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Crime and Penal Policy of Courts in Serbia

1. Introduction

When considering crime trends and the reaction of formal authorities, it is necessary to look briefly at the history of Serbia in recent decades. After the breakup of the Socialist Federal Republic of Yugoslavia during the 1990s, Serbia went through a turbulent period marked by wars, sanctions by the international community, and NATO bombing in 1999. At the same time, the country was going through a period of transition from a socialist to a capitalist socio-economic system. After 2000 and the change of government, gradual stabilization and reforms took place in society, and in 2012, Serbia was granted the status of a candidate country for EU membership.

This article first provides an overview of the basic criminal law solutions in Serbia along with a review of recently adopted new legal solutions in that field. Then, the state of crime in Serbia and trends are discussed with reference to certain types of crime and specific criminal offences. Finally, I discuss the penal policy of the courts in the country and the situation in Serbian prisons.

2. Criminal law provisions

The current Criminal Code of Serbia entered into force on 1 January 2006 and since then it has been amended several times. The age of criminal responsibility in Serbian law is fourteen years. Adulthood is acquired at the age of eighteen and the Criminal Code applies to those persons, with the possibility of applying the Law on Juvenile Criminal Offenders and Criminal Legal Protection of Juveniles in certain cases (Articles 40 and 41 of the Law). The Criminal Code foresees several categories of criminal sanctions: penalties, warning measures, and security measures. For juvenile offenders, a category of sanctions is provided in the Law on Juvenile Criminal Offenders and the Criminal Legal Protections of Juveniles, which are called educational measures. Older juveniles (sixteen to seventeen years old at the time of committing the crime) may also be sentenced to juvenile prison.

The Criminal Code recognises several types of punishments: prison sentence, fine, community service, and revocation of a driver's licence. A prison sentence cannot be shorter than thirty days or longer than twenty years. Exceptionally, for the most serious crimes, the legislator foresees the possibility of life imprisonment. Before 2019, when life imprisonment was introduced, instead of it there was a possibility for the most serious crimes of the court's imposing a sentence of thirty to forty years, which represented a kind of substitute for the death penalty, which was abolished by Serbia in 2002. The Criminal Code also recognizes house arrest as a modality of execution of a prison sentence that can be imposed (the CC stipulates what circumstances the court should assess when making a decision) if a person is sentenced to a prison sentence of up to one year (Article 45, paragraphs 3–5)

Since its adoption, the Criminal Code has undergone numerous amendments.¹ All those amendments were basically repressive in nature, and criminal law was often used for populist purposes to score political points.² At the same time, the position of public opinion and various "experts" was taken into account, while the academic study of criminal law was marginalized. This results in new and often unnecessary incriminations, because existing ones could already be applied to provide criminal protection, increase in prescribed sentences, bans on mitigating sentences for certain crimes, stricter conditions for parole, a ban on parole for some serious crimes, etc. Thus, for example, the possibility of parole for a person convicted of rape resulting in the death of the victim is excluded (death is seen as the result of negligence and not intent, because otherwise there is a concurrence of the crimes of murder and rape), but the same rule does not apply to a person who would be sentenced to life imprisonment for, for example, genocide.³

While the changes to the criminal legislation that applies to adult offenders are continuously repressive, the Law that applies to juvenile offenders, on the other hand, has not gone through any changes.⁴ The reason for this may be the fact that the proportion of juvenile delinquency is not high and is around 5% of total delinquency; there is also an attitude that it is better to avoid juveniles' stigmatization in the process of maturation. However, although there are justifications for using the

¹ In 2025, the new proposal of amendments to the Criminal Code was made, which, based on the 2024 draft, introduces significant changes in the special part by establishing a number of new criminal offenses and increasing penalties for certain crimes (murder, crimes against sexual freedom, crimes against the environment, the unauthorized possession and carrying of firearms, etc.).

² M. Škulić, N. Lukić, *The explanation of the main characteristics of penal populism and examples of penal populism in some criminal law provisions and planned amendments of the Criminal Code of Serbia*, "Crimen" 2025, vol. 16, no. 1, pp. 3–40.

³ G.P. Ilić, *Marginalije o kazni doživotnog zatvora, uslovnom otpustu i ljudskim pravima* [in:] *Kaznena reakcija u Srbiji XII*, ed. Đ. Ignjatović, Beograd 2019, pp. 123–142; D. Kolaric, *Višestruki povrat u krivičnom pravu Srbije – osvrt na Zakon o izmenama i dopunama Krivičnog zakonika iz 2019. godine* [in:] *Kaznena reakcija u Srbiji XII...*, Beograd 2020, pp. 208–217.

⁴ A draft version of amendments to this Law has been created and it introduces several changes in respect to substantive and procedural regulations, but it still has not been passed. Further reading: M. Škulić, *Reforma maloletničkog krivičnog prava u Srbiji* [in:] *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja*, ed. I. Stevanović, Beograd 2015, pp. 39–68.

strictest sanctions against juveniles, such as juvenile prison, as a last resort when other sanctions have not achieved results, in many situations this creates delays. Namely, numerous examples from practice show that sometimes it is better to pronounce an institutional sanction and start treatment on time, than to wait until the moment when resocialization is much more difficult to achieve. Also, analyses of violent crime among juveniles in Serbia show an increase in these crimes, which is worrisome.

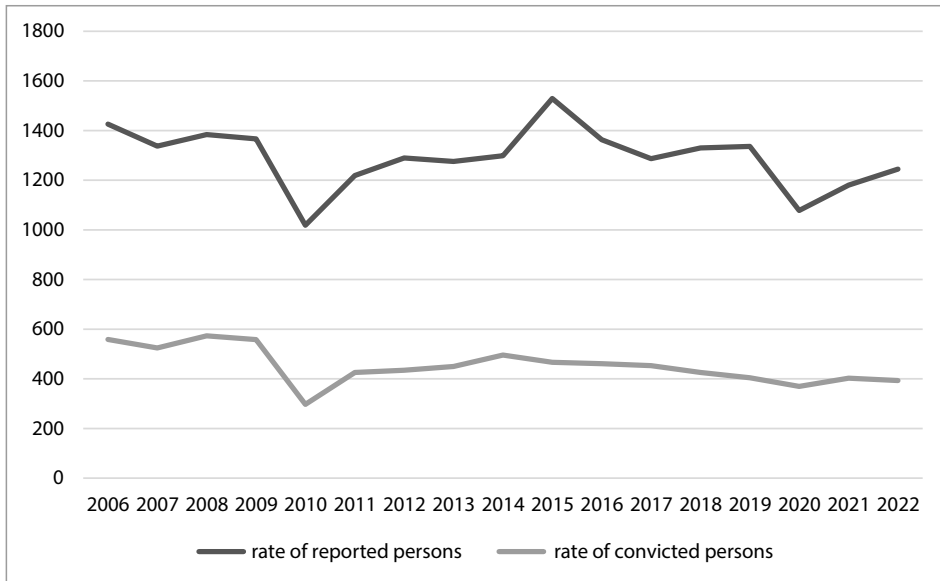
In addition to the Criminal Code, laws in the field criminal matters include the following legal acts: the Criminal Procedure Code, the Law on Execution of Criminal Sanctions, the Law on Juvenile Perpetrators of Criminal Offenses and Criminal Protection of Juveniles, the Law on Liability of Legal Entities for Criminal Offenses, the Law on Organization and Competences of State Authorities in Combating Organized Crime, Terrorism, and Corruption, the Law on the Organization and Competence of State Authorities for Combating High-Tech Crime, the Law on the Organization and Competences of State Authorities in War Crime Proceedings, the Law on Execution of Extrajudicial Sanctions and Measures, and the Law on Prevention of Domestic Violence.

3. Crime trends and problems

3.1. Adult crime

Data on crime in Serbia can be found in police and judicial statistics. Another source of data is available on the website of the Statistical Office of the Republic of Serbia, and it includes the total number of reported, accused, and convicted persons in Serbia. Also, much additional data is available about perpetrators of crimes and sanctions imposed, which is discussed later in my text. However, what is missing are studies of self-reporting and victimization studies, which would help to obtain a more complete overview of crime in Serbia, especially certain criminal offences that are assumed to be committed more often than registered crime shows (for example, criminal acts of corruption). Graph 1 shows the trend of reported and adjudicated crime by adult citizens in Serbia (the rate is calculated per 100,000 inhabitants) from 2006 to 2022, when the latest statistical data were published. I take 2006 as the baseline year because the current Criminal Code entered into force at that time, which enables a more precise monitoring of crime trends. It can be concluded that the trend of both reported and convicted persons in the observed period is stable. The exception is the year 2010, when there was a drop in both reports and convictions, which can be explained by the reform of the judiciary that made its usual work impossible. Also, it can be noted that there was a slight decrease in crime in 2020, caused by the COVID-19 pandemic.

Table 1 shows the percentage of the most frequently reported crimes in 2022. As a rule, every year the largest number of reports is submitted for criminal offences against property, among which the most common are theft, aggravated theft, and fraud. These crimes account for almost half of all reported crimes in Serbia. Next in order of frequency are criminal offences against the family, and among them, almost



Graph 1. Rate of reported and convicted persons in 2006–2022

Source: Graph is based on the data of the Statistical Office of the Republic of Serbia.

70% are the criminal offence of domestic violence, and about 20% are the criminal offence of not paying alimony. With the adoption of new legal regulations in the field of suppression of domestic violence, an increased media campaign, and the activities of non-governmental organizations in Serbia, there has been a noticeable increase in reports of domestic violence over the past decade.⁵ The introduction of a new criminal offence – femicide – is also under consideration,⁶ but for now there are no official statistics on the context in which women are killed. The Statistical Office of the Republic of Serbia only publishes the total number of murdered women, while the analysis of the context is currently being conducted only by non-governmental organizations and academics. With the adoption of the Law on Prevention of Domestic Violence in 2017, the possibility of imposing restrictive/emergency measures on “possible” perpetrators of domestic violence was introduced, namely the temporary removal of the perpetrator from the shared apartment and the temporary ban on the perpetrator from communicating and approaching the victim. The goal of these measures was to stop the violence immediately, bearing in mind that criminal proceedings last a certain amount of time and that the victim feels threatened if the defendant is not

⁵ Advocacy for legal protection of women in Serbia started already in the 1980s and intensified during the following decades. More in: S. Čopić, *Razvoj zakonodavnog okvira za zaštitu žena žrtava od nasilja u Srbiji*, “Temida” 2019, vol. 22, no. 2, pp. 143–168.

⁶ For example: A. Batrićević, *Krivičnopravna reakcija na femicid*, “Temida” 2016, vol. 19, no. 3–4, pp. 431–451.

in custody.⁷ However, despite this legal solution, it still happens that people against whom emergency measures have been issued kill their family members, which is why there are also proposals to introduce electronic surveillance along with emergency measures.⁸

Table 1. Structure of the most reported crimes in 2022

Crime category	[%]
crimes against property	47.25
crimes against family	9.3
crimes against public traffic	8.9
crimes against human health	8.4
forgery crimes	3.4
crimes against life and body	3.1

Source: Table is based on the data of the Statistical Office of the Republic of Serbia.

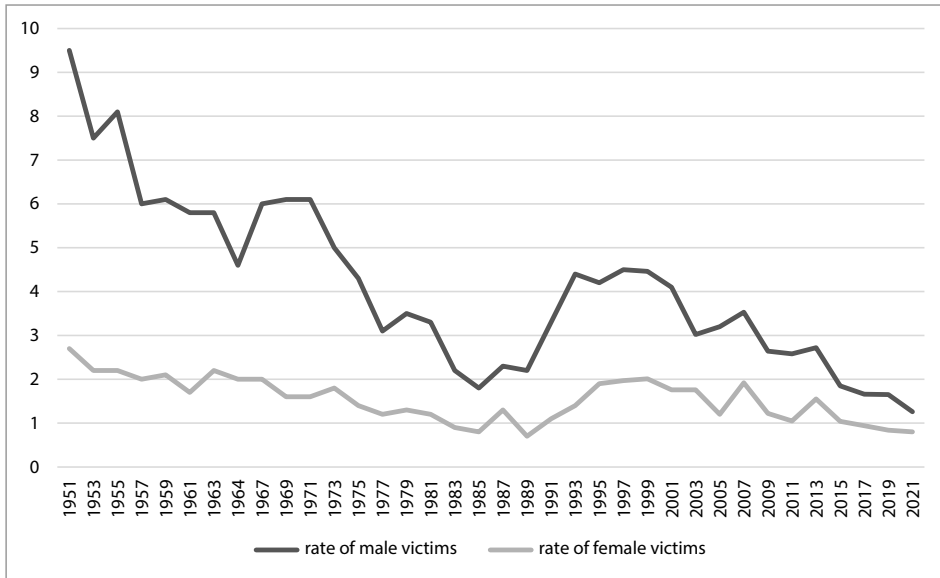
Crimes against public traffic are also common (8.9%). In the group of crimes against people's health, the crime of unlawful possession of narcotics is the most represented (77%), followed by the unlawful production and distribution of narcotics (around 20%). As far as crimes against life and body are concerned, light and serious injuries dominate (around 80% of all reported persons in this group), while homicides make up a smaller percentage of this group of crimes (around 8%). Graph 2 below shows the long-term trend of homicides in Serbia. Several points can be concluded from the data in the graph:

- The homicide rate decreased over time. After a decline in the 1980s, there was an increase in the 1990s, which can be explained by the collapse of the social system caused by the civil war and the economic sanctions of the international community.
- Similar trends in the rate of men and women are present, which is important to take into account when planning a policy to combat violence. To be specific, it is difficult to achieve suppression of violence against women, if the general level of violence in society is ignored.
- The decrease in the homicide rate can be explained on the basis of several factors: civilizational progress, reduction of the young population, better techniques for detecting and proving crimes, better medical protection, and suppression of blood feuds, which in the analysed period was especially present in the first decades after the Second World War.⁹

⁷ Further reading: D. Kolarić, S. Marković, *Komentar Zakona o sprečavanju nasilja u porodici*, Beograd 2019.

⁸ T. Pavlov, V. Lacmanović, *Karakteristike i prevencija slučajeva femicida – suicida počinjenih vatrenim oružjem u intimnom partnerskom odnosu. Istraživački izveštaj*, Beograd 2023, p. 61.

⁹ N. Lukić, *Stopa ubistava u Srbiji (1951–2019) u poređenju sa drugim evropskim državama* [in:] *Kaznena reakcija u Srbiji XII...*, Beograd 2021, pp. 292–311; Đ. Ignjatović, N. Lukić, *O povezanosti alkohola*



Graph 2. Rate of females and males killed (vital statistics)

Source: Graph is based on the data of the Statistical Office of the Republic of Serbia.

For certain criminal acts, official statistics are not a sufficiently precise indicator. This is, for example, the case with the crimes of corruption and crimes that are defined in criminology as white-collar/corporate crimes. Crimes against the environment can also be added to this. Serbian law recognizes the criminal liability of legal entities for criminal acts since 2008, but these regulations are extremely rarely applied in practice. Instead, companies that pollute the environment pay fines for economic offences committed. This is a category of delict that was introduced in the former SFRY after the Second World War and only in Serbia was this not abolished. The proceedings are conducted before commercial and not criminal courts, but it is interesting that the indictment is represented by a public prosecutor, which is a combination of commercial and criminal law. However, court practice shows that the imposed fines are not high (on average EUR 1,500–2,500 for legal entities), which is an incidental expense for large and successful companies, and it is difficult to achieve special and general prevention in this way. What is also problematic is the fact that in this way companies avoid the stigma associated with a criminal sanction, especially with penalties, which is why it is cheaper for company management to pay a fine than, for example, to buy new air purifiers. Although investments are important, especially for less developed countries like Serbia, it does not mean that investors should not and are not able to respect environmental protection regulations. Criminal acts against the environment that

appear in the practice of criminal courts in 95% of cases are the killing and abuse of animals and theft from forests, and the perpetrators of these acts are natural persons.¹⁰

Another big problem is corruption. At the same time, one should distinguish the perception of corruption, which is always higher depending on personal experiences. According to the results of research conducted by the Anti-Corruption Agency of the Republic of Serbia from 2012, 18% of respondents from a representative sample of 1,000 citizens participated in bribery. Translated into absolute numbers in the entire population, this would mean that in the year before the survey was conducted, 1,350,000 people gave bribes. In the first place, citizens gave bribes to healthcare workers, then to clerks at shop counters, and then to police officers.¹¹ The 2016 research results (research done for 2015) on a representative sample of 1,508 citizens indicate that 39% of citizens believe that corruption is the third most important problem in the country (behind unemployment and the economy). The number of citizens who gave bribes is 22%. However, these are cases of so-called petty corruption. Detecting cases of corruption at a high level is difficult, and as a rule, those cases are not covered by court verdicts, of which there are a few dozen for giving bribes each year. The only encouraging thing is that in over 50% of cases, a prison sentence is imposed for accepting a bribe.¹²

The proportion of reported women in crime is about 15%.¹³ In terms of age, the thirty to thirty-nine age group (21%) is the most represented among the total number of known registered men, followed by the twenty-one to twenty-nine age group and the forty to forty-nine age group. Among women, the age group of thirty to thirty-nine is also the most represented (21%).

When it comes to convicted adults, the structure of criminal offences is somewhat different compared to reported crime (Table 2). The share of criminal offences against property is significantly lower, which can be explained by the fact that there is not enough evidence for a large number of these offences or there is a diversification of the criminal procedure, that is, the public prosecutor defers the criminal prosecution and the defendant fulfils some obligation (for example, payment of damages, humanitarian work or community service, submission to alcohol or drug treatment, etc). This is possible for criminal offences which are punishable by a fine or a term of imprisonment of up to five years (Article 283 of the Criminal Procedure Code).

¹⁰ N. Lukić, *Zelena kriminologija*, Beograd 2023, pp. 133–162; *eadem*, *Zaštita životne sredine i privredni prestupi – prednosti i nedostaci*, "Glasnik advokatske komore Vojvodine" 2024, vol. 96, no. 4, pp. 1300–1341.

¹¹ *Istraživanje percepcije javnog interesa u oblasti sprečavanja i borbe protiv korupcije i mesta i uloge Agencije za borbu protiv korupcije*, Agencija za borbu protiv korupcije Republike Srbije, maj 2012, p. 13, https://acas.rs/storage/page_files/Ciljna%20grupa%20Gra%C4%91ani.pdf [accessed: 2024.07.19].

¹² *More in: Istraživanje i analiza specifičnosti i oblika korupcije u Srbiji*, Agencija za borbu protiv korupcije, Republika Srbija, jul 2019, p. 6, https://www.acas.rs/storage/page_files/Istra%C5%BEivanje%20i%20analiza%20specifi%C4%8Dnosti%20i%20oblika%20korupcije%20u%20Srbiji_2.pdf [accessed: 2024.07.19].

¹³ N. Lukić, B. Cruz, S. Strand, *Gender Perspective of Victimization, Crime and Penal Policy* [in:] *Gender Competent Legal Education*, eds. D. Vujadinović, M. Fröhlich, T. Giegerich, Cham 2023, pp. 467–504.

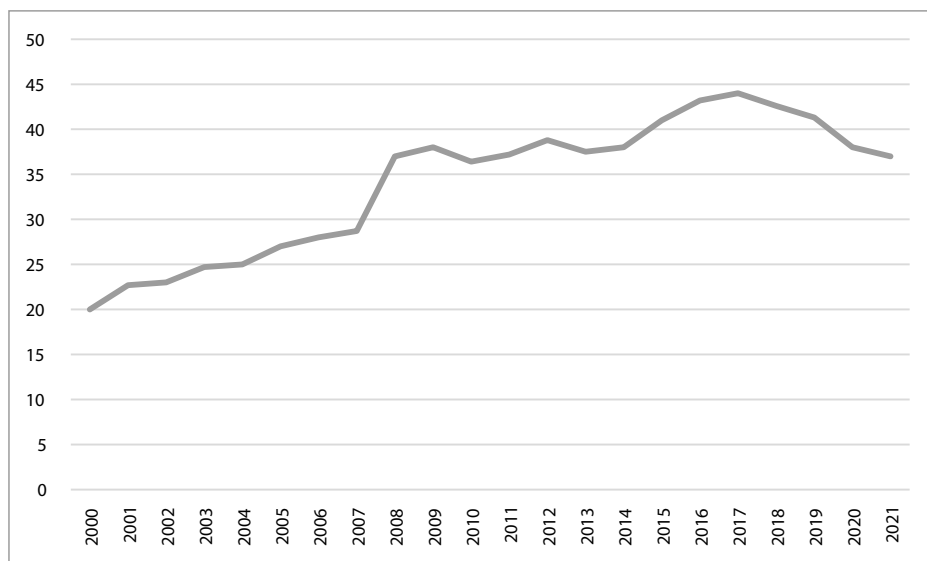
Table 2. Structure of convicted crimes in 2022

Crime category	[%]
crimes against property	24.25
crimes against family	12.7
crimes against public traffic	9.4
crimes against human health	20
forgery crimes	4.6
crimes against life and body	5

Source: Table composed based on the data of the Statistical Office of the Republic of Serbia.

The proportion of women among convicted persons is slightly lower (around 10%), and the structure of age groups of women and men is the same as in the case of reported crime. Data on employment, professional training, and marital status are also available for convicted persons. In 2022, there were about 55% employed, 25% unemployed, 7.6% inactive (pensioners, housewives, students); there is no such data for the remainder as for marital status, most convicted persons are unmarried (41%); 37% is married and 12.5% is divorced. Finally, in terms of education, the largest number of convicted persons have finished high school (56%), followed by elementary school (21.6%). About 7.2% have completed high school and college, and 5.6% have not finished elementary school.

It is also necessary to point out that the share of recidivists has been between thirty-five to 40% for a decade or more; that means that that percentage of convicted persons have been convicted of a criminal offence at least once before. The amendments to



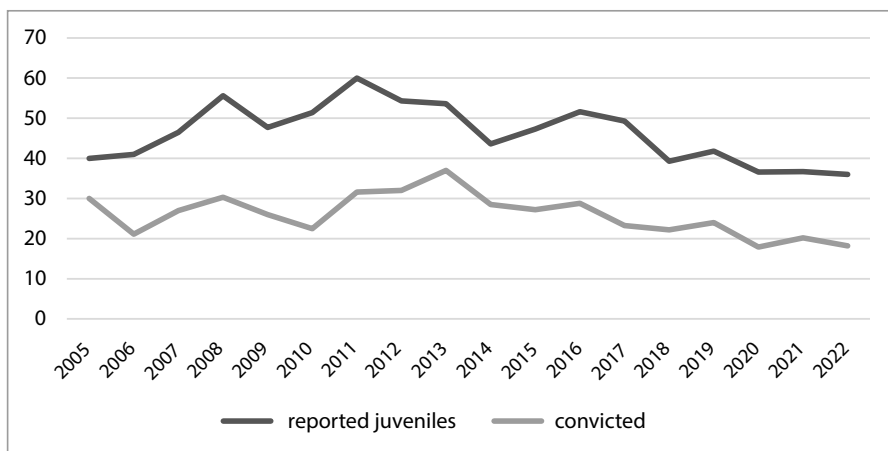
Graph 3. Percentage of recidivism of all convicted adult offenders in Serbia

Source: Graph composed based on the data of the Statistical Office of Serbia.

the Criminal Code in the last decade, which are predominantly repressive in nature, certainly contribute to this.¹⁴ The following graph shows the trend of recidivism in the last two decades and it can be noted that the trend is upward and that compared to, for example, 2006 the percentage of recidivists increased by 15%. There is no precise data on the number of the previously convicted in prisons, but the assumption is that recidivism is even more pronounced within that population.

3.2. Juvenile crime

Graph 4 shows the rate of reported juveniles and juveniles who were sanctioned. The trend has been analysed since 2005, when the Law on Juvenile Criminal Offenders and Criminal Legal Protection of Juveniles came into force.¹⁵ Both trends indicate that both the reported rate and the rate of convicted juveniles are decreasing. However, it is important to note that the rate was calculated in relation to the entire population in the country and not only in relation to the age of juveniles. More detailed analyses of the juvenile crime rate indicate that crimes with elements of violence are on the rise.¹⁶



Graph 4. Trend of reported and convicted juvenile offenders 2005–2022

Source: Graph composed based on the data of the Statistical Office of the Republic of Serbia.

¹⁴ Amendments to the Criminal Code in 2019 introduced Article 55a with new rules for determination of punishment in cases of repeated criminal offences. According to this, for a criminal offence committed with premeditation, and for which imprisonment has been prescribed, the court shall pronounce a punishment above the half of the range of the prescribed punishment under the following conditions: 1) if the perpetrator has been twice convicted for criminal offences committed with premeditation, to imprisonment of at least one year; 2) if, from the date of release of the perpetrator, from serving a punishment, until the commission of a new criminal offences, five years have not passed.

¹⁵ In 2025, a draft proposal was issued for a new Law on juvenile offenders and the criminal-law protection of minors in criminal proceedings.

¹⁶ N. Lukić, *Juvenile Crime in Serbia and Penal Policy – Is there a Relation?* [in:] *Archibald Reiss Days: Proceedings of Thematic Conference of International Significance 10*, Belgrade 2020, <https://eskup.kpu.>

Taking into account the structure of the most common crimes for which juvenile offenders were sentenced in 2022 (Table 3), we see that the criminal offences against property are dominant (the most common are grand larceny and theft, which make up 75% of those crimes, followed by unauthorized use of other persons' motor vehicle). From the group of crimes against human health, juveniles most often commit the criminal offence of unlawful possession of narcotics. Among the crimes against life and body, the most common are physical injuries, light and serious (they account for 83% of all crimes in that group), followed by participation in a fight, and the least common is homicide (in 2022, a total of two juveniles were sentenced for homicide and aggravated homicide). When crimes against life and body are added to crimes from the group against the freedoms and rights of citizens (endangering security and abuse and torture, which accounted for 3% of all convictions of juveniles in 2022), domestic violence, and the crime of violent behaviour from the group of crimes against public order and peace, we come to the conclusion that more than a third of all convictions include crimes with elements of violence. Also, this should be supplemented by criminal acts against sexual freedom (around 1.5% of all convictions) and endangering the safety of public traffic, which often results in at least minor bodily injury (2.5% of all convictions). Therefore, not only long-term trends, but also the structure of crime indicate that violent crimes are present when talking about this age category of perpetrators.

In the criminal law studies, there is currently a debate of whether the age of criminal responsibility for juveniles should be lowered,¹⁷ bearing in mind the case of mass murder at the "Vladislav Ribnikar" Elementary School in Belgrade, when a thirteen-year-old boy killed nine students and a school guard, and injured five students and one teacher. There are various opinions on this topic; however, this is another example that shows that more detailed research is needed before any legislative changes happen. Even if the killer was fourteen years old at the time of committing the crime, all the court could do is impose an educational measure of sending him to a correctional facility, which can last for a maximum of four years. Meanwhile, the Institute for Social Protection publishes statistical data on the number of children "in conflict with the law," which show that the number of children who are suspected of having committed a crime or misdemeanour is around 800–1,000 per year,¹⁸ while the number for juveniles aged fourteen to eighteen is eight to nine times higher. A detailed study that included both children and juveniles in Serbia, indicated that the largest number of them commit

edu.rs/dar/article/view/183 [accessed: 2024.07.03]; Đ. Ignjatović, *Kriminalitet maloletnika: stara tema i nove dileme* [in:] *Maloletnici kao učinioci...*, pp. 19–38; Z. Ilić, M. Maljković, *Izvršenje krivičnih sankcija prema maloletnicima* [in:] *Maloletnici kao učinioci...*, pp. 105–120.

¹⁷ S. Čopić, *Snižavanje granice krivične odgovornosti: večita dilema?*, "Crimen" 2023, vol. 14, no. 3, pp. 235–247; V. Bajović, *U prilog snižavanja starosne granice krivične odgovornosti – drugačiji pogled na "večitu dilemu"*, "Crimen" 2024, vol. 15, no. 1, pp. 82–105.

¹⁸ This is about the number of children and juveniles on the register, and this does not necessarily mean that a criminal offence was committed in that year; persons can be on the register for a longer period.

their first criminal offence at the age of fourteen to eighteen. However, this study is much more valuable because it points out the numerous problems that this group of offenders faces (failure in school, running away from school, aggression, conflicts with peers and teachers, developmental problems, and mental health), and then assessed the presence of protective and risk factors in several important dimensions: skills and abilities, family, previous criminal behaviour, and substance abuse.¹⁹ All the conclusions indicate that criminal law solutions, no matter how repressive they may be, cannot independently achieve a result without adequate work on prevention programmes that would direct attention towards identified risk factors.

Table 3. Structure of most often convicted crimes of juvenile offenders in 2022 [in %]

Crime category	[%]
crimes against property	41.7
crimes against human health	17.4
crimes against life and body	14.7
crimes against freedoms and rights	4.3
violent behaviour	10.8
domestic violence	2.8

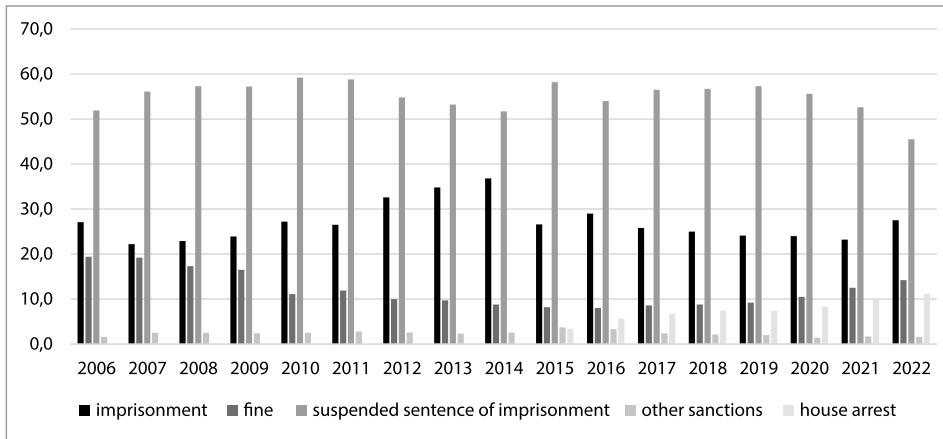
Source: Table composed based on the data of the Statistical Office of the Republic of Serbia.

The proportion of girls among juvenile offenders is around 10%. As far as age is concerned, there are more older juveniles who are sixteen and seventeen years old (55%) than younger juveniles (fourteen and fifteen years old).

4. Penal policy of the courts

Graph 5 shows the structure of criminal sanctions imposed in the period 2006–2022. It is obvious that the courts in Serbia most often choose a suspended sentence. This is understandable if we take into account that the largest number of crimes fall into the category of crime against property, and among those crimes is theft. Furthermore, as a rule, the courts will choose a suspended sentence if the perpetrator is a person with no previous convictions. Interestingly, in the last analysed year, for the first time in the last seventeen years, the proportion of suspended sentences was below 50% of all criminal sanctions imposed. An explanation should also be sought in amendments to the Criminal Code, in which the condition for imposing a suspended sentence was tightened a few years ago. While according to the previous legal solution, such a possibility was excluded if a prison sentence of ten or more years could be imposed for

¹⁹ Đ. Stakić, *Istraživanje o statusu i kvalitetu tretmana dece u sukobu sa zakonom u Srbiji*, Beograd 2022, pp. 18–32.



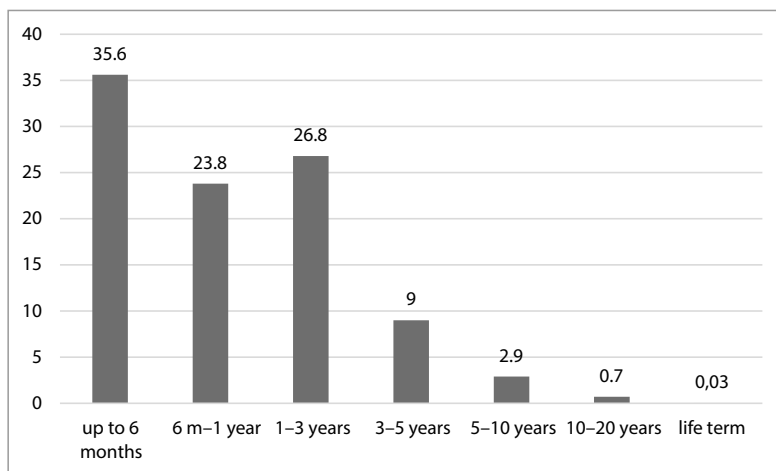
Graph 5. Structure of penal sanctions 2006–2022

Source: Graph composed based on the data of the Statistical Office of the Republic of Serbia.

a specific crime, now a suspended sentence cannot be imposed if there is a possibility of imposing a sentence of eight or more years of imprisonment.

A prison sentence is imposed in about 25% of cases. Until 2015, that share was higher, but it should be noted that since that year, data on house arrests has also been recorded in official reports, which had an impact on this decrease. In 2022, the combined proportion of prison and house arrest amounted to 38.5%. But, if one looks at house arrest as an alternative to prison,²⁰ then definitely this modality of prison sentence has reduced the number of people in penal institutions. As a rule, fines do not exceed a proportion of 10%. Other criminal sanctions, including alternatives to prison such as community service, have not been broadly applied in practice since the adoption of the Criminal Code. The same applies to probation with protective supervision. This modality of conditional sentence is regulated in Articles 71–76 of the Criminal Code. Namely, when pronouncing a suspended sentence, the court can determine some measure of protective supervision (abstaining from the use of alcohol and drugs, undergoing treatment, fulfilling family obligations, eliminating or mitigating the damage caused, etc.) taking into account the age of the convict, his/her lifestyle, preferences, health condition, motives, previous life, behaviour after the crime, and personal and family circumstances. However, even though these obligations can have a decisive effect on factors related to the committing of a crime (for example, alcohol abuse in domestic violence), the courts do not opt for this modality of conditional sentence because of the high possibility that there will be a recall if the convicted person does not adhere to the measures, which causes additional work. Another reason is the weak connection with organizations and institutions where these measures could be implemented.

²⁰ Đ. Ignjatović, *Kriminologija*, Beograd 2023, p. 203.



Graph 6. The length of prison sentences in 2022 [in %]

Source: Graph is based on the data of the Statistical Office of the Republic of Serbia.

Graph 6 shows the length of prison sentences imposed in 2022 in percentages. Almost 60% of all prison sentences do not exceed the duration of one year, which is the usual penal policy of the courts in the past decades, although in earlier years the proportion of short-term prison sentences of up to one year was 70%. That trend is changing so that now a greater proportion of sentences have a duration of one to three years in prison. As for sentences longer than ten years, their proportion is below 1%, while life imprisonment, or previously imprisonment for a duration of thirty to forty years, is imposed as a rule in only a few cases a year.

The analysis of the penal policy of the courts for certain criminal offences certainly gives a clearer picture. If, for example, we look at the sentences imposed for the most serious crimes, such as aggravated murder, we see that sentences were tightened during the previous decades. Table 4 provides an overview of the percentage of long-term prison sentences for homicide in the last four decades.²¹ We can conclude that the proportion of the most severe prison sentence is the highest in the last two decades, and especially in the last decade. The percentage of sentences of fifteen to twenty years has also increased.

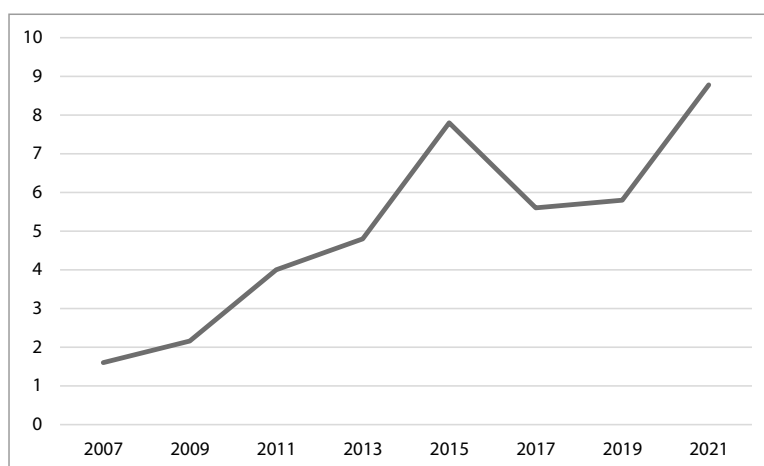
Another example that shows the tightening of penal policy is related to the criminal offence of the illegal production of and trade in narcotics. Graph 7 shows the share of sentences of five to ten years in prison for the crime of unlawful production and distribution of narcotics. Penalties of more than ten years are not that common, which is why I examine this category; it is also the most severe in terms of frequency. In general, in most cases, sentences of up to five years are imposed for this type of crime.

²¹ Table from: N. Lukić, *Porast stope zatvaranja* [in:] *Kaznena reakcija u Srbiji XII...*, Beograd 2022, pp. 259–276.

Table 4. Percentage of long-term prison sentences for homicide, aggravated homicide and manslaughter²²

Imprisonment for homicide, aggravated homicide and manslaughter in %	30–40 years or death penalty	15–20 years	10–15 years
period of the 80s	0.375	4	20.2
period of the 90s	0.1	0.99	18.3
until 2010	4.66	3.34	21.5
until 2019	7.7	7.76	18.32

Source: Table composed based on the data of the Statistical Office of Serbia.



Graph 7. The length of prison sentence between 5 and 10 years for unlawful production of and trade in drugs (% of all prison sentences imposed for this criminal offence)

Source: Graph composed based on the data of the Statistical Office of the Republic of Serbia.

4.1. Penal policy of the courts towards juvenile offenders

Unlike adult perpetrators of criminal acts that face a more repressive approach of the legislator and, accordingly, the courts, the same cannot be claimed for perpetrators of criminal offences between the ages of fourteen and eighteen. Namely, as has already been mentioned, the Law on Juvenile Crime Offenders and Criminal Legal Protection of Juveniles foresees the possibility of imposing educational measures and the sentence of juvenile prison. Educational measures are divided into three

²² The reason for the aggregate overview of several forms of homicide is the fact that in the bulletins of the Statistical Office of the Republic of Serbia, until the entry into force of the current Criminal Code, data were published together for homicide, aggravated homicide, and manslaughter.

categories. The first consists of educational measures of warning and guidance, which are court reprimands and special obligations. The second group consists of educational measures of increased supervision by parents, adoptive parents, and guardians, increased supervision in a different family, increased supervision by a social worker, and increased supervision with day care in the appropriate institutions for the education and care of juveniles. The third category consists of educational facilities of an institutional nature. According to the legal solution, the court should opt for institutional measures only as a last resort and only to the extent necessary to achieve the purpose of the sanction. In practice, courts usually opt for the first two categories of educational measures, while institutional measures are rarely imposed. As a rule, the court decides on deprivation of liberty in cases of multiple repeated offenders or when serious crimes have been committed.

The 2022 data indicate that in 9% of the sanctions imposed on younger juveniles, the courts opted for institutional measures, while for older minors that share is lower and amounts to 5%. Juvenile prison was imposed on older juveniles in a total of four cases out of 740 juveniles who were sentenced to some sanction in 2022. The trend of weak application of institutional measures has been evident for a long time. Compared to previous decades (for example, during the 1980s), when the proportion of juvenile prison sentences was over 10%, now it is usually less than 1%, and the only prison for juveniles in Valjevo houses mostly younger adults. It is interesting that in this matter, Serbia belongs to the ranks of countries that have an extremely lenient penal policy towards juvenile offenders.²³

5. Discussion

Crime in Serbia in the last two decades shows that there are no major fluctuations. The rate of reported crime is around 1,300, while the rate of convicted persons is around 400. However, these are only indicators of registered crime, and to some extent this is also an indication of citizens' trust in the work of the criminal justice system and willingness to report crimes. For some crimes, these official statistics are not a relevant indicator, and we can only assume the extent of juvenile crimes such as petty theft. Also, even when it comes to some violent crimes, we cannot know for sure how widespread they are. While there has been a significant increase in reports of domestic violence, which is caused by public support for victims, patriarchal patterns continue to affect victims and lead to the underreporting of these crimes. For example, according to the data of the study on femicide,²⁴ it was stated that approximately one third of the victims reported violence before the murder, which means that the remaining two thirds did not report anything. Corruption-related crimes are also within a "dark figure."

²³ M. Aebi et al., *European Sourcebook of Crime and Criminal Justice Statistics*, Göttingen 2021, p. 236.

²⁴ T. Pavlov, V. Lacmanović, *Karakteristike i prevencija slučajeva femicida...*, p. 38.

Although crime is not on the rise, the Criminal Code has been amended several times in a repressive direction. Mostly, media campaigns and moral panics are caused by violent crimes committed against children or juveniles. At the same time, the fact that crime in Serbia is not on the rise, and that other factors contribute to it, is ignored. For example, because of the aging population and bearing in mind that the average age of a man in 2022 was 42.2, one cannot expect that the crime rate will increase. In addition, certain improvements in terms of employment and poverty reduction can serve as an explanation of a slight drop in crime.²⁵ According to the data of the Statistical Office of the Republic of Serbia, employment was around 42% in 2005, and around 50% in 2022. The risk of poverty is also reduced from 24.5% in 2013, to 20.5% in 2022.²⁶

The result of repressive legal changes also leads to an increase in the prison population. In this respect, according to the data of the Council of Europe (SPACE I), Serbia is classified in the group of countries with a high rate of prisoners. In Serbia, about 10,500 persons have been deprived of their freedom, but prison capacity has not yet been exceeded.²⁷ However, a comparative analysis of the data shows that the average number of custodial staff in relation to the number of prisoners is higher compared to the European average (in Serbia this ratio is one custodian solely dedicated to custody per 4.5 prisoners, while the European average is 1 per 3.8 and in half of countries is no higher than 3.1), that the death rate of prisoners is higher, and also that the number of prisoners per cell is higher than the European average.²⁸ Amendments to the Criminal Code made it impossible for judges to choose between a suspended sentence and a prison sentence in certain cases, since they must impose a prison sentence. At the same time, an increase in the prison population without simultaneous increase in the number of employees in treatment facilities is not taken into account and this situation cannot lead to the achievement of great results in terms of resocialization.

Unlike adult delinquency, juvenile delinquency is treated very mildly, and institutional measures are used only as a last resort. Although it could be argued that such an approach should be taken towards juveniles in order to avoid labelling and provide opportunities for the juveniles to improve, the question is whether this is always justified. The analysis of statistical data shows that the share of crimes with elements of violence is not negligible, and a mild punitive reaction can not only encourage juveniles not to think about the sanction for the criminal act they have committed, but it also affects the adults who can abuse them to commit criminal acts on their behalf and incur an incomparably milder sanction. This is especially the case

²⁵ Statistical Office of the Republic of Serbia, *Anketa o radnoj snazi*, <https://www.stat.gov.rs/sr-cyrl/oblasti/trziste-rada/anketa-o-radnoj-snazi> [accessed: 2024.07.18].

²⁶ Statistical Office of the Republic of Serbia, <https://data.stat.gov.rs/Home/Result/01020501?languageCode=sr-Cyrl> [accessed: 2024.07.18].

²⁷ Council of Europe Penal Statistics – SPACE I 2023, p. 31. The reason for this is newly built blocks in some prisons and a new prison in Kragujevac.

²⁸ Council of Europe Penal Statistics – SPACE I 2023, pp. 73, 86, 112.

with organized criminal groups whose activities are severely punished under Serbian criminal legislation.

6. Conclusions

This article presents data on the state of crime in Serbia in the last two years and the punitive reaction of the courts in the same period. I also focus on the situation of juvenile delinquency. All the previously mentioned data allow certain conclusions to be drawn. First, crime in Serbia has had similar rates in the last two decades with a noticeable slight decline. This decline is also noted in violent crimes, including homicide. However, it is precisely these criminal acts that attract the most public attention, lead to moral panics and to amendments in criminal laws. At the same time, the opinion of the academic community is not important, while various “experts” and politicians who foster and thrive on public sentiment come to the fore. The consequence of this is to endanger the basic principles of criminal law. On the other hand, many problems are not approached strategically and with precise plans, with the implementation of extensive interdisciplinary research that could be of help. Domestic violence is just one example, and the success in its suppression is evaluated based on quantitative indicators of the number of emergency measures imposed. The lack of victimization surveys makes it impossible to realistically see the problem of crime, especially criminal acts where there is a consensus between the parties involved to commit a crime. The increase in academic research by individuals, associations, and institutes is encouraging, as well as the support of people in state institutions who provide data and make the research possible. What remains to be done is the mutual association of scholars dealing with criminology and related disciplines and finding ways to further intensify research that will not have the purpose of confirming the *status quo* but of moving matters in a positive direction.

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Summary

Natalija Lukić

Crime and Penal Policy of Courts in Serbia

In this article, I discuss the state of crime in Serbia and the reaction of the criminal courts to it. Data are presented separately for adult and juvenile offenders. In addition to crime trends in the last two decades, I also point out certain problems present in the Serbian society in that period, such as corruption, environmental crime, domestic violence, and juvenile violence. Key criminal legal solutions in Serbian law and trends that have been present during the last decade, which are predominantly directed towards more repressive legal solutions, are also discussed. This is

inevitably reflected in the decisions of the courts and in the prison population, which is on the rise.

Keywords: Serbia, crime trends, crime problems, penal policy of courts, criminal law legislation.

Streszczenie

Natalija Lukić

Przestępczość a polityka karna sądów w Serbii

W artykule zwrócono uwagę na stan przestępczości w Serbii i reakcję sądów karnych. Dane przedstawiono osobno dla przestępców dorosłych i nieletnich. Oprócz trendów w przestępczości w ostatnich dwóch dekadach wskazano także na inne problemy występujące w społeczeństwie serbskim w tym okresie, takie jak korupcja, przestępczość przeciwko środowisku, przemoc domowa i przemoc wobec nieletnich. W opracowaniu omówiono również najważniejsze rozwiązania prawa karnego w Serbii oraz tendencje obserwowane w ostatnim dziesięcioleciu, które w przeważającym stopniu zmierzają ku bardziej represyjnym regulacjom. Znajduje to nieuchronne odzwierciedlenie w decyzjach sądów i rosnącej populacji więziennej.

Słowa kluczowe: Serbia, trendy w przestępczości, problemy przestępczości, polityka karna sądów, ustawodawstwo karne.