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NEW PUBLIC MANAGEMENT IN THE FUNCTION OF REDUCING THE NEGATIVE CONSEQUENCES OF ORGANIZED CRIME IN THE REPUBLIC OF SRPSKA

Introduction

Considering the fact that all forms of organized crime, are extremely dangerous for each state and social system, it is essential that public authorities are constantly working on detecting, preventing and alleviating, or annulling the negative consequences caused by organized crime.

A prerequisite for the application of the concept of New Public Management to be successful is the activity that will through harmonized and coordinated actions of the legislative, judicial and executive authorities develop national capacities and resources to effectively fight against all forms of organized crime, especially against various forms of corruptive activities as an integral part of almost all forms of economic crime. All the aforementioned, should also aim at reducing the impact of the carriers of economic and other forms of organized crime in the structures of all levels of government.

Taking into account the above mentioned, it is necessary to create the material and institutional basis that will, by applying contemporary scientific achievements and the necessary international cooperation in an unambiguous, continuous, legally regulated and financially secured way, perform in the long run all necessary activities aimed at minimizing the number of committed offenses of this type of crime, alleviating the consequences caused by the prevention of any possibility that the carriers of such offenses gain political power in society. For this purpose it is necessary, besides the constant preventive work, to make sanctioning of the perpetrators of such crimes more rigorous, and to insist on the confiscation of all material gains the perpetrators benefited from such acts.

Starting from the assumption that any, even the smallest success in preventing these deviations, is extremely important for society, in this paper we want to prove that by implementing the principles of New Public Management, we can create the preconditions to mitigate the consequences, as well as to reduce possibilities for committing such crimes. Through increasing transparency in the work of the public sector by using the benefits of IT technologies, more efficient and effective motivation of employees, rigorous sanctioning of

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culpable conduct, system control and innovative approach it is possible to provide the prerequisites for an effective fight against the most dangerous disease of modern society.

Key words: organized crime, public sector, transparency, motivation, control, sanctioning of crime

Conceptual definition and legislation

In expert circles, it is well known that there are major problems in defining the concept of "organized crime", because in its definition there appears to be a series of individual elements, as well as socio-political and other value judgments. This has resulted in a multitude of different definitions¹ of the term given by international and local institutions, academic community and individual experts. We will deal with this problem only to a level which allows us the determination of the criminal-judicial nature of organized crime and the perception the area in which in the context of our topic the term "NEW PUBLIC MANAGEMENT" should be applied.

Worldwide researches have shown that quality of life in contemporary modern countries specifically depends on the knowledge, skills, effectiveness, efficiency, loyalty and morality on the basis of which the public administration performs its duties and accomplish goals that are entrusted to it in the realization of public interest and promotion of common good. The concept of „good management“, which refers to the public sector, involves the reconstruction of the values associated with the public sector and the public interest. This primarily refers to the responsibility, equality, justice and legality, and to a certain extent on resolving the confusion which NEW PUBLIC MANAGEMENT has brought into the relation between public and private interest. NEW PUBLIC MANAGEMENT consistently insists on introducing the culture of performance measurement. Consequently, institutions which obtain the resources are required to produce some result, value, influence, impact. The traditional belief is that the value and impact of culture and art is immeasurable, or at least, that the evaluation process of these aspects of human activity is very complex.

The paradigm NEW PUBLIC MANAGEMENT for more than thirty years has been trying to answer the same question: how to create and implement practical public policy and development strategy, by using market mechanisms and skills typical for the private sector, in order to achieve the defined and desired results in an environment which, on one side, faces with reduced funding from the state, and on the other with demands for efficiency and reduction of costs which are increased. Priority objectives should be decentralization and increasing the capacity of (knowledge and skills) staff working in the public sector. This would undoubtedly contribute to the acceptance of the principle of participation and the principle of accountability, as well as to the fundamental principles of "good management". During the 80s of the twentieth century in the Anglo-Saxon countries matures

¹ Klaus von Lampe, "Definitions of Organized Crime", [preuzetosahttp://www.organized-crime.de/index.html](http://www.organized-crime.de/index.html). Vidjeti takode : Criminology & Criminal Justice, University of Leeds, UK, 2011. p. 145-163

a conviction of the need for drastic reform of the public sector and which results in setting a new foundation for state administration. The state administration has increasingly started to look for efficiency, productivity and measurable results. Basic working principles have become: focus on citizens, decentralization and separation of processes of creating and implementing policy. Establishing a policy of nonpartisan public service has become a key instrument in the preservation of a democratic political system. From these changes emerges New Public Management as an equal partner to the private sector and civil society. In this way, the public administration represents the backbone of reform and progress of society rather than accounting cost funded by taxpayers.

Because of our commitment that the main principles of "NEW PUBLIC MANAGEMENT" should be applied in the fight against the consequences of organized crime, in this paper we argue that the necessary element for defining the concept of organized crime is a connection of a criminal group with the public authorities or with individuals who exercise public authorities. This attitude stems from our social environment and our previous experience, which clearly indicates that the illegal activities with the greatest negative consequences typically occur as a result of coupling between criminal groups and individuals in the institutions of government. Therefore, we believe that the application of the basic postulates of "NEW PUBLIC MANAGEMENT" is significant for qualitatively differing such forms of criminal behavior because they cause tremendous consequences that are not limited only to property damage, tax and other revenue losses, but also have more devastating effect on the very foundations of the state, trust of citizens in their political representatives, the ability of social institutions to adequately perform their duties and powers. Among the renowned world authors who similarly define this term, we would like to point out Boettcher who states that "organized crime is defined as an arranged joint action of several persons in order to obtain, directly or indirectly, profits or impacts in the areas of public life (...) looking for illegal methods to achieve real monopolies" (Petrović 1996 :32).

However, we must notice that the initial steps in defining the concept of organized crime at the international level, have practically adopted the broadest possible definition of this phenomenon, which is the reason why in the first international symposium on organized crime, held in St. Claude (France, May 1988), delegates have adopted a definition that organized crime represents activity "of any organization or group of people involved in ongoing illegal activity, with the primary purpose of making a profit, regardless of the state borders".

A similar definition of the term has been used by INTERPOL. The definition which INTERPOL has been used was created by the former head of the group for the fight against organized crime in that organization, and it reads as follows: "An organized criminal group is every group that has organized structure whose primary goal is to raise money through illegal activities and whose survival is based on fear and corruption ". Emphasis of elements that we also put in the foreground, organization and direct connection with holders of public authorities and public institutions,

is present in the UN Convention against Transnational Organized Crime²(United Nations Convention against Transnational Organized Crime) legislated in 2000 and in the elements that characterize each organized criminal group, which are determined by the Committee on organized crime of the International Association of Chiefs of Police (International Association of Chiefs of Police - IACP).³Through these elements are differentiated four essential characteristics of organized crime, one of which is especially emphasized: constant activity directed towards the corruption of police officers, prosecutors, judges, parliamentarians, prison staff and other persons with public authorities.

Speaking about the need to narrow interpretations of illegal activities on which we should take the strongest stance in the prevention, detection and punishment of the perpetrators, we have to bear in mind that the actual material and human capacities of the Republic of Srpska, as well as of the entire Bosnia and Herzegovina, represent a significant constraint in the fight against organized crime, and that in such context the definition and implementation of the broadest definitions of organized crime, which are often present at international level applied to our area could represent a real danger for us to "spend" the limited capacities on those forms of illegal and criminal activities that do not leave the most serious consequences. Instead, we stand for a clear, relatively narrow definition, of those forms of illegal activities with which the institutions of system should settle accounts with by using all their powers and all available resources. Therefore, elements of the organization and the inevitable existence of connections with the state / public institutions and holders of political (institutional) authorities must be considered as integral parts of defining the concept of organized crime and organized criminal groups in the context of applying the principles of "NEW PUBLIC MANAGEMENT". When we have discussed about the need for the state and its institutions to settle accounts with the holders of organized crime by using "all their powers", we have certainly implied a wider application of special investigative actions, not excluding the common criminalistic-tactical measures and actions. Here we find another argument for our stance: the use of special investigation (evidential) actions significantly impairs the constitutionally guaranteed rights and freedoms of citizens, and it is therefore preferred to narrow defined activities, occurrences or operators of illegal actions to which such measures should be applied extensively.

Structural changes through the application of "NEW PUBLIC MANAGEMENT" presuppose reform at the level of groups of institutions through different mechanisms: privatization, mergers, decentralization, corporatisation. On the other hand, the reform processes themselves indicate the professionalization of management, transfer of management styles and ways of working in private practice, with the proviso that public institution cannot be a business system in terms of actual business activities; flexibility in relation to the common practice towards human resource management, information technologies and public procurements; liberalization and the introduction of market mechanisms; modernization of services by mo-

²Adopted by : <http://www.unodc.org/unodc/treaties/CTOC/> , accessed on 26.12.2014

³Adopted by : <http://www.theiacp.org/>, accessed on 26.12.2014

dern standards of business operations; new financial management; new management performance indicators; explicit standards and measures for performance evaluation; strengthening dialogue and partnerships with NGOs through information, consultations and active participation. For the implementation of the "NEW PUBLIC MANAGEMENT" as a possible paradigm, it would be required a strong influence of the state that would through the inevitable changes established a stable system in which the rules would be well known and whose broader effects and impacts on society as a whole would be assessed and measured, thereby giving the argument for additional investments. NEW PUBLIC MANAGEMENT provides an atmosphere that encourages competitiveness and innovation, even in those areas of the public sector such as public safety. What is necessary to achieve is:

- To make public administration cost-effective and well-organized,
- To ensure cost-effective and transparent spending of taxpayers' money,
- To ensure the professionalism of the civil service in a way that represents the citizens,
- To make public administration work in accordance with the best practice of the EU,
- To ensure high quality and accessible public services to citizens.

In the context of this study, we would like to highlight the most important laws that are crucial for the area we discuss, and which we consider that they should be partially adapted to the practical application of the "NEW PUBLIC MANAGEMENT". It should be stressed that reform of both normative and legal framework, as well as a range of institutions, the way of their work and organization, must be regarded as a continuous long-term process that is directly associated with the previously achieved results. Precisely because of the need to find new solutions in assessing the work results of the holders of public authorities and to improve the efficiency and effectiveness of their work, we emphasize the need for applying the principle of "NEW PUBLIC MANAGEMENT" in this area.

Normative-legal framework of our domestic legislation which has a decisive influence on the possibility of applying the "NEW PUBLIC MANAGEMENT" in the function of reducing the negative consequences of organized crime in the Republic of Srpska includes:

The international legal framework which has a substantial influence on our subject matter would include:

- UN Convention against Transnational Organized Crime, which was adopted in Palermo (Italy) in 2000 as well as two additional protocols
 - Protocol for Preventing, suppression and punishment of Trafficking of Persons, especially Women and Children
 - Protocol against the Smuggling of Migrants by Land, Sea and Air
- European Council Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.
- UN Convention against Corruption in 2003
- UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988
- European Council Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism in May 2005. (Warsaw Convention)

- Universal Declaration on Human Rights adopted by the UN General Assembly on 10.12.1948. International Covenant on Civil and Political Rights
- European Conventions on Human Rights and Fundamental Freedoms
- Recommendation of 11 Committees of Ministers of the Member States relating to the guiding principles for the fight against organized crime, 2001;⁴
- Joint action on the punishment of membership in a criminal organization in the Member States of the EU 21.12.1998.⁵

Main factors, trends and statistical results

Manifestations of organized crime which are represented in the Republic of Srpska are identical with those from our environment and they include: narcotics trafficking, extortion, kidnapping, blackmail, human trafficking, smuggling of people, corruption, money laundering, abuse of authority, money counterfeiting and other means of payment, prostitution, trafficking of weapons and explosives, international smuggling of vehicles, smuggling of excise goods and cyber crime.

Similarly, the factors that influence the growth of organized crime are identical as in other countries in the region, namely: poverty and high unemployment rate, structure of ownership and ownership transformation, disrupted socio-economic system with the presence of corruption, specific geo-strategic position, insufficient interagency and interinstitutional cooperation, lack or selective application of regulations, lack of professionalism and abuse of modern technology.

According with the topic and scope of this paper, we have singled out indicative statistical data on organized crime in the Republic of Srpska whereby we used data from the study entitled "Study on organized crime in Bosnia and Herzegovina"⁶ funded by the EU Delegation in Bosnia and Herzegovina and implemented by the „Centre for Security Studies -BH“ from Sarajevo. We also used the official statistical data of the Ministry of Internal Affairs of the Republic of Srpska⁷ and data from the document entitled „Serious and Organised Crime Threat Assessment“ (*EU Serious and Organised Crime Threat Assessment (SOCTA 2013)*)⁸ which author is *Europol-European Union's law enforcement agency*.

When using the statistical data of the Republic of Srpska the problem arises in the method of collecting and publication of statistical data, because it uses different typologies of criminal acts, but we have singled out basic indicators to indicate the current situation and future trends in the field of criminal acts that are the subject of our observation.

⁴ Recommendation: Committee of Ministers of the Member States Concerning Guiding Principles on the Fight Against Organized crime, 2011

⁵ Adopted by Council on the Basis of Article. 3 of the Treaty of European Union, on Making it Criminal Offence to Participate in Criminal Organization in the Member States of the European Union OJL 351 of 29, 21.12. 1998

⁶ Adopted by: <http://css.ba/wp-content/uploads/2014/07/study-of-organised-crime-in-bih.pdf>, posljednji put pristupljeno 07/2014

⁷ Adopted by: <http://www.mup.vladars.net/lat/index.php?vijest=41&vrsta=statistike&stat=1>

⁸ Adopted by: <https://www.europol.europa.eu/content/eu-serious-and-organised-crime-threat-assessment-socta>

In the study of the "Centre for Security Studies", which we have noted previously, carried out on the sample group of respondents of 1500 adult citizens - particular attention, among others, is paid to the following facts: respondents attribute their sense of insecurity mostly to *corruption and organized crime* (69%), followed by armed violence 49,3% (robberies of banks, shopping centers, robberies of money transport...), and street crime 46,3% (thefts, looting shops, pickpocketing).

The largest number of respondents believe that the court / courts are doing the worst job in the fight against organized crime (60,5%). Following the courts, respondents attribute doing the worst job to prosecution offices. The option that the prosecution is doing the worst in the fight against organized crime have chosen 58,6% of respondents, while the police is in third place (29,1%).

According to opinions of respondents, individuals and groups that are associated with organized crime, have the highest collusion and support in the *authorities*. Even 85.2% of respondents chose this option. In second place are the representatives of political parties and their associates (82.3%).

The majority of respondents stated that organized crime is most damaging to society, and then to individuals (68.2%: 18.0%). Most of respondents (66.8%) believe that the current sentences imposed for offenses of organized crime are too lenient and inadequate.

More than half of respondents (58.4%) stated that the fight against *illicit traffic in narcotic drugs* is the first priority of future action. The second priority is the fight against economic crime and tax evasion (43.8%), a third preferred course of action (33.9%) is the fight against corruption of public servants.

Unlike the results of research from 2010, when the respondents from the Republic of Serbian felt the safest, and 48.8% of them declared themselves to feel safe in their place of residence, in this study, most of the surveyed citizens of the Republic of Serbian who declared themselves to feel unsafe in their place of residence. That is, the number of citizens who previously declared themselves to feel safe dropped by 7.8%, namely to 41%. The degree of sense of insecurity has increased by 9.6%, respectively, from 22.2% to 31.8%. In the Republic of Srpska respondents feel the safest in Trebinje 5.1%, followed by respondents from Banja Luka and Pale.

From the responses mentioned above, it can be concluded that citizens have a clear perception about how negative the consequences of organized crime really are, that they recognize the connection between the leaders of organized crime with the authorities and have objections to penal policy that is currently being implemented. What causes concern is the fact that the percentage of people who feel safe is significantly decreased, while at the same time the percentage of those who feel insecure is increased.

According to official data of the Ministry of Internal Affairs of the Republic of Srpska⁹, the most frequent type of economic crime in the Republic of Srpska is the abuse of power or authority, with a total of 95 offenses in 2013. The second most frequent manifestation of the economic crime in the Republic of Srpska is embezz-

⁹ Adopted by: <http://www.mup.vladars.net/lat/index.php?vijest=41&vrsta=statistike&stat=1>

lement. Money counterfeiting is the third most common manifestation of the economic crime, while business scams are the fourth most common types of economic crime in the Republic of Srpska.¹⁰ In that context, significant is the fact that during 2013, 15 employees were suspended, against 167 employees were being lead disciplinary proceedings, and against 24 officers were filed reports on the criminal offense.¹¹

In the context of suppression drug trafficking which occurs as one of the underlying criminal acts carried out by organized criminal groups, and which the citizens perceive as a major problem as well and as one of the most important factors that adversely affect their sense of security, we consider important to emphasize basic statistical data for 2013.

TYPES OF DRUGS	Ministry of the Interior RS
Heroin	1.827,16 gr.
Cocaine	386,661 gr.
Amphetamine	2.811,001 gr
Marihuana	183 kg 416,446 gr.
Cannabis plant	1.232 pieces
Seed Cannabisa	99 gr., 1846 pieces

Figure 3. *Tabular presentation of narcotics seized in 2013*

In the second table, we can clearly discern the disproportion between the most successful and the least successful Public Security Centers of the Ministry of Internal Affairs of the Republic of Srpska. By using formula of "UNODC"— a special United Nations Office for Drug Control and Crime Prevention¹² which reads as follows:

$$BHZ = NWP * GPK \text{ wherein } NWP = 0.68 * TNP^{13}$$

while in the formula:

TNP=1 425 000 represents **total number of population** in

the Republic of Srpska according to the Republic of Srpska Institute of Statistics,

NWP=969 000 represents **the number of working population**

the Republic of Srpska or 68% of the total population,

GPK= United Nations estimate that of the total number working population in Europe (aged between 15-64), about 0.6% of them use heroin, while the percentage in the countries of Southeastern Europe is slightly lower - in average between 0.3-0.5%.

¹⁰ In 2013, the Special Prosecution Office of the Republic of Srpska has received five reports against 16 people in connection with the illegal actions during the process of privatization in several companies.

¹¹ Adopted by: <http://www.mup.vladars.net/lat/index.php?vijest=10350&vrsta=novosti>

¹² Adopted by: <http://www.unodc.org/unodc/en/about-unodc/index.html?ref=menutop>

¹³ Adopted by: UNODC "World Drug Report" 2013

We can give a rough estimate of the number of people in the Republic of Srpska who occasionally use heroine. The aforesaid formula gives a result from a minimum of 2 900 to a maximum of 4 800 citizens. Estimated number of people who misuse cocaine is calculated by using the same formula with the only difference that "UNODC" estimates that the average number of users in the Republic of Srpska is approximately 0.8%. Based on that, rough estimate indicates that in the Republic of Srpska approximately 8 000 people consume cocaine at least once during the year. In the aforementioned research conducted by the "Centre for Security Studies" it is very easy to notice that the vast majority of respondents who participated in the study considers that the fight against illicit drugs should be a priority in the work of law enforcement institutions. All of the above, it is easy to see from the chart set below.

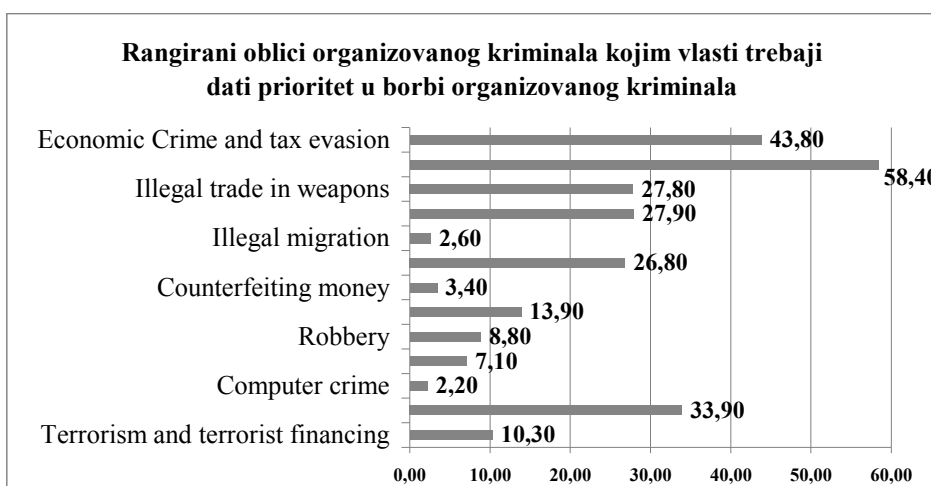


Figure 5. Perception of priorities

Available statistical data in the countries of our region, indicate that the abuse of narcotic drugs is one of the most common activities of organized criminal groups. According to the data of security services in Montenegro¹⁴ Registered organized criminal groups conduct, with the aim of obtaining illegal profit, their primary and most significant criminal activities in the field of international smuggling of various types of drugs (cocaine, heroine and marijuana), while as the secondary criminal activities security services in Montenegro registered money laundering, smuggling of excise goods, smuggling of weapons, smuggling of motor vehicles and loansharking.

As a positive example of good results, due to an intensive and professional work of members of the Ministry of Internal Affairs of the Republic of Srpska, we cite statistics which indicate that the number of stolen motor vehicles in the previous medium-term is reduced by a third, which represents a very significant achievement. This can be clearly seen from the following table:

¹⁴ Adopted by: Serious and Organised Crime Threat Assessment of Montenegro, Ministry of Internal Affairs in Montenegro

Or. no.	MIA RS	The criminal offense of theft of motor vehicles						
		2007.	2008.	2009.	2010.	2011.	2012.	2013
2.	MIA RS	425	339	293	219	122	156	141

Figure 6. Tabular presentation of criminal offenses committed in this field in 2013

As it is already known, one of the most dangerous consequences of organized crime is the fact that the accumulated profit from illegal activities is extensively used for exercising influence on political authorities, creating monopolies and financing of terrorism. In this way, the institutional and economic stability of the country is destroyed, and through financing of terrorism and various extremist movements (primarily religious and political) the security of both citizens and the state itself is directly endangered. About the situation in the Republic of Srpska and throughout Bosnia and Herzegovina, that is, about the perception that people have about the impact and association of members of organized criminal groups with various social structures, we can see clear indicators in the following chart:

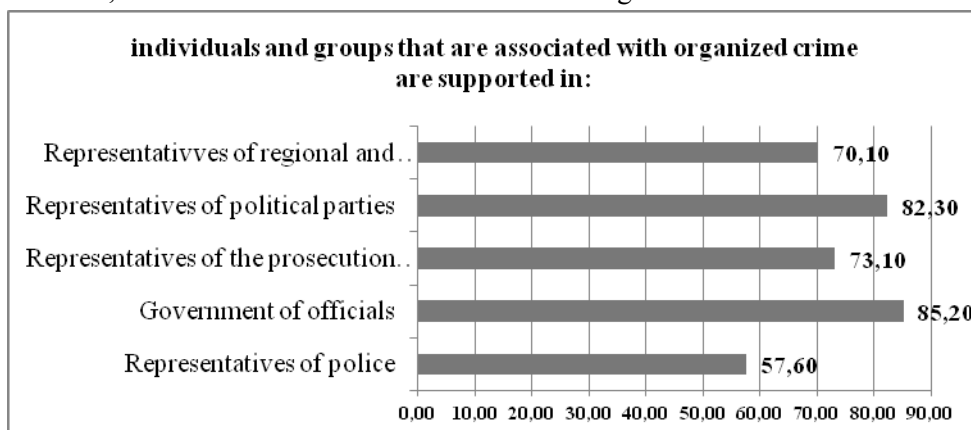


Figure 7. Association of organized crime and government structures

Conclusion

From the data presented above, it is easy to notice that our society has a major problem in suppressing the negative consequences of organized crime and that it obviously requires serious reform of the entire system of government, both legislative, as well as executive and judiciary branches, which is why we advocate that through the application of the concept of "NPM" should be provided a more efficient and economical public sector which will be able to significantly reduce the negative effects of organized crime in our society.

Due to a series of social, historical, political and other reasons, we can objectively conclude that the risk of strengthening extremist movements and their possible terrorist attacks is extremely present on the territory of the Republic of Srp-

ska. Bearing in mind the "common practice" that a significant part of the funding for this purpose is provided through the activities of organized criminal groups, we would like to warn about the trend across Europe which points to the constant growth of persons involved in terrorist activities, as well as the internationalization of the whole problem which is evident from the following data collected and published in "SOCTA 2013"¹⁵.

For these reasons, but also taking into account the fact that the last Strategy for the fight against organized crime at the level of Bosnia and Herzegovina was adopted for the period 2009 - 2012¹⁶, we strongly recommend the enactment of such a strategy at the level of the Republic of Srpska. Together with the adoption of the strategy, other necessary activities would be:

Maximum intensification of international cooperation - with emphasis on the education of personnel abroad and using practical experience, ready-made solutions and information available to other countries and international institutions.

The reform of public administration in accordance with the information collected and analysis performed - with main goal to reduce the mere possibility of corruptive activity.

Continuous collection and analysis of all statistical indicators relating to organized crime and its negative consequences, with the primary objective of reforming institutions which are the bearers of the fight against organized crime, towards the changes of their internal organization, refocus of their action, eventual giving of broader authorities in the fight against particular bearers of the incriminated activities and so forth.

The political system, in particular the electoral process, should be constantly improved and resources, scope and method of financing of political entities controlled in order to maximize preventing or at least minimizing the possibility that a profit gained by organized crime will be used for political influence and the transfer of political power from the people's representatives to criminal circles. In this context, it is necessary to consistently apply the principle of public, both in the electoral process and during the conduct of political functions.

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NEW PUBLIC MANAGEMENT У ФУНКЦИЈИ СМАЊЕЊА НЕГАТИВНИХ ПОСЉЕДИЦА ОРГАНИЗОВАНОГ КРИМИНАЛА У РЕПУБЛИЦИ СРПСКОЈ

Сажетак: Уважавајући чињеницу да су сви појавни облици организованог криминалитета, опасни за сваку државу и друштвени систем, неопходно је да органи јавне власти константно раде на његовом откривању, спречавању и ублажавању односно анулирању негативних посљедица које изазива.

Предуслов да примјена концепта New Public Management буде успјешна је активност којом ће се усаглашеним и координираним дјеловањем законодавне, судске и извршне власти развити национални капацитети и потенцијал и за ефикасну борбу против свих облика организованог криминалитета, а посебно против различитих облика коруптивног дјеловања као саставног дијела готово свих облика привредног криминала. Све наведено, морало би имати за циљ и смањење утицаја носилаца привредног и других облика организованог криминала у структурама свих нивоа власти.

Полазећи од претпоставке да је сваки, па и најмањи успјех у спречавању ових девијација изузетно битан за друштво, ми овим радом желимо да докажемо да имплементирајући принципе NewPublicManagement можемо да створимо предуслове за ублажавање посљедица, као и смањења могућности извршавања ових кривичних дјела. Повећањем транспарентности у раду јавног сектора користећи благодети ИТ, ефикаснијом и ефективнијом мотивацијом запослених, ригорозним санкционисањем инкриминисаног понашања, системском контролом и иновативним приступом могуће је обезбједити предуслове за ефикасну борбу против најопасније болести савременог друштва.

Кључне ријечи: организовани криминалитет, јавни сектор, транспарентност, мотивација, контрола, санкционисање кривичног дјела