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COMMERCIAL OFFENCES BY COMPANIES IN COMPETITIVE BUSINESS ENVIRONMENT

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Abstract: *In response to current scientific and social demands, the authors have chosen to dedicate this paper to examining the interconnection between the subjects of economic relations, as well as the legal violations committed by these subjects in the establishment of such relations. The economy is the main carrier of the entire social development and prosperity of the society, so researching the legality that occurs in the daily operations of the company and the fair and honest relationship towards consumers or service users was a great challenge for the authors. The main goal of the paper is the analysis of the ten-year period of business operations of companies on the territory of the Republic of Serbia and the discovery of the legality of their operations. After analysing the concept, types and main characteristics of companies established in the territory of the Republic of Serbia, the authors presented the basic economic, commercial offences according to the currently valid regulations in the Republic of Serbia, which are most often committed by companies and responsible persons in them. In the research, almost all basic methods of knowledge and research were applied, and statistical and comparative methods were used from the general scientific methods. From the methods for data collection - method of content analysis of documents, laws and annual statistical reports of the Statistical Office of the Republic of Serbia were used. By identifying the most prevalent sanctions imposed for the illegal operations of companies, the authors conclude the paper with a discussion and analysis of these deviant behaviors, along with recommendations for their prevention. The unique value of this work lies in the findings derived from analyzing a decade of court practice related to the subject of the study.*

Keywords: *commercial offences, companies, competition, consumer rights*

1. INTRODUCTION

The importance of a strong economy and legal certainty in establishing and maintaining economic relations are crucial factors for the progress of any state and society. This is true globally and within the Republic of Serbia. As a developing country, Serbia is in the process of building the foundations for a robust economy, aspiring to become an economically strong nation, which is essential for our continued integration into the European Union. Attracting foreign investment, expanding the production of our products and services beyond national borders, can only be achieved if the fundamental principles of the market economy are respected, alongside the regulations that govern these principles. While Serbia has made significant progress in this area, there are still challenges in ensuring the smooth operation of businesses and establishing a fair, competitive market, particularly in terms of preventing monopolistic practices. When a country's economy is stable and well-established, it becomes an attractive destination for investments and cooperation in various areas, including military, organizational, market, tourism, and more. This underscores the importance of putting significant effort into establishing and maintaining order in economic, business, and other related sectors. Numerous studies emphasize the critical role of the economy, not only from the perspective of the state but also from the individual's standpoint, particularly in terms of work, growth, and development. For instance, if a country's economy is weak and characterized by a high level of crime, investors are unlikely to invest due to the lack of legal certainty and potential risks. Additionally, in an economically and legally unstable state, the labor market suffers, and there is an increased sense of insecurity regarding safety and working conditions.

When these factors come into play, workers' motivation tends to decline. This often leads to employee dissatisfaction, which can result in deviant behaviors with potentially concerning outcomes. From the above, it is clear that

the economy serves as the "lifeblood" of society, and its continuous development is crucial. This is why research on this topic remains ever-relevant, socially important, and valuable. Furthermore, the dynamic nature of the market, with its constant changes, makes this area of study both intriguing and essential.

Consumer rights, including the right to choose, the right to information, the right to safe products or services, the right to privacy, the right to complain, and others, are becoming increasingly important. However, in companies that engage in various commercial offenses, consumer rights cannot be considered fully protected. During our investigation of this issue, we found that regulatory violations occur across several sectors, including the monetary, banking, and credit systems; building construction; trade in goods; food safety; importation of agricultural and food products; occupational health and safety; and the placement of medicines on the market. These violations contribute to unfair competition and disrupt normal market dynamics. Companies that adhere to all legal requirements have fewer financial resources available for investment in other business areas, such as advertising or expanding product ranges, compared to those that neglect their obligations to the state and society, avoiding mandatory payments and duties.

The authors are guided by the idea that a "welfare state" is one where legal certainty prevails, ensuring that citizens, employees, workers, as well as businesses and companies, feel their rights are respected and protected. In such an organized state, employees will be motivated to work and meet performance expectations, and the market will recognize and reward their efforts. However, if commercial offenses are frequent, and if it becomes socially acceptable to violate established regulations without facing timely, appropriate, and legal action from state authorities, then every aspect of our state's and society's development will be at risk.

2. CONCEPT AND CHARACTERISTICS OF A COMPANY

Every work process necessitates some form of organization or structure. This is how complex entities are created, within which economic activities occur, and which operate in the market under a specific organizational framework. Within such organizations, various types of relationships are established, particularly in terms of management and leadership, leading to the development of a more or less complex administrative structure that forms the company.

All economic entities operating within the territory of the Republic of Serbia can be classified based on the nature of the relationships between the company's members. This results in two main categories: limited companies and partnerships. Limited companies include joint-stock companies and limited liability companies, while partnerships encompass general partnerships and limited partnerships. The historical development of economic relations reveals that as the productive forces of society advance to higher levels of development, the economy becomes increasingly complex. Simultaneously, the social division of labor becomes more varied and specialized, leading to a greater diversity and complexity in the forms of economic activity. (Samardžija, 1978).

The economy of a country encompasses a range of activities involved in the production of goods and services and their subsequent distribution. Production refers to the continuous process by which human needs for goods and services are met, while consumption represents the satisfaction of these needs, which is the ultimate goal of production. Distribution acts as an essential intermediary between production and consumption, as it determines the quantity of goods and services required to meet the needs of individuals, groups, and communities, as well as supporting the continuation and expansion of production. This distribution occurs both directly and indirectly through various forms of exchange and transportation (Jovanović, 1983). The relationships

that emerge within the processes of production and distribution are organized and managed, forming the economic system of a country. Therefore, it can be concluded that the economic system involves the interaction of elements within production, distribution, and consumption, with its measures addressing key economic issues. These measures influence production, the distribution of social labor's output, and the distribution and redistribution of income or production value (Bajec & Joksimovic, 2001).

A commercial company is an artificially established entity whose entire legal existence is derived from legal regulations and laws. Unlike an individual, who automatically becomes a subject of law at birth, companies—and more specifically their founders—must meet a series of legal requirements to become a subject of law, obtain legal and business capacity, and acquire certain rights and obligations (Škorić, 2015).

“A company is a group of individuals who, utilizing the means of production, carry out specific functions in the process of social reproduction as an organized, independent economic unit through their coordinated activities.” (Nikolić, 2011).

„An enterprise is an organizational system in which the connection between work and assets is organized. Through organized activities, with the action of internal and external factors, the company fulfils its social role in the process of social reproduction“ (Živković, 2008).

2.1. TYPES OF BUSINESSES

In both theory and practice, companies are commonly divided into limited companies and partnerships. This classification is widely recognized, as most companies can be grouped into one of these two categories. The reason this distinction is often made is that the legal procedure for establishing a company is clearly defined based on whether it falls into one of these two groups. As a result, these categories are frequently discussed, taught, and applied in practical settings.

However, it is important to also recognize other types and classifications of companies

that may arise both in theory and practice, such as small, medium, and large companies, as well as individual entrepreneurs. Additionally, when considering the connection between companies, distinctions can be made between holding companies, conglomerates, cartels, concerns, multinational companies, transnational companies, and transcontinental companies, among others.

Such divisions have evolved throughout history, and as technology and techniques continue to advance, it is likely that new forms and types of companies will emerge in the future. The origins of the organizational forms we now call companies can be traced back to craft production, followed by manufacturing production, and eventually industrial production. As the production process developed, so did companies. In earlier times, companies were small, typically concentrated in a single city or country. However, with the growth of transport infrastructure, cooperation between cities and countries began to take shape. This led to the need for various types of companies, for which, over time, even long distances, including kilometers, water crossings, and state borders, were no longer barriers to effective business relations.

Every business entity's success in the market depends on how well it organizes its assets, human resources, and vision. Over the course of several life cycles, economic entities develop, expand, diversify, or face decline. The creation of a business entity begins with an idea for a new venture, followed by stages of growth, professionalization, consolidation, diversification, and ultimately either a decline in activity or revitalization.

For a business to thrive, it is crucial to operate within a stable, legally regulated environment and a developed market with fair and transparent competition. In such conditions, monopolistic practices and the exploitation of smaller entities by larger, financially stronger competitors can be avoided.

The relentless nature of the market leads to new divisions and the appearance of new types of companies, so only those companies

that are ready to enter the "market race", make rapid structural changes, introduce innovations in the way they work, quickly adapt their offer to current demand, can hope for survival on the market. According to this thesis, a few new divisions of companies appeared in practice. And that to reactor companies¹, defending companies², company analysts³ and companies seeking⁴. The last-mentioned type, company seekers, are today the most desirable employer, business partner and collaborator.

Whatever type of company is founded, developed, changed, or closed, it is especially important to act following the laws, in order not to commit a commercial offence.

3. A CONCEPT OF COMMERCIAL OFFENCES AND CHARACTERISTICS

The Law on Commercial Offences (2005), currently in force in the Republic of Serbia, defines a commercial offense as a "socially harmful violation of regulations on economic or financial operations, which either caused or could cause more serious consequences and is defined as a commercial offense by a regulation of the competent authority."

A commercial offense is defined by law or government regulation, which is based on that law. Legal entities and/or responsible persons within a legal entity are held accountable for commercial offenses. In comparative legal systems, responsibility for committing a commercial offense may also apply to entrepreneurs. However, it is important to note that the Law on

¹ This is a type of company that does not follow the changes in the environment, does not reduce its business to environmental research, nor adapt its business to current or upcoming market conditions, and therefore most often ends its existence with liquidation.

² This type of companies generally only follows changes in their domain and is not interested in other changes from the environment. It is characteristic of small businesses, and it functions by periodically developing its products and services.

³ Companies that we characterize as analysts are very interested in changes in the environment, but do not allocate additional funds for research, but are guided by the principle of differential orientation.

⁴ The type of companies that base their entire operations on establishing new products and conquering new markets, that have highly decentralized decision-making and flexible organization.

Commercial Offences of the Republic of Serbia does not explicitly define this possibility.

The concept of a commercial offense can be defined as “a violation of regulations on economic and financial operations, committed by a legal entity, a responsible person within a legal entity, or an entrepreneur, which is socially harmful, directed against the country’s economic system and its economic interests, as well as the interests of citizens, causing or potentially causing serious consequences, and which is defined as a violation by the regulation of the competent authority” (Đorđević, 2008). The most important principle of our law - the principle of legality is also applied in this area. This principle guarantees that the perpetrator of a commercial offence cannot be punished, nor any other sanction, if it was not prescribed before the offence was committed, nor will the perpetrator of a commercial offence be held accountable for the act committed, if before the act was committed, such an act was not defined in the law as a commercial offence. Also, only the law or regulation that was valid at the time of the commission of the commercial offence can be applied to the perpetrator of the commercial offence.

In the Republic of Serbia, legal regulations do not apply retroactively, nor is there an analogy in the application of legal regulations (except in cases where a later regulation is more favorable and lenient for the offender than the one that was in force at the time the commercial offence was committed).

The Law on Commercial Offences, as the most important legal regulation that governs this area under the term „legal entity“, precisely defines the following: “companies, institutions, organizations, as well as other legal entities that perform economic or financial business”. Also, it should be noted that the law stipulates that not all legal entities can appear as perpetrators of commercial offence. According to the Law, certain legal entities are exempt from liability, including “socio-political communities” (such as the state community, republic, autonomous province, city, or municipality) and their bodies (e.g., government, ministries), other state

bodies (e.g., courts, public prosecutor’s offices, administrations, agencies, military institutions), and local communities. Furthermore, the law states that “foreign legal entities” will only be liable for a commercial offense if the regulation defining the offense explicitly provides for it. Liability applies if the foreign entity has a representative office in the Republic of Serbia or if the offense was committed using their means of transportation.

The Law also provided that “the responsible person in a legal entity is the person who is entrusted with certain tasks in the field of economic and financial operations in a legal entity, that is, a socio-political community or its body, or in another state body, or in a local community.” The responsible person remains liable for the commercial offence even if their employment relationship with the specific legal entity has ended. Their responsibility does not cease with the initiation of bankruptcy proceedings against the legal entity, nor does it end if the legal entity ceases to exist. Persons in legal entities who cannot otherwise be held responsible for commercial offences are responsible for a commercial offence, but only when this is prescribed by the regulation defining the commercial offence.”

Given that the economy and its flows extend beyond the borders of our country, with Serbian companies often doing business abroad and foreign companies operating within Serbia, the law includes provisions regarding the responsibility of foreign companies and individuals. According to the law, the responsible persons in foreign legal entities are held accountable for committing a commercial offence, provided that the foreign legal entity has a representative office in the Republic of Serbia or the offense was committed using their means of transportation. The responsibility of the responsible person for the committed offence is excluded if they acted under the orders of a management body, provided that the person took all necessary actions as required by law, other legal regulations, or general acts to prevent the commission of the commercial offence. In cases where a criminal

offense also includes elements of a commercial offense, the responsible person will only be held accountable for the criminal offense. However, if the responsible person is initially penalized for a commercial offense and later convicted of a criminal offense that contains features of a commercial offense, the penalty for the commercial offense will be considered as part of the sentence for the criminal offense. For the perpetrators of commercial offense, the legislator established three types of sanctions: fines, protective measures and suspended sentences. The purpose of the foreseen sanctions is to achieve the preventive and repressive function of the commercial offence law, so the aforementioned coercive measures are imposed in a legally prescribed procedure by the court and represent either the deprivation or limitation of certain rights, and sometimes a warning that until the deprivation or limitation of some rights may arise if the illegal procedure is repeated.

“The fine for commercial offences can be prescribed in two ways, either by determining a special minimum and maximum fine within the general minimum and maximum penalty for commercial offences, or in proportion to the damage done, the unfulfilled obligation or the value of the goods or other thing that is the subject commercial offence. In the case of the first method of prescribing the penalty, it is necessary to bear in mind that for legal entities the minimum fine is RSD 10,000 and the maximum is RSD 3,000,000, while for responsible persons in a legal entity the general minimum is RSD 2,000 and the maximum is RSD 200,000. (Ilić & Dinić, 2014).

A suspended sentence for a commercial offence can be imposed on the company and the responsible person in the legal entity. It represents a warning measure that replaces the punishment in those cases when the court judges that the application of the punishment is not necessary and that it can be expected that the warning itself, together with the threat of punishment, will influence to a sufficient extent that the legally responsible person in company who committed the commercial offence

will does not commit same or similar offence in the future. A suspended sentence may be imposed on a legal entity if the court has imposed a fine of up to RSD 20,000 on the legal entity, and up to RSD 4,000 on the responsible person in the legal entity. The specific determined punishment will not be carried out if the convicted legal or responsible person does not commit a new commercial offence during the verification period, that is, if the responsible person does not commit a criminal offence that has the characteristics of a commercial offence. The verification period can last at least one and at most two years.

A suspended sentence may be revoked in three instances: if the suspended legal entity or responsible person commits a new commercial offence during the probation period; if a previously committed commercial offence, unknown at the time of the conditional sentence, is discovered, and had it been known, a more severe sanction would have been imposed instead of the suspended sentence; or if the suspended legal entity or responsible person fails to fulfill the obligations set out in the suspended sentence within the prescribed timeframe. In addition to fines and suspended sentences, the Law on Commercial Offences also outlines four types of protective measures. Firstly: the public announcement of the verdict⁵.

The second measure is confiscation of objects⁶.

⁵ The court will decide on this measure in the event that it is useful to inform the public about its content and in such a way contribute to the elimination of danger, abstract danger, to the life or health of people or to protect traffic safety. The publication of the verdict is done in different ways, most often by publishing it on television, radio or in the press. In which of these ways the verdict will be published, the court decides, depending on the importance of the committed commercial offence and the need to inform the public about the verdict. The costs of publication of the verdict are always borne by the perpetrator of the commercial offence.

⁶ If during the commission of a commercial offence the perpetrator used a certain object or that object is the object of the crime, this protective measure will be imposed. Therefore, the objects with which the commercial offence was committed, which were intended for the execution of the commercial offence and the objects that were created by the execution of the commercial offence are confiscated from the perpetrator of the commercial offence. If the objects are in the state of the perpetrator of the commercial offence, they must be confiscated immediately, and if they are owned by other persons, they will be confiscated only if there is a reason to protect people's lives and health, traffic safety or other economic interests or reasons of morality. If the objects are owned by another person,

Then follow: prohibition of a legal entity from engaging in a certain economic activity⁷ and banning the responsible person from performing a certain duty⁸.

3.1. CLASSIFICATION OF COMMERCIAL OFFENCE

The Law on Commercial Offences defines what constitutes a commercial offence but does not specify the types of commercial offences. In the Republic of Serbia, the area is not fully codified, so the Law on Companies is referenced during court proceedings when necessary. To identify the types of commercial offences, one must refer to other legal texts that govern economic and financial operations.

Our research shows that commercial offences most frequently occur in the field of accounting, as outlined in Article 57 of the Accounting Law (2021). The second most common offences are found in the area of financial operations, as defined in Article 405 of the Capital Market Act (2021). Additionally, we highlight commercial offences related to the

takeover of joint stock companies, which are specified in Article 47 of the Law on Takeover of Joint Stock Companies (2016).

Commercial offences are also prevalent in the energy sector, where they are specifically defined in Article 389 of the Law on Energy (2023). In the mining sector, commercial offences are outlined in Articles 180 and 181 of the Law on Mining and Geological Research (2021), specifying the actions and behaviors that constitute offences in this area. Furthermore, the Law on Planning and Construction (2023) includes several provisions on commercial offences, particularly in Articles 202, 202a, 203, 204, and 204a.

All commercial offences in the field of money laundering and terrorist financing are defined in Article 117 of the Law that regulates this area (Law on Prevention of Money Laundering and Financin, 2023). If intellectual property is attacked by committing major rights violations, this will be regulated by the Criminal Code of the Republic of Serbia, however, if other types of rights violations are committed that are of a lighter nature, this will represent commercial offences in this area and will be regulated by the Law on Special Powers for effective protection intellectual property rights (Law on special powers for effective protection of, 2021).

According to the Law on Items of General Use, any person who acts contrary to Article 111 will be punished for a commercial offence (Law on objects of general use, 2022). The Law on Strong Alcoholic Beverages also foresees a longer list of commercial offences and high sanctions for the perpetrators, and this is done in Article No. 51 (Law on strong alcoholic beverages, 2015). In addition to these laws, the Law on Medicines and Medical Devices determines a number of behaviours that should be classified as commercial offences in Articles 217 and 218 (Law on Medicines and Medical Devices, 2017). There is also another law that devotes one article (Article 79) to commercial offence, and that is the Food Safety Law (Law on Food Safety, 2019).

that person can demand compensation from the perpetrator of the commercial offence. Confiscated items are sold at public auction or handed over to competent authorities, museums, scientific or charitable institutions or destroyed.

⁷ Protective measure means the prohibition of a legal entity to engage in the production of certain products or the performance of certain transactions in goods and services or other economic activities. The court will impose such a measure on the perpetrator of a commercial offence when there are indications that further engagement in that or similar economic activity by the legal entity that committed the commercial offence would be dangerous to the life or health of people, or harmful to the economic or financial operations of other legal entities or to the economy, or would harm the reputation of our country or our companies or other organizations abroad when conducting foreign trade operations. Also, this measure can be imposed if the legal entity committed the same or similar commercial offence in the last two years, that is, in case of recurrence. This measure can last from 6 months to 10 years.

⁸ If an individual, in their role as a responsible person, has misused their position during the performance of their duties, or if the court determines that their continued involvement in the same responsibilities could pose a danger, this protective measure will be imposed. When this measure is applied, the individual is prohibited from carrying out the activities that were involved in the commission of the commercial offence; a certain management duty in terms of economic or financial operations; a certain type of work or some or all of the duties concerning the disposal, use, management or handling of social or state funds or the safekeeping of these funds. The rules for the duration of this measure are the same as for the aforementioned measure, the only difference being that the duration of the measure can be reduced at the request of the convicted person if it is determined that he has improved his behavior.

Another in a series of laws that is in force in the Republic of Serbia, and defines commercial offences and sanctions for those who commit them, is the Law on Road Traffic Safety, where in Article 325 it is precisely defined which person and under what conditions, with what actions, commits commercial offences in this area (Law on Road Traffic Safety, 2023).

And finally, we must mention that a large number of commercial offences are defined by the law that is closely related to the topic of the work, that is, by the Law on Companies, Articles 585, 586, 586a, 586b.

The list of legally determined behaviours qualified as commercial offences does not end here, but the authors have presented all commercial offences that are most often committed on the territory of the Republic of Serbia in the previous ten-year period, which we will present in the next part of the paper.

4. RESEARCH AND DISCUSSION

One of the main goals of the paper is the theoretical and practical comparison of different types of commercial offences, the perpetrators of commercial crimes, but also the discovery of the causal relationship between such illegal behaviors, causes and consequences of the studied phenomenon. In the previous part of the paper, the authors presented the theoretical concept of the research problem, and in the following part of the paper, we will perform a comparative analysis of commercial offences and establish the legalities that can be observed through such an analysis.

The sublimated and analyzed data were collected on the basis of the official Bulletins of the Statistical Office of the Republic of Serbia, as the only official, respectable and highly accurate data. The research presented in the paper included the number of reported, accused and convicted companies for commercial crimes, as well as the number of reported, accused and convicted responsible persons in the legal entity, in the entire territory of the Republic of Serbia in a period of ten years (2013-2022).

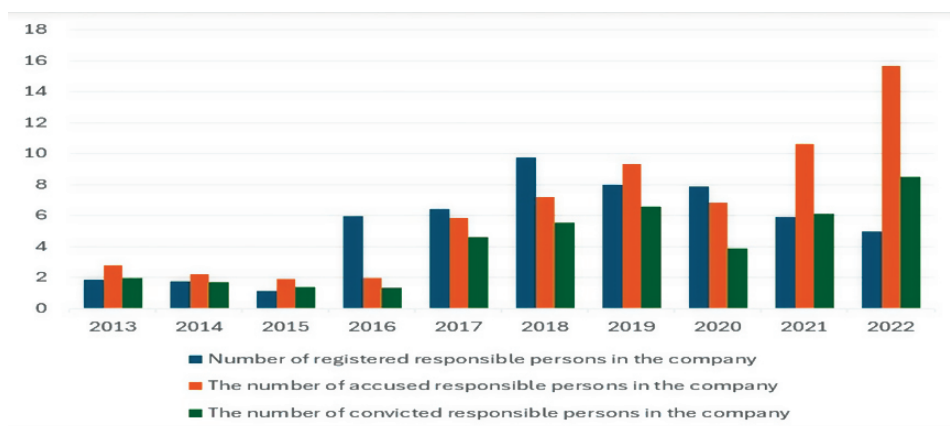
Table 1. Total number of reported, accused and convicted responsible persons in a legal entity for commercial offence on the territory of the Republic of Serbia in the period from 2013 to 2022.

Year	Number of registered responsible persons in the company	Number of accused responsible persons in the company	Number of convicted responsible persons in the company
2013	1,862	2,791	1,941
2014	1,719	2,228	1,679
2015	1,099	1,891	1,352
2016	5,956	1,953	1,341
2017	6,413	5,850	4,604
2018	9,731	7,190	5,518
2019	7,999	9,343	6,576
2020	7,872	6,835	3,877
2021	5,883	10,634	6,129
2022	4,954	15,651	8,487
Σ	53,488	64,366	41,504

Source: Statistical Office of the Republic of Serbia (Bulletin of the Statistical Office of the RS, 2024.)

Over the observed ten-year period, the number of responsible persons reported in legal entities is 17% lower than the number of accused individuals. This discrepancy is likely due to the length of legal proceedings, meaning some individuals who are not included in the calendar year for reporting might still be charged later. Inspectors, Ministry of Internal Affairs members, or public prosecutors typically serve as applicants, often through direct information. The majority of these procedures take longer than six months. The most common commercial offences occur in the field of accounting. Additionally, the number of convicted individuals responsible for commercial offences is 36% lower than the number of accused persons in the same period, and 22% lower than the number of registered persons. During this time, fines up to RSD 5,000 were the most frequently imposed penalty.

In order to make it easier to see the trends and tendencies of the analysed phenomenon, the authors presented the collected data graphically.



Source: Authors

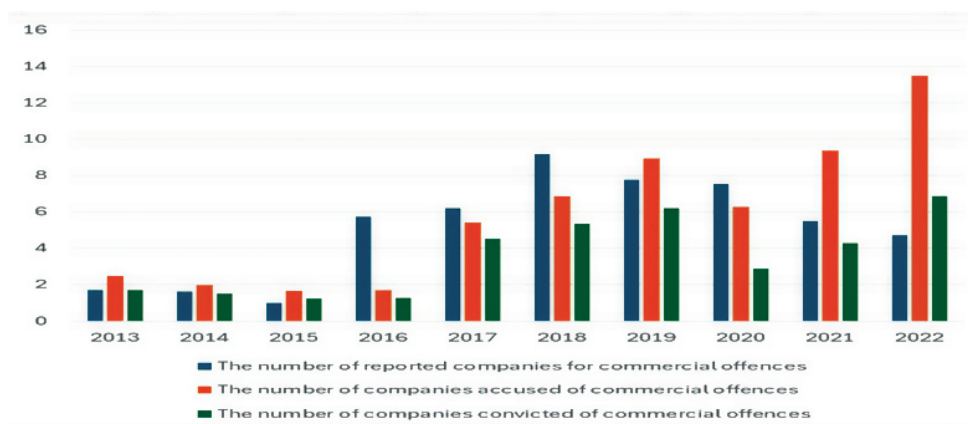
Graph 1. Total number of reported, accused and convicted responsible persons in a legal entity on the territory of the Republic of Serbia in the period from 2013 to 2022.

From the graphic representation of the observed phenomenon, we can see that the number of reported, accused and convicted persons responsible for commercial offence was lower in the first five years of the observed period. The increasing trend in the number of accused individuals stands in stark contrast to the decreasing trend in the number of reported individuals. From the graphical representation, it is evident that the occurrence of the term “crime loss” is almost nonexistent, except in the final two years of the observed period. The reasons for this can likely be attributed to the enhanced inspection oversight and the growing number of registered companies.

Table 2. Total number of reported, accused and convicted companies on the territory of the Republic of Serbia in the period from 2013 to 2022.

Year	Number of registered companies	Number of accused companies	Number of convicted companies
2013	1,718	2,500	1,707
2014	1,631	1,993	1,504
2015	1,013	1,677	1,215
2016	5,726	1,686	1,273
2017	6,196	5,433	4,534
2018	9,194	6,859	5,337
2019	7,764	8,962	6,208
2020	7,529	6,277	2,888
2021	5,496	9,382	4,288
2022	4,702	13,511	6,866
Σ	50,969	58,280	35,820

Source: Statistical Office of the Republic of Serbia (Bulletin of the Statistical Office of the RS, 2024.)



Source: Authors

Chart 2: Total number of reported, accused and convicted companies on the territory of the Republic of Serbia in the period from 2013 to 2022.

The total number of reported persons in the observed ten-year period is lower by 13% compared to the number of accused persons. We have already stated the reasons for this phenomenon when analysing the number of reported and accused responsible persons in the legal entity, and they are the same. The number of convicted persons for this observed period is 39% lower than the number of convicted companies. Also, the procedure in the first phase lasts on average more than six months. And with this phenomenon, offences are most often committed in the field of accounting. And the most dominant penalty is a fine of up to RSD 15,000.

Analyzing the graph of reported, accused, and convicted companies, it is evident that the “loss of crime” is most pronounced in 2016, as well as in the last two years of the observed period. The high number of accused companies highlights the most burdensome phase of the commercial offense procedure. This can be attributed to the increased inspection oversight. However, the significant disparity between the number of accused and convicted companies suggests a need for more thorough and qualified inspection supervision of company operations.

If we examine year by year and compare these two phenomena (data related to responsible persons in a legal entity and legal entities), the most current data on these phenomena would look as follows. For example, in 2022, for perpetrators of commercial offence, the number of reported responsible persons is lower by 16%, and companies by 14% compared to 2021, while the number of convicted responsible persons in companies is higher by 38%, and companies by 60%.

In 95.5% of the cases against the perpetrators of commercial offence, an indictment was filed with the reported responsible persons in the companies, and 95.4% with the companies. The percentage of rejected applications for responsible persons in companies is 4.5%, and for registered companies, that percentage is 4.6%.

In the structure of types of commercial offences in 2022, the most numerous reports are

for commercial offences resulting from violation of accounting regulations: 92.6% for responsible persons in companies, and 92.2% for companies.

In the same year, viewed according to the types of commercial offences, the largest number of convictions was for violations of accounting regulations: 97.7% for responsible persons and 97.2% for companies.

5. CONCLUSION

Although we initially explained that economic flows, market activities, and cooperation between various legal entities are constantly evolving, we have observed that the regulations governing procedures in cases of violations of economic flows in the Republic of Serbia have remained unchanged for nineteen years. It is important to note, however, that in instances where the Law on Commercial Offences is not applicable or does not address specific situations, the provisions of the Code of Criminal Procedure may be applied as a supplementary legal framework (Criminal Procedure Code, 2021). The authors emphasize that it is high time to amend this Law. While it is true that the Republic of Serbia is the legal successor of Yugoslavia, it is crucial to update the regulations to align with the current state system. Terms such as “law of the federation,” “SFRY,” and “bodies of the socio-political community” should be replaced with more appropriate and contemporary terms that reflect the present legal and political framework. There are also references to articles from other laws that have changed over time and are no longer applicable, nor do the acts they refer to still exist. For instance, Article 6a of the Law on Commercial Offences defines that “The concept of the territory of the Socialist Federal Republic of Yugoslavia is determined in terms of Article 113, paragraph 1 of the Criminal Code of the Socialist Federal Republic of Yugoslavia.” However, in the current Criminal Code of the Republic of Serbia, Article 113 pertains to “murder,” not the concept of territory. This is just one example of many similar discrepancies. In conclusion, when the authors advocate

for changes to the regulations, they are not merely addressing terminological inconsistencies, but also the substantive content that no longer reflects the current legal and political framework.

To facilitate the smoother functioning of companies and reduce the number of commercial offences, we believe that codifying legal regulations in this area would be highly beneficial. Currently, regulations related to commercial offences are dispersed across various secondary legislation, making it challenging for individuals and businesses to navigate. Those who need to comply with these regulations must often consult multiple legal texts related to specific economic sectors, which can lead to confusion and inefficiency. A more streamlined and consolidated approach would provide clearer guidelines, improve compliance, and help reduce violations. We are also aware of the demands of such codification and the urgency of the codification of the civil law field, but we believe that at least the unification of these regulations and their classification in the form of some accessible and free internet platform would be valuable, at least for people who are just starting their business.

Based on the research conducted in this paper, we conclude that, on average, 15 responsible persons in a company are reported for a commercial offence each day. Additionally, 18 individuals are accused of commercial offences daily, and 12 responsible persons are convicted of commercial offences, with the majority of these offences occurring in the fields of accounting or financial operations. The authors believe that these statistics reflect a concerning state of affairs in the economy of the Republic of Serbia. The situation might improve by revisiting the court practices, particularly in relation to the fines most commonly imposed, as adjustments here could encourage greater compliance and deter further offences.

According to research in the last ten years of the observed period, the most frequently imposed fine for commercial offence committed by responsible persons in a company is a fine of up to RSD 5,000 (the minimum prescribed by the Law is RSD 2,000, and the maximum is RSD 200,000), and for companies up to RSD 15,000 (the minimum is determined by Law, it amounts to RSD 10,000, and the maximum is RSD 3,000,000). From this, it is an undoubted conclusion that it is necessary to change the currently valid regulation in the part that concerns the general minimum and general maximum fines, because nineteen years ago, when the currently valid Law was adopted, the monetary amounts that were stated had a much higher value than today.

When it comes to companies and their responsibility for commercial offence, the research showed that on average, 14 companies are reported on a daily basis, 16 of them are charged on average on a daily basis, and every day in the territory of the Republic of Serbia, an average of 10 are convicted companies for commercial offence. According to the presented data, we can conclude that responsibility is more often established with responsible persons in a company, than with companies.

It is also important to note that the Law on Commercial Offences does not recognize entrepreneurs as perpetrators of commercial offences, nor does it address their position in this context. The law currently only acknowledges companies and their responsible persons as entities that can be held accountable for commercial offences. This is not the most effective approach, as entrepreneurs play a crucial role in the state's economic system. The provisions regarding their operations should be systematized alongside those for responsible persons in companies and the companies themselves, ensuring a more comprehensive legal framework that includes all key economic actors.

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PRIVREDNI PRESTUPI PRAVNIH LICA U USLOVIMA KONKURENTSKOG POSLOVANJA

Rezime: U skladu sa naučnim i društvenim aktuelnim potrebama, autori su se odlučili da rad posvete istraživanju uzajamne povezanosti subjekata privrednih odnosa, kao i pravne povrede privrednih odnosa od strane subjekata koji te odnose uspostavljaju. Privreda je glavni pokretač celokupnog društvenog razvoja i prosperiteta društva, pa je istraživanje zakonitosti koje se javljaju u svakodnevnom konkurentskom poslovanju privrednih subjekata i fer i poštenom odnosu prema potrošačima ili korisnicima usluga, predstavljalo veliki izazov za autore. Glavna cilj rada jeste analiza desetogodišnjeg perioda poslovanja privrednih subjekata na teritoriji celokupne Republike Srbije i otkrivanja zakonitosti njihovog poslovanja. Nakon analize pojma, vrsta i glavnih karakteristika privrednih subjekata osnovanih na teritoriji Republike Srbije, autori su predstavili i osnovne privredne presteupe prema trenutno važećim propisima u Republici Srbiji koji se najčešće izvršavaju od strane privrednih subjekata. U istraživanju primenjene su skoro sve osnovne metode saznanja i istraživanja, a od opštenaučnih metoda korišćene su statistička i komparativna metoda, dok je od metoda za prikupljanje podataka primenjena isključivo metoda analize sadržaja dokumenata, zakona i godišnjih statističkih izveštaja Republičkog zavoda za statistiku. Utvrđivanjem najdominantnijih sankcija koje se određuju za nezakonito poslovanje privrednih društava, autori rad završavaju diskusijom i analizom ovih devijantnih ponašanja i preporukama za suzbijanje istih. Posebnu vrednost rada čine nalazi do kojih se došlo analiziranjem desetogodišnje sudske prakse povodom predmeta rada.

Ključne reči: privredni prestupi, privredna društva, konkurencija, prava potrošača