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## CRIMINAL LAW AND CRIMINOLOGICAL ASPECT OF PROTECTION LIFE AND BODY IN THE REPUBLIC OF SERBIA AT THE LAST TWO DECADES

*Abstrakt:* The criminal justice and criminological aspects of the study includes an analysis of the system of protection of life and physical integrity of the Republic of Serbia in the last two decades. The research of criminal law protection of life and body was conducted on the basis of legal-dogmatic, comparative and statistical methods, with a comprehensive analysis of the type and amount of sentences imposed on adult perpetrators of crimes against life and body in the last twenty years. The paper starts from two key hypotheses: the first - that today the number of punishable behaviors by which the protective object is human life and body is significantly higher than twenty years ago, and the second - that two decades ago crimes against life and body were more severe penalties compared to today. Although the punishments were stricter at the end of the 1990s (the death penalty was also prescribed), the RS Criminal Code prescribed a much smaller number of crimes against life and body compared to today. However, it should be concluded that a larger number of prescribed criminal offenses does not lead to more penalties nor to the imposition of heavier sentences. The study and comparison criminal and criminological sources has led to results - a significantly increased number of new incriminations of illegal behavior in the past two decades (murder with reckless violence, murder of a child or pregnant woman, murder of a family member he previously abused, female genital mutilation, etc.). The legislator is making a big step forward in 2019 when he introduces a life sentence in the RS Criminal Code, which has caused a lot of controversy. Statistical analysis of reports, charges and convictions for crimes against life and body indicates a rapid decline in the number of convictions in relation to the number of reports. In the segment of repressive measures, the death penalty was imposed in only one case in the period from 1998 to 2002, while the sentence of imprisonment for 40 years in the same period was imposed in only 62 cases. It should be noted that the short-term prison sentence of 3 (three) to 6 (six) months (a total of 2692 sentences in the observed period) was most often imposed. Mild penal policy and too many crimes against life and body lead to inefficiencies in the judiciary.

*Key words:* crimes against life and body, criminal sanctions, criminological and criminal law aspect.

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## INTRODUCTION

Criminal acts against life and physical integrity are by rule classified within all legal codes in the world, in our Criminal Act as well, in a separate part thereof, namely, the initial part. Latest modifications of and amendments to the criminal legislation have increased the number of criminal acts against life and physical integrity, particularly due to civilized achievements and studies of social-legal sciences, such as criminal law, criminology, sociology, biology, psychology, psychiatry and other. All criminal acts against life and physical integrity accompany the institutes of criminal law incrimination of socially illegal acts, starting from the perpetrator, the act of perpetration, manner and method of perpetration, degree of risk from individual perpetrator, type of passive subject, location, time and means of perpetration, as well as the consequence of the criminal act (Božić & Đukić 2021: 213). Finally, possible mitigating and aggravating circumstances are also considered, resulting, through implementation of criminal-procedural provisions of the special law, in imposing of a certain criminal sanction for the perpetrated criminal act (Božić 2019II: 319-334). One of the most frequent criminal acts against life and physical integrity is murder and first degree murder, which is also the oldest known type of criminal act against life.

This study is our attempt to perceive the development of criminal acts against life and physical integrity in the Republic of Serbia in the periods before and after implementation of reform of criminal-material legislation, to compare similarities and differences in chronologic perception of these criminal acts and provide possible suggestions for certain modifications of and amendments to criminal legislation in this segment, that could ensue in the future. The study covers three segments. In the first part are considered the representative features of crimes against life and body from the criminological aspect. The second part presents criminal law protection of life and physical integrity existing in current criminal-material regulations. The third part contains research and analysis of criminal acts against life and physical integrity in relation to the number of reports, accusations, convictions and imposed penalties for the period 1998-2019. Concluding considerations provided possible proposals of *de lege ferenda*.

### CRIMINAL ACTS AGAINST LIFE AND PHYSICAL INTEGRITY – CRIMINOLOGY ASPECT

Deprivation of life and bodily harm of another person has been present since ancient times in development of human civilization. Progress of society and social, economic, political changes, development of technology, production of more modern weapons, dangerous tools, has initiated various forms of murder and inflicting of bodily injuries. In accordance with modern social trends and appearance of new forms of illegal behaviors directed against life and physical integrity, criminology itself provides phenomenology, etiology and victimology standpoints (Garland, Sparks 2000: 189). It is important to distinguish existence of a complete range of determinants, manifestations forms and variety of perpetrator and victim profiles, thus rendering their unification and uniting in one location impossible. Therefore, for the purpose of this study, we shall recapitulate the representative features of this type of criminality.

The murder or bodily injury phenomena themselves imply scary situations where the perpetrator uses violent methods. Although that need not be the case, among various typologies of criminality, this type of criminal act has been classified within the category of criminality of violence or violent criminality (Jovašević 2017: 19). Two situations can be observed, in the first violence is applied directly (immediately) and the second, where the perpetrator does that in a roundabout, indirect way. Direct attack on life and physical integrity is expressed through direct contact of the perpetrator and passive subject, e.g. in murder through a fight, recklessly violent behavior, inflicting of serious bodily injury with a dangerous tool or weapon. Consequence of an indirect approach is when the perpetrator was obliged, and did not provide help to a helpless person, or exposed them to danger leading to death. Therefore, violence need not be applied directly, but what is important is that the obligation exists to provide help to a passive subject in a situation caused personally by the perpetrator. Murder classification in criminology is similar to that provided by the criminal law literature, looking, apart from the motive and manner of the perpetration, into the personality of the perpetrator and the social environment (Miethe, Drass 1999: 1-3). In the cause-effect relation between phenomenology and criminal etiology, various appearing forms are explained by certain determinants of constituting, psychological and social in nature. We encounter endogenous and exogenous factors of criminal behavior even in the oldest criminological theories, and they correspond to current situation and perceptions in modern criminological etiology (Theory and causes of crime, 2016: 1-9; Radu 2018: 136-138).

Exogenic etiology describes criminal behavior with a series of macro and micro-social factors (Tittle, Burke & Jackson 1986: 406-407). Despite their implication of criminality as a global phenomenon, they are also related to individual illegal behavior, that is, they can help explain causes of criminality in violence and, more precisely, perpetration of criminal acts against life and physical integrity. One should keep in mind not to stress exclusive effect of exogenous factors, as in majority of cases their conjunction with endogenous factors creates fertile ground for perpetration of these criminal acts. We should also avoid exclusivity in terms of effect of each individual exogenous factor, but instead observe criminal behavior as a result of their interactive relations. Economic crisis causes fear and social insecurity, therefore favoring perpetration of murder out of greed, but other forms as well (Đurđević 2014: 286). It is characteristic of the war and post-war periods, that create social and individual degradation. Criminal acts against life and physical integrity are mostly a consequence of Vietnam syndrome (Fleming 1985: 125), but also of other personality disorders caused by war destruction. Accessibility of arms, acceptance of violence as a normal way of conflict resolving, as well as the paralyzed system of social control bodies, all represent segments of social disorientation and anomy that favorable soil perpetration of criminal acts of violent criminality (Nikolić-Ristanović 1996: 607). Since the 1990ies and on, we have observed an increase in the number of murders by individuals, but also by members of organized criminal groups (Hauck & Peterke 2010: 411-412). The link between terrorism and organized crime is reflected in the smuggling of weapons and equipment for terrorist acts as well as the undertaking of terrorist activities

by politically motivated criminal organizations with the aim of bringing their people to power (Josipović, Božić 2022: 246). Murders among members of criminal organizations are result of need to eliminate competition in the criminal market, particularly in periods of economic crises, when acquiring of economic gain for survival is most prominent (Prescott, Pyle, Starr 2020: 1674; Đukić 2019: 390).

Migrations, particularly those implying transfer from the country to the city, may represent one of the factors of criminal acts against life and physical integrity (Ignjatović 2016: 34). Generally it involves persons that have not acquired any or have a low education level, are of generally low social status, and considering life in the city an opportunity for improvement. However, in such an urban environment as the city, they cannot have a position at the centre, but on the margins of society, where cultural gap and conflict are manifested. In an effort to distinguish themselves, they usually rebel through violent committing murders, individual, and more often by forming street gangs (Jugović 2014: 55). In age structure, these are mostly minors or younger adults.

Although the following part of the study will deal with adult perpetrators of criminal acts against life and physical integrity, we should mention here the exogenous microsocial factors mostly causing violent behavior of minors. These are the family of origin, school and education, means of mass communication (Omboto, Ondiek, Odera, Ayugi 2013: 19). Relations within a family as pillar of society create the personality of an individual (Dimić 2021: 69). It is usually the degrading families that breed minor delinquents, who, following their parents' example and due to generally disturbed family relations since early childhood, perpetrate criminal acts against life and physical integrity (McCord 1991: 398). Accessibility and constant follow-up of means of mass communication, especially the internet, with criminal content, alienate the individual from the real world and bring them into a dimension where violence is treated as a normal occurrence (Ignjatović 2011: 202). By adopting such content, criminal behavior is being learnt in an indirect way.

Although minor forms of crime against life and body are being called for diversionary models are increasingly being called for in order to reduce the recidivism rate (Farrell, Betsinger, Hammond 2018: 5; Siegel, Welsh 2017: 653; Caldwell 2011: 106; *The children's hearings system in Scotland* 2013: 14) insufficiently developed diversion programs, unsuccessful preventive policy, are one of the factors that can contribute to the continuation of a criminal career in adulthood. Namely, in the period 2012-2019,<sup>1</sup> the perpetrators of the mentioned category of criminal offenses are mostly adults (26917), while juveniles appear as perpetrators in almost eight times fewer cases (3522). In both categories, the perpetrators of crimes against life and body are most often male (among adults – 25,145; among minors – 3,261), while the number of female perpetrators is significantly lower (among adults – 1,772; among minors – 261) (Global Study on Homicide 2019: 23).<sup>2</sup> It is interesting that the year of the beginning of the pandemic

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1 The data obtained from the Republic Bureau of Statistics are presented, according to the author's processing.

2 Regarding the gender structure of the perpetrators of murders, the situation is similar in other countries. Namely, according to UNODC surveys for 2014, 2015 and 2016, 90% of perpetrators are men and 10% are women, in 49 countries.

was marked by a smaller number of these crimes in both age groups, which is contrary to expectations (adult perpetrators – 2309, of which male – 2146 and female – 163; minors – 349 – male – 323 and female gender – 26).

Psychological factors are conditioned by exogenous agents, as social environment affects creation of personality and its social components. Murder as a crime may also be a product of innate mental disorder, or diseases acquired through life (Boduszek, Hyland 2012: 866-867). According to results of a research conducted by doctors specializing in neuropsychiatry, murders were predominantly committed by persons suffering from schizophrenia: *Shipkovenski* – examined 44 murderers in the clinic, of which 17 were mentally ill, among whom 15 were schizophrenics; *Wetzel* – out of 119 mass murders, 82 perpetrators were fibulas ill, of whom one third were persons suffering from schizophrenia; *Bleuler* – although imprecise, his conclusion of a very high rate of schizophrenics among murderers is significant (Aćimović 1974: 176-177).

From the aspect of victimology, each person may fall victim to a murder or bodily injury. An individual accidental bypasser can, say, become a target of an attack by a person who's suffered deep frustration at the moment of their encounter. Beside this one, situations are also possible where the victim has personally provoked the perpetrator, or their material wealth status determined them as the target of the attack. The multitude of such situations have made it necessary to draw various victim typologies, taking into consideration those concerning the actual criminal act of murder. Such are the innocent victim, provoking victim, slightly blamed victim (Konstantinović-Vilić, Nikolić-Ristanović, Kostić 2012: 456). Among the latent victims we distinguish the bio-psychologically predisposed, socially predisposed and psychologically predisposed victims. The bio-psychologically predisposed victims are old, deaf, mute persons, invalids, the socially predisposed victims are those determined by their social status as potential victims and, finally, psychological predisposition is borne by the naïve, superstitious persons, etc. (Lindgren, Nikolić-Ristanović 2011: 67-69). According to the gender structure, in 82% of cases women are victims of murder (34% by spouses; 24% by other family members and 42% by persons not belonging to the family environment), while a smaller percentage (81%) are male victims (Global study on Homicide 2019: 23-24).

The crime of murder evokes fierce condemnation, which is a realistic and expected reaction. Violation of social and legal norms by committing the most serious criminal acts evokes the aversion that is deeply enrooted in society, and has characteristics of retributivist approach (retribution) (Bedau 1978: 601-620) namely, that punishment for the murderer is to be proportional to the evil they inflicted. Such is the death penalty that existed in Criminal Law of Serbia until 2002. After the abolition thereof, various long-term imprisonment sentences remained in force and the life imprisonment sentence was introduced in 2019. A question that arises is whether a large number of predicted severe sentences achieves the purpose of general prevention, whether they are frequently imposed, and whether all perpetrators of criminal act of murder are being processed until the end of the proceedings, that is, are effectively convicted? The data from, e.g., the Black Book, referring to mafia liquidations

in Serbia, do not inspire hope. In the period between 2012 and 2021, the total number of victims reached 175 (175 murders), out of which only 18 (10,29%) reached final verdict, while perpetrators remained unknown in as many as 102 cases (58,29%) (<https://www.crnaknjiga.rs/>). When it comes to mafia liquidations, let's assume that the problem may lie in obstruction proving and discovering of perpetrators under the protection of organized crime. We shall present the situation the judicial institutions are facing in terms of this type of criminal acts under protection of classic crime in the statistics part of the study.

## POSITIVE CRIMINAL LEGISLATION – CRIMINAL CODE OF RS

Criminal Code of 1977 had been modified several times and remained in force until passing of the new criminal act in 2005. Latest modifications thereof in 2003 introduced certain novelties, both in terms of some forms of first degree murder, and in terms of the level of predicted penalties for various forms of murder. Namely, standard murder was penalized by imprisonment for a minimum of seven years. As the Republic of Serbia committed, by joining the Council of Europe on 3<sup>rd</sup> April 2003, not to have the option of imposing death penalty for any criminal act, the given modifications allowed to impose the penalty for first degree murder of a minimum of 12 years, or forty years of imprisonment. Also, change in the social system ceased the need to protect the person working on maintenance of public order, arrest of the perpetrator of a criminal act, or guarding the person deprived of freedom on the basis of law or other act of realization of social self-protection, which were predicted by this Code under qualified forms of murder in the first degree (Jovašević 2002: 104).

The magnitude of importance attached to the life and physical integrity within the criminal law protection is evident in the fact the Criminal Code firstly (in Chapter XIII) incriminates the illegal behaviors that attack these values. This was inevitably affected by not only the change in social circumstances and, accordingly, in the social system, but also by the development of sciences related to criminal law and, on the other hand, on the global level, increasing number of initiatives prioritizing the protection of life and physical integrity as most important human values. The legislation inevitably reflects the cruel reality that unfortunately indicates not only the frequency, but also new forms of attacking the above values.

The 2002-2019 period is characterized by frequent modifications of and amendments to the Criminal Code, reflecting on the systematics of a separate act, among others, in the segment of criminal law protection of life and physical integrity (Božić, Simović 2020: 129-142). Apart from the abolition of death penalty, the moment of passing the Criminal Code of 2005 is also considered to be the groundbreaking moment of heading towards the reform and modernization of criminal legislation. One of the characteristics of the reform is passing of a large number of new criminal acts (Stojanović 2011: 33), including some that are outside of the focus of our analysis (Božić 2019I: 91). Regulations of the mentioned Code stipulate introduction of new forms of first degree murder

in addition to the old ones, child murder or murder of a pregnant woman and murder of a previously abused family member. It is important to mention that these have survived until today, so their discrimination constitutes an integral part of the Criminal Code (Criminal Code (CC), Official Gazette of RS, no. 85/2005, 88/2005 - correction, 107/2005 - correction, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019).

Positive criminal legislation incriminates numerous forms of life deprivation. Apart from standard murder under predicted sentence of five to fifteen years of imprisonment (Art. 113), special article presents its qualified forms, that is, first degree murder (Art. 114). This is not the case with earlier sources of criminal law, which regulated qualified forms by uniting them with the basic form in the same article. Qualified forms presented are: deprivation of life in a cruel or insidious manner; deprivation of life through inconsiderate violent behavior; deprivation of life through conscious putting another person's life in danger; deprivation of life through committing of criminal act of larceny or robbery; deprivation of life out of greed, or with the purpose of hiding another criminal act, or other base motives; murder of a public or army official while performing official duty; murder of a judge, public prosecutor, assistant public prosecutor, in relation to performing of official duty; murder of a person performing work of public interest; murder of a child or a pregnant woman; murder of a previously abused family member and intentional deprivation of life of several persons. All of the above indicates the provision of a full scale of qualified forms, where the lawmaker took different criteria into consideration: motive, manner of perpetration, capacity of passive subject. The criminal law protection of a child and a pregnant woman, namely an unborn child, has been equalized and strengthened (Stojanović, Perić 2007: 16). Qualified forms predict the minimum imprisonment penalty of ten years or life imprisonment. It is interesting to note that Paragraph 2 of Article 114 qualifies acquisition or enabling of means of its perpetration, arrangement, planning or organizing of the perpetration as form of first degree murder. So, creation of conditions for immediate perpetration of first degree murder is particularly incriminated, and is penalized by one to five years of imprisonment. The lawmaker has thus shown that no aspect of committing the criminal act of murder can escape criminal law regulations and repression.

Privileged forms have been predicted different situations and circumstances where a perpetrator can act, and are therefore penalized with lower sentences, although resulting in deprivation of life of another person. The examples are manslaughter, negligent homicide, murder out of mercy and murder of child at birth. The first is penalized by imprisonment from one to eight years (Article 115), while the remaining three are followed by the same level of penalty, imprisonment between six months and five years (Articles 116, 117 and 118). Although there is a clear line separating standard murder and euthanasia, a certain degree of caution is required, in terms of the perpetrator being obliged to act exactly in the way the terminally ill person has required (Stojanović 2012: 411). Otherwise, their behavior shall be qualified as standard murder. The privileged circumstance of infanticide are the circumstances of perpetrating, that is, the state of mind of the mother as perpetrator (while the disorder

induced by childbirth lasts) (Stojanović 2012: 409). Compared to infanticide, perpetrator of the criminal act of illegal termination of pregnancy may be any other person than the mother, and it is penalized by three months to three years of imprisonment (Art. 120).

Although suicide does not represent a criminal act in any system of criminal law, in ours as well, the situation is different when inducing to suicide and assisting in suicide, in discrimination of which the basis was social danger of inducing and assisting, the basic form of which is penalized by six months to five years of imprisonment (Art. 119). Criminal law protection of physical integrity by the current Criminal Code is regulated by Articles 121-127. Analysis of criminal law regulations leads us to conclude that, apart from the existing criminal acts, such as severe, minor bodily injury, participating in a fight, endangerment in fight or argument by dangerous tools, exposing to danger, abandoning of a helpless person and failure to provide help, the system of special acts has been enriched and extended by a new, criminal act of mutilation of female genitalia (Art. 121a). We should note that incrimination of genital mutilation is of great importance, as it is an attempt to protect women from such form of violence.

Republic of Serbia accepted the obligation to penalize this criminal act by signing and ratifying of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Law on Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Official Gazette of RS - International Agreements, no. 012/13). The Convention was adopted on 7<sup>th</sup> April 2011, and was opened for signing in May 2011 in Istanbul, thus named the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul, 11. V. 2011). Five years later, genital mutilation received its incrimination in the modified and amended Criminal Code of 2016 (Responding to Female Genital Mutilation in Europe- Striking the right balance between prosecution and prevention, 2009, 12).<sup>3</sup>

Although the Convention is a comprehensive document protecting women from various forms of violence, we took into consideration the paragraph that is closely associated to the requirements of this study. Namely, pursuant to Article 38, international signees undertake the obligation to incriminate the following forms of intentional conduct: 1) circumcision, infibulations and any other forms of mutilation of the entire or any part of the inner or outer lips or the clitoris; 2) coercion and inducing of women to undergo any of the mentioned actions; 3) coercion and inducing of girls to undergo any of the mentioned actions.

Criminal Code of the Republic of Serbia contains several forms of criminal act of mutilation of female genitalia. The act of perpetration in the basic form is indicated

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3 In relation to Serbia, a number of European countries have criminalized genital mutilation in special criminal codes. Special legislation deals with this topic in more detail, emphasizing the obligation to report this crime by health workers, members of religious communities, and similarly. The first country to criminalize genital mutilation by a special code was Sweden, and then: Austria, Cyprus, Belgium, Denmark, Italy, Norway, Portugal, Spain, and the United Kingdom.



as mutilation of outer parts of female genitalia, with predicted penalty of one to eight years of imprisonment (Art. 121a, Par. 1). Apart from the basic form, two privileged and one severe form are given. The privileged forms denote perpetration of the basic form under particularly mitigating circumstances, penalized by imprisonment between three months and three years, as well as inducing a female person to undergo the action from the basic form, penalized by six months to five years of imprisonment. Guided by the provisions of the Convention, the lawmaker unites women and girls, using the term „female persons“. A qualified form implies the occurrence of death of a female person due to perpetration of action from Paragraph 1, with predicted penalty of two to twelve year of imprisonment.

The system of repression measures was modified by introducing the life imprisonment penalty. The initiative originated in 2016 from the „Tijana Juric“ foundation, the founder of which is father of the fifteen-year-old girl who was brutally raped and murdered. After years of negotiations with competent authorities, the life imprisonment penalty came to life on 1<sup>st</sup> December 2019 in criminal legislation of the Republic of Serbia, abolishing the 30 to 40 years of imprisonment penalty (Art 44a). The life imprisonment penalty without the right to parole is predicted for the most severe forms of criminal acts, such as: first degree murder, rape, sexual intercourse with a minor, pregnant woman and helpless person (Art 46 Paragraph 5). On the other hand, persons sentenced to life imprisonment for criminal acts that were earlier penalized by 30 to 40 years of imprisonment shall be entitled to parole (for murder of representatives of highest public institutions, severe act against constitutional system and safety of Serbia, associating to commit criminal acts, genocide, crime against humanity, war crime against civilians). Introducing of this new repressive measure caused fierce discussion in scientific and expert public (Božić 2021: 35). The topic of the discussion here is not introducing of life imprisonment penalty, but the penalty to life imprisonment without the right to parole. If a convict is deprived of this right, that is, the right to have their conduct reexamined after 27 years of sentence served, then the second degree court decision confirming the first degree verdict could be disputed by the European Court of Human Rights, as it would be contrary to the Article 3 of the European Convention on Human Rights (Jocić 2021: 176, 182).<sup>4</sup> The first such penalty was imposed in Serbia in January 2021, and how the case will be finalized, that is, if a petition will be filed to the European Court of Human Rights, remains to be seen after the session of the second degree court panel.

#### RESEARCH OF COMMITTED CRIMES AGAINST LIFE AND BODY – REPORTS, ACCUSATIONS, CONVICTIONS AND PUNISHMENTS

Through the prism the number of reports, accusations, convictions and sentences imposed on adult perpetrators of criminal acts, we have shown how the system of criminal protection of life and body in Serbia has been regulated over two decades (1998-2019). The research systematics includes four periods for which

4 One of the proposals for protection against possible recurrence refers is introduction of conditional release and long-term or lifelong appropriate security measures.

we tabulated and graphically presented the data obtained from the Republic Statistical Office of the Republic of Serbia (SBS RS).

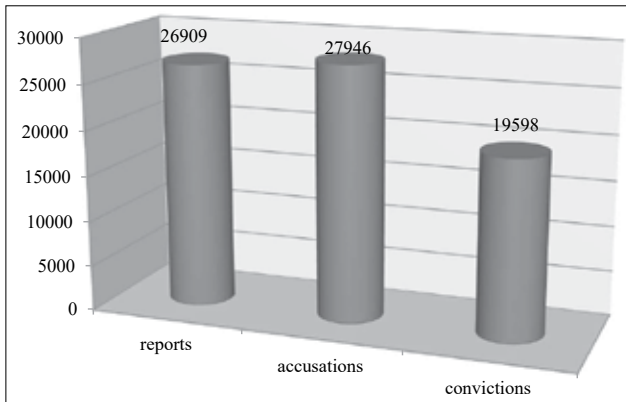
1. PERIOD 1998-2002

From the table above, it can be seen that in each year the number of convictions for crimes against life and body is lower than the number of reports. Thus, in 1998 the total number of convictions was lower than the number of reports by 1888, then in 1999 by 479, in 2000 by 1654, in 2001 by 1780, and in 2002 by 1410. The smallest difference was present in 1999, and the largest in 1998. In the observed period, the overall decrease in the number of convictions in relation to the number of reports is **7311**. The ratio of the number of convictions to the number of reports for the entire period will be illustrated in Graph 1.

Table 1. Reports, accusations and convictions against adult perpetrators of crimes against life and body in the period from 1998 to 2002

Year	Reports	Accusations	Convictions
1998	6398	6415	4410
1999	4275	5404	3796
2000	5174	4986	3520
2001	5637	5405	3857
2002	5425	5736	4015
<b>In total</b>	<b>26909</b>	<b>27946</b>	<b>19598</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 1. Relation of reports and convictions towards adult perpetrators of crimes against life and body for the period 1998-2002

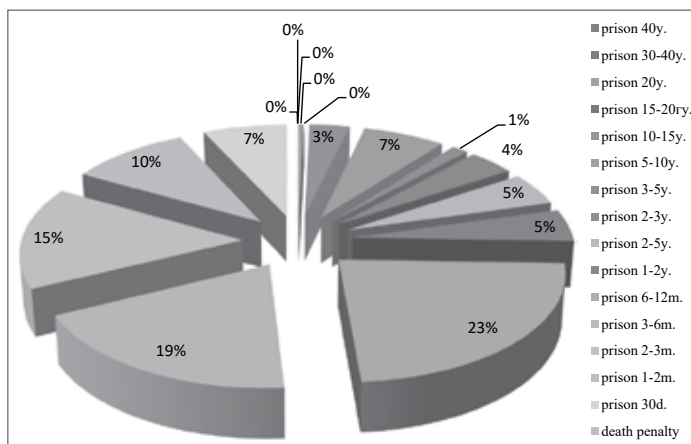
The characteristic of this period is that the death penalty still existed. Only one was imposed in 2001, but it was not executed. What we further notice is that in contrast to stricter sentences, short-term prison sentences are more often imposed. Among long-term prison sentences, such as 40 years in prison, 30-40 years in prison, which were not imposed in any case, only 20 years of imprisonment prevailed, imposed in the observed

period in only 20 cases. The most common sentence is a short-term prison sentence of 6 to 12 months - in 1101 cases, followed by a prison sentence of 3 to 6 months - imposed in 890 cases, then a prison sentence of 2 to 3 months - imposed in 728 cases. The percentage effect of the imposed sentences will be presented in Graph 2.

Table 2. Sentences imposed on adult perpetrators of crimes against life and body 1998-2002

SENTENCES	1998	1999	2000	2001	2002
<b>Death penalty</b>	/	/	/	1	/
<b>Prison</b>					
40 year	/	/	/	/	/
30-40 year	/	/	/	/	/
20 year	3	2	3	12	/
15-20 year	/	/	/	/	/
10-15 year	36	40	30	50	/
5-10year	62	44	46	60	107
3-5 year	/	/	/	/	64
2-3 year	/	/	/	/	182
2-5 year	68	49	48	67	/
1-2 year	60	66	40	63	/
6-12months	112	107	104	118	660
3-6 months	246	208	215	221	/
2-3 months	189	166	174	199	/
1-2 months	127	111	117	113	/
30 days	110	77	71	67	/
<b>In total</b>	<b>1013</b>	<b>870</b>	<b>848</b>	<b>971</b>	<b>1013</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 2. Percentage part of prison sentences in the total number of life and body crimes committed against adult perpetrators in the period 1998-2002

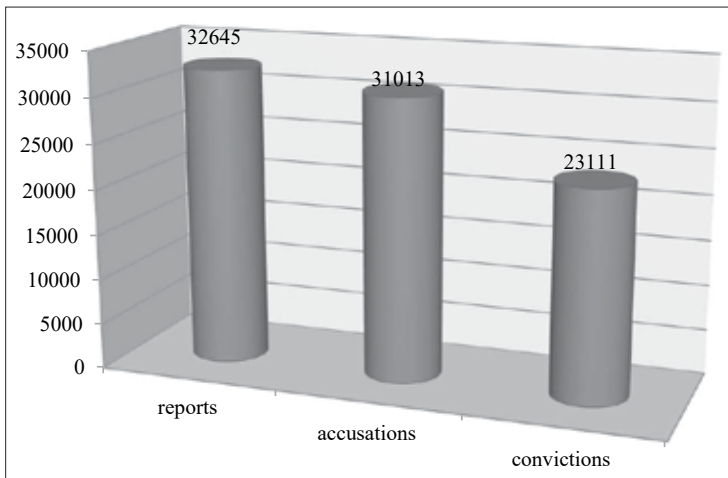
## 2. PERIOD 2003-2008

The decrease in the number of convictions in relation to the number of reports is also present in this period. In 2003, the difference was 1331, in 2004 - 2228, then in 2005 - 1745, in 2006 - 1168, in 2007 - 1657 and in 2008 - 1405. The largest difference was observed in 2004, and the smallest in 2003. In the whole period, the total number of convictions is lower in relation to the total number of reports by **9534**. A graphical presentation of the ratio of the total number of convictions to the total number of reports will be presented in Graph 3.

Table 3. Reports, accusations and convictions against adult perpetrators of crimes against life and body in the period from 2003 to 2008

Year	Reports	Accusations	Convictions
2003	5043	5136	3712
2004	5784	4865	3556
2005	5610	5248	3865
2006	5547	5763	4379
2007	5364	4869	3707
2008	5297	5132	3892
<b>In total</b>	<b>32645</b>	31013	23111

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 3. Relation between reports and convictions towards adult perpetrators of crimes against life and body for the period from 2003 to 2008

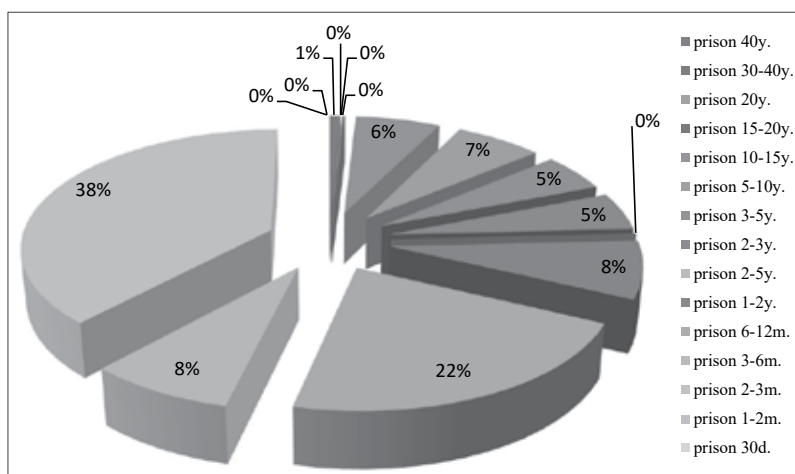
As the table shows, long prison sentences have been imposed very rarely. Thus, a prison sentence of 40 years was imposed in only 25 cases, then a prison sentence of 30 to 40 years was not recorded in any case, then a prison sentence of 20 years in only 2 cases, a prison sentence of 15 to 20 years in 4 cases. Therefore, the trend of mild penal policy continues in this period as well, so that among the short ones,

the most common sentence is imprisonment for 2 to 3 months (1201), followed by imprisonment for 6 to 12 months (682). As in previous periods, we will present the percentage share of sentences in the total number of imposed prison sentences, with Graph 4.

Table 4. Sentences imposed on adult perpetrators of crimes against life and body 2003 to 2008

SENTENCES	2003	2004	2005	2006	2007	2008
<b>Prison</b>						
40 year	6	2	5	11	/	1
30-40 year	/	/	/	/	/	/
20 year	/	/	1	1	/	/
15-20 year	/	/	/	/	1	3
10-15 year	43	37	22	44	28	26
5-10 year	40	40	38	36	28	24
3-5 year	33	30	29	28	13	29
2-3 year	23	24	26	36	18	35
2-5 year	/	/	/	/	/	/
1-2 year	52	37	40	42	45	29
6-12 months	116	152	128	135	67	84
3-6 months	/	/	/	/	129	126
2-3 months	235	188	287	260	124	107
1-2 months	/	/	/	/	/	/
30 days	/	/	/	/	/	/
<b>In total</b>	<b>548</b>	<b>510</b>	<b>576</b>	<b>593</b>	<b>453</b>	<b>464</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 4. Percentage share of prison sentences in the total number of crimes against life and body committed against adult perpetrators in the period from 2003 to 2008

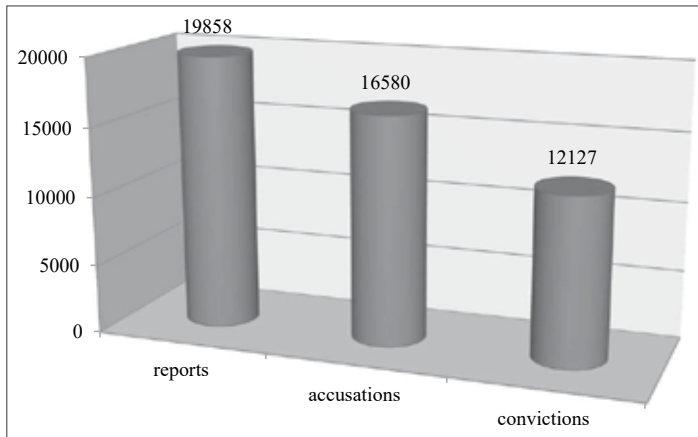
### 3. PERIOD 2009-2013

In 2009, the number of convictions was lower than the number of reports by 1502, in 2010 by 1702, in 2011 by 1588, in 2012 by 1602 and in 2013 by 1337. What can be noticed is that the biggest difference was present in 2010, and the smallest in 2013. The difference between reports and convictions in the entire observed period is 7731, and this relationship will be illustrated in Graph 5.

Table 5. Reports, accusations and convictions against adult perpetrators of crimes against life and body in the period from 2009 to 2013

Year	Reports	Accusations	Convictions
2009	4912	4278	3410
2010	3381	2253	1679
2011	3908	3050	2320
2012	3923	3310	2321
2013	3734	3689	2397
<b>In total</b>	<b>19858</b>	<b>16580</b>	<b>12127</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 5. Relation of reports and convictions towards adult perpetrators of crimes against life and body in the period from 2009 to 2013

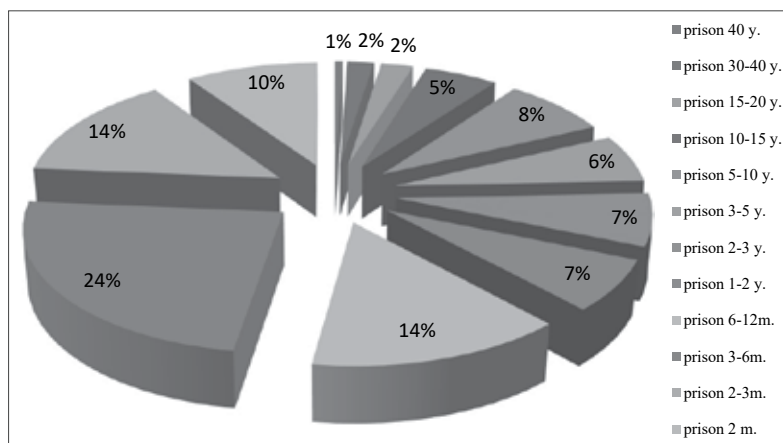
In this period, it is noticeable that long-term prison sentences were slightly more frequent than in the previous period, but it is still stated that this number is significantly lower than the number of short-term prison sentences imposed. A prison sentence of 40 years was imposed in 18 cases, and a difference was observed in the prison sentence of 30 to 40 years, which was imposed in 60 cases, compared to the previous period in which none was imposed. Then it follows a prison sentence of 10 to 15 years imposed in 167 cases, and then a prison sentence of 5 to 10 years in 245 cases. Among short-term prison sentences, the largest number of sentences is observed in the prison sentence

of 3 to 6 months (751), followed by 6 to 12 months (449), followed by a sentence of 2 to 3 months (442). Here, we have numerically presented the individual sentences that are the most common, while we have shown the percentage of imprisonment sentences in all ranges in the following, Graph 6.

Table 6. Sentences imposed on adult perpetrators of crimes against life and body in period from 2009 to 2013

SENTENCES	2009	2010	2011	2012	2013
<b>Prison</b>					
40 year	2	10	3	2	1
30-40 year	20	16	5	10	9
15-20 year	8	8	20	24	13
10-15 year	27	35	38	34	33
5-10 year	45	40	51	45	64
3-5 year	30	38	40	55	37
2-3 year	26	33	42	41	75
1-2 year	52	36	33	48	45
6-12m.	103	54	71	101	120
3-6m.	168	93	108	154	228
2-3m.	119	54	67	105	97
2m.	106	55	45	36	58
<b>In total</b>	<b>706</b>	<b>472</b>	<b>523</b>	<b>655</b>	<b>780</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 6. Percentage share of prison sentences in the total number imposed on adult perpetrators of crimes against life and body in the period from 2009 to 2013

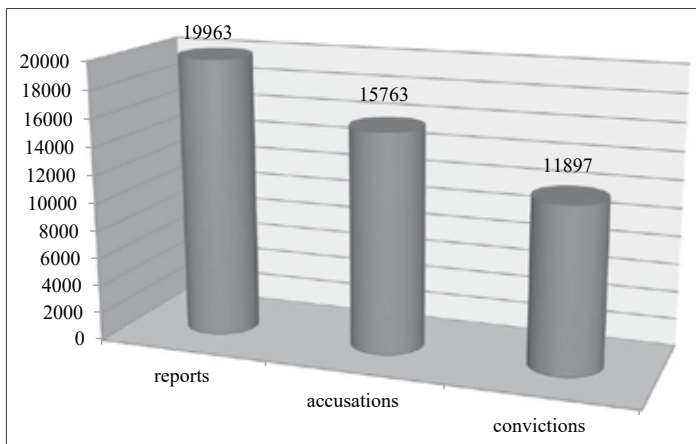
#### 4. PERIOD 2014-2019

Research the number of reported, accused and convicted adult perpetrators of crimes against life and body in the last period, leads to the same results that were achieved for the previous three analyzed periods. There was also a constant decline in the number of convictions compared to the number of reports in each observed year. Thus, in 2014, the number of convictions according to the number of reports decreased by 657, in 2015 by 1744, in 2016 by 1516, in 2017 by 1365, in 2018 by 1123 and in 2019 by 1661. The smallest difference was recorded in 2014, and the largest in 2015. The total difference that we will illustrate in Graph 7 is 8066.

Table 7. Reports, accusations and convictions against adult perpetrators of crimes against life and body in the period from 2014 to 2019

Year	Reports	Accusations	Convictions
2014	3268	3903	2611
2015	3818	2906	2074
2016	3451	2577	1935
2017	3278	2468	1913
2018	3084	2173	1961
2019	3064	1736	1403
<b>In total</b>	<b>19963</b>	<b>15763</b>	<b>11897</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 7. Relation between reports and convictions towards adult perpetrators of crimes against life and body in the period from 2014 to 2019

The highest number of sentences was recorded in 2014 (861), and the lowest in 2019 (304). In this period, too, short-term prison sentences were most often imposed (from 3 to 6 months - 796, from 6 to 12 months - 577, from 2 to 3 months - 345). Longer prison sentences were imposed in a smaller number of cases (from 40 years - 19, from 30 to 40 years - 55, from 15 to 20 years - 75, from 10 to 15 years - 154 and among

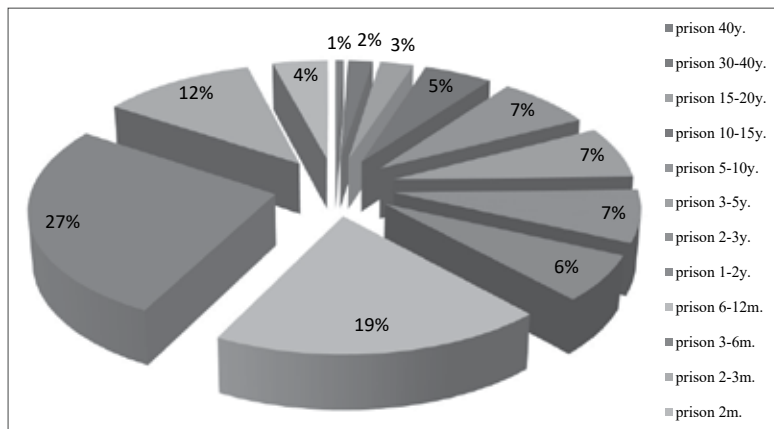


them the most common prison sentence was 5 up to 10 years - 215). Short - term and long - term prison sentences will be presented in percentages in Graph 8.

Table 8. Sentences imposed on adult perpetrators of crimes against life and body 2014-2019

SENTENCES	2014	2015	2016	2017	2018	2019
<b>Prison</b>						
40 year	2	4	5	2	3	4
30-40 year	11	13	9	11	7	4
15-20 year	20	3	18	16	9	9
10-15 year	39	23	27	32	16	17
5-10 year	34	40	46	33	33	29
3-5 year	55	26	42	30	26	34
2-3 year	57	39	39	26	27	26
1-2 year	43	38	34	24	32	27
6-12m.	160	116	86	90	66	59
3-6m.	255	110	152	118	91	70
2-3m.	132	61	57	43	30	22
2m.	63	24	28	19	13	3
<b>In total</b>	<b>861</b>	<b>497</b>	<b>543</b>	<b>444</b>	<b>353</b>	<b>304</b>

Source: Data obtained from the Republic Bureau of Statistics, author's processing



Graph 8. Percentage share of imprisonment sentences in the total number of crimes against life and body committed against adult perpetrators in the period from 2014 to 2019

The conclusion about the greatest effect of short-term prison sentences is also derived from the above pictorial percentage. The highest percentage belongs to imprisonment from 3 to 6 months - 27%, from 6 to 12 months - 19%, from 2 to 3 months - 12%, and the lowest prison sentence for 40 years - 1%. A low percentage is also recorded in the prison sentence of 30 to 40 years - 2%. As the sentence of life imprisonment came to life at the end of 2019, there were no conditions for it to be included in the study, which ends that year.

## CONCLUSION

Serbia has been passing modern criminal codes, modifications and amendments thereof follow civilization achievements and international acts in this respect, constantly following social movements and emerging of new forms of criminality against life, as well as other criminal forms. What we can suggest is the multitude of criminal acts against life, unlike historic forms of incrimination, which can be attributed to development and legal progress, but can also be attributed to implementation of various (out of social-legal formations) legal systems, the difficulty of abandoning one, as well as the incapacity to fully adopt another legal system. It is a transitional period, that we see in all segments of our society now, in criminal law protection of life as well. The volume of criminal acts against life and mild penal policies lead to inefficiency of judicial institutions, to practical disorientation of judicial authorities, particularly in basic criminal cases, such as classification of criminal acts, disrespect of time limits and right to trial within a reasonable time limit. All of these result in a legal vacuum. Serbia needs to consider focusing its possible modifications and amendments of criminal legislation on incrimination of smaller, but more purposeful number of criminal acts against life, increase of efficiency of the judiciary, naturally in accordance with international acts that are mandatory in principal points of fairness of a proceeding, imposing and enforcing of criminal sentences. Frequent application of short-term prison sentences negatively affects both the efficiency of criminal proceedings and the efficiency of the system of execution of criminal sanctions. The solution to the problem can be seen in the application of non-penal measures through diversionary programs and the application of substitutes for imprisonment. This is also the lesson we can learn from normative analysis and statistic research with the subject group of criminal acts.

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## КРИВИЧНОПРАВНИ И КРИМИНОЛОШКИ АСПЕКТ ЗАШТИТЕ ЖИВОТА И ТЕЛА У РЕПУБЛИЦИ СРБИЈИ У ПОСЛЕДЊЕ ДВЕ ДЕЦЕНИЈЕ

### РЕЗИМЕ

С кривичноправног и криминолошког аспекта студија обухвата анализу система заштите живота и телесног интегритета у Републици Србији у последње две деценије. Истраживање кривичноправне заштите живота и тела спроведено је на темељу правно-догматског, компаративног и статистичког метода, уз свеобухватну анализу врсте и висине изречених казни према пунолетним учиниоцима кривичних дела против живота и тела у последњих двадесет година. У раду се

полази од две кључне хипотезе: прве – да је данас значајно повећан број кажњивих понашања којима је заштитни објект живот и тело човека него пре двадесет година, те друге – да су пре две деценије кривична дела против живота и тела имала строжије казне у односу на данашње време. Иако су крајем деведесетих година прошлог века казне биле строжије (била је прописана и смртна казна), КЗ РС прописивао је пуно мањи број кривичних дела против живота и тела у односу на данас. Међутим, ваља закључити да већи број прописаних кривичних дела не доводи до већег броја кажњавања нити до изрицања тежих казни. Проучавање и компарација кривичноправних и криминолошких извора довела је до резултата - значајно повећаног броја нових инкриминација противправних понашања у протекле две деценије (убиство при безобзирном насилничком понашању, убиство детета или бремените жене, убиство члана своје породице којег је претходно зостављао, сакаћење женског полног органа, итд). Законодавац чини велики искорак 2019. године када уводи казну доживотног затвора у КЗ РС, што је изазвало многе полемике. Статистичка анализа пријава, оптужења и осуда за кривична дела против живота и тела упућује на рапидан пад броја осуда у односу на број пријава. У сегменту репресивних мера, смртна казна је у периоду од 1998. до 2002. године изречена у само једном случају, док је казна затвора у трајању од 40 година у истом периоду изречена у свега 62 случаја. Ваља истаћи да је ипак најчешће изрицана краткотрајна казна затвора у трајању од 3 (три) до 6 (шест) месеци (свеукупно 2692 изречене казне у посматраном периоду). Блага казнена политика и обимност кривичних дела против живота и тела води неефикасности правосудних инстанци.

*Кључне речи:* кривична дела против живота и тела, кривичне санкције, криминолошки и кривичноправни аспект.