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SECTION I. PRE- AND POST-ACCESSION FOCUS

Searching for corruption in Serbia

Petrus C. van Duyne
Tilburg University, Tilburg, The Netherlands
Elena Stocco
Belgrade, Serbia
Vanja Bajovic
University of Belgrade Law School, Belgrade, Serbia, and
Miroslava Milenović and Elizabeta E. Lojpur
Kancelarija Milenovic d.o.o, Belgrade, Serbia

Abstract

Purpose – The purpose of this paper is to provide a description of the state of corruption in Serbia, based on available empirical evidence produced by the penal law-enforcement agencies themselves.

Design/methodology/approach – The paper uses an analysis of available documents, criminal cases of the Municipal Court of Belgrade, data from the Public Prosecution Office and the National Statistical Bureau. Given the scarcity of research in Serbia, the usual inaccessibility of judicial sources, the study is a first reconnaissance based on what is available at present.

Findings – The basic finding is a huge gap between what the people experience about corruption and what is eventually prosecuted. The law-enforcement agencies address this phenomenon haphazardly and in a fragmented manner, displaying a fundamental lack of data management, resulting in lack of transparency.

Research limitations/implications – Research in such a sensitive area and within a political culture of opacity, addressing incomplete data, will in its first stage yield limited results. The project will be continued with additional interviews with knowledgeable people, extension of the statistics and validation and comparison of other anti-corruption bodies as far as they have a measurable output.

Practical implications – The short-term practical implication is that researchers "got over the threshold" and entered the law enforcement "chambers". Practical applications concern the contribution to transparency, which is required for doing research and impacts on the way the practitioners address their own practice.

Originality/value – The paper addresses a certain field in a country that has so far been only scantly researched.

Keywords Corruption, Law enforcement, Serbia

Paper type Research paper

Sisyphus' hard labour: Serbian corruption policy uphill?

Among (political) researchers, it is common to cast policy making in elegant models consisting of a variety of stakeholders interacting rationally in creating some desired outcome (Freeman, 1984). Such rational policy making is assumed to be directed at good

This is an intermediate report of a ongoing project on corruption in Serbia. Various details have not yet been sorted out and a full report will be presented at the Cross-border Crime Colloquium in Ghent in Fall 2009.

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governance and related aspects like transparency and addressing corruption, which can be assigned a "rational place" (Jager, 2003). However, one may wonder whether such interpretative models rather reflect our desire for order than reflecting reality, being represented too elegantly. This applies certainly to such high-sensitive issues such as integrity (or its pendant: corruption) in public administration, whether national or local. Particularly, in countries with a long history of mal-governance, the political path towards a less-corrupt administration evokes rather a picture of highly promising initiatives followed by a disorderly process of sliding back to "normal" (for Italy, Newell, 2004). Here, the metaphor of the mythical King Sisyphus may be appropriate: pushing a rock up the hill which in the end rolls back again after which the attempt must be repeated. However, the metaphor does not hold fully. The wily King Sisyphus was condemned to this punishment by the Olympic Gods because he cheated them. But, reversely on the corruption hill, those who fight corruption often times seem to be ones who are condemned by the cheaters to do the Sisyphus work by pushing the anti-corruption task uphill. Meanwhile, the corrupters in the public administration are primarily interested in seeing the rock rolling back again, even if they say to give a helping hand. Even if this metaphor does not hold fully, this reversion of roles, some of them double doles, makes it a dangerous one, particularly if reporting on a country which has pledged to fight corruption. Is Serbia the landscape of King Sisyphus pushing up the anti-corruption rock?

When Milošević fell from power Serbia returned to the fold of the "family of European states". As Fatić (2001) remarked at the time, the unlucky heritage of half a century socialist rule would not ease this return to the "European concert". In addition, political instability contributed to rendering that process was somewhat haltingly. This return entailed, among other things, working towards "good governance": fighting corruption, alongside organised crime and money-laundering. These are not isolated phenomena, particularly if one touches political and financial interests above the "usual suspect" from the rough Serbian underworld, as described by Logonder (2008). At these higher social and economic ranks, it is likely that one meets negative and positive stakeholders, whose roles are difficult to identify. Therefore, it is of interest to find out whether and to what extent the Sisyphus metaphor applies to fighting corruption in Serbia.

The formulation above, the "Sisyphus formula" seems to imply an a priory confirmative answer to a research question about corruption in Serbia: "Yes, there are attempts to fight corruption and there are opponent forces which push the reformers downhill." This is not a surprising observation, as it holds true for most social changes. Similar observations have been made about Ukraine (Osyka, 2003), Italy (Newell, 2004), Bosnia and Herzegovina (Datzer *et al.*, 2007) and Macedonia (Karadzoski, 2009). Indeed, tackling corruption can be compared to a surgical operation which cuts very deep into a social and political tissue which has become a common aspect of daily personal relationships within many layers of society. And surgical social operations use to be painful to those who have more to loose than to gain from an effective anti-corruption policy. Thinking about those who stand to loose from such a policy one is tempted to think of a cynical political elite, those "on the top of the hill", who have the leverage of rolling back or slowing down attempts at reform. A well-documented example of such a push-back leverage is the Italian Prime Minister Berlusconi who succeeded in rolling back anti-corruption policy without the European Commission raising an eyebrow (Newell, 2004, p. 213; Stille, 2007). But, such an élite action would be little effective if there

were not sufficient "co-sinners" within broader layers of the population to whom a bit of corruption means a bit of extra advantage which would otherwise have been denied. As a matter of fact, if left to itself, corruption can become firmly rooted in a democratic society too as long as a sufficient number of people feel that profiteering out-weights victimisation. One does not need sinister oligarchs to have a corrupt society, though the latter are in the position to maintain the system of corruption.

"If left to itself". At present, the problem with corrupt regimes is that they are no longer left to themselves (Andvig, 2003). The economic, socio-political interconnectedness of the past 20 years, particularly on the European continent, does not allow states to be left to themselves anymore. Depending on their political and economic power, the states in the "European space" have to respond to interest shown by the European Union (EU) or the Council of Europe concerning their "state of corruption". Of course, there are differences, as not all animals in the European "Animal Farm" are equal. A powerful or an isolated state, such as Russia or Belarus, can display a sovereign indifference to what the Council of Europe or the EU think of them. Countries closer to or more dependent of the EU, are not or do not feel to be in a position to demonstrate such an indifference. This applies particularly to the successor states of Yugoslavia, which have good reasons for not wanting to be "left to themselves". Apart from radical nationalist parties, there is a consensus that joining the EU is essential for a full economic development. This entails that the image of widespread corruption is not only an internal problem: it also affects Serbia's relationship the EU. Recently, 21 October 2008, Enlargement Commissioner Olli Rehn remarked that (corporate) corruption poses a barrier to Serbia's candidacy for the EU: "Serbia may gain EU candidate status in 2009 but must crack down on corporate corruption."

This situation has a bearing on our Sisyphus metaphor of the anti-corruption policy in Serbia, because nobody wants to be branded as a "roller-down". This may lead to a confusing set of roles: next to the active proponents in the anti-corruption policy there may be those who simply "sit down", which may be just as effective as "rolling down". Or, even more confusingly, display alternating phases of actively helping a bit and then sitting down again or rolling down on other topics.

For a researcher, this is a difficult situation to investigate, particularly because one easily slips from "what is observable" to "roles and intentions", which are rather a matter of uncertain interpretation. And of course, everybody will protest against being "interpreted" as corrupt or a "roller-down". For this reason, we set out to take stock of what can be observed. For our research, these observables can be divided into three categories: political actions, law enforcement activities and corruption cases. Together, that may convey (partial) picture the corruption landscape in Serbia.

With single corruption cases, we find ourselves soon at the anecdotal level of scandals which use to attract the media. Usually, they are highly illustrative for certain situations, but naturally they are less suitable for a systematic account of the underlying situation in the country[1]. Political activities, encompassing anti-corruption legislation and putting into place institutions intended to combat corruption or to further public integrity, are bound to produce observable products (whether good, bad or half-baked) of the legislator and the executive. The products of law enforcement are also observables in terms of investigations, prosecutions and verdicts. Though both fields of "anti-corruption output" are rife with caveats, they are suitable for our first stocktaking of the Serbian anti-corruption policy and law enforcement with the expectation of obtaining insight into the nature and extent of corruption cases.

Rolling up and sitting down

It is usual to depict the anti-corruption policy making in terms of a moral fight of "good against bad". But, abstracting from such a moral setting, we are also dealing with rational conduct concerning what is at stake in (public) decision making. This can be formulated in a formal decision-making model or a principal-agent-customer model (van Duyne, 2001; Jager, 2004), but the essence remains the same: getting or retaining the spoils flowing from abusing public decision-making processes. In the public domain, the spoils are mainly "public goods" for which there are always many competing bidders. In a democratic rule of law bidders should have an equal chance in such decision processes. This entails that decision making should follow transparent rules: "To be seen by all". This is rational, but only at an abstract, general level. At individual decision-making level, the converse is true: it is rather rational that every (self-) interesting participant strives for a maximum gain and not for the highest degree of transparency. The latter is not self-evident. Therefore, this ideal requires a constant public vigilance for maintaining it. If this is the case in most countries with a democratic heritage, the situation in countries with a different political heritage will be much more difficult. In socialist countries like Yugoslavia, it was the Socialist Party which was the monopolist of the spoils. With the disintegration of the Socialist Yugoslavia Serbia became (one of) the heir(s) of a one-party state slipping into the hands of many owners, some of them outright criminal (Logonder, 2008). Therefore, it is of importance to discuss briefly the issue of "who owns the Serbian state" in terms of dispensing spoils for a wider background.

In the literature on public policy making, the phrase "spoils system" has a negative connotation, like "looting the public fund". While this is not unfounded as far as the effects can be concerned, it concerns rather an age old public reward system, certainly if the rewards do not consist of direct cash money. During the feudalism lords, usually short of money, rewarded their retainers with lands and titles as did the kings of the *ancien régime*. This reward system was wiped away by the French Revolution. The modern democratic states could dispense neither land nor titles, but for the ruling elite it remained natural to reward each other with positions, albeit checked by the emerging bureaucracy with its meritocratic rules and democratic control procedures. However, when democratic control procedures are weak, also multi-party states tend to slide back to the feudal reward system in which the role of the lord is replaced by that of the party: if in power, it rewards its retainers by dispensing them positions-with-income (or power) as if it were "fiefs". However, the parties themselves are dependent on funds from trade and industry or, rather, the leading businessmen. This mutually beneficial dependency is strengthened by changeovers of the actors: businessmen entering parliament (immunity included) and politician finding well-paid jobs in corporations. According to Pesić (2007), this is the "feudal" socio-political situation in Serbia.

As Serbia has many political parties of which four have regularly received sufficient electoral support for staying or returning to power, the feudal spoils system is to a certain extend stable. Each party leadership in a ruling coalition is given control over a part of the public "reward pool" according to the number of MPs. This is implemented per public service column: the spoils in one column (for example, education or health) are all allotted to one party (Begović and Mijatović, 2007) as long as that party is in power. Therefore, rewarded retainers of the previous election may find themselves ousted from their positions to be replaced by other beneficiaries. This is not a matter of some changes in the highest echelons of the political parties or the central

administration, as can also be observed in the USA. Actually, it functions an exclusive right of political parties in a ruling coalition to make appointments in all public institutions resorting under the central authorities. With a potential of 40,000 positions, this system reaches deep down into most services, down to local libraries or the headmaster of an elementary school in a small village (Pesić, 2007, p. 10). At local power level, the same occurs. Indeed, these positions are held as a modern "fief", often irrespective of skills or qualifications. Not surprisingly, this leads to inefficiency in the management of public institutions, as has also been observed in Romania (Matei and Matei, 2009). For corrupt stakeholders, this inefficiency is not a liability, but an asset: efficiency would undermine their position.

Against this background, it is fair to assume that the attitude of the political-entrepreneurial elite to anti-corruption structures will be ambiguous. Nevertheless, whether or not under foreign pressure (and rarely without, like the slow unfolding Anti-Corruption Strategy; Begović and Mijatović, 2007, p. 204), these institutions and regulations have been proposed, enacted and put into place, or at least some of them. How did these fare?

As there are almost 20 of such regulations or their derivatives (laws, amendments, committees for implementation, commissions plus separate commissioners) which may create a confusing picture, we have "sliced up" anti-corruption bundle. We also "sliced up" the time-path of these measures according to usual milestones: dates of the start of the proposals, discussion, acceptance, putting into place and last but not least, the output if any dates were available.

We begin with the cluster of the anti-corruption plans. Then, we select some more specific measures.

a. The anti-corruption plan cluster

Interesting aspects of this summarised history of anti-corruption plans are the time-path, the output, the proposed responsible agents and powers of the proposed institutions or persons (Table I).

As far as the time-path is concerned, the Serbian authorities can correctly maintain that after the fall of Milošević they have been doing every year something on corruption. Politically, there was little else to do as the Council of Europe was pressuring, watching and evaluating closely[2]. Hence, an action-plan and strategy has been suggested, discussed, accepted, a council, committee or agency established, a law passed and/or implemented. That looks like continually "rolling the stone uphill". But does the stone really move?

Looking at the output, the picture is more difficult to interpret. Much seems to have been initiated, but the tangible outcomes are difficult to find. In our metaphor, it looks like rolling up a bit and sitting down again. This may be due to lack experience: in the first years of this decade there was no coherent anti-corruption policy or legislative experience to build on (Fatić, 2001). And when after long delays (and pressure from the Council of Europe) institutions were put into place, there was lack of infrastructure, budget or power of enforcement, as is the case with the Anti-Corruption Council, the Commission for the Implementation of the Action Plan and Strategy or the Law on the Financing of Political Parties (Trivunović *et al.*, 2007). It should be kept in mind that this pace was also determined by the political instability in Serbia. Quite a few times the fall of government and call for elections caused acts (e.g. Anti-Corruption Agency Law Draft in December 2007) already presented to Parliament to be withdrawn (Sisyphus again).

Milestones	Anti-corruption National Strategy and Plan	Commission for the Implementation of the Action Plan and Strategy	Anti-corruption Council	Anti-corruption Agency
Beginning	2004: working group	2006	October 2001	2005
First date of discussion	May 2005: accepted by government, sent to Nat. Ass.			2006: Law on the Agency to fight corruption submitted
Date accepted as plan or law	Accepted by Nat. Ass. In December 2005. Converted into an Action Plan See	December 2005. March. 2006: the government accepts its necessity		October 2008
Date fully implemented	The Anti-Corruption Agency will take responsibility 2010	July 2006	2003	Committee of the Agency to implement: March 2009
Functions	The following fields to be covered: political, police and judiciary, public administration, territorial autonomy, self-government and public services, public finance, economic, participation of civil society and public in combating corruption Strategy implies three key factors: Effective implementation of anticorruption law Prevention, what means elimination possibilities for corruption Increase public conscience and education with the purpose of public support for implementation of anticorruption strategy	To make action plan for implementation national strategy Overseeing the implementation of action plan and suggest measures for its improvement To make sector's action plans for fight against corruption To make action plan for implementation GRECO's recommendations Overseeing the implementation of GRECO recommendations and suggest measures for their improvement	Governmental working body, not independent Implementation of anti-corruption measures Suggestion of new measures and oversight	Overseeing the implementation of the national strategy Resolving conflicts of interest Coordinating all the state bodies Performing functions related to the law of financing political parties High degree of independence reporting directly to the National Assembly Programmed costs: start up €4.4 ml; salaries €11 ml, program €100,000

(*continued*)

Table I.
Main anti-corruption clusters and milestones

Milestones	Anti-corruption National Strategy and Plan	Commission for the Implementation of the Action Plan and Strategy	Anti-corruption Council	Anti-corruption Agency
Challenges as of 2009	Unrealistic time table, no priorities, too broad responsibilities with tasks for ministries, no estimation of resources needed	From January 2010, the authorities of Commission will pass on Anti-Corruption Agency	The council will remain in place, next to the Anti-Corruption Agency	
Observations	Action plan must be changed, many deadlines were passed	No known output. No infrastructure or power. Composed of heads and high-level representatives of state institutions Rarely meetings, the last one was in May 2008	Lacking funds or status to employ staff No powers of enforcement The relation with the government is sour	

Table I.

The Anti-Corruption Council assumed a kind of watchdog function, but it has no teeth to bite. In some letters to the government, it did bark a bit, which resulted in a soured relationship (Trivunović *et al.*, 2007, p. 67)[3]. While the response of the government to these notifications remains unknown, an ambitious Anti-Corruption Strategy and Plan was drafted (*Official Gazette*, 2005). The tangible effects of this strategy are difficult to measure: some of the aims are phrased too imprecise to measure any effect (Begović and Mijatović, 2007, p. 143). All hopes are now set on the "big event" of 2010 when the Anti-Corruption Agency will take over wider responsibilities, such as for the Law on the Conflict of Interests. This had the effect of putting some anti-corruption activities "on hold"[4], waiting what responsibilities will be tranferred by this agency[5]. Whether this will be the breakthrough is difficult to say at present: with an intended staff of around 150 employees, it looks like a major undertaking. However, the agency will not function as a "super department": it must mainly monitor and report on the progress of the ant-corruption strategy and create networks of cooperation.

Having a law to further integrity and an institution to enforce it, does not entail that there is real progress. A lot of activities may be going on, while it is not clear whether things are advancing or there is stagnation, or due to what kind of circumstances this has occurred. A good example is the Law on Prevention of Conflict of Interest in Discharge of Public Office, which came into force 20 April 2004. Naturally, knowledge of the results of the enforcement of this law is of vital importance for getting insight into the state of corruption in the country. After all, this law aims at transparency concerning the financial and material backgrounds of public officials. To this end, the law specifies (summarised) that civil servants covered by this law shall declare their involvement in other enterprises as well as submit a full disclosure of moveable and unmoveable possessions, of themselves as well as of their spouses and next of kin. Of course, to execute this requirement, there are standard forms which are processed, the results of which should be enlisted on the Property Register (art. 14). According to the same article, the "information on the salary and other income received [. . .] from the budget *is public*". Interested persons can evoke the Law of Free Access to the Information of Public Importance.

Concerning other aspects of the enforcement of this law, it is difficult to obtain insight. For example, "The Republic Board (its steering body) shall monthly inform the public of irregularities it determines in the course of its work." Is that board successful? That is not easy to determine. The statistics are neither clear nor completely broken down for a proper interpretation (Table II).

The number of the yearly submitted reports has increased dramatically: from 6,185 in 2005 to 7,685 in 2008 for which the Board has 13 staff for processing and checking. In total, 1,253 procedures have been initiated against officials who had failed to submit

Year	Submitted reports from officials	Procedure for not submitting	Confidential cautions	Public announcement of proposed measures
2005	6,185	193	8	2
2006	6,308	476	205	88
2007	6,926	180	201	76
2008	7,685	404	213	102
Total	27,104	1,253	627	268

Table II.
Reports to the Republic Board and initiated procedures

a report; 108 processes were started against officials performing several public functions contrary to the Law's provisions. For 2008, the Republic Board reported on 102 measures against public servants it had been pronounced ("public measures"). However, these are recommendations and compliance with this measure is a responsibility of the office or person involved. The Board expressed its impression that the compliance level is low. After the elections of 2008, in the expectation of dismissals and new appointments, the level of compliance also decreased, which may also be due to the coming transfer of tasks to the Anti-Corruption Agency.

Looking back at the enforcement of this Law on Prevention of Conflict of Interest in Discharge of Public Office, we must conclude that even with its specific provisions for publicising indicated data, it can hardly provide insight into what kinds of breaches of integrity are countered by the responsible institutions obliged to report to the Republic Board. Likewise, it is unknown whether there are "multiple sinners" over the years, leading to multiple counts.

As remarked, the Anti-Corruption Agency will from January 2010 onwards cover all the conflict of interest issues. There is no information how the historic records will be transferred. Safeguarding that information is essential for obtaining insight into the results of four years addressing conflicts of interest and the coming follow-up effects of the new Agency.

b. Protection of citizens' rights

Not all efforts to roll the stone up-hill meet with a similar fate. Institutions which demonstrate appropriate determination to pursue their tasks of protecting the citizen's rights, and the right of information are:

- The National Ombudsman.
- The Commissioner for Information of Public Importance and Personal Data Protection.

These are institutions which have not been tasked to fight corruption directly, but in their basic daily work they have to deal continuously with the effects of corruption and lack of integrity. This is because they get complaints from citizens about dishonest or malfunctioning institutions who are naturally keeping something behind. There may be direct corruption involved, for example if a procurement has been tampered with, or the corruption can be more indirect and indicative of foul play: for example, withholding information, postponing decisions for unclear reasons, preferential treatment, etc. Providing details go beyond the framework of this paper, but some selected observations are relevant as background, others because they are in line with other observations.

An essential citizen right is the "right to know": from the perspective of Transparency International a central tool against corruption. The Ombudsman cannot work without is and to protect this right Serbia has the institution of The Commissioner for Information of Public Importance and Personal data protection. This institution was established in 2004, based on the Law on Information of Public interest, enacted in the same year. Meanwhile, the Commissioner has processed many complaints (Table III).

Whether this is to be rated as a success, is difficult to tell. But, to the government apparently too successful: Spring 2009 the government sent a draft law to the National

Assembly, Law on Confidentiality of Information, intended to put restrictions on the freedom of information. This would seriously affect the work of the commissioner (but also of the ombudsman). In an open and not very kind letter, the commissioner protested against this draft law: it "was prepared, without any public discussion and possibility for the public, public experts before all, to make a contribution which is doubtlessly a prerequisite for such a Draft"[6].

Is the Commissioner correct in his concern of seeing another impediment in the up-hill struggle? From his perspective, there are sufficient reasons of concern for marginalisation; the office of the commissioner is seriously understaffed. This is not because of budgetary restraints but because of office space. In spite of all requests, the Ministry of Finance does not allow a larger facility in which only 15 staff can be housed.

And while the commissioner's decisions are final, he has no power to enforce them. There is no information of the number of cases in which the authorities did not comply with the commissioner's decision. We think this of vital importance as this reflects the real will of the authorities to comply with the own rules, which is more telling than any document on anti-corruption strategy.

Does the government have an "attitude problem"? If that is the case, it is most unambiguously formulated in the Ombudsman 2008 report. In the introduction, the rapporteur was so frank as to reveal a characteristic concerning:

> [a] tendency of the executive not to react to the needs and problems in exercising human rights through more efficient application of current laws [...] but with a propensity to establish new institutions on paper, frequently by poor "copy/paste" method. Failure to enforce current legislation cannot be continuously justified with its imperfection and the need to enact new laws. In other words, the responsibility of administrative authorities for the state in their areas may not always be relegated to new and new institutions, particularly when there are no requisite conditions for the work of even those already established.

This, together with the observation that:

> A number of citizens are faced with an absurd situation – non-enforcement of judicial decisions by administrative authorities. In a high number of cases citizens complain of slow proceedings, stating as a rule corruption, disorganisation and idleness (Republic of Serbia, Protector of Citizens, 2009).

The ombudsman sent a clear message: all the councils, commissions, strategies, action plans or agencies deployed in the fight against corruption have not made the slightest impression on the Serbian population thus far. Mal-governance, the breeding ground of corruption, is experienced as still being widespread[7]. This may be considered as

Year	New complaints	Unsolved in previous year	Total number of complaints	Solved
2005			693	443
2006	1,741	106	1,847	1,188
2007	1,708	659	2,367	1,539
2008	1,517	828	2,345	1,521

Source: Commissioner for Information of Public Importance (Reports available in Serbian, at: www.poverenik.org.rs/index.php/sr/doc/izvestaji)

Table III.
Complaints about the right to be informed

merely subjective feeling of the population, it has to be countered by a more visible output of law enforcement.

Before crossing over to the criminal law aspects of corruption, it is appropriate to come to an intermediate stock taking. Surveying the past five years, it remains difficult to obtain a clear picture of the anti-corruption policy. Indeed, to resume our metaphor, some policy makers and institutions are "rolling the stone hill-up". However, the impression is that this must be performed without adequate facilities, small pay and little help. Others may be sitting down after they have done some ritual stone rolling. Overall, hard evidence is difficult to obtain: if there is any success, without precise information, the outcome remains opaque. In other words, after five years of anti-corruption policy making lack of transparency still prevails.

The penal law picture

When it comes to empirical knowledge of corruption – based on proven "hard facts" – it appears that systematic research about its extent and nature is rare. Most research is based on the perception of the citizens. In some research projects, such as carried out by Begović (2004) and Datzer *et al.* (2008), respondents have been interviewed about their own experience. For example: "When did you pay your last bribery?" This implies that we are short of police and criminal law data. This is not unique for Serbia: researching the prevalence of corruption is difficult in any jurisdiction. It is telling that in the survey volume of the state of corruption Europe (Bull and Newell, 2003) the chapter on corruption in "Central and Eastern Europe" does not even mention Serbia (Holmes, 2003).

Apart from definitional problems, corruption is one of the most underreported offences, as it is usually a consensual crime with at least two complicit and often also with two satisfied criminal actors[8]. Against this background, the OSCE Mission to Serbia initiated a research project on the penal law processing of corruption. As a gesture of support, the Republican Prosecutor enabled the research team to study and analyse the criminal cases handled by the Special Anti-Corruption Unit of the Public Prosecution Office (PPO). Thereby, we entered the Serbian penal law research field.

Entering a brand new research field requires scouting for data of which the value in terms of reliability and validity are unknown. Therefore, in the next section we will first discuss the nature of the information sources. This is important, because there is no unified penal law data management. This entails that questions concerning reliability and validity have to be addressed per information source. To the extent that the outcomes of the sources do not match to each other, we will have difficulties in drafting a unified "corruption picture".

Data sources

The first data source consists of course of the data which the PPO allowed us to inspect. These encompassed annual statistics, (lists of) "corruption" cases sent by the municipal and districts prosecution offices to the Special Anti-corruption Department. However, it soon became clear that these data had to be complemented by other sources, for which reason the research team addressed the Statistical Bureau (SB) of Serbia. In addition, at the Belgrade District Court a number of finalised cases became available and have been studied.

a. The Public Prosecution Office

The PPO statistical database concerning prosecutions and convictions is based on forms sent by the prosecution offices to the Republican Prosecutor's Office (RPO). It covers the years 2003-2006; for each year, a separate report was issued. It contains penal law categories concerning:

(1) criminal offences against the economy;

(2) crime against official duty; and

(3) other criminal offences related to a breach of integrity.

Offences in the first two categories may be of relevance to the corruption project. The offences taking/offering bribes and illegal mediation, are of course of direct relevance. Of other categories, the relevance is less certain, like "abuse of office" or "fraud at service". Whether the latter categories are of real relevance is difficult to determine: nothing is known about a potentially relevant corrupt conduct. Fraud can be committed by a single person or by a trespasser paying off a supervisor or a controller. The same concerns "abuse of office" or "abuse of authorisation in the economy".

It is important to bear in mind that the PPO database counting unit is the criminal case, or more precise, "reports" submitted. Individual defendants are counted, but only as "number of accused", "position of the accused in the damaged company", "found guilty/not guilty" and sentences, all differentiated per crime-category. How many suspected persons occur in the incoming reports is not mentioned. Therefore, a horizontal comparison between the number of incoming reports, rejected, charged, convicted and punished persons is only possible if it has been stipulated, like the number of accused under the heading "position of the accused in the damaged company". Basically, all reported/accused persons are aggregated or "encapsulated" within the separate columns between which there is not always a statistical connection in terms of a 100 per cent.

In essence, the PPO database is an annual management instrument. It tallies up the decision steps in the case handling and a limited number of case variables and characteristics of the accused. A comparison between the years is only possible for cases/criminal acts overflowing from the previous year which together with the newly registered cases indicate the beginning annual case load (= 100 per cent). The database is inflexible in the sense that it does not allow an independent breakdown based on identified counting units: what is not mentioned in the columns cannot be known. This implies that it is only suitable for a first description, but not suitable for proper statistical analysis.

Corruption cases for the years 2007 and 2008. The Republican Prosecutor also ordered the municipal and district prosecution offices to submit corruption cases from 2007 onwards. In total, 50 offices complied by sending in cases. The reported cases have been inserted into an Excel file, to be discussed later.

b. The Statistical Bureau

The SB collects data from the PPOs and the Courts. The reporting starts with the PPO: When at this level a decision has been made, a form is sent to the SB. This happens when:

- dismissal of the criminal report (no procedure is initiated);
- to request the investigative judge to start an investigation; or
- indictment without investigation.

When the cases are brought to Court for investigation, they are registered under the prefix "Ki" and after a charge has been submitted it becomes the process number. When the case has been finalised, a form is filled by the Court office and sent to the SB. However, an important change is made as this form concerns single defendants, not cases. The defendant numbers at the SB and the Courts must correspond: with defendant numbers one can find the relevant criminal files at the Courts. We come back to that later.

The available annual SB-database is an aggregated one, based on individual defendants/convicted persons. Its output consists of pre-fixed tables with the offences as the main variables broken down by procedural steps, the rough time indication (same year or overflow from previous year) and a few offender characteristics like male/female. Statistics on the relevant subjects were only available until 2005: after the change of the criminal law 2006, new statistics are not (yet) available[9].

c. The Beograd District Court

In addition to these aggregate databases, the team was enabled to study 12 finalised cases at the district Court of Beograd. The dates of the reports to the PPO range from 1995 to 2005. They were sentenced between 2002 and 2007.

During a meeting, it has been mentioned that more cases would be made available, but during the reporting phase these have not been produced thus far.

The databases of the SB nor that of the PPO were available in an automated version. Data processing had to be done by hand, looking "behind" the available paper material was impossible.

Main findings

a. SB and prosecutor data

As remarked before, it must not be taken for granted that the databases of the SB and the PPO reflect reality in the same way. They may differ as their sources and (unknown) data processing are different. To determine the potential difference, a comparison of the relevant crime categories and the decisions has been carried out for the years 2004 and 2005 (Table IV).

Table IV. Comparison SB and PPO 2004-2005: reports and charges

	2004				2005			
	Rejected reports		Charged persons		Rejected reports		Charged persons	
Offence	SB	PPO	SB	PPO	SB	PPO	SB	PPO
Abuse office	1,477	2,190	1,283	1,766	1,414	2,153	976	1,585
Embezzlement	105	152	462	556	123	177	440	527
Unconsc. service	165	191	85	62	145	234	139	43
Fraud	21	25	9	19	5	13	7	9
False. doc	88	1	264	1	125	8	216	0
Crim. off. civil. serv.	14	18	43	59	18	22	39	78
Taking bribe	20	15	41	50	28	39	49	83
Giving bribe	8	26	24	34	12	35	40	77
Other offences	621	258	47	62	714	382	58	84
Total	2,519	2,876	2,258	2,609	2,572	3,063	1,964	2,486
Difference	357		351		491		522	

The comparison of the outcomes of the two data sources demonstrates a systematic difference: the PPO has systematically higher numbers. There is one striking difference: the PPO had no charges for fraudulent documents in 2005 against 216 for the SB.

The difference cannot be explained from the "case" (PPO) versus "perpetrator" (SB) registration difference, because in that case the SB would have higher figures assuming that a certain portion of the "cases" have more suspects. Moreover, that difference should disappear when we compare the categories "charged persons", which should be the same. This does not appear to be the case.

When we look at the number of guilty verdicts/convictions, we also find differences between the SB and the RPO figures (Table V).

For both years, the RPO reports more convictions than the SB, though the differences are less striking – with the exception of "falsification of official documents" for which the RPO reports no convictions at all.

It is not the task of the research team to determine the validity of either database: we have to conclude that both do not match on any crime category or procedural decision variable. Without further in-depth research, the validity of the official Serbian databases on corruption remains indeterminable.

b. Data from the prosecution office

The third information source is the Special Anti-corruption Unit of the Republican Prosecution Office. In 2007, this anti-corruption department set up to monitor corruption cases informed all prosecutor's offices about their obligation to inform this department of all cases which are in progress with reference of relevant articles. In principle, this should constitute a full database of (potential) corruption cases from 2007 onwards. The results of the compliance to this regulation until August 2008 by 138 municipal and 30 prosecution offices at the District Courts are presented in Table VI.

The table raises doubts as to the compliance to this regulation. Assuming a proper compliance and a correlation between the size of the municipal and District Court, the outcomes are very unequally spread: only 50 of the 138 municipal and 30 districts offices sent in reports (30 per cent). The largest district like Beograd submitted only 37 reports in 2007 and 25 in 2008: this represents, respectively, 6 and 8 per cent of the

	Convictions 2004		Convictions 2005	
Offence categories	SB	PPO	SB	PPO
Abuse office	461	691	459	687
Embezzlement	314	370	331	398
Unconsc. service	28	13	36	20
Fraud in service	21	8	16	1
False document	215	0	172	0
Crim. off. civil. serv.	64	43	66	43
Taking bribe	26	43	22	46
Giving bribe	32	24	34	36
Other offences	9	52	7	63
Total	1,170	1,244	1,143	1,294
Difference	74		151	

Table V.
Comparison SB and PPO 2004-2005: convictions

District/municipality	2007	2008 (till August)
Beograd	37	25
B. Basta	3	2
B. Crkva	8	1
Bogatic	11	1
Boljevac	0	7
Bor	0	13
B. Topola	8	2
Cacak	9	9
Cuprija	1	0
Despotovac	4	1
Ivanjica	6	2
Jagodina	51	13
Kladovo	9	0
Koceljevo	2	0
Kragujevac	0	1
Kraljevo	39	39
Krusevac	9	3
Kucevo	4	2
Kursumlija	1	0
Lajkovac	3	0
Lazarevac	12	1
Leskovac	3	8
Loznica	14	2
Majdanpek	5	0
Negotin	8	5
Nis	4	0
Novi Pazar	1	0
Novi Sad	2	0
Obrenovac	7	0
Odzaci	1	2
Pancevo	0	4
Paracin	11	20
Pirot	43	31
Pozarevac	35	4
Prijepolje	3	10
Prokuplje	18	8
Raska	11	14
Sabac	42	2
Smederevo	7	20
S. Mitrovica	36	5
Sokobanja	6	3
Sombor	1	0
Subotica	5	0
Tutin	1	2
Uzice	13	1
Velika Plana	0	0
Vladimirci	3	4
Vranje	16	42
Zajecar	54	6
Zrenjanin	6	0
Total	573	315

Table VI.
Corruption reports sent to the republican prosecutor 2007-2008

returned reports. This contrasts with the much smaller provincial district Jagodina, which in 2007 submitted 39 reports: 9 per cent. This score did not last, however, because the following year Jagodina's share sunk back to 4 per cent. Now, the small district Vranje scored highest: 13 per cent with 42 reports. Only Kraljevo (two times 39 reports) and Pirot (41 and 31 reports) were somewhat steady in their reporting. However, steady of what? Statistically, we do not know what the 100 per cent could be: there was no cross-referencing with the SB. In terms of contents, inspection of the reports submitted showed that sometimes there was no corruption involved. In addition, this set of cases contained none of the high-profile corruption cases high-lighted in the media: no politically exposed persons were mentioned[10].

The RPO did notice some underreporting, indeed, and therefore stimulated the prosecution offices to report broadly. This did not improve compliance, but resulted in over-reporting of cases with little substantial relevance to the corruption issue. This is demonstrated if we break down the input by offence. If we add the two years (2007 + 2008 till August) and look at the most frequently offence categories being reported, we obtain Table VII.

Almost half of the reports concerns abuse of office, while the content analysis of many reports hardly reveals corruption (content analysis still in progress). A second category which scores highly consists of complaints about corruption/abuse of office at the Courts. However, this is mainly accounted for by the reports of five offices, from which 153 of these 193 complaints originated (Jagodina, Pozarevac, Sabac, S. Mitrovica and Zajecar). The suggested explanation is that disgruntled litigants and/or their attorneys almost blindly file such complaints. This could not be verified. Whether (and why) this phenomenon is limited to just a few regions is difficult to tell in view of the irregular compliance.

As far as "hard-core" bribery is concerned – bribe offering and bribe asking – these categories are hardly represented. Are there so few complaints about bribery? We will address this question later.

It is difficult to attach any specific meaning to these statistics. The compliance rate is difficult to assess, it is unknown whether non-compliance is sanctioned. The prosecutors are urged to report and some offices did so abundantly, but other offices lagged behind or did not they have corruption reports? Then it is appropriate to raise the question whether these figures are more interesting for what they fail to tell: the absence of corruption cases entering the judicial system.

Does this also apply to the Special Prosecutor's Office for Organised Crime (SPO)? Given the likely connection of organised crime and corruption, an input from the SPO should be expected. However, it appeared that the Anti-corruption Department of the

	Abuse of office	Abuse of auth. economy	Bribe asking	Bribe offering	Judge and PP	Other	Total
2007	278	32	25	8	136	94	573
2008	160	20	22	4	57	50	313
Total	438	52	47	12	193	144	886
Percent	49.4	5.9	5.3	1.4	21.8	16.3	100

Note: Missing values 2008: 2

Table VII.
Crime categories reported 2007-2008

RPO has no investigative connections with the SPO and no reports have been forwarded. Nevertheless, the SPO indicted 115 defendants for abuse of office, while in 2006, it indicted 16 defendants of bribery (15 taking and 1 offering). All cases are still pending.

During the process of information gathering and analysis, the team could not but conclude that an orderly and disciplined data management in the Anti-corruption Department is lacking. In general, it took the team a disproportional amount of time (failed appointments and inconclusive meetings), to move forward, reflecting anything but a sense of urgency to get insight into the own information base.

c. The Beograd District Court

The team also analysed 12 criminal files of finalised corruption cases at the District Court of Beograd. It goes without saying that this was not a representative sample: it was just what the Court had in stock and subsequently analysed by the team as a try-out for further investigation. Table VIII summarises the main findings.

By its nature, these finalised cases do not represent a picture of the actual state of affairs in the Beograd district: with the reporting year ranging a whole decade, and after years of procedures the cases struggled to a final verdict. The average process time was well over four years (mean, 4.14; median 3.33).

Four cases ended in a not-guilty verdict. In case 5 against a police inspector, this happened after all the 12 witnesses withdrew their statements in appeal: their statements "would have been obtained under pressure". The other two police officers did not fare so well: in cases 7 and 12, the extortion of a simple traffic offender

No/year report	Length proc. yr	(Not) guilty	No offenders	Sentence	Probation (year)	Nature of facts	Profits in dinars/DM
1. 1995	10	Guilty	1	1 year		Embezzlement	5,000,000
2. 1999	7.75	Not guilty	6			Embezzlement	5,000,000
3. 2000	7.25	Not guilty	2			False document	12,700
4. 2001	3.5	Guilty	1	6 month	2	Demand false rep.	6,000
5. 2002	3.25	Not guilty	1			Demand goods	60,000 DM
6. 2002	1.25	Guilty	1	10 month	3	Demand surgery	36,000
7. 2002	4.58	Guilty	1	2 year	5	Demand tax off.	40,000
8. 2002	4.08	Guilty	1	10 month	4	Demand smuggler	24,000
9. 2002	2.16	Not guilty	2			Demand transp. ill	Unknown
10. 2003	0.75	Guilty	1	2 year		Demand goods	50,000
11. 2004	2.17	Guilty	1	6 month	3	Demand delivery	2,000
12. 2005	1.33	Guilty	1	8 month	2	Demand traff. off	500

Table VIII.
Finalised cases at the Beograd District Court

(for 500 dinar) and a smuggler (for a larger "fee" of 24,000 dinars) ended in a prison sentence of eight and ten months prison, but on probation. The prison term – but on probation – appeared to be the most usual punishment: only two custodial sentences were imposed unconditionally. We will return to this outcome in a later section on sentencing.

As was the case with the three police officers, most cases concern civil servants demanding or extorting money or goods for services, or neglecting their duty, like the tax officer towards his tax evader. Medical staff also tried to enrich themselves at the expense of the needy patients: refusal of surgery or transport, unless ... (cases 6 and 9).

What kind of perpetrators do we meet here? While realising the danger of undue generalisation from a small sample, the offender picture is that of "John Average": "married with children", no criminal record and higher education (high school and beyond). And of course, a valuable job, which is the very basis for extorting fellow citizens. Though the criminal files are too few and contain insufficient information to make "reasoned speculations", the image of the better-off profiting from those who need their services urges itself as a hypothesis for a follow-up research.

Trends, and what they do (not) tell

The findings thus far are sobering as far as the reliability and validity are concerned: at best the validity is indeterminable. None of the databases match with each other and none can be used as a useful approximation of the corruption situation in Serbia. Does this observation entail that the figures of either the SB, the RPO or the reports from the prosecution offices do not reflect any reality? That depends with what "reality" one want to compare them: the "reality of corruption out-there" or the "reality of decision making". For both, it may be useful to look at some trend-lines first and compare them with other data.

In the first place, we have a rather long nine years time series of the SB concerning the broad category "crime against official duty", as represented in Table IX and Figure 1. On the one hand, we have the trend of the reporting to the authorities, which – with hesitations – may be interpreted as approximating the "real" corruption crime rate. On the other hand, we have the penal law system processing. The two do not appear to correlate: whatever the variation in the reporting rate, the system continues to process within comparatively narrow margins.

Looking at the reporting line, one observes a clear "bump" upwards after the Milošević era, which sinks down again after 2004. The line for the charges moves slightly in opposite direction, while the figures of the courts hardly vary around their arithmetic average. Of course, these figures cannot be interpreted without speculations,

Crime against official duty	1998	1999	2000	2001	2002	2003	2004	2005	2006	Mean
Perpetrators reported	4,303	3,169	3,312	4,640	5,312	5,535	5,356	5,253	4,343	4,580
Perpetrators charged	1,860	1,566	1,583	1,473	1,553	1,566	1,796	1,839	1,896	1,681
Convicted	1,242	1,133	1,101	983	1,031	1,038	1,170	1,126	1,147	1,108
Convicted/charged (%)	67	72	70	67	66	66	65	61	60	
Convicted/reported (%)	29	36	33	21	21	19	22	21	26	

Source: *Statistical Yearbook of Serbia* (2008, pp. 404-5)

Table IX.
Reports, charges and convictions of offenders against official duty, 1998-2006

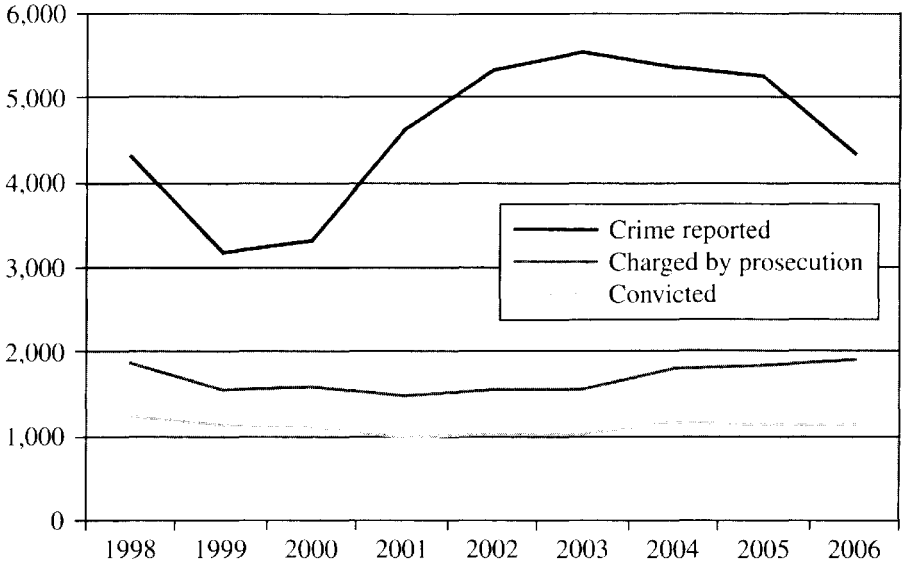

Figure 1.
Trends in reporting, charges and convictions of crime against official duty

but it is fair to hypothesize that the reporting of crime may have been discouraged by lack of response of the judicial system. To what extent is this interaction between reporting informants and the judicial system a plausible hypothesis?

When we project the finding concerning bribery – offering and asking or receiving bribes – one observes a dismal proportion, irrespective whether one takes the figures of the RPO or the SB for real. According to the SB on average 90 cases of bribe taking/asking and 48 bribe offering are reported (2003-2005). This dwindles into insignificance compared to the total reported crimes against official duty.

To find more tokens of corruption, the team sifted through the statistics of other crime categories. For the category "corruption in [...]" we have the figures of only two years, represented in Table X.

It is obvious that these figures hardly square with the various corruption perception surveys which have been published during the last years, in particular concerning customs, health care, police and the judicial system. Indeed, the low reporting rate and the subsequently even lower (or absence) of charges and convictions do not tell us much about corruption in society, but about the relevant criminal law enforcement. Maybe, the low reporting frequency is due to the fact that the category "abuse of office" covers these specific corruption modalities, which are then hidden in the large reporting increase after 2001. That uncertainty has to be investigated. But, it does not reflect in the stable trends of charges and convictions.

Table X.
Reports, charges and convictions of various corruption categories 2003-2004 (SB)

	2003			2004		
	Report	Charge	Conv.	Report	Charge	Conv.
Corruption in state admin	18	1	1	17	1	1
Unintentional free use of state funds	1	0	0	4	0	0
Corruption in public procurement	0	0	0	12	0	0
Corruption in privatisation operations	0	0	0	0	0	0
Corruption in administration of justice	11	0	0	12	0	0
Corruption in healthcare	13	0	0	5	0	0
Corruption in education system	2	0	0	1	4	4

If we measure criminal law enforcement by its effects, the present data and the long-term "flat" trends at the prosecution offices and the Courts do not allow any identification of a specific corruption policy. Rather, the present picture presented here confirms another story, mentioned in the UNDP report: a "witnesses' lack of readiness to cooperate fully with the police" (UNDP Serbia, 2008). Clearly, for very good reasons.

The citizen would feel reinforced in this attitude if he would be informed of the length of the procedures in these cases. According to the SB statistics of 2003 and 2004, the procedure of, respectively, 77 and 80 per cent of the cases lasted "over one year". However, the SB way of presenting the processing time by simple month classification under one year and the rest "over one year" is misleading. As we have observed with the Belgrade District Court cases, the average processing time is well over four years, with a median of three years and four months.

From the perspective of measuring policy making by its effects, case processing but also sentencing are important, indeed. When after diligent reporting and police investigation cases keep dragging on for years, one cannot expect that witnesses will step forward again, while the police will direct its detective capacity to other priorities. If in addition, the sentences meted out are also lenient, this impression will thrust itself on the public that "they can get away with it". Therefore, we inspected the available sentencing data. Though sentencing analysis requires a longer time series we had only 2004 and 2005. This does not allow a temporal comparison. To obtain a larger total and to simplify the presentation, we put the two years together and calculated the relative frequency of sentencing modalities and severity.

Interpreting sentencing data is a delicate matter as one cannot deduce causal connections between determining variables and the sentencing outcome, certainly not from the aggregate tables of the SB. Nevertheless, such aggregate statistics do convey a general picture of sentencing.

When we first look at the main categories in Table XI, conditional and unconditional punishments, we observe that most perpetrators, 70 per cent, are punished with a conditional sentence. "Unconscientious services" ("criminal negligence in office")

	<30 days (%)	1-6 month (%)	6-12 month (%)	1-2 year (%)	2-5 year (%)	5-10 year (%)	Fine (%)	Condi. prison (%)	Condi. fine (%)	Sentences = 100%
Abuse office	0.4	20.7	4.5	1.2	0.7	0	0	72.1	0.4	921
Embezzlement	0.6	20.2	6.2	1.9	0.9	0	0	69.6	0.6	644
Unconsc. service	0	10.9	23.4	9.3	10.9	0	20.3	25.0	0	64
Fraud in service	5.3	21.1	0	0	0	0	0	73.7	0	38
False document	0.5	13.7	1.6	0.3	0	0	0	81.7	2.3	387
Crim. off. civil. serv.	0.8	20.8	2.3	0	0.8	0	0	70.8	4.6	130
Receiving bribe	0	37.5	25.0	10.4	2.1	2.1	0	22.9	0	48
Giving bribe	1.5	36.9	3.1	0	0	0	1.5	56.9	0	65
Total (%)	0.6	19.9	5.2	1.5	0.9	0.04	0.6	70.2	0.1	2,297

Table XI.
Sentencing of various crimes against official duty: 2004-2005

and receiving bribes appear to be punished most often with unconditional sentences. But, while unconscientious services are most often punished with fines, those convicted for receiving bribes have a high chance of finding themselves in prison: 77 per cent. In two cases, prison terms of two to ten years were imposed. Granted, with a national conviction score of 48 over two years this may not look as an impressive deterrence. The counterpart – offering a bribe – seems to be dealt with more leniently: 57 per cent conditional sentence and most prison terms below six months.

As follows from the previous sections, it is impossible to deduce conclusions concerning anti-corruption prosecution and sentencing policy. Apart from offence/offender variables, which determine mainly the seriousness of the case, sentencing may be strongly influences by the variable "length of procedure". And with 77-80 per cent of the procedures lasting more than one year, the likelihood that unconditional prison sentences will be imposed may diminish too. It is a plausible hypothesis that this time variable mainly reflects the (lack of) "sense of urgency" in this field, which influences again the (declining) reporting rate (Table IX and Figure 1).

Even if this hypothesis is plausible, to substantiate it we must get deeper into the empirical material. For this, we are dependent on the information holders: the SB and the Courts which will be the main hurdle for a follow-up project.

Present and future: Sisyphus wrapped in clouds or reaching the top?

Surveying the bits and pieces of evidence of corruption in Serbia, the picture is that of a silhouette and, returning to our initial metaphor, the silhouette of Sisyphus, but wrapped in clouds. This cloudy image concerns the efforts of the Serbian authorities to fight corruption with specific laws and institutions as well as the outcomes of the efforts of the law-enforcement agencies. It proved difficult to assess what and how the administrative institutions as well as the PPO and Courts process the "corruption input" to a final output. Despite this uncertainty, the output does not convince as a reflexion of a highly prioritized anti-corruption policy.

At the criminal law side, we started with the uncertainty concerning the nature and quantity of the input. There are differences between the figures of the PPO and the SB. However, this does not only pertain to corruption cases: this concerns a broader, systematic statistical "inconvenience". When van Duyne and Donati (2008) did research on money laundering in Serbia, they ran into the same problem of unsatisfactory data management. Of course, flaws within such a system are not mended overnight, but even the first step was not visible: showing a minimum of interest or even some curiosity[11]. Naturally, we must take into account that database (in)compatibilities are complex and the designing a system for point-to-point comparisons is demanding and time consuming. But, given the seriousness of the researched phenomenon one would expect something like an "anti-Sisyphus" attitude and an accompanying attempt to lift the veils shrouding the anti-corruption policy. In the absence of even a flickering light of curiosity, such an attitude is not likely to develop.

The analysis of the criminal database revealed three aspects which have to be researched in-depth:

(1) *The processing time in view of the many old cases in our database.* But, such findings must be projected against the general processing times in the PPOs and the Courts in view of the observation of the ombudsman concerning general lack "reasonable time" to see one's case finalized.

(2) *The sentencing.* Of course, we cannot conclude anything about the severity of the sentencing, which is an evaluative task. Sentencing must be projected against the general sentencing level in Serbia and against the third aspect.

(3) *The nature and the seriousness of the cases.* We have the impression that the database does not contain really serious cases, or the kinds of corruption of which the common people complain: corruption in the law-enforcement agencies, top officials and health care. This bias towards "small fry" may be reflected in the seemingly leniency of the sentencing.

There may be solid reasons for this state of affairs, but these have to be researched. In *Politika*, 7 May 2009, the spokesperson Ivana Ramic referred to the 595 suspects awaiting trial at the Belgrade Court for abuse of public function, among them three former managers of the Football club *Crvena Zvezda*. Ramic hinted at the time-consuming complexity of the cases, particularly if financial constructions are involved and the increased workload of the Court. These assertions have to be verified. They underline that to obtain clarity the research must be extended to a basic case analysis of a sufficiently large number of cases, in addition to a precise statistical analysis: what is the nature of the case input in terms of seriousness and complexity? This broadening and in-depth analysis can also shed light on the sentencing policy. To achieve this, the Courts as well as the SB will have to open up.

At this point, we must again stress the limitations of our research project: we could analyse only as much as the PPO and the Courts allowed us to see, and these were finalised cases, some of them very old. Pending cases remained barred for us, even if there were no investigative interests at risk or a threat to the privacy of the defenders: scientific research must aggregate and anonymise such that no connections between the analysis and concrete (legal) persons can be made. These basic research principles were not considered a sufficient guarantee.

It is a generally correct observation that the criminal law system is functions as a kind of "sag wagon" and that the real gain is to be made by preventing corruption. This has been the philosophy behind the many commissions and agencies which have been established after 2002. Even if it is difficult to assess exactly their functioning (the all pervasive "clouds"), it became clear that most were meagrely equipped and maybe were not even really wanted. It is most uncertain that the authorities complied with the many decisions or recommendations they received from the organs the government installed, which annulled their preventive value.

Till the present, the administrative institutions' effectiveness appeared to be hampered by lack of staff and infrastructure, but also because the enforcement of their decisions depended on authorities under their supervision. It is assumed that the Anti-Corruption Agency will mend these defects. As a matter of fact, coming fully operational from January 2010 onwards should mean a watershed. Not only because it aims to make the old Law on the Conflict of Interests, which it absorbs, workable, but also because it has two important provisions:

(1) It has a criminal law "tail" in cases of non-compliance (Section X Penal Provisions) containing stiff penalties.

(2) It solemnly declares to undo the defects of transparency we had to cope with during our project and had to highlight in this report.

Art 66 of the Law declares:

> The Agency shall organize research on the state of corruption and combating corruption, monitor and analyze statistical data, carry out other analyses and research and suggest changes in the procedure for collection and processing of statistical data that are relevant for monitoring of the state of corruption.

This is a firm endorsement of the principles of present research project, or preferably, its intended continuation. But, hesitations about the future are justified. Thus, far, to a large extent the anti-corruption legislation has been "externally motivated", mainly due to pressure from the EU and the Council of Europe. Without internal motivation, it is to be feared that the official anti-corruption drive usually proclaimed during the election times fades away as soon as the ballot has been cast. Laws are like cooking recipes: they may read good and may have been written with the best intentions, but "the truth of the pudding is in the eating".

Notes

1. This does not imply that the analysis of the entries of the media would not reveal important aspects of the corrupt situation within the county. For example, it is of importance to address the situation of awareness within a country: the size of the coverage (place preference), the sectors and how they are covered (Begović *et al.*, 2007, Chapter V).
2. See Group of States against Corruption (GRECO), which issued in 2006 an evaluation report on the Republic of Serbia.
3. On 15 September, the Council reported on irregularities during the privatisation of "Jugoremedija" Pharmaceutical Factory from Zrenjanin and concluded: "that the actions of the participants in the privatization of 'Jugoremedija', both of the Government and the Buyer point to possible corruption." In another letter, the same day concerning the privatisation of a Veterinary institute the Council remarked "Such decisions made by the Ministry of Economy and the Agency for Privatization imply that this is the case of either fundamental ignorance of the law, which is inadmissible for the highest state authorities, or corruption." Frank language, but not pleasing to the authorities.
4. The Republic Board responsible for the oversight of the Law on the Prevention of Conflict of Interests will stop functioning from January 2010 onwards. Little is known about the transfer of its expertise and information or how will carry out its function while the agency is getting operational, which may take months (Trivunović *et al.*, 2007, p. 70).
5. The president of the main board of the agency denies any absorption of the Anti-Corruption Council.
6. UNDP web site, Public announcement, 5 August 2009.
7. According to Transparency International in 2008, Serbia's country score as measured by the Corruption Perception Index is 3.4, shared by Albania and Montenegro as far as the Balkans is concerned. It also has Senegal, India and Madagascar at its same ranking, available at: www.transparency.org (accessed 8 September 2009).
8. Of course, there is no satisfaction if the corruption amounts to extortion in cases when the citizen has a right to a certain service, but is pressurised to pay for it or for its timely delivery.
9. It is not yet clear how this gap will be bridged. The authors have not been informed of any conversion of transit from the statistics under the old to the new law.

10. It may be that some of the cases with politically exposed persons are processed by the Special Court for Organised Crime. But, as these cases are not finalised yet, we could not access the criminal files.

11. Although this is regrettable for the Serbian criminal data management, it is not unique in this regard. Surveying research and data about organised crime and money-laundering in most jurisdictions the data management proved to be ramshackle (van Duyne, 2007).

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Corresponding author
Petrus C. van Duyne can be contacted at: Petrus@uvt.nl