TAX FRAUD IN SERBIA (NORMATIVE AND PRACTICAL ASPECT)

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Abstract: Tax fraud is one of the most sophisticated forms of illegal behavior of taxpayers. Illegal behavior is reflected in the avoidance of tax obligations, which directly affects the amount of collected revenues. The state was then deprived of the amount of funds that would have been charged if the taxpayers had settled their obligations in a timely manner. This illegal behavior directly threatens the tax-fiscal state system. Taking into account the high degree of social danger that this criminal act brings, this paper examines the concept, characteristics and basic elements of tax fraud in the positive criminal legislation of Serbia. Statistical data describes the processing of tax evacuators to judicial authorities in the territory of Serbia in the period from 2006 to 2017. The aim of the survey is to determine whether tax fraud in Serbia is the most common form of taxpayers' financial non-taxation, to point out the efficiency of cooperation between the prosecuting authorities and the Tax Police, whether or not the public prosecutors have resorted to a diversionary model of conduct, and to show what kind of penalty policy was carried out.

Key words: tax fraud, investigation, conditional opportunity, penal policy

INTRODUCTION

At this level of civilization development, the functioning of the government as well as the provision of numerous public services is unthinkable without obtaining public revenues, primarily taxes. However, despite the unquestionable importance of timely payment of taxes and other fees for the continued financing of vital functions of the government, such as the military, the police, the judiciary, and the financing of public services, such as education, health, infrastructure, in practice there are numerous modalities of tax resistance. Taxation reduces the economic power of the taxpayer, because part of his disposable income is involved. Trying to reduce or completely eliminate their tax burden, taxpayers resort to various forms of tax evasion. In order to reduce their tax liability, taxpayers

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can undertake various activities while complying with tax laws. Thus, through the tax avoidance, they use all legally permissible options, such as refraining from consumption, changing their place of residence, changing their activities, moving to tax havens, etc. Unlike these cases, which are "acceptable", there is also an "unacceptable" legal evasion involving misuse of rights. In modern governments, this form of legal evasion has been sanctioned, although in practice it is difficult to precisely divide them, and thus to recognize whether this is an unauthorized exercise of rights, when the activities of the taxpayer are directed solely to cautiously and skillfully avoid paying taxes, not achieving business or economic goals, for example by concluding simulated legal transactions.

Unlike legitimate evasion, the so-called illegal tax evasion leads to unlawful conduct. Taxpayers, through breach of tax regulations, consciously and deliberately undertake procedures in order to reduce or completely fail to fulfill their tax obligations. The activities that the taxpayer undertakes in order to avoid paying taxes are criminalized as tax offenses. These are tax violations that represent the most serious forms of unlawful conduct of taxpayers.

Due to the numerous harmful consequences of tax evasion, which also have a financial effect because the state treasury remained deprived of the amount of income that would have been charged for all taxpayers to comply with the tax obligation, modern states are undertaking a series of measures to prevent tax evasion. The aim of the preventive policy is to create a positive attitude of the taxpayer in relation to the obligation to pay taxes, and this is achieved through numerous activities and measures aimed at encouraging voluntary tax payments. In case of unlawful conduct of taxpayers, which violate tax regulations, repressive measures are applied. The type and severity of repressive measures depends on the severity of tax delicts made.

Proper regulation of the subject matter of taxation, both with respect to substantive laws and other regulations, as well as with respect to tax procedural regulations, is not a guarantee for their implementation in practice. Many circumstances, and thus the overall environment in one country, affect the compliance of tax regulations.

SUPPRESION OF TAX FRAUD - A COMBINATION OF PREVENTIVE TAX POLICY AND REPRESSIVE MEASURES

Modern states devote a great deal of attention to preventive measures to curb tax evasion, and thus to tax fraud as its basic form. By attempting to create a positive attitude of taxpayers in accepting and fulfilling tax obligations, the traditional concept of relations between tax authorities and taxpayers is abandoned, where tax authorities are active and taxpayers are a passive party. Nowadays, with changes in the state administration sector under the influence of the idea of *New*

Public Management there is a modification of the tax-law relationship. Instead of the treatment of tax authorities from the position of state power, in the ambience of contemporary democracy, which proclaims the protection of human rights and freedoms as a special social value, the rights of taxpayers have received greater attention. In addition, by achieving a service-oriented concept of work, the modern tax administration creates preconditions for the voluntary acceptance of tax obligations, which will ensure a higher amount of public revenues collected (Димитријевић, 2008: 137). This is especially important given that modern countries have a constant need for a greater flow of funds from public revenue collection, facing the problems of the budget deficit. Instead of the traditional relationship of modern jurisdiction, they are "approaching" the taxpayer. The basic reason for this can be explained by Kolber's observation, which compared the skill of taxation with the goose-grazing, so that as few feathers as possible, he gets as much feathers as possible (Анђелковић, 2002: 171). Modern trends provide a service-oriented concept of work of tax administrations, where the taxpayer appears as a user of their services. The Tax Administration applies new methods and techniques in its work using modern information technologies to provide the necessary information and educate taxpayers, for example, by publishing information on the website of the Tax Administration. Furthermore, they use different types of electronic communications with taxpayers, for example, in some countries, taxpayers receive filled tax return forms in advance. The procedure of taxation should be based on a relationship of respect of personal and professional dignity of the taxpayer and the tax should be paid in a manner and at a time that best suits taxpayers depending on the inflow of revenue. Bearing in mind the economic circumstances in Serbia, due to which many taxpayers face financial difficulties, the legislator introduced the possibility of postponing the payment of the due tax. Under the terms and conditions prescribed by law, a taxpayer may ask tax authorities to settle their tax liability over a longer period of time, thus placing them in a more favorable position than settling their obligation at once and in full. The legislator's intention by prescribing this benefit was to encourage taxpayers to pay tax on a regular basis (Илић-Попов, 2017: 653).[3]

Modern trends in the approach to tax administration signify abandoning the concept of intimidating taxpayers and their compliance with tax obligations because of fear. Modern countries try to popularize taxes, tax propaganda impacts on raising taxpayers' tax awareness.[4] Since taxation reduces available income, it is understandable that taxpayers' resistance to comply with a tax obligation is understandable, that's why popularization is aimed at indicating the purpose of

3 However, in practice, some taxpayers have used this legislature to avoid forced collection of taxes. In addition, exemptions from the general regime impair the equality of taxpayers before the law and encounter resistance of conscientious taxpayers who duly fulfilled their tax obligations.

4 Significant progress in popularizing tax payments has also been made in Serbia. Advertising spots on national television stations can, of course, contribute to the change of citizens' awareness that has been rooted for many years, partly as the rest of the socialist period in which the fiscal system had a different structure and role.

taxation. Taxes are acceptable for taxpayers because they are intended to finance public goods of which they are beneficiaries. As Piketi says, taxes are not good neither bad by itself, it all depends on the way they are taken and what they are used for (Пикети, 2015: 517). For example, Nordic countries have a high tax burden, measured by the share of tax revenues in GDP, precisely because of the higher allocations from the budget for financing the social security system, due to the developed role of the state, which ensures a satisfactory level of existence and dignity of the population. Transparency in taxation is also important for voluntary compliance with the tax obligation. Interruption in the taxpayer's private sphere during the taxation process must be based on the right, both in terms of determining the tax liability and in the tax procedure applicable to the determination of a tax liability. Tax regulations should be precise, clear, stable, without frequent changes, so taxpayers would have insight into their tax situation and timely perform their tax obligations. Hence, in order to reduce the resistance of taxpayers, their trust in the tax system is important, the belief that the tax system is fair. Since their attitude towards the reduction in economic forces created by taxation is determined by their relationship to the purpose of taxation, the expectations of taxpayers that the tax burden will be evenly distributed are quite justified. However, in the last two decades, there are new trends in the formation of some tax forms, such as income taxes, which indicate a departure from equity of taxation. *Flat tax* and dual income tax introduce a different tax treatment of income from labor and income from capital, providing a more favorable tax treatment of capital gains. This distorts horizontal equity, as taxpayers of the same economic power, depending on whether they earn income from labor or income from capital, pay different amounts of tax. It also affects the vertical equity of taxation, which implies that taxpayers of stronger economic forces should bear a higher tax burden. The introduction of a lower rate for capital gains can jeopardize vertical equity, especially as capital revenues tend to concentrate on the upper income levels (OECD Tax Policy Studies No.13: 136).

On the other hand, in order to maintain the same level of income, due to a milder taxation of capital, income countries are going to increase the tax burden on other tax base, including the transfer of the tax burden on labor income. Thus, the greatest benefit from the introduction of these two models of income taxation have the richest layers, and the burden of taxation falls on the majority of the population, as most taxpayers earn income from work. This is potentially very harmful to tax compliance, Piketi claims, especially within a middle class that pays higher taxes then upper classes (Пикети, 2015: 505). The large tax reform of the 1980s was the result of an effort to address the shortcomings of the then tax system. The large dissatisfaction with the tax system, due to high tax burden, has led to a growing evasion in some countries (for example, in the US and Australia, while in Ireland, workers protested in Dublin and other cities in 1980 due to the unjust tax burden that fell on them) (Cedric, 2000: 160).

If there is no compliance with the tax obligation, the state will have repressive measures when it will take penal policy measures, depending on the type of tax delict. In Serbia, the forms of unlawful conduct of taxpayers are criminalized as tax offenses by criminal legislation (tax fraud, non-payment of tax on deduction and smuggling) (Law on Amendments to the Criminal Code - CC, Official Gazette of RS, 94/2016) and tax law (unfounded disclosure of tax refund and tax credit, endangering the collection of taxes and tax controls, illegal traffic of excise goods and unauthorized storage of goods) (Law on Tax Procedure and Tax Administration of the Republic of Serbia, Official Gazette of RS, 80/02, 84/02, 79/03, 55/04, 61/05, 85/05, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13, 68/14, 105/14, 91 / 14, 112/15, 15/16, 108/16, and 30/18). The criminal offense of tax fraud occurs in the basic form and two heavier forms, for which a cumulative fine and imprisonment is envisaged, whereby the line of delimitation is the amount of evaded taxes. The objective requirement of incrimination in the basic form of tax fraud is the unpaid amount of tax over 500,000 dinars, and it is fined and sentenced to five years in prison. The first heavier form of tax evasion, where the unpaid amount of tax amounts to over 1,500,000 dinars, is fined and sentenced to imprisonment of 1 to 8 years. For the other, the form of tax fraud, where the unpaid tax amount exceeds 7.500.000 dinars, is imprisoned and sentenced to 3-10 years imprisonment.

For easier forms of tax violations, penalties and protective measures (for example, seizure of licenses for performing activities) are imposed by the tax authorities and executed by tax authorities, whereas for tax offenses, courts impose imprisonment and fines. As in most modern states, even in Serbia, a system of relatively specific penalties has been adopted, in which the legislator determines the type of punishment and its minimum and maximum amount for each individual crime. When imposing a sentence in a specific case, the court is obliged to move within these, legally prescribed, borders and impose a punishment bearing in mind the purpose of punishment and taking into account all circumstances that influence the punishment to be greater or less (mitigating and aggravating circumstances), in particular: the degree of guilt, the initiatives from which the offense was committed, the past life of the perpetrator, his personal circumstances, his detention after the committed crime, and other circumstances pertaining to his personality (CC, Official Gazette of RS, 94/2016). For criminal offenses, strict sanctions are prescribed, that is, penalties of imprisonment in certain ranges and fines. Tax offenses fall into that line group of offenses for which the legislator explicitly prescribed that the court with mandatory imprisonment and imposed a fine, which emphasizes their lucrative nature (Кулић & Милошевић, 2011: 323). The prosecution and punishment of tax evaders should result in his punishment for illegal tax evasion, as well as special prevention, which implies that such of punishment, imprisonment and a fine, will deter the tax evader from committing such criminal acts in the future. The amount of the fine imposed should exceed the amount of unpaid tax, because the tax evader assesses the expected benefits of non-payment of taxes and the possible cost that he will have if caught and punished (Милошевић, 2006: 76). On the other hand, the processing and adequate punishment of tax evaders is also important from the aspect of general prevention, because it produces a psychological effect on other taxpayers. Namely, it can lead to the emulation effect on tax evaders who remained undetected, unpunished or with very minor penalties. Hence, the implementation of adequate penal policy measures should be a warning to other taxpayers to properly and timely perform their tax obligations (Dimić & Đukić, 2017: 65).[5]

TAX FRAUD AT JUDICAL PRACTICE IN THE TERRITORY OF THE REPUBLIC OF SERBIA IN THE PERIOD FROM 2006 TO 2017

Table 1 . The ratio of reported basic tax offenses against the total number of reported and reported economic crimes in the period from 2006 to 2017

Year	Applications					Relationship between applications					
	Total number	Economy crime	Tax fraud	Failure to pay tax on deduction	Smuggling	Tax fraud		Failure to pay tax on deduction		Smuggling	
						Part. in total	Part. in ec. crim.	Part. in total	Part. in ec. crim	Part. in total	Part. in ec. crim
						%	%	%	%	%	%
2006	105.701	2.868	615	/	112	0.58	21	/	/	0.10	3,90
2007	98.702	2.663	695	/	182	0,70	26	/	/	0,18	6,83
2008	101.723	3.009	940	/	249	0,92	31	/	/	0,24	8,27
2009	100.026	3.131	1.092	/	252	1,09	35	/	/	0,25	8,04
2010	74.279	2.479	658	48	414	0,89	27	0.06	1.93	0.55	16,70
2011	88.207	2.957	938	105	241	1,06	32	0.11	3,55	0,27	8,15
2012	92.879	3.221	1.132	103	141	1,2	35	0.11	3,19	0.15	4,37
2013	91.411	3.397	1.051	106	106	1,14	31	0.11	3,12	0.11	3,12
2014	92.600	3.347	712	62	98	0,77	21	0.06	1.85	0.10	2,92%
2015	108.759	3.526	715	63	155	0,66	20	0.05	1.78	0.14	4,39%
2016	96.237	3.333	734	52	121	0,76	22	0.05	1.56	0,12	3,63%
2017	90.348	2.939	649	30	96	0,72	22	0,03	1,02	0.10	3,26%
In total	**1.140.872**	**36.870**	**9.931**	**569**	**2.167**	**0,87**	**27**	**0,07**	**2.25**	**0,19**	**6,13%**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

Based on the data set out in Table 1, it is noted that among the basic tax offenses set forth in the Criminal Code of the Republic of Serbia, in most cases the reported criminal offense is tax fraud. The smallest number of reports were present in the criminal offense of non-payment of tax on deduction, in the observed twelve-year period, only 569, while smuggling was reported in a slightly larger number, 2,167. Criminal charges for tax evasion have the highest percentage of participation, both in the total number of reported cases and in the total number of reported economic crimes. Of the total number of reported criminal offenses,

5 The application of some of the modern institutes of criminal law, such as the agreement on the recognition of a criminal offense, in fact leads to the lowering of the sentence below the prescribed ones, which means that the penalty policy for tax evasion is becoming even smoother, which is not desirable either from the aspect of special or general prevention.

criminal charges for tax evasion amounted to 0.87%, which is twelve times higher than criminal charges for non-payment of tax on deduction, and four times the total number of reported smuggling cases. Of the total number of reported economic crimes, tax evasion applications amount to 27%, which is twelve times higher according to the participation of the total number of applications for non-payment of tax on deduction in reported economic crimes, and four times, according to the share of reported smuggling in the total reported economic crime.

Depending on the assessment of the public prosecutor, the procedure can continue until the final report is received, but due to the lack of evidence, obsolescence and other reasons envisaged by the Code of Criminal Procedure, it can be suspended or otherwise terminated. Table 2 shows the data indicating the stages of processing tax evaders, and then in Table 3. the focus is on the reasons for rejecting criminal charges, not in the entire observed, but for a three-year period from 2015 to 2017, and in Table 4., in the number of cases due to the lack of evidence, the investigating judge, and later, when the investigation was received by the prosecuting authorities, the public prosecutor suspended the investigation. Table 5 refers to the type of criminal sanctions imposed by tax evaders in the same observed period.

Table 2. The proceeding of tax fraud in the period from 2006 to 2017

Year	Registered	Rejected	Investigation interrupted	Investigation suspended	Indictment	Rejecting judgment	Liberation judgment	Suspension procedure	Convicting judgment
2006	615	77	2	13	190	25	18	45	102
2007	695	95	17	34	284	25	34	32	193
2008	940	109	17	60	410	43	57	31	279
2009	1.092	164	22	43	438	49	53	42	293
2010	658	95	/	32	208	32	33	24	119
2011	938	155	1	37	449	69	61	57	262
2012	1.132	283	1	33	499	94	87	71	246
2013	1.051	285	/	40	705	178	110	22	290
2014	712	341	/	12	788	156	96	140	396
2015	715	341	/	24	778	143	101	85	449
2016	734	367	4	21	643	104	46	74	419
2017	649	309	/	16	551	67	52	40	392
In total	**9.931**	**2.621**	**64**	**365**	**5.943**	**985**	**748**	**663**	**3.440**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

Table 3. Denial of criminal charges in the period from 2015 to 2017

Year	Total number of rejected criminal charges	Conditional opportunity	Work is not a crime	Obsolescence
2015	341	180	51	8
2016	367	158	43	10
2017	309	113	43	14
In total	**1.017**	**448**	**137**	**32**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

In keeping with the principle of legality, the public prosecutor is obliged to undertake criminal prosecution after receiving a criminal complaint, if all the conditions for the same have been fulfilled (Мирков, 2016: 64). In a number of cases, we see that prosecutors treated the offenders according to the principle of opportunism according to the principles of tax fraud, which is an exception to the principle of legality. There are many reasons to be guided when acting opportunely. From 2006 to 2015, the reason for the dismissal of criminal charges was mostly a pardon because of the unreasonably prosecution. In the next three-year period, the main reason for the dismissal of criminal charges was the fulfillment of obligations that the public prosecutor ordered the suspect of tax fraud. The institution of conditional opportunity was applied, which was amended by the CPA since 2009, by shifting the upper limit of imprisonment for criminal offenses in which it can be applied (until 2009, up to three years in prison, since 2009, from three to five years in prison) (Илић & Киурски, 2013: 242). Thus, in fact, a large number of tax evaders as no harmless criminal offense have not been prosecuted, but the cases have been settled out-of-court, by fulfilling the imposed obligations, which do not have the character of criminal sanctions in the context of the diversionary model of solving the criminal matter. Regarding the obsolescence of prosecution, the institution of conditional opportunity was used as a reason for rejecting criminal charges in fourteen times more cases, and in approximately three times the number of cases, in relation to the lack of elements that make one behavior a criminal offense.

Table 4. Suspension of the investigation due to the lack of evidence for tax evasion in the period from 2006 to 2017

Year	Total number of suspended investigations	Suspension of investigation due to lack of evidence
2006	13	4
2007	34	11
2008	60	25
2009	43	23
2010	32	25
2011	37	6
2012	33	11
2013	40	11
2014	12	3
2015	24	5
2016	21	8
2017	16	14
In total	**365**	**146**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

Among the legal reasons for the suspension of the investigation (the work is not a criminal offense, exclusion of prosecution) (Бејатовић, 2008: 397), the largest part is the lack of evidence. Approximately 40% of cases resulted in the suspension of an investigation due to lack of evidence. The investigation of tax offenses carries certain specifics, since it is in the midst of financial crime, which requires that not only the public prosecutor, but also the expert bodies, follow the financial transactions in order to collect evidence. The Tax Administration, the Tax Police, and MUP officials are professionally trained in detecting illegal financial transactions in the coordination with the public prosecutor (Strategy of financial crime investigation for the period from 2015 to 2016, Official Gazette of RS, 43/2015). In relation to the total number of filed criminal charges for tax fraud, the number of suspensions of the investigation due to the lack of evidence is not alarming, but it is in relation to the total number of suspended investigations. The only way to overcome this evidentiary deficit is to have a continuous and firmer co-operation among these institutions. The evidence deficit is particularly evident in 2008, 2009 and 2010, when the investigator was still an investigative judge. Later, it is noticeable, in line with international standards, that there is greater, but not sufficient, effort to overcome these problems.

Table 5.Criminal sanctions imposed on perpetrators of tax evasion in the period from 2006 to 2017

Year	Prison sentence	A fine as the main penalty	A fine as a secondary one	Conditional conviction	Work in the public interest	Security measures
2006	11	9	53	78	/	6
2007	26	3	95	146	/	/
2008	36	28	144	213	/	/
2009	48	14	174	210	1	/
2010	17	8	63	94	/	/
2011	31	16	183	212	1	/
2012	44	13	151	193	1	/
2013	50	11	190	225	/	/
2014	115	25	228	255	/	/
2015	68	23	283	341	/	/
2016	72	12	306	300	/	/
2017	71	13	301	264	/	/
In total	**589**	**175**	**2.171**	**2.531**	**3**	**6**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

The structure of criminal sanctions for persons convicted of tax fraud in the mentioned twelve-year period constitutes almost all sanctions that criminal legislation prescribes for adult perpetrators. Conditional conviction is pronounced in most cases, in the least, work in the public interest, and it does not lag behind the security measures, which were imposed only 6, and only in 2006. For every form of tax fraud with the imprisonment sentence as the main one, a cumulative and a fine is prescribed as a secondary one, and as can be seen from the table, this legal imperative does not depart from the practice of our judicial authorities. In relation to the fine as a subsidiary, the fine as the principal is expressed in twelve times less cases. Table 6 shows the duration of sentenced prison sentences, and in Table 7, the amount of fines imposed as the main penalty, as tax evasion damages the state budget, and the monetary amount that the tax evader is obligated to pay some kind of compensation for the damage.

Table 6. Duration of imprisonment imposed on perpetrators of tax evasion in the period from 2006 to 2017

Year	2-3 months	3-6 months	6-12 months	1-2 years	2-3 years
2006	3	8	/	/	/
2007	2	12	10	2	/
2008	6	11	9	9	1
2009	8	14	15	9	2
2010	3	6	3	4	1
2011	7	6	8	8	2
2012	6	15	11	10	2
2013	6	19	15	9	1
2014	8	40	43	18	6
2015	2	23	28	14	1
2016	4	13	37	12	6
2017	1	18	33	16	3
In total	**56**	**185**	**212**	**111**	**25**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

From the duration of the sentences of imprisonment, it is noted that all three forms of tax evasion were covered by the conviction. The CC of the RS for the first, basic form, prescribes imprisonment for a term of six months to five years, for another, a severe form, a prison sentence of one to eight years, and for the third most severe, a prison of two to ten years (CC, Official Gazette of RS, 94/2016). Most often, courts impose a sentence of imprisonment of 6 to 12 months, and the lowest for a duration of 2 to 3 years, which indicates the rarity of committing more serious forms of tax evasion. However, in general terms, the courts conduct a mild criminal policy, bearing in mind the consequences that result from the commission of this crime.

Table 7: *The fine as the main tax evasion in the period from 2007 to 2017*

Year	up to 10.000 rsd	10.000 to 100.000 rsd	100.000 to 200.000 rsd	200.000 to 300.000 rsd	300.000 to 500.000 rsd	500.000 to 1.000.000 rsd	1.000.000 to 10.000.000 rsd
2007	2	1	/	/	/	/	/
2008	4	21	2	1	/	/	/
2009	/	11	3	/	/	/	/
2010	/	8	/	/	/	/	/
2011	2	7	6	1	/	/	/
2012	/	12	1	/	/	/	/
2013	/	9	1	/	1	/	/
2014	6	14	2	2	1	/	/
2015	2	14	6	/	/	/	1
2016	1	10	1	/	/	/	/
2017	/	10	2	/	1	/	/
In total	**17**	**117**	**24**	**4**	**3**	**/**	**1**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

It was omitted from the above table in 2006, because different ranges of fines were prescribed at that time. In five cases, it was pronounced in the amount of 10,000 to 50,000 dinars, in two, in the amount of 50,000 to 100,000 dinars, in one, from 100,000 to 200,000 dinars, and in one, from 5,000 to 10,000 dinars.

In the period from 2007 to 2017, a fine of 10,000 to 100,000 dinars is usually imposed, and in only one case, in the amount of 1,000,000 to 10,000,000 dinars. And here is noticeable mild penal policy, since most fines belong to a smaller amount.

Table 8: *Ratio of the number of convictions for basic tax offenses against total convictions and number of convictions for economic crimes*

Year	Convictions					The relationship between convictions					
	Total number	Economy crime	Tax fraud	Failure to pay tax on deduction	Smuggling	Tax fraud		Failure to pay tax on deductible		Smuggling	
						Tot. conv. %	Ec. conv. %	Tot. conv. %	Ec. conv. %	Tot. conv. %	Ec. conv. %
2006	41.422	1.464	102	/	49	0,25	6,97	/	/	0,12	3,35
2007	38.694	1.161	193	/	107	0,50	16,62	/	/	0,27	9,22
2008	42.138	1.287	279	/	90	0,66	21,68	/	/	0,21	6,99
2009	40.880	1.228	293	/	111	0,72	23,85	/	/	0,27	9,04
2010	21.681	589	119	3	74	0,55	20,20	0,01	0,51	0,34	12,56
2011	30.807	999	262	9	119	0,85	26,22	0,03	0,90	0,39	11,91
2012	31.322	932	246	24	78	0,79	26,39	0,07	2,57	0,25	8,37
2013	32.241	1.169	290	22	112	0,90	24,80	0,07	1,88	0,35	9,58
2014	35.376	1.543	396	44	72	1,11	25,66	0,12	2,85	0,20	4,67
2015	33.189	1.609	449	30	95	1,13	27,90	0,90	1,86	0,29	5,90
2016	32.525	1.592	419	20	108	1,13	26,31	0,06	1,26	0,33	6,78
2017	31.759	1.448	392	23	78	1,12	27,07	0,07	1,59	0,25	5,38
In total	**412.034**	**15.021**	**3.440**	**175**	**1.093**	**0,83**	**22,90**	**0,04**	**1,16**	**0,26**	**7,27**

Source: http://www.stat.gov.rs/oblasti/pravosudje/punoletni-ucinioci-krivicnih-dela/

The final assessment of the share of tax evasion in total and economic crime, as well as its relation to basic tax crimes, can be made on the basis of the number of convicting judgments, that is, at the last stage, when the proceedings are terminated legally. In the observed twelve-year period, there was a noticeable increase in the reported tax fraud, and furthermore, regardless of their rejection, interruption, suspension of the investigation, rejection of the charges, there is also an increase in the number of convictions.

CONCLUSION

By analyzing the data on the number of reported criminal offenses of tax fraud in Serbia for the period from 2006 to 2017, a conclusion can be drawn on the highest representation of tax fraud in relation to other tax crimes, as well as the constant slight increase in its share in the total number of criminal offenses.

Based on the data on the processing of tax evaders for the observed period, it can be concluded that an institution of conditional opportunity was applied, in which amendments to the 2009 CPC were moved to the upper limit for penalties for criminal offenses for which it can be applied from 3 to 5 years imprisonment, whereby a large number of tax evaders are not prosecuted. Court practice shows that, in most cases, the application of this institute was the reason for the dismissal of the criminal charge, subject to the fulfillment of the obligations imposed. Conditional postponement of the prosecution by the public prosecutor achieves economical and simplified work of the courts, but the question arises as to the extent to which special and general prevention for the criminal acts of tax fraud can be achieved, because the obligations imposed by the public prosecutor do not have the character of criminal sanctions.

By comparing data on the number of suspended investigations due to the lack of evidence in tax fraud in relation to the total number of suspended investigations, it points to the problem of the evidentiary defect in the processing of these criminal offenses. As financial crime is concerned, the investigation of tax evasion is specific because it requires continuous cooperation between several bodies (public prosecutor, Tax Police and Tax Administration), as well as professional development for the analysis of financial documentation and monitoring of financial transactions.

Analysis of the data and shows that a noticeable upward trend of criminal charges for tax fraud, as well as the increase in the number of convictions, regardless of the negligible number completion of the procedure in other ways during the prosecution of the perpetrator. A small number of convictions for tax fraud in relation to the total number of convictions indicate that the penal policy is weak. Regarding the structure of criminal sanctions in the observed period, all sanctions were imposed according to the law. Regarding the duration of the imprisonment sentences, it is noted that the most common sentence is 6 to 12 months, which indicates the rarity of the execution more serious forms of tax fraud, but also on the mild criminal penal policy of the courts. Also, usually a lower fine is imposed. Bearing in mind the consequences that result from the execution of this criminal offense, there is also a noticeable minor criminal policy. Since tax fraud damages the state budget, the monetary amount that the tax evader is obligated to pay should constitute some kind of compensation for the damage.

There is noticeable progress in preventive activities being undertaken in Serbia. A special emphasis is placed on tax propaganda, which aims to create a positive attitude of the population according to the obligation to pay taxes. However, a large number of tax fraud reports indicate an increase in tax crime. Leaving aside the need for upgrading Serbia's tax system in some of its segments, to achieve its greater equity and efficiency (which, along with stable and clear tax regulations, contribute to the voluntary fulfillment of tax obligations), there remains a question of more organized taking measures to curb tax evasion. In addition to the undoubted importance of preventive politics by taking a number of measures and activities, the government must also deal with repressive policies. In this respect, the analysis of the system of criminal sanctions for tax fraud shows that there is an adequate normative framework for taking criminal policy measures. However, the data from the court case are disturbing, as they indicate that the judicial authorities apply a mild punitive policy. Mild punishment of tax evaders does not have a positive effect from the aspect of eliminating the causes of tax criminality, because the criminal policy must, in addition to punishing a tax evader, send a warning to other taxpayers to properly perform their tax obligations.

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