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EFFICIENCY OF INVESTIGATION AS AN INTERNATIONAL LEGAL STANDARD – EXPERIENCES OF THE PROSECUTOR'S OFFICE FOR ORGANIZED CRIME IN SERBIA

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Abstract

The process of reforming the criminal procedure legislation of the Republic of Serbia has been taking place for more than two decades. It is characterized by numerous peculiarities, and one of the key ones concerns the goal of the reform. The goal of the reform is to find the most adequate criminal procedure instruments to establish a normative basis for the desired degree of effectiveness of the investigation, and thus the effectiveness of the criminal procedure as a whole as an international legal standard. The realization of the above goal comes to the fore especially in cases of criminal offences of organized crime, considering the degree of their social danger and everything else that it entails for a society – in this case, in the Republic of Serbia. In view of this, a research was carried out, the aim of which is to answer the question: Did the introduction of the prosecutorial investigation instead of the previous judicial concept of investigation create a normative basis for its more effective implementation and thus the desired degree of efficiency of the criminal procedure as a whole, and if not, what should be done in this regard in order to achieve the set key goal of the work of the reform.

In the conducted research, for the purpose of collecting primary data, a specially designed instrument was used – a questionnaire consisting of 5 questions.

The conducted research as well as the materials on the basis of which this text was written show that the prosecutorial concept of investigation is in the function of both its efficiency and the efficiency of the criminal procedure as a whole.

Keywords: efficiency of criminal procedure, investigation, public prosecutor, organized crime, police

1.Introduction

The process of reforming the criminal procedure legislation of the Republic of Serbia began with the adoption of the Criminal Procedure Code in 2001 (CPC 2001) and is still ongoing (working on the amendments to the CPC is ongoing, and should be completed by the end of the current year – 2024). There are several peculiarities of the work on the reform so far, but two stand out in particular. The first peculiarity is that we have not only frequent amendments and supplements to the Criminal Procedure Code as a key legal text from the set called criminal procedure legislation of the Republic of Serbia, but also the adoption of new legal texts, one of which (CPC from 2006) ceased to be valid even before the start of its comprehensive applications (Škulić and Ilić 2012). This approach of the legislator to this issue is the result of his desire to find the most adequate criminal procedure instruments to create a normative basis for the desired level of efficiency of criminal proceedings as an international legal standard, which is especially evident in cases of criminal offences of organized crime (Bejatović 2018). Secondly, in the desire to reach the key goal of the reform, which is, as we stated, the creation of a normative basis for the desired degree of efficiency of the criminal procedure, the work on the reform so far has brought numerous novelties. Key among them is the abandonment of the judicial system and the transition to the prosecutorial concept of investigation. Also, when this issue is viewed from the aspect of organized crime, there are numerous other solutions that have been brought about by the previous work on the reform of the criminal procedure legislation. Among them, two stand out. First, in the positive criminal legislation of the Republic of Serbia –Criminal Code (CC 2005) and the Criminal Procedure Code (CPC 2011), a large number of special institutes are provided for opposing this category of criminal acts. For example, in the CPC, several special evidentiary actions are standardized that can be applied against a person for whom there are grounds for suspicion that he or she committed a criminal offence of organized crime (Banović 2012). The case is, for example, with activities: covert supervision of communication, covert surveillance and recording, simulated deals, undercover investigators (Škulić 2011), etc. Also, there are three types of agreements between the public prosecutor and the defendant (Čvorović 2013) and others. Second, special laws (*lex specialis*) dedicated to the criminal legal instruments of combating organized crime were adopted. The key among them is the Law on Organization and Competence of State Authorities in Suppression of Organized Crime, Corruption and Other Serious Crimes from 2002, which was in force until 2016, when it was replaced by the new Law on the Organization of State Bodies' Competence in Suppression of Organized Crime, Terrorism and Corruption (hereinafter referred to as: LOSBCSOC 2016). There are numerous novelties brought about by this legal text, and one of the most significant is the establishment of specialized entities for the detection, proof and adjudication of this category of criminal offences (Public Prosecutor's Office for Organized Crime; Organizational Unit responsible for Suppression of Organized Crime of the Ministry of Internal Affairs; Special Department of the Higher Court in Belgrade for organized crime).

When it comes to the prosecutorial concept of investigation as an instrument of its effectiveness and the effectiveness of the criminal procedure as a whole (Čvorović and Vince 2023), including criminal proceedings for criminal offences of organized crime (Čvorović 2022), we should first of all point out the fact that there are a number of reasons that the legislator of the Republic of Serbia was guided by when decided to abandon the judicial and move to the prosecutorial concept of investigation, which was brought about by the adoption of the Criminal Procedure Code in 2011. The key among them are:

First, a normative basis for a more efficient procedure is created, and thus one of the key goals of the reform of the criminal procedure legislation as a whole is realized (Čvorović 2019), which is confirmed by the achieved results of the practical application of the prosecutorial concept of investigation after its legalization in the competent criminal procedure legislation. In support of the correctness of this point of view, two examples were highlighted. The first concerns Germany, which adopted the Law on the Reform of Criminal Procedure Law on December 9, 1974 in order to create a normative basis for speeding up criminal proceedings, it moved from a judicial to a prosecutorial concept of investigation. Judging by the papers published at that time, good results were achieved very quickly in the practical application of the new concept of investigation (Roxin 2002). The second case concerns the criminal procedure legislation of the countries of the region, primarily Bosnia and Herzegovina, which was the first to accept this concept of investigation in the territory of the former Yugoslavia, and the results of its application after a very short time of adjustment were also satisfactory (Simović 2005);

Secondly, the degree of activity of the public prosecutor as the only authorized entity to undertake criminal prosecution of criminal offences for which criminal prosecution is undertaken *ex officio* is increasing, which is not the case with the judicial concept of investigation in which the public prosecutor is pretty much passive and relies as a rule on what he or she obtains from the police and the investigating judge. Along with this, there is a question of the extent to which the judicial concept of investigation is in agreement with the principle of legality of criminal prosecution as a key principle of the functioning of the public prosecutor's office in the fight against crime. If we add to this the indisputable office character of the investigative judge's work as the main active subject of the judicial concept of investigation, then this argument gains additional relevance;

Thirdly, a more adequate way of regulating responsibility for the ineffectiveness of the investigation is its prosecutorial concept;

Fourth, by its legal nature, the investigation is not a judicial but a prosecutorial and police activity, etc. (Mijalković, Čvorović, Vari and Otašević 2024).

Starting from the above stated reasons as well as other reasons that speak of the advantages of the prosecutorial over the judicial concept of investigation, the CPC of Serbia from 2011 abandons the judicial and moves to the prosecutorial concept of investigation. Viewed in principle, this decision of the legislator was welcomed by the majority of the professional public. However, there are quite a few objections to the normative elaboration of the newly adopted concept of investigation. It is pointed out, it seems quite justified, that a certain number of decisions in the still valid text of the CPC are not in accordance with the generally accepted principles of standardizing the prosecutorial concept of investigation and that as such they can affect its effectiveness as one of the key goals that the prosecutorial concept wants to achieve. We list only those that are directly related to the subject of research. For example, the possibility of initiating an investigation against an unknown perpetrator and the failure to provide control instruments for the public prosecutor's decision to initiate an investigation. Next, predicting the lowest level of suspicion about the commission of a criminal offence – the grounds for suspicion as a material condition for initiating an investigation. Or, predicting the right of the suspect and his defense counsel to independently collect evidence and materials for the defense. That is, allowing the possibility for the judge for the preliminary procedure to join the investigation by ordering the public prosecutor to undertake a specific evidentiary action or several of them, etc. (Škulić 2013). In order to verify the validity of a large number of objections that stand out on the normative development of the prosecutorial concept of investigation in the current text of the CPC and its impact on its efficiency and the effectiveness of the criminal procedure as a whole, a study was conducted, the aim of which is to provide an answer to the question: Did the introduction of prosecutorial instead of the previous judicial concept of the investigation create a normative basis for its more efficient implementation and thus the desired degree of effectiveness of the criminal procedure as a whole and if not what should be done in this matter in order to achieve the key goal of work on the reform? But before the analysis of the obtained results on the question posed in this way, the fact that not a small number of objections from the professional public of Serbia were raised on the specific normative elaboration of the prosecutorial concept of investigation, taken into account by the Working Group working on the preparation of the text of the Law on Amendments and Supplements to the CPC which should be adopted by the end of the current year, deserves attention, which in itself speaks at least about the degree of their topicality.

2. RESEARCH GOALS, HYPOTHESES AND METHODS

The objectives of the research on the topic Efficiency of Investigation as an International Legal Standard – experiences of the Prosecutor's Office for Organized Crime in Serbia are:

1. Assessing the adequacy of the introduction of the prosecutorial concept of investigation and the effectiveness of the criminal procedure;
2. Observing the effectiveness of the practical implementation of new legal solutions by the Prosecutor's Office for Organized Crime;
3. Assessment of the degree of efficiency of the pre-investigation procedure and contribution to the efficiency of the investigation

In accordance with the stated objectives of the research, the following hypotheses were set:

HO: The introduction of the prosecutorial concept of investigation contributes to the efficiency of the criminal procedure as an international legal standard

H1: Effective implementation of activities in the pre-investigation procedure by the police contributes to the effectiveness of the investigation

2.1. Description of the sample

During May 2024, a survey of public prosecutors in the Prosecutor's Office for Organized Crime, which is established for the territory of Serbia, was conducted. 21 public prosecutors, deputy public prosecutors and prosecutor's associates who acted according to the new law participated in the research. Before starting the survey, the respondents were informed about the aim and purpose of the research, that the survey is anonymous and that individual answers will not be presented, but the results obtained only from the total sample will be used.

2.2 Survey questionnaire

For the purpose of collecting primary data, a specially designed instrument was used – a questionnaire consisting of 5 questions. The questions related to the views of public prosecutors on the effectiveness of the investigation, the contribution of the pre-investigation procedure to the implementation of international legal standards, etc. In order to statistically process the collected data, a statistical method was applied at the level of descriptive statistics, and for this purpose the software package SPSS (ver. 20) was used.[1]

3. Results

In accordance with the goals and research questions, after the conducted research, the following results were obtained for the topic "Efficiency of Investigation as an International Legal Standard – Experiences of the Prosecutor's Office for Organized Crime in Serbia".
To the question: "Can you initiate an investigation based on the criminal charges filed by the police?", the respondents answered as follows:

Table 1 - Criminal charges filed and investigations initiated

Response:	Never		Rarely		Occasionally		Often		Always	
	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	0	0	0	0	2	9.5	9	42.9	10	47.6

To the question: Can you initiate an investigation based on the criminal charges filed by the police, the largest number of respondents answered affirmatively to this question. Of them, 47.6% always and 42.9% often, which is a total of 90.5% of respondents. Two respondents or 9.5% of them declared that they can do it only occasionally, while not a single respondent declared that they can do it never or only rarely.

[1] IBM SPSS ID: 729327.

To the question: "Do you inform the police officer who is working on a specific case about issuing an order to conduct an investigation?", the respondents answered as follows:

Table 2 – Notification of issuing an order to conduct an investigation

Response:	Never		Rarely		Occasionally		Often		Always	
	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	2	9.5	2	9.5	4	19	1	4.8	12	57.1

To the second question: Do you inform the police officer working on the specific case about the order to conduct the investigation, the largest number of respondents declared that they do it, 57.1% always, 4.8% often, 19% occasionally and 9.5% rarely. Only 9.5% of those surveyed never do it. The received answers deserve special attention considering the fact that the CPC and any other legal text do not oblige the prosecutor to inform the police officer who works or who worked on the specific case of the order to conduct the investigation.

To question number 2: "If your answer was "Yes", do the police still take actions on their own initiative?", the respondents answered as follows:

Table 3 – Taking action on their own initiative by the police

Response:	Never		Rarely		Occasionally		Often		Always		Did not answer	
	N	%	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	5	23.8	7	33.3	5	23.8	1	4.8	0	0	3	14.3

When asked this question, the majority of respondents (61.9%) stated that the police, even after issuing an order to conduct an investigation on their own initiative, still take action on a specific criminal case, and only 23.8% said that this never happens. The answers obtained in this way should be viewed in the context of the answers obtained to the previously asked question.

To the question: "Do you consider a period of one year justified for the completion of the investigation in criminal proceedings for criminal offences of organized crime, compared to a period of six months when it comes to regular proceedings?", the respondents answered as follows:

Table 4 – Justification of the deadline of one year to complete the investigation

Response:	Yes		No	
	N	%	N	%
Number and percentage of respondents	19	90.5	2	9.5

One of the indispensable issues when it comes to the issue in question is the issue of the deadline provided by law for the completion of the investigation, which is longer when it comes to criminal offences of organized crime. The justification of the question raised in this way is primarily based on the fact that predicting the deadline for the completion of the investigation is one of the very important instruments for achieving the desired level of its effectiveness. In response to the question, it seems quite justified considering the above reasons due to which the legislator abandoned the judicial and moved to the prosecutorial concept of investigation, the largest number of respondents (90.5%) consider the deadlines provided by law for the completion of the investigation to be justified. In contrast to them, 9.5% of the respondents believe that the deadline should be longer in such criminal cases, pointing out that it is a specific procedure, a procedure in which certain cases require a longer period of time for investigation (more persons, more expertise, more crimes).

To the question: Do you think that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the previous criminal procedure?

Table 5 – The efficiency of the criminal procedure and the efficiency of the investigation as a phase of the preliminary criminal procedure

Response:	Yes		No	
	N	%	N	%
Number and percentage of respondents	16	76.2	5	23.8

Starting from the fact that the key legal and political reason for abandoning the judicial and moving to the prosecutorial concept of investigation was that it is considered to be in the function of the efficiency of the criminal procedure, as an indispensable question raised to the key subjects of the investigation, in this case the prosecutors for organized crime, was also a question of their position whether the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation. The results obtained on the question posed in this way are all expected – they are in line with the opinion of the experts in general on this issue. According to this, 76.2% of the respondents believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime where, as a rule, investigations continue significantly longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. In this context, the additional answers of four respondents from this group should be observed, which take two facts as the basis for the correctness of their position (a specific ongoing procedure and the fact that certain cases require a longer period of time for the investigation – more people, more expertise, more crimes).

4. Discussion and proposals *de lege ferenda*

The conducted research, as well as other similar research on the topic of the normative framework of Serbia as a prerequisite for the adequacy of the desired degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole, have extremely great value. Two goals are achieved by the practical implementation of this type of research. First, an answer is given to the question of the adequacy of the existing normative framework for the desired degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole, because it is undeniable that it depends to a considerable degree on the effectiveness of the investigation in the criminal cases in which it is carried out, which are primarily criminal cases of organized crime. Secondly, the answer is given to the question of the adequacy of the application of positive legal norms concerning the efficiency of the investigation, which has a special value considering the fact that only adequately applied norms of this and any other character are in function of the goals of their standardization. In addition to this, the ways of achieving the required degree of adequacy of norming and application of this category of criminal law norms (suggestions of de lege ferenda are given) are indicated, which is also a function of the desired degree of efficiency of both this phase of the criminal procedure and its entirety.

Among the quite a few results achieved by the research conducted, the following deserve special attention:

First, there is full legal and political justification for abandoning the judicial and moving to the prosecutorial concept of investigation, which was brought about by the adoption of the Criminal Procedure Code in 2011. Official statistical data on the efficiency of criminal proceedings clearly show that in the last ten years, the efficiency of criminal proceedings in the Republic of Serbia has increased to a considerable degree, which was one of the key reasons for accepting the prosecutorial concept of investigation. In contrast to the average duration of criminal proceedings before the start of work on the reform of the criminal procedural legislation, which was about three years, today we have an average duration of criminal proceedings observed in general under two years. The reason for this degree of increase in the efficiency of criminal proceedings is the new solutions in the transformed criminal procedural legislation of Serbia, which also includes the change in the concept of investigation. Of course, there are other new solutions as well. The case, first of all, with simplified forms of procedure in criminal matters and the changed status of the public prosecutor in the pre-investigation procedure – their leadership position in this procedure (Bejatović 2014). Considering this, the results of the respondents were quite expected, namely the results according to which 76.2% of them believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the previous criminal procedure. This position is in accordance with the majority position of the expert public of Serbia and corresponds to the reasons that the legislator was guided by in making the decision to change the concept of the investigation and to move from the judicial to the prosecutorial concept of the investigation. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime, where investigations, as a rule, last considerably longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. Due to this, this attitude of these holders of the public prosecutor's office should be sought in this fact. But when it comes to this issue, it should be viewed in general and not only in relation to one category of criminal offences. This is all the more so when it comes to the category of the most serious criminal offences, which is the case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime.

The aforementioned statement regarding the normative framework of the newly adopted prosecutorial concept of investigation does not in any case mean that the normative concept of investigation, in the current text of the CPC, is normatively elaborated in accordance with generally applicable principles in this area and that nothing should be changed. On the contrary, the conducted research and a large number of scientific and professional papers published on this topic indicate that a certain number of issues of the prosecutorial concept of investigation would need to be standardized in a different way – in accordance with generally accepted principles from this field and thus create a normative basis for an even greater degree of efficiency of investigation and thus the efficiency of the criminal procedure as a whole as a key goal of the reform of the criminal procedure legislation of the Republic of Serbia.

Secondly, a necessary material condition for the initiation of an investigation – for making an order to conduct an investigation by the public prosecutor is the existence of grounds for suspicion that a certain person has committed a criminal offence, i.e. the existence of grounds for suspicion that a criminal offence has been committed in cases where the investigation is initiated against an unknown perpetrator (Article 295, paragraph 1, and Article 296, paragraph 1 of the CPC). Fulfilment of this material condition in most cases, as a rule, is determined by the public prosecutor on the basis of the criminal charges filed by the police and its attachments (Vujanović-Porubović 2024). Considering this, one of the indispensable questions when it comes to this aspect of the issue in question was the question: Can you initiate an investigation on the basis of the submitted criminal charges by the police, i.e. issue an order to initiate an investigation. The validity of this question is also contained in the fact that depending on the answer to this question by those who decide on the filed criminal charges and thus on issuing an order to conduct an investigation based on the submitted criminal charges by the police, a conclusion can be drawn about the quality of police work in the pre-investigation procedure, the result of which, among other things, is the filing of criminal charges. As it has already been pointed out, the largest number of respondents answered affirmatively to the question posed in this way. Of them, 47.6% always, and 42.9% often, which is a total of 90.5% of respondents. Such a high percentage of declarations by those who decide on the final fate of the filed criminal charges can serve as a basis for two conclusions. First, that the police carry out their powers – their duty to discover and secure evidence of the commission of a criminal offense and the perpetrator - in accordance with Article 286. paragraph 1 of the CPC, which stipulates that the police are obliged "if there are grounds for suspicion that criminal offence has been committed which is prosecuted *ex officio* to take the necessary measures to find the perpetrator of the crime, to ensure that the perpetrator or accomplice does not hide or escape, to discover and secure traces of the criminal offence and objects that can serve as evidence, as well as to gather all the information that could be useful for the successful conduct of criminal proceedings."[2] Second, an undoubted contribution to the quality of police work in the pre-investigation procedure is provided by the public prosecutor, who in terms of Article 285 paragraph 1 of the CPC manages the pre-investigation procedure and in that capacity undertakes the necessary actions for the prosecution of perpetrators of criminal offences. Among other things, they can order the police to take certain actions in order to detect criminal offences and find suspects, and the police is obliged to carry out the order of the public prosecutor and to regularly inform him about the actions taken (Škulić 2011).

In addition to the above, the following two facts deserve attention in relation to the question raised in this way. They concern, it seems, not without reason, the criticism of a significant number of experts in Serbia of the normative features of the investigation related to the grounds for suspicion as a necessary material condition for its initiation and the possibility of initiating and conducting an investigation against an unknown perpetrator of a criminal offence. When it comes to the material condition for initiating an investigation according to the solutions of the CPC, the lowest level of suspicion about the commission of a criminal offence is required, i.e. the mere existence of grounds for suspicion of the commission of a criminal offence is sufficient. According to the majority opinion of the professional public of Serbia, this solution to this issue is subject to criticism, it seems quite justified. According to them, the initiation of the investigation must be conditioned by the fulfilment of the material condition specified in the existence of the facts and circumstances of the specific case that reasonably point to the conclusion, indicate that a certain i.e. specific person is the perpetrator of the criminal offence that is charged against him, i.e. the existence of a well-founded suspicion and not just grounds for suspicion. The initiation and conduct of criminal proceedings cannot be based on

[2] In order to fulfill this duty of theirs, the legislator has foreseen a number of actions that the police can undertake. It is not only operational tactical actions, but also actions of proof that the police undertake on their own initiative or at the request of the public prosecutor and the order of the judge for preliminary proceedings (Articles 286 and 287 of the CPC)

assumptions. It must be based on real i.e. concrete data. Starting an investigation only on the basis of suspicion or even on the basis of indications is not justified considering all its implications. There is no justification for predicting the same degree of suspicion for taking actions in the pre-investigation procedure and for initiating an investigation, which is the current decision of the legislator (Škulić 2023). If we add to this the fact that in terms of Article 7 point 1 of the CPC criminal proceedings are considered to be initiated by issuing an order to conduct an investigation and that the legislator does not foresee any instruments for controlling the public prosecutor's decision to initiate an investigation (Radulović 2012), the question becomes even more current, i.e., the presented position is even more justified.

The situation is similar when it comes to the decision of the legislator, which allows the initiation of an investigation against an "unknown perpetrator when there are grounds for suspicion that a criminal offence has been committed" (Article 295 paragraph 1, point 2 of the CPC). This solution as well is also quite justifiably exposed to criticism. As such, it not only has no justification, but is also in direct opposition to a number of generally accepted solutions in criminal material and procedural legislation. For example, it contradicts the provision of Article 14 paragraphs 1 and 2 of the Criminal Code of the RS, which clearly states that "there is no criminal offence without guilt", and the question of guilt can only be observed in the context of a concrete and not an unknown person. Or the question of the relationship between this provision and Article 286, paragraph 1 of the CPC in which the conduct of the police in the pre-investigation procedure is quite correctly prescribed, which also includes cases "When there are grounds for suspicion that a criminal offence has been committed which is prosecuted *ex officio*."

Thirdly, there are two entities to whom, according to the current CPC, the order to conduct investigation are delivered. These are the suspect and his defence counsel. In addition to these two entities, at the same time as delivering the order to conduct the investigation to the suspect and his defense counsel, the public prosecutor also informs the injured party of the initiation of the investigation, with the instructions that belong to him in connection with the committed criminal offence in general (Article 297 paragraphs 1 and 3 of the CPC). According to this, the legislator does not prescribe the obligation of the public prosecutor to inform the police officers who work or who worked on the specific case about the adoption of the order to conduct the investigation. However, despite this attitude of the legislator, the largest number of respondents declared that they do so, namely 57.1% always and 4.8% often, occasionally and rarely 33.3%. Only 9.5% of those surveyed never do it. In spite of the fact that the legislator does not explicitly prescribe this, the behaviour of those surveyed who do it seems quite justified. It seems that there is not a single reason that would speak against the justification of such their behaviour. On the contrary, this is especially considering the fact that the public prosecutor, after issuing an order to conduct an investigation, can entrust the police with the execution of certain evidentiary actions in accordance with the provisions of the Criminal Procedure Code, and that is in not a small number of cases the police officer or police officers who have already worked or are still working on the specific criminal case. In view of all this, *de lege ferenda* proposal to prescribe, as in the case of the injured party, the obligation of the public prosecutor to inform the police officer or the police officers who worked or are still working on the criminal case in question of the issuance of the order to conduct the investigation seems quite justified. In support of the justification of such a proposal, the fact that police officers, by filing criminal charges and issuing an order to conduct an investigation based on it, is not released from the obligation to collect additional evidence on the criminal matter in question in cases where it proves necessary. Confirmation of the correctness of such an attitude are also the results of the conducted research obtained on question No. 2.

Fourth, the prosecutorial concept of investigation in itself is not unconditionally in the function of the efficiency of the investigation, and thus not in the function of the efficiency of the criminal procedure as a whole. On the contrary, in order to be in this function, it must be standardized in accordance with certain standards. One of them is predicting the deadline for the completion of the investigation. According to the solutions of the valid text of the CPC of the Republic of Serbia, there are two deadlines in which the public prosecutor should complete the investigation, and the criterion for distinguishing them is the nature and severity of the criminal offence for which the investigation is being conducted. According to this criterion, if the public prosecutor does not complete the investigation against the suspect within six months, and in the case of a criminal offence for which a special law is determined to be handled by the public prosecutor's office of special jurisdiction (a case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime) within of one year, he or she is obliged to inform the immediately superior public prosecutor about the reasons why the investigation has not been completed, and the immediately superior public prosecutor is obliged to take measures to complete the investigation (Article 310 paragraphs 2 and 3 of the CPC). According to the expert's understanding, the position of the legislator to foresee a deadline of one year for the completion of the investigation in criminal matters under the jurisdiction of the Prosecutor's Office for Organized Crime is quite justified, compared to a deadline of six months when it comes to regular proceedings.

This attitude, quite expectedly, is supported by the largest number of respondents (90.5%). In contrast to them, 9.5% of the respondents believe that the deadline should be longer in such criminal cases, pointing out that it is a specific procedure, a procedure in which certain cases require a longer period of time for investigation (more persons, more expertise, more crimes). In this regard, the accuracy of such views should be emphasized, because it is an indisputable fact that there are cases which, due to the specifics of the procedure (larger number of defendants, more crimes, more complex expertise, etc.), require a longer period for the completion of the investigation. However, these are just exceptions that should not be the rule. On the other hand, the key reason for switching to the prosecutorial concept of investigation is its acceleration and thus the achievement of a more efficient criminal procedure, and predicting longer deadlines for its completion would not be in that function. In addition to this, there is also the fact that it is a deadline of an instructive nature, the non-observance of which entails the obligation of the senior public prosecutor to take measures to end the investigation. In view of all this, the position of the legislator regarding the stated method of determining the deadline for the completion of the investigation seems to be quite justified. As such, it is in the function of its efficiency and thus the efficiency of the criminal procedure as a whole.

When it comes to this aspect of the issue in question, one more fact should be kept in mind. In addition to the deadline for the completion of the investigation, there are other assumptions that must be met in order for the prosecutorial concept of investigation to function as expected, namely efficiency with full respect for the freedoms and rights of the defendant and other participants in the investigative procedure guaranteed by international acts and national legislation. Achieving the goal set in this way is possible provided that the prosecutorial concept of investigation is normatively developed with full respect for the following principles: public prosecutor as the only authorized entity to initiate investigative proceedings, grounds for suspicion as a material condition for initiating an investigation; specifying the conditions under which the police can appear as an active subject of the investigation, as well as the types of investigative actions that they can undertake in such a capacity; providing for concrete mechanisms that ensure adequate cooperation between the public prosecutor and the police in the investigation; accurate and precise prescription of the conditions under which and with which evidentiary actions the court can appear as an active subject of its undertaking; anticipating the instruments for the legal and efficient conduct of the investigation, as well as the manner of the public prosecutor's actions after the end of the investigation and the consequences of non-compliance with the norms so foreseen; protection of the basic rights of the injured person arising from the criminal offence for which the investigation is being carried out; providing for mechanisms to ensure the collection of evidence both to the detriment and to the benefit of the person against whom the investigation is being conducted.

Fifth, one of the key reasons for abandoning the judicial and moving to the prosecutorial concept of investigation, not only in the criminal procedure legislation of Serbia, but also in the states of the region that acted on this issue in a similar way as the legislator in the Republic of Serbia, was that it was in the function of achieving a key goal reforms of its criminal procedure legislation, namely increasing the efficiency of criminal proceedings. Considering this, one of the questions that arises is: Has this goal of the reform been achieved or not? Official statistical data on the efficiency of criminal proceedings clearly show that in the last ten years, the efficiency of criminal proceedings in the Republic of Serbia has increased to a considerable extent. In contrast to the average duration of criminal proceedings before the start of work on the reform of the criminal procedure legislation, which was about three years, today we have an average duration of criminal proceedings observed in general under two years. The reason for this degree of increase in the efficiency of criminal proceedings is the new solutions in the transformed criminal procedure legislation of Serbia, which also includes the change in the concept of investigation. Of course, there are other new solutions. The case, first of all, with simplified forms of procedure in criminal matters and the changed status of the public prosecutor in the pre-investigation procedure – his or her leadership position in this procedure (Beljanski 2014). Considering this, the results of the respondents were quite expected, according to which 76.2% of them believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure. This position is in accordance with the majority position of the professional public of Serbia and corresponds to the reasons that the legislator was guided by in making the decision to change the concept of investigation and move from a judicial to a prosecutorial concept of investigation. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime where, as a rule, investigations continue significantly longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. Due to this, this attitude of these holders of the public prosecutor's office should be sought in this fact. But when it comes to this issue, it should be viewed in general and not only in relation to one category of criminal offences. This is all the more so when it comes to the category of the most serious criminal offences, which is the case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime.

5. Conclusion

The conducted research as well as the materials on the basis of which this text was written show that the prosecutorial concept of investigation is in the function of both its efficiency and the efficiency of the criminal procedure as a whole as one of the key goals of the reform process of the criminal procedure legislation of the Republic of Serbia, which has been going on for three decades. Considering this, the attitude of the legislator in the Criminal Procedure Code from 2011 to abandon the judicial and move to the prosecutorial concept of investigation is to be welcomed. Also, when this problem is seen from the aspect of organized crime, numerous other solutions brought by the previous work on criminal legislation reform are to be welcomed. Among them, the provision of a considerable number of special institutes to combat this category of criminal offences, the adoption of special laws (*lex specialis*) dedicated to the criminal legal instruments of combating organized crime, which, among other things, are trained and specialized entities to detect, prove and adjudicate this category of criminal offences (Public Prosecution for Organized Crime; Organizational unit responsible for combating organized crime in the Ministry of Internal Affairs and the Special Department of the Higher Court in Belgrade for Organized Crime) and others. However, such a statement by no means means that the newly adopted concept of investigation in the valid text of the CPC is normatively elaborated in accordance with generally applicable principles in this area and that nothing should be changed. On the contrary, the conducted research and a large number of scientific and professional papers published on this topic show that a certain number of issues of the prosecutorial concept of investigation should be regulated in a different way – in accordance with generally accepted principles in this field. The case is, for example, with the degree of suspicion as a material condition for initiating an investigation, predicting adequate ways of controlling the public prosecutor's decision to initiate an investigation, etc. Norming these and some other issues in accordance with the given proposals *de lege ferenda* would create a normative basis for an even greater degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole. In view of this, the fact that a large number of *de lege ferenda* proposals were taken into account by the Working Group working on the preparation of the text of the Law on Amendments to the CPC, which should be adopted by the end of the current year, is to be welcomed.

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