

TAX CRIMES IN THE LAW PRACTICE OF REPUBLIC OF SERBIA

Miodrag N. Simović¹, Dragan Jovašević², Vladimir M. Simović³

¹Constitutional Court of Bosnia and Herzegovina, Sarajevo

²Faculty of Law, University of Niš, Serbia

³Prosecutor's Office of Bosnia and Herzegovina, Sarajevo

Abstract

The functioning and efficiency of each state is reflected largely in the functioning of legal, quality and timely fiscal system. This system - the system of public revenues and expenditures is often threatened by a number of models and forms of tax evasion, of which the most dangerous form is tax evasion and other tax offenses for which all criminal laws of modern states, including the Republic of Serbia prescribe severe sentences and other criminal sanctions. This paper analyzes the efficiency of criminal prosecution and punishment of the perpetrators of different tax criminal actions.

Key words: *fiscal system, tax, crime, tax evasion, court, criminal sanctions*

1. INTRODUCTION

Tax crimes, especially tax evasion (Matković, 2007: 115-117) (English - tax evasion, French - fraude fiscale, Italian - omesso versamento di imposte, German - steuerbetrug), are extremely dangerous social behaviors of an individual or a group, or legal personalities (companies, institutions and other organizations), which, by violation of regulations, directly or indirectly endanger financial interest of the whole social community, primarily by causing huge damages to fiscal system and the public revenue system in general (Đerek, 2003: 83-112; Kovčo Vukadin, 2007: 435-493; Pogarčić, 2003: 141-147). When having in mind a huge importance which the fiscal system, its proper, due, complete and quality effectuation has for the existence, sustainability and development of a state, i.e. community, it is clear how important it is that the state, by use of huge range or various measures, manners and actions taken by different subjects, confronts to various forms and kinds of non-payment, hiding, non-reporting or evasion of payment of taxes, contributions and other prescribed obligations which constitute public dues, i.e. public revenue, at all the levels (Stanković, 1993: 80-82; E. Allix, 1937: 559).

Of course, different consequences may be caused by violation of the regulations in the field of fiscal system. Depending on the kind of violation, i.e. caused consequence, in relation to the scope and intensity of the violation or endangering of protected social values, the law provided different sanctions, depending on whether the concrete case is about criminal offence, economic misdemeanor or an offence (More: Jovašević, Hašimbegović, 2004).

The most dangerous and difficult form of violation of tax laws causing the most difficult consequences, i.e. the biggest damage to the social community, are tax crimes (Kulić, 1995: 5-7; Klepić, 1998: 5-9). Basis of tax crimes, regardless of the form or kind of their appearance, in the concrete case, are various manifestations of tax evasion (Latin - running away, avoiding), especially if having in mind that evasion of taxes at the same time constitutes the most significant form of gray economy. Practically, gray economy may appear in different spheres of activities like: production and traffic of goods and services, foreign trade business, foreign exchange business, labor market and labor relations, civil engineering, hosing and utility activities, traffic of immovable property and other goods.

2. TAX CRIMES IN THE CRIMINAL CODE

The Criminal Code of the Republic of Serbia¹ from 2005, with 2016 novelty, in Chapter 22 in the group of criminal offences against economic interests, provides for two tax crimes. These crimes are: 1) tax evasion and 2) failure to pay withholding tax². Tax crimes are distinguished by its importance, nature and character from criminal offences against economic interests. There are several types of these crimes. The basic crime of this type is tax evasion (Matković, 2007: 115-117). It is a crime which has been prescribed under Article 229 of the Criminal Code of the Republic of Serbia, until November 2016 when the novelties of Article 225 were made.

Namely, avoiding of legal obligation to pay certain monetary amount in favor of the state causes damage to social interests, endangers the funds and institutions of social protection, i.e. functioning of all budget institutions and affairs (Kesner Škreb, 1995: 267-268). But, the requirements for existence of tax crime are met only in case of avoiding of payment of this tax obligation of a larger scale or in more difficult cases. All the other, less important, different cases of tax indiscipline and tax evasion constitute illegal and punishable behavior, but only as a form of other types of economic delicts (economic misdemeanors and offences) (Demirović, 1989: 37-39).

Basic fiscal crime is tax evasion. In some legal systems this crime is called “tax evasion” or “evasion of taxes and other dues” and similar. This crime was prescribed in our legal system under Article 229 of the Criminal Code after 1st January 2006, and since November 2016 in Article 225 of the Criminal Code. The crime, actually, consists of giving false information on gained incomes, objects or other facts affecting the establishment of obligations or non-reporting them in case of obligatory application or in hiding information referring to determination of stated tax obligations (Matković, 2007: 115-117) with the intention to avoid payment of taxes, contributions or other determined dues, fully or partly, on his behalf or on behalf of another person, if the amount of avoided obligation exceeds the amount of 500.000 (previously up to 150.000) Dinars (Miloš, 1981: 49-63). This crime owes its name to the fact that the perpetrators of this crime thereby commits an illegal appropriation of the amount of obligation whose payment is avoided this way, i.e. which the perpetrator keeps (Radovanović, Đorđević, 1975: 250-251; Čejović, Miladinović, 1995: 295).

It follows from the legal description of criminal offence of tax evasion that this is a *sui generis* crime. But, in the theory of the criminal law there is an opinion that it is a specific form of criminal offence of fraud, in the part of fraud where the fraud action damages the whole society (Stojanović, Perić, 2000: 244). This crime is further characterized by a blanket disposition which means that supplementing of the content of this crime depends on other provisions from the scope of fiscal and tax system which determine the concept, types and content of specific taxes and other public dues (contributions and duties), payers of these dues and deadlines for their payment (Ocvirk, 2001: 53-62). Namely, this kind of disposition allows that the nature and content of fiscal obligations, within the meaning of object of protection of this crime, are established on the basis of non-criminal provisions (Jovanović, Đurđić, Jovašević, 2006: 256-258). Object of protection of this crime is fiscal system, public revenue system which constitutes basis of economic system of a country. However, in legal theory may also be found understandings (Pavišić, Grozdanić, Veić, 2007: 636) according to which object of protection of this crime is obligation to pay taxes, contributions and other dues. Namely, the following are considered as public dues: taxes, customs, fees and contributions.

The target of attack is alternatively determined. It may be: 1) tax, 2) contributions and 3) other prescribed dues (which constitute public duties). In relation to this, it is not important whether these obligations refer to natural or legal persons. A factual question is whether, in the concrete case, the issue is about this kind of fiscal liability and it is established according to provisions determining such liabilities (Lazarević, 1993: 229). Since there are several types of taxes within our fiscal system, this

¹ “Official Gazette of the Republic of Serbia”, nos. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016. More: Jovašević, 2005.

² “Official Gazette of the Republic of Serbia”, nos. 80/2002, 84/2002, 23/2003, 70/2003, 55/2004, 61/2005, 85/2005, 62/2006, 63/2006, 61/2007, 20/2009, 72/2009, 53/2010, 101/2011, 2/2012, 93/2012, 47/2013, 108/2013, 68/2014, 105/2014, 91/2015, 112/2015 and 15/2016..

term understands, in any case, a part of income or property which a social community takes away from natural or legal persons (companies, institutions and other organizations), i.e. entrepreneurs, for covering its expenses without giving a taxpayer some direct counter act or giving (Popović: 450-451). Actually, the state takes a tax, as part of income or part of property, from its citizens on the basis of its power, without taking any direct counter action.

It follows from legal description the criminal offence of tax evasion that it has two forms of manifestation. These are qualified as basic and heavier type. Basic type of this crime, depending on action taken for its execution, may appear in three ways (Jovašević, 2002: 34-37). These are: 1) giving of false information about incomes, 2) failure to report incomes in case of obligatory reporting and 3) concealing of information in another way (Demirović, 1989: 37-39). Since the issue in this case is about a specific form of crime of fraud (Jovašević, 2011: 689) it is not rare that that we may find in criminal and legal theory a standing that the action of this crime is fraud activity, taken in its widest sense. In its concretization it may manifest alternatively, in two ways: 1) as active, positive activity (commission) - *delicta comissiva* and 2) as passive, negative activity - (omission, failure to commit duties) - *delicta omissiva*. In doing so, giving of false information about incomes is considered as active action of commission of this crime, and failure to register incomes is taken as passive action of the offender, while the activity of concealment may be taken by commission or omission (Jovašević, 2003: 556).

In addition to taken action of commission, it is necessary for the existence of criminal offence of tax evasion that a few more requirements, cumulatively envisaged, are met (Đerek, 2003: 83-112). Firstly, any legally prescribed action of commission has to be taken only in relation to incomes and objects gained anyhow (and not only "legally" gained as it was legally prescribed for criminal offence of tax evasion before November 2016). The truth is, such solution is not logical because illegally gained property and other objects, i.e. incomes, cannot be taxed and thereby obtain (Đorđević, Đorđević, 2010: 230-231) "a legal, lawful basis of obtaining". Secondly, when the offender is taking the action of commission he has to act with certain subjective element - and that is the intention to fully or partially, he himself or another person, avoid payment of taxes, contributions or other statutory dues (Kriletić, 1996: 68-70). Accordingly, such intention as subjective element of the offender has to exist in a time when the action of commission is taken by a person who gives false information in tax registration or does not duly submit that registration or submits incomplete registration in relation to all necessary information and facts which are significant for correct, legal and complete determination of the amount of tax liability, i.e. other prescribed obligations or public dues or, even, conceals information relevant for determination of tax obligations (Mršić, 2007: 61-68). And finally third, for the existence of this offence it is necessary that the amount of such avoided liability exceeds legally prescribed amount of 500,000 Dinars (i.e. 150,000 Dinars before November 2016). Accordingly, there has to be a cause-effect relationship between such avoided liability in established amount or higher than it and taken action of commission of this offence. The amount of avoided liability which is less than legally prescribed amount is tax offence (Jovašević, 2001: 124-128) for which petty offence penalties and protective measures are prescribed through petty offence proceedings by a competent petty offence judge on the basis of petty offence organ of tax administration (Jovašević, Ikanović, 2012: 292).

The Law prescribes cumulative punishment of imprisonment from six months to five years and a fine, for this offence. This is an exception from a rule according to which the legislator alternatively prescribed one or more penalties for each criminal offence (Jovašević, 2007: 99-117). However, in addition to penalties some other sanctions may be imposed to the offender (Šimović, Rogić Jugarić, Cindori, 2007: 591-617), like: 1) security measure of prohibition to perform a job, activity and duty or 2) security measure of confiscation of an object or 3) property and legal measure which, if applied, may lead to confiscation of property gain obtained by commission of a criminal offence as a special criminal and legal measure *sui generis*.

In addition to basic forms of criminal offence of tax evasion, the legislator knows some more severely qualified offence. It is set prescribed under Article 225 paragraphs 2 and 3 of the Criminal Code of RS. More severe offence, for which more severe punishments are prescribed, may occur in two forms.

The first, more severe form of this offence exists in case if the amount of tax or other obligation, whose payment exceeds the amount of one million five thousand Dinars by a legally prescribed dues, and sentence prescribed for it is imprisonment from one to eight years and a fine (Jovašević, 2002: 59-73). The most severe tax criminal offence exists if the offender by any of his actions, one or more, succeeded to avoid payment of tax in the amount exceeding seven million five thousand Dinars (Jovašević, 2001: 230-248) (Article 225 paragraph 3 of the Criminal Code). The amount of unpaid taxes of social community constitutes a qualification circumstances (which includes intention of the offender) for which the law prescribes sentence of imprisonment from three to ten years and a fine, cumulatively (Simić, Trešnjev, 2010: 168).

2.1. Failure to pay withholding tax

The second basic tax crime prescribed under Criminal Code, in Article 226, is named: „Failure to pay Withholding Tax“. This offence was previously prescribed under the provision of Article 173 of the Law on Tax Procedure and Tax Administration (More: Jovašević, 2003: 469-497), i.e. in Article 229a of the Criminal Code until its novelties from November 2016. This offence is committed by a responsible person of a legal entity or an entrepreneur - taxpayer who, with intent to avoid payment of taxes after deduction or other prescribed dues, does not pay the amount calculated as tax after deduction, contributions for mandatory social insurance after deductions, to the prescribed receiving account for public revenues, or fails to pay other prescribed dues.

Act of commission (Jovašević, 2014: 217-218) is failure to pay fully or partially (Jovašević, 2014: 217-218): calculated tax after deduction, contributions for mandatory social insurance after deduction or other prescribed dues. It is an action of failure to do, omission to pay calculated amount of tax, contributions and other dues within legally prescribed deadline, or even act of commission, avoiding to pay taxes, contributions or dues for which there is an obligation of the taxpayer, in accordance with tax provisions. The act exists even in case when such kind of tax is calculated in accordance with provisions established under the law and otherwise, if the same amount is not paid, or if this amount was wrongfully paid to some other receiving account and not to the account for public revenue. For the existence of this criminal offence it is necessary that two more requirements are cumulatively fulfilled (Houška, 2014: 69-75). These are: 1) that the act of commission is taken by a specific person - *delicta propria*, and that is a responsible person of a legal entity or an entrepreneur. It is important that the issue is about persons who are employed with taxpayer and 2) that the act of commission is taken with certain intent - intent to avoid thereby payment of calculated tax after deduction, contributions for social insurance after deduction or other prescribed dues. The intent of the offender constitutes a subjective element of this criminal offence which exists in a time the act of commission is taken, but does not have to be achieved in each individual case. Furthermore, it means that this offence may only be committed with direct intent (Vukšić, 2003: 56-65).

A person with certain individual capacity may appear as a perpetrator of this offence. It may be: 1) responsible person of a legal entity (as taxpayer) or 2) entrepreneur as taxpayer. Within the meaning of Article 113 paragraph 5 of the Criminal Code (after novelties from December 2012), a person considered as responsible person is a person who, on the basis of the law, provisions or authorizations, performs certain administration, supervision or other jobs from legal entity's business, as well as a person who has been factually entrusted commission of these jobs, i.e. official person in case of criminal offences in which a responsible person is marked as offender. The Code prescribed sentence of imprisonment for up to three years and a fine for the basic criminal offence.

In addition to the basic form of this criminal offence, there are two more severe qualified forms for which the law prescribes more severe punishment, depending on the amount of this way unpaid obligations (Kapetanović, 2009: 104-106). In case that the amount of calculated and unpaid tax after deduction, contributions for mandatory social insurance after deduction, i.e. other prescribed dues exceeded legally prescribed amount of one million five thousand Dinars by legally taken action of the offender, we have the first qualified form of this criminal offence for which the law prescribes more severe punishment - sentence of imprisonment from six months to five years and a fine. The second form of manifestation of this criminal offence, and the most severe one, exists if the amount of such unpaid tax, contributions or other dues exceeds seven million five hundred thousand Dinars. The

perpetrator of this criminal offence shall be punished with imprisonment of one year to ten years and a fine (Bejaković, 2011: 98-103).

2.2. Scope, dynamics and structure of tax crimes and social reaction

To be able to analyze the real scope of tax evasion and the extent to which it endangers efficient functioning of the state, we should first analyze how often these criminal offences appear in practice and the way of social reaction towards their offenders. In this analysis we used available statistic data published in Bulletins of the Central Bureau of Statistics of the Republic of Serbia in the period 1996-2005, i.e. in the period 2006-2014 (the period of application of positive criminal legislation).

Year	Total no. of crimes	Economic crimes	%
2006	105,701	2,868	2.71
2007	98,702	2,663	2.70
2008	101,723	3,099	3.04
2009	100,026	3,131	3.13
2010	74,279	2,479	3.34
2011	88,207	2,957	3.35
2012	92,879	3,221	3.47
2013	91,411	3,397	3.72
2014	92,600	3,347	3.61

Table 1. Participation of economic crimes in the total number of committed criminal offences in Serbia in the period 2006-2014

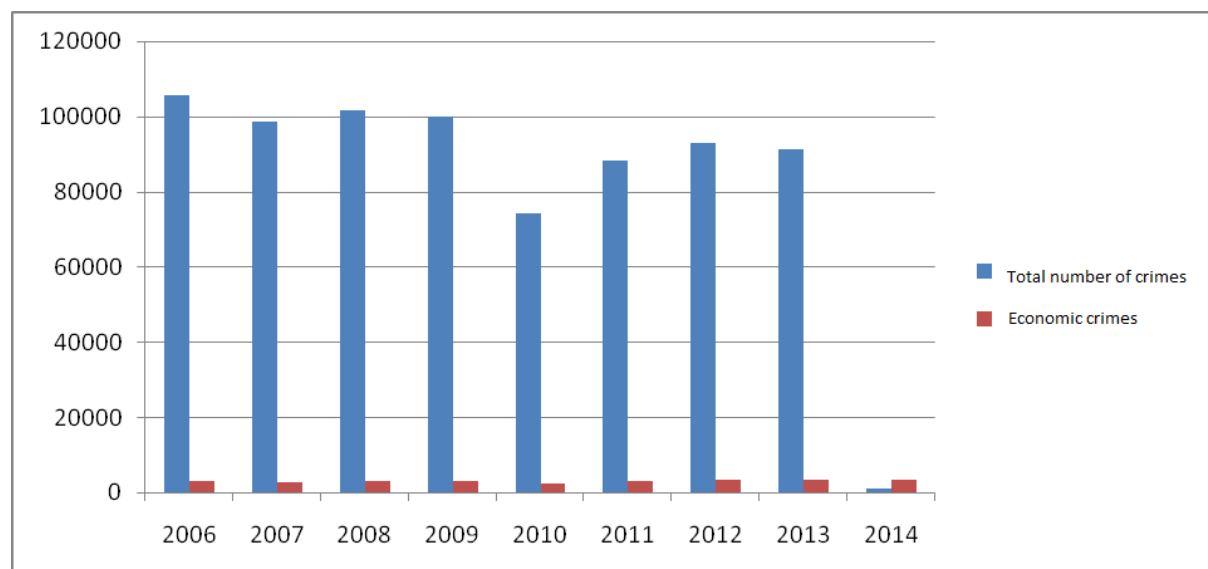


Chart 1. Participation of economic crimes in the total number of committed criminal offences in Serbia in the period 2006-2014

Year	Economic crimes	Tax evasion	%	Unpaid taxes	%
2006	2,868	615	21.44	-	-
2007	2,663	695	26.09	-	-
2008	3,099	940	30.33	-	-
2009	3,131	1,092	34.88	-	-
2010	2,479	658	26.54	-	-
2011	2,957	938	31.72	105	3.55
2012	3,221	1,132	35.14	103	3.20
2013	3,397	1,051	30.94	106	3.12
2014	3,347	712	21.27	62	1.85

Table 2. Participation of tax crimes in the total number of economic crimes in Serbia in the period 2006-2014

From the above tables on tendencies of economic crime in general, and, thereby, of tax crimes in Serbia in the period from 2006 until 2014, we may conclude the following: 1) a trend of decrease of number of committed crimes in general continued during this period in Serbia. So, the biggest number of crimes is registered during the first year observed - 2006 which is 105,701 crimes, while the lowest number of crimes were committed in 2013 - 91,411 crimes, 2) contrary to such trend which is present in crime in general, number of economic crimes in this period increases. So, in 2007 total of 2,663 economic crimes were committed, and in 2013 - 3,397 crimes of this kind - which shows an increase of more than 30%, 3) it is interesting that in this period, in distinction from the period 1996-2005, participation of economic crimes in the total number of crimes was significantly less. Now, economic crimes participate with only 2.70% in the total number of crimes - in 2007, i.e. with maximum of 3.72% - in 2013, which is a positive step in suppression of this kind of crimes, 4) economic crimes show increasing tendency in this period, so 2,868 crimes of this kind are registered in 2006, and in 2014 - 3,347 crimes, which shows an increase of approximately 20%, 5) in this period, the Criminal Code provides for two tax crimes. These are: a) tax evasion and b) failure to pay tax withholding tax for which statistic records are kept. Hereby, we have to say that the second mentioned tax crime appeared in the crimes' statistics from 2011 only with a symbolic figure with participation from only 3.55% in economic crimes in 2011 to participation of 1.85% in 2014, and 6) the most significant tax crime - tax evasion, showed various tendencies in the period 2006-2014. So, the minimal number of crimes of this type was registered in 2006 when 615 crimes was committed, but it participated with 21.44% in economic crimes. This means that every fifth economic crime, actually, is a tax evasion. The biggest number of 1,132 tax evasions was registered in 2012 when this crime participated with 35.14% in the total number of economic crimes (accordingly, every third economic crime was tax evasion).

The society has available different means, measures and actions for the efficient fight against crime in general, and these are, primarily, a system of criminal sanctions and authorizations of public prosecutor's office in criminal prosecution of perpetrators of criminal offences. The same is with suppression of economic crimes and, within these crimes, of tax crimes.

Year	Economic crimes		Tax evasion	
	No. of reported persons	No. of accused persons	No. of reported persons	No. Of accused persons
2006	2,868	2,290	615	190
2007	2,663	1,649	695	284
2008	3,099	1,838	940	410
2009	3,131	1,702	1,092	438
2010	2,479	901	658	208
2011	2,957	1,499	938	449
2012	3,221	1,589	1,132	499
2013	3,397	2,240	1,051	705
2014	3,347	2,748	712	788

Table 3. Ratio between reported and accused persons for economic crimes and tax evasion in Serbia in the period 2006-2014

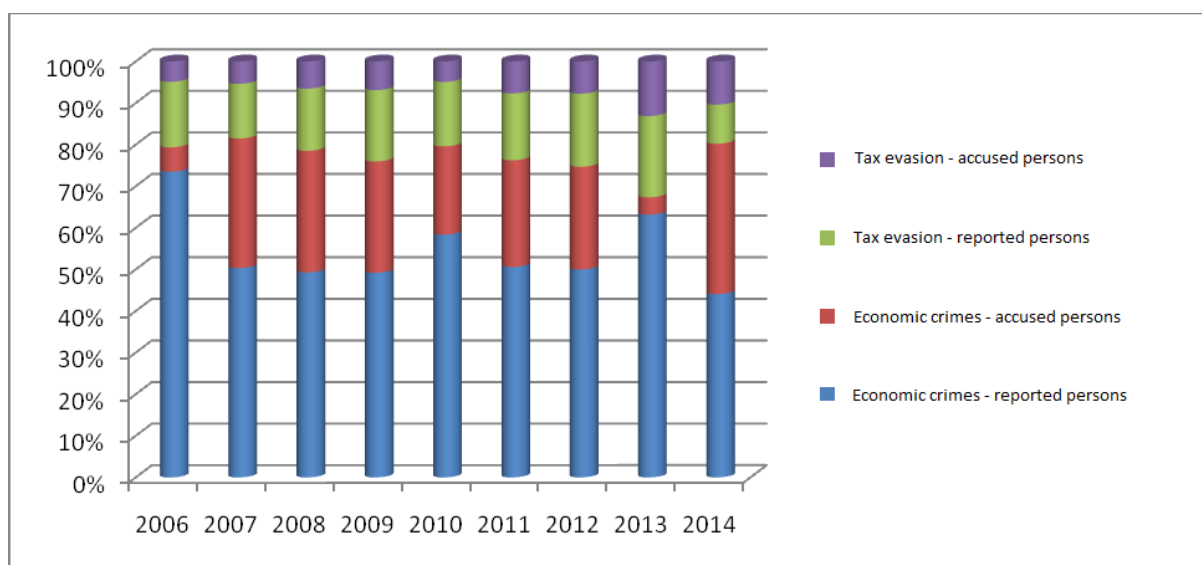


Chart 2. Ratio between reported and accused persons for economic crimes and tax evasion in Serbia in the period 2006-2014

Year	No. of reported persons	No. of accused persons	No. of convicted persons
2006	615	190	102
2007	695	284	193
2008	940	410	279
2009	1,092	438	293
2010	658	208	119
2011	938	449	262

2012	1,132	499	246
2013	1,051	705	290
2014	712	788	400

Table 4. Ratio between reported, accused and convicted persons for tax evasion in Serbia in the period 2006-2014

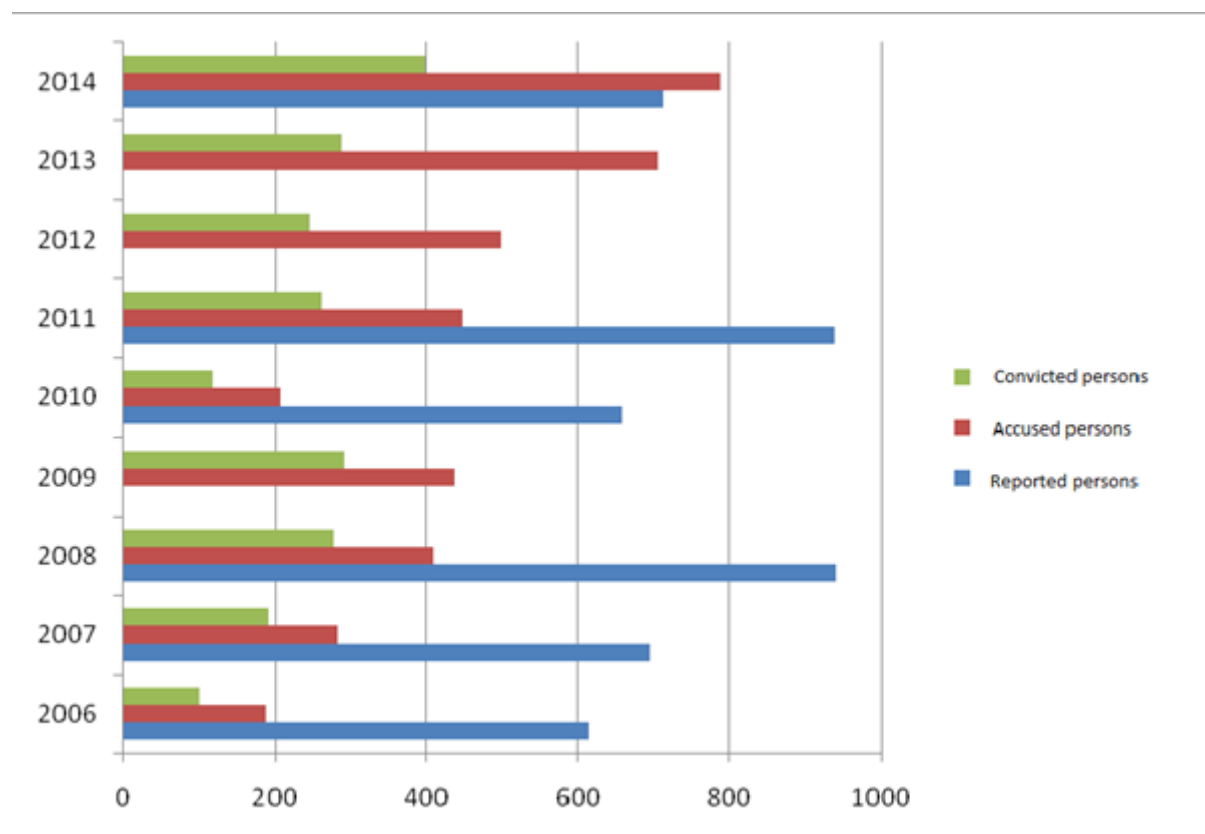


Chart 3. Ratio between reported, accused and convicted persons for tax evasion in Serbia in the period 2006-2014

By analyzing data contained in these tables efficiency of criminal prosecution of perpetrators of economic, as well as tax crimes, may be perceived, and the results are devastating, so we may conclude the following: 1) in the period 2006-2014 economic crimes recorded the trend of increase of reported perpetrators - from 2,868 persons in 2006, to 3,347 persons in 2014. Similar tendency also shows the analysis of number of accused persons for economic crimes where 2,290 persons were accused in 2006, and 2,748 persons in 2014. So, it is clear that 80% persons of all reported persons for economic crimes were accused, 2) similar situation is with crimes of tax evasion since available data show increasing trend for the reported persons for this crime, from 615 persons in 2006 to 1,132 persons in 2012. In distinction from reported persons, significantly increased trend is registered for accused persons for this crime, where the number of 190 person in 2006 increased to 788 persons in 2014 (accordingly, it increased for four times) and 3) aside from the increase of the number of reported and accused persons for tax evasion, there is still a trend of having small number of convicted persons. Therefore, every sixth reported perpetrator of tax evasion (615 persons) in 2006 was actually convicted for this criminal offence (102 persons). Similar situation was in 2012 when the biggest number of reported crimes of this type was recorded. The biggest number of 400 persons out of 712 reported persons were accused in 2014, which shows that the percentage of convicted persons

exceeded 50% of reported persons. However, this does not diminish a general conclusion on small number of convicted persons for tax crimes, what may have a stimulation effect on potential perpetrators of these and other economic crimes.

The following data may give us an illustration of the politics of criminal prosecution of perpetrators of economic, and, thereby, of tax crimes. A contribution to it gives a comparative analysis of relationship between the numbers of reported crimes of this type, and in relation to these numbers there is a significant number of rejected reports by public prosecutor for legally prescribed reasons, but there is a huge number of suspended, i.e. terminated investigations. All of this leads to a relatively smaller number of accused in relation to reported persons for these crimes.

Year	Tax evasion	Unpaid withholding tax
2006	615	0
2007	695	0
2008	940	0
2009	1,092	0
2010	658	0
2011	938	105
2012	1,132	103
2013	1,051	106
2014	712	62

Table 5. Number of committed tax crimes in Serbia in the period 2006-2014

Year	Number of reports	Rejected report	Suspension of investigation	Termination of investigation	Accusation
2006	2,868	666	16	199	1,944
2007	2,663	587	28	160	1,809
2008	3,099	559	37	198	2,221
2009	3,131	599	38	195	2,181
2010	2,479	532	4	84	1,759
2011	2,957	743	1	104	1,992
2012	3,221	981	3	97	1,977
2013	3,397	983	0	73	2,104
2014	3,347	1,459	1	55	1,300

Table 6. Manner of deciding on economic crimes in Serbia in the period 2006-2014

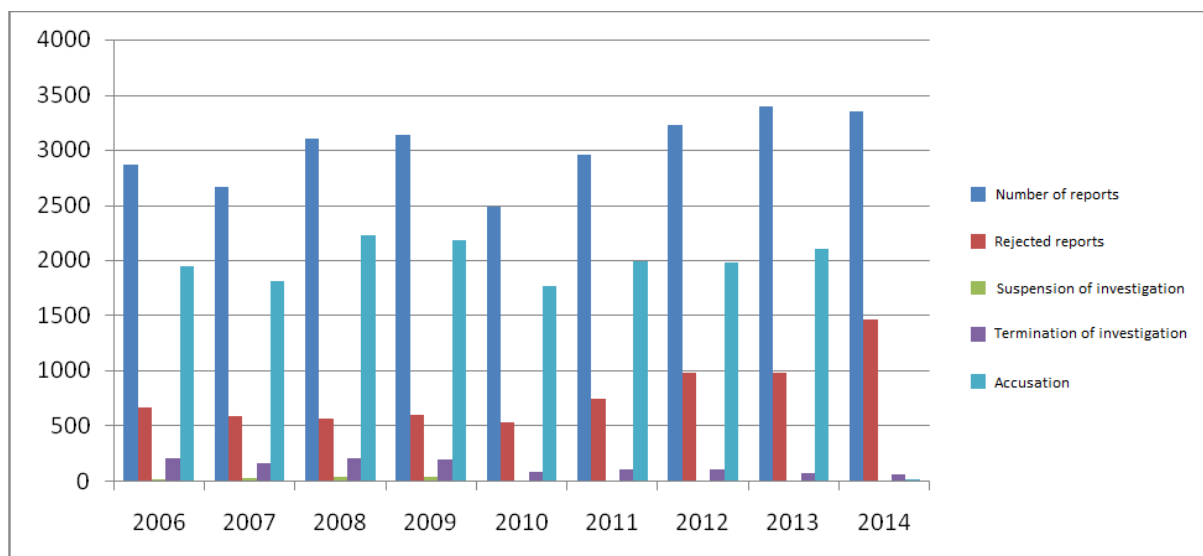


Chart 4. Manner of deciding on economic crimes in Serbia in the period 2006-2014

Similar situation is in relation to analysis of relationship between the number of reported persons for tax evasion crime in relation to the smaller number of accused persons since number of rejected criminal applications for this crime is relatively big, as well as big number of suspensions (though less in relation to termination) and termination of investigations for legally prescribed reasons.

Year	Number of reports	Rejected report	Suspension of investigation	Termination of investigation	Accusation
2006	615	77	2	13	523
2007	695	95	17	34	548
2008	940	109	17	60	752
2009	1,092	164	22	43	861
2010	658	95	0	32	529
2011	938	155	1	37	744
2012	1,132	283	1	33	391
2013	1,051	285	0	40	725
2014	712	341	0	12	357

Table 7. Manner of deciding on tax evasion crimes in Serbia in the period 2006-2014

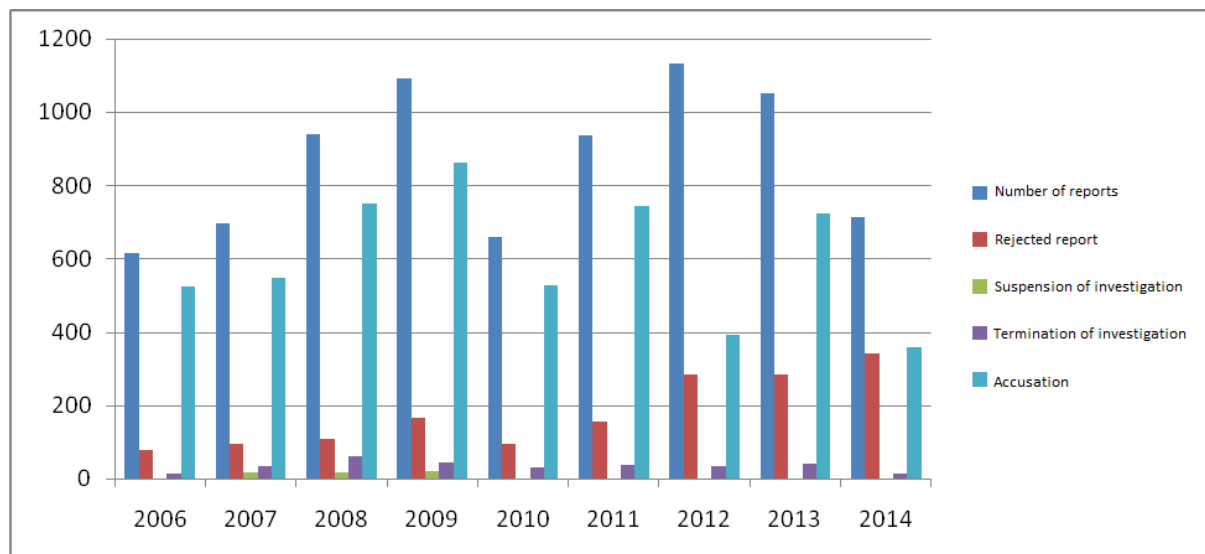


Chart 5. Manner of deciding on tax evasion crimes in Serbia in the period 2006-2014

Year	Reported persons	Accused persons	Convicted persons
2006	2,868	2,290	1,464
2007	2,663	1,649	1,161
2008	3,099	1,838	1,287
2009	3,131	1,702	1,228
2010	2,479	901	589
2011	2,957	1,499	999
2012	3,221	1,589	932
2013	3,397	2,240	1,169
2014	3,347	2,748	1,543

Table 8. Relationship between the number of reported, accused and convicted persons for economic crimes in Serbia in the period 2006-2014

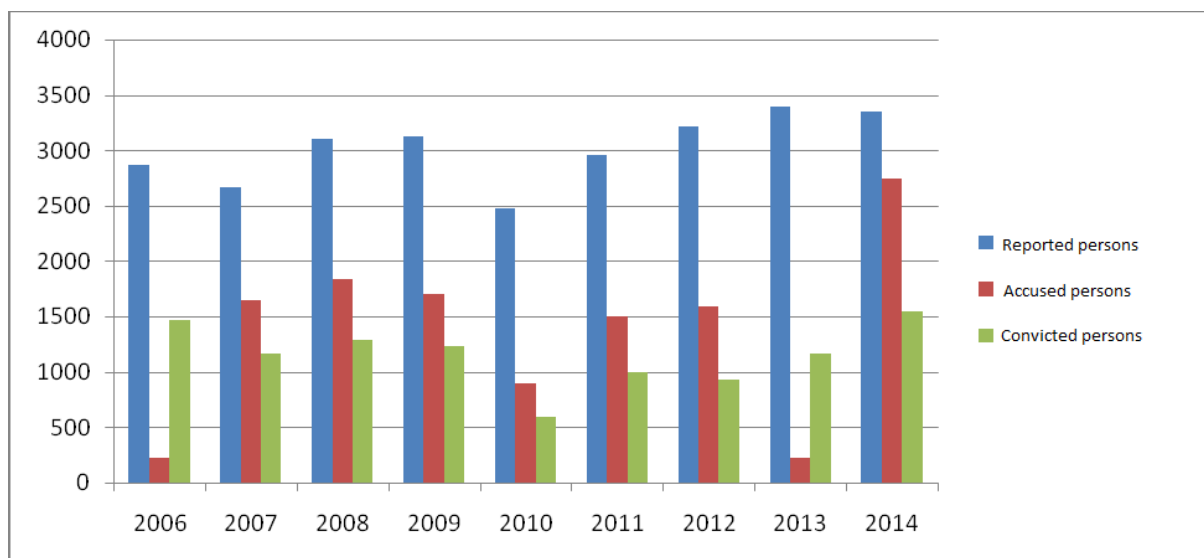


Chart 6. Relationship between the number of reported, accused and convicted persons for economic crimes in Serbia in the period 2006-2014

Year	Number of applications	Termination of proceedings	Released of charges	Refused charges
2006	2,868	377	215	221
2007	2,663	187	170	123
2008	3,099	189	201	152
2009	3,131	145	177	144
2010	2,479	113	95	94
2011	2,957	162	156	179
2012	3,221	234	206	205
2013	3,397	298	297	463
2014	3,347	357	388	446

Table 9. Manner of deciding on economic crimes in Serbia in the period 2006-2014

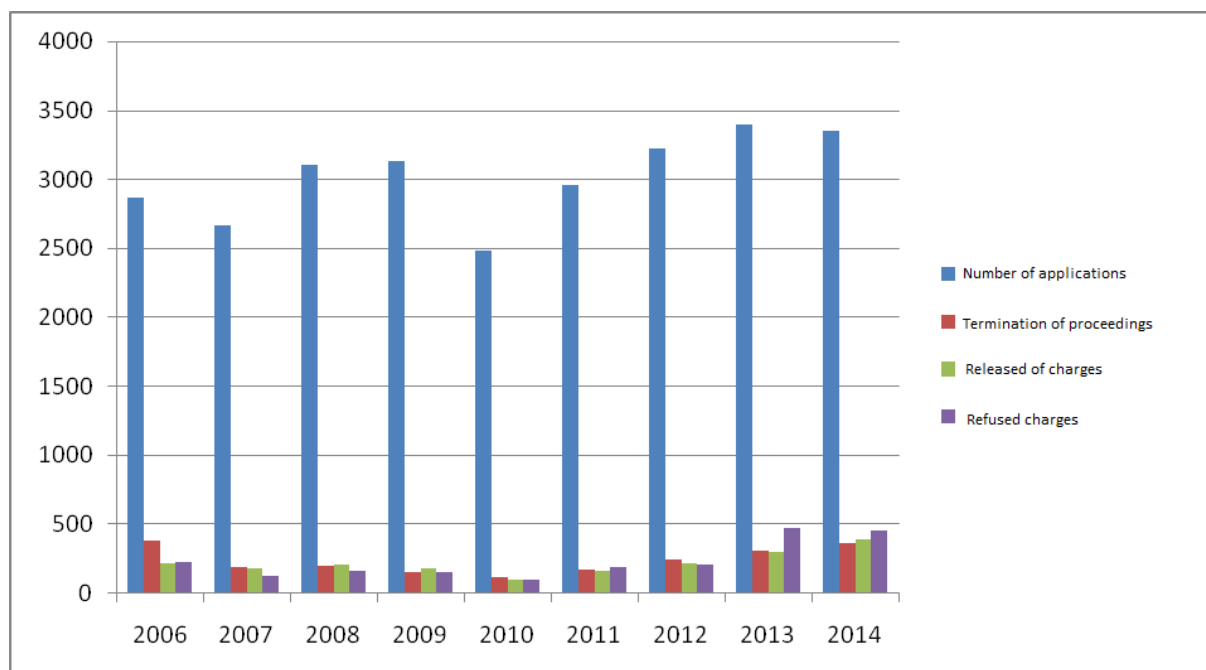


Chart 7. Manner of deciding on economic crimes in Serbia in the period 2006-2014

When analyzing efficiency of criminal proceedings for economic crimes presented data provide us with basis to conclude that biggest number of 3,397 reported persons were registered in 2013, while in 2014 there were the most accused persons - 2,748, and the most convicted persons - 1,543. However, it is interesting that in 2010 only 20% (or 589) of persons out of the total number of 2,479 reported persons, were convicted for economic crimes. Similar situation is registered in 2011 when 999 persons out of 2,957 reported persons (which is approximately 30%), were convicted. Also, statistic data show us that there is a huge number (percentage) of judgments releasing accused person from charges - most of them in 2014 for 388 persons, which is more than 10% of the total number of reported persons for economic crimes. The same year charges were refused for 446 persons (which is approximately 15% of reported persons for these criminal offences).

We have a similar situation with tax evasion (the following table). So, the smallest number of reported persons for a basic tax crime was recorded in 2006 - 615 persons, but only 30% or 190 persons were accused, and only 102 persons (15% of reported persons) were convicted, which is each sixth reported perpetrator of tax evasion is convicted for this crime. A different conclusion cannot be reached even when we are talking about 2012 when we had the biggest number of reported persons for tax evasion crime. Namely, during that year, of 1,132 reported persons only 499 persons were accused, while the number of convicted persons was 20% of total number of reported persons - or 246 persons.

Year	Number of applications	Accused persons	Convicted persons
2006	615	190	102
2007	695	284	193
2008	940	410	279
2009	1,092	438	293
2010	658	208	119
2011	938	449	262
2012	1,132	499	246

2013	1,051	705	290
2014	712	788	400

Table 10. Relationship between the number of reported, accused and convicted persons for tax evasion in Serbia in the period 2006-2014

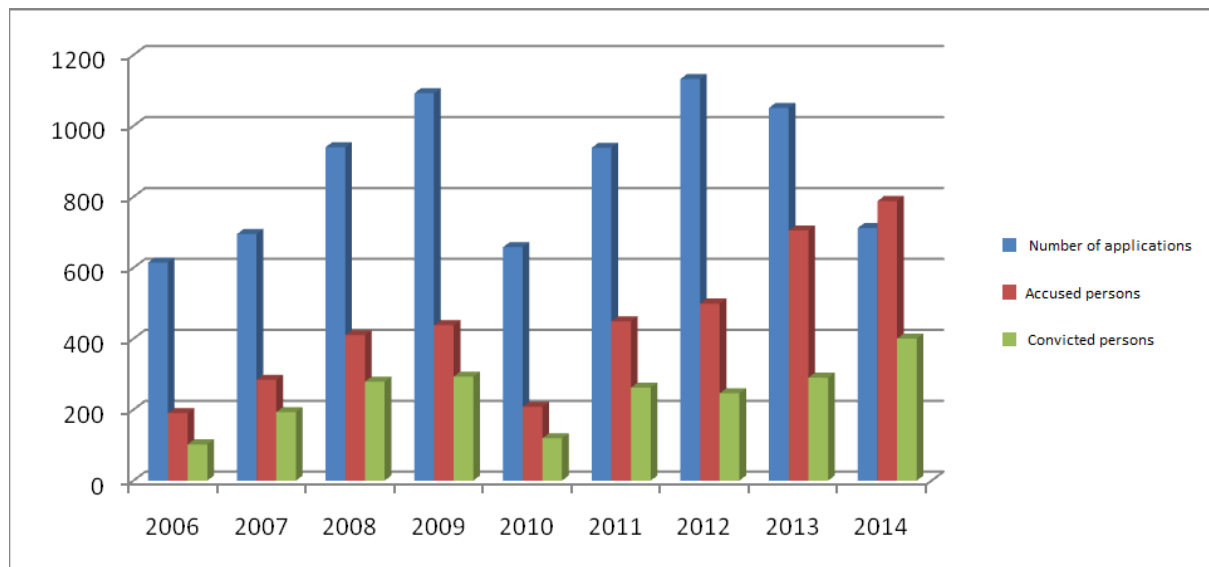


Chart 8. Relationship between the number of reported, accused and convicted persons for tax evasion in Serbia in the period 2006-2014

The last part of presentation on tax crimes, as it is logical, should be analysis of efficiency of criminal proceedings from the aspect of type and measure of penalty and other criminal sanctions pronounced to their perpetrators by competent courts. Actually, we have here expressed a concrete individualization of legally prescribed high penalties for perpetrators of tax crimes and this is reflected in strictness of the penalty politics of the courts, which indicates the degree of the rule of law and achieved level of legal state.

Year	Number of applications	Termination of proceedings	Released of charges	Refused charges
2006	615	45	18	25
2007	695	32	34	25
2008	940	31	57	43
2009	1,092	42	53	49
2010	658	24	33	32
2011	938	57	61	69
2012	1,132	71	87	94
2013	1,051	22	110	178
2014	712	140	96	156

Table 11. Manner of deciding on tax evasion crimes in Serbia in the period 2006-2014

From presented data on the manner of deciding on submitted criminal charges against persons for the tax evasion crime, as the most significant tax crime, in Serbia in observed period, we may conclude the following: 1) number of terminated criminal proceedings is relatively small for this criminal offence. It varies from 5% in 2007 to 20% in 2014, 2) number of persons being validly released of charges is somewhat smaller. That number varies from 3% in 2006 to 10% in 2013, and 3) similar situation is with refusal of charges. Number of judgments refusing the charges for criminal offence of tax evasion for legally prescribed reasons varies from 3% in 2007 to 5% in 2010, or even 25% in 2014.

Year	Prison 2-3 yrs	Prison 1-2 yrs	Prison 6mths-1 yr	Prison 3-6 mths	Prison 2-3 mths	Fine	Secondary sentence	Work in public interest
2006	0	0	0	8	3	12	53	0
2007	0	2	10	12	2	18	95	0
2008	1	9	9	11	6	28	144	0
2009	2	9	15	14	8	33	174	1
2010	1	4	3	6	3	8	63	0
2011	2	8	8	6	7	16	183	1
2012	2	10	11	15	6	8	151	1
2013	1	9	15	19	6	11	190	0
2014	6	18	43	40	8	25	228	0

Table 12. Pronounced sentences for tax evasion in Serbia in the period 2006-2014

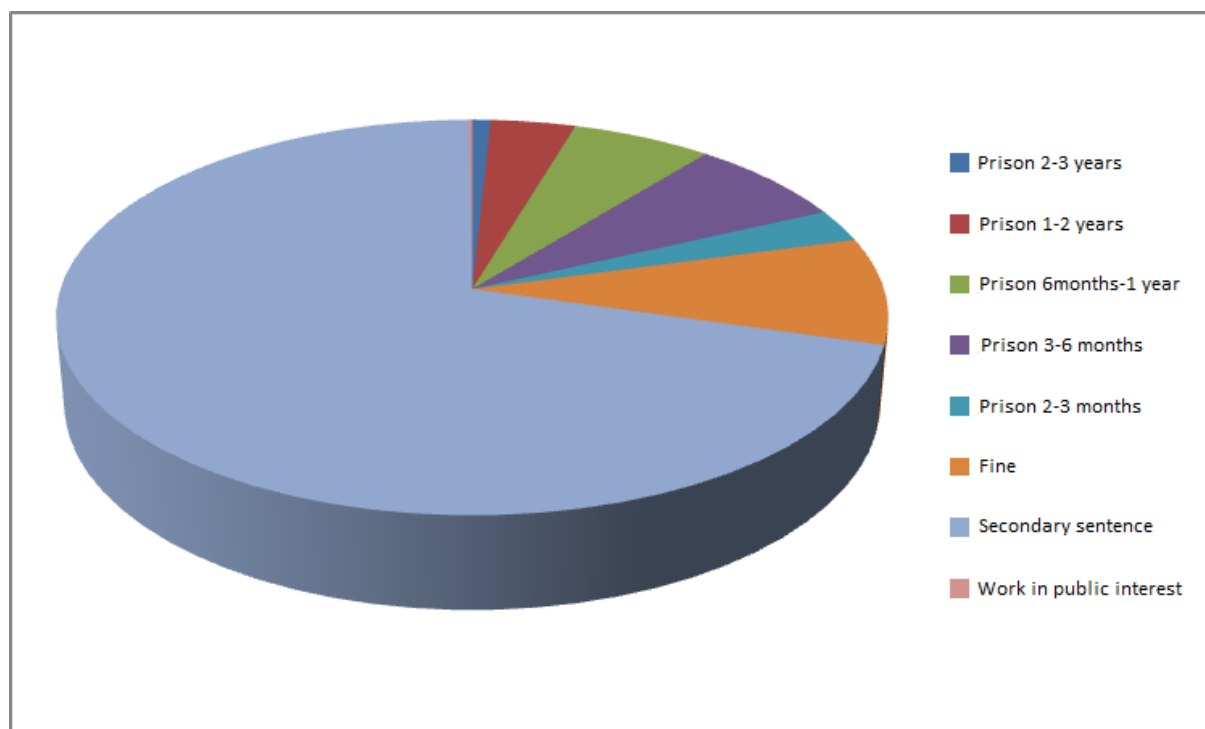


Chart 9. Pronounced sentences for tax evasion in Serbia in the period 2006-2014

In relation to penalty politics of the court for criminal offence of tax evasion, even though the legislator cumulatively prescribed sentence of imprisonment and a fine, we may conclude the following: 1) a fine as a main sentence was relatively rarely issued and in small number of cases. As secondary sentence next to sentence of imprisonment as the main sentence, a fine is pronounced a bit often, even though not enough provided that it is mandatory upon the law, 2) sentence of work in public interest, amongst other penalties for perpetrators of criminal offence of tax evasion, was the only one issued, though extremely rare. Namely, only one penalty of this kind was issued per year in 2009, 2011 and 2012, and it was not issued in other analyzed years, and 3) the most often sentence pronounced to perpetrators of the most significant tax crime is imprisonment from 3 to 6 months (even though its special, legally prescribed minimum is six months for the basic type of this crime), and then sentence of imprisonment from six months to one year. Sentence of imprisonment from two to three years was rarely passed, not once in 2006 and 2007, and once per year in 2008, 2010 and 2013.

Year	Suspended sentence	Security measures
2006	78	6
2007	146	0
2008	213	0
2009	210	0
2010	94	0
2011	212	0
2012	193	0
2013	225	0
2014	255	0

Table 13. Other types of pronounced criminal sanctions for tax evasion in Serbia (2006-2014)

If we analyze politics of imposing of criminal sanctions to perpetrators of criminal offences of tax evasion, we may conclude the following: 1) out of all available criminal sanctions except penalties, the perpetrators of the criminal offence of tax evasion were mostly pronounced the suspended sentence, in a relatively high percentage. Namely, share of this criminal sanction was between 13% in 2006, over 20-22% in 2009 and 2011, even up to 32% in 2014, and 2) even though the Criminal Code allows the possibility to pronounce even two security measures to perpetrators of this criminal offence (out of eleven measures recognized by our criminal and legal system), like: a) confiscation of object and b) prohibition of performing a job, activities or duties, in only one of nine observed years, that is in 2006, six security measures were pronounced without specifically stating in the statistics data which measure is in question.

Year	Prison 2-3 yrs	Prison 1-2 yrs	Prison 6 mths -1yr	Prison 3-6 mths	Prison 2-3 mths	Fine	Secondary fine	Suspended sentence
2011	0	0	0	0	1	1	8	7
2012	0	0	0	1	0	0	12	23
2013	0	1	0	1	0	0	18	20
2014	2	0	4	4	0	2	21	32

Table 14. Pronounced criminal sanctions for failure to pay withholding tax in Serbia (2011-2014)

For another tax crime - failure to pay withholding tax - provided for under the Criminal Code, in the period 2011-2014 for which we have criminal statistics, we may conclude the following: 1) sentence of imprisonment was pronounced extremely rarely, for a period of two to three years in only two cases in 2014, 2) sentence of imprisonment of one to two years was pronounced only once in 2013, 3) sentence of imprisonment for three to six months is the most often pronounced sentence, 4) a fine as main sentence for this crime was pronounced extremely rarely - only once in 2011 and twice in 2014, 5) a fine was pronounced somewhat often as a secondary sentence and 6) the most pronounced sentence for this criminal offence is suspended sentence - 32 times in 2013, that is 23 times in 2012, and the least number in 2011 - only seven cases.

3. CONCLUSION

Even though tax crimes, as their object of protection, have to protect the fiscal system of the state, i.e. efficient, quality and due functioning of any state organ and public service, and even though all modern criminal legislations prescribe severe sentences of imprisonment and fines for their perpetrators, the practice, as well as this research, has shown that many perpetrators of these crimes are finally pronounced mild measures and types of sentences, if convicted at all. That is the task for any responsible authority to research efficiently of punishment politics and to act duly with certain measures and means to prevent commission of these crimes and to reduce to minimum their number, and hence frequency and degree of social responsibility.

REFERENCES

- Allix, E. (1937). La condition des etrangers au point de vue fiscal, *Racueil des Cours Academie de Droit international e la Haye*, Vol. 61, (559).
- Atanacković, D. (1985). *Krivično pravo, Posebni deo*. Beograd.
- Babić, M., Marković, I. (2013). *Krivično pravo, opšti dio, četvrto izmijenjeno i dopunjeno izdanje*. Banja Luka: Pravni fakultet.
- Babić, M. (2014). *Krivično pravo, opšti i posebni dio, drugo izmijenjeno i dopunjeno izdanje*. Banja Luka: Visoka škola unutrašnjih poslova.
- Bejaković, P. (2011). Poreska evazija i prijedlozi revizorskih kuća za njezino smanjenje i bolje prikupljanje poreza. *Zagreb: Porezni vjesnik*, (10), (98-103).
- Čejović, B., Miladinović, V. (1995). *Krivično pravo, Posebni deo*. Niš.
- Čubinski, M. (1934). *Naučni i praktični komentar Krivičnog zakonika Kraljevine Jugoslavije*. Beograd.
- Demirović, M. (1989). *Krivično delo poreske utaje*. Beograd: Pravna misao, (9-10).
- Đerek, B. (2003). Kaznena odgovornost za povrede poreznih zakona. *Zagreb: Financijska teorija i praksa*, (1), (83-112).
- Đordjević, M., Đordjević, Đ. (2010). *Krivično pravo*. Beograd.
- Đurđić, V., Jovašević, D. (2010). *Krivično pravo, Posebni dio*. Beograd.
- Grupa autora (1995). *Komentar Krivičnog zakona Republike Srbije*. Beograd.
- Houška, M. (2014). Plan borbe protiv erozije porezne osnovice i premještanja dobiti. *Zagreb: Financije, pravo i praksa*, (11).
- Jovanović, LJ. (1983). *Krivično pravo, Posebni deo*. Beograd.
- Jovanović, LJ., Đurđić, V., Jovašević, D. (2006). *Krivično pravo, Posebni deo*. Beograd.
- Jovašević, D. (1996). *Falsifikovanje isprave u jugoslovenskom krivičnom pravu*. Beograd.

- Jovašević, D. (1996). Falsifikovanje isprave - teorija i praksa. Beograd.
- Jovašević, D. (2001). Poreski prekršaji. Beograd: Ekonomika, (4-5).
- Jovašević, D. (2001). Novčana kazna u jugoslovenskom krivičnom pravu. Podgorica: Pravni zbornik, (1-2).
- Jovašević, D. (2002). Komentar Krivičnog zakona SR Jugoslavije. Beograd.
- Jovašević, D. (2002). Sistem imovinskih krivičnih sankcija u jugoslovenskom krivičnom pravu. Beograd: Nauka, bezbednost, policija, (2).
- Jovašević, D. (2003). Komentar Krivičnog zakona Republike Srbije sa sudskom praksom. Beograd, (556).
- Jovašević, D. (2003). Komentar Krivičnog zakona Republike Srbije sa sudskom praksom, Deo: Krivična dela iz sporednih zakona. Beograd: Nomos.
- Jovašević, D., Hašimbegović, T. (2004). Sistem poreskih delikata. Beograd.
- Jovašević, D. (2005). Krivični zakonik Republike Srbije sa uvodnim komentarom. Beograd.
- Jovašević, D. (2006). Krivični zakonik Republike Srbije sa komentarom. Beograd.
- Jovašević, D. (2007). Sistem kazni u novom krivičnom zakonodavstvu Republike Srbije. Novi Sad: Pravo, teorija i praksa, (2).
- Jovašević, D. (2010). Krivično pravo, Opšti deo. Beograd.
- Jovašević, D. (2011). Leksikon krivičnog prava. Beograd.
- Jovašević, D. (2014). Krivično pravo, Posebni deo. Beograd.
- Jovašević, D., Ikanović, V. (2012). Krivično pravo Republike Srpske, Posebni dio. Banja Luka.
- Kapetanović, S. (2009). Porezna utaja poreza na dodatu vrijednost. Zagreb: Rčunovodstvo, revizija i financije, (7).
- Kesner Škreb, M. (1995). Izbjegavanje i utaja poreza. Zagreb: Financijska praksa, (3).
- Klepić, D. (1998). Finansijska nedisciplina. Beograd: Izbor sudske prakse, (12), (5-9).
- Kovčo Vukadin, I. (2007). Gospodarski kriminalitet - kriminološka obilježja. Zagreb: Hrvatski ljetopis za kazneno pravo i praksu, (2), (435-493).
- Kriletić, M. (1996). Novosti u Kaznenom zakoniku u svezi sa pranjem novca, utajom poreza i dr. Zagreb: Računovodstvo, revizija i financije, (6).
- Kulić, M. (1995). Ovlašćenja finansijske policije u poslovima kontrole javnih prihoda. Beograd: Izbor sudske prakse, (2), (5-7).
- Kulić, M., Milošević, G. (2011). Elementi krivičnog dela neuplaćivanje poreza po odbitku. Brčko: Zbornik radova, Krivično zakonodavstvo i prevencija kriminaliteta.
- Lazarević, LJ. (1993). Krivično pravo, Posebni deo.
- Lazarević, LJ. (2006). Komentar Krivičnog zakonika Republike Srbije. Beograd.
- Lazarević, LJ., Vučković, B., Vučković, V. (2004). Komentar Krivičnog zakonika Crne Gore. Cetinje.
- Matković, B. (2007). Utaja poreza. Zagreb: Računovodstvo, revizija i financije, (11).
- Miloš, D. (1981). Krivično delo poreske utaje. Sarajevo: Pravna misao, (9-10), (49-63).
- Mršić, G. (2007). Kaznena djela utaje poreza i drugih davanja - poseban osvrt na slučajeve iz prakse. Zagreb: Radno pravo, (9).
- Ocvirk, D. (2001). Skriveni transferi dobiti. Zagreb: Porezni vjesnik, (3).

- Pavišić, B., Insolera, G. (1997). Hrvatsko-talijanski rječnik kaznenog prava. Rijeka.
- Pavišić, B., Grozdanić, V., Veić, P. (2007). Komentar Kaznenog zakona. Zagreb.
- Petrović, B., Jovašević, D. (2005). Krivično (kazneno) pravo Bosne i Hercegovine, Opšti dio. Sarajevo.
- Pogarčić, Z. (2003). Nova kaznena djela iz područja gospodarskog poslovanja. Zagreb: Računovodstvo, revizija i financije, (12), (141-147).
- Radovanović, M., Đorđević, M. (1975). Krivično pravo, Posebni deo. Beograd, (250-251).
- Simić, I., Trešnjev, A. (2010). Krivični zakonik sa kraćim komentarom. Beograd.
- Srzić, N., Stajić, A. (1970). Krivično pravo, Opšti i posebni dio. Sarajevo.
- Stanković, M. (1993). Poreska utočišta u svetu. Beograd: Izbor sudske prakse, (6), (80-82).
- Stojanović, Z., Perić, O. (1996). Komentar Krivičnog zakona Republike Srbije i Krivični zakon Republike Crne Gore sa objašnjenima. Beograd.
- Stojanović, Z., Perić, O. (2000). Krivično pravo, Posebni deo. Beograd.
- Šimović, J., Rogić Jugarić, T., Cindori, S. (2007). Utaja poreza u Republici Hrvatskoj i mjere za njezino sprječavanje. Zagreb: Hrvatski ljetopis za kazneno pravo i praksu, (2).
- Tahović, J. (1953). Krivično pravo, Posebni deo. Beograd.
- Tahović, J. (1957). Komentar Krivičnog zakonika. Beograd.
- Vukšić, Z. (2003). Porezna utaja. Zagreb: Hrvatska pravna revija, (10), (56-65).
- Živanović, T. (1936). Osnovi krivičnog prava Kraljevine Jugoslavije, Posebni deo, Knjiga II, sveska 2. Beograd.