the terms related to organised crime

In domestic and professional literature the terms correlated with organised crime are often used interchangeably, however, in practice, they are defined completely differently. This is why below we shall focus on the analysis of the terms transnational crime, international crime, professional crime and “white collar” crime and explain each of them separately.

2.1.1. Transnational crime and organised crime

Over the last two decades, the term transnational crime has become the main preoccupation that engrosses the academic corps of all important criminologists. The reasons for preoccupation of the authors with this issue should probably be sought in the scope and complexity of transnational crime and its gradual becoming the biggest global threat to government institutions and citizens. However, the results of earlier criminological research show that this term has been used in the world literature for over three decades.

The term “transnational crime” was first defined by the United Nations organisation dealing with crime prevention and criminal justice. It happened during the Fifth UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1975, with the aim to find an adequate term for one form of crime which has the effect across international borders, jeopardising the legal systems in a number of countries.

During that period it was noticed that the mechanisms employed by some states, but also by the international organisations which were the relevant address for consultations aimed at prevention and suppression of transnational crime, did not prove to be sufficiently efficient, certainly not to the desired extent. As a consequence, precise determination and definition of the term “transnational crime” did not yield the desired result either. It remained the same until 2000, when the United Nations adopted the Convention against Transnational Crime in Palermo, where the UN defined transnational crime as “a crime committed in more than one state or is related to or causes important consequences in a number of states”.¹⁴ Definitions of transnational crime by domestic authors are also based on the above definition. While adding some other elements, they define organised crime as “criminal groups which have leaders in one state but due to the scope of criminal activities they operate also in other countries”.¹⁵

The explanation is provided by the fact that modern-day crime as such knows of no borders as it is becoming increasingly easy for criminal groups to establish connections with similar groups or organisations in other countries, which gives their activities a transnational character.

However, although there is not yet the full agreement on the name of the forms of crime which are characterised by close collaboration among criminal groups or organisations from a number of states, transnational crime is the term which is most often used to refer to that form of activity. Other names, such as, for example, multinational organised crime and international organised crime, are also in use. As the distinction between these three terms is possible only on the ground of their basic characteristics, former Interpol Secretary General Bossard indicated in his famous book “Transnational Crime and Criminal Law”, published in 1990 in Chicago, that a crime, from a legal aspect, is international only if such an anti-social activity is prohibited by the laws of a particular country. Bossard adds that “the basic characteristics of transnational crime must include the following:

- that the offender crossed at least one national border to commit a crime;

¹⁴ For more information, see:

<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

¹⁵ Petrović, B. and Dobovšek B. (2007): Mreže organiziranog kriminaliteta, Pravni fakultet, Sarajevo.

- the nature of offences (like international drug trafficking), their consequences (forged banknotes of one state circulating in other states) or a transnational character of an activity is determined by the perpetrator (a pickpocket, in order to commit an offence, cross from one state to another).”¹⁶

In considering the offences which should be grouped into a category of international crimes, Bossard again starts from the Interpol's classification and divides all such behaviours into five groups:

1. “offences against the person: murders and direct physical harm, crime against human rights (here, he includes the crimes by which the state abuses human rights, and slavery), pornography, trade in hazardous material and terrorism
2. offences against property: robbery, burglary, coercion, pocket-picking as an international criminal activity, thefts with transnational consequences (such as car thefts, thefts of cultural property, etc.)
3. international “white collar” crimes: fraud, computer crime, money laundering.
4. the crime of forgery: art forgery and counterfeiting industrial property, document forgery, counterfeiting foreign banknotes and coins
5. smuggling: illegal drug trade, smuggling other goods (and people)”¹⁷.

In addition to the above characteristics, Bossard concludes that for a crime to be considered international crime, criminal organisations must fulfil the requirements of permanency, excellent structure, a strict hierarchy and secrecy.

2.1.2. International crime and transnational organised crime

In domestic and international literature the term “international crime” is often used as a synonym for transnational crime. But it is wrong to use these two terms in theory interchangeably because in criminological and criminal law terms, the terms international and transnational are not one and the same (in terms of both meaning and substance). In this regard, in order to show the distinction between these two terms, we shall use the general definition under which international crime in criminological sense represents the crime of

¹⁶ Bossard, A. (1990): *Transnational Crime and Criminal Law*, University of Illinois at Chicago.

¹⁷ *Ibid.*

criminal organisations or groups operating in a number of states or the consequences of their activity affect a number of states.

Unlike the criminological definition, in the sense of criminal law, the offences which violate international law, both the common law and the treaty law, and which imply criminal liability of perpetrators are most often considered as international crime. Of course, it is necessary to emphasize here some other offences, particularly those that the international community is interested in, which include war crimes, the crimes of genocide, illegal trade in arms and drugs, trafficking in human beings, aircraft and ship hijacking, assassinations, attacks on diplomatic officials and other similar offences. According to most authors, these are the only characteristics which differentiate international crime from transnational crime, because such serious crimes are strictly prohibited by the laws of certain states.

2.1.3. Professional crime and organised crime

Regarding the relationship between the terms professional and organised crime, most of domestic and international authors do not dare draw a line between them. Dick Hobbs, one of eminent theoreticians, in his understanding of the terms professional and organised crime, starts from the assumption that “the majority of members of criminal organisations are in the category of professionals who in perpetrating crimes use special skills just like other working people”, which is the reason why Hobbs talks about both professional and organised crime at the same time.

A similar opinion is maintained by Sue Titus Reid¹⁸ who says that in many countries all of these types of crime are synonymous, using a definition by Alfred Lindesmith under which “organised crime is usually professional crime (...) involving the system of specifically defined relationships with mutual obligations and privileges. However, the authors who maintain this opinion are ignoring a very important fact, which is that members of such associations do not belong to a group of professional criminals, just like, on the other hand, not all professional criminals belong to criminal organisations. On the contrary, professional

¹⁸ Reid, S. T. (2011): *Crime and Criminology*, Thirteenth edition.

criminals are often individuals who were not offenders in their youth and their criminal career was not a gradual process, which is the reason why it is more difficult to detect them. Second, professional criminals are nearly always oriented to generating huge profits and their superiority arises precisely from the ability to avoid being unmasked and if caught, to avoid being punished.

2.1.4. “White collar” crime and organised crime

“White collar” crime is an old crime, although theoretical explanations of this phenomenon are relatively new. The earliest documented case of a “white collar” offence dates back to the 15th century England in what is known as the Carrier's Case, a situation where the agent entrusted to transport wool attempted to steal some of it for himself. The term “white collar crime” was first defined by Edwin Sutherland, then an influential criminologist and sociologist who also served as a president of the American Sociological Society. Sutherland believed that the mere term “white collar” crime originates in the assumption that wearing a white shirt and a tie is an unavoidable part of corporative dress code in public administration and business world. The term “white collar” crime has been used ever since as a generic term for nonviolent crime, primarily the crime motivated by private gain, whose perpetrators are members of public administration or professionals in business circles.¹⁹

However, some authors²⁰ believe that the term “white collar” is in modern time interpreted and used as a crime which is fundamentally different from what street crime. In street crime a perpetrator typically confronts the victim or his or her property, while most of “white collar” offences are committed through a fraud and generally does not require the use of firearms but, on the contrary, a certain amount of sophistication in fraudulent practices. In this regard, such offences can relatively easily be concealed and the victim of the crime is hard to detect, which is why it can be said that a common characteristic of all offences classified as “white collar” crime is that the perpetrator used his or her authority based on his or her status, non-violently, through a fraud.

¹⁹ For more information, see: <http://www.heritage.org/research/reports/2004/10/the-sociological-origins-of-white-collar-crime>

²⁰ Ibid.

On the other hand, it is very difficult to make a distinction between the terms “white collar” crime and organised crime. In considering the link between them, it is possible to single out three groups of authors with much nuanced views. The first group of authors start from the assumption that both terms are used to describe the same group of crimes, because in committing criminal activities, their common feature is their intent to undermine the principles of the free market. However, a few other authors would not agree with this, making in that context a clear distinction between the term “white collar” crime and organised crime, based on the fact that legitimate businesses make profits mainly from legal activities and they do not use violence to create and maintain cartels (Livingston, 1996:225).

Comparing the “white collar” crime with other forms of crime, this group of authors gives an example of case law showing that the length of trial of offenders who committed “white collar” offences and of their prison sentences was significantly shorter, compared with offenders of other forms of crime. Nevertheless, there is also a group of authors who maintain that it is difficult to determine the difference between “white collar” crime and organised crime both theoretically and empirically (Passas and Helken, 1993).

2.1.5. Organised crime and organised criminal enterprise

To sum up, once we have made a distinction between the terms “transnational crime”, “international crime”, “professional crime” and “white collar” crime, we shall make a notional distinction between the terms “organised crime” and “organised criminal enterprise”. In the beginning we said that organised crime, in its basic meaning, is most often understood as a criminological notion, irrespective of which group of authors maintains it or whether it indicates the existence of the link between state authorities and a criminal organisation or whether the existence of a criminal organisation is sufficient. In contrast, the term “organised criminal enterprise” belongs to the group of criminal justice notions and is usually understood in the criminal legislation as a form of complicity and is organised by a criminal association.

In defining organised criminal enterprise, most theoreticians opt to believe that organised criminal enterprise is the same as organised crime, which is substantially wrong. For example, if we compare the basic features of these two terms, we shall notice that in

organised crime those are: collaboration among at least three persons, who operate over a longer period of time or indefinitely. Those persons form syndicates in order to obtain profit, they use, or threaten to use, violence within the territory of their operation and exert influence on the members of the political, executive or judicial authorities. The term criminal enterprise is characterised by only three important features, such as the existence of a gang, conspiracy, group or association, they have a criminal plan and have committed at least one criminal offence. This is why it is possible to conclude on the basis of those characteristics that organised crime is a broader term than criminal enterprise as it implies the existence of a number of features that characterise organised crime and differentiate it from other forms of crime.

3. LEGISLATION AND INSTITUTIONAL CAPACITIES

3.1. Domestic and international legal documents

In an effort to ensure a better efficiency of criminal procedure, the domestic legislation has been changed and amended several times. The amendments increased the possibility for carrying out special investigative measures, as an important segment of the efficient fight against organised crime. More specifically, the changes were made to the BiH Criminal Procedure Code and the entity CPCs²¹ and the CPC of the Brcko District of BiH were harmonised with the state-level CPC.

In addition to the quantitative improvement of efficiency of criminal procedures, also qualitative improvements were made. For that purpose, the CPC is adapted to the contemporary needs and requirements, and is free from ideological legacy and in some areas (the rights of parties to a criminal proceeding) it is harmonised with international legal standards, particularly with the European Convention on the Protection of Human Rights and Fundamental Freedoms.

In accordance with the above-mentioned amendments to the legislation of Bosnia and Herzegovina (at the state, entity and the Brcko District levels), we analysed how and where organised crime offences are treated, and their criminalisation. In short, organised crime offences are defined in the four Criminal Codes in Bosnia and Herzegovina.

First of all, they are defined in the *Criminal Code of Bosnia and Herzegovina*²², *BiH CC* – in Chapter XXII. The Criminal Code recognises organised crime. In addition to organised crime, also the acts of conspiracy, preparation and associating as forms of complicity, or as the stages preceding the commission of organised crime offences, are also punishable by the

²¹ Criminal Procedure Code.

²² Criminal Code of Bosnia and Herzegovina, “BiH Official Gazette“, Nos. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10. The Criminal Code of Bosnia and Herzegovina was imposed by the High Representative and published in the “BiH Official Gazette” No. 3/03. The above mentioned changes to the imposed Code were published in the “BiH Official Gazette” No. 32/03. The text of the law was approved by the Parliamentary Assembly of BiH and was published in the “BiH Official Gazette” No. 37/03, and was amended several times. All of the amendments were published in the “Official Gazette of Bosnia and Herzegovina“ Nos. 61/04, 30/05, 53/06, 55/06, 32/07, 8/10.

law. These unlawful behaviours are specified in a separate chapter of the Criminal Code, which shows how serious the approach to combating organised crime is. The provisions of the Criminal Code pertaining to organised crime are harmonised with the standards and provisions of the international documents that Bosnia and Herzegovina acceded to prior to the passage of the Criminal Code.

Organised crime is criminalised also by the entity Criminal Codes. The *Criminal Code of the BiH Federation – FBiH CC* – defines in Chapter XXIX (Criminal Offences against Administration of Justice): Article 337 – Conspiracy to Commit Criminal Offences; Article 339 – Preparing Criminal Offences; Article 340 – Association for the Purpose of Committing Criminal Offences; Article 341 – Participation in the Group which Commits a Criminal Offence; Article 342 – Criminal Organisation.

In the other entity, these offences are punishable under the *Criminal Code of Republika Srpska – RS CC* – in Chapter XXX, (Criminal Offences against Public Order and Peace), which include the following offences: Article 383 – Criminal Association; Article 383 – Organised Crime; Article 384 – Conspiracy to Commit a Criminal Offence.

In addition to the above criminality, offences of organised crime covered under the Criminal Codes at the state and entity levels, offences of organised crime are punishable also under the *Criminal Code of the Brcko District of BiH – BD BiH CC* – Chapter XXIX. They include: Criminal Offences against Administration of Justice: Article 332 – Conspiracy to Commit a Criminal Act; Article 333 – Preparing a Criminal Act; Article 334 – Association for the purpose of Committing Criminal Acts; Article 335 – Participation in the Group of Persons who Commit a Criminal Act; Article 336 – Criminal Organisation.²³

For the purpose of implementing measures to combat organised crime more effectively, over the past eight years the Council of Ministers of Bosnia and Herzegovina has approved three strategies to combat organised crime: Strategy to Combat Organised Crime and Corruption (2006-2009); the Bosnia and Herzegovina Strategy to Combat Organized Crime (2009-2012) and Strategy against Organised Crime in Bosnia and Herzegovina for a period 2014-2016.

²³ Bosnia and Herzegovina Strategy to Combat Organised Crime (2009 – 2012), page 14.

3.1.1. Criminal law definition of organised crime

Under the Criminal Code of Bosnia and Herzegovina, an organised criminal group is defined as an organised group of at least three persons which has existed over a certain period of time, operating for the purpose of committing one or more criminal acts which are punishable by imprisonment for a term not less than three years.

The Criminal Code of Bosnia and Herzegovina defines “organised crime” in Article 250 as follows:

- (1) Whoever perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina as a member of an organised criminal group, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than three years.
- (2) Whoever as a member of an organised criminal group perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than five years.
- (3) Whoever organises or directs at any level an organized criminal group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina, shall be punished by imprisonment for a term not less than ten years or a long-term imprisonment.
- (4) Whoever becomes a member of an organised criminal group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than one year.
- (5) A member of an organised criminal group referred to in paragraphs 1 through 4 of this Article, who exposes the organized criminal group, may be released from punishment.

From the perspective of effective criminal prosecution, of particular importance is the existence of two legal stipulations contained in the above sections of the law. Under the Code, also punished shall be the person who only becomes a member of an organised criminal group which by joint action perpetrates, or attempts to perpetrate, a criminal offence. A member of the group does not have necessarily to participate in the commission of, or in an attempt to commit, a criminal offence in order to be criminally liable for the criminal offence perpetrated or attempted by the organization he/she belongs to.

Another stipulation refers to the possibility for a member of an organized criminal group who exposes an organisation and its activities to receive a more lenient punishment or to be released from punishment. This stipulation represents a particularly important tool in the hands of prosecution and law enforcement agencies because all too often the facts obtained from “insiders”, i.e. from the member of the organised criminal group who chooses to cooperate with the judicial authorities, are crucial for effective criminal prosecution and trial of organised crime cases.

3.1.2. International standards in the B&H legislation

Bosnia and Herzegovina, as a party to various international organisations, notably the United Nations, the European Union and Council of Europe, is also a party to a whole variety of international instruments governing punishment of certain criminal behaviours through national criminal law and which contribute to prevention of crime. Those instruments may refer either directly or indirectly, to the fight against organised crime.

Signed international treaties and generally accepted international law rules are part of domestic legal system and have precedence over domestic legislation and apply directly when conflicting with the national law.

The most important international documents which directly treat the fight against organised crime are:

- a) United Nations Convention against Transnational Organized Crime, of 15 November 2000;²⁴
- b) Recommendation Rec (2001) 11 of the Committee of Ministers to Member States Concerning Guiding Principles of the Fight Against Organised Crime, of 19 September 2001;²⁵
- c) Joint Action of 21 December 1998 on Making it Criminal Offence to Participate in Criminal Organisation in the EU Member States.²⁶ Of particular importance for Bosnia and Herzegovina, in terms of harmonisation of legislation with the EU acquis, is the acceptance of the guidelines and standards laid down in the Action Plan to Combat Organised Crime²⁷, and
- d) Pre-accession Pact on Organised Crime between the Member States of the European Union and the Applicant Countries of Central and Eastern Europe and Cyprus.²⁸

In addition to the above international documents, there is a whole series of conventions, protocols and recommendations of the UN Organisation, the European Union and Council of Europe and also of other organisations which are considered to be important international instruments in the fight against organised crime, which must be complied with in the legal harmonisation process. Bosnia and Herzegovina concluded 16 bilateral agreements on cooperation in fighting organised crime. In addition to those agreements, many agreements on cross-border cooperation and sharing security information with the countries in the region, the European Union and beyond have also been signed. Guided by this commitment, in the early 2014 Bosnia and Herzegovina and the Federal Ministry of the Interior of the Federal Republic of Germany signed a Joint Statement of Intention to Cooperate in Fighting Organised Crime. The fight refers primarily to fighting terrorism, organised crime and illegal drug trade. Below is a table with Bosnia-Herzegovina's activities on strengthening international cooperation in fighting organised crime and other serious crimes.

²⁴ United Nations Convention against Transnational Organized Crime, signed on 12 December 2000, and ratified on 24 April 2002.

²⁵ Recommendation Rec (2001)11 of the Committee of Ministers to Member States Concerning Guiding Principles on the Fight against Organised Crime.

²⁶ Joint Action of 21 December 1998 Adopted by the Council on the Basis of Article K. 3 of the Treaty of European Union, on Making it Criminal Offence to Participate in Criminal Organization in the Member States of the European Union OJ L351 of 29 December 1998.

²⁷ Action Plan to Combat Organised Crime (Adopted by the Council on 28 April 1997); OJ C 251

²⁸ Pre-Accession Pact on Organised Crime Between the Member States of the European Union and the Applicant Countries of Central and Eastern Europe and Cyprus (Text approved by the JHA Council on 28 May 1998); (98/C220/01).

STUDY OF ORGANISED CRIME IN BOSNIA AND HERZEGOVINA

	Name of agreement	Place and date of signature	Published in the BiH Official Gazette
1.	Agreement on Cooperation in the Fight against International Terrorism, Illegal Trade in Drugs and Psychotropic Substances and Organised Crime, between BiH Council of Ministers and the Government of the Republic of Turkey	Ankara: 21 June, 2000	No. 4/04
2.	Agreement between the Government of the Republic of Bosnia and Herzegovina and the Government of the Republic of Hungary on Cooperation in the Fight against Terrorism, Drug Trafficking and Organised Crime	Budapest: 21 April, 1996	No. 8/05
3.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Greece on Cooperation in the Fight against Crime, Particularly Terrorism, Illegal Drug Trade and Organised Crime	Athens: 9 February 2006	No. 14/06
4.	Agreement on Cooperation between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Italy in the Fight against Organised Crime	Sarajevo: 28 January, 2002.	No. 10/07
5.	Agreement between Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Slovakia on Cooperation in the Fight against Crime, and Particularly Terrorism, Illicit Drug Trade and Organised Crime	Sarajevo: 5 June, 2006	No. 3/07
6.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Arab Republic of Egypt on Cooperation in Suppression of Crime	Cairo: 14 December 2006	No. 8/07
7.	Agreement between Bosnia and Herzegovina and the Swiss Confederation on Police Cooperation in the Fight against Crime	Bern: 24 April, 2007	No. 12/07
8.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of Romania on Cooperation in the Fight against Terrorism and Organised Crime	Bucharest: 4 June, 2007	No. 2/08
9.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of Montenegro on Cooperation in the Fight against Terrorism, Organised Crime, Illegal Trade in Drugs, Psychotropic Substances and Precursors, Illegal Migration and Other Crimes	Budva: 7 September 2007	No. 02/08
10.	The Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Macedonia on Cooperation in the Fight against Terrorism, Organised Crime, Illegal Trade in Drugs, Psychotropic Substances and Precursors, Illegal Migration and other Crimes	Ohrid: 21 March, 2008	No. 8/08
11.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Council of Ministers of the Republic of Albania on Cooperation in the Fight against Crime, Particularly Terrorism, Illegal Drug Trade and Organised Crime	Sarajevo: 24 March, 2009	No. 07/09
12.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Croatia on Police Cooperation in the Fight against Cross-Border Crime	Sarajevo: 17 September 2010	No. 09/11 became effective on 28 Jan 2012
13.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of The Hashemite Kingdom of Jordan on Cooperation in the Fight against Crime, particularly Terrorism, Illegal Drug Trade and Organised Crime	Amman: 30 January, 2011	No. 8/11
14.	Agreement between Bosnia and Herzegovina and the Kingdom of Spain on Cooperation in the Fight against Crime, particularly	Madrid: 3	

	Terrorism, Illegal Drug Trade and Organised Crime	March, 2011	No. 8/11
15.	Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Moldova on Cooperation in the Fight against Organised Crime, Illegal Trade in Drugs and Psychotropic Substances, Terrorism as well as other forms of Serious Crime	Brdo kod Kranja: 17 May, 2012	Became effective on 20 Feb 2013
16.	Agreement between Bosnia and Herzegovina and the Czech Republic on Cooperation in the Fight against Crime, particularly Terrorism, Illegal Trade in Drugs and Psychotropical Substances and Organised Crime	Sarajevo: 12 September, 2013	-

In addition to the above, Bosnia and Herzegovina ratified the UN Convention against Transnational Organized Crime and the three Protocols thereto, adopted in Palermo on 15 November, 2000. Also, BiH continues to fulfil the provisions of the Pre-Accession Pact on Organised Crime and the Stability Pact – PAPEG – and is making a strong effort to fulfil its obligation of contributing to the Anti-Corruption Initiative of the Stability Pact - SPAI. Within these efforts, Bosnia and Herzegovina signed on 11 July, 2013 in Zagreb a Memorandum of Understanding for the Amendments to the Memorandum of Understanding for Cooperation in the Fight against Corruption via the Anti-Corruption Initiative for Southeast Europe.

It can be concluded from the above that the institutions of Bosnia and Herzegovina are active in all forms of cooperation with the EU and candidate countries. However, in the future, if institutions of BiH want to be a serious part of those processes, they will have to be more consistent in implementing their commitments.

The authorities of Bosnia and Herzegovina did not sign the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, of 21 November 1997. This institution²⁹, which is important primarily for the business sector, adopted the Rules of Conduct to Eradicate Bribery in International Business Transactions. These Rules were adopted in 1996 and are not binding for economic operators, rather, their adoption and implementation reflect the situation in and commitment of national economies. It is necessary

²⁹OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, of 21 November 1997. The signing of the Convention was set as a condition to the BIH authorities for liberalisation of the visa regime, but later this requirement was withdrawn. The complexity of the text of the Convention is proven by the fact that some of the European states did not sign it.

that the companies in BiH, when attempting to join international trade transactions, implement the rules directly or through the existing codes of ethics.

In the future, it is planned to enhance the activities within the Group of States against Corruption – GRECO – and other Council of Europe's programmes which are important for prevention and elimination of corruption, such as PACO (Programme against Corruption and Organised Crime in South-East Europe) and MONEYVAL (Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism).

Bosnia and Herzegovina should continue to take an active part in regional initiatives and to encourage cooperation for the purpose of facilitating the sharing of the relevant information among the relevant law enforcement agencies, provision of mutual legal assistance, assistance in investigations, prosecution and trials. There are different forms of cooperation, including operational cooperation and mutual assistance among various agencies/institutions of the countries in the region. The goal is to establish a functioning system of mutual cooperation, to exchange experiences and to eliminate legal and practical obstacles hampering cooperation among the countries.

3.2. Capacities to combat organised crime

Regarding the capacities and institutional frameworks for the fight against organised crime, Bosnia and Herzegovina has a broad range of mechanisms in place. Capacities to fight organised crime are established in accordance with the constitutional structure and organisation of government in BiH. Their organisation goes from the highest level, the state level, down to the entity level, and further down to the local level, i.e. the level of cantons and the police of the Brcko District of BiH. The basic overview of the capacities to fight organised crime is given below.

3.2.1. Capacities at the state level

On top of this pyramid is the *Parliamentary Assembly of Bosnia and Herzegovina*, which under the Constitution, among other things, adopts laws and other regulations. There are also

entity parliaments, cantonal assemblies and the assembly of the Brcko District with similar tasks.

The *Office of the Prosecutor of Bosnia and Herzegovina* is a national and independent institution which prosecutes perpetrators of criminal offences and other punishable acts, prosecuted by virtue of office. The jurisdiction and authority of the Office of the Prosecutor is defined in the Bosnia and Herzegovina Office of the Prosecutor Act, and among other things, the Office of the Prosecutor has jurisdiction over organised crime offences at the level of Bosnia and Herzegovina and particularly over the criminal offences of international drug trafficking, trafficking in persons, corruption perpetrated by the officials of Bosnia and Herzegovina and over economic crimes which undermine the economic and market integrity in Bosnia and Herzegovina. In order to suppress and investigate and prosecute organised crime more effectively, a Special Department for Organised Crime, Economic Crime and Corruption was formed within the Office of the Prosecutor. The Department leads pre-trial procedures, directs the police and takes actions necessary to detect criminal acts which fall under its jurisdiction; it orders investigations, issues and represents indictments and takes any other legal action and measure for the purpose of seizure and confiscation of items and property obtained through a pattern of criminal activity.

The Bosnia and Herzegovina Court Act defines that the *Court of BiH* has jurisdiction over the criminal offences punishable under the BiH Criminal Code and other laws of Bosnia and Herzegovina. The Court shall decide the matters under its jurisdiction in a legal, objective and timely fashion. For the purpose of as effective fight against organised crime as possible, the Section II for Organised Crime, Economic Crime and Corruption was formed within the Criminal Division of the Court of BiH.

The *Council of Ministers of BiH* is the institution which enforces laws and other regulations, concludes international agreements, makes a strategy to combat organised crime and its action plan, and oversees their implementation. Thus far, the Council of Ministers has made three strategies³⁰ to fight organised crime. The Council of Ministers may form task forces as advisory bodies for the purpose of addressing individual issues as best as possible.

³⁰ Strategy to Combat Organised Crime and Corruption (2006-2009)
The Bosnia and Herzegovina Strategy to Combat Organised Crime (2009-2012)

The *Intelligence and Security Agency (OSA)* is an independent agency formed to collect security and intelligence information and as such, it plays a crucial role in fighting organised crime. The competences of the OSA are defined in the Bosnia and Herzegovina Intelligence and Security Agency Act³¹ and the OSA reports directly to the Parliamentary Assembly of Bosnia and Herzegovina. More specifically, the OSA's activities include collection, analysis and distribution of the information on organised crime which, by its nature, poses a threat to BiH's and global security, particularly in the areas of trafficking in drugs, arms and humans, unlawful international production of weapons of mass destruction or components thereof, materials and devices needed for their production; unlawful trade in products and technologies which are under international control.

The *Indirect Taxation Authority of Bosnia and Herzegovina (ITA)* is also an independent institution at the level of Bosnia and Herzegovina. It is responsible for implementing the laws and other regulations on indirect taxation, and the policies adopted by the BiH Council of Ministers at the proposal of the Governing Board of the Indirect Taxation Authority. Under the Indirect Taxation Authority Act,³² the ITA is responsible for suppression, detection and investigation of customs, tax and other offences and under prosecutorial instructions, for carrying out investigations of criminal offences related to indirect taxation, through its organisational unit, the Division for Implementation and Compliance with Customs and Taxation Legislation. Its officers are authorised to carry out inland controls and reconnaissance and to take all operational, tactical and investigative actions to detect and prove criminal and civil offences and to press charges for all criminal and civil offences, including search of premises and arrest of suspects.³³

In addition to the above capacities, there are two agencies at the state level within the *BiH Ministry for Security*, which carry out operations for the purpose of suppressing organised crime. They are:

1. The Border Police of BiH (BP BiH), and
2. State Investigation and Protection Agency (SIPA)

Strategy to Combat Organised Crime in Bosnia and Herzegovina for a period 2014-2016. The Strategy was approved by the BIH Council of Ministers at the 91st meeting held on 16 April, 2014.

³¹ “Official Gazette of Bosnia and Herzegovina, No. 12/04“

³² “Official Gazette of Bosnia and Herzegovina, Nos. 44/03 and 52/04“ and “Official Gazette of Bosnia and Herzegovina, No. 89/05”

³³ http://www.uino.gov.ba/b/Suzbijanje_prijevara/

The *Border Police of Bosnia and Herzegovina* is responsible³⁴ for the implementation of the Law on Monitoring and Control of the State Border Crossing, the Law on Movement and Stay of Aliens, for the prevention, detection and investigation of criminal offences punishable under the criminal legislation in Bosnia and Herzegovina when such criminal offences are directed against the state border security or against the execution of tasks and duties of the Border Police. More specifically, the BiH BP investigates criminal offences under the provisions on abuse of public documents used to prove one's identity and the visa requirements and provisions on movement and stay of aliens and asylum, if they are committed when crossing the border or are directly linked to crossing the border, criminal offences related to transporting illicit goods, goods without official permission across the border, or in the case of violating the bans. The Central Investigative Office within the BP is responsible for detecting and reporting on the offences of organised crime particularly human trafficking, illegal migrations and organised forms of smuggling of goods.

The State Investigation and Protection Agency Act³⁵ defines the competences of the *Investigation and Protection Agency (SIPA)*. The State Investigation and Protection Agency is responsible for suppression of organised crime, terrorism, war crimes, human trafficking and other crimes against humanity and values protected under international law, and serious financial crimes. In addition to this Act, the SIPA is analysing the information and keep records under the BiH Police Officers Act, BiH Personal Data Protection Act and other laws of Bosnia and Herzegovina. With a view to carrying out the tasks and duties related to the prevention of money laundering and financing of terrorist activities as efficiently as possible, the Financial Intelligence Unit (FIU) is formed with the SIPA. The FIU has the prime responsibility in this area. The existing human resources and equipment make the SIPA the lead agency in conducting the most complex investigations of organised crime offences.

In addition to those two agencies, some departments within the Ministry for Security are dealing with organised crime issues. So, within the BiH Department for Police Coordination³⁶, which was formed as a result of the police reform in 2008, there is a *Division for International Police Operational Cooperation*. The Division is responsible for sharing

³⁴ The State Border Service Act, "Official Gazette of Bosnia and Herzegovina, No. 50/04"

³⁵ "Official Gazette of Bosnia and Herzegovina, No. 27/04"

³⁶ As one of the most important activities in which the Department was involved is the operation of the SELEC countries under the codename "Hermet", related to prevention and detection of illegal heroine and methamphetamine trade and actions towards prevention and detection of suspicious goods and persons on border crossings.

operational and strategic information within international police cooperation on a daily basis, through cooperation with the INTERPOL³⁷, EUROPOL and SELEC Centre, as well as through accredited foreign liaison police officers in Bosnia and Herzegovina.

Another is the *Office for Aliens' Affairs* which is an independent administrative organisation within the BiH Ministry for Security. The Office was formed under the Office for Aliens' Affairs Act and is independent in its operations. In the context of fighting organised crime, the Office plays a crucial role in prevention and suppression of illegal migrations as a potential risk. Through its operational activities, the Office is making its contribution, particularly in the procedures of validating letters of guarantee and approving aliens' stay, collecting the information on organisers of illegal transport and smuggling of persons, identifying the illegal migration routes, exchanging collected information with the law enforcement agencies in BiH, inspecting movements and stay of aliens, and undertaking repressive actions against them.

There is also the *Department for Fighting Terrorism, Organised Crime and Drug Abuse* within the Ministry for Security, which has a separate Division for Fighting Organised Crime and Corruption.

3.2.2. Entity capacities

At the entity level, the organisation of capacities for fighting organised crime is rather similar to that at the state level. This is particularly true for legislative capacities and the capacities for monitoring and implementation of certain activities. At the entity level there are two assemblies, i.e. two legislative authorities, which are responsible for adopting laws (*Parliament of the Federation of Bosnia and Herzegovina and National Assembly of Republika Srpska*). Since under the Constitution of the larger entity in Bosnia and Herzegovina, the BiH Federation, the entity has a complex structure consisting of ten cantons, each canton has its own legislative authority – an assembly. In addition to the ten cantonal assemblies, there is also the Assembly of the Brcko District of BiH. This means that

³⁷ In the course of 2012 the Interpol NCB Sarajevo launched and investigated 273 cases of economic crime and corruption, 138 cases related to trafficking in narcotic drugs, 717 cases of trafficking in vehicles and 71 cases of trafficking in arms and explosives. That same year there was an increase in the number of cases of economic crime and corruption, by 22.4 % and an increase of cases of trafficking in narcotic drugs by 35%.

there are 13 *parliamentarian capacities* for the fight against organised crime at the entity level and in the Brcko District of BiH.

The *Prosecution Service* is a single and independent institution which prosecutes perpetrators of criminal and other punishable offences which are prosecuted *ex officio*. For the purpose of prosecuting perpetrators of criminal offences, 20 prosecutor's offices are formed at the entity level. More precisely, two entity-level Prosecutor's Offices, ten cantonal Prosecutor's Offices, five district-level Prosecutor's Offices and the Office of the Special Prosecutor in the Republika Srpska entity with exclusive jurisdiction over organised crime cases. To this we should add also the Prosecutor's Office of the BiH Brcko District with a Special Department for the Prevention of Organised Crime and the Most Serious Forms of Economic Crime.

The *Court* is a third institution engaged in fighting organised crime. The Law on Courts defines a court as an institution which executes judicial authority in a legal, objective and timely fashion. At the entity level, there are two Supreme Courts, ten Cantonal Courts, five District Courts, 28 Municipal Courts and 19 Basic Courts. There is also a Court of Appeals and the Basic Court in the BiH Brcko District. From a statistical point of view, we can say that there are a total of 66 courts with an important role in fighting organised crime.

The *government* is the fourth institution involved in fighting organised crime. As such, the government enforces laws and other regulations, ensures unimpeded and professional work of its agencies formed to fight organised crime, proposes strategies to fight organised crime and oversees their implementation. At this level, there are two entity governments (Government of the BiH Federation and the RS Government), ten cantonal governments and the Government of the BiH Brcko District. This means that there are a total of 13 governments which are taking an active part in fighting organised crime with their capacities and within their powers.

The Ministries of the Interior are a very important segment of government in fighting organised crime. In addition to institutions at the BiH level, there are police operational authorities at the entity level which are taking an active part in fighting organised crime. Those are the Interior Ministry of the Federation (FMUP), the Interior Ministry of Republika Srpska and the Police of the Brcko District of BiH.

Since the entity of the Federation of Bosnia and Herzegovina is divided into ten cantons, each canton has its own Interior Ministry. The cantonal Interior Ministries consist of the Police Departments, formed on the territorial and functional principle. The Police Departments consist of two or more police stations (municipal level). The competences of the Interior Ministry of the Federation (of the Federation Police Department of the Interior Ministry of the Federation) are defined in the Home Affairs Act of the Federation of Bosnia and Herzegovina³⁸ and include, inter alia, suppression of the crimes of terrorism, international crime, drug trafficking, organised crime, locating and arresting perpetrators of those crimes in accordance with the above law. The authority of the cantonal Interior Ministries is defined in the cantonal Home Affairs Acts.

In the other entity of Bosnia and Herzegovina, Republika Srpska, the competences of the Interior Ministry of Republika Srpska are defined in the Home Affairs Act and the Police Officers Act of Republika Srpska. Under these Acts, one of the primary tasks of the Ministry is to suppress organised crime and corruption. In this regard, as one of the basic organisational units of the Ministry is the Department of the Crime-Investigation Police with a Unit for Suppression of Organised Crime and Corruption with a primary task of conducting investigations of organised crime and the most serious forms of economic crime and corruption, financial investigations and investigations of money laundering. Within the Department of the Crime-Investigation Police there is also a Division for Prevention of High-Tech Crimes. Within the six Public Security Centres within the Crime-Investigation Police Departments there are Units for Suppression of Organised Crime and Corruption and the Units for Suppression of Economic Crime.

The Police of the Brcko District of BiH has the full, in rem and territorial jurisdiction within the Brcko District of BiH, prescribed by the Police Act of the Brcko District of BiH.³⁹ A Division for Organised Crime and Drugs and a Division for Economic Crime and Corruption are formed within the Crime-Investigation Unit.

Based on the above overview of Bosnia and Herzegovina's institutional capacities for fighting organised crime, it can be concluded that capacities do exist. They are numerous, ranging across a broad spectrum, from legislative, operational, advisory to controlling

³⁸ Official Gazette of the Federation of Bosnia and Herzegovina, No. 49/05.

³⁹ Official Gazette of the Brcko District of BiH, No. 2/00 - 33/05

capacities. Regarding legislative capacities, there are 14 legislative capacities – assemblies - in BiH. Regarding executive capacities, they are even more numerous: there are 14 governments, 21 prosecution services and 67 courts. If we add to those capacities police and security agencies and the Ministry for Security, we get a striking number of **142 institutions** with powers and role in fighting organised crime.

4. MODALITIES OF ORGANISED CRIME

Starting from the fact that there is no generally accepted definition of organised crime and that there are some important characteristics of this phenomenon, there is a deeply rooted opinion among domestic and international authors that there is no single understanding of the forms in which organised crime manifests. The authors share an identical opinion only about one thing: that organised crime may manifest in various forms, in varied scope and intensity, and may spread into all spheres of social life and work. According to their understanding, the forms in which organised crime manifests may vary from one country to another, while such differences are recognizable particularly in Europe's countries and the United States of America.

The classification into 18 forms of organised crime, made by the United Nations General Assembly at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1975, is characteristic for Europe. Those are: money laundering, illicit traffic in drugs, corruption and bribery of officials, infiltration into legal businesses, bankruptcy fraud, trafficking in human beings, organ trade (...).⁴⁰ The US President's Commission on Law Enforcement and Administration of Justice divided in 1968 the organised crime activities into: "illegal or those satisfying the needs (such as gambling, loan sharking, narcotics and other goods and services) and activities in the area of economic operations and employment (infiltration into legitimate business and racketeering)".⁴¹ However, in contemporary environment, technical and technological development and rapid globalisation trends contributed to developing new organised crime activities which are posing an increasing threat to the contemporary civilisation.

In our region, there is also diverse understanding of the forms in which organised crime manifests. In this context it is possible to differentiate between two groups of authors, the authors whose opinion is based on the opinions maintained by international criminologists,

⁴⁰ For more information, see: The UN General Assembly Report (1975), The Fifth Congress on the Prevention of Crime and the Treatment of Offenders, Geneva. Available at:

http://www.asc41.com/UN_congress/5th%20UN%20Congress%20on%20the%20Prevention%20of%20Crime/025%20ACONF.56.10%20Fifth%20United%20Nations%20Congress%20on%20the%20Prevention%20of%20Crime%20and%20the%20Treatment%20of%20Offenders.pdf

⁴¹ For more information, see: <http://www.ohioattorneygeneral.gov/About-AG/Organizational-Structure/Organized-Crime-Investigations-Commission>

and the authors who are guided by years-long empirical experience and their own judgment. For example, Djordje Ignjatović, having considered the views of other authors (both domestic and international), and particularly the US authors, defines the following forms of organised crime: “racketeering, gambling, drug trafficking, disposal of hazardous substances, corruption, money laundering, bankruptcy fraud, insurance fraud and other unlawful activities”.⁴² In addition, there are other domestic definitions which are substantially not very much different from the above definition, and as such, they include an expanded list of the forms of organised crime. Therefore, taking into consideration the above views, as well as numerous international documents treating organised crime issues, we can say that there is a huge number of organised crime activities, the most dominant being drug trafficking, money laundering, human trafficking and some other forms of crime.

4.1. Drug trafficking

Since this is a very complex phenomenon, today drug trafficking is believed to be one of the most frequent organised crime activities in the world. With the development of civilisation an uncontrolled use of drugs developed over time, eventually devastating human personality, both spiritual and physical. In addition, drug addiction is increasing day after day. The question is what is the cause of an enormous increase in the use of and profit from narcotics? Under a prevailing opinion, the interest in making profit caused the drug epidemics more than all other causes together.⁴³ Profits from international illegal drug trade contributed to the creation of the so-called underground economy. It is increasingly difficult to locate plantations of raw material, illegal laboratories, drug warehouses, private airports and means of transportation. Profits of drug-related businesses, regardless of their type, bring criminals huge profits,⁴⁴ which contributes to encouraging criminals to engage in drug abuse and trafficking. These activities are most often organised and controlled by organised criminal

⁴² Ignjatović, Đ. (1998): Organizovani kriminalitet-drugi deo, Policijska akademija, Belgrade.

⁴³ According to the World Drug Report of the United Nations Office on Drugs and Crime (UNODC) for 2014, the frequency of the use of drugs is stable. Around 243 million people, or 5 % of the world population aged between 15 and 64 used illegal drugs in 2012. The number of problematic users of drugs in the meantime reached around 27 million, which is close to 0.6 percent of the world adult population or 1 in every 200 people.

⁴⁴ The information of the UN Office on Drugs and Crime (UNODC), whose managing body, the Commission on Narcotic Drugs (CND) is in session in Vienna since yesterday, reveals a worrying trend of increasing amounts of seized drugs across the world, and increasing profits of narco-traffickers amounting 320 billion US\$ per year globally, which is more than twice as big as the budget of the European Union. Judging by the amount in circulation, that market is the 21st largest “economy” of the world, said Antonio Maria Costa, director, UNODC.

Source: <http://www.blic.rs/Vesti/Svet/82911/Trgovci-drogom-godisnje-zarade-dva-budzeta-EU>

groups from the state and region, who establish direct links with manufacturers. Drug abuse and smuggling are related to other criminal activities: trafficking in arms and human beings, money laundering, loan sharking, coercion, etc. The extent and consequences of drug abuse reach epidemic proportions, and their prevention demands the engagement of all institutions and states in the world. A particular emphasis is put on drug abuse by young people, which by reason of its consequences and specific features demands a specific professional and social approach.

It is obvious that since its emergence until present, drug trafficking, as one of the forms of organised crime, has never stopped being a part of the social community.⁴⁵ It has skilfully captured the interest of many professional and scientific workers, it resulted in numerous conferences and international meetings and numerous documents were adopted. For the purposes of this study we shall mention some of the most important international documents treating the issue of trafficking in narcotic drugs, such as: The First International Opium Convention from 1912, The Second International Convention, held at the Hague in 1914, The Third International Convention in Geneva, at which the Convention on Control of Manufacturing and Distribution of Psychotropic Narcotics was drafted and later adopted in Geneva in 1925, the Convention for the Suppression of the Illicit Trade in Dangerous Drugs, from 1936, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances from 1988 and other international instruments which prohibit trafficking in narcotic drugs. The process of fast spread of drug addiction was in focus of the UN Fifth Congress on the Prevention of Crime and the Treatment of Offenders at which measures were requested to reinforce international control over narcotics. During the Congress all Participating States were invited to sign, unless they had already signed, the Single Convention on Narcotic Drugs from 1961 and its Protocol from 1976, signed by over 60 countries.

In addition to documents which play an important role in creating a policy for fighting drug abuse internationally, for the purposes of this study, it is necessary to briefly mention the legislation governing the abuse of narcotic drugs in our country. Bosnia and Herzegovina is facing all the challenges imposed by transnational illicit trafficking in narcotic drugs. We

⁴⁵ The main concern in Eastern and South-Eastern Europe is the high level of consumption of opioids, notably opiates, with annual prevalence rates of 1.2 per cent and 0.8 per cent, respectively. "Ecstasy" use is also above global average levels, with an annual prevalence of 0.6 per cent. For more information, see the UNODC Report at: http://www.unodc.org/documents/wdr2014/World_Drug_Report_2014_web.pdf

know that the “Balkan route” for smuggling drugs originating in Asia goes through the BiH territory to the end users in Western Europe. Being aware of an increasingly complex fight against drugs, Bosnia and Herzegovina is developing its legislation and measures and enhancing cooperation regionally and internationally. For that purpose a National Strategy for Narcotic Drugs Monitoring, Prevention and Suppression of Abuse in Bosnia and Herzegovina (2009-2013)⁴⁶ and its Action Plans were adopted.

Also, the problem of drug abuse is covered under the Criminal Code and the Drug Abuse Prevention and Suppression Act. Both Acts prescribe punishments and security measures for perpetrators of this crime. The criminal-law protection in the area of drugs is similarly provided by the criminal legislation of the entities and the Brcko District, and the sections of the laws of the entities and the Brcko District criminalising illicit manufacture and trafficking in narcotic drugs are fully identical to those contained in the BiH CC. Another in a series of laws which are important for a successful fight against crimes related to drug abuse at the BiH level is the BiH Criminal Procedure Code⁴⁷, allowing in Article 116 the use of special investigative techniques.

4.2. Money laundering

As is the case with other forms of organised crime, internationalisation of this criminal activity was facilitated by the technical and technological development and rapid globalisation trends. Today, the phenomenon of money laundering represents a serious international problem and increasingly manifests in the forms of tax evasion, illicit drug and arms trade, prostitution and racketeering, organised gambling and other criminal channels. Due to its dominant international character, there have been numerous attempts to define this activity, and the definitions which contain both a narrow and a broader meaning of money laundering appear most in international literature. “In broader terms, we define money laundering as a process in which proceeds for which there is a reasonable ground of believing that they were gained through a pattern of criminal activity are relocated, transferred, transformed, exchanged or changed by legal means for the purpose of disguising or concealing the real nature of acquiring the profit. In narrow terms, money laundering represents an act or an attempted act to disguise or conceal the illegal origin of proceeds so as

⁴⁶ Strategy available at: <http://msb.gov.ba/dokumenti/strateski/?id=3419>

⁴⁷ Available at: http://www.msb.gov.ba/anti_trafficking/zakonodavstvo/zakoni/?id=3866

to make it appear as if derived from legal sources”.⁴⁸ Domestic authors define this form of organised crime in a similar way. Usually they consider money laundering to be a process taking place in three stages. “The first stage is placement through which proceeds of crime get into the financial system. Layering is the second stage of the money laundering scheme which means that the money is already laundered and that its ownership and source are concealed. Integration is the final stage of the process in which laundered money ultimately becomes absorbed into the legitimate market transactions.”⁴⁹

Apart from an attempt to define the term “money laundering”, diverse beliefs are maintained by domestic and international authors, starting from those that the term “money laundering” was coined by the end of 1920s during prohibition in the United States of America, to the belief that the term originates from Mafia ownership of Laundromats in the US. Obviously neither belief was completely true. Nonetheless, the truth is that the international community recognised this crime as an extreme danger and accordingly made a series of conventions and documents for the purpose of creating as effective instruments to combat organised crime as possible. Among particularly important conventions is the 1988 Vienna Convention by which the international community set it incumbent upon all state parties⁵⁰ to the Convention to introduce the money laundering crime in their respective criminal legislation. Equally important is the Council of Europe Convention from 1999, also known as the European Money Laundering Convention. In addition to prescribing the obligation to criminalise money laundering in the national criminal legislation, this Convention is significantly broader than the Vienna Convention which links money laundering to illicit trade in drugs and psychotropic substances. An important international document is also the 2000 Convention against Transnational Organised Crime, which also covers money laundering. BiH signed this Convention.

By passing the Law on Prevention of Money Laundering and Financing of Terrorist Activities at the state level, BiH joined numerous countries of the modern world in its attempt to prevent and suppress the most dangerous forms of organised crime, and thereby fulfilled some obligations set by the international community. Under the Law, money laundering is understood to mean:

⁴⁸ Dumitrache, A. Alina Money Laundering or Laundering the Proceeds of Crime?

⁴⁹ For more information, see: <http://www.int-comp.org/what-is-money-laundering>

⁵⁰ The 1988 Vienna Convention was signed by 87 countries.

See http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=VI-19&chapter=6&lang=en

- “The conversion or transfer of property, when such property is derived from criminal activity, for the purpose of concealing or disguising illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of this or her action;
- The concealment or disguise of the true nature, source location, disposition, movement, rights with respect to, or ownership of property, when such property is derived from criminal activity or from an act of participation in such activity;
- The acquisition, possession or use of property derived from criminal activity or from an act of participation in such activity (...).⁵¹

It is extremely important to mention that apart from referring to the prevention of money laundering and the prevention of financing of terrorism, the Law defines in Article 1 the measures and responsibilities of the Financial Intelligence Unit of the State Investigation and Protection Agency of BiH and defines the measures and responsibilities of the reporting parties, other public authorities and legal entities which are obliged to act under this Law. The measures and responsibilities of the Financial Intelligence Unit refer to promoting cooperation among the relevant authorities of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska and the Brcko District in the area of prevention of money laundering and financing of terrorist activities, as well as to promoting cooperation and information sharing with the institutions of other states and international organisation responsible for prevention of money laundering and financing of terrorist activities.⁵² Similarly, the Financial Intelligence Unit may request certain data, information and documents required for its operations from international law enforcement agencies, domestic prosecution or administrative bodies, financial intelligence units and international organisations.

4.3. Trafficking in human beings

Trafficking in persons is a relatively new term which refers to the phenomenon with a long history, known as white slavery. Like other organised crime activities, human trafficking also represents a lucrative and profitable business which brings huge profits to criminal organisations. The basic characteristic of this phenomenon is its international scope and its

⁵¹ See in: Law on Prevention of Money Laundering and Financing of Terrorist Activities. Available at: <http://www.sipa.gov.ba/hr/pdfhr/zspn53-09.pdf>

⁵² Anti-Money Laundering Act, Official Gazette of BiH, No. 29/04, Article 5.

equating with other forms of organised crime increasingly often. However, what is, in fact, considered to be human trafficking is contained in the United Nations definition: “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.⁵³

This definition shows that the sex of persons who may be victims of human trafficking is not defined, although regarding this organised crime activity, the victims are primarily women, children and babies. Human trafficking in broader terms usually includes also men who may be subjects of migration but also objects of smuggling. There is an explanation of two types of parties involved in the criminal activity of trafficking in persons: victims and traffickers. Victims in this case are the persons who are exploited or trafficked, regardless of their sex, national and religious background, while a trafficker is the person who is trafficking the victims. Trafficking in persons, in the opinion of domestic authors, may be divided into two distinct classifications on the basis of the motives behind human trafficking: human trafficking for the purpose of labour exploitation and human trafficking for the purpose of sexual exploitation. As stated above, the victims of sexual exploitation are women in most cases. When in the possession of traffickers, women are treated in a humiliating way, as a commodity or item, and are most often transported from one country and sold to local brothels in another country.

Children are also a vulnerable group subjected to sexual exploitation. The most usual form of trafficking in children is child prostitution, although oftentimes children are forced into certain forms of criminal activity resulting in a significant illegal profit for traffickers. As one of the reasons for an increased trafficking in children for the purpose of their sexual exploitation is the so-called sex tourism, while an aggravating factor is that sexual exploitation of children is often followed by drug abuse, as one of the ways to cope with the initial stage of this criminal activity more easily. In addition, a widespread organised crime activity in the modern world is illegal sale of babies to childless couples. This activity is mainly characterised by two ways of commission of the crime: “first, when parents agree to sell their baby for a certain amount of money, particularly because they already have many

⁵³ <http://www.ungift.org/knowledgehub/en/about/human-trafficking.html>

children and lack money for a living; and second, far more serious and dangerous mode is when babies are stolen, declared dead and sold to interested persons”⁵⁴. Perpetration of this criminal activity usually involves skilled criminal organisations on the one hand, and mothers or both parents of the children who are victims of human trafficking, on the other. The ultimate goal of this criminal activity is for both parties to have satisfaction in the end.

According to the data of the International Labour Organisation⁵⁵ it is assessed that only in the European Union states around 800,000 persons are victims of forced labour, which includes, inter alia, forced sexual services. According to the report of the EU statistical agency EUROSTAT,⁵⁶ in the EU, in a period between 2008 and 2010 close to 24,000 victims of human trafficking were registered, of whom around two thirds were sexually exploited, while others were forced to servitude or were forcibly recruited by organised criminal groups. The largest number of victims in the EU, according to EUROSTAT, originates from Bulgaria and Romania, while most of those from outside the EU come from Nigeria and China. Thirty two countries of West and Central Europe reported around 22,000 victims of human trafficking in that area. In Eastern Europe women account for around 80 percent of a total number of the detected victims, while in West and Central Europe they account for slightly more than 60 percent. At the same time the share of girls in human trafficking is bigger in West and Central Europe by around 10 percent than in Eastern Europe. This means that around three to four detected victims of human trafficking in West and Central Europe are children or girls. The most frequent victims of human trafficking come from Romania and Bulgaria, and 30 percent of victims detected in West and Central Europe are from the Balkan region (mainly from Albania, BiH and Serbia).⁵⁷

It is obvious that human trafficking, as one of the activities of organised crime, represents a serious crime. Apart from deeply incorporating the fundamental violations of human rights and devastation of human dignity of the victims, also after being exploited, the victims continue to feel the consequences for a long time and are going through a difficult recovery process. This is why, this problem should be in focus of the entire society, national and international institutions which should jointly be working towards improving the legislation

⁵⁴ Bošković, M. (2003): Transnacionalni organizovani kriminal, Policijska akademija, Belgrade.

⁵⁵For more information see: http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/----ilo-brussels/documents/genericdocument/wcms_184976.pdf

⁵⁶ <http://bosnian.irib.ir/emisije/svijet/item/144226-trgovina-ljudima-u-europi>

⁵⁷ Global Report on Trafficking in Persons 2012, UNODC, New York: UN

and introducing stricter punishments for all perpetrators of this crime. Bosnia and Herzegovina ratified most of the UN documents for the protection of human rights. The last in a series of international documents which Bosnia and Herzegovina signed and ratified in relation to human trafficking is the UN Convention against Transnational Organized Crime and two Additional Protocols thereto⁵⁸:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)
- Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime.

In accordance with the commitment to enhancing fight against trafficking in persons, the Criminal Code of BiH⁵⁹ contains a definition of trafficking in persons with most of the elements from the Protocol definition. The Criminal Code of BiH defines other crimes which may be related to trafficking in persons. Some of those crimes are: establishment of slavery and transport of slaves (Article 185); international procuring in prostitution (Article 187); unlawful withholding of identification papers (Article 188); and smuggling of persons (Article 189).

4.4. Other organised crime activities

In addition to the above activities which are considered to be the most widespread and most important activities, organised crime involves also a series of other unlawful activities, among them: computer crime, environmental crime, loan sharking, illicit trade in nuclear waste and material, bankruptcy fraud, insurance fraud, smuggling of luxurious cars, piracy at sea, illegal trade in endangered species of plants and animals, and other forms of organised crime. These, as well as the fundamental activities of organised crime, are largely present in the world and represent a daily threat to human life.

⁵⁸ These documents were signed on 13 December 2000 in Palermo, and were ratified by the BiH Presidency's decision which became effective on 27 March 2002. BiH Official Gazette No. 3/02, 27 March 2002, page 67.

⁵⁹ Article 186 of the BiH Criminal Code, BiH Official Gazette No. 3/03, in connection with Article 3 of the BiH Criminal Code Amendments Act, BiH Official Gazette, No. 61/04 of 29 December 2004.

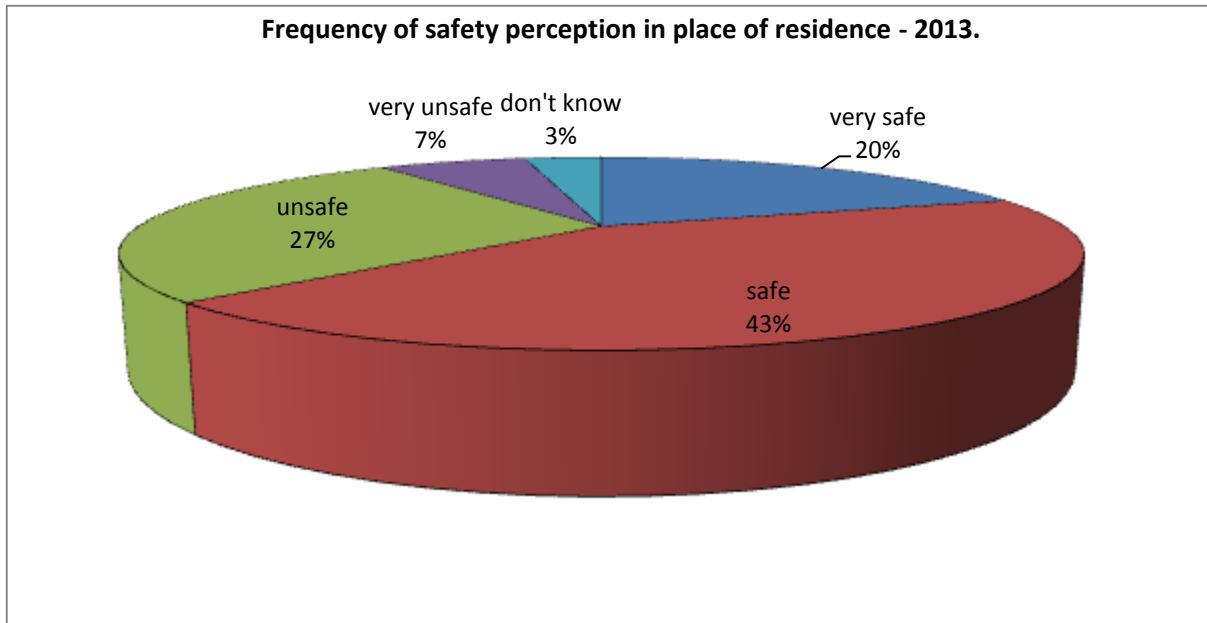
5. SURVEY ON PERCEPTION OF ORGANISED CRIME

Starting from the above presented theoretical discussions, the overview of the legal definitions of organised crime and assumptions, the Centre for Security Studies carried out, for the purposes of this study, a Survey on Citizen Perceptions of Organised Crime in Bosnia and Herzegovina. The survey is a pioneering enterprise in this area through which we obtained significant information related to organised crime in Bosnia and Herzegovina. The survey sought to collect the information on a common predictive position and perception of citizens of organised crime as well the impact and presence of organised crime. A sample consisted of 1,500 interviewees from the whole of Bosnia and Herzegovina, reflecting their representation based on territorial organisation of BiH, in accordance with the results of the 1991 census. A quantitative method of survey questionnaire was used in the survey, along with a random passer-by technique. The survey was conducted under the monitoring by methodologists and the project staff, with the support of professionally trained interviewers.

In this section of the study we present an analysis of perception of general security of citizens of Bosnia and Herzegovina, their views on security, social phenomena which contribute to the feeling of insecurity, and views on efficiency of stakeholders whose task is to carry out activities relating to the fight against organised crime.

5.1. Perception of general security

The results of the public opinion survey show that Bosnia and Herzegovina is perceived by its citizens as a rather safe country. Among the interviewees who represent the general population, 42.9% feel safe in their place of residence, and 19.9% feel very safe.



Interestingly, nearly an identical number of citizens said they felt safe (44.1%) and very safe (14.5%) in the survey we conducted in 2010.⁶⁰ On the other hand, slightly fewer interviewees, 27.3%, said they felt unsafe in their place of residence, and 6.5% of interviewees said they felt very unsafe.



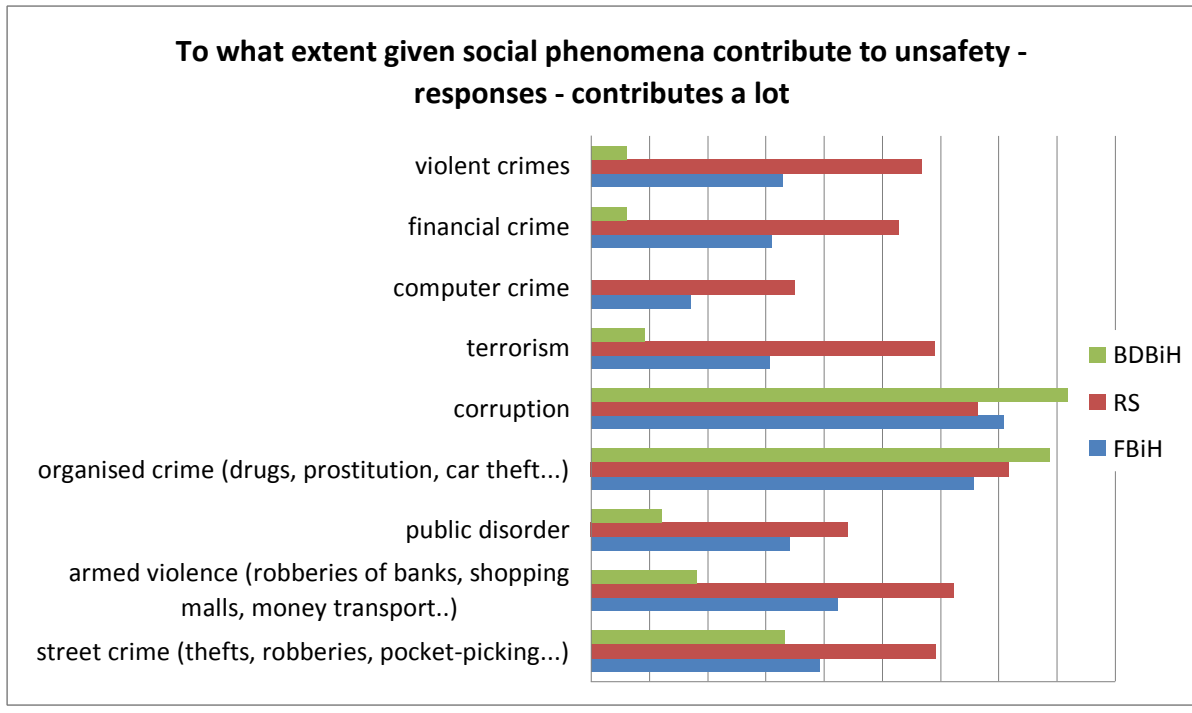
⁶⁰ The survey was conducted by the Centre for Security Studies for the purposes of the Study on Small Arms and Light Weapons. The survey sample was the same, 1500 respondents. Sarajevo: UNDP 2010/2011. For more information on the findings of the survey, see:

http://www.ba.undp.org/content/dam/bosnia_and_herzegovina/docs/Research&Publications/Crises%20Prevention%20and%20Recovery/Small%20Arms%20Survey%202010-2011/BiH_studija_o_malom_i_lakom_naoruzanju_2010-2011.pdf

Unlike the results of the 2010 survey, when the interviewees in Republika Srpska felt the safest, and 48.8 % said they felt safe in their place of residence, in this survey the largest number of citizens who said they felt unsafe in their place of residence were from Republika Srpska. Or, the number of citizens who previously said they felt safe went down by 7.8%, or more precisely, down to 41%. In the BiH Federation, the differences between the results of the first and the second survey are not big (in 2010 – 41.7% and in 2013 – 43.7%). A degree of insecurity in the BiH Federation remains at the 2010 level, 25.0%, while in the RS, it went up by 9.6% or from 22.2 % to 31.8%. When we analyse the data from the perspective of the age of interviewees, there are some statistically significant differences in view of the age of interviewees. The degree of insecurity is increasing with the age and reaches its peak in the 60+ age group, where 29.7% of interviewees do not feel safe. Young people aged between 18-30 feel the safest, nearly one half of them said that (49.0%), followed by interviewees aged 31-59. Regarding ethnic background, there were no changes compared with the 2010 survey. Furthermore, the highest percentage of security, 46.6%, is among Croats, while 44% of Serb interviewees feel safe in their place of residence. The highest level of insecurity exists among others, one third of them, followed by Bosniaks among whom 29.2% of interviewees feel unsafe in their place of residence. Unsafe and very unsafe are those with a lower level of education (primary education level – 37.2%), while the safest are those with a university degree (40.5%). The differences in the level of security exist also in the cantons and regions. The highest level of security in a place of residence was expressed by the interviewees in West-Herzegovina Canton, 57.1%, followed by the interviewees in Herzegovina-Neretva Canton and Posavina Canton. Unlike them, the highest level of insecurity exists among the interviewees in the Zenica-Doboj Canton, Bosnian Podrinje Canton and Tuzla Canton. In Republika Srpska, the interviewees from Trebinje, 45.1%, feel the safest, followed by the interviewees from Banja Luka and Pale. In the Brcko District of BiH, more than one half of interviewees feel safe in their place of residence.

5.2. Perception of social phenomena which contribute to the feeling of insecurity

The responses to the question – *to what extent do social phenomena contribute to the feeling of insecurity among the interviewees?* – are interesting. Of the nine offered social phenomena, the highest percentage of interviewees chose corruption and organised crime as the phenomena which contribute a lot to their feeling of insecurity.



Regardless of the entity or ethnic background, the interviewees think that *corruption and organised crime* contribute most to their feeling of insecurity (69,4% to 68,3%), followed by armed violence, 49.3% (robberies of banks, shopping malls, money transport...), and street crime (thefts, shop thefts, pocket-picking), 46.3%. Interestingly, regarding the age and sex of the interviewees, there is not a sufficiently strong correlation with the selection of the first two social phenomena contributing to the feeling of insecurity. This means that both men and women choose corruption and organised crime as the social phenomena which contribute most to their feeling of insecurity, and there is equally no difference between young or senior interviewees in this regard either.

The interviewees believe that of the nine social phenomena, computer crime, financial crime and terrorism contribute least to their feeling of insecurity. Of the nine surveyed social phenomena which contribute to the feeling of insecurity, terrorism is ranked seventh. A share of persons who chose terrorism as a social phenomenon which strongly contributes to the feeling of insecurity is larger in Republika Srpska than in the BiH Federation (59.1% to 30.6%), and the same perception prevails among senior interviewees, i.e. over 60 age group.

The perception that organised crime represents a leading social phenomenon which contributes to the feeling of insecurity of citizens in BiH confirms the views of the majority

of authors that this plague as a contemporary security threat knows of no borders and represents a danger for the development of a society and a leading obstacle to further progress of the country. Among the reasons for the increase in organised crime over the last few years are the economic crisis, increased unemployment and the number of potential participants in its various forms. In addition to those general factors which contribute to the increase in organised crime, in this survey citizens identified a series of other factors which are specific for BiH and which contribute to the increase in organised crime.

First of all, as a leading factor and cause of the increase in organised crime citizens emphasize insufficient activities of the authorities of Bosnia and Herzegovina in fighting organised crime. Most of interviewees, 60%, believe that the BiH authorities are not doing enough to combat organised crime, and only 12% of those interviewed agree with our statement that “the authorities in Bosnia and Herzegovina are doing enough to fight organised crime”. It is obvious that domestic politicians have done little to fight organised crime, rather opting for propagating the politics which is shaped by conflicts and not for the need for the government to fight organised crime.⁶¹ Of the interviewees who believe that “the authorities in Bosnia and Herzegovina are not doing enough to fight organised crime”, the largest number is in the RS entity, 65.5%, while the smallest number is in the Brcko District of BiH, 48.5%.

Since the overwhelming majority of citizens believe that the authorities in Bosnia and Herzegovina are not doing enough to fight organised crime, it is no surprise that 76.8% of citizens believe that the judiciary in BiH lacks resolve and courage to prosecute and try senior officials who are linked to some criminal activities. It is indicative that influential members

⁶¹ "Nationalist Demagogy" in Republika Srpska. Milorad Dodik's campaign vows that he will take Republika Srpska to "independence from Bosnia and Herzegovina" are, in addition to the situation in the Serb municipalities in Kosovo, one of the topics that the German newspapers are reporting on. Among other things, the newspaper says that “Dodik and his subjects are preventing Serbs from making common cause with Bosniaks and Croats, not just by squelching every protest but also by his rhetoric emphasizing ethnic differences, and spreading false information and demagogy. In November of 2013 Dodik spoke about Islamization of Bosnia and Herzegovina and an alleged 'concrete plan' to bring into BiH up to '500.000 Arabs'. That is demagogy which is playing with fears of the alleged Turkish rule, felt by many Serbs since the Ottoman Empire.” The newspaper explains that by reason of Dodik's frequent statements on breaking away from BiH, the High Representative in BiH could, from a legal perspective, remove Dodik from office for violating the Dayton rules. "But primarily Germany and France are against it, because they stick to the opinion that Bosnia and Herzegovina has to solve its problems alone." For more information see http://www.dw.de/nacionalisti%C4%8Dka-demagogija-u-republici-srpskoj/a-17457513?maca=bos-TB_bs_sarajevox-4187-html-cb

of organised criminal groups, after they are convicted, while serving sentences in prisons, are trying to maintain their influence on external criminal activities and get released from prison early through their connections in the highest government institutions. According to the media reports, and according to our interviewees, organised crime and the highest levels of government are connected from inside, however, due to specific features of those links it is hardly possible, if possible at all, to assess their scope. The most usually quoted example of such links is president of the Federation of Bosnia and Herzegovina Zivko Budimir, who is suspected of receiving bribes in exchange for pardoning a number of convicts, among them some of the most wanted criminals in Bosnia and Herzegovina.⁶²

Many interviewees said the slow performance of the Bosnia and Herzegovina judiciary was unacceptable. Despite frequent complaints by the European Union, the court proceedings continue to be slow, and their length is considered to be one of the fundamental and most important symptoms of the crisis of Bosnia and Herzegovina's judiciary⁶³. Its slow performance is best proven by citizens themselves who are literally stuck in judicial disputes of unreasonable length, which violates their constitutional right to a trial within a reasonable time. According to the type of cases, civil cases are the most numerous among still pending cases – there were 130.938 such cases as on 31 December 2012 – followed by distress cases, petty offence cases – 48.129 – non-litigious cases – 42.115 – economic crime cases – 32.528 – criminal cases – 25.818, administrative cases – 15.344 – and the company registration cases – 2.186. A significant number of cases were time-barred even before they reached the courts of law.⁶⁴

The slow performance of the judiciary is perhaps best illustrated by the period of time citizens need to take their cases to the highest judicial authority in BiH, the Constitutional Court of Bosnia and Herzegovina. The people who are familiar with the judicial system say that in some instances it can take as many as 10 years for citizens to be privileged to have

⁶²<http://www.vecernji.hr/svijet/uhicen-zivko-budimir-primao-mito-za-pomilovanje-kriminalaca> retrieved on 27 February 2014.

⁶³ According to the survey which the Prism Research carried out for the CIN in March 2005, 61 % of respondents are dissatisfied with the slow performance of the ICTY and the new Chamber. Some officials of the ICTY and the Court of BiH believe that the hypnotizing slowness of the judicial authorities is an indication of the complexity of the task to form first the ICTY at The Hague and then of domestic courts in accordance with international standards. However, others say that BiH does not have resources for a new Chamber to fulfil the promises made to citizens. Retrieved from <http://www.cin.ba/zakasnjela-pravda/>, on 24 February 2014.

⁶⁴ The 2012 Annual Report. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina, page 93. available at: <http://www.hjpc.ba/intro/gizvjestaj/pdf/VSTV%20BiH%20-%20godisnji%20izvjestaj%202012.pdf>

their case considered by the BiH Constitutional Court because every case must first go through procedures before regular courts. The municipal court cases are taken to a cantonal court and the Supreme Court of the BiH Federation, and there is a similar system in the RS. Each court has a huge backlog, which additionally slows down the entire process.⁶⁵ It is obvious that the present complex and fragmented judicial system which comprises four separate systems is unable to adequately respond to organised crime. This opinion is shared by the majority of interviewees, 54.4%. The interviewees in the entities and in the Brcko District of BiH support the position that “the current complex and fragmented judicial system which consists of four separate systems is unable to provide an adequate response to organised crime”. This position is maintained most by the interviewees in the Brcko District, 72.8%, followed by those in the BiH Federation entity, 62.7%, and slightly less than that, 40% of interviewees in the RS entity-

Regarding the views and opinions of interviewees on the judicial reform (the opinions of experts and individuals from security institutions), there is a unified position among them that the reform resulted in significant progress. The performance of the judicial institutions is also burdened with some political initiatives for the justice reform, which would result in politicization of judicial appointments. In addition, the work of judicial institutions is also affected by a tendency to focus on the form, rather than on function, by insufficient knowledge about how to make a change which will bring the desired results, by short-term reforms instead of orientation to long-term strategies, the employment of the politically correct individuals instead of merit-based employment, and the dilemmas about the responsibility of those working in the judicial structures.

Citizens put the blame for the current level of crime also on the complex police system. Most of interviewees (51.4%) believe that the current complex police system which comprises 16 agencies is unable to provide an adequate response to organised crime. This view is shared by our interviewees. They also said that the combination of decentralised police forces led to limited cooperation and coordination on issues which cross jurisdictional boundaries, which is in favour of organised criminal groups. The impression is that the current situation is the consequence of insufficient interest on the part of the police, prosecution services and courts in prosecuting complex criminal cases, including organised crime cases. Likewise, the police

⁶⁵ *Ćazim Sadiković*, former Vice President of the BiH Constitutional Court. Interview

reform processes thus far have not fulfilled their purpose, i.e. they have not improved the institutional framework necessary for achieving better results in this area. To some extent the police reform processes made the already complex police system, burdened with overlapping powers among the agencies, even more complex, which, among other things, makes room for shunning responsibility. This is supported by the views of the majority of interviewees who say that such a complex police system is unable to respond to organised crime. The number of interviewees from Republika Srpska who believe that the current complex police system cannot adequately respond to organised crime is nearly half the number of interviewees in the Federation entity (34.7 to 61.3). In the Brcko District of BiH, this number is nearly equal to the number of interviewees in the BiH Federation entity.

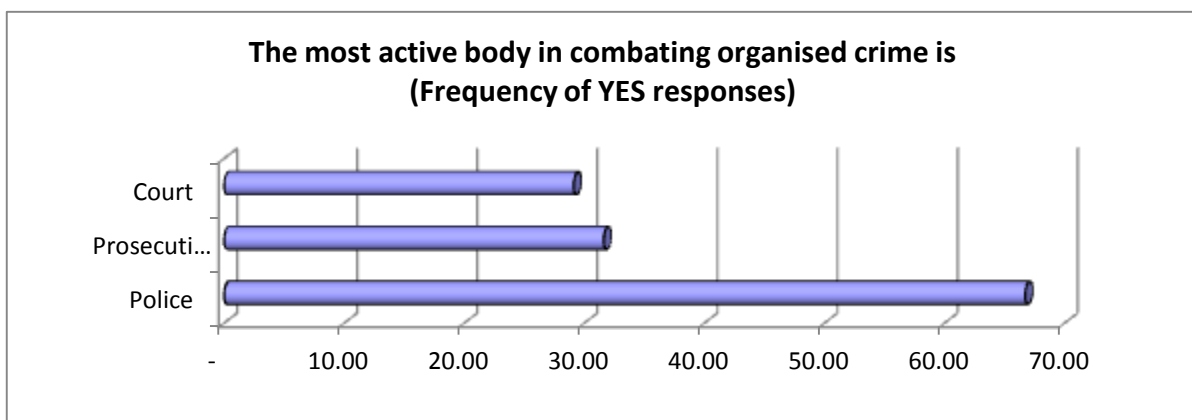
6. KEY STAKEHOLDERS ASSESSMENT

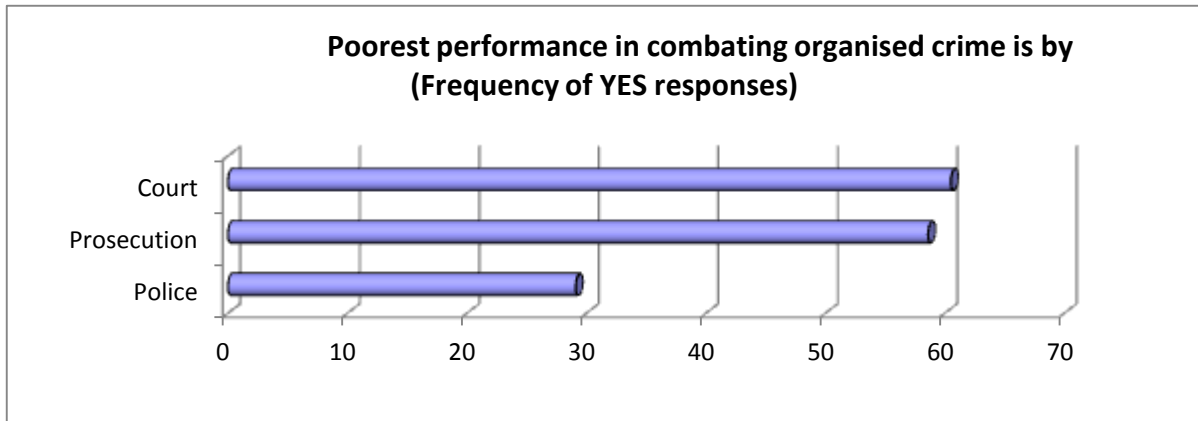
A dual approach was used in the key stakeholders assessment analysis, and interviewees were offered a possibility to present their position in relation to stakeholders tasked, by virtue of their office, with combating organised crime, and those stakeholders who contribute to organised crime activities. Having in mind the extremely thin line between the listed stakeholders, some stakeholders were mentioned in both groups in the interviewees' responses. In addition to this, the analysis of citizens' possible roles in taking measures to combat organised crime shall also be provided in this chapter.

6.1. Assessment of work of the police, prosecution and court

In the initial phase of the research survey our intention was to examine the position of Bosnia and Herzegovina's citizens about activities and actions taken by police, prosecution and courts in combating organised crime.

Overall, in relation to offered authorities, the citizen assessment was most positive concerning activities implemented by the police in combating organised crime. The share of people who believe the police operates poorly in combating organised crime ranges between 29.1 and 32.9 per cent, i.e. almost one third of interviewees believe the police is not up to its task in combating organised crime. Unlike that position on police performance, the vast majority of interviewees believe the performance of courts is poorest in combating organised crime.





Between 60.5% and 70.1% of interviewees presented a negative opinion about the work of court in combating organised crime. Such a negative position about the court's performance coincides with one of the previous studies in the area of organised crime in BiH. The study by author Sheelagh Brady, "Organised Crime in Bosnia and Herzegovina - A Silent Ambush War Fought by Toothless Tigers or a War Not Yet Fought?" describes that judges in BiH are often criticized.

"It stated that 90% of them are capable of performing their duties, however, they are not performing them with professionalism, because they are not pressured to be professional. Some said judges are often in fear of doing their jobs because of intimidation and fear for their own as well as the safety of their families. It is also listed that some judges require additional training and experience in certain areas in order to know how to cope with new, sophisticated cases".⁶⁶

The research includes a similar, rather negative opinion on the prosecution's work in combating organised crime. Between 58.6% and 67.3% believe the prosecution shows the poorest performance in combating organised crime.

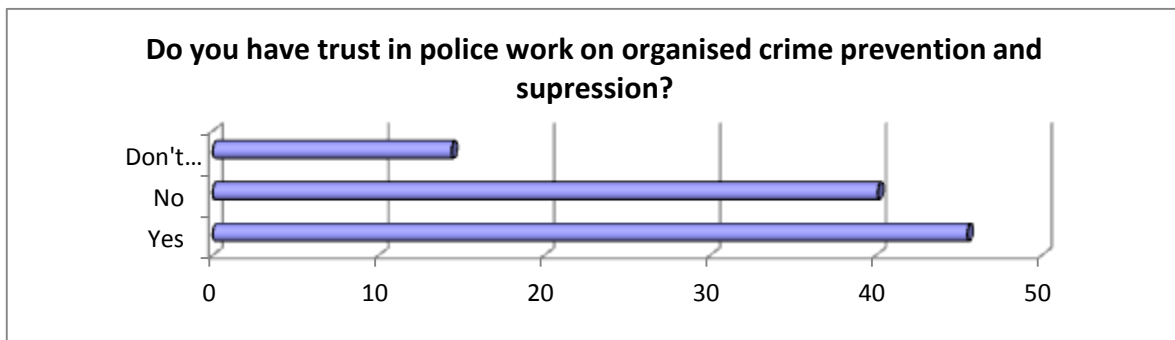
Most interviewees (between 66.7 and 70.1%) believed the police is the most active body in combating organised crime. Such a position is shared by the interviewees who emphasized that the police, in addition to facing numerous problems, such as lack of equipment and experts, is in most cases professional in performing its duties. In support of such a statement they listed certain investigations as examples. All interviewees were unified in a position that

⁶⁶ Sheelagh Brady (2012). *Organised crime in BiH- a silent ambush war lead by toothless tigers or a war not yet fought?* Sarajevo. pg. 43.

in order for the police to combat new, sophisticated crime forms more successfully, it requires better training, more adequate equipment, and technology, and a professional, and not a political, way of management.

Based on the public opinion survey, it is visible that the interviewees' opinion is divided about the existing trust in police work in taking actions on preventing and reducing organised crime. In that sense, 45.5% of interviewees stated they have trust in the police work in taking actions to prevent and suppress organised crime, whilst 40.01% does not have trust.

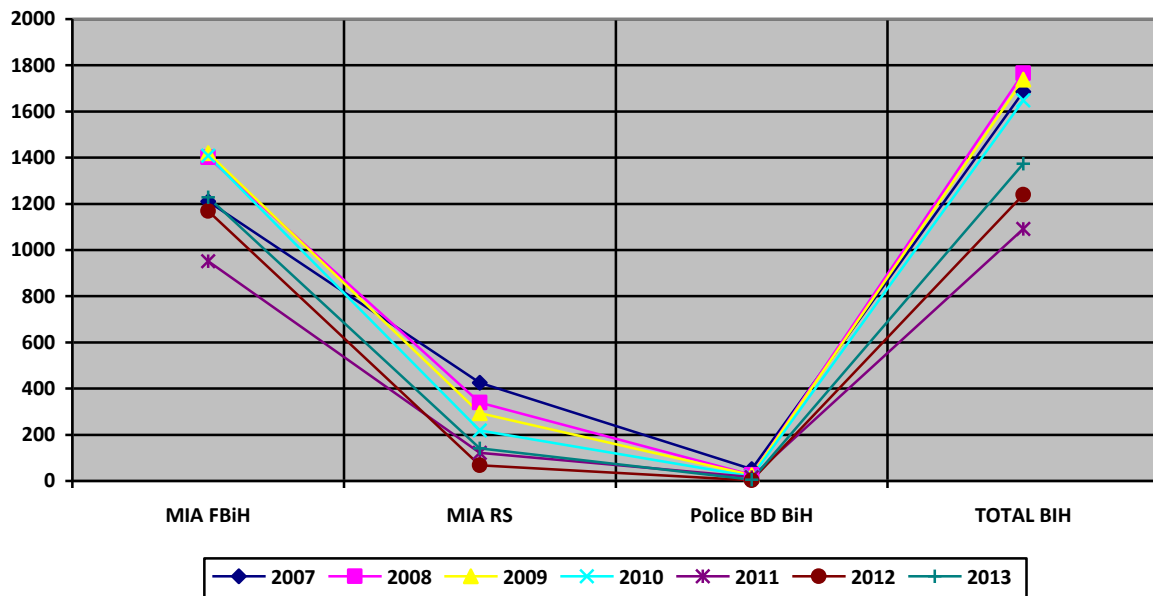
An encouraging indicator shows that over 41% of the population, if they learned about certain activities of criminal groups, or organised crime offences, they would be willing to contact the police, i.e. report such actions. Almost one half of interviewees believe that, after they contact the police, the police would be quite efficient in taking measures from within their powers.



Graph 3: Trust in police work on organised crime prevention and suppression

A change of position and increase of trust in police work on combating organised crime are a result of permanent police work in the past two years. BiH police work analysis on the basis of annual statistical reports indicates that police work over the past several years is continually making progress. The best example of how the police can affect an increase in citizen safety, and parallel to this, an increase in the trust in its work, are police operations resulting in breaking up certain criminal groups. Implemented planned auto-waste control operations in 2011 resulted in the recovery of stolen vehicles and cutting off links among criminal groups, which was why the year 2011 was declared the year of the smallest number of motor vehicle theft criminal offense.

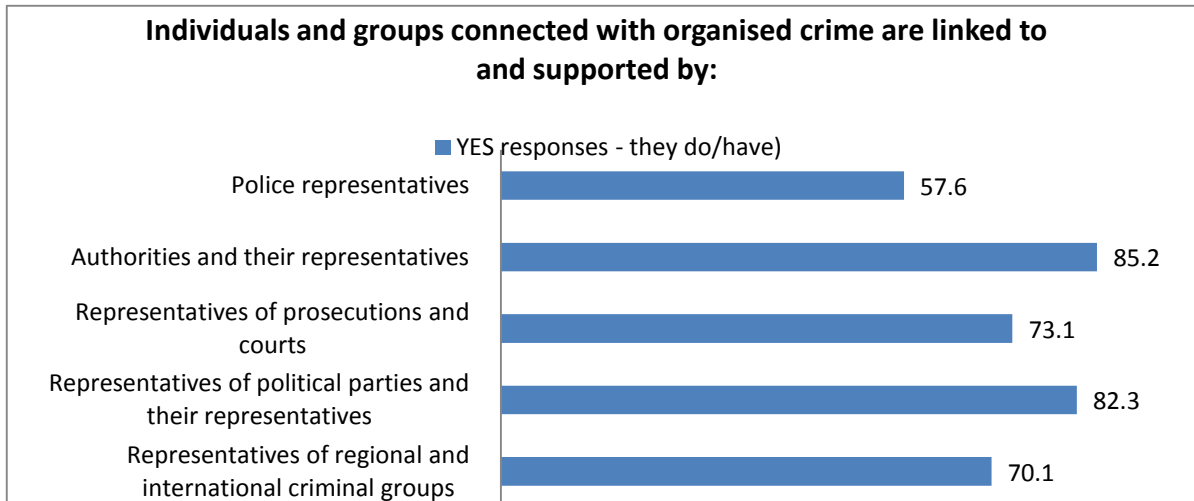
Such results speak of the importance of continued public opinion surveys on these issues, and at the same time raise the issue of the importance of proactive police force actions.



Graph 4: Illustration of vehicle theft trends in 2007 - 2013

6.2. Connections and support

In addition to the assessment of the work of key stakeholders on combating organised crime, our interest was focused also on citizens' position on the nexus between certain stakeholders and individuals and groups connected with organised crime and the key stakeholder support to those individuals and groups. According to interviewees' positions, individuals and groups connected with organised crime, have the strongest connection with and receive the strongest support from the *authorities*. 85.2% of interviewees selected this option. The second place goes to political parties and their representatives. The vast majority (82.3% of interviewees) selected this option, though with a slightly lower percentage compared with the first option.



Numerous interviewees said they believed there were many corrupt politicians, from the lowest to the highest level. Concerning the fight against organised crime, the majority believes political support is needed for combating organised crime effectively, or that it is a political problem. This indicates that little can be changed without a change of the mindset, a change in the approach and the political authority structure. “Most interviewees stated the system allows numerous politicians to protect their interests, placing them ahead of interests of the state or its citizens. A number of interviewees stated many politicians were ready to directly protect criminals, in order to protect their own interests, and that they were willing to disregard numerous actions, even when not directly involved”.⁶⁷ Such position and opinion of citizens clearly indicate that the population partially lost trust in institutions, i.e. they do not even see them as their own service provider, but as an additional source of unnecessary difficulties. Such a statement is supported by an indicator saying that 59.9% of the population participating in the survey do not have trust in the current authorities or their intentions to successfully combat organised crime.

Most experts agree that there is some kind of nexus between organised crime and office holders and political parties. Abazović believes that organised crime exists only when criminals are directly or indirectly linked with individuals from the public institutions at different positions of various levels. Indeed, there can be other well-organised criminal groups operating independently and committing various criminal acts, but the state relatively easily deals with them. However, speaking of organised crime, then the operating nexus

⁶⁷ Sheelagh Brady (2012). *Organised Crime in BiH - a silent ambush war lead by toothless tigers or a war not yet fought?* Sarajevo, p. 40.

between criminals and the “state” is unavoidable.⁶⁸ Mirza Smajić, who authored the book entitled “Organised Crime in Bosnia and Herzegovina – Transitional Dilemmas”, stated that such connections are recognised and confirmed in strategic documents of Bosnia and Herzegovina for combating organised crime. The BiH Strategy to Combat Organised Crime (2006-2009) says that the cause of the occurrence and development of crime is “accelerated interconnection of top authorities with organised crime which faced its full growth during the war, and in some cases gave its exponents even political significance“. In addition to this, several indictments were filed at Bosnia and Herzegovina courts against public office holders, in relation to this problem“.⁶⁹

The connection between prosecution and court representatives and individuals and groups engaged in organised crime, and their support to such individuals and groups, is the third most selected option by interviewees. 73.1% of interviewees selected this option. The fourth place goes to the connection with and support to regional and international criminal groups (70.1%), whilst the fifth place is given to the connection with and support from police representatives (57.6%).

Of major concern are indicators showing that the vast majority of interviewees believe that individuals and groups connected with organised crime have nexus with and receive support from all listed stakeholders who, among other things, play an important role in combating organised crime (authorities, political party representatives, prosecution and court representatives, and police representatives). The population believes that the weakest nexus exists between individuals and criminal groups and the police representatives, out of all of the listed key stakeholders, but generally, this percentage, 57.6%, is also worrisome.

Having in mind that a significant number of interviewees believe that individuals and groups connected with organised crime are connected with the authorities, it is not surprising to see 60% of interviewees not having trust in the current authorities and their intentions to successfully combat organised crime.

⁶⁸ Interview with Mirsad Abazović, professor at the Faculty for Criminal Science, Criminology and Security Studies of the Sarajevo University. 18/12/2013.

⁶⁹ Interview with Mirza Smajić for Klix. See <http://www.klix.ba/vijesti/bih/reforma-policije-rjesava-organizovani-kriminal-u-bih/100224044> Last retrieved on: 10/03/2014.

6.3. Sources of information

The media are on the first position as an information source for citizens on existing organised crime in BiH. The majority of interviewees said that, i.e. 67.6% of them.

Out of 67.6% of interviewees in Bosnia and Herzegovina, who stated the media represent the most important information source for them, the majority of them are people with university education (70%). The media, as the most important information source, are more listed by men than women (70.1% - 65.0%). As per age groups, interviewees aged 31-59 commonly get the information on organised crime in BiH through the media.

Concerning other information sources, a very small number of interviewees use police and judicial reports as an information source (3.3% - 1.7%), or research by independent institutions/journalists and the civil society, 5.2% of them. Such sources are mostly used by highly educated interviewees, whilst interviewees with primary or no education almost never use these sources. Using such sources is most present with employed interviewees. It should be emphasized that almost one fourth of interviewees were unable to respond to the question on how they get the information on organised crime in BiH.

We find it interesting in the research survey that citizens believe that organised crime is causing the biggest damage first to the society, and only then to individual citizens (68.2% - 18.0%).

6.4. Citizen support

Citizen role and support is of great importance in combating organised crime. Active citizens, who report on criminal acts, send clear message with their determination to all those engaged in crime and other forms of abuse of office that the manoeuvring space in which “they are fishing in troubled waters” is getting narrower. Also, it is very important for key stakeholders and individuals who are professionally engaged in combating organised crime that they get from the clear public support additional legitimacy and motivation to continue this struggle. This is a strong moral and professional encouragement, specifically in combating the most demanding forms of organised crime. In a wider social context, this has a very positive

impact on strengthening legal culture, public ethics, integrity and responsibility for common values and community, or generally, on social responsibility.

Through the research survey we wanted to learn how willing the interviewees were to take individual measures to combat organised crime, in case they had knowledge about certain criminal group activities or organised crime offences.

A little less than one half of the interviewees, 47.1% of them stated they would be ready to take action if they had knowledge about certain criminal group activities or organised crime offences. A significant number of them would contact the police (41.1%), and a small number would contact the family or friends of those engaged in crime (2.5%). The number of those who would contact their local counsellor or municipal security forum is even smaller (1.7% - 0.4%). Out of the 47.1 % interviewees who are willing to take action to combat organised crime, half of them believe their actions in dealing with this problem would be very efficient or rather efficient. To this we should add that a large number of them (18%) did not express their position on this question.

Among the most common reasons why the interviewees, 52.9 % of them, would not be willing to take action to combat organised crime were: lack of trust in prosecution and court, opinion that it is not a matter of their concern, fear of retaliation, or they believe it would make no difference. Most interviewees (66.8%) believe the past sentences for organised crime were either too low or inadequate.

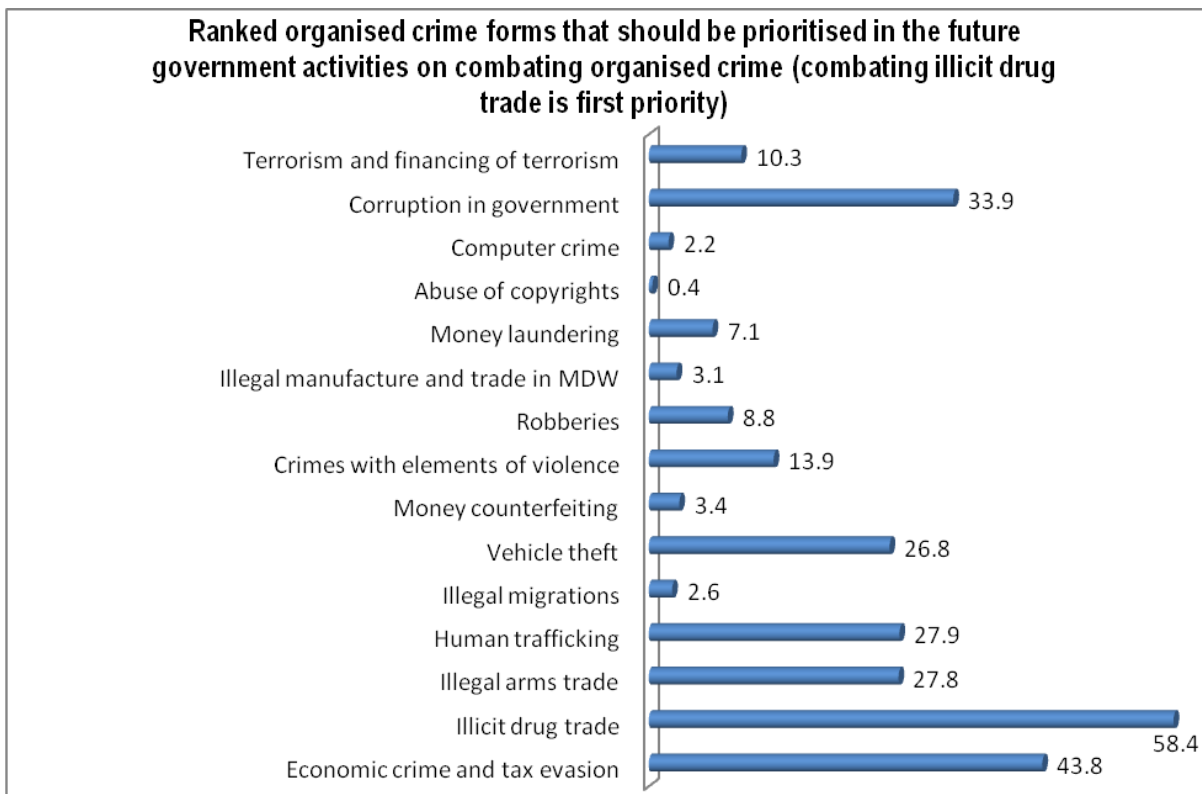
Based on such support by citizens in taking action to combat organised crime, as well as on their position on past sentences given for these criminal offenses, one could conclude that Bosnia and Herzegovina's society still has the capacity of a healthy society, but lacks support from government.

6.5. Priorities for future actions

Speaking of projections of future actions in combating organised crime, we can conclude that certain improvements were made. The authorities adopt strategies and action plans on a regular basis, analyse them and make efforts to enhance them. What is missing in those strategies is priority actions to combat organised crime, i.e. the identification of forms of

organised crime requiring special attention. This motivated us to include at the end of the questionnaire the question about the priorities in future actions in combating organised crime. The interviewees were offered to select three out of fifteen priorities, and the authorities should carefully consider their responses, and use them, to some extent, as a tool in formulating their policies in this area.

More than a half of interviewees (58.4%) stated that combating *illicit drug trade* should be the top priority in the future actions of the relevant authorities against organised crime. A second priority is the fight against economic crime and tax evasion (43.8% of them share this position), and a third priority is fighting corruption of public officials. This position was shared by 33.9% of interviewees.



As the graph shows, the citizens believe that the least attention in defining future priorities should be given to activities on combating the abuse of copyrights, computer crime, illegal immigration, illegal production of and trade in weapons of mass destruction and counterfeiting money. According to interviewees' position, combating terrorism and financing of terrorism is a seventh priority for Bosnia and Herzegovina in future actions against organised crime.

7. TREND AND STATISTICAL INDICATORS

A large number of popular and professional literature on organised crime deals with the question of why and how this form of crime occurs. In the social sciences approach, organised crime is often treated as a dependable variable. The consequence of this is that the frequently asked questions refer to the necessary and sufficient conditions for organised crime to begin to develop. Similar practice is observed in discussions and projections on what forms organised crime will assume in the future. The impression is that in such anticipated discussions attention is illegitimately focused on the growing probability that organised criminal groups would purchase or even use weapons of mass destruction. On the other hand, organised crime offenses, affecting the security of the country on a daily basis, are not given adequate attention or are not even discussed. Our aim is for this part of the study to analyze the problems and effects of certain forms of organised crime for Bosnia and Herzegovina, clarifying it through the prism of the current situation and trends. In our efforts, we will not place an emphasis on the causes of organised crime, but rather, the focus of this study will be on its consequences. In that regard, we will make efforts to investigate the forms of organised crime, the main attributes of organised criminal groups, how those groups operate and the future organised crime trends.

The findings that we reached during our research indicate that at the beginning of the last decade of the last century, Bosnia and Herzegovina became the hub for numerous criminal groups and an area in which almost all forms of organised crime are taking place. In addition, the findings indicate that there is no significant tendency of strengthening links among criminal groups within Bosnia and Herzegovina. According to obtained data, the intention and goal to develop a network is more present among the groups operating inside BiH and the neighbouring countries. Some of the larger groups of organised crime in BiH were successful in connecting with criminal clan members from certain EU countries, and also from other European countries, while some links go as far as other continents.

The obtained and available information and data indicate the existence of various forms of organised crime within the territory of Bosnia and Herzegovina, in its various aspects of manifestation (illicit drug manufacture and trade, illegal trade in weapons and military equipment, human trafficking, smuggling of people and illegal migrations, economic crime

and tax evasion, counterfeiting money and other securities, abuse of office, high tech crime, theft and illegal sale of motor vehicles, blackmailing, extortion, kidnapping, armed robbery, etc.).

The estimates by intelligence and security agencies show that the above-mentioned forms of organised crime can be expected also in the future, and also that organised crime activities will be intensified in some of its areas. Security agencies say that for a more efficient fight against organised crime, it is necessary that law enforcement agencies on all levels cooperate on a continuous basis and that the relationship on an institutional level between the police, prosecution services and courts in Bosnia and Herzegovina be improved. The same level of importance is given to cooperation with relevant institutions in the countries of the region and beyond, with a view to combating what they believe is the most complex and dangerous form of crime as successfully as possible.

Having in mind such a dispersive presence of the forms of organised crime, below, we will try to define the most present forms of organised crime in Bosnia and Herzegovina. We made an effort to determine the basic characteristics of organised criminal groups, as well as their intention to develop a network, and to make an assessment of the future trends. In order to be able to carry out an analysis as described above, we collected data from several sources. We used official statistics and strategies of the relevant judicial and security institutions to define the forms of organised crime and assess the future trends. We consulted the information from four sources of information for the purpose of making an assessment of the characteristics of organised criminal groups. We used materials collected through interviews that we conducted, the media chronology of important police operations against organised crime, and parts of the results of the public opinion survey on organised crime which we conducted for the purposes of this study. As the final source, we used the study of organised crime by author Sheelagh Brady.⁷⁰

⁷⁰ Sheelagh Brady (2012) Organised Crime in Bosnia and Herzegovina - a silent ambush war lead by toothless tigers or a war not yet fought? Sarajevo.

4.1. Illicit drug manufacture and trade⁷¹

Concerning illicit drug manufacture and trade, it should be noted that the majority of interviewees of the public opinion survey see this offense as the biggest threat to their own safety and the safety of their children. That this problem is omnipresent is also proven by the statistical data of the police agencies which are recording the growingly frequent drug abuse by young people, primary and secondary school students. In addition to their desire to find consumers among young people, drug dealers also intent to use minors as a drug sale chain. It is evident there is an organised criminal drug market in Bosnia and Herzegovina, and drug trade represents an important part of organised crime. Time-consuming efforts in preventing and breaking such chains of drug trade enabled the organisers to gain significant economic power. This firm economic power was used by organisers for buying a more peaceful, and for them, less risky drug trade process.

Slow performance in suppressing this plague was recognized also in the report by the European Commission on BiH progress for 2013, which situations little progress was made in combating drug abuse, and that international drug routes in Europe go through Bosnia and Herzegovina or by its borders. Implementing the national strategy and action plan for combating drug abuse for the period 2009 – 2012, was in this report estimated as insufficient.

In the next part of the study we will become more familiar with police records and statistics, with the aim of learning about the current situation and trend of drug abuse.

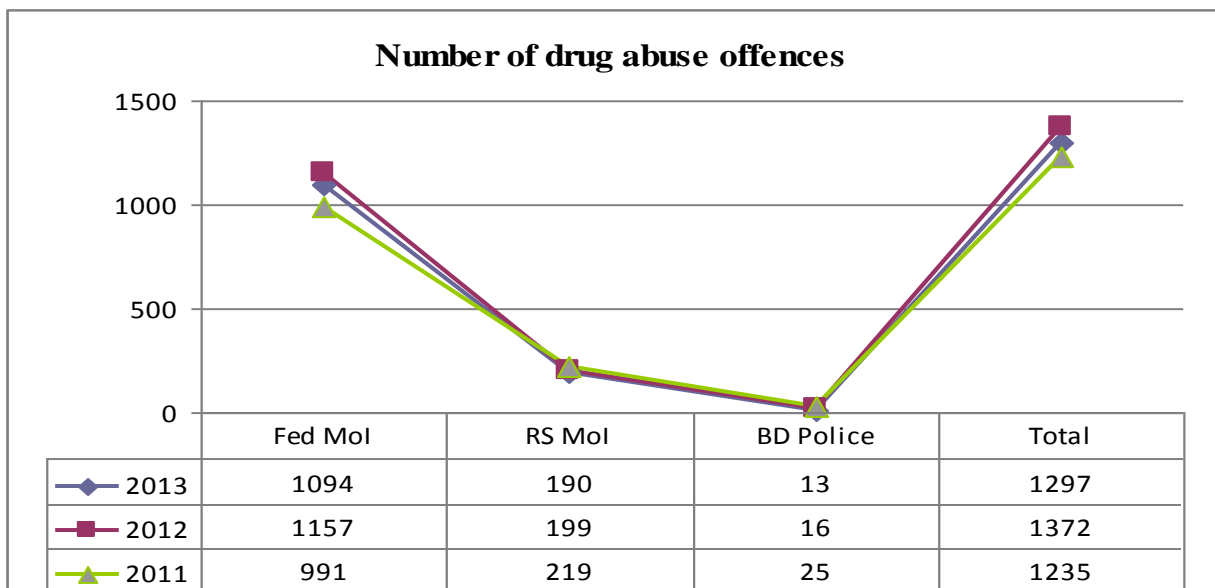
4.1.1. Current situation and trend

Statistical indicators led within entity-level Ministries of the Interior and Brcko District of BiH Police show that the number of criminal offenses of drug abuse was in slight decrease in 2013, compared with 2012, by 5.65 per cent. The listed 1297 criminal offenses, in 2013, were committed by 1420 persons, which is a decrease by 100 persons, or 6.5 per cent. Out of 1420

⁷¹According to the World Drug Report of the United Nations Office on Drugs and Crime (UNODC) for 2014, the frequency of the use of drugs is stable. Around 243 million people, or 5 % of the world population aged between 15 and 64 used illegal drugs in 2012. The number of problematic users of drugs in the meantime reached around 27 million, which is close to 0.6 percent of the world adult population or 1 in every 200 people: <http://www.unodc.org/unodc/en/frontpage/2014/June/global-drug-use-prevalence-stable-says-unodc-world-drug-report-2014.html?ref=fs2>

reported persons, 42% were recidivists, which is 597, whilst 47 minors committed these criminal offences, which makes 3.31%.

Institution	Number of drug abuse offences		
	2011	2012	2013
Federation BiH MoI	991	1157	1094
RS MoI	219	199	190
Brčko District BiH Police	25	16	13
TOTAL	1235	1372	1297



Pic: Number of drug abuse offences

Concerning the geographical positioning of these criminal offences, statistics show that the majority of drug abuse criminal offences are committed in Sarajevo Canton (282 – 21.74%), then in Zenica-Doboj and Tuzla Cantons (266-233), Una Sana Canton (76), Banja Luka (74), Herzegovina-Neretva Canton (57) and Bijeljina (54).

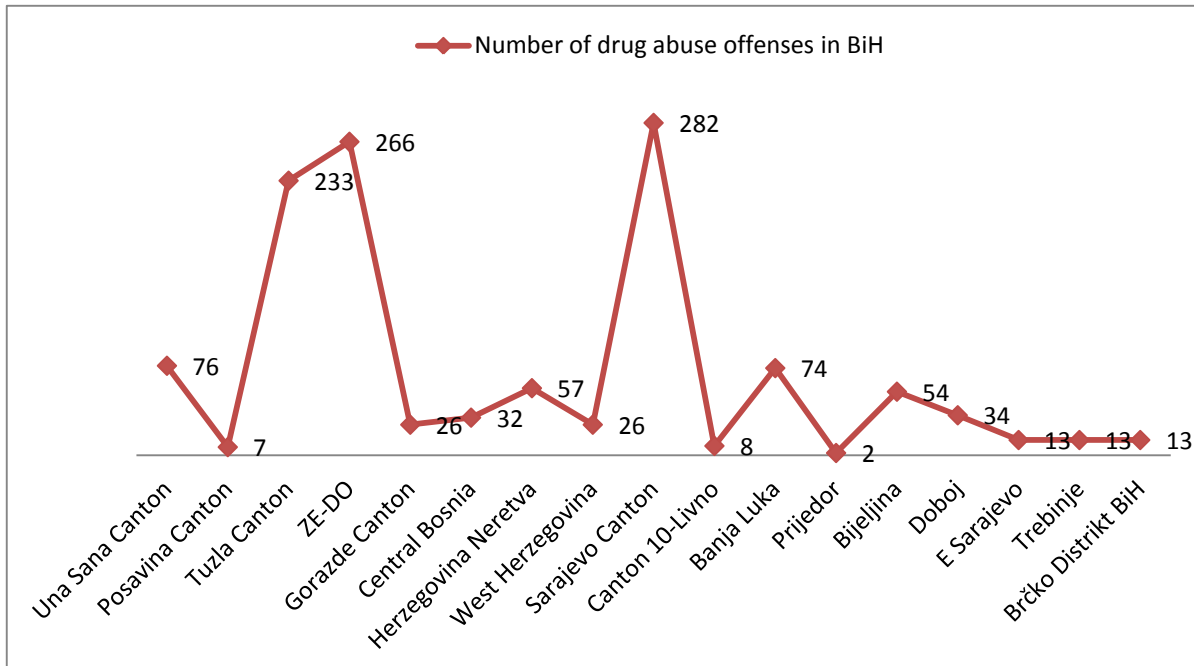


Table illustration of seized amounts of drugs (cca) in 2013

DRUG TYPE	MOI FEDERATION BIH ⁷²	MOI RS
Heroin	2 kg. & 742 g; 10,8 ml & 206 pcs.	1.827,16 gr.
Cocaine	80 gr. & 34 pcs..	386,661 gr.
Amphetamine	8 kg.; 464 gr. & 160 pcs..	2.811,001 gr.
Marihuana	49,9 kg, & 496 pcs..	183 kg 416,446 gr.
Cannabis plant	29,9 gr. & 3.048 pcs..	1.232 pcs..
Cannabis seed	14,8 gr. & 2.097 pcs..	99 gr., 1846 pcs.
Ecstasy	2,4 gr. & 37 pcs.	-
Heptanone	53 ml. & 12 pcs.	-
Hashish	10 kg. 208 gr. & 23 pcs.	-
Speed	539,2 gr. & 27 pcs.	-
Other	374 gr. & 954 pcs.	125 ml. 546,5 pcs.. 40,15 gr.

Police agencies in Bosnia and Herzegovina,⁷³ have in the past two years spent a large number of their operations in preventing criminal offences in the area of drug production and trade with elements of organised crime. This resulted with arresting perpetrators and confiscating drugs, and in some cases mini drug factories were found. Coordination of operational activities still varies from case to case. State agencies, Police Administration of the

⁷² The table includes data only for narcotics for which forensic drug testing was done .

⁷³ Brčko District BiH Police conducted two operations under code names “Zolja” and “Arka”.

Federation and Cantonal Police Administrations, use a common database on perpetrators of drug abuse as a criminal offence. Entity level RS MoI is not connected to this database.

The most frequent criminal offences from the area of illicit production of and trade in drugs are possession and enabling the use of drugs, in addition to illicit drug production and trade. Confiscated drugs are usually cannabis, heroin and synthetic drugs. The most frequently confiscated drug is marijuana⁷⁴ – skunk, which, based on conducted investigations and based on information from interviews, originate from Albania, which is transported to BiH via Montenegro and further transported to West Europe. Data indicates that Kosovo is a transit route for marijuana from Albanian and Montenegrin ports, intended for BiH, Serbian, Croatian and West Europe markets.

Bosnia and Herzegovina market was not immune to the occurrence of new synthetic drugs. These (so called: soft drugs) are mostly bought via Internet, and the prices are very low. One of these drugs has a jargon name “crocodile”. This drug leaves highly serious consequences on consumers. Trade in these drugs saw its blooming in European countries, after which it was forbidden in most countries, but very soon its chemical substitutes began appearing. The problem is that in BiH there are not any institutions which follow such purchases, so the chemical substitutes are available to all interested buyers in a very accessible way.

Data we reached indicate that heroin is more present on the BiH market, in addition to marijuana. This drug is usually transported from Albania, Turkey, via Serbia, Montenegro, hidden in consumer goods packages or buses with regular lines on these distances. Heroin smuggled into BiH remains in BiH until it finds its buyers, after which “couriers” (in most cases people without criminal records), who mostly travel by car and further transport towards West Europe countries. After removing physical borders within Schengen countries, criminal routes have significantly changed, so these are now mostly directed towards EU member states, and heroin is mostly smuggled via Bulgaria, Hungary, Romania and then further transported to West European countries.

The data on drug abuse, increased presence of illegal trade in drugs, and more frequent occurrence of youth and children becoming drug users, as well as drug dealers, indicate that the situation is serious and is constantly getting worse. Indicators and parameters lead to a

⁷⁴ Albanian marijuana is of good quality, and criminal groups purchase it at a very low price, due to which narco mafia in BiH is very interested in this drug. Interview by a police officer. Interview led on April 1, 2013.

conclusion that drug offer has increased. An increase in numbers of users and addicts has also increased, and over-dose death incidents show a worrisome increase.

4.1.2. The main characteristics of organised criminal groups

According to information we reached through the research, there are certain groups in Bosnia and Herzegovina involved in organised crime.⁷⁵ Most of these groups are involved in performing the most serious criminal offences, smuggling and trade in drugs, among others. Unlike police bodies, criminal groups have excellent coordination, and they cooperate among themselves, but also outside of BiH borders. In addition to this, one should also emphasize the data that these local groups developed a strong link with criminal groups acting in former Yugoslav countries. There is division of duties among them, division of responsibilities, as well as persons involved without their knowledge on the type of work they perform (this primarily refers to couriers). Cooperation takes place by using modern and sophisticated equipment and varies means of communication (they use some social networks, which face difficulties in controlling and surveying), direct meetings and other acceptable methods for them.

According to “rough” estimates, groups in BiH smuggling drugs have up to twelve members. Depending on the phase of criminal offence, they have different tasks which are not permanent, because, by rule, they make associations based on their needs, and permanent groups have approximately three to five members. Associations by needs require current recruitment of new members, who are often used for “single or dual” purposes. The groups often trade drugs for certain quantities of weapons and military equipment or expensive cars. Prosecuted cases and statistics show that increased numbers of addicts are among property crime perpetrators, who manifest their criminal acts through robbery and theft.

⁷⁵ According to the joint data of the State Investigation and Security Agency (SIPA), Intelligence and Security Agency, Border Police, Department for Coordination of Police BiH, MoI RS and MoI FBiH, in late 2012, a list was produced with 15 members of organised crime in BiH, suspected of illegal drug trade, weapons trade, loan sharking, illegal trade in high tariff goods and textile, vehicle thefts, extortion, and public order breaches. Dani, 16 February 2013.

The information we obtained during the interviews with police representatives indicates that there were 4 organised criminal groups in BiH. Those were groups of: Darko Elez, Đorđe Ždrale, Zijad Turković and Naser Keljmedi. Initially, there were three groups, but Elez and Ždrale separated and formed their own groups.

Basic characteristics of persons involved in this type of criminal offence are: poor education, unemployment, violent behaviour, wish to gain easy profit, poverty, tendency of alcohol abuse, drug abuse, military experience from the previous war, etc. In addition to this, available data on activities related to purchase and organising illegal drug trade, is mostly connected with people from Albania, Serbia, Montenegro and Kosovo.

4.1.3. How does the law treat these criminal offences?

In response to the question on how the law treats criminal offences in the area of illicit drug production and trade, by analyzing legal solutions we concluded that these criminal offences criminalised by four criminal laws in Bosnia and Herzegovina. These offences are defined in the provision of the BiH Criminal Code, in Article 195: “Illicit drug trade”. Further, in entity laws: Criminal Code of the Federation of Bosnia and Herzegovina, in Article 238: “Illicit drug production and trafficking in drugs”, whilst the Republika Srpska Criminal Code in Article 224 defines it as “Illicit production and trade of drugs”. The fourth Criminal Code criminalising these offenses as “Illicit drug production and trafficking in drugs” is Article 232 is the Criminal Code of the Brcko District Bosnia and Herzegovina.

4.2. Economic crime

In the past couple of decades, economic crime became an omnipresent and growing form of criminal activity that weighs down not only the Bosnian-Herzegovinian society, but also European and global societies. Economic crime has been described in the Recommendation of the Council of Europe R(81) 12 from 1981,⁷⁶ as a crime that brings losses to public finance, causes negative consequences to society, is damaging for local and international economy and causes loss of trust in the economic system as a whole.

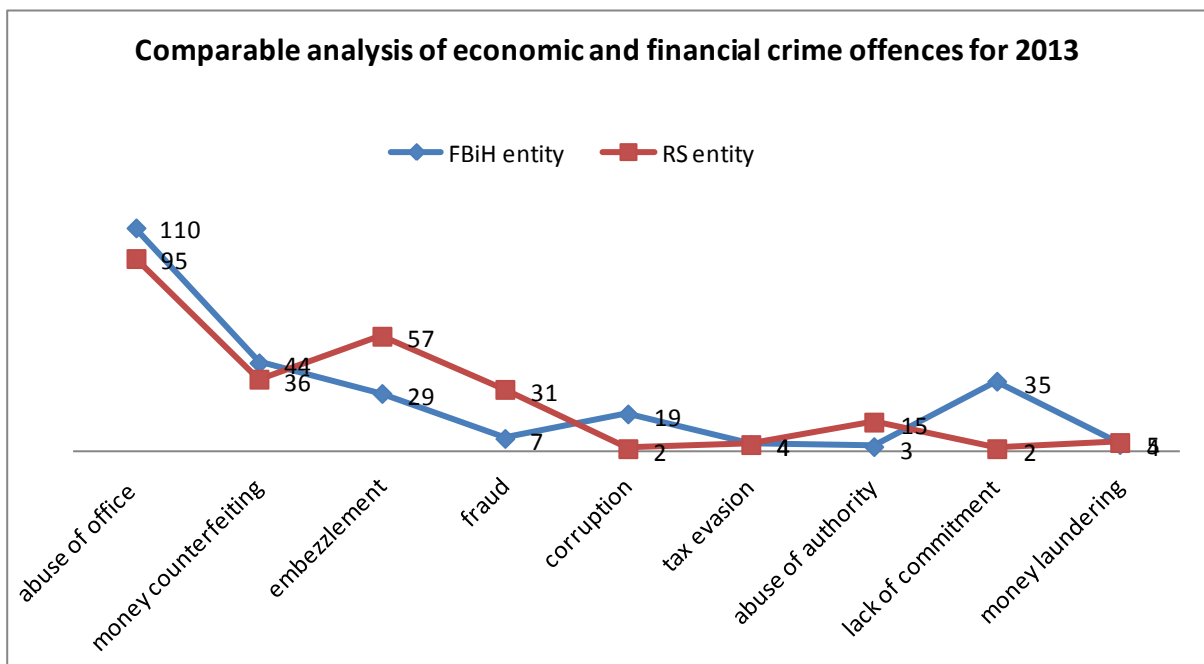
In Bosnia and Herzegovina, tax and customs frauds are the most common criminal activities of the organised criminal groups. Most often, this fraud is based on “bogus companies and exchange”, based on which “bogus” income tax is presented, and based on the income tax, illegal VAT return is claimed. Such companies are used mainly for trade, and then they “shut

⁷⁶Council of Europe, Recommendation R(81)12 from 1981 on economic crime. Recommendation was adopted by the Council of Ministers on 25 June 1981 and lists specific criminal acts that are considered economic crime.

down” or claim bankruptcy, to avoid legal obligation of paying the tax. Also, in a number of cases, companies have double bookkeeping, or use other illegal means of obtaining profit and avoiding tax. Such schemes are commonly run by organised criminal groups which act exclusively on the BiH territory, and their members are usually citizens of Bosnia and Herzegovina. In some cases, it has been noticed that some members have dual citizenships, in case they need to use this to avoid authorities, i.e. jurisdiction of competent institutions of Bosnia and Herzegovina.

4.2.1. Current situation and trend

Based on the records of entity Ministries of the Interior and the Brcko District Police, who register economic crimes, financial crimes and transactions, taxes and customs - we obtained the information that 1031 of these crimes were registered in 2013, which is less by 13.20% than in 2012. The most common economic crimes were: abuse of office, embezzlement, counterfeiting, business fraud, forgery or destruction of official identity document, tax evasion, illegal trade, organised crime related to tax evasion and customs fraud, etc. In economic crime area, most of the committed acts were related to Article 250 (organised crime) of the BiH Criminal Code, which illustrates a possible trend and modality of this type of crime.



If we compare modalities of economic crime in entities, we get a slightly different picture. The most common modality in both entities is abuse of office or authority.⁷⁷ This may reflect the fact that court proceedings for this crime are slow, and mainly result in verdicts of acquittal, or declaration of non-competence by the court deciding on the case. When it comes to the second modality of economic crime, it differs in the two entities. In BiH Federation it is counterfeiting money, and embezzlement in RS. Lack of commitment or negligent performance of duties is the third most common criminal act of economic crime in FBiH, and in RS it is money counterfeiting. Business fraud is the fourth most common modality of economic crime in RS.⁷⁸

Intercepted money transfers of certain criminal groups, whose activity was prevented by police actions, show that financial means and property that are illegally obtained by performing mentioned criminal activities are mainly legalised by purchasing real estate, construction, building business and other facilities, privatisation of companies, and in certain cases, money transfers abroad.

Information on the estimated material damage from such activities on the budget of BiH from one processed case illustrates how much real damage to the budget and the economy of the country comes from these activities.⁷⁹ On the level of BiH, according to the reports on these criminal acts from 2012, damage was 58,902.906 Convertible Marks, which is two times less than in 2011. There were 1227 reported perpetrators, 12% decrease compared to 2011. We should not forget the fact that it is not possible to adequately compare these criminal acts with the previous years due to difference in perceptions and methods of reporting of the competent bodies.

⁷⁷In 2013, 195 acts of abuse of office or authority were reported (in entity of Federation BiH 110, and in RS 95)

⁷⁸In 2012, RS Special Prosecutor's Office received one criminal report against 16 persons, related to illegal actions by certain companies in RS. It was determined that the report is not under the competency of the Special Prosecutor's Office, and it was forwarded to the District Prosecutor's office in Banja Luka. In 2013 Special Prosecutor's Office of the RS received 5 reports against 16 persons for illegal actions in the process of privatisation in a number of companies. This case is currently under investigation and information is gathered, after which the prosecutor will bring a decision. Official letter from the Special Prosecutor's Office RS number: A-247/14 from 14.05.2014.

⁷⁹After financial investigations of three persons on the basis of the report by Criminal Police of the RS, Municipal Court in Trebinje issued an order on temporary confiscation of property for three persons in the value of 6,500,000.00 KM. Source: Information on the state of security in RS for January – December 2013.

4.2.2. The main characteristics of organised criminal groups

When it comes to membership of the organised criminal groups, information that we obtained there are usually between 8 and 15 persons in the group. However, the case where 40 persons joined to perform criminal acts in the field of indirect tax, show that this does not have to be the rule. Besides physical persons, legal persons were often involved, as it is the case of coffee smuggling from Slovenia. When performing such activities, criminal groups use forged or counterfeited documents. They smuggle raw coffee beans from Montenegro and Slovenia to BiH, forging the documents of the coffee's origin. By forging the documentation on the origin, the coffee is being sold as legally imported, with the support of a network of aiders and abettors or an organised sale network. Police operation "Panama"⁸⁰ provides evidence for such activities, and evidence for the criminal groups. In this action, eight persons were arrested on a suspicion of coffee smuggling from Slovenia. It is estimated that this group only caused nine million convertible marks financial damage to the budget of BiH.

4.2.3. How does the law treat these criminal acts?

Bosnia and Herzegovina possesses a wide range of legislation covering these criminal acts. They are covered in four Criminal Codes. On state level, Criminal Code of Bosnia and Herzegovina, in the Chapter XVIII, covers criminal offences against the economy, market integrity, and criminal offences in customs. On entity level, in the Criminal Code of Federation of Bosnia and Herzegovina, these offences are covered in Chapter XXII – as criminal offences against economy, business and fraud in business transactions, and in Chapter XXIII - criminal offences related to taxes. Criminal Code of RS covers these in Chapter XXIV, as criminal offences against economy and fraud in business transactions. Criminal Code of the Brcko District of Bosnia and Herzegovina covers these offences in Chapter XXII – as criminal offences against economy, business and fraud in business transactions and in Chapter XXIII - Criminal offences related to taxes.

⁸⁰ Action was focused on arrest of the members of the organised criminal group that smuggles raw coffee beans from Slovenia to BiH. Arrests were made in the areas of Kiseljak, Posušje and East Sarajevo, where certain premises were searched. Some business documentation was confiscated, certain amount of money, mobile phones and other property supposedly linked to criminal offences concerned. Source: <http://www.rts.rs/page/stories/sr/story/11/Region/1281688/Hap%C5%A1enja+u+BiH+zbog+krijum%C4%8Darenja+kafe.html> 9 March 2013.

4.3. Corruption

According to the citizens' opinions, gathered in a research conducted for the needs of this study, corruption is the third modality of organised crime that should be a priority for authorities in their future actions. Corruption appears in different shapes and its intensity varies, but always has negative influence in all societies. Two thirds of the interviewed citizens believe that public health services, police and education are the three areas where majority of corruption occurs.⁸¹ Wide distribution of corruption activities is a great threat for Bosnia and Herzegovina. These activities enable profit and other benefits to the one that initiates the corruption, as well as certain benefits to the person enabling the corruption activities illegally to the initiator of corruption. Potentially high-risk, and significant area for corruption, is a potential for misuse in application of the Law on Public Procurement. One of the reasons is that public procurement uses a significant amount of budget resources, and in practice control measures and procedures for the employees of this institution are inadequate. Also, in the past couple of years, the system enabled tax fraud and evasion, where "untouchable"⁸² companies serve to increase incoming VAT, to reach the conditions for tax refund, and damaging the situation budget.

Besides negative influence on the government institutions and citizens, certain types of corruption can have heavy consequences for the business sector and economic development. Thus, corruption is often an obstacle to private and foreign investments, trade and economic development. Criminal activities in their various shapes influence business activities: from blackmail and extortion by organised criminal groups, through serious fraud and embezzlement by managers, to vandalism or threats by criminals. All this can cause serious damages to business environment, and increase the costs of conducting business. At the same time, any form of corruption is a fertile ground for organised crime. Besides above mentioned, certain corruption activities are also undermining public companies, causing government institutions to be perceived as inefficient, vulnerable, and corrupt. Media presents that the employees of various administrative institutions, police and security

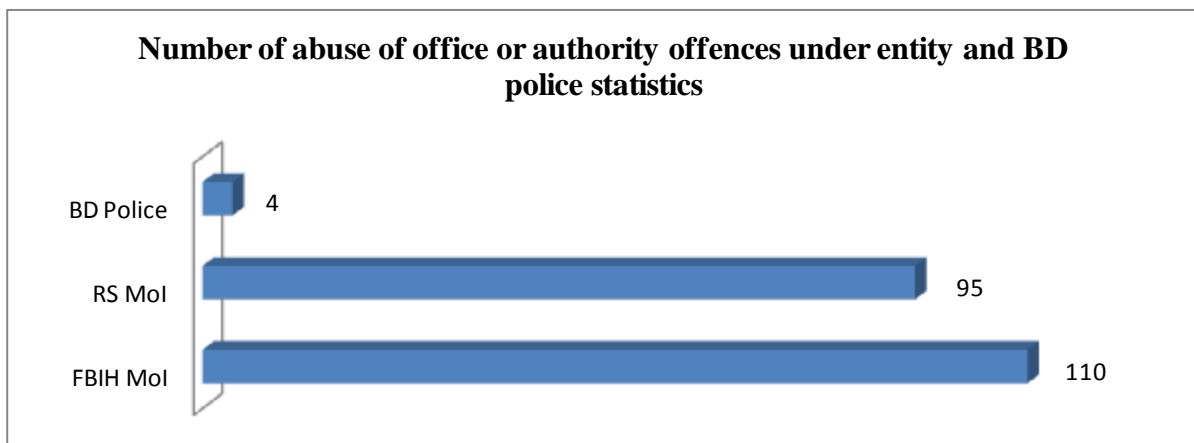
⁸¹Situation analysis of anti-corruption measures in public health. Centre for civil initiatives. Sarajevo, June 2013 page 26.

⁸²By "untouchable" we mean companies which were protected in their businesses by someone in power from a control institution

agencies have connections with certain criminals.⁸³ This connection is usually reflected in the fact that the employees, on various levels, enable members of the organised crime groups to obtain various benefits, and receive cash in return. Some of them are so deeply involved in this “dirty” business that they are “permanently engaged” for such activities.⁸⁴

4.3.1. Current situation and trend

In 2013, police agencies in BiH registered 377 corruption criminal offences. If we compare these acts with acts from 2012 (447 acts), we will see that there is a decrease in the criminal offences of corruption by 11.85 percent. Amongst the criminal offences of corruption, the most dominant form is abuse of office or authority.⁸⁵ In 2013, 210 such offences were registered. Right after the abuse of office or authority, lack of commitment and embezzlement are the most numerous criminal offences.



⁸³Indictment was brought against court trainee of the BiH Court who gave up official secrets to criminals. Special department for organised crime, economic crime and corruption of the Prosecutors' Office of Bosnia and Herzegovina indicted Ž. B. from Ljubuski, trainee of BiH Court, for suspicion of committing criminal offence Abuse of Office, and violation of the secrecy of the procedure. After finding out that there are special investigative measures, under the code name “Ota More”, conducted by the Prosecutor's Office and Federal police (based on the order from BiH Court), the indicted has contacted the first suspect in the case whom she personally knew since he is from Ljubuski, and told him that there is an investigation of him and few other persons and their telecommunications are legally tapped”. Source: <http://www.klix.ba/vijesti/bih/podignuta-optuznica-protiv-pripravnice-suda-bih-koja-je-kriminalcima-odavala-sluzbene-tajne/140506002> 03.06.2014.

⁸⁴In police action of a code name “Gold” that has been conducted based on the order from BiH Prosecutors Office 15 persons have been arrested, out of which ten customs officers, including the manager of the Customs Office Sarajevo. Prosecutor's Office indicted them for abuse of office, receiving bribe, and enabling import of goods for monetary gain. BiH Prosecutor's Office led this investigation for a number of months. Source: http://www.tuzilastvobih.gov.ba/files/docs/Drugi_o_nama/03.06.2014..pdf

⁸⁵In 2013, Cantonal Prosecutor's Offices filed complaints against 2.478 persons for the criminal offence abuse of office, Article 383 of the Criminal Code FBiH (Chapter XXXI), and started investigations against 525 persons. 90 persons were indicted, and courts issued decisions on 76, out of which 48 convictions, 3 verdicts of abandonment, and 21 verdicts of release. For 4 persons criminal procedure was terminated. 15 persons got prison sentences, 1 person was fined, and 32 persons got a suspended sentence.

What is worrisome is the information that in 2013 there was an obvious increase in numbers of the Ministry of the Interior employees who were accused of performing the criminal offence against official duty.⁸⁶

When it comes to the work of BiH Prosecutor's Offices, 265 indictments were submitted for the criminal offence of corruption in 2013. Compared to 2012, there has been an increase of 9 indictments. Out of 265 indictments, 50 % were in the Prosecutor's Offices in Federation, 40 % in Prosecutor's Offices in RS, 6 % in Prosecutor's Office of BD BiH and 4 % in Prosecutor's Office of BiH. Regarding investigations conducted by Prosecutor's Offices in BiH, the trend of overall decrease continued. Statistical information for this period shows that in 2013 there has been a decrease in investigations to 725, or by 50.01%. For comparison, overall decrease in 2010 compared to 2009 was 5.2%. If we compare the total number of investigations in 2013 to a total number of crime reports that prosecutor's offices received, we will see that almost a third of all criminal reports are investigated. Therefore, we can say that the Prosecutor's Offices in Bosnia and Herzegovina in 2013 indicted more people for corruption than in 2012, but the increase is not significant.

By analysing the indicators on final results of indictments filed by the Prosecutor's Offices in BiH for the 2012 – 2013, we have found information that courts in 2013 brought a higher number of verdicts for criminal offences related to corruption. There were 34 more verdicts, an increase by 9.4 %.

4.3.2. The main characteristics of organised criminal groups

When it comes to organised criminal groups that are involved in criminal offence of corruption, we should point out that in this research we did not manage to identify a group that is exclusively involved in this type of crime. Gathered information points to the fact that most criminal groups that deal with other types of crime use corruption to perform other crimes, and obtain benefits. That is especially the case with drug-trafficking groups, vehicle theft, economic crime and tax fraud and evasion, illegal migration, illegal trade and weapons production. The information that a number of perpetrators of these and other criminal acts managed to obtain cooperation by bribing individual court and police officers by giving them

⁸⁶Information on security situation. 2013. Federal Police Administration

money or other material gains is highly worrisome. This creates conditions for the investigation to get revealed in the pre-investigative procedure, which can result in termination, or just making it more difficult. Also, bribing someone using money creates conditions that in certain stage of discovery and proving committed acts their consequences are covered or minimised, so the verdicts have minimum sentence. Dual citizenship is also used in many cases to avoid sentence altogether.

With such actions, the most organised and the strongest criminal groups are trying to recruit influential persons from higher levels of government for their needs. In that way, members of the criminal groups ensure undisturbed performance of their illegal activities, as well as protection from criminal processes against them, any punishments, and ensure staying outside the law.

4.3.3. How does the law treat these criminal acts?

Criminal offences of corruption and criminal offences against official duty, Chapter XIX of the BiH Criminal Code (Article 217-229), Chapter XXXI of the Criminal Code of the Federation of BiH,⁸⁷ (criminal offences of bribery and criminal offences against official duty (Article 380 – 392), Chapter XXVII of the RS Criminal Code (criminal offences against official duty, Article 347 – 360) and Chapter XXXI of the Criminal Code of the Brcko District of BiH (criminal offences of bribery and criminal offences against official duty).

4.4. Human trafficking

Bosnia and Herzegovina is a transit country as well as final destination for the victims of human trafficking. Because of the economic circumstances, BiH is not that interesting to traffickers anymore, because they can earn more and earn faster in the more developed and richer European countries. Besides sexual exploitation, available data shows that labour exploitation is taking place, such as begging, working in agriculture situations, construction, etc. Victims of labour exploitation are usually minors with physical or mental disabilities,

⁸⁷Criminal acts from this Chapter of the Criminal Code F BiH are identical to criminal acts from Chapter XIX of the Criminal Code BiH (Article 217 -229). Criminal acts (Article 380 – 392): accepting gifts and other forms of benefits, giving gifts and other forms of benefits, illegal interceding, abuse of office, embezzlement, fraud, lack of commitment, revealing official secret, forging an official document, illegal payments, illegal freeing of a person who has been detained, and illegal taking of property during search or enforcement.

either inborn or acquired. Main modality of human trafficking is sexual exploitation of females, amongst which minors are found as well. Victims of human trafficking are mainly persons from the socially disadvantaged categories.

In the post-war period in Bosnia and Herzegovina, there were night bars/brothels where foreign citizens, mainly girls from Ukraine, Moldova, Romania and other countries, offered sexual services. After frequent raids and controls by the police, as well as charges against bar owners, i.e. the persons who organised offers of sexual services, night bars were mainly closed. After closing of these bars, the modality of offering sexual services for money has changed. Number of foreign citizens decreased, and more and more female citizens of Bosnia and Herzegovina were involved.

Available data shows that today the main victims of human trafficking are women and children.⁸⁸ Minority children are under a lot of risk, as well as children with special needs, displaced persons and refugees, persons from poor or unstable families. The main baits in this region are false offers of well-paid jobs from unknown persons and agencies, well-paid jobs that do not require any qualifications or skills, urgent offers “I urgently need” types of ads, big promises, false auditions or shoots, fashion and dance agencies as a screen, tourist agencies, internet sales and finding jobs on internet, etc.

4.4.1. Current situation and trend

Year 2012 is noted as a year with an increase of these criminal acts.⁸⁹ 20 criminal offences were registered which were related to human trafficking, which shows an increase from 2011 of 25%, since there were 16 criminal offences registered. 47 perpetrators committed those criminal acts, which suggest elements of organised crime. In 2013, on the level of entity

⁸⁸Human trafficking on global level involves abuse of 2.4 million of women, men and children, which brings 32 billion US\$ income to criminal groups

Source: http://www.unodc.org/documents/toc/print_materials/TOC12_poster_general_EN_LORES.pdf

⁸⁹Cantonal (local) prosecutor's offices in Federation started investigation against 14 persons under suspicion that they committed the crime of human trafficking and they conducted the investigation against 8 persons, while in 2012 there were three investigations. During the reporting period, (Report on Human Trafficking 2014) courts in Federation convicted 5 perpetrators of this criminal offence, which is more than 2012. Two perpetrators got prison sentences, while three got suspended sentences. The two perpetrators got 18 months in prison. Courts of Republika Srpska conducted investigation against one person and indicted one person, convicted one person, while in 2012 they convicted two. In District Brčko there was an investigation against three persons, and two were indicted. One person was convicted for forced labour (Article 207) and was sentenced to prison in the duration of 8 years.

Source: <http://bosnian.sarajevo.usembassy.gov/trgovina-ljudima-2014a.html>

Ministries of the Interior and Brcko District Police, no criminal offences from this area were recorded.

No.	Entity Mol and Brcko District Police	Number of detected offences	
		2012	2011
1.	Fed Mol	4	4
2.	RS Mol	2	0
3.	BD Police	-	1
4.	BiH Border Police	-	-
5.	SIPA	14	11
Total in BiH		20	16

According to the data from competent police authorities, most of the perpetrators of these criminal offences are male, younger and middle-aged, citizens of BiH. Victims chosen for prostitution are usually younger females, while victims of smuggling are middle-aged men. Most victims of trafficking are BiH female citizens.

Persons who participate in these criminal offences are well organised, and their tasks are strictly divided within the organisation. The secrecy is another characteristic. Namely, sexual services for money are provided by the girls in different ways – hotels, motels, private accommodations, apartments, etc. Also, there are a number of girls who work for themselves, which means that they do not have a person who instigates the acts, or tempts them or entice in any way, or organises the business for profit.

Observing the current situation of criminal activities in the field of human trafficking in BiH, we can tell that the level is not as it used to be, i.e. the trend is negative. This can point to two facts. First, that Bosnia and Herzegovina has reached good results in the field of prevention of human trafficking, in the past couple of years, judging by the positive reports from the State Department on the situation of human trafficking in 2011 and 2012. Second option is that the criminal groups and individuals came up with new modalities (*modus operandi*) to accomplish their goals, and that police structures do not have a complete picture on the scope and size of criminal offence of human trafficking.

4.4.2. The main characteristics of organised criminal groups

Analysed cases of human trafficking in BiH, which were recorded by the police and courts, illustrate that the groups involved are mainly small, still not inter-connected or with a wide –

spread organisation and vertical hierarchy. Lately, one organised group has been noticed, made of members of one Roma family, which organises begging for money and thefts all over Europe, and mainly France, Spain and Italy, exploiting mainly juveniles.

Considering that the criminal offences of human trafficking have international character and are well organised, often the same “roads” i.e. the transport of victims is used for transport of illegal drugs, cigarette smuggling and weapons trade. Reasons for combining these criminal acts are twofold, financial interests of members of various criminal groups, to reduce the costs of transport and to make it easier to transfer people to certain destinations.

Organised groups have a high number of members, whose number is difficult to determine, but it is estimated that there are usually 12 to 25 members with clearly defined tasks. Groups use combined criminal activities, such as drugs smuggling and loan-sharking. Persons involved in this criminal act are usually citizens of BiH, or neighbouring countries. Usually they are persons with high-school education level, who are inclined to criminal activities, but are usually in catering business or similar. Group members use violence on trafficking victims. The most common being physical abuse, limiting the movement, taking away personal documents, threat, blackmail, etc. In most cases the members have criminal records already, but it has been noticed lately that they are recruiting new members.

4.4.3. How does the law treat these criminal acts?

Criminal offence of human trafficking is described in Article 186 of the Criminal Code of Bosnia and Herzegovina. Besides that, there are criminal offences of Establishment of Slavery and Transport of Slaves (Article 185), and International Enticing into Prostitution (Article 187). Article 189a, describes Trafficking in Persons and Smuggling of Migrants as a separate criminal offence, and it relates to organising a group or association for performing criminal act of trafficking and smuggling. In the Criminal Code of Republika Srpska, Article 198 describes criminal offence of Soliciting to Prostitution.

4.5. Vehicle theft crime (theft and trafficking in stolen vehicles)

In the past two years in BiH stolen vehicle crime is in increase. Stolen vehicle crime brings in huge profits, involving relatively small risk for perpetrators. Vehicle theft and trafficking in

stolen vehicles is a leading criminal activity when it comes to financial gain. Small risk and great financial gain are a good draw for a large number of organised criminal groups to decide to pursue this type of crime.

Vehicle theft is a criminal offence that is a form of organised crime, where a number of persons are involved. Those persons form organised criminal groups to perform this criminal offence, for the purpose of acquiring illegal material gain for themselves or others. Groups that are dealing with this criminal activity have established and effective ways of performing this act, i.e. a well-organised way to achieve monetary gain after performing the act. Carrying out this act involves other criminal offences, such as extortion, illegal trade and forgery. In a vast number of these crimes, after the vehicle theft, there is an offer to “buy back” the vehicle. Certain number of vehicles is sold to another area or region, after forging the documents, and others are sold for parts on illegal but also legal used car parts markets. According to the available findings of a Task Force for Development and Monitoring of the Implementation of the Action Plan for Prevention and Combating of Criminal Offences related to Motor Vehicles (2012-2015), in Bosnia and Herzegovina there is more than a few dozen used car parts markets, where the largest number of stolen cars disappears. Only a small number of these markets are in the VAT tax-payers system. Motor vehicles are not left on these sites in one piece, they are dismantled immediately and then they wait for the potential buyers. Stolen vehicles are often used as means in executing criminal offences of aggravated robbery in banks, post offices, bet shops, supermarkets and other places where larger sums of money can be found.

4.5.1. Current situation and trend

Based on the statistical indicators shown in the table below, it is obvious that 2011, compared to the seven previous years, can be highlighted as year with a smallest number of vehicle theft criminal offences. This year is characterised by a large number of implemented actions of control of these car-part markets on the whole territory of Bosnia and Herzegovina. It is obvious that these actions brought good results; it is the consequence of these activities that a large number of stolen vehicles were found and the chains of organised groups who were performing these criminal offences were interrupted. However, the trend from 2011 has not

continued, and in the next two years we can see an increase in number of these offences by 14.48% in 2012 and 14.99 % in 2013.⁹⁰

	Entity MoI and Brcko District Police BiH	Criminal offence theft of motor vehicles ⁹¹						
		2007.	2008.	2009.	2010.	2011.	2012.	2013
1.	F MOI	1210	1401	1420	1409	952	1169	1228
2.	RS MoI	425	339	293	219	122	156	141
3.	Police BD BiH	51	26	25	20	17	3	5
Total BiH		1686	1766	1738	1648	1091	1328	1374

It is evident that in the area of Federation of Bosnia and Herzegovina, after a number of police actions to prevent the crime of vehicle theft in 2011, the number of thefts is again increasing over the last two years. In 2013, there were 1228 criminal offences of vehicle theft, which is an increase comparing to the 2012 of 59 offences, or 5.05%. For these acts, 167 persons were reported, out of which half are multiple offenders, and 22 are minors. Number of stolen vehicles points to the fact that Sarajevo Canton is the most vulnerable in BiH when it comes to the theft of motor vehicles. The area of Sarajevo Canton makes up for more than 65% of vehicles stolen in Federation BiH, or almost 60% of stolen vehicles in BiH. Vehicles of the brands: VW, Audi, Skoda, BMW, Mercedes, Fiat and Renault are targeted most often, of the make: Golf A2, Golf A4 and A5, Passat, Skoda Fabia, Skoda Octavia, Audi A4 and Polo. In the area of Federation BiH, in 2013 712 VW vehicles were stolen, 149 Skoda, 130 Audi, 72 BW, 23 Mercedes... In cases of theft of a lower class vehicle, they are dismantled and sold in parts, while higher class vehicles are smuggled over the border and bring high income to perpetrators.

In Republika Srpska entity, in 2013 there were 141 crime reports for vehicle theft, which is 15 cases less than 2012, or 9,6%.

Besides vehicle theft, in the past couple of years there has been an increase in theft of large construction vehicles, found and seized in Bosnia and Herzegovina. Only within one investigation (by the SIPA), 29 construction vehicles of very high value were seized, originating from the countries of Western Europe. Unfortunately, because of the very specific

⁹⁰In Europe only, 1.2 million of cars are stolen per year. Organised crime groups acquire 8 billion in profit from these thefts.

⁹¹Criminal offences of vehicle theft were taken from annual reports of entity Ministries for Internal affairs and Report on Work of the Police Brcko District BiH.

and extremely difficult system of identification of such vehicles, non-existence of adequate training courses, and trained specialists in this area, police agencies worldwide as well as in BiH, are not able to combat this new type of crime in the adequate manner.

Final destination of stolen vehicles was mainly Serbia, Albania, Montenegro, Kosovo, Russia and Lebanon.

4.5.2. The main characteristics of organised criminal groups

Through THE analysis of given data it is hard to come to the precise number of organised criminal groups. Aggravating factor is a fact that there are certain criminal groups that have not been identified yet. There are also groups that have been investigated that are involved in other criminal activities as well.⁹²

Through conducted interviews, it has been determined that there is a high number of criminal groups who are cooperation amongst themselves, and share the profit. It should be noted that there is a high number of perpetrators. Criminal groups are based in the cities, and they do not perform vehicle thefts in their city. So, criminal group in Dobož usually steals the vehicles from the region of Tuzla and Zenica. Group from Zvornik mainly steals vehicles from the Sarajevo area, with assistance from the criminal group from East Sarajevo and Pale. Criminal groups from Mostar steal vehicles in the area of Mostar and Sarajevo. According to our findings, there is also a criminal group from Gradiška, which operates in the area of Banja Luka and Bihać, as well as criminal group from Vitez, that steals vehicles in the area of Travnik. Even though most of these criminal groups are performing vehicle thefts outside of their place of residence, i.e. another entity, police actions and findings point out the fact that perpetrators have worked in well organised criminal groups whose members are on both sides of the inter-entity line.

Very serious problem in this type of crime is that the companies dealing with purchase of car-parts, used car-parts and used vehicles. Those types of companies are near the border of BiH, where the possibility of inter-entity and inter-state smuggling is much greater. Only 11.36%,

⁹²BiH Court's trial chamber reached a verdict in April 2014 in the case of "Šemsudin Hodžić and others", finding the accused Hodžić guilty for organised crime, for criminal offences of aggravated theft and concealment, and sentenced him to 11 years in prison. Source: Portal Oslobođenje, retrieved on 25 April 2014.

from the total number of these companies is doing business legally, the rest are illegal or their status is unknown. Besides used car-parts markets, car-mechanics, car-service, even registered vehicle shops are taking part in these activities. Registered vehicle shops purchase the vehicles and forge documentation, then re-sell the vehicle.

We estimate that a criminal group that deals with vehicle theft usually has 5-12 members, and as such, usually cooperates with other criminal groups from a different area. Group members are mainly citizens of Bosnia and Herzegovina, who have specific tasks depending on each organisation. Organisation consists of organiser and various other actors, who had specific tasks i.e. persons responsible for theft, transport, hiding, dismantlement, forgery of documentation and numbers of chassis of stolen vehicles, and many other activities.

For easier implementation of the criminal offence, organisers of the criminal group or other members often try to find public officials who work in law enforcement, judiciary, public administration etc. to ensure that they have up-to-date information on police activities taken to prevent the criminal offence; they also bribe customs officers, officers involved in car registration, etc.

4.5.3. How does the law treat these criminal acts?

Criminal offences of vehicle theft, i.e. theft and illegal trade in stolen vehicles are regulated on the entity level, and BD BiH:

Criminal Code of BiH Federation: - Article 287. Aggravated theft;

Criminal Code of RS: Article 232. Aggravated theft– vehicle theft; and

Criminal Code of BD BiH: Article 281. – Aggravated theft.

Criminal offences of vehicle theft are usually related other criminal offences, such as crimes against property: extortion, fraud, blackmail, robbery, usually followed by performance of a criminal offence of endangering safety, and other criminal offences

4.6. Other criminal offences

In this section we will present the basic characteristics and trends of other criminal offences that, due to their nature, often have the elements of an organised crime. We will not analyse these offences in as much detail as the previous ones, which were identified by the citizens as the most present and most dangerous. This part is of the informative character, to inform the reader about other modalities of illegal activities, and through adapting this information, awareness is raised about organised crime, the most complicated and most dangerous for the society as a whole.

4.6.1. Illegal weapon trade

Research that has been done in the past years shows that Western Balkans, including our country, is an area where large amounts of illegal weapons are present. Most of the weapons in BiH are from the last war, and there are different motives for possession of weapons by the citizens. An estimate is that there is around 750000 pieces of illegal weapons, i.e. that every fifth citizen of BiH possesses an illegal weapon.⁹³ We can see from the statistics that show the number of criminal offences for illegal possession of weapons has increased in the past two years in BiH that Bosnia and Herzegovina has the illegal weapon burden. In 2012, compared to 2011, there was an increase in these criminal offences by 10.94%. In actions of security agencies, 7.22% more firearms were taken, as well as mines and explosives. In 2012 34.218 pieces of ammunition of various calibres were taken, and 10.2 kg explosives. Based on the conducted field interviews, it can be concluded that the most present is the trade of weaponry leftover from the war, or from military storages. Groups from BiH⁹⁴, usually with 10 or 13 members, are in business of weapons trafficking. These groups are well connected with other groups abroad, and the most common communication and coordination is with groups from Montenegro, Serbia, Croatia, Macedonia, Bulgaria, Albania and Turkey. Illegal weapons from BiH usually end up on the markets of Western Europe, and the motive is a great income and relative easiness of finding a buyer.

⁹³Research on small arms and light weapons. Sarajevo: UNDP 2010/2011. Page 5. For more information, see: http://www.ba.undp.org/content/dam/bosnia_and_herzegovina/docs/Research&Publications/Crises%20Prevention%20and%20Recovery/Small%20Arms%20Survey%202010-2011/BiH_studija_o_malom_i_lakom_naoruzanju_2010-2011.pdf

⁹⁴Until now, SIPA has registered two criminal groups that could be related to the commission of the criminal offence from Article 193 of the Criminal Code BiH (Illicit trafficking in arms and military equipment).

4.6.2. Criminal offences with elements of violence

Economic recession on global level, and overall social and economic crisis that is present in Bosnia and Herzegovina for a prolonged time-period, is a very fertile ground for increasing criminal offences with elements of violence. Criminal offences such as: kidnappings, extortion and blackmail are the most widespread modalities and characteristics of these types of criminal offences. Prosecution of offences from the area of loan-sharking and racketeering illustrates the most common manifestations of organised criminal action that local criminal groups are undertaking. This type of crime has a certain continuity of action in Bosnia and Herzegovina, but its manifestation in the recent past points out that criminals are connecting and networking in order to perform these acts, which were mainly done by the individuals in the past. Information that we found during our investigation show that in BiH there are specialised criminal groups for these criminal offences, which have 5 to 8 members, and are very hierarchical. Complicated economic situation in the country, without perspective, creates real assumption that we can expect a further increase in these types of offences in the future, which leave very strong social and psychological consequences on the victim.

4.6.3. Terrorism and financing of terrorism

Even though in 2013 in police statistics there were no criminal offences of terrorism or criminal offences related to terrorism, the attitudes and opinions we got through interviews indicate that extremism and terrorism exist, and they can significantly slow down the process of reforms and integration. In favour of this, there are cases that are not related that happened on the territory of Bosnia and Herzegovina.⁹⁵ Acting on these cases, in the past five years BiH Court has processed, or is still processing, criminal offences of terrorism in the cases against 19 persons.⁹⁶ When we talk about the structures from which indirectly or directly

⁹⁵10.01.2007 BiH Court issued a decision No. X-K-06/191 which convicts the following persons for the act of terrorism: Mirsad Bektašević, to 15 years and 4 months in prison, Abdulkadir Cesur, to 13 years and 4 months in prison, Bajro Ikanović to 8 years in prison and Senad Hasanović to 2 years and 6 months in prison.

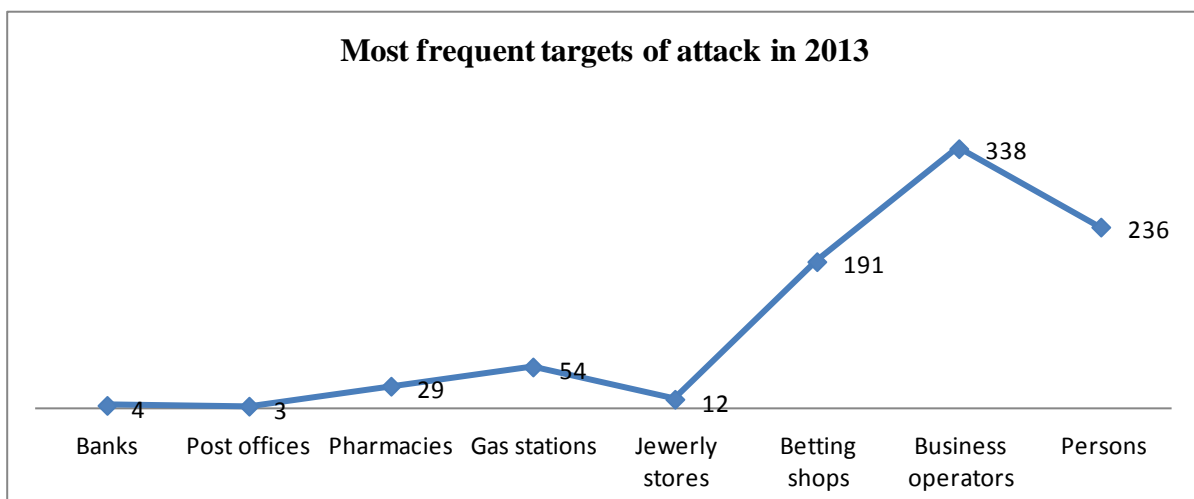
Source <http://www.nezavisne.com/index/kolumne/Presude-i-apelacije-Suda-BiH-za-terorizam-203074.html>

⁹⁶France is a centre for terrorism in Europe, with 63 of total 152 terrorist attacks recorded in 2013. Only in 2013, 225 arrests were recorded for suspicion of, or indictment for, terrorist attack. Total number of terrorist attack in 2013, 152 of them, was recorded in only 5 countries, EU Member States. The highest number was in France, (63), followed by United Kingdom (35), and Spain (33). The number of terrorist attacks is reduced in comparison with 2011, as EUROPOL Report states. In total, seven persons were killed in terrorist attacks in Europe, and 535 persons were arrested on suspicion of their involvement in the attacks. According to EUROPOL Report, the biggest problem is the return of “jihad” in Europe. Source: <http://www.slobodnaevropa.org/archive/news/latest/500/500.html?id=25403953>

certain terrorist acts were generated, they are in religious and nationalist extremism, and right-wing ideology that is more and more present in Bosnia and Herzegovina. Besides this, we face appearance of extremism with nationalist (ethnic) character, which is especially aggressive before the elections in BiH. It serves as basis for enticing certain political crises, confrontations and tensions, all for obtaining a larger support of the voters. Especially worrisome is the information that sports manifestations, such as the football World Cup, are being used to express ethnic and religious intolerance and hate, as well as nationalist rampage with disturbance of public peace and order. All this has a consequence endangering the safety of citizens and their property.

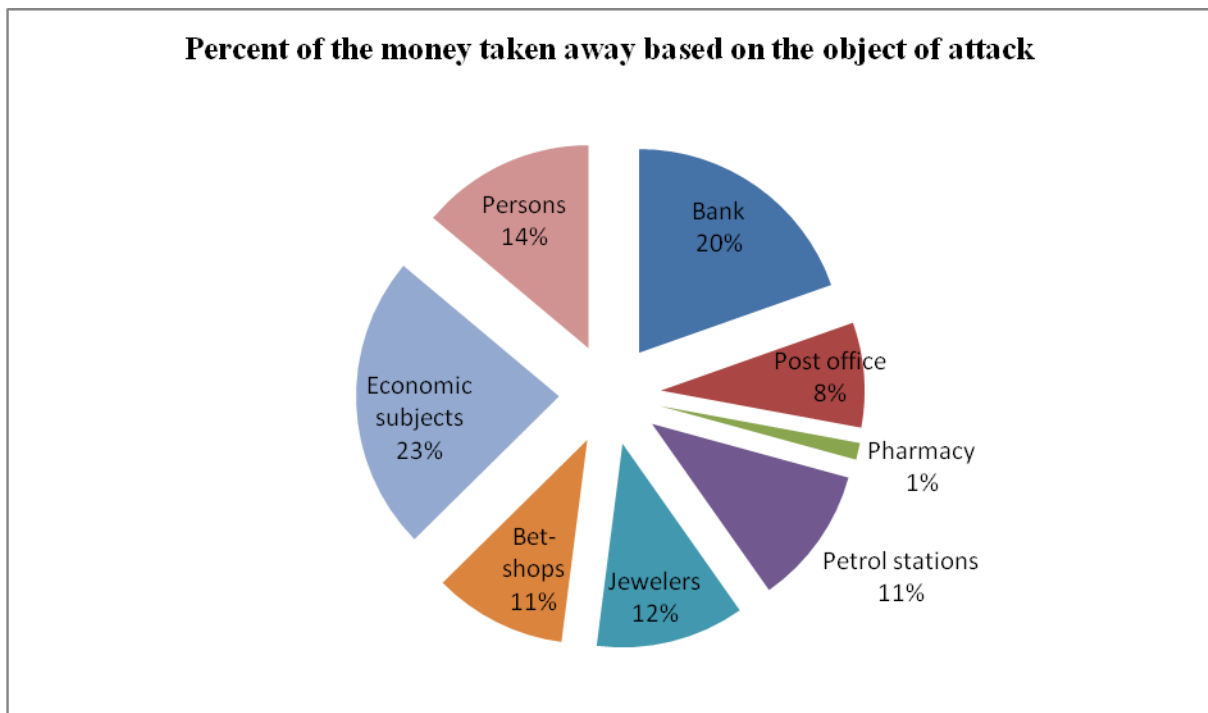
4.6.4. Robbery

In 2013, there was a mild growth in numbers of reported robberies. During that year, 1034 criminal offences of robbery were reported, which is an increase in 24 offences in comparison with 2012. Joint characteristic of all of these acts is that firearms are used in the commitment of the act, as well as other forcible means, and that in the majority of cases these acts are well prepared and organised. In two cases of robbery, there were tragic consequences and resulted in murder. Recorded cases of robbery indicate that those are smaller groups, which are still not strongly inter-related, or with broad organisation and vertical hierarchy. The most common objects of this offence are economic operators (338 cases), persons (236), bet-shops 191, petrol stations (54 cases).



In 2013, through criminal act of robbery, 1,658,651.00 KM was stolen, out of which economic operators suffered damage of 389,833.00KM, i.e. 23.45%. Besides multi-million material damages, this type of crime is particularly negative influence on the feeling of personal security of citizens.

TARGETS OF ATTACK	2013
Banks	325,000.00
Post Offices	138,000.00
Pharmacies	22,169.00
Jewellers	195,645.00
Petrol stations	182,208.00
Economic operators	389,833.00
Bet-shops	175,333.00
Persons	230,463.00
Total:	1,658,651.00



4.6.5. Money laundering

Money laundering is activity in which criminals want to put illegally earned money onto legal monetary routes as soon as possible, i.e. legalize the money. Traditional money laundering technique is commonly used, so that criminals invest their illegally obtained money into movable property (cars, yachts etc.) or to buy real estate (land, houses, and apartments). Very

often, money laundering technique through bank sector is used, through businesses with securities, loaning the money to the owner of the company to put the money into legal flow (very often perpetrators' own company), cash smuggling, conversion, electronic internet banking, through VAT fraud, etc.

On the level of entity Ministries of the Interior, in 2013, eight criminal offences of money laundering were registered, which is one offence more than in 2012. The Financial Intelligence Unit of the SIPA in 2012 registered 13 criminal offences and submitted seven reports against 36 persons and 14 legal entities. When it comes to organisation of persons who perform money laundering, available data show that there are two specialised criminal groups that are profiled exclusively for money laundering, but for their own purposes, not for other criminal groups. In 2013, there were no submitted official reports to the competent Prosecutor's Office for reasonable doubt that a crime of financing terrorism was committed, and there were no reports of suspicious transactions that could be related to this criminal offence.

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