

Impact of corruption on the process of Eurointegration of Serbia

ŽELJKO BJELAJAC

Professor, The Faculty of Law for Business and Judiciary in Novi Sad

NENAD BINGULAC

The Faculty of Law for Business and Judiciary in Novi Sad

Abstract:

Corruption, as an economic and political problem, represents negative social phenomena and is more or less present in all countries of the world. The Republic of Serbia on her path towards membership in the European Union has an obligation to establish effective measures in the fight against corruption through strengthening of the institutional and legal framework. The primary objective of this paper is to review and discuss the most characteristic forms of corruption in the Republic of Serbia by recognizing the circumstances that might be considered for those conditions. Further in the paper a special attention is devoted to the review analyzes the state of corruption in Serbia through the Global Corruption Perception Index, all in order to fully understand the current anti-corruption measures and their level of efficiency. Furthermore a reference was made to the criminal and other legislations in the Republic of Serbia that are governing the issue of corruption. The importance of this part of the research is that it shows the current anti-corruption measures. In this paper, in addition to the above, special attention was paid to the major statistical indicators on the state of corruption in the Republic of Serbia, which are obtained from the relevant organization. In the last part of the paper we have provided conclusions of the research about the issues which relate primarily to the negative impact on the economic system of the country, and after that we have proposed specific anti-corruption measures.

Keywords: *corruption, manifestations, economic crime, anti-corruption measures, eurointegration.*

1. Introductory remarks

During the recent decades, the issue of corruption is characterized by newer forms of manifestation primarily due to many social and economic changes, changes that represent a direct connection with wars, huge political changes, economical and business weakening of the country, but also due to the planned privatization of property belonging to a county and other forms of transitional politics. Weakening of standard of the citizens and a gradual strengthening of the gray economy, in addition to the indisputable direct negative impact on the economic system of the country, the most common consequence is the increase of criminal and deviant behavior.

The term "corruption" (lat. *Corruptie*) during the period of ancient Rome has been describing the moral corruption and venality. Since the beginning of organized human society, corruption appears as a hidden phenomenon, whose scale can not be accurately

measured and can not be completely eradicate.¹ Corruption is negative social phenomena that is more or less present in all countries of the world. Depending how the society and the country are developed we can identify different forms of that problem, ranging from overt and publicly known behavior right to the "elegant" incorporated in many governing entities and institutions.

Corruption can be observed through the issue of organized crime in a way that organized criminal activities are manifested through close cooperation *i.e.* teaming up with government agencies and institutions. Some authors suggest that corruption occurs as a side activity of the primary activity of criminal groups and the reason for that is because through corruption is achieved expansion of power.² If you take a close look at the conditions that favor the emergence and strengthening of organized crime, we can see that they do not differ greatly from the already mentioned circumstances that usually precede issue regarding corruption. According to many authors, the basic cause of crime are dysfunctional social relationships which are mostly caused by inadequate and uneven material development and social division of labor, which arise due to inequality in economic and political sphere within a country, which can often provoke certain implications on the international level.³ Correlation between corruption and organized crime is that organized crime must have self-protection mechanisms, because only in this way can guarantee the criminal activity and its survival, therefore, organized crime resort to methods of violence and intimidation, or establishing a criminal connections with state authorities, political parties, and that is usually achieved through corruption.⁴ Reasons we have mentioned above are typical for all forms of crime, but from the etiological aspects it is necessary to take account what's causing the organized crime, *ie*, its specificities.⁵ Without going deeper into details about these problems, it is necessary to point out that many authors have classified causes of organized crime into three groups, and those are: economical, social and political causes.⁶ In addition to the observations shown so far, it is necessary to underline that corruption, viewed separately or as a part of organized crime, is often characterized by a significant degree of conspiracy and organization, especially in the allocation of duties, *ie*. tasks (as well as any organized crime), which is also reasonable to expect because corruption is exhibited through offenses against official duty (abuse of official position. breaking the law set by a judge, public prosecutor and his deputy, dereliction of duty, unlawful collection of payments, fraud in the service, bribery, disclosure of official secrets etc.).

In the eyes of the regular citizens, usually no distinction is made between bribery and corruption or they can't make a clear distinction between these two concepts. Basically, corruption involves much wider range of abuse, *i.e.* may involve a higher

¹ Bjelajac, Ž: *Korupcija kao izazov savremenog demokratskog društva*, Kultura polisa, 2015, pp. 43.

² Dobovšek, B: *Fenomenološka obeležja korupcije kroz prozmu delatnosti organizovanog kriminala*, ur. Bjelajac, Ž. i Zirojević, M, *Organizovani kriminalitet – Izazov XXI veka*, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2012, pp. 327.

³ Bjelajac, Ž: *Organizovani kriminalitet – Imperija zla*, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2013, pp.79.

⁴ Bošković A, Pavlović Z: *Special evidentiary actions in the function of combating organized crime in Serbia*, Journal of Eastern European criminal law, no. 1/2015, pp. 42.

⁵ Bošković, M: *Transnacionalni organizovani kriminalitet*, Policijska akademija, Beograd, 2003, pp.73.

⁶ Bjelajac, Ž. *op. cit.*, p. 80. i Šikman, M: *Kriminološki aspekti organizovanog kriminaliteta – karakteristike i uzroci*, ur. Bjelajac, Ž. i Zirojević, M, *Organizovani kriminalitet – Izazov XXI veka*, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2012, pp. 85-89.

number of different types of crime, whereas bribes are limited to receiving or giving money or gifts to officials. Some authors specify that corruption in addition to being an abuse of public official functions, by which is meant the various forms of extortion, bribery, etc., may not be restricted only to public office. Corruption can exist in the private sector where it can refer to taking bribes to favor the certain clients (customer or supplier) or revealing business secrets and so on. Although it is not necessary to emphasize, it is clear that the problem of corruption can have much greater impact when it comes to the abuse of public official functions.⁷ Some authors also suggest that the bribery (which is defined in an already specified way), i.e. with the use of illegal incentives in order to achieve unfair and often illegal benefits compared to others.⁸

2. Classification and causes of corruption

In literature we can often find differentiated classifications of corruption, mostly based on characteristics of her attributes. For example, there is a difference between political and administrative corruption, because of the level of authority. Political corruption is the corruption that exists among high state officials and politicians who hold political power as well as the right of making crucial political decisions. This form of corruption can be defined as Grand corruption, as opposed to so-called administrative or bureaucratic corruption – petty corruption, which applies to officers employed in the public administration responsible for implementing the decisions, regulations and other measures adopted by state authorities.⁹

Regardless of the type of corruption, there are different manifestations of corruption. In addition to bribery, the most common is embezzlement of public funds, misappropriation of public property - theft, fraud and extortion, nepotism and cronyism, influence peddling, patronage and lobbying. One of the possible divisions of corruption is a division on centralized and decentralized corruption. When we talk about decentralized corruption we are talking about corruption committed by civil servants for their own benefit and for their own interests, whereby state may not be in favor for those activities, while the main characteristic of centralized corruption, the fact that the state leadership becomes a generator of this manifestation.¹⁰ One possible option is division of corruption into petty, medium and grand. Petty corruption is reserved for assistant officer of the public administration, local or national, or, an official of a public service. Medium corruption usually occurs in the economic sphere and consists mainly in receiving and giving bribes and abusing the office in that way. The most dangerous is grand corruption, it is represented by highest political officials and important businessmen, i.e. political elite and the owners of huge capital.¹¹

In general, the majority of European legislations are able to distinct between two types of corruption:¹²

1. "Active" corruption, which exists if someone commits a criminal offense by: offering, promising or giving any gift, to obtain favor or advantage for some kind of a right, make it a criminal offense, for example, taking bribes and other forms of incitement to:

⁷ ICAEW: *Business and economic crime in an international context*, ICAEW, London, 2010, pp. 11.

⁸ *Ibid.*

⁹ Bjelajac, Ž: *Organizovani kriminalitet – Imperija zla*, op. cit., pp. 348.

¹⁰ Šoškić, N: *Oblici i načini suzbijanja korupcije*, Akademaska štampa, Zemun, 2004, pp. 20.

¹¹ *Ibid.*, pp. 22.

¹² Bjelajac, Ž: *Korupcija kao izazov savremenog demokratskog društva*, op. cit., pp. 46.

2. "Passive" corruption is when someone in an official or personal position receives offer, gift, favor or promise of a gift or benefit, and thereby commits the offense of receiving bribes, abuse of authority, unlawful mediation and others.

Forms of corruption according to Arnold J. Heidenheimer are: "black", "gray" and "white". Black corruption is the most serious form of corruption; she is strongly condemned by community, and also punishable by law. Gray corruption is condemned by community, but tolerated by political elites (for example, illegal financing of political parties in France or Italy until 1988). White corruption has mildest social consequences, and the public tolerates her. This includes, for example, discarding (through "connections") traffic fines, "cutting through" the rows in the different administrative procedures, small tax evasion etc.¹³

Due to the complexity of the corruption phenomena, it is difficult to list all forms. In addition to already mentioned, there are also terms: judicial corruption, corruption in health care, corruption in education, corruption in the police, corruption in customs, corruption in the tax administration, economic corruption, "general corruption", etc. However, having in mind adverse implications on society, the most perfidious and dangerous form of corruption is so called large-scale corruption, which initiates and leads to the change or the enactment of new regulations (laws). Political or "grand" corruption, as some call it, is often used as a synonym for high-level corruption. Therefore, this type of corruption occurs at high levels of the political system, i.e. at the highest level in the public sphere, where policies and rules are formulated when politicians and senior civil servants implement laws in the "name of the people" use their political power to maintain their power, status and wealth.¹⁴

In contrast to the political ("grand") corruption, there is a small, bureaucratic or petty corruption. This type of corruption occurs every day, and takes place at the end of policy implementation by state officials. This type of corruption includes bribery in connection with the implementation of existing laws, rules and regulations. Petty corruption deals with the modest sum of money at a low level. People such corruption may experience more or less on a daily basis, in a meeting with officials employed in public administration, schools, hospitals, police, local governments, tax authorities etc.¹⁵

3. Summary analysis of the state of corruption in Serbia

Existing forms of corruption to some extent vary from the level of (public) official functions, except that they share many common features. If you for example take the specificity of the local level, it can be seen that corruption is based exclusively on mutual social relationship of the citizens, which comes directly from the local community (rural or urban) as a form of association of the citizens. In the local community, which can commonly be characterized as a relatively small community, many social contacts can be realized, which can be grouped into kinship, friendship, acquaintance and others forms of relations. These kinds of relationships can often be sufficient cause for the various forms of abuse, which directly affects the violation of the laws or deviation from the normal application of legal norms, whereby it creates inequality between citizens.

¹³ Heidenheimer, A: *Readings in comparative analysis on political corruptino* (lektira /rasprava uporedne političke korupcije), izd. Hott. Rinehart & Winston Inc., New York, 1970.

¹⁴ Bjelajac, Ž: *Korupcija kao izazov savremenog demokratskog društva*, op. cit., pp. 46-47,

¹⁵ *Ibid.*, pp. 47.

When we join the discussion and analysis of the causes of corruption, frequently asked questions are: Why some officials misuse public office for private purposes? Why is more bribery in countries than in other countries? Economists, political scientists, psychologists and sociologists, have their own views and speculation. Some emphasize the historical and cultural traditions, others cite differences in levels of economic development of individual countries, others link the level of corruption with the characteristics of the country, political institutions or incentives created by the predominant public policy. However, the problem is obviously much deeper and more complex.

The anomie is not a simple violation of norms to achieve things and statuses that are otherwise unattainable. "Thief, a bully or swindler know well when they violate those norms. They are afraid of sanctions, they are ashamed of social condemnation, trying to hide the traces of their own work and develop mechanisms of self-deception. In the mind of the offender (sinner), there are norms that justify delinquency. Anomie is a social situation in which the function of norms is unpredictable". However, it is not a state of the individual, but of a mass phenomenon.¹⁶ Corruption is a systemic weakness, it is connected with other elements of the social, economic and political system, which is especially evident in the case of countries in transition (new democracies). Although the morale is associated with corruption, it is not the sole cause. There is no homo corrupticus.¹⁷

3.1. Serbia's place in global corruption perception index for year 2014

In Serbia, a country still in transition, corruption is still present. It can be said that she took proportions of systemic manifestations and forms of everyday life. Surviving through historical periods and various systems, corruption metastasized and became a phenomenon that has stuck in the mindset of man. It is present in every facet of business and society. Bribery has become a necessary condition for even the smallest business enterprise. Unsafe and easily crushed institutions and the lack of control of the executive and judicial authorities are the main institutional obstacles for the fight against corruption that has engulfed almost all segments of society.¹⁸

The Corruption Perceptions Index (CPI), which was published in 2014 by international organization called Transparency International, presented the results of research on the perception of the extent of corruption in which participants were relevant respondents in 175 countries (and dependent territories) On a side note, this type of research has been conducted since year 1995, is presented annually and defines corruption as "the abuse of public power for the sake of private gain." CPI is represented on a scale of 0-100, where in 2014 Serbia had 41 points, one less than in 2013 year. Serbia is on the 78th place down from 72nd place where she was last year, and Serbia is now ranked under Bulgaria, which last year was ranked below Serbia. Although last year registered a minimal shift in the right direction when it comes to the perception of corruption, this year, Serbia also has minimal drop in the scale of countries where the CPI is measured.¹⁹ It should be kept in mind that changes in perceptions of corruption

¹⁶ Tarle, T: *Korupcija u javnoj upravi*, Pravnik, 38, 2 (79), Udruga pravnik, Zagreb, 2004, pp. 134.

¹⁷ Derenčinović, D: *Mit (o) korupciji*, NOCCI, Zagreb, 2001, pp. 106.

¹⁸ Bjelajac, Ž: *Korupcija kao izazov savremenog demokratskog društva*, , *op.cit.*, pp.51.

¹⁹ Indeks percepcije korupcije, <http://libek.org.rs/sr/vesti/2014/12/06/zasto-politika-u-srbiji-deluje-tako-kvarljivo-osvrt-na-indekspercepcije-korupcije>, 12.06.2015.

do not reflect the factual progress in fighting corruption in the Republic of Serbia (whether corrupt activities are reduced or not), but it is a significant indicator that despite the fact that the fight against corruption was declared as one of the pillars of the current government activities, activities undertaken in this area didn't had a positive effect on perception of corruption of government officials and public servants. When we look at the results of the CPI from 2013, it should be taken into consideration and the start of large criminal cases (such as the arrest of Miroslav Miskovic) which can be considered to have contributed to the reduction of corruption perception. The longevity of the effects of "major cases" could be brought into question the absence (so far) final verdicts in these cases.²⁰ As the main problems in Serbia, representatives of Transparency Serbia (TS) has been stating allegations for years now: violation of anti-corruption law, violations of legal certainty by adopting contradictory and ambiguous provisions, excessive power of political parties in the work of the public sector, unregulated lobbying, non-transparent decision-making process, unnecessary procedures and insufficient capacity of authorities supervising the application of laws.²¹

4. Review of the criminal law and other legal regulations in Republic of Serbia that governing the field of corruption

Before we point out to the criminal regulation of these problems it is necessary primarily in hierarchical order, to point to the Constitution of the Republic of Serbia²² which contains standards on how to prevent conflicts of interest, incompatibilities, but also the norms on which those institutions are established that among other things deal with this issue (the State Audit Institution, Ombudsman etc.). Given that this is the highest legal act of the state which regulates the most important issues, it is understandable that the issue of corruption is regulated to this extent.

The Criminal Code of the Republic of Serbia²³ in chapter 33 prescribes 12 offenses against official duty and those are: Abuse of Office (article 359), Violation of Law by a Judge, Public Prosecutor or his Deputy (article 360), Dereliction of Duty (article 361), Unlawful Collection and Payment (article 362), Improper use of Budgetary funds (article 362a), Fraud in Service (article 363), Embezzlement (article 364), Unauthorised Use (article 365), Unlawful Mediation (article 366), Soliciting and Accepting Bribes (article 367), Bribery (article 368) and Revealing of Official Secret (article 369). During the discussion about the issues of bribery and corruption, focus of the research was on some of the mentioned crimes, because of that we are going to take a closer at those offences.

The offense Abuse of office is regulated by Article 359. which stipulates that a public official that's abusing his official position or authority, or by exceeding the limits of his official authority or fails to execute his official duty, obtains for himself or another person or entity any benefit, or causes damage or a severe violation of the rights of another, shall be punished by imprisonment of six months to five years. The same article also stipulates that by executing this criminal deed, if a material gain in excess of 450,000 dinars (~3,750 euro), the offender shall be punished by imprisonment of one to

²⁰ *Ibid.*

²¹ Bjelajac, Ž. *Korupcija kao izazov savremenog demokratskog društva*, op. cit., pp. 52.

²² Ustav Republike Srbije, Službeni glasnik RS, br. 98/2006.

²³ Krivični zakonik Republike Srbije, Službeni glasnik RS, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013 i 108/2014.

eight years, while in cases where the value of acquired material benefit exceeds the amount of 1,500,000 dinars (~12,500 euro) then the offender shall be punished by imprisonment of two to twelve years.

Criminal offence Soliciting and Accepting Bribes is regulated by Article 367. which stipulates that an official who solicits or accepts a gift or other benefit, or promise of a gift or other benefit for himself or another to perform an official act within his competence that should not be performed or not to perform an official act that should be performed, shall be punished by imprisonment of two to twelve years, whereas shall be punished by imprisonment of two up to eight years in cases where an official performs an official act which he should perform or not to perform an official act that should not be performed. In the case where an official commits the offense already specified in respect of uncovering of a criminal offense, instigating or conducting criminal proceedings, pronouncement or enforcement of criminal sanction, shall be punished by imprisonment of three to fifteen years. The same article also prescribes that when an official who after performing or failure to perform an official act already specified, solicits or accepts a gift or other benefit in relation thereto, shall be punished by imprisonment of three months to three years. This Article also prescribes an offense when a foreign official who commits the offense specified in paragraphs 1 through 4 of this Article shall be punished by the penalty prescribed for that offences. Same applies to a responsible officer in an enterprise, institution or other entity. The final chapter of this article prescribes the measure of confiscating the received gifts and equity that was gained in this way.

The criminal offense of bribery is regulated by Article 368, which stipulates that makes or offers a gift or other benefit to an official, that within his official

competence perform an official act that should not be performed or not to perform an official act that should be performed, or who acts as intermediary in such bribing of an official, shall be punished by imprisonment of six months to five years, while it would be punished by imprisonment up to three years whoever makes or offers a gift or other benefit to an official that, within his official competence, perform an official act that he is obliged to perform or not to perform an official act that he may not perform or who acts as intermediary in such bribing of an official. The above provisions shall also apply in cases where the bribe is given, offered or promised to a foreign official or responsible person in a company, institution or other entity. Finally, the Article prescribes that the offender, who reported the offense before he found out he exposed, can be acquitted from the crime Law on organization and jurisdiction of state authorities in fighting organized crime, corruption and other especially serious crimes²⁴ is the law governing education, organization, jurisdiction and powers of state organs and special government body to ensure the detection, prosecution and trials for criminal offenses envisaged by this law. This law applies to the detection, prosecution and trial for several offenses, and those relating to the suppression of corruption are: criminal offenses against official duty (abuse of official position, influence peddling, bribery), abusing the position of the person responsible (if the value of acquired equity exceeds the amount of 1,500,000 dinars ~12,500 euro), criminal offense abuse in connection with public procurement (if the value exceeds the amount of 150 million dinars ~1,250,000 euro) and the criminal

²⁴ Zakon o organizaciji i nadležnosti državnih organa u suzbijanju organizovanog kriminala, korupcije i drugih posebno teških krivičnih dela, Službeni glasnik RS, br. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 - dr. zakon, 45/2005, 61/2005, 72/2009, 72/2011 - dr. zakon, 101/2011 - dr. zakon i 32/2013.

offense of abuse of official position (if the value of acquired equity exceeds the amount 1,500,000 dinars ~12,500 euro).

Law on confiscation of the proceeds gained from crime²⁵ stipulate the conditions, procedures and authorities responsible for the detection, seizure and management of property of physical and legal entities proceeds from crime, and the main aim of the law is the confiscation of property acquired through corruption (proceeds of crime). Indirect contribution of this law is in his preventive nature in the sense of discouraging persons who might be or are in the chain of corruption because of the confiscation of assets obtained in this way.

In addition to the already mentioned laws, one of the most important laws governing the area of corruption is the Law on The Anti-Corruption Agency²⁶. This law represents legal basis for the establishment of the Agency for fight against corruption as an autonomous and independent state body, and performs duties under its jurisdiction and falls under the jurisdiction of National Assembly of the Republic of Serbia. The law in addition to adapting the functioning of the Agency regulates the issues of conflict of interest (prohibition of doing the second public function; working in a political party or political entity; performing other work or activities; perform other work or activity at the time of stepping into public office; the obligation to report the existence of conflict interest; prohibition of establishment of a company or public service during his tenure in public office etc.), gifts (being obligated to refuse gifts; obligation of notification and keeping of records on gift and prohibition of receiving gifts for a related person), registering property (urgent review of assets; property register etc.), prevention of corrupt dealings (cooperation in the fight against corruption; training; research, international cooperation etc.), archiving and data protection and criminal provisions.

Important law for preventing the corruption is Law about financing political parties²⁷ which for a main goal is regulating sources and means of financing, recording and controlling financing activities of political parties, coalitions and citizen groups. Undisputedly this law represents anti-corruptional measure, especially in areas where political corruption is present.

It is necessary to point out a Law about free access to information of public interest²⁸ which regulates the rights regarding access to informations of public interests which are held by public authorities. Important significance of this law first of all is in additional ways of fighting against corruption because it gives us access to certain informations, but also because with the help of this law Commissioner for Information of Public Importance was established and represents an independents public authority who is also independent in the exercise of its jurisdiction.

At the end of this short review about legislations in Republic of Serbia, it is necessary to point out that all the mentioned laws are in accordance to a ratified international treaties and conventions that are of importance in preventing bribery and corruption, and those are: The United Nations Convention against Corruption²⁹; United Nations Convention against Transnational Organized Crime and the Protocols Thereto

²⁵ Zakon o oduzimanju imovine proistekle iz krivičnog dela, Službeni glasnik RS, br. 32/2013.

²⁶ Zakon o Agenciji za borbu protiv korupcije, Službeni glasnik RS, br. 97/08, 53/10, 66/11-US, 67/13-US i 8/15-US.

²⁷ Zakon o finansiranju političkih stranaka, Službeni glasnik RS, br. 43/2011 i 123/2014.

²⁸ Zakon o slobodnom pristupu informacijama od javnog značaja, Službeni glasnik RS, br. 120/2004, 54/2007, 104/2009 i 36/2010.

²⁹ The United Nations Convention against Corruption.

³⁰; Criminal Law Convention on Corruption – Council of Europe³¹; Additional Protocol to the Criminal Law Convention on Corruption³²; Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime³³ and Civil Law Convention on Corruption – Council of Europe³⁴.

5. Corruption as an obstacle on a road to an evident Eurointegration progress of Serbia

Negotiations between the candidate countries for membership in the European Union are primarily about the criteria that should be accepted, but also on the implementation of the legislation of the European Union. Each Member State is obliged to implement the *acquis communautaire*, i.e. taking collective rights and obligations arising from treaties and EU law. The said negotiations represent the final stage of the integration process of candidate country to the European Union, which preceded the conclusion of the Association Agreement and the gaining status of candidate.³⁵

Fields that are negotiated are divided into 35 chapters³⁶ and each field is negotiated separately. One of the fundamental principles of the negotiations is the fact “that nothing is agreed until everything is agreed”,³⁷

Without going deeper into the issue of negotiations, we will specify that when the criteria which were defined in particular parts of the chapters are met, that chapter is closed, and then we move to the next chapter. The candidate country can work on meeting the criteria for a number of chapters at the same time. In the process of expanding of European Union, which includes the countries of the Western Balkans, based on the experience from the negotiations with the Croatia, the most complex

³⁰ United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

³¹ Criminal Law Convention on Corruption - Council of Europe.

³² Additional Protocol to the Criminal Law Convention on Corruption.

³³ Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

³⁴ Civil Law Convention on Corruption - Council of Europe.

³⁵ Dragojlović, J, Bingulac, N: *The evolution of the European Union- historical heritage as a foundation for future development*, Zbornik radova sa međunarodne naučne konferencije “The old and New World Order - between European integration and historical burdens: prospects and challenges for Europe in the 21st century”, Institut za međunarodnu politiku i privredu pp. 92.

³⁶ Subject of negotiations represent the following areas: Chapter 1: Free movement of goods; Chapter 2: Free movement of workers; Chapter 3: Right of establishment and freedom to provide services; Chapter 4: Free movement of capital; Chapter 5: Public Procurement; Chapter 6: Company law; Chapter 7: Intellectual Property law; Chapter 8: Competition; Chapter 9: Financial Services; Chapter 10: Information society and media; Chapter 11: Agriculture and rural development; Chapter 12: Food safety, veterinary and phitosanitary policy; Chapter 13: Fisheries ; Chapter 14: Transport policy; Chapter 15: Energy; Chapter 16: Taxation; Chapter 17: Economic and monetary policy; Chapter 18: Statistics; Chapter 19: Social policy and employment; Chapter 20: Enterprise and industrial policy; Chapter 21: Trans-European Networks; Chapter 22: Regional policy and coordination of structural instruments; Chapter 23: Judiciary and fundamental rights.

Chapter 24: Justice, freedom and security; Chapter 25: Science and research; Chapter 26: Education and culture; Chapter 27: Environment; Chapter 28: Consumer and health protection; Chapter 29: Customs Union; Chapter 30: Foreign Relations; Chapter 31: Foreign, security and defense policy; Chapter 32: Financial Control; Chapter 33: Financial and budgetary provisions; Chapter 34: Institutions and Chapter 35: Other issues.

³⁷ European Commission, *Understanding Enlargement, The European Union’s enlargement policy*, European Commission – Directorate General for Enlargement, Brussels, 2013., crp. 11.

chapters are 23 and 24. In these chapters are treated areas dedicated to law and justice, human rights, freedom and security. Due to the above, the European Union has made the decision that the best start to begin negotiations is by opening these chapters so that candidates can have more time to adapt to EU standards in these areas. This model was applied in negotiations with Serbia.³⁸

One of the major issues of those two chapters is the issue of corruption. It should be emphasized that Chapter 23 expects that Republic of Serbia creates a professional and efficient judiciary, as well as the overall fight against corruption with the establishment of efficient institutional framework and legislation, and it is anticipated that this can be achieved by preventing conflicts of interest, transparent funding of political parties, a clear procedure of public procurement, but also limiting abuse of political influence. As an example for effective fight against corruption in this area, usually taken for example is Croatia and trial for corruption of former Prime Minister Ivo Sanader.³⁹

A special importance on the fight against corruption is the fact that EU member states, European Commission and the European Parliament, place much importance to the fight against corruption. Mentioned arises precisely from their determination that the European Union does not want to deal with problems that could happen when new member state joins EU. Given that the European Union is a common market in which there is a free movement of capital, goods and services, corruption can be a barrier to these freedoms and it can lead to discrimination in "market competition".⁴⁰

6. Results and discussion

Beside a general assessment of the state of corruption in Serbia, by the relevant international organizations, it is appropriate for this opportunity to present some other researches on environment rating from the perspective of the anti-corruption community

Every fifth citizen believes that giving gifts to official so he would do something that is otherwise his job – isn't a "sin". Finishing obligations "through connection", *i.e.* through the use of acquaintances 19% of people don't consider as corruption. A minimum tolerance has a direct payment of money to officials, because it is only supported by 9% of the population. These are the results of the research published by the Agency for fight against corruption. As many as 77% said that corruption is now the biggest problem in Serbia, and they find that most corruption is in health care, among politicians, political parties, the judiciary... That in the past year one or more times they gave a bribe was admitted by 18% of respondents, and every fifth official has directly asked for a "gift" from them. Through an intermediary bribe was asked of 38% of respondents, while 42% said that they themselves have made "an offer" and that the "official has accepted." As the biggest culprit for the occurrence of corruption, citizens (21%) mention tycoons and their impact on the work of state institutions, while 18% believe that everything happens because of the influence of political arbitrariness of the institution. The "root" of the corruption, citizens see in the huge authority a public

³⁸ Informacioni centar EU, *Pregovaračka poglavlja ka Evropskoj uniji*, Beograd, 2014, pp. 13.

³⁹ EurActiv, *Poglavlja 23 i 24: suštinska promena društva*, <http://www.euractiv.rs/pregovori-sa-eu/7059-poglavlja-23-i-24-sutinska-promena-drutva->, 20.08.2015.

⁴⁰ Vlada Republike Srbije, Kancelarija za evropske integracije, <http://www.seio.gov.rs/upload/documents/publikacije/vodic.pdf>, 20.08.2015.

servants has, their low salaries, complicated procedures. More than half of respondents (55%) reported repression, punishment of the perpetrators as the most effective method of combating corruption, while 36% of them stated that they need to work on prevention. Only 19% of citizens believe that there is enough information on the occurrence of corruption.⁴¹ Serbian citizens still consider political parties, health workers and police as the most corrupt, is the results of six-month research by the United Nations Development Programme and CeSID. The survey also shows that nearly 60% of citizens had direct or indirect experience with corruption or they themselves offered bribes. The average bribe in Serbia is 250 euros, and nearly a third of Serbian citizens believe that such money often ends in healthcare. The survey shows that citizens claim that bribes are most often given to doctors, and there is an increased number of those who gave money to police officers and state administration officials. Although, according to the survey, more than 60% of respondents had some experience with corruption, this problem affects then less than poverty or unemployment.⁴²

Because of the need to study this issue, through survey method, this survey was conducted on a subject "Perceptions of the population of Belgrade and Novi Sad on the widespread of corruption", with the aim to give an answer to the question of how much is the corruption present in our society. The survey was conducted in the period from 15. 10. 2014 to 10. 02. 2015, on a random representative sample of 700 adult residents of Belgrade and Novi Sad. The selection of respondents was carried out by random sampling in relation to the day of the survey, and the interview was conducted through a research technique face to face, direct contact with the respondent, and as a research mechanism was used a questionnaire, which consisted of seven questions. During the interview, it was insisted on the implementation and compliance with two important rules in addition to the sample significantly affect the representativeness of the study: strict adherence to the sampling frame, given the complexity of the topic and the selection of the sample with an emphasis on gender, education and age representativeness of respondents.

Based on the methodology established during the implementation of this survey, following categories of respondents are:

- The gender structure of respondents: 39% of women and 61% men;
- Age structure: between 20 to 30 years – 48%, 30 to 40 years 20%, 40 to 50 years 22% , and 50 to 65 years 10% respondents;
- Educational structure and occupation of respondents: high school – employed 18%, student 22%, high school – unemployed 26%, pensioner 1% , higher and high schools 3% ispitanika, college degree 30% surveyed;
- Nationality of respondents: Serbian 76%, Hungarian 10%, Bosnian 4%, Roma/Gypsy 1%, Montenegrin 5%, Slovak 1%, rest 3%.

On the question "What is the biggest problem in Serbia?", 35% of respondents answered that it is corruption, 27% said that it is poverty, 33% said that it is unemployment, 5% of respondents could not give an answer. On the question "Did you have direct or indirect experience with corruption? ", 28% of respondents said they had direct experience with corruption, 47% had indirect experiences with corruption, 25% of respondents didn't want to give an answer. On the question "Have you once or twice

⁴¹ Istraživanje Agencije za borbu protiv korupcije RS, <http://www.mogucasrbija.rs/Vest/1/Vesti/703/05/1/2012,18.01.2015>.

⁴² Rezultati šestog ciklusa UNDP ispitivanja javnog mnjenja o korupciji, http://www.mc.rs/upload/documents/saopstenja_izvestaji/2013/012813_UNDP-saopstenje.pdf, 18.01.2015.

offered or gave a bribe in order to complete a particular job through a connection? ", the responses were as follows: 29% of respondents answered that that did, as much as 45% of respondents said they would offer bribe, but did not have the funds to do that, 26% of respondents did not give a precise answer. On the question "Has anyone, directly or through intermediaries, asked for a bribe? ", 20% of respondents said they were asked directly for a bribe, 44% of respondents said that they were asked for bribe indirectly, 36% of respondents did not give a precise answer. On the question "In what part of the government there is highest corruption? ", 40% of respondents replied that in politics, 21% of respondents in healthcare, 10% answered in the judiciary, 9% said inspection services, 7% said the police, 6% said local government, 5% said education, 2% of respondents didn't had an opinion. On the question "Would you report corruption to the competent authorities? ", 55% responded that they would not, 16% of respondents said they would, 20% of respondents said they would but only under certain conditions, 9% didn't want to comment on that question. On the question "What do you think is the most effective method of combating corruption? ", 88% of respondents answered repression or punishment, 12% of respondents had no opinion.

Analyzing the results of the research, an autonomous and independent state authority, the Agency for fight against corruption from 2012, the results of the joint research by the United Nations Development Programme and CeSID, from 2013, the results of research on the perception of the prevalence of corruption, which was presented using Corruption Perception Index (CPI), which was published in 2014 by the international organization Transparency International, and finally the results of internal research for this study from the 2014/2015 year, we came to a very interesting and useful observations about the state of corruption in Serbia. Specifically, in this study, for the reasons of expediency the results were mixed: an autonomous and independent body, the largest agency within the United Nations and non-governmental organizations, relevant international organizations and the results of an internal research. The subject of this research covers a period from 2012 until 10.02.2015., which is pretty respectable time range for analysis of a complex phenomenon such as corruption. What do following results suggest?

It is necessary to point out some general remarks:

1. Corruption is widely spread in Serbia, to the extent that the respondents had very often positioned her in front of poverty and unemployment as a problem;
2. A large number of respondents had direct or indirect experience with corruption;
3. As areas with the highest corruption, respondents mentioned politics and health care;
4. There is a passive approach of citizens towards corruption that continues to have a high degree of tolerance towards certain corrupt practices;
5. Citizens still do not want to accept responsibility and take the initiative to report corruption, which reflects an unhealthy relationship in society;
6. Corruption is most present where services are urgent, such as employment and health care;
7. From government, citizens still expect a lot in fighting against corruption, citing repression and punishment of the perpetrators as the most effective method of combating corruption.

Fact is that on the question why is corruption so present in Serbia, only partial responses were given and some reasons were identified. They related to low wages and unemployment, impunity, too complicated and hazy administration. Measures that

could bring significant improvement may relate to improving the quality of service, transparency, simpler and more acceptable rules, information, and prevention of violation of the established rules. Apparently, ahead of Serbia in the upcoming period are numerous challenges. One of the most important is the fight against corruption, the result of which will determine the European perspective of the success of the ongoing social reform. The latest measures by the Government of the Republic of Serbia, to promote stance of zero tolerance to corruption, resolving major corruption scandals and the arrest of the richest and most powerful people in Serbia, and the investigation against former political and government officials, suggest a shift on this issue, which is of great importance in order to heal our society. "It is very important question of general prevention of crime and corruption, and then showing everyone that there is still a legal state, and that it still operates. Germans, the Brits or the French are not more or less corrupt by their nature from us Serbs. They have a better system and more fear of committing the crime. "These words of the current Prime Minister Aleksandar Vučić, as published on his profile on the social network "Facebook", may open a new page in fight against corruption and organized crime, on which we must find the names of those who made so called. "Predatory" privatization possible, but also the names of individuals from government which allowed the protection of the leaders of organized crime groups and condoned mingle of dirty money into the legal economic flows, otherwise it will be yet another failed attempt, which is used in everyday political and sensationalist purposes.

7. Final considerations

The issue of corruption is a very complex problem in every country, especially those that belong to the group with weakened or underdeveloped economic system. Contemporary views on corruption indicate that it can be viewed through the prism of organized crime because corruption occurs as a side activity of basic activities of criminal groups in order to achieve the establishment and expansion of power.

There are many circumstances that can be considered for the conditions and causes of corruption, where it is usually thought on dysfunctional mutual social relationship which is mostly caused by inadequate and uneven material development and social division of labor, which arise due to inequality in economic and political sphere within a country.

After consideration of corruption from theoretical and practical aspects, special attention in this survey was given to the major statistical indicators of corruption in the Republic of Serbia using the Corruption Perceptions Index (CPI), which was published in 2014 by the international organization Transparency International, followed by the survey done by Anti-Corruption Agency in 2012 and the joint research by the United Nations Development Programme and CeSID.

In considering this issue in the report a reference was made to the criminal and other legislation in the Republic of Serbia governing the issue of corruption. The importance of this part of the research is that it shows the current anti-corruption measures.

In the last part of this research, we made a short display of Eurointegration relations of the Republic of Serbia and corruption due to the special importance of the fight against corruption in the candidate countries.

In Serbia, a country that strives to establish European values in the process of joining the European Union, corruption is still present. It can be said that corruption has become a systemic effect and form of everyday life. Analyzing the results of different studies, we can come to very interesting and useful observations about corruption in Serbia. This phenomenon is widely spread in Serbia to the extent that survey participants have placed it often in front of poverty and unemployment.

The conclusions we reached after reviewing the problems of corruption in the Republic of Serbia are primarily related to an unequivocal negative impact on the economic system of the country by placing personal interests ahead of the interests of the community, but also for creating uncertainty for legitimate business, especially for foreign investors, which can cause significant business problems on a multi-year plan.

Is it possible to eradicate corruption? The answer is no, especially not at the levels where public official can make discretionary decisions, e.a. employment (the influence of political parties, acquaintances and family ties especially in smaller communities), while only with a more efficient implementation of laws, action plans⁴³, transparency in the work and with a conscientious and independent work of agencies that have been established to combat corruption, corruption could be significantly reduced at the highest levels of government, but that takes time and constant control, which is not easy to achieve especially in times of economic crisis.

When considering proposals to prevent corruption on the basis of domestic and international practice, we have come to the conclusion that there is no solution, one which can guarantee the prevention of corruption, *i.e.* economic crime in general, but every appropriate measure to some extent can affect the prevention which could reduce the risk of this form of crime. With greater number of preventive measures, in terms of the adoption of new and amendments to existing laws, forecasting and implementation of national plans and strategies, the creation of independent agencies, maintaining a high level of transparency in the work and others, creates conditions that hinder the formation of economic crime.

In addition to the above, to prevent corruption and economic crime in general, it is necessary to have cooperation with other countries and international organizations and track their experience and if necessary to make the harmonization of national legislation, especially if there is an estimate that certain measures could have positive effects. Then, it is necessary to work on achieving and encouraging a high level of professionalism with the person in an official position through education but also through economic stimulation.

Finally, due to the complexity of this issue, its discussion and finding effective anti-corruption measures is necessary from the theoretical aspect, which represents one of the specific objectives and the contribution of this paper.

8. Literature

1. Bjelajac, Ž: *Korupcija kao izazov savremenog demokratskog društva*, Kultura polisa, 2015., pp.43-57;
2. Bjelajac, Ž: *Organizovani kriminalitet – Imperija zla*, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2013;

⁴³ Akcioni plan za sprovođenje Nacionalne strategije za borbu protiv korupcije 2013-2018.

3. Bošković A, Pavlović Z: *Special evidentiary actions in the function of combating organized crime in Serbia*, Journal of Eastern European criminal law, no.1/2015, pp. 40-57;
4. Bošković, M: *Transnacionalni organizovani kriminalitet*, Policijska akademija, Beograd, 2003;
5. Derenčinović, D: *Mit (o) korupciji*, NOCCI, Zagreb, 2001;
6. Dobovšek, B: *Fenomenološka obeležja korupcije kroz prozmu delatnosti organizovanog kriminala*, ur. Bjelajac, Ž. i Zirojević, M, Organizovani kriminalitet – Izazov XXI veka, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2012, pp. 327-346;
7. Dragojlović, J, Bingulac, N: *The evolution of the European Union- historical heritage as a foundation for future development*, Zbornik radova sa međunarodne naučne konferencije “The old and New World Order - between European integration and historical burdens: prospects and challenges for Europe in the 21st century“, Institut za međunarodnu politiku i privredu pp. 84-99;
8. EurActiv, *Poglavlja 23 i 24: suštinska promena društva*, <http://www.euractiv.rs/pregovori-sa-eu/7059-poglavlja-23-i-24-sutinska-promena-drutva->, 20.08.2015 ;
9. European Commission, *Understanding Enlargement, The European Union's enlargement policy* , European Commission – Directorate General for Enlargement, Brussels, 2013;
10. Heidenheimer, A: *Readings in comparative analysis on political corruptino* (lektira /rasprava uporedne političke korupcije), izd. Hott. Rinehart & Winston Inc., New York, 1970;
11. ICAEW: *Business and economic crime in an international context*, ICAEW, London, 2010;
12. Indeks percepcije korupcije, <http://libek.org.rs/sr/vesti/2014/12/06/zasto-politika-u-srbiji-deluje-tako-kvarljivo-osvrt-na-indekspercepcije-korupcije>, 12.06.2015;
13. Informacioni centar EU, *Pregovaračka poglavlja ka Evropskoj uniji*, Beograd, 2014;
14. Istraživanje Agencije za borbu protiv korupcije RS, <http://www.mogucasrbija.rs/Vest/1/Vesti/703/05/1/2012>, 18.01.2015 ;
15. Istraživanje Agencije za borbu protiv korupcije RS, <http://www.mogucasrbija.rs/Vest/1/Vesti/703/05/1/2012>, 18.01.2015;
16. Krivični zakonik Republike Srbije, Službeni glasnik RS, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013 i 108/201;
17. Rezultati šestog ciklusa UNDP ispitivanja javnog mnjenja o korupciji, http://www.mc.rs/upload/documents/saopstenja_izvestaji/2013/012813_UNDP-saopstenje.pdf, 18.01.2015;
18. Šikman, M: *Kriminološki aspekti organizovanog kriminaliteta – karakteristike i uzroci*, ur. Bjelajac, Ž. i Zirojević, M, Organizovani kriminalitet – Izazov XXI veka, Pravni fakultet za privredu i pravosuđe u Novom Sadu, 2012, pp. 79-95;
19. Šoškić, N: *Oblici i načini suzbijanja korupcije*, Akademska štampa, Zemun, 2004;
20. Tarle, T: *Korupcija u javnoj upravi*, Pravnik, 38, 2 (79), Udruga pravnik, Zagreb, 2004;
21. Ustav Republike Srbije, Službeni glasnik RS, br. 98/2006;
22. Vlada Republike Srbije, Kancelarija za evropske integracije, <http://www.seio.gov.rs/upload/documents/publikacije/vodic.pdf>, 20.08.2015;
23. Zakon o Agenciji za borbu protiv korupcije, Službeni glasnik RS, br. 97/08, 53/10, 66/11-US, 67/13-US i 8/15-US;

24. Zakon o finansiranju političkih stranaka, Službeni glasnik RS, br. 43/2011 i 123/2014;

25. Zakon o oduzimanju imovine proistekle iz krivičnog dela, Službeni glasnik RS, br. 32/2013;

26. Zakon o organizaciji i nadležnosti državnih organa u suzbijanju organizovanog kriminala, korupcije i drugih posebno teških krivičnih dela, Službeni glasnik RS, br. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 - dr. zakon, 45/2005, 61/2005, 72/2009, 72/2011 - dr. zakon, 101/2011 - dr. zakon i 32/2013;

27. Zakon o slobodnom pristupu informacijama od javnog značaja, Službeni glasnik RS, br. 120/2004, 54/2007, 104/2009 i 36/2010.